

LAWS
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LAWS
of the
STATE OF UTAH, 2018

Passed at the
FIRST SPECIAL SESSION
of the
SIXTY-SECOND LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
September 20, 2017
and Adjourned Sine Die on
September 20, 2017

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2017 First Special Session of the Sixty-second Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2017 First Special Session of the Sixty-second Legislature of the State of Utah convened at the Capitol in Salt Lake City on September 20, 2017 and adjourned on the same day.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 30th day of August, 2018.





Spencer J. Cox
Lieutenant Governor

**CHAPTER 1
H. B. 1001**

Passed September 20, 2017
Approved September 22, 2017
Effective September 22, 2017

**OPERATION RIO GRANDE
FUNDING AMENDMENTS**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies the Budgetary Procedures Act by amending provisions relating to funding for law enforcement, adjudication, corrections, and homeless services.

Highlighted Provisions:

This bill:

- ▶ authorizes the Department of Workforce Services to transfer or divert money to another department, agency, institution, or division only for the purposes of law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families for a certain period of time; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2018:

- ▶ to the Department of Workforce Services - Operation Rio Grande, as a one-time appropriation:
 - from the General Fund, \$4,900,000; and
- ▶ to the General Fund, as a one-time appropriation:
 - from Nonlapsing Balances - Corrections - Jail Contracting, \$4,900,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2017, Chapter 430

63J-1-206, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Section 63A-5-227 is repealed on January 1, 2018.

(2) Section 63H-7a-303 is repealed on July 1, 2022.

(3) On July 1, 2019:

(a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in Subsection (3)(c)(ii)" is repealed; and

(b) Subsection 63J-1-206(3)(c)(ii) is repealed.

[~~3~~] (4) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

[4] (5) Section 63N-3-110 is repealed July 1, 2020.

Section 2. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) As used in this section, "work program" means a budget that contains revenues and expenditures for specific purposes or functions within an item of appropriation.

(2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in the appropriating act:

- (i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and
- (ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

- (i) the Legislature and its committees; and
- (ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(3) (a) Each appropriation item is to be expended subject to any schedule of programs and any restriction attached to the appropriation item, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

- (i) is a restriction or limitation upon the expenditure of the respective appropriation made;
- (ii) does not itself appropriate any money; and
- (iii) is not itself an item of appropriation.

(c) [~~An~~] (i) Except as provided in Subsection (3)(c)(ii), an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, or division to any other department, agency, institution, or division.

(ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert money to another department, agency, institution, or division only for the purposes of law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

(d) The money appropriated subject to a schedule or programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within an

item of appropriation, the following procedure shall be followed:

(i) The department, agency, or institution seeking to make the transfer shall prepare:

(A) a new work program for the fiscal year involved that consists of the currently approved work program and the transfer sought to be made; and

(B) a written justification for the new work program that sets forth the purpose and necessity for the transfer.

(ii) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.

(f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from one item of appropriation to any other item of appropriation.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items of appropriation in accordance with Section 53A-17a-105.

(g) (i) The procedures for transferring money between programs within an item of appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53A, Chapter 21, Public Education Capital Outlay Act.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (3)(g)(i) only as provided by Section 53A-17a-105.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection (3)(a). Operating and capital budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah

ITEM 1

To Department of Workforce Services - Operation Rio Grande

From General Fund, One-time \$4,900,000

Schedule of Programs:

Operation Rio Grande \$4,900,000

The Legislature intends that:

(1) The Department of Workforce Services submit to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget

an accounting of any transfer or expenditure of the funds provided by this Subsection (3)(a) one week before executing the transactions; and

(2) Under Section 63J-1-603, appropriations provided under this Subsection (3)(a) not lapse at the close of fiscal year 2018. The use of any nonlapsing funds is limited to law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

Subsection (3)(b). Transfers to unrestricted funds.

The Legislature authorizes the Division of Finance to transfer the following amounts to the unrestricted General Fund from the program balances indicated. Expenditures and outlays from the General Fund must be authorized by an appropriation.

ITEM 2

To General Fund

From Nonlapsing Balances - Corrections - Jail Contracting,

One-time \$4,900,000

Schedule of Programs:

General Fund, One-time \$4,900,000

Section 4. Effective date.

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

**CHAPTER 2
H. B. 1002**

Passed September 20, 2017
Approved September 22, 2017
Effective September 22, 2017

ROAD CLOSURE AMENDMENTS

Chief Sponsor: Francis D. Gibson
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill specifies the process for certain closures of public roads.

Highlighted Provisions:

This bill:

- ▶ modifies municipal authority over roads;
- ▶ adds another circumstance in which a local highway authority may temporarily close a road;
- ▶ allows a local highway authority to:
 - indefinitely close a road in certain circumstances; and
 - change the nature of a road for another public use or purpose; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 10-8-8, as last amended by Laws of Utah 2005, Chapter 254
- 10-8-11, Utah Code Annotated 1953
- 72-5-105, as last amended by Laws of Utah 2011, Chapter 341

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

Section 1. Section 10-8-8 is amended to read:

10-8-8. Streets, parks, airports, parking facilities, public grounds, and pedestrian malls.

A municipal legislative body may lay out, establish, open, alter, widen, narrow, extend, grade, pave, or otherwise improve streets, alleys, avenues, boulevards, sidewalks, parks, airports, parking lots, or other facilities for the parking of vehicles off streets, public grounds, and pedestrian malls and may close, in accordance with Section 72-5-105, or vacate the same or parts thereof, as provided in this title.

Section 2. Section 10-8-11 is amended to read:

10-8-11. Streets -- Encroachments, lighting, sprinkling, cleaning.

They may regulate the use of streets, alleys, avenues, sidewalks, crosswalks, parks, and public grounds, install, prevent [and], or remove obstructions and encroachments thereon, and

provide for the lighting, sprinkling, and cleaning of the same.

Section 3. Section 72-5-105 is amended to read:

72-5-105. Highways, streets, or roads once established continue until abandoned -- Temporary closure.

(1) ~~[All]~~ Except as provided in Subsections (3) and (7), all public highways, streets, or roads once established shall continue to be highways, streets, or roads until formally abandoned or vacated by written order, resolution, or ordinance resolution of a highway authority having jurisdiction or by court decree, and the written order, resolution, ordinance, or court decree has been duly recorded in the office of the recorder of the county or counties where the highway, street, or road is located.

(2) (a) For purposes of assessment, upon the recordation of an order executed by the proper authority with the county recorder's office, title to the vacated or abandoned highway, street, or road shall vest to the adjoining record owners, with one-half of the width of the highway, street, or road assessed to each of the adjoining owners.

(b) Provided, however, that should a description of an owner of record extend into the vacated or abandoned highway, street, or road that portion of the vacated or abandoned highway, street, or road shall vest in the record owner, with the remainder of the highway, street, or road vested as otherwise provided in this Subsection (2).

(c) Title to a highway, street, or road that a local highway authority closes to vehicular traffic under Subsection (3) or (7) remains vested in the city.

(3) (a) In accordance with this section, a state or local highway authority may temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B, C, or D road or R.S. 2477 right-of-way.

(b) (i) A temporary closure authorized under this section is not an abandonment.

(ii) The erection of a barrier or sign on a highway, street, or road once established is not an abandonment.

(iii) An interruption of the public's continuous use of a highway, street, or road once established is not an abandonment even if the interruption is allowed to continue unabated.

(c) A temporary closure under Subsection (3)(a) may be authorized only under the following circumstances:

(i) when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way ~~[that]~~ if the alternate route is:

(A) accepted by the highway authority; and

(B) formalized by ~~[-(1)]~~ a federal permit~~[-]~~ or ~~[(11)]~~ a written agreement between the federal authority or other person and the highway authority; ~~or~~

(ii) when a state or local highway authority determines that correction or mitigation of injury to

private or public land resources is necessary on or near a class B or D road or portion of a class B or D road[-]; or

(iii) when a local highway authority makes a finding that temporary closure of all or part of a class C road is necessary to mitigate unsafe conditions.

(d) (i) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to another public use or purpose related to the mitigation of the unsafe condition.

(ii) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

~~[(4d)]~~ (e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way temporarily closed under this section if the alternate route is closed for any reason.

~~[(e)]~~ (f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

(i) be authorized annually; and

(ii) not exceed two years or the time it takes to complete the correction or mitigation, whichever is less.

(4) To authorize a closure of a road under Subsection (3) or (7), a local highway authority shall pass an ordinance to temporarily or indefinitely close the road.

~~[(4)]~~ (5) Before authorizing a temporary or indefinite closure ~~[under]~~ as described in Subsection ~~[(3)]~~ (4), a highway authority shall:

(a) hold a hearing on the proposed temporary or indefinite closure;

(b) provide notice of the hearing by~~[-(4)]~~ mailing a notice to the Department of Transportation and all owners of property abutting the highway; and

(c) except for a closure under Subsection (3)(c)(iii):

~~[(ii) (A)]~~ (i) publishing the notice:

~~[(4)]~~ (A) in a newspaper of general circulation in the county at least once a week for four consecutive weeks before the hearing; and

~~[(4)]~~ (B) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the hearing; or

~~[(B)]~~ (ii) posting the notice in three public places for at least four consecutive weeks ~~[prior to]~~ before the hearing~~[-and]~~.

~~[(e)]~~ pass an ordinance authorizing the temporary closure.

~~[(5)]~~ (6) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by a temporary or indefinite closure authorized under this section.

(7) (a) A local highway authority may close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the local highway authority has jurisdiction, for an indefinite period of time, if the local highway authority makes a finding that:

(i) the closed highway, road, or street is not necessary for vehicular travel;

(ii) the closure of the highway, road, or street is necessary to correct or mitigate injury to private or public land resources on or near the highway, road, or street; or

(iii) the closure of the highway, road, or street is necessary to mitigate unsafe conditions.

(b) If a local highway authority indefinitely closes all or part of a highway, road, or street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(c) An indefinite closure authorized under this Subsection (7) is not an abandonment.

Section 4. Effective date.

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

**CHAPTER 3
S. B. 1001**

Passed September 20, 2017
Approved September 22, 2017
Effective September 22, 2017

**PORT OF ENTRY AND
AXLE WEIGHT AMENDMENTS**

Chief Sponsor: Don L. Ipson
House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill amends provisions related to the imposition of a fine for overweight vehicles.

Highlighted Provisions:

This bill:

- ▶ amends provisions to allow the Department of Transportation discretion in imposing fines for overweight vehicles based on the circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

72-7-404, as last amended by Laws of Utah 2016, Chapter 303

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

Section 1. Section 72-7-404 is amended to read:

72-7-404. Maximum gross weight limitation for vehicles -- Bridge formula for weight limitations -- Minimum mandatory fines.

(1) (a) As used in this section:

(i) "Axle load" means the total load on all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart.

(ii) "Tandem axle" means two or more axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(b) The tire load rating shall ~~be marked~~ appear on the tire sidewall. A tire, wheel, or axle may not carry a greater weight than the manufacturer's rating.

(2) (a) ~~[A] An individual may not operate or move a vehicle [may not be operated or moved]~~ An individual may not operate or move a vehicle on any highway in the state with:

(i) a gross weight in excess of 10,500 pounds on one wheel;

(ii) a single axle load in excess of 20,000 pounds; or

(iii) a tandem axle load in excess of 34,000 pounds.

(b) Subject to the limitations of Subsection (3), the gross vehicle weight of any vehicle or combination of vehicles may not exceed 80,000 pounds.

(3) (a) Subject to the limitations in Subsection (2), no group of two or more consecutive axles between the first and last axle of a vehicle or combination of vehicles and no vehicle or combination of vehicles may carry a gross weight in excess of the weight provided by the following bridge formula, except as provided in Subsection (3)(b):

$$W = 500 \{LN/(N-1) + 12N+36\}$$

(i) W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds.

(ii) L = distance in feet between the extreme of any group of two or more consecutive axles. When the distance in feet includes a fraction of a foot of one inch or more the next larger number of feet shall be used.

(iii) N = number of axles in the group under consideration.

(b) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(4) ~~[Any] The department may authorize an exception to this section [must be authorized]~~ The department may authorize an exception to this section by an overweight permit as provided in Section 72-7-406.

(5) (a) Any person who violates this section is guilty of an infraction except that, notwithstanding Sections 76-3-301 and 76-3-302, the department may require the violator [shall pay the largest minimum mandatory] to pay a fine of either:

(i) \$50 plus the sum of the overweight axle fines calculated under Subsection (5)(b); or

(ii) \$50 plus the gross vehicle weight fine calculated under Subsection (5)(b).

(b) The department shall calculate the fine for each axle and a gross vehicle weight violation [shall be calculated] according to the following schedule:

Number of Pounds	Axle Fine (Cents per Pound for Each Overweight Axle)	Gross Vehicle Weight Fine (Cents per Pound)
1 - 2,000	0	0
2,001 - 5,000	4	5
5,001 - 8,000	5	5
8,001 - 12,000	6	5
12,001 - 16,000	7	5
16,001 - 20,000	9	5
20,001 - 25,000	11	5
25,001 or more	13	5

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon

approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Resolutions

passed at the
First Special Session
of the
Sixty-Second Legislature
2017

S.J.R. 101

Passed September 20, 2017
Effective September 20, 2017

**JOINT RESOLUTION APPROVING THE
FLATIRON/HARPER JOINT VENTURE
PROPOSED SETTLEMENT AGREEMENT**

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

LONG TITLE

General Description:

This resolution approves a proposed settlement agreement.

Highlighted Provisions:

This resolution:

- ▶ approves the proposed settlement agreement in Utah Department of Transportation v. Flatiron/Harper Joint Venture.

Special Clauses:

None

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

WHEREAS, the Utah Department of Transportation sued Flatiron/Harper Joint Venture, Flatiron Constructors, Inc., Harper Contracting, Inc., and their sureties in the Fourth Judicial District Court, State of Utah, Civil No. 150300055;

WHEREAS, the Utah Department of Transportation alleged breach of contract and breach of performance bond by the defendants, and sought declaratory relief and damages related to the defendants' work on a portion of Utah State Road 92;

WHEREAS, the defendants filed a counterclaim against the Utah Department of Transportation, alleging breach of contract and breach of the implied covenant of good faith and fair dealing;

WHEREAS, the parties participated in formal mediation that resulted in a proposed settlement agreement;

WHEREAS, under the proposed settlement agreement, the defendants agree to pay \$8,400,000 to cover the cost of long term maintenance and repair of defective work and \$3,000,000 in liquidated damages;

WHEREAS, under the proposed settlement agreement, the Utah Department of Transportation agrees to pay the balance owed to the defendants under the original contract;

WHEREAS, the net result of the proposed settlement agreement is that the defendants will receive approximately \$102,000,000 of the original \$113,000,000 contract;

WHEREAS, under the proposed settlement agreement, the Utah Department of Transportation and the defendants agree to dismiss all claims in the current case with prejudice and to

release all future claims related to or arising from the contract at issue in the case; and

WHEREAS, certain settlements of more than \$1,000,000 require the governor's and the Legislature's approval before a government entity may sign such an agreement:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves the proposed settlement agreement for Utah Department of Transportation v. Flatiron/Harper Joint Venture.

LAWS
of the
STATE OF UTAH, 2018

Passed at the
GENERAL SESSION
of the
SIXTY-SECOND LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 22, 2018
and Adjourned Sine Die on
March 8, 2018

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2018 General Session of the Sixty-second Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2018 General Session of the Sixty-second Legislature of the State of Utah convened at the Capitol in Salt Lake City on January 22, 2018 and adjourned on March 8, 2018.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 30th day of August, 2018.





Spencer J. Cox
Lieutenant Governor

CHAPTER 1**H. B. 10**

Passed January 22, 2018
 Approved January 24, 2018
 Effective January 24, 2018

**PUBLIC EDUCATION
 RECODIFICATION - STATE SYSTEM**

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Ann Millner
 Cosponsors: LaVar Christensen
 Kim F. Coleman
 Bruce R. Cutler
 Justin L. Fawson
 Francis D. Gibson
 Eric K. Hutchings
 Bradley G. Last
 Daniel McCay
 Carol Spackman Moss
 Michael E. Noel
 Marie H. Poulson
 V. Lowry Snow
 Raymond P. Ward
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill reorganizes and renumbers certain provisions of the public education code related to statewide administration of the public education system.

Highlighted Provisions:

This bill:

- ▶ reorganizes and renumbers certain provisions of the public education code related to statewide administration of the public education system;
- ▶ defines terms;
- ▶ enacts provisions related to public education for organizational purposes;
- ▶ reenacts provisions related to public education for organizational purposes;
- ▶ repeals provisions related to public education for organizational purposes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**ENACTS:**

53E-1-101, Utah Code Annotated 1953
 53E-1-102, Utah Code Annotated 1953
 53E-1-103, Utah Code Annotated 1953
 53E-1-201, Utah Code Annotated 1953
 53E-2-101, Utah Code Annotated 1953
 53E-3-101, Utah Code Annotated 1953
 53E-3-601, Utah Code Annotated 1953
 53E-3-701, Utah Code Annotated 1953
 53E-4-101, Utah Code Annotated 1953
 53E-4-201, Utah Code Annotated 1953
 53E-4-401, Utah Code Annotated 1953
 53E-5-101, Utah Code Annotated 1953
 53E-6-101, Utah Code Annotated 1953

53E-7-101, Utah Code Annotated 1953
 53E-7-201, Utah Code Annotated 1953
 53E-8-101, Utah Code Annotated 1953
 53E-9-101, Utah Code Annotated 1953
 53E-9-201, Utah Code Annotated 1953
 53E-10-101, Utah Code Annotated 1953
 53E-10-201, Utah Code Annotated 1953
 53E-10-306, Utah Code Annotated 1953
 53E-10-407, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53B-17-1001, (Renumbered from 53A-3-402.10, as last amended by Laws of Utah 2014, Chapter 390)
 53E-2-201, (Renumbered from 53A-1-101, as repealed and reenacted by Laws of Utah 2015, Chapter 415)
 53E-2-202, (Renumbered from 53A-1-102.5, as enacted by Laws of Utah 2015, Chapter 415)
 53E-2-301, (Renumbered from 53A-1a-103, as last amended by Laws of Utah 2015, Chapter 415)
 53E-2-302, (Renumbered from 53A-1a-104, as last amended by Laws of Utah 2015, Chapter 415)
 53E-2-303, (Renumbered from 53A-1a-105, as last amended by Laws of Utah 2000, Chapter 59)
 53E-2-304, (Renumbered from 53A-1a-106, as last amended by Laws of Utah 2017, Chapters 173, 378, and 444)
 53E-3-201, (Renumbered from 53A-1-201, as last amended by Laws of Utah 2015, Chapter 415)
 53E-3-202, (Renumbered from 53A-1-202, as last amended by Laws of Utah 2016, Chapters 61 and 144)
 53E-3-203, (Renumbered from 53A-1-203, as last amended by Laws of Utah 2017, Chapter 382)
 53E-3-204, (Renumbered from 53A-1-204, as enacted by Laws of Utah 1988, Chapter 2)
 53E-3-301, (Renumbered from 53A-1-301, as last amended by Laws of Utah 2017, Chapters 372 and 378)
 53E-3-302, (Renumbered from 53A-1-302, as last amended by Laws of Utah 2016, Chapter 144)
 53E-3-303, (Renumbered from 53A-1-303, as enacted by Laws of Utah 1988, Chapter 2)
 53E-3-401, (Renumbered from 53A-1-401, as last amended by Laws of Utah 2016, Chapter 232)
 53E-3-402, (Renumbered from 53A-1-406, as enacted by Laws of Utah 1988, Chapter 2)
 53E-3-403, (Renumbered from 53A-4-205, as last amended by Laws of Utah 2011, Chapters 280 and 342)
 53E-3-501, (Renumbered from 53A-1-402, as last amended by Laws of Utah 2017, Chapter 382)
 53E-3-502, (Renumbered from 53A-1a-107, as last amended by Laws of Utah 2015, Chapter 415)
 53E-3-503, (Renumbered from 53A-1-403, as last amended by Laws of Utah 2017, Chapter 330)

53E-3-504, (Renumbered from 53A-1-801, as last amended by Laws of Utah 2002, Chapter 210)	53E-3-711, (Renumbered from 53A-20-109, as enacted by Laws of Utah 2012, Chapter 330)
53E-3-505, (Renumbered from 53A-13-110, as last amended by Laws of Utah 2017, Chapter 333)	53E-3-801, (Renumbered from 53A-1-902, as last amended by Laws of Utah 2015, Chapter 415)
53E-3-506, (Renumbered from 53A-13-111, as last amended by Laws of Utah 2015, Chapter 415)	53E-3-802, (Renumbered from 53A-1-903, as last amended by Laws of Utah 2017, Chapter 473)
53E-3-507, (Renumbered from 53A-15-202, as last amended by Laws of Utah 2017, Chapter 382)	53E-3-803, (Renumbered from 53A-1-905, as last amended by Laws of Utah 2015, Chapter 415)
53E-3-508, (Renumbered from 53A-15-107, as enacted by Laws of Utah 2016, Chapter 343)	53E-3-804, (Renumbered from 53A-1-906, as last amended by Laws of Utah 2015, Chapter 415)
53E-3-509, (Renumbered from 53A-15-603, as last amended by Laws of Utah 2015, Chapter 258)	53E-3-805, (Renumbered from 53A-1-907, as last amended by Laws of Utah 2015, Chapter 415)
53E-3-510, (Renumbered from 53A-19-201, as enacted by Laws of Utah 1988, Chapter 2)	53E-3-806, (Renumbered from 53A-1-908, as last amended by Laws of Utah 2015, Chapter 415)
53E-3-511, (Renumbered from 53A-1-413, as last amended by Laws of Utah 2017, Chapter 378 and further amended by Revisor Instructions, Laws of Utah 2017, Chapter 378)	53E-3-901, (Renumbered from 53A-1-1000, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-512, (Renumbered from 53A-1-402.5, as last amended by Laws of Utah 2008, Chapter 382)	53E-3-902, (Renumbered from 53A-1-1001, as repealed and reenacted by Laws of Utah 2017, Chapter 278)
53E-3-513, (Renumbered from 53A-1a-105.5, as last amended by Laws of Utah 2008, Chapter 3)	53E-3-903, (Renumbered from 53A-1-1002, as repealed and reenacted by Laws of Utah 2017, Chapter 278)
53E-3-514, (Renumbered from 53A-16-101.6, as last amended by Laws of Utah 2016, Chapters 144 and 172)	53E-3-904, (Renumbered from 53A-1-1003, as repealed and reenacted by Laws of Utah 2017, Chapter 278)
53E-3-515, (Renumbered from 53A-15-206, as enacted by Laws of Utah 2017, Chapter 166)	53E-3-905, (Renumbered from 53A-1-1004, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-602, (Renumbered from 53A-1-404, as enacted by Laws of Utah 1988, Chapter 2)	53E-3-906, (Renumbered from 53A-1-1005, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-603, (Renumbered from 53A-1-405, as enacted by Laws of Utah 1988, Chapter 2)	53E-3-907, (Renumbered from 53A-1-1006, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-702, (Renumbered from 53A-20-110, as enacted by Laws of Utah 2014, Chapter 309)	53E-3-908, (Renumbered from 53A-1-1007, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-703, (Renumbered from 53A-20-101, as last amended by Laws of Utah 2017, Chapter 187)	53E-3-909, (Renumbered from 53A-1-1008, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-704, (Renumbered from 53A-20-101.5, as enacted by Laws of Utah 2000, Chapter 21)	53E-3-910, (Renumbered from 53A-1-1009, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-705, (Renumbered from 53A-20-103, as last amended by Laws of Utah 2014, Chapter 64)	53E-3-911, (Renumbered from 53A-1-1010, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-706, (Renumbered from 53A-20-104, as last amended by Laws of Utah 2016, Chapter 144)	53E-3-912, (Renumbered from 53A-1-1011, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-707, (Renumbered from 53A-20-104.5, as last amended by Laws of Utah 2014, Chapter 309)	53E-3-913, (Renumbered from 53A-1-1012, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-708, (Renumbered from 53A-20-105, as enacted by Laws of Utah 1988, Chapter 2)	53E-3-914, (Renumbered from 53A-1-1013, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-709, (Renumbered from 53A-20-106, as enacted by Laws of Utah 1988, Chapter 2)	53E-3-915, (Renumbered from 53A-1-1014, as enacted by Laws of Utah 2017, Chapter 278)
53E-3-710, (Renumbered from 53A-20-108, as last amended by Laws of Utah 2016, Chapter 334)	

53E-3-916, (Renumbered from 53A-1-1015, as enacted by Laws of Utah 2017, Chapter 278)	53E-4-311, (Renumbered from 53A-1-605, as last amended by Laws of Utah 2017, Chapter 378)
53E-3-917, (Renumbered from 53A-1-1016, as enacted by Laws of Utah 2017, Chapter 278)	53E-4-312, (Renumbered from 53A-1-608, as last amended by Laws of Utah 2017, Chapter 378)
53E-3-918, (Renumbered from 53A-1-1017, as enacted by Laws of Utah 2017, Chapter 278)	53E-4-313, (Renumbered from 53A-1-609, as last amended by Laws of Utah 2013, Chapter 161)
53E-3-919, (Renumbered from 53A-1-1018, as enacted by Laws of Utah 2017, Chapter 278)	53E-4-402, (Renumbered from 53A-14-101, as last amended by Laws of Utah 2002, Chapter 299)
53E-3-920, (Renumbered from 53A-1-1019, as enacted by Laws of Utah 2017, Chapter 278)	53E-4-403, (Renumbered from 53A-14-102, as last amended by Laws of Utah 2015, Chapter 415)
53E-3-921, (Renumbered from 53A-1-1020, as enacted by Laws of Utah 2017, Chapter 278)	53E-4-404, (Renumbered from 53A-14-103, as last amended by Laws of Utah 2006, Chapter 14)
53E-4-202, (Renumbered from 53A-1-402.6, as last amended by Laws of Utah 2017, Chapter 378)	53E-4-405, (Renumbered from 53A-14-104, as last amended by Laws of Utah 2001, Chapter 84)
53E-4-203, (Renumbered from 53A-1-402.8, as last amended by Laws of Utah 2015, Chapter 415)	53E-4-406, (Renumbered from 53A-14-105, as last amended by Laws of Utah 2001, Chapter 84)
53E-4-204, (Renumbered from 53A-13-108, as last amended by Laws of Utah 2015, Chapter 415)	53E-4-407, (Renumbered from 53A-14-106, as last amended by Laws of Utah 2001, Chapter 84)
53E-4-205, (Renumbered from 53A-13-109.5, as enacted by Laws of Utah 2015, Chapter 316)	53E-4-408, (Renumbered from 53A-14-107, as last amended by Laws of Utah 2016, Chapter 144)
53E-4-206, (Renumbered from 53A-1-1302, as last amended by Laws of Utah 2017, Chapter 214)	53E-5-201, (Renumbered from 53A-1-1102, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-301, (Renumbered from 53A-1-602, as last amended by Laws of Utah 2017, Chapter 378)	53E-5-202, (Renumbered from 53A-1-1103, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-301.5, (Renumbered from 53A-1-601, as last amended by Laws of Utah 2017, Chapter 378)	53E-5-203, (Renumbered from 53A-1-1104, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-302, (Renumbered from 53A-1-603, as repealed and reenacted by Laws of Utah 2017, Chapter 378)	53E-5-204, (Renumbered from 53A-1-1105, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-303, (Renumbered from 53A-1-604, as repealed and reenacted by Laws of Utah 2017, Chapter 378)	53E-5-205, (Renumbered from 53A-1-1106, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-304, (Renumbered from 53A-1-611.5, as enacted by Laws of Utah 2017, Chapter 378)	53E-5-206, (Renumbered from 53A-1-1107, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-305, (Renumbered from 53A-1-611, as last amended by Laws of Utah 2017, Chapter 378)	53E-5-207, (Renumbered from 53A-1-1108, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-306, (Renumbered from 53A-1-606.5, as last amended by Laws of Utah 2016, Chapter 220)	53E-5-208, (Renumbered from 53A-1-1109, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-307, (Renumbered from 53A-1-606.6, as last amended by Laws of Utah 2013, Chapter 466)	53E-5-209, (Renumbered from 53A-1-1110, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-308, (Renumbered from 53A-1-603.5, as last amended by Laws of Utah 2017, Chapter 378)	53E-5-210, (Renumbered from 53A-1-1111, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-309, (Renumbered from 53A-1-610, as last amended by Laws of Utah 2017, Chapter 378)	53E-5-211, (Renumbered from 53A-1-1112, as repealed and reenacted by Laws of Utah 2017, Chapter 378)
53E-4-310, (Renumbered from 53A-1-607, as last amended by Laws of Utah 2017, Chapter 378)	

53E-5-301, (Renumbered from 53A-1-1202, as last amended by Laws of Utah 2017, Chapters 378, 381 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 381)	53E-6-303, (Renumbered from 53A-6-108, as repealed and reenacted by Laws of Utah 1999, Chapter 108)
53E-5-302, (Renumbered from 53A-1-1203, as last amended by Laws of Utah 2017, Chapters 378, 381 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 381)	53E-6-304, (Renumbered from 53A-6-110, as last amended by Laws of Utah 2016, Chapter 144)
53E-5-303, (Renumbered from 53A-1-1204, as last amended by Laws of Utah 2017, Chapter 381)	53E-6-305, (Renumbered from 53A-6-113, as enacted by Laws of Utah 2014, Chapter 417)
53E-5-304, (Renumbered from 53A-1-1205, as last amended by Laws of Utah 2017, Chapter 381)	53E-6-306, (Renumbered from 53A-6-104.5, as last amended by Laws of Utah 2016, Chapter 144)
53E-5-305, (Renumbered from 53A-1-1206, as last amended by Laws of Utah 2017, Chapters 378 and 381)	53E-6-307, (Renumbered from 53A-6-404, as last amended by Laws of Utah 2016, Chapter 144)
53E-5-306, (Renumbered from 53A-1-1207, as last amended by Laws of Utah 2017, Chapters 378, 381 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 381)	53E-6-401, (Renumbered from 53A-6-401, as repealed and reenacted by Laws of Utah 2015, Chapter 389)
53E-5-307, (Renumbered from 53A-1-1208, as last amended by Laws of Utah 2017, Chapter 381)	53E-6-402, (Renumbered from 53A-6-402, as last amended by Laws of Utah 2016, Chapter 199)
53E-5-308, (Renumbered from 53A-1-1208.1, as enacted by Laws of Utah 2017, Chapter 381)	53E-6-403, (Renumbered from 53A-6-403, as last amended by Laws of Utah 2016, Chapter 144)
53E-5-309, (Renumbered from 53A-1-1209, as last amended by Laws of Utah 2017, Chapter 378)	53E-6-501, (Renumbered from 53A-6-301, as repealed and reenacted by Laws of Utah 1999, Chapter 108)
53E-5-310, (Renumbered from 53A-1-1210, as enacted by Laws of Utah 2015, Chapter 449)	53E-6-502, (Renumbered from 53A-6-302, as last amended by Laws of Utah 2016, Chapter 144)
53E-5-311, (Renumbered from 53A-1-1211, as enacted by Laws of Utah 2016, Chapter 331)	53E-6-503, (Renumbered from 53A-6-303, as enacted by Laws of Utah 1999, Chapter 108)
53E-6-102, (Renumbered from 53A-6-103, as last amended by Laws of Utah 2016, Chapter 144)	53E-6-504, (Renumbered from 53A-6-304, as enacted by Laws of Utah 1999, Chapter 108)
53E-6-103, (Renumbered from 53A-6-102, as last amended by Laws of Utah 2013, Chapter 49)	53E-6-505 (Effective 07/01/18), (Renumbered from 53A-6-305 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 472)
53E-6-201, (Renumbered from 53A-6-104, as last amended by Laws of Utah 2003, Chapter 315)	53E-6-505 (Superseded 07/01/18), (Renumbered from 53A-6-305 (Superseded 07/01/18), as enacted by Laws of Utah 1999, Chapter 108)
53E-6-202 (Effective 07/01/18), (Renumbered from 53A-6-104.1 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 472)	53E-6-506, (Renumbered from 53A-6-306, as last amended by Laws of Utah 2015, Chapter 389 and repealed and reenacted by Laws of Utah 2015, Chapter 311 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 311)
53E-6-202 (Superseded 07/01/18), (Renumbered from 53A-6-104.1 (Superseded 07/01/18), as last amended by Laws of Utah 2015, Chapter 389)	53E-6-601, (Renumbered from 53A-6-601, as enacted by Laws of Utah 1999, Chapter 108)
53E-6-203, (Renumbered from 53A-6-111, as enacted by Laws of Utah 2004, Chapter 46)	53E-6-602, (Renumbered from 53A-6-307, as repealed and reenacted by Laws of Utah 2015, Chapter 311)
53E-6-301, (Renumbered from 53A-6-106, as repealed and reenacted by Laws of Utah 1999, Chapter 108)	53E-6-603, (Renumbered from 53A-6-405, as repealed and reenacted by Laws of Utah 2015, Chapter 311)
53E-6-302, (Renumbered from 53A-6-107, as last amended by Laws of Utah 2016, Chapter 239)	53E-6-604, (Renumbered from 53A-6-501, as repealed and reenacted by Laws of Utah 2015, Chapter 311)
	53E-6-605, (Renumbered from 53A-6-602, as enacted by Laws of Utah 1999, Chapter 108)

53E-6-606, (Renumbered from 53A-6-603, as enacted by Laws of Utah 1999, Chapter 108)	53E-7-207, (Renumbered from 53A-15-304.5, as enacted by Laws of Utah 1996, Chapter 318)
53E-6-607, (Renumbered from 53A-6-604, as last amended by Laws of Utah 2015, Chapter 311)	53E-7-208, (Renumbered from 53A-15-305, as last amended by Laws of Utah 2001, Chapter 9)
53E-6-701, (Renumbered from 53A-6-502, as last amended by Laws of Utah 2015, Chapter 311)	53E-7-301, (Renumbered from 53A-25a-102, as last amended by Laws of Utah 2014, Chapter 189)
53E-6-702, (Renumbered from 53A-6-503, as last amended by Laws of Utah 2008, Chapter 382)	53E-7-302, (Renumbered from 53A-25a-103, as enacted by Laws of Utah 1994, Chapter 280)
53E-6-703, (Renumbered from 53A-3-421, as enacted by Laws of Utah 1999, Chapter 108)	53E-7-303, (Renumbered from 53A-25a-104, as enacted by Laws of Utah 1994, Chapter 280)
53E-6-801, (Renumbered from 53A-7-101, as last amended by Laws of Utah 2000, Chapter 224)	53E-7-304, (Renumbered from 53A-25a-105, as last amended by Laws of Utah 2009, Chapter 294)
53E-6-802, (Renumbered from 53A-7-102, as repealed and reenacted by Laws of Utah 1999, Chapter 108)	53E-7-305, (Renumbered from 53A-25a-106, as last amended by Laws of Utah 2000, Chapter 224)
53E-6-901, (Renumbered from 53A-6-109, as last amended by Laws of Utah 2015, Chapter 389)	53E-8-102, (Renumbered from 53A-25b-102, as last amended by Laws of Utah 2017, Chapter 43)
53E-6-902, (Renumbered from 53A-6-115, as enacted by Laws of Utah 2016, Chapter 328)	53E-8-201, (Renumbered from 53A-25b-103, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-903, (Renumbered from 53A-6-116, as enacted by Laws of Utah 2016, Chapter 27)	53E-8-202, (Renumbered from 53A-25b-104, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-1001, (Renumbered from 53A-6-201, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-203, (Renumbered from 53A-25b-105, as last amended by Laws of Utah 2012, Chapter 347)
53E-6-1002, (Renumbered from 53A-6-202, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-204, (Renumbered from 53A-25b-201, as last amended by Laws of Utah 2016, Chapter 188)
53E-6-1003, (Renumbered from 53A-6-203, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-301, (Renumbered from 53A-25b-401, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-1004, (Renumbered from 53A-6-204, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-302, (Renumbered from 53A-25b-402, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-1005, (Renumbered from 53A-6-205, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-401, (Renumbered from 53A-25b-301, as last amended by Laws of Utah 2017, Chapter 351)
53E-6-1006, (Renumbered from 53A-6-206, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-402, (Renumbered from 53A-25b-302, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-1007, (Renumbered from 53A-6-207, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-403, (Renumbered from 53A-25b-303, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-1008, (Renumbered from 53A-6-208, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-404, (Renumbered from 53A-25b-304, as last amended by Laws of Utah 2017, Chapter 378)
53E-6-1009, (Renumbered from 53A-6-209, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-405, (Renumbered from 53A-25b-305, as enacted by Laws of Utah 2009, Chapter 294)
53E-6-1010, (Renumbered from 53A-6-210, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-406, (Renumbered from 53A-25b-306, as last amended by Laws of Utah 2016, Chapter 144)
53E-6-1011, (Renumbered from 53A-6-211, as enacted by Laws of Utah 1988, Chapter 2)	53E-8-407, (Renumbered from 53A-25b-307, as last amended by Laws of Utah 2017, Chapter 43)
53E-7-202, (Renumbered from 53A-15-301, as last amended by Laws of Utah 2002, Chapter 82)	53E-8-408, (Renumbered from 53A-25b-308, as enacted by Laws of Utah 2017, Chapter 351)
53E-7-203, (Renumbered from 53A-15-302, as last amended by Laws of Utah 1992, Chapter 53)	
53E-7-204, (Renumbered from 53A-15-303, as last amended by Laws of Utah 2002, Chapter 82)	
53E-7-205, (Renumbered from 53A-15-303.5, as last amended by Laws of Utah 2000, Chapter 215)	
53E-7-206, (Renumbered from 53A-15-304, as last amended by Laws of Utah 1992, Chapter 53)	

53E-8-409, (Renumbered from 53A-25b-501, as last amended by Laws of Utah 2016, Chapter 144)	53E-10-303, (Renumbered from 53A-15-1704, as enacted by Laws of Utah 2016, Chapter 200)
53E-8-410, (Renumbered from 53A-17a-111.5, as last amended by Laws of Utah 2017, Chapter 173)	53E-10-304, (Renumbered from 53A-15-1705, as enacted by Laws of Utah 2016, Chapter 200)
53E-9-202, (Renumbered from 53A-13-301, as last amended by Laws of Utah 2017, Chapter 30)	53E-10-305, (Renumbered from 53A-15-1706, as enacted by Laws of Utah 2016, Chapter 200)
53E-9-203, (Renumbered from 53A-13-302, as last amended by Laws of Utah 2016, Chapter 221)	53E-10-307, (Renumbered from 53A-15-1708, as enacted by Laws of Utah 2016, Chapter 200 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 76)
53E-9-204, (Renumbered from 53A-13-303, as enacted by Laws of Utah 2017, Chapter 30)	53E-10-308, (Renumbered from 53A-15-1709, as enacted by Laws of Utah 2016, Chapter 200)
53E-9-301, (Renumbered from 53A-1-1402, as last amended by Laws of Utah 2017, Chapter 370)	53E-10-401, (Renumbered from 53A-31-102, as enacted by Laws of Utah 2015, Chapter 53)
53E-9-302, (Renumbered from 53A-1-1403, as last amended by Laws of Utah 2017, Chapter 181)	53E-10-402, (Renumbered from 53A-31-201, as enacted by Laws of Utah 2015, Chapter 53)
53E-9-303, (Renumbered from 53A-1-1404, as enacted by Laws of Utah 2016, Chapter 221)	53E-10-403, (Renumbered from 53A-31-202, as enacted by Laws of Utah 2015, Chapter 53)
53E-9-304, (Renumbered from 53A-1-1405, as enacted by Laws of Utah 2016, Chapter 221)	53E-10-404, (Renumbered from 53A-31-203, as enacted by Laws of Utah 2015, Chapter 53)
53E-9-305, (Renumbered from 53A-1-1406, as last amended by Laws of Utah 2017, Chapter 370)	53E-10-405, (Renumbered from 53A-31-301, as enacted by Laws of Utah 2015, Chapter 53)
53E-9-306, (Renumbered from 53A-1-1407, as enacted by Laws of Utah 2016, Chapter 221)	53E-10-406, (Renumbered from 53A-31-302, as enacted by Laws of Utah 2015, Chapter 53)
53E-9-307, (Renumbered from 53A-1-1408, as enacted by Laws of Utah 2016, Chapter 221)	53E-10-501, (Renumbered from 53A-11-1502, as last amended by Laws of Utah 2015, Chapter 442)
53E-9-308, (Renumbered from 53A-1-1409, as enacted by Laws of Utah 2016, Chapter 221)	53E-10-502, (Renumbered from 53A-11-1503, as repealed and reenacted by Laws of Utah 2015, Chapter 442)
53E-9-309, (Renumbered from 53A-1-1410, as last amended by Laws of Utah 2017, Chapter 370)	53E-10-503, (Renumbered from 53A-11-1504, as last amended by Laws of Utah 2015, Chapter 442)
53E-9-310, (Renumbered from 53A-1-1411, as enacted by Laws of Utah 2016, Chapter 221)	53E-10-504, (Renumbered from 53A-11-1505, as last amended by Laws of Utah 2015, Chapter 442)
53E-10-202, (Renumbered from 53A-15-401, as last amended by Laws of Utah 2004, Chapter 257)	53E-10-505, (Renumbered from 53A-11-1506, as enacted by Laws of Utah 2015, Chapter 442)
53E-10-203, (Renumbered from 53A-15-402, as enacted by Laws of Utah 1988, Chapter 2)	53E-10-601, (Renumbered from 53A-15-1002, as last amended by Laws of Utah 2012, Chapter 238)
53E-10-204, (Renumbered from 53A-15-403, as last amended by Laws of Utah 2004, Chapter 257)	53E-10-602, (Renumbered from 53A-15-1002.5, as last amended by Laws of Utah 2015, Chapter 415)
53E-10-205, (Renumbered from 53A-15-404, as last amended by Laws of Utah 1996, Chapter 318)	53E-10-603, (Renumbered from 53A-15-1003, as last amended by Laws of Utah 2015, Chapter 415)
53E-10-206, (Renumbered from 53A-15-405, as enacted by Laws of Utah 1988, Chapter 2)	53E-10-604, (Renumbered from 53A-15-1004, as enacted by Laws of Utah 2006, Chapter 227)
53E-10-301, (Renumbered from 53A-15-1702, as last amended by Laws of Utah 2017, Chapter 444)	53E-10-605, (Renumbered from 53A-15-1005, as enacted by Laws of Utah 2006, Chapter 227)
53E-10-302, (Renumbered from 53A-15-1703, as enacted by Laws of Utah 2016, Chapter 200 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 76)	

- 53E-10-606, (Renumbered from 53A-15-1006, as last amended by Laws of Utah 2012, Chapter 238)
- 53E-10-607, (Renumbered from 53A-15-1007, as enacted by Laws of Utah 2006, Chapter 227)
- 53E-10-608, (Renumbered from 53A-15-1008, as enacted by Laws of Utah 2012, Chapter 238)
- 53E-10-609, (Renumbered from 53A-17a-131.15, as last amended by Laws of Utah 2010, Chapter 3)

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

Section 3. Section 53B-17-1001, which is renumbered from Section 53A-3-402.10 is renumbered and amended to read:

Part 10. Clinics and Programs

[53A-3-402.10]. 53B-17-1001. Reading clinics -- Purpose.

(1) The Legislature recognizes the critical importance of identifying, assessing, and assisting students with reading difficulties at an early age in order for them to have successful and productive school and life experiences.

(2) In order to help accomplish this, there is established a reading clinic, hereafter referred to as the "clinic," based at the University of Utah, College of Education, to assist educators and parents of students statewide in:

(a) assessing elementary school students who do not demonstrate satisfactory progress in reading;

(b) providing instructional intervention to enable the students to overcome reading difficulties; and

(c) becoming better prepared to help all students become successful readers by providing them with professional development programs in reading that are based on best practices and the most current, scientific research available through nationally and internationally recognized reading researchers and instructional specialists.

(3) (a) The clinic shall focus primarily on students in grades 1 through 3 since research shows the need for students to become successful readers by the end of grade 3.

(b) The clinic shall make assessment and instructional intervention services available to public education students of all ages.

(4) The clinic shall provide these services at a base site in Salt Lake County and through remote access interactive technology to reach educators, parents, and students throughout the state.

(5) The clinic shall provide:

(a) instruction to teachers in the use of technology and blended learning in providing individualized reading instruction and reading remediation; and

(b) access to students for reading remediation and instruction services through distance learning

technology if a student is unable to regularly access a reading clinic location.

(6) The clinic shall integrate both the usage of and instruction on the use of technology-based reading assessment tools as part of the clinic's services.

Section 4. Section 53E-1-101 is enacted to read:

**TITLE 53E. PUBLIC EDUCATION SYSTEM
-- STATE ADMINISTRATION**

CHAPTER 1. TITLE PROVISIONS

Part 1. General Provisions

53E-1-101. Title.

(1) This title is known as "Public Education System -- State Administration."

(2) This chapter is known as "Title Provisions."

Section 5. Section 53E-1-102 is enacted to read:

53E-1-102. Public education code definitions.

As used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration, "public education code" means:

(1) this title;

(2) Title 53F, Public Education System -- Funding; and

(3) Title 53G, Public Education System -- Local Administration.

Section 6. Section 53E-1-103 is enacted to read:

53E-1-103. Title 53E definitions.

Reserved

Section 7. Section 53E-1-201 is enacted to read:

Part 2. Reports

53E-1-201. Reports.

Reserved

Section 8. Section 53E-2-101 is enacted to read:

**CHAPTER 2. PUBLIC EDUCATION SYSTEM
POLICY**

Part 1. General Provisions

53E-2-101. Title.

This chapter is known as "Public Education System Policy."

Section 9. Section 53E-2-201, which is renumbered from Section 53A-1-101 is renumbered and amended to read:

Part 2. Policy and Planning for the Public Education System

[53A-1-101]. 53E-2-201. Policy for Utah's public education system.

(1) (a) The continuous cultivation of an informed and virtuous citizenry among succeeding generations is essential to the state and the nation.

(b) The state's public education system is established and maintained as provided in Utah Constitution, Article X, and this [title] public education code.

(c) Parents and guardians have the primary responsibility for the education of their children and elect representatives in the Legislature and on state and local school boards to administer the state public education system, which provides extensive support and assistance. All children of the state are entitled to a free elementary and secondary public education as provided in Utah Constitution, Article X.

(d) Public schools fulfill a vital purpose in the education and preparation of informed and responsible citizens who:

(i) fully understand and lawfully exercise their individual rights and liberties;

(ii) become self-reliant and able to provide for themselves and their families; and

(iii) contribute to the public good and the health, welfare, and security of the state and the nation.

(2) In the implementation of all policies, programs, and responsibilities adopted in accordance with this [title] public education code, the Legislature, the State Board of Education, local school boards, and charter school governing boards shall:

(a) respect, protect, and further the interests of parents and guardians in their children's public education; and

(b) promote and encourage full and active participation and involvement of parents and guardians at all public schools.

Section 10. Section 53E-2-202, which is renumbered from Section 53A-1-102.5 is renumbered and amended to read:

[53A-1-102.5]. 53E-2-202. Planning for Utah's public education system.

(1) Before November 30, 2016, the State Board of Education shall:

(a) (i) prepare a report that summarizes, for the last 15 years or more, the policies and programs established by, and the performance history of, the state's public education system; and

(ii) prepare a formal 10-year plan for the state's public education system, including recommendations to:

(A) repeal outdated policies and programs; and

(B) clarify and correlate current policies and programs; and

(b) submit the report and plan described in Subsection (1)(a) to the Education Interim Committee for review and recommendations.

(2) The State Board of Education shall review and maintain the 10-year plan described in Subsection (1)(a)(ii) and submit the updated plan to the Education Interim Committee for review and approval at least once every five years.

Section 11. Section 53E-2-301, which is renumbered from Section 53A-1a-103 is renumbered and amended to read:

Part 3. Goals and Methods of the Public Education System

[53A-1a-103]. 53E-2-301. Public education's vision and mission.

(1) The Legislature envisions an educated citizenry that encompasses the following foundational principles:

(a) citizen participation in civic and political affairs;

(b) economic prosperity for the state by graduating students who are college and career ready;

(c) strong moral and social values; and

(d) loyalty and commitment to constitutional government.

(2) The Legislature recognizes that public education's mission is to assure Utah the best educated citizenry in the world and each individual the training to succeed in a global society by providing students with:

(a) learning and occupational skills;

(b) character development;

(c) literacy and numeracy;

(d) high quality instruction;

(e) curriculum based on high standards and relevance; and

(f) effective assessment to inform high quality instruction and accountability.

(3) The Legislature:

(a) recognizes that parents or guardians are a child's first teachers and are responsible for the education of their children;

(b) encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and

(c) intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.

(4) This section will be applied consistent with Section [53A-13-109] 53G-10-204.

Section 12. Section 53E-2-302, which is renumbered from Section 53A-1a-104 is renumbered and amended to read:

[53A-1a-104]. 53E-2-302. Characteristics of public education system.

The Legislature shall assist in maintaining a public education system that has the following characteristics:

(1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;

(2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent or guardian, and school personnel in establishing the plan;

(3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;

(4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;

(5) offers world-class core standards that enable students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;

(6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;

(7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the State Board of Education, the State Board of Regents, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;

(8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this ~~chapter~~ part;

(9) uses technology to improve teaching and learning processes and for the delivery of educational services;

(10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;

(11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;

(12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and

(13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Section 13. Section 53E-2-303, which is renumbered from Section 53A-1a-105 is renumbered and amended to read:

[53A-1a-105]. 53E-2-303. Parental participation in educational process -- Employer support.

(1) The Legislature recognizes the importance of parental participation in the educational process in order for students to achieve and maintain high levels of performance.

(2) It is, therefore, the policy of the state to:

(a) encourage parents to provide a home environment that values education and send their children to school prepared to learn;

(b) rely upon school districts and schools to provide opportunities for parents of students to be involved in establishing and implementing educational goals for their respective schools and students; and

(c) expect employers to recognize the need for parents and members of the community to participate in the public education system in order to help students achieve and maintain excellence.

(3) (a) Each local school board shall adopt a policy on parental involvement in the schools of the district.

(b) The board shall design its policy to build consistent and effective communication among parents, teachers, and administrators.

(c) The policy shall provide parents with the opportunity to be actively involved in their children's education and to be informed of:

(i) the importance of the involvement of parents in directly affecting the success of their children's educational efforts; and

(ii) groups and organizations that may provide instruction and training to parents to help improve their children's academic success and support their academic efforts.

Section 14. Section 53E-2-304, which is renumbered from Section 53A-1a-106 is renumbered and amended to read:

[53A-1a-106]. 53E-2-304. School district and individual school powers -- Plan for college and career readiness definition.

(1) In order to acquire and develop the characteristics listed in Section [53A-1a-104] 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.

(2) (a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) provide for teacher and parent involvement in policymaking at the school site;

(iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

(iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

(v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

(vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

(vii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.

(b) (i) As used in this [title] section, "plan for college and career readiness" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers, and administrators that:

(A) is initiated at the beginning of grade 7;

(B) identifies a student's skills and objectives;

(C) maps out a strategy to guide a student's course selection; and

(D) links a student to post-secondary options, including higher education and careers.

(ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.

(iii) The policies shall include guidelines and expectations for:

(A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;

(B) planning, monitoring, and managing education and career development; and

(C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.

(iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.

(v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term referred to in Subsection ~~[53A-17a-103]~~ 53F-2-102(7).

(3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section ~~[53A-1a-104]~~ 53E-2-302.

(4) (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.

(b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Section 15. Section 53E-3-101 is enacted to read:

**CHAPTER 3. STATE BOARD OF
EDUCATION ORGANIZATION, POWERS,
AND DUTIES**

Part 1. General Provisions

53E-3-101. Title.

This chapter is known as "State Board of Education Organization, Powers, and Duties."

Section 16. Section 53E-3-201, which is renumbered from Section 53A-1-201 is renumbered and amended to read:

Part 2. Organization

[53A-1-201]. 53E-3-201. State Board of Education members -- Election and appointment of officers -- Removal from office.

(1) Members of the State Board of Education shall be nominated and elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(2) The State Board of Education shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, each year at a meeting held any time between November 15 and January 15.

(3) (a) If the election of officers is held subsequent to the election of a new member of the board, but prior to the time that the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.

(b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.

(4) The duties of these officers shall be determined by the board.

(5) The board shall appoint a secretary who serves at the pleasure of the board.

(6) An officer appointed or elected by the board under this section may be removed from office for cause by a vote of two-thirds of the board.

Section 17. Section 53E-3-202, which is renumbered from Section 53A-1-202 is renumbered and amended to read:

[53A-1-202]. 53E-3-202. Compensation for members of the State Board of Education -- Insurance -- Per diem and expenses.

(1) The salary for a member of the State Board of Education is set in accordance with Section 36-2-3.

(2) Compensation for a member of the State Board of Education is payable monthly.

(3) A State Board of Education member may participate in any group insurance plan provided to employees of the State Board of Education as part of the State Board of Education member's compensation on the same basis as required for employee participation.

(4) In addition to the provisions of Subsections (1) and (3), a State Board of Education member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 18. Section 53E-3-203, which is renumbered from Section 53A-1-203 is renumbered and amended to read:

[53A-1-203]. 53E-3-203. State board meetings -- Quorum requirements.

(1) The State Board of Education shall meet at the call of the chairman and at least 11 times each year.

(2) A majority of all members is required to validate an act of the State Board of Education.

Section 19. Section 53E-3-204, which is renumbered from Section 53A-1-204 is renumbered and amended to read:

[53A-1-204]. 53E-3-204. Gross neglect of duty -- Nonpayment of salary or expenses.

(1) Failure of a member of the State Board of Education or of a governing board of a branch or division of the public school system to carry out responsibilities assigned by law or to comply with rules of the State Board of Education is gross neglect of duty.

(2) Salary or expenses shall not be paid for work which violates rules of the board.

Section 20. Section 53E-3-301, which is renumbered from Section 53A-1-301 is renumbered and amended to read:

Part 3. State Superintendent

[53A-1-301]. 53E-3-301. Appointment -- Qualifications -- Duties.

(1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the State Board of Education

and serves at the pleasure of the State Board of Education.

(b) The State Board of Education shall appoint the state superintendent on the basis of outstanding professional qualifications.

(c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the State Board of Education.

(2) The State Board of Education shall, with the state superintendent, develop a statewide education strategy focusing on core academics, including the development of:

(a) core standards for Utah public schools and graduation requirements;

(b) a process to select model instructional materials that best correlate with the core standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;

(c) professional development programs for teachers, superintendents, and principals;

(d) model remediation programs;

(e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;

(f) progress-based assessments for ongoing performance evaluations of school districts and schools;

(g) incentives to achieve the desired outcome of individual student progress in core academics that do not create disincentives for setting high goals for the students;

(h) an annual report card for school and school district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as each strives to achieve improvement in performance; and

(j) a method for identifying and sharing best demonstrated practices across school districts and schools.

(3) The state superintendent shall perform duties assigned by the State Board of Education, including:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the state superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

(d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year that includes:

(i) data on the general condition of the schools with recommendations considered desirable for specific programs;

(ii) a complete statement of fund balances;

(iii) a complete statement of revenues by fund and source;

(iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(vi) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings pursuant to Section [53A-8a-410] 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section [53A-1-602] 53E-4-301 for each school and school district;

(vii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:

(A) alcohol and drug abuse;

(B) weapon possession;

(C) assaults; and

(D) arson;

(viii) information about:

(A) the development and implementation of the strategy of focusing on core academics;

(B) the development and implementation of competency-based education and progress-based assessments; and

(C) the results being achieved under Subsections (3)(d)(viii)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of

students in other states using standardized norm-referenced tests as benchmarks; and

(ix) other statistical and financial information about the school system that the state superintendent considers pertinent;

(e) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:

(i) data that are:

(A) comparable across schools and school districts;

(B) appropriate for use in longitudinal studies; and

(C) comprehensive with regard to the data elements required under applicable state or federal law or State Board of Education rule;

(ii) features that enable users, most particularly school administrators, teachers, and parents, to:

(A) retrieve school and school district level data electronically;

(B) interpret the data visually; and

(C) draw conclusions that are statistically valid; and

(iii) procedures for the collection and management of education data that:

(A) require the state superintendent to:

(I) collaborate with school districts and charter schools in designing and implementing uniform data standards and definitions;

(II) undertake or sponsor research to implement improved methods for analyzing education data;

(III) provide for data security to prevent unauthorized access to or contamination of the data; and

(IV) protect the confidentiality of data under state and federal privacy laws; and

(B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(e);

(f) administering and implementing federal educational programs in accordance with [Title 53A, Chapter 1, Part 9,] Part 8, Implementing Federal or National Education Programs [Act]; and

(g) with the approval of the State Board of Education, preparing and submitting to the governor a budget for the State Board of Education to be included in the budget that the governor submits to the Legislature.

(4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section [53A-1-304] 53F-9-401 in accordance with the requirements of Section [53A-1-304] 53F-9-401.

(5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

(6) (a) For the purposes of Subsection (3)(d)(vi):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The printed copy of the report required by Subsection (3)(d) shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

Section 21. Section 53E-3-302, which is renumbered from Section 53A-1-302 is renumbered and amended to read:

[53A-1-302]. 53E-3-302. Compensation of state superintendent -- Other board employees.

(1) The board shall establish the compensation of the state superintendent.

(2) The board may, as necessary for the proper administration and supervision of the public school system:

(a) appoint other employees; and

(b) delegate appropriate duties and responsibilities to board employees.

(3) The compensation and duties of board employees shall be established by the board and paid from money appropriated for that purpose.

Section 22. Section 53E-3-303, which is renumbered from Section 53A-1-303 is renumbered and amended to read:

[53A-1-303]. 53E-3-303. Advice by superintendent -- Written opinions.

(1) The state superintendent shall advise superintendents, school boards, and other school officers upon all matters involving the welfare of the schools.

(2) The superintendent shall, when requested by district superintendents or other school officers, provide written opinions on questions of public education, administrative policy, and procedure, but not upon questions of law.

(3) Upon request by the state superintendent, the attorney general shall issue written opinions on questions of law.

(4) Opinions issued under this section shall be considered to be correct and final unless set aside by a court of competent jurisdiction or by subsequent legislation.

Section 23. Section 53E-3-401, which is renumbered from Section 53A-1-401 is renumbered and amended to read:

Part 4. Powers

[53A-1-401]. 53E-3-401. Powers of State Board of Education -- Adoption of rules -- Enforcement -- Attorney.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by the board under this ~~title~~ public education code;

(ii) an entity that enters into a contract with the board to provide an educational good or service;

(iii) a school district; or

(iv) a charter school.

(c) "Educational good or service" means a good or service that is required or regulated under:

(i) this ~~title~~ public education code; or

(ii) a rule authorized under this ~~title~~ public education code.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.

(3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.

(b) The board may delegate the board's statutory duties and responsibilities to board employees.

(5) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The board shall develop policies and procedures related to federal educational programs in accordance with ~~[Title 53A, Chapter 1, Part 9, Part 8, Implementing Federal or National Education Programs [Act].~~

(7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this ~~[title]~~ public education code or rules authorized under this ~~[title]~~ public education code, the board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty; or

(iv) require the education entity to reimburse specified state funds to the board.

(b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.

(10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this ~~[title]~~ public education code; and

(b) board rule authorized under this ~~[title]~~ public education code.

(11) (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

Section 24. Section 53E-3-402, which is renumbered from Section 53A-1-406 is renumbered and amended to read:

~~[53A-1-406]. 53E-3-402. Acceptance of gifts, endowments, devises, and bequests.~~

(1) The State Board of Education, on its own behalf or on behalf of an educational institution for which the board is the direct governing body, may accept private grants, loans, gifts, endowments, devises, or bequests which are made for educational purposes.

(2) These contributions are not subject to appropriation by the Legislature.

Section 25. Section 53E-3-403, which is renumbered from Section 53A-4-205 is renumbered and amended to read:

~~[53A-4-205]. 53E-3-403. Establishment of public education foundations -- Powers and duties -- Tax exempt status.~~

(1) The State Board of Education, a local school board, or the Utah Schools for the Deaf and Blind may establish foundations to:

(a) assist in the development and implementation of ~~[the programs authorized under this part]~~ programs to promote educational excellence; and

(b) assist in the accomplishment of other education-related objectives.

(2) A foundation established under Subsection (1):

(a) may solicit and receive contributions from private enterprises for the purpose of this ~~[part]~~ section;

(b) shall comply with Title 51, Chapter 7, State Money Management Act, and rules made under the act;

(c) has no power or authority to incur contractual obligations or liabilities that constitute a claim against public funds except as provided in this section;

(d) may not exercise executive, administrative, or rulemaking authority over the programs ~~referred to in this part~~ described in this section, except to the extent specifically authorized by the responsible school board;

(e) is exempt from all taxes levied by the state or any of its political subdivisions with respect to activities conducted under this ~~part~~ section;

(f) may participate in the Risk Management Fund under Section 63A-4-204;

(g) shall provide a school with information detailing transactions and balances of funds managed for that school;

(h) shall, for foundation accounts from which money is distributed to schools, provide all the schools within a school district information that:

- (i) details account transactions; and
- (ii) shows available balances in the accounts; and
- (i) may not:
 - (i) engage in lobbying activities;
 - (ii) attempt to influence legislation; or
 - (iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

(3) A local school board that establishes a foundation under Subsection (1) shall:

- (a) require the foundation to:
 - (i) use the school district's accounting system; or
 - (ii) follow written accounting policies established by the board;

(b) review and approve the foundation's accounting, purchasing, and check issuance policies to ensure that there is an adequate separation of responsibilities; and

(c) approve procedures to verify that issued foundation payments have been properly approved.

Section 26. Section 53E-3-501, which is renumbered from Section 53A-1-402 is renumbered and amended to read:

Part 5. Miscellaneous Duties

[53A-1-402]. 53E-3-501. State Board of Education to establish miscellaneous minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the public schools that are consistent with this ~~title~~ public education code, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements;

(v) school libraries; and

(vi) services to:

(A) persons with a disability as defined by and covered under:

(I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;

(II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and

(III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and

(B) other special groups;

(d) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs; and

(e) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements.

(2) The State Board of Education shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) The State Board of Education may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

(4) (a) A technical college listed in Section 53B-2a-105 shall provide competency-based

career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.

(b) A school district may grant a high school diploma to a student participating in a course described in Subsection (4)(a) that is provided by a technical college listed in Section 53B-2a-105.

Section 27. Section 53E-3-502, which is renumbered from Section 53A-1a-107 is renumbered and amended to read:

[53A-1a-107]. 53E-3-502. State Board of Education assistance to districts and schools.

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section [53A-1a-104] 53E-2-302, the State Board of Education shall:

(1) provide the framework for an education system, including core competency standards and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;

(2) conduct a statewide public awareness program on competency-based educational systems;

(3) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;

(4) promote a public education climate of high expectations and academic excellence;

(5) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections [53A-1a-104] 53E-2-302(7) and [53A-6-102] 53E-6-103(2)(a) and (b);

(6) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section [53A-1a-103] 53E-2-301;

(7) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;

(8) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections [53A-1a-104] 53E-2-302(7) and [53A-6-102] 53E-6-103(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and

(9) in concert with the State Board of Regents and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

Section 28. Section 53E-3-503, which is renumbered from Section 53A-1-403 is renumbered and amended to read:

[53A-1-403]. 53E-3-503. Education of persons under 21 in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.

(1) For purposes of this section, "board" means the State Board of Education.

(2) (a) The board is directly responsible for the education of all persons under the age of 21 who are:

(i) receiving services from the Department of Human Services;

(ii) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(iii) being held in a juvenile detention facility.

(b) The board shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of persons described in Subsection (2)(a).

(3) Subsection (2)(a)(ii) does not apply to persons taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(4) The board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the board shall retain responsibility for the programs.

(5) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;

(b) the Division of Substance Abuse and Mental Health; and

(c) the Division of Services for People with Disabilities.

(6) (a) The Department of Human Services and the State Board of Education shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The department and board may appoint similar councils for those in the custody of the

Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

(7) A school district contracting to provide services under Subsection (4) shall establish an advisory council to plan, coordinate, and review education and treatment programs for persons held in custody in the district.

Section 29. Section 53E-3-504, which is renumbered from Section 53A-1-801 is renumbered and amended to read:

[53A-1-801]. 53E-3-504. Child literacy program -- Coordinated activities.

(1) The State Board of Education, through the state superintendent of public instruction, shall provide for a public service campaign to educate parents on the importance of providing their children with opportunities to develop emerging literacy skills through a statewide "Read to Me" program.

(2) The board shall coordinate its activities under this section with other state and community entities that are engaged in child literacy programs in order to maximize its efforts and resources, including the Utah Commission on National and Community Service.

Section 30. Section 53E-3-505, which is renumbered from Section 53A-13-110 is renumbered and amended to read:

[53A-13-110]. 53E-3-505. Financial and economic literacy education.

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

- (i) basic budgeting;
- (ii) saving and financial investments;
- (iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;
- (iv) career management, including earning an income;
- (v) rights and responsibilities of renting or buying a home;
- (vi) retirement planning;
- (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
- (viii) insurance;
- (ix) federal, state, and local taxes;
- (x) charitable giving;
- (xi) online commerce;
- (xii) identity fraud and theft;

(xiii) negative financial consequences of gambling;

(xiv) bankruptcy;

(xv) free markets and prices;

(xvi) supply and demand;

(xvii) monetary and fiscal policy;

(xviii) effective business plan creation, including using economic analysis in creating a plan;

(xix) scarcity and choices;

(xx) opportunity cost and tradeoffs;

(xxi) productivity;

(xxii) entrepreneurship; and

(xxiii) economic reasoning.

(c) "Financial and economic literacy passport" means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.

(d) "General financial literacy course" means the course of instruction described in Section [53A-13-108] 53E-4-204.

(2) The State Board of Education shall:

(a) in cooperation with interested private and nonprofit entities:

(i) develop a financial and economic literacy passport that students may elect to complete;

(ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and

(iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:

(A) a financial and economic literacy endorsement on the student's diploma of graduation;

(B) a specific designation on the student's official transcript; and

(C) any incentives offered by community partners;

(b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(c) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses;

(e) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school;

(f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education; and

(g) implement a teacher endorsement in general financial literacy that includes course work in financial planning, credit and investing, consumer economics, personal budgeting, and family economics.

~~[(3) A public school shall provide the following to the parents or guardian of a kindergarten student during kindergarten enrollment:]~~

~~[(a) a financial and economic literacy passport; and]~~

~~[(b) information about higher education savings options, including information about opening a Utah Educational Savings Plan account.]~~

[4] (3) (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the State Board of Education;

(ii) school districts and charter schools;

(iii) the State Board of Regents; and

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) In 2013, the task force shall:

(i) review and recommend modifications to the course standards and objectives of the general financial literacy course described in Section ~~[53A-13-108]~~ 53E-4-204 to ensure the course standards and objectives reflect current and relevant content consistent with the financial and economic literacy concepts listed in Subsection (1)(b);

(ii) study the development of an online assessment of students' competency in financial and economic literacy that may be used to:

(A) measure student learning growth and proficiency in financial and economic literacy; and

(B) assess the effectiveness of instruction in financial and economic literacy;

(iii) consider the development of a rigorous, online only, course to fulfill the general financial literacy curriculum and graduation requirements specified in Section ~~[53A-13-108]~~ 53E-4-204;

(iv) identify opportunities for teaching financial and economic literacy through an integrated school curriculum and in the regular course of school work;

(v) study and make recommendations for educator license endorsements for teachers of financial and economic literacy;

(vi) identify efficient and cost-effective methods of delivering professional development in financial

and economic literacy content and instructional methods; and

(vii) study how financial and economic literacy education may be enhanced through community partnerships.

(d) The task force shall reconvene every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

(e) The State Board of Education shall make a report to the Education Interim Committee no later than the committee's November 2013 meeting summarizing the findings and recommendations of the task force and actions taken by the board in response to the task force's findings and recommendations.

Section 31. Section 53E-3-506, which is renumbered from Section 53A-13-111 is renumbered and amended to read:

[53A-13-111]. 53E-3-506. Educational program on the use of information technology.

(1) The State Board of Education shall provide for an educational program on the use of information technology, which shall be offered by high schools.

(2) An educational program on the use of information technology shall:

(a) provide instruction on skills and competencies essential for the workplace and requested by employers;

(b) include the following components:

(i) a curriculum;

(ii) online access to the curriculum;

(iii) instructional software for classroom and student use;

(iv) certification of skills and competencies most frequently requested by employers;

(v) professional development for teachers; and

(vi) deployment and program support, including integration with existing core standards for Utah public schools; and

(c) be made available to high school students, faculty, and staff.

Section 32. Section 53E-3-507, which is renumbered from Section 53A-15-202 is renumbered and amended to read:

[53A-15-202]. 53E-3-507. Powers of the board.

The State Board of Education:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs

of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;

(4) shall cooperate with the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah System of Technical Colleges technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Section 33. Section 53E-3-508, which is renumbered from Section 53A-15-107 is renumbered and amended to read:

[53A-15-107]. 53E-3-508. Rulemaking -- Standards for high quality programs operating outside of the regular school day.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Department of Workforce Services, the State Board of Education shall make rules that describe the standards for a high quality program operating outside of the regular school day:

- (a) for elementary or secondary students; and
- (b) offered by a:
 - (i) school district;
 - (ii) charter school;
 - (iii) private provider, including a non-profit provider; or
 - (iv) municipality.
- (2) The standards described in Subsection (1) shall specify that a high quality program operating outside of the regular school day:
 - (a) provides a safe, healthy, and nurturing environment for all participants;
 - (b) develops and maintains positive relationships among staff, participants, families, schools, and communities;
 - (c) encourages participants to learn new skills; and
 - (d) is effectively administered.

Section 34. Section 53E-3-509, which is renumbered from Section 53A-15-603 is renumbered and amended to read:

[53A-15-603]. 53E-3-509. Gang prevention and intervention policies.

- (1) (a) The State Board of Education shall adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.
- (b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.
- (2) The rules described in Subsection (1) may include the following provisions:
 - (a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;
 - (b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;
 - (c) gang-related graffiti or damage to school property shall result in parent or guardian notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;
 - (d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on

school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents and guardians of students in the school:

- (i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;
- (ii) emphasizing the school's concern for safety; and
- (iii) outlining the action taken at the school regarding the incident;
- (e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;
- (f) prohibitions on the following behavior:
 - (i) advocating or promoting a gang or any gang-related activities;
 - (ii) marking school property, books, or school work with gang names, slogans, or signs;
 - (iii) conducting gang initiations;
 - (iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;
 - (v) aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;
 - (vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and
 - (vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.
- (3) The rules described in Subsection (1) may require a local school board or governing board of a charter school to publicize the policies enacted by the local school board or governing board of a charter school in accordance with the rules described in Subsection (1) to all students, parents, guardians, and faculty through school websites, handbooks, letters to parents and guardians, or other reasonable means of communication.
- (4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Section 35. Section 53E-3-510, which is renumbered from Section 53A-19-201 is renumbered and amended to read:

[53A-19-201]. 53E-3-510. Control of school lunch revenues -- Apportionment -- Costs.

(1) School lunch revenues shall be under the control of the State Board of Education and may only be disbursed, transferred, or drawn upon by its order. The revenue may only be used to provide school lunches and a school lunch program in the state's school districts in accordance with standards established by the board.

(2) The board shall apportion the revenue according to the number of school children receiving school lunches in each school district. The State Board of Education and local school boards shall employ staff to administer and supervise the school lunch program and purchase supplies and equipment.

(3) The costs of the school lunch program shall be included in the state board's annual budget.

Section 36. Section 53E-3-511, which is renumbered from Section 53A-1-413 is renumbered and amended to read:

[53A-1-413]. 53E-3-511. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

(a) "Authorized LEA user" means a teacher or other person who is:

(i) employed by an LEA that provides instruction to a student; and

(ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.

(b) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(c) "Statewide assessment" means the same as that term is defined in Section ~~[53A-1-602]~~ 53E-4-301.

(d) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:

(i) is in electronic format;

(ii) follows the student from grade to grade and school to school; and

(iii) is accessible by the student's parent or guardian or an authorized LEA user.

(e) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:

(i) managed by the State Board of Education;

(ii) cloud-based; and

(iii) accessible via a web browser to authorized LEA users.

(2) (a) The State Board of Education shall use the State Board of Education's robust, comprehensive data collection system, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section

~~[53A-1-603.5]~~ 53E-4-308, to allow the following to access a student's Student Achievement Backpack:

(i) the student's parent or guardian; and

(ii) each LEA that provides instruction to the student.

(b) The State Board of Education shall ensure that a Student Achievement Backpack:

(i) provides a uniform, transparent reporting mechanism for individual student progress;

(ii) provides a complete learner history for postsecondary planning;

(iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;

(iv) assists a teacher or administrator in diagnosing a student's learning needs through the use of data already collected by the State Board of Education;

(v) facilitates a student's parent or guardian taking an active role in the student's education by simplifying access to the student's complete learner profile; and

(vi) serves as additional disaster mitigation for LEAs by using a cloud-based data storage and collection system.

(3) Using existing information collected and stored in the State Board of Education's data warehouse, the State Board of Education shall create the Utah Student Record Store where an authorized LEA user may:

(a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or

(b) request student records to be transferred from one LEA to another.

(4) The State Board of Education shall implement security measures to ensure that:

(a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(b) an authorized LEA user may only access student data that is relevant to the user's LEA or school.

(5) A student's parent or guardian may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.

(6) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the following data, or request that the data be transferred from one LEA to another:

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results of a statewide assessment.

(7) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request that the data be transferred from one LEA to another:

- (a) section attendance;
- (b) the name of a student's teacher for classes or courses the student takes;
- (c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;
- (d) results of statewide assessments;
- (e) a student's writing sample that is written for a writing assessment administered pursuant to Section ~~[53A-1-604]~~ 53E-4-303;
- (f) student growth scores on a statewide assessment, as applicable;
- (g) a school's grade assigned pursuant to ~~[Part 11]~~ Chapter 5, Part 2, School Accountability System;
- (h) results of benchmark assessments of reading administered pursuant to Section ~~[53A-1-606.6]~~ 53E-4-307; and
- (i) a student's reading level at the end of grade 3.

(8) No later than June 30, 2017, the State Board of Education shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into each LEA's student information system and is made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

Section 37. Section 53E-3-512, which is renumbered from Section 53A-1-402.5 is renumbered and amended to read:

~~[53A-1-402.5]. 53E-3-512. State board rules establishing basic ethical conduct standards -- Local school board policies.~~

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish basic ethical conduct standards for public education employees who provide education-related services outside of their regular employment to their current or prospective public school students.

(2) The rules shall provide that a local school board may adopt policies implementing the standards and addressing circumstances present in the district.

Section 38. Section 53E-3-513, which is renumbered from Section 53A-1a-105.5 is renumbered and amended to read:

~~[53A-1a-105.5]. 53E-3-513. Parental permission required for specified in-home programs -- Exceptions.~~

(1) The State Board of Education, local school boards, school districts, and public schools are prohibited from requiring infant or preschool

in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.

(2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with Title 62A, Chapter 4a, Child and Family Services, or any other in-home services that have been court ordered, pursuant to Title 62A, Chapter 4a, Child and Family Services, or Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~.

Section 39. Section 53E-3-514, which is renumbered from Section 53A-16-101.6 is renumbered and amended to read:

~~[53A-16-101.6]. 53E-3-514. Creation of School Children's Trust Section -- Duties.~~

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section ~~[53A-16-101.5]~~ 53F-2-404; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section under the State Board of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) investments;

(v) public education;

(vi) real estate;

(vii) renewable resources;

(viii) risk management; and

(ix) trust law.

(c) The director shall be appointed as provided in this Subsection (3).

(d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.

(e) The State Board of Education may:

(i) appoint the person described in Subsection (3)(d) to serve as director; or

(ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.

(f) If the State Board of Education denies an appointment under this Subsection (3):

(i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and

(ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.

(g) The State Board of Education may remove the director only by majority vote of a quorum in an open and public meeting after proper notice and the inclusion of the removal item on the agenda.

(4) The State Board of Education shall make rules regarding:

(a) regular reporting from the School Children's Trust Section director to the State Board of Education, to allow the State Board of Education to fulfill its duties in representing the trust beneficiaries; and

(b) the day-to-day reporting of the School Children's Trust Section director.

(5) (a) The director shall annually submit a proposed section budget to the State Board of Education.

(b) After approving a section budget, the State Board of Education shall propose the approved budget to the Legislature.

(6) The director is entitled to attend any presentation, discussion, meeting, or other gathering concerning the trust, subject to:

(a) provisions of law prohibiting the director's attendance to preserve confidentiality; or

(b) other provisions of law that the director's attendance would violate.

(7) The section shall have a staff.

(8) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:

(a) the Utah Enabling Act;

(b) the Utah Constitution;

(c) state statute; and

(d) standard trust principles described in Section 53C-1-102.

(9) The section shall promote:

(a) productive use of school and institutional trust lands; and

(b) the efficient and prudent investment of funds managed by the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(10) The section shall provide representation, advocacy, and input:

(a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;

(b) on federal, state, and local land decisions and policies that affect the trust; and

(c) to:

(i) the School and Institutional Trust Lands Administration;

(ii) the School and Institutional Trust Lands Board of Trustees;

(iii) the Legislature;

(iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;

(v) the School and Institutional Trust Fund Board of Trustees, created in Section 53D-1-301;

(vi) the attorney general;

(vii) the public; and

(viii) other entities as determined by the section.

(11) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.

(12) The section shall provide information requested by a person or entity described in Subsections (10)(c)(i) through (vii).

(13) (a) The section shall provide training to the entities described in Subsection (13)(b) on:

(i) the School LAND Trust Program established in Section ~~[53A-16-101.5]~~ 53F-2-404; and

(ii) (A) a school community council established pursuant to Section ~~[53A-1a-108]~~ 53G-7-1202; or

(B) a charter trust land council established under Section ~~[53A-16-101.5]~~ 53F-2-404.

(b) The section shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(14) The section shall annually:

(a) review each school's compliance with applicable law, including rules adopted by the State Board of Education; and

(b) report findings to the State Board of Education.

Section 40. Section 53E-3-515, which is renumbered from Section 53A-15-206 is renumbered and amended to read: [53A-15-206]. 53E-3-515. Hospitality and Tourism Management Career and Technical Education Pilot Program.

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Local education agency" means a school district or charter school.
- (c) "Pilot program" means the Hospitality and Tourism Management Career and Technical Education Pilot Program created under Subsection (2).

(2) There is created a Hospitality and Tourism Management Career and Technical Education Pilot Program to provide instruction that a local education agency may offer to a student in any of grades 9 through 12 on:

(a) the information and skills required for operational level employee positions in hospitality and tourism management, including:

- (i) hospitality soft skills;
- (ii) operational areas of the hospitality industry;
- (iii) sales and marketing; and
- (iv) safety and security; and

(b) the leadership and managerial responsibilities, knowledge, and skills required by an entry-level leader in hospitality and tourism management, including:

- (i) hospitality leadership skills;
- (ii) operational leadership;
- (iii) managing food and beverage operations; and
- (iv) managing business operations.

(3) The instruction described in Subsection (2) may be delivered in a public school using live instruction, video, or online materials.

(4) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select one or more providers to supply materials and curriculum for the pilot program.

(b) The board may seek recommendations from trade associations and other entities that have expertise in hospitality and tourism management regarding potential providers of materials and curriculum for the pilot program.

(5) (a) A local education agency may apply to the board to participate in the pilot program.

(b) The board shall select participants in the pilot program.

(c) A local education agency that participates in the pilot program shall use the materials and curriculum supplied by a provider selected under Subsection (4).

(6) The board shall evaluate the pilot program and provide an annual written report to the Education Interim Committee and the Economic Development and Workforce Services Interim Committee on or before October 1 describing:

(a) how many local education agencies and how many students are participating in the pilot program; and

(b) any recommended changes to the pilot program.

Section 41. Section 53E-3-601 is enacted to read:

Part 6. Audits

53E-3-601. Definitions.

Reserved

Section 42. Section 53E-3-602, which is renumbered from Section 53A-1-404 is renumbered and amended to read:

[53A-1-404]. 53E-3-602. Auditors appointed -- Auditing standards.

(1) Procedures utilized by auditors employed by local school boards shall meet or exceed generally accepted auditing standards approved by the State Board of Education and the state auditor.

(2) The standards must include financial accounting for both revenue and expenditures, and student accounting.

Section 43. Section 53E-3-603, which is renumbered from Section 53A-1-405 is renumbered and amended to read:

[53A-1-405]. 53E-3-603. State board to verify audits.

The State Board of Education is responsible for verifying audits of financial and student accounting records of school districts for purposes of determining the allocation of Uniform School Fund money.

Section 44. Section 53E-3-701 is enacted to read:

Part 7. School Construction

53E-3-701. Definitions.

Reserved

Section 45. Section 53E-3-702, which is renumbered from Section 53A-20-110 is renumbered and amended to read:

[53A-20-110]. 53E-3-702. Board to adopt public school construction guidelines.

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Public school construction" means construction work on a new public school.

(2) (a) The board shall:

(i) adopt guidelines for public school construction; and

(ii) consult with the Division of Facilities Construction and Management Administration on proposed guidelines before adoption.

(b) The board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect

efficient and economic use of those funds, including adopting guidelines that address a school's essential needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.

(3) Before a school district or charter school may begin public school construction, the school district or charter school shall:

(a) review the guidelines adopted by the board under this section; and

(b) take into consideration the guidelines when planning the public school construction.

(4) In adopting the guidelines for public school construction, the board shall consider the following and adopt alternative guidelines as needed:

(a) location factors, including whether the school is in a rural or urban setting, and climate factors;

(b) variations in guidelines for significant or minimal projected student population growth;

(c) guidelines specific to schools that serve various populations and grades, including high schools, junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and

(d) year-round use.

(5) The guidelines shall address the following:

(a) square footage per student;

(b) minimum and maximum required real property for a public school;

(c) athletic facilities and fields, playgrounds, and hard surface play areas;

(d) cost per square foot;

(e) minimum and maximum qualities and costs for building materials;

(f) design efficiency;

(g) parking;

(h) furnishing;

(i) proof of compliance with applicable building codes; and

(j) safety.

Section 46. Section 53E-3-703, which is renumbered from Section 53A-20-101 is renumbered and amended to read:

[53A-20-101]. 53E-3-703. Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least 10 days before the bid due date.

(b) The advertisement shall state:

(i) that proposals for the building project are required to be sealed in accordance with plans and specifications provided by the local school board;

(ii) where and when the proposals will be opened;

(iii) that the local school board reserves the right to reject any and all proposals; and

(iv) that a person that submits a proposal is required to submit a certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the proposal.

(c) The local school board shall publish the advertisement, at a minimum:

(i) on the local school board's website; or

(ii) on a state website that is:

(A) owned or managed by, or provided under contract with, the Division of Purchasing and General Services; and

(B) available for the posting of public procurement notices.

(3) (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

(b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.

(c) If none of the proposals are satisfactory, all shall be rejected.

(d) The board shall again advertise in the manner provided in this section.

(e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.

(4) (a) The check or bond required under Subsection (2)(b) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

(5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63G-6a-1103.

(6) (a) A local school board may require in the proposed contract that up to 5% of the contract price be withheld until the project is completed and accepted by the board.

(b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

(c) This money shall be paid upon completion of the project and acceptance by the board.

(7) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.

(b) The board may use its resources if no satisfactory bids are received under this section.

(8) If the local school board determines in accordance with Section 63G-6a-1302 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor in accordance with the requirements of Title 63G, Chapter 6a, Utah Procurement Code.

(9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Section 47. Section 53E-3-704, which is renumbered from Section 53A-20-101.5 is renumbered and amended to read:

[53A-20-101.5]. 53E-3-704. Restrictions on local school district procurement of architect-engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and

(b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Section 48. Section 53E-3-705, which is renumbered from Section 53A-20-103 is renumbered and amended to read:

[53A-20-103]. 53E-3-705. School plant capital outlay report.

(1) The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report in accordance with Section 63A-3-402.

Section 49. Section 53E-3-706, which is renumbered from Section 53A-20-104 is renumbered and amended to read:

[53A-20-104]. 53E-3-706. Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) The state superintendent of public instruction shall enforce this ~~chapter~~ part.

(2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this ~~chapter~~ part;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this ~~chapter~~ part.

(3) (a) (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the State Board of Education, advising those entities that the school district has complied with the inspection provisions of this ~~chapter~~ part.

(ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the State Board of Education a certificate of inspection verification.

(iii) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the State Board of Education a certificate of inspection verification.

(iv) (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the State Board of Education a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

(B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school

district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent of public instruction shall:

(I) (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

(Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this ~~chapter~~ part; and

(II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

(D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent of public instruction that the deficiencies have been remedied, the state superintendent of public instruction shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

(E) (I) The state superintendent of public instruction may charge the school district or charter school a fee for an inspection that the superintendent considers necessary to enable the superintendent to issue a certificate authorizing permanent occupancy of the school building.

(II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.

(b) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Section 50. Section 53E-3-707, which is renumbered from Section 53A-20-104.5 is renumbered and amended to read:

[53A-20-104.5]. 53E-3-707. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.

(1) (a) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.

(b) The manual shall be provided to a charter school upon request of the charter school.

(2) (a) The manual shall include:

(i) current legal requirements; and

(ii) information on school building construction and inspections, including the guidelines adopted by the State Board of Education in accordance with Section ~~[53A-20-110]~~ 53E-3-702.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:

(a) receive current information on the design, construction, and inspection of school buildings;

(b) receive training on such matters as:

(i) using properly certified building inspectors;

(ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;

(iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and

(iv) adequate documentation of school building inspections; and

(c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

Section 51. Section 53E-3-708, which is renumbered from Section 53A-20-105 is renumbered and amended to read:

[53A-20-105]. 53E-3-708. Licensed architect to prepare plans.

A licensed architect shall prepare the plans and specifications for the construction or alteration of school buildings.

Section 52. Section 53E-3-709, which is renumbered from Section 53A-20-106 is renumbered and amended to read:

[53A-20-106]. 53E-3-709. Power of board regarding expected federal aid to build schools.

For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational

buildings and facilities, the State Board of Education, with the approval of the governor, may do the following:

(1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These plans may conform to the requirements of federal legislation to such extent as the board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.

(2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.

(3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and other public institutions eligible to participate in those programs.

Section 53. Section 53E-3-710, which is renumbered from Section 53A-20-108 is renumbered and amended to read:

[53A-20-108]. 53E-3-710. Notification to affected entities of intent to acquire school site or construction of school building -- Local government -- Negotiation of fees -- Confidentiality.

(1) (a) A school district or charter school shall notify the following without delay prior to the acquisition of a school site or construction of a school building of the school district's or charter school's intent to acquire or construct:

- (i) an affected local governmental entity;
- (ii) the Department of Transportation; and

(iii) as defined in Section 54-2-1, an electrical corporation, gas corporation, or telephone corporation that provides service or maintains infrastructure within the immediate area of the proposed site.

(b) (i) Representatives of the local governmental entity, Department of Transportation, and the school district or charter school shall meet as soon as possible after the notification under Subsection (1)(a) takes place in order to:

(A) subject to Subsection (1)(b)(ii), review information provided by the school district or charter school about the proposed acquisition;

(B) discuss concerns that each may have, including potential community impacts and site safety;

(C) assess the availability of infrastructure for the site; and

(D) discuss any fees that might be charged by the local governmental entity in connection with a building project.

(ii) The school district or charter school shall provide for review under Subsection (1)(b)(i) the following information, if available, regarding the proposed acquisition:

- (A) potential community impacts;
- (B) approximate lot size;
- (C) approximate building size and use;
- (D) estimated student enrollment;
- (E) proposals for ingress and egress, parking, and fire lane location; and
- (F) building footprint and location.

(2) (a) After the purchase or an acquisition, but before construction begins:

(i) representatives of the local governmental entity and the school district or charter school shall meet as soon as possible to review a rough proposed site plan provided by the school district or charter school, review the information listed in Subsection (1)(b)(ii), and negotiate any fees that might be charged by the local governmental entity in connection with a building project;

(ii) (A) the school district or charter school shall submit the rough proposed site plan to the local governmental entity's design review committee for comments; and

(B) subject to the priority requirement of Subsection 10-9a-305(7)(b), the local governmental entity's design review committee shall provide comments on the rough proposed site plan to the school district or charter school no later than 30 days after the day that the plan is submitted to the design review committee in accordance with this Subsection (2)(a)(ii); and

(iii) the local governmental entity may require that the school district or charter school provide a traffic study by an independent third party qualified to perform the study if the local governmental entity determines that traffic flow, congestion, or other traffic concerns may require the study if otherwise permitted under Subsection 10-9a-305(3)(b).

(b) A review conducted by or comment provided by a local governmental entity design review committee under Subsection (2)(a) may not be interpreted as an action that completes a land use application for the purpose of entitling the school district or charter school to a substantive land use review of a land use application under Section 10-9a-509 or 17-27a-508.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

(4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, acquire a school site or construct a school building, without first obtaining the consent of the district or charter school.

(5) Prior to beginning construction on a school site, a school district or charter school shall submit to the Department of Transportation a child access routing plan as described in Section ~~53A-3-402~~ 53G-4-402.

Section 54. Section 53E-3-711, which is renumbered from Section 53A-20-109 is renumbered and amended to read:

~~53A-20-109~~. 53E-3-711. Required contract terms.

A contract for the construction of a school building shall contain a clause that addresses the rights of the parties when, after the contract is executed, site conditions are discovered that:

- (1) the contractor did not know existed, and could not have reasonably known existed, at the time that the contract was executed; and
- (2) materially impacts the costs of construction.

Section 55. Section 53E-3-801, which is renumbered from Section 53A-1-902 is renumbered and amended to read:

Part 8. Implementing Federal or National Education Programs

~~53A-1-902~~. 53E-3-801. Definitions.

As used in this part:

(1) (a) "Cost" means an estimation of state and local money required to implement a federal education agreement or national program.

(b) "Cost" does not include capital costs associated with implementing a federal education agreement or national program.

(2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program or national program, including:

- (a) the State Board of Education;
- (b) the state superintendent of public instruction;
- (c) a local school board;
- (d) a school district and its schools;
- (e) a charter school governing board; and
- (f) a charter school.

(3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program or set of requirements that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.

(4) "Federal programs" include:

- (a) the No Child Left Behind Act;
- (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
- (c) other federal educational programs.

(5) "National program" means a national or multi-state education program, agreement, or standards that:

(a) originated from, or were received directly or indirectly from, a national or multi-state organization, coalition, or compact;

(b) have, as a primary focus, an impact on the educational services at a public school; and

(c) are adopted by the State Board of Education or state superintendent of public instruction with the intent to cause a local school official to implement the national or multi-state education program, agreement, or standards.

(6) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

(7) "School official" includes:

- (a) the State Board of Education;
- (b) the state superintendent;
- (c) employees of the State Board of Education and the state superintendent;
- (d) local school boards;
- (e) school district superintendents and employees; and
- (f) charter school board members, administrators, and employees.

Section 56. Section 53E-3-802, which is renumbered from Section 53A-1-903 is renumbered and amended to read:

~~53A-1-903~~. 53E-3-802. Federal programs -- School official duties.

(1) School officials may:

(a) apply for, receive, and administer funds made available through programs of the federal government;

(b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and

(c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.

(2) School officials shall:

(a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:

(i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and

(ii) subject to Subsection (4), providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;

(b) interpret the provisions of federal programs in the best interest of students in this state;

(c) maximize local control and flexibility;

(d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;

(e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:

(i) federal statutes;

(ii) federal regulations; and

(iii) other federal policies and interpretations of program provisions; and

(f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:

(i) maximize state flexibility in implementing program provisions; and

(ii) receive reasonable time to comply with federal program provisions.

(3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.

(4) (a) As used in this Subsection (4):

(i) "Available Education Fund revenue surplus" means the Education Fund revenue surplus after the statutory transfers and set-asides described in Section 63J-1-313.

(ii) "Education Fund revenue surplus" means the same as that term is defined in Section 63J-1-313.

(b) Before prioritizing the implementation of a future federal goal, objective, program need, or accountability system that does not directly and simultaneously advance a state goal, objective, program need, or accountability system, the State Board of Education may:

(i) determine the financial impact of failure to implement the federal goal, objective, program need, or accountability system; and

(ii) if the State Board of Education determines that failure to implement the federal goal, objective, program need, or accountability system may result in a financial loss, request that the Legislature mitigate the financial loss.

(c) A mitigation requested under Subsection (4)(b)(ii) may include appropriating available Education Fund revenue surplus through an appropriations act, including an appropriations act passed during a special session called by the governor or a general session.

(d) This mitigation option is in addition to and does not restrict or conflict with the state's authority provided in this part.

Section 57. Section 53E-3-803, which is renumbered from Section 53A-1-905 is renumbered and amended to read:

[53A-1-905]. 53E-3-803. Notice of voidableness of federal education agreements or national programs.

A federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, that is executed by a school official in violation of this part, is voidable by the governor or the Legislature as provided in this part.

Section 58. Section 53E-3-804, which is renumbered from Section 53A-1-906 is renumbered and amended to read:

[53A-1-906]. 53E-3-804. Governor to approve federal education agreements or national programs.

(1) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, a school official shall submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each federal education agreement or national program.

(3) (a) If the governor approves the federal education agreement or national program, the school official may execute the agreement.

(b) If the governor rejects the federal education agreement or national program, the school official may not execute the agreement.

(4) If a school official executes a federal education agreement or national program without obtaining the governor's approval under this section, the governor may issue an executive order declaring the federal education agreement or national program void.

Section 59. Section 53E-3-805, which is renumbered from Section 53A-1-907 is renumbered and amended to read:

[53A-1-907]. 53E-3-805. Legislative review and approval of federal education agreements or national programs.

(1) (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$1,000,000 annually from state and local money to implement, the school official shall:

(i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section [53A-1-906] 53E-3-804; and

(ii) if the governor approves the federal education agreement or national program, submit the federal education agreement to the Executive Appropriations Committee of the Legislature for its review and recommendations.

(b) The Executive Appropriations Committee shall review the federal education agreement or national program and may:

(i) recommend that the school official execute the federal education agreement or national program;

(ii) recommend that the school official reject the federal education agreement or national program; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the federal education agreement or national program.

(2) (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$5,000,000 annually to implement, a school official shall:

(i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section [53A-1-906] 53E-3-804; and

(ii) if the governor approves the federal education agreement or national program, submit the federal education agreement or national program to the Legislature for its approval in an annual general session or a special session.

(b) (i) If the Legislature approves the federal education agreement or national program, the school official may execute the agreement.

(ii) If the Legislature rejects the federal education agreement or national program, the school official may not execute the agreement.

(c) If a school official executes a federal education agreement or national program without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the federal education agreement or national program void; or

(ii) the Legislature may pass a joint resolution declaring the federal education agreement or national program void.

Section 60. Section 53E-3-806, which is renumbered from Section 53A-1-908 is renumbered and amended to read:

[53A-1-908]. 53E-3-806. Cost evaluation of federal education agreements or national programs.

(1) Before legally binding the state to a federal education agreement or national program that may cost the state a total of \$500,000 or more to implement, a school official shall estimate the state and local cost of implementing the federal education agreement or national program and submit that cost estimate to the governor and the Executive Appropriations Committee of the Legislature.

(2) The Executive Appropriations Committee may:

(a) direct its staff to make an independent cost estimate of the cost of implementing the federal education agreement or national program; and

(b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Section 61. Section 53E-3-901, which is renumbered from Section 53A-1-1000 is renumbered and amended to read:
Part 9. Interstate Compact on Educational Opportunity for Military Children

[53A-1-1000]. 53E-3-901. Title -- Interstate Compact on Educational Opportunity for Military Children.

This part is known as the "Interstate Compact on Educational Opportunity for Military Children."

Section 62. Section 53E-3-902, which is renumbered from Section 53A-1-1001 is renumbered and amended to read:

[53A-1-1001]. 53E-3-902. Article I -- Purpose.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

(1) facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements;

(2) facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

(3) facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

(4) facilitating the on-time graduation of children of military families;

(5) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

(6) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

(7) promoting coordination between this compact and other compacts affecting military children; and

(8) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Section 63. Section 53E-3-903, which is renumbered from Section 53A-1-1002 is renumbered and amended to read:

[53A-1-1002]. 53E-3-903. Article II -- Definitions.

As used in this compact, unless the context clearly requires a different construction:

(1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.

(2) "Children of military families" means a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.

(3) "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

(4) "Deployment" means the period one month prior to the service member's departure from their home station on military orders through six months after return to their home station.

(5) "Education" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

(6) "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

(7) "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created in Section [53A-1-1009] 53E-3-910 and generally referred to as Interstate Commission.

(8) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.

(9) "Member state" means a state that has enacted this compact.

(10) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(11) "Non-member state" means a state that has not enacted this compact.

(12) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

(13) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section [53A-1-1012] 53E-3-913 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.

(14) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

(15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory.

(16) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.

(17) "Transition" means:

(a) the formal and physical process of transferring from school to school; or

(b) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

(18) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.

(19) "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

Section 64. Section 53E-3-904, which is renumbered from Section 53A-1-1003 is renumbered and amended to read:

[53A-1-1003]. 53E-3-904. Article III -- Applicability.

(1) Except as otherwise provided in Subsection (3), this compact shall apply to the children of:

(a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve;

(b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

(2) The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

(3) The provisions of this compact do not apply to the children of:

(a) inactive members of the National Guard and military reserves;

(b) members of the uniformed services now retired, except as provided in Subsection (1); and

(c) veterans of the uniformed services, except as provided in Subsection (1), and other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Section 65. Section 53E-3-905, which is renumbered from Section 53A-1-1004 is renumbered and amended to read:

[53A-1-1004]. 53E-3-905. Article IV -- Educational records and enrollment -- Immunizations -- Grade level entrance.

(1) Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

(2) Official education records or transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

(3) Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably

determined under the rules promulgated by the Interstate Commission.

(4) Kindergarten and First grade entrance age. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

Section 66. Section 53E-3-906, which is renumbered from Section 53A-1-1005 is renumbered and amended to read:

[53A-1-1005]. 53E-3-906. Article V -- Course placement -- Attendance -- Special education services -- Flexibility -- Absences related to deployment.

(1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

(2) The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to gifted and talented programs and English as a Second Language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

(3) (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current Individualized Education Program (IEP).

(b) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165,

the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

(4) Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement, in courses or programs offered under the jurisdiction of the local education agency.

(5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Section 67. Section 53E-3-907, which is renumbered from Section 53A-1-1006 is renumbered and amended to read:

[53A-1-1006]. 53E-3-907. Article VI -- Eligibility -- Enrollment -- Extracurricular activities.

(1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.

(4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Section 68. Section 53E-3-908, which is renumbered from Section 53A-1-1007 is renumbered and amended to read:

[53A-1-1007]. 53E-3-908. Article VII -- Graduation -- Waiver -- Exit exams -- Senior year transfers.

In order to facilitate the on-time graduation of children of military families, states and local

education agencies shall incorporate the following procedures:

(1) Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

(2) States shall accept:

(a) exit or end-of-course exams required for graduation from the sending state;

(b) national norm-referenced achievement tests; or

(c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's Senior year, then the provisions of Subsection (3) shall apply.

(3) Should a military student transferring at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections (1) and (2).

Section 69. Section 53E-3-909, which is renumbered from Section 53A-1-1008 is renumbered and amended to read:

[53A-1-1008]. 53E-3-909. Article VIII -- State coordination -- Membership of State Council.

(1) Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership shall include at least:

(a) the state superintendent of education;

(b) a superintendent of a school district with a high concentration of military children;

(c) a representative from a military installation;

(d) one representative each from the legislative and executive branches of government; and

(e) other offices and stakeholder groups the State Council considers appropriate.

(2) A member state that does not have a school district that contains a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

(3) The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

(4) The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed in accordance with Section ~~[53A-1-1020]~~ 53E-3-921.

(5) The compact commissioner and the designated military family education liaison shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

Section 70. Section 53E-3-910, which is renumbered from Section 53A-1-1009 is renumbered and amended to read:

[53A-1-1009]. 53E-3-910. Article IX -- Creation of Interstate Commission.

(1) The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.

(2) The Interstate Commission shall:

(a) Be a body corporate and joint agency of the member states and have all the responsibilities, powers, and duties set forth in this compact, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

(b) Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

(i) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(ii) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(iii) A representative may not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

(iv) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(3) Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of

military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

(4) Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(5) Establish an executive committee, whose members shall include the officers of the Interstate Commission and other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other duties considered necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

(6) Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(7) Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion of the meeting, where it determines by two-thirds vote that an open meeting would be likely to:

(a) relate solely to the Interstate Commission's internal personnel practices and procedures;

(b) disclose matters specifically exempted from disclosure by federal and state statute;

(c) disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) involve accusing a person of a crime, or formally censuring a person;

(e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) disclose investigative records compiled for law enforcement purposes; or

(g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(8) Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

(9) Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, as far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

(10) Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission or any member state.

Section 71. Section 53E-3-911, which is renumbered from Section 53A-1-1010 is renumbered and amended to read:

[53A-1-1010]. 53E-3-911. Article X -- Powers and duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

(1) To provide for dispute resolution among member states.

(2) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in this compact. The rules shall have the force and effect of rules promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be binding in the compact states to the extent and in the manner provided in this compact.

(3) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

(4) To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce

compliance with the compact provision by the Interstate Commission shall be brought against a member state only.

(5) To establish and maintain offices which shall be located within one or more of the member states.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, hire, or contract for services of personnel.

(8) To establish and appoint committees including, but not limited to, an executive committee as required by Subsection [53A-1-1009] 53E-3-910(5), which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.

(9) To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

(11) To lease, purchase, accept contributions, or donations of, or otherwise to own, hold, improve, or use any property - real, personal, or mixed.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property - real, personal, or mixed.

(13) To establish a budget and make expenditures.

(14) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(15) To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(16) To coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity.

(17) To establish uniform standards for the reporting, collecting, and exchanging of data.

(18) To maintain corporate books and records in accordance with the bylaws.

(19) To perform any functions necessary or appropriate to achieve the purposes of this compact.

(20) To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

Section 72. Section 53E-3-912, which is renumbered from Section 53A-1-1011 is renumbered and amended to read:

[53A-1-1011]. 53E-3-912. Article XI -- Organization and operation of the Interstate Commission -- Executive committee -- Officers -- Personnel.

(1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) establishing the fiscal year of the Interstate Commission;

(b) establishing an executive committee, and other committees as necessary;

(c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

(d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting;

(e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

(f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

(g) providing start up rules for initial administration of the compact.

(2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

(3) The executive committee shall have the authority and duties set forth in the bylaws, including, but not limited to:

(a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

(b) overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of

rules, operating procedures, and administrative and technical support functions; and

(c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

(4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may consider appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons authorized by the Interstate Commission.

(5) The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the person may not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(a) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any action. Nothing in this Subsection (5)(a) shall be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(b) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

(c) To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

Section 73. Section 53E-3-913, which is renumbered from Section 53A-1-1012 is renumbered and amended to read:

[53A-1-1012]. 53E-3-913. Article XII -- Rulemaking -- Authority -- Procedure -- Review -- Rejection by Legislature.

(1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted in accordance with this compact, then the action by the Interstate Commission shall be invalid and have no force or effect.

(2) Rules shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

(3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that, the filing of a petition may not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

(4) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule shall have no further force and effect in any compacting state.

Section 74. Section 53E-3-914, which is renumbered from Section 53A-1-1013 is renumbered and amended to read:

[53A-1-1013]. 53E-3-914. Article XIII -- Oversight -- Enforcement -- Dispute resolution -- Default -- Technical assistance -- Suspension -- Termination.

(1) Each member state shall enforce this compact to effectuate the compact's purposes and intent. The

provisions of this compact and the rules promulgated in accordance with the compact shall have standing as a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

(3) The Interstate Commission shall be entitled to receive all service of process in any proceeding, and have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

(4) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state shall cure its default.

(b) Provide remedial training and specific technical assistance regarding the default.

(5) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(6) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(7) The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$5,000 per year, as provided in Subsection [53A-1-1014] 53E-3-915(5), for each year that the state is a member of the compact.

(8) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(9) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S.

District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.

(10) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(11) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Section 75. Section 53E-3-915, which is renumbered from Section 53A-1-1014 is renumbered and amended to read:

[53A-1-1014]. 53E-3-915. Article XIV -- Financing of the Interstate Commission.

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) In accordance with the funding limit established in Subsection (5), the Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(3) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

(5) The Interstate Commission may not assess, levy, or collect more than \$5,000 per year from Utah legislative appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

Section 76. Section 53E-3-916, which is renumbered from Section 53A-1-1015 is renumbered and amended to read:

[53A-1-1015]. 53E-3-916. Article XV -- Member states -- Effective date -- Amendments.

(1) Any state is eligible to become a member state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

(3) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Section 77. Section 53E-3-917, which is renumbered from Section 53A-1-1016 is renumbered and amended to read:

[53A-1-1016]. 53E-3-917. Article XVI -- Withdrawal -- Dissolution.

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that, a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notification.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$5,000 per year, as provided in Subsection [53A-1-1014] 53E-3-915(5), for each year that the state is a member of the compact.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon a later date determined by the Interstate Commission.

(6) This compact shall dissolve effective upon the date of the withdrawal or default of a member state which reduces the membership in the compact to one member state.

(7) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Section 78. Section 53E-3-918, which is renumbered from Section 53A-1-1017 is renumbered and amended to read:

[53A-1-1017]. 53E-3-918. Article XVII -- Severability -- Construction.

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

(3) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Section 79. Section 53E-3-919, which is renumbered from Section 53A-1-1018 is renumbered and amended to read:

[53A-1-1018]. 53E-3-919. Article XVIII -- Binding effect of compact -- Other state laws.

(1) Nothing in this compact prevents the enforcement of any other law of a member state.

(2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(4) In the event any provision of this compact exceeds the statutory or constitutional limits imposed on the legislature of any member state, that provision shall be ineffective to the extent of the conflict with the statutory or constitutional provision in question in that member state.

Section 80. Section 53E-3-920, which is renumbered from Section 53A-1-1019 is renumbered and amended to read:

[53A-1-1019]. 53E-3-920. Creation of State Council on Military Children.

(1) There is established a State Council on Military Children, as required in Section [53A-1-1008] 53E-3-909.

(2) The members of the State Council on Military Children shall include:

- (a) the state superintendent of public instruction;
- (b) a superintendent of a school district with a high concentration of military children appointed by the governor;

(c) a representative from a military installation, appointed by the governor;

(d) one member of the House of Representatives, appointed by the speaker of the House;

(e) one member of the Senate, appointed by the president of the Senate;

(f) a representative from the Department of Veterans' and Military Affairs, appointed by the governor;

(g) a military family education liaison, appointed by the members listed in Subsections (2)(a) through (f);

(h) the compact commissioner, appointed in accordance with Section [53A-1-1020] 53E-3-921; and

(i) other members as determined by the governor.

(3) The State Council on Military Children shall carry out the duties established in Section [53A-1-1008] 53E-3-909.

(4) (a) A member who is not a legislator may not receive compensation or per diem.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 81. Section 53E-3-921, which is renumbered from Section 53A-1-1020 is renumbered and amended to read:

[53A-1-1020]. 53E-3-921. Appointment of compact commissioner.

The governor, with the consent of the Senate, shall appoint a compact commissioner to carry out the duties described in this part.

Section 82. Section 53E-4-101 is enacted to read:

CHAPTER 4. ACADEMIC STANDARDS, ASSESSMENTS, AND MATERIALS

Part 1. General Provisions

53E-4-101. Title.

This chapter is known as "Academic Standards, Assessments, and Materials."

Section 83. Section 53E-4-201 is enacted to read:

Part 2. Standards

53E-4-201. Definitions.

Reserved

Section 84. Section 53E-4-202, which is renumbered from Section 53A-1-402.6 is renumbered and amended to read:

[53A-1-402.6]. 53E-4-202. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section [53A-1-402] 53E-3-501, the State Board of Education shall, in consultation with local

school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this [title] public education code, the State Board of Education may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The State Board of Education shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section ~~[53A-1-604]~~ 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the State Board of Education shall:

(a) publicize draft core standards for Utah public schools on the State Board of Education's website and the Utah Public Notice website created under Section 63F-1-701;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Section ~~[53A-13-101]~~ 53G-10-402, each school may select instructional

materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of ~~[Part 9] Chapter 3, Part 8, Implementing Federal or National Education Programs [Aet], or Title 63J, Chapter 5, Federal Funds Procedures Act;~~

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The State Board of Education shall annually report to the Education Interim Committee on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section ~~[53A-1-402.8]~~ 53E-4-203.

Section 85. Section 53E-4-203, which is renumbered from Section 53A-1-402.8 is renumbered and amended to read:

~~[53A-1-402.8].~~ 53E-4-203. Standards review committee.

(1) As used in this section, "board" means the State Board of Education.

(2) Subject to Subsection (5), the State Board of Education shall establish:

(a) a time line for the review by a standards review committee of the core standards for Utah public schools for:

(i) English language arts;

(ii) mathematics;

(iii) science;

(iv) social studies;

(v) fine arts;

(vi) physical education and health; and

(vii) early childhood education; and

(b) a separate standards review committee for each subject area specified in Subsection (2)(a) to review, and recommend to the board revisions to, the core standards for Utah public schools.

(3) At least one year before the board takes formal action to adopt new core standards for Utah public schools, the board shall establish a standards review committee as required by Subsection (2)(b).

(4) A standards review committee shall meet at least twice during the time period described in Subsection (3).

(5) In establishing a time line for the review of core standards for Utah public schools by a standards review committee, the board shall give priority to establishing a standards review committee to review, and recommend revisions to, the mathematics core standards for Utah public schools.

(6) The membership of a standards review committee consists of:

(a) seven individuals, with expertise in the subject being reviewed, appointed by the board chair, including teachers, business representatives, faculty of higher education institutions in Utah, and others as determined by the board chair;

(b) five parents or guardians of public education students appointed by the speaker of the House of Representatives; and

(c) five parents or guardians of public education students appointed by the president of the Senate.

(7) The board shall provide staff support to the standards review committee.

(8) A member of the standards review committee may not receive compensation or benefits for the member's service on the committee.

(9) Among the criteria a standards review committee shall consider when reviewing the core standards for Utah public schools is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

(10) A standards review committee shall submit, to the board, comments and recommendations for revision of the core standards for Utah public schools.

(11) The board shall take into consideration the comments and recommendations of a standards review committee in adopting the core standards for Utah public schools.

(12) (a) Nothing in this section prohibits the board from amending or adding individual core standards for Utah public schools as the need arises in the board's ongoing responsibilities.

(b) If the board makes changes as described in Subsection (12)(a), the board shall include the changes in the annual report the board submits to the Education Interim Committee under Section ~~[53A-1-402.6]~~ 53E-4-202.

Section 86. Section 53E-4-204, which is renumbered from Section 53A-13-108 is renumbered and amended to read:

~~[53A-13-108]. 53E-4-204. Standards and graduation requirements.~~

(1) The State Board of Education shall establish rigorous core standards for Utah public schools and graduation requirements under Section ~~[53A-1-402]~~ 53E-3-501 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations; and

(b) beginning no later than with the graduating class of 2008:

(i) use competency-based standards and assessments;

(ii) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and

(iii) increase graduation requirements in language arts, mathematics, and science to exceed the existing credit requirements of 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The State Board of Education shall also establish competency-based standards and assessments for elective courses.

(3) On or before July 1, 2014, the State Board of Education shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:

(a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and

(b) technology that relates to banking, savings, and financial products.

(4) The State Board of Education shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core standards for Utah public schools courses for grades 9 through 12 are administered.

Section 87. Section 53E-4-205, which is renumbered from Section 53A-13-109.5 is renumbered and amended to read:

~~[53A-13-109.5]. 53E-4-205. American civics education initiative.~~

(1) As used in this section:

(a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.

(b) "Basic civics test" means a test that includes 50 of the 100 questions on the civics test form used

by the United States Citizenship and Immigration Services:

(i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and

(ii) in accordance with 8 C.F.R. Sec. 312.2.

(c) “Board” means the State Board of Education.

(d) “LEA” means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) Except as provided in Subsection (2)(b), the board shall require:

(i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and

(ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.

(b) The board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in board rule.

(3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;

(b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;

(c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and

(d) for the alternate assessment described in Subsection (2)(b), describe:

(i) the content of an alternate assessment;

(ii) how a public school student qualifies for an alternate assessment; and

(iii) how an LEA determines if a student passes an alternate assessment.

Section 88. Section 53E-4-206, which is renumbered from Section 53A-1-1302 is renumbered and amended to read:

[53A-1-1302]. 53E-4-206. Career and college readiness mathematics competency standards.

(1) As used in this section, “qualifying score” means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.

(2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:

(a) (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and

(ii) include the qualifying scores described in Subsection (4); and

(b) establish systematic reporting of college and career ready mathematics achievement.

(3) In addition to other graduation requirements established by the State Board of Education, a student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student’s future college and career goals as outlined in the student’s college and career plan:

(a) for a student pursuing a college degree after graduation:

(i) receive a score that at least meets the qualifying score for:

(A) an Advanced Placement calculus or statistics exam;

(B) an International Baccalaureate higher level mathematics exam;

(C) a college-level math placement test described in Subsection (5);

(D) a College Level Examination Program precalculus or calculus exam; or

(E) the ACT Mathematics Test; or

(ii) receive at least a “C” grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;

(b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student’s career goals as described in the student’s college and career plan;

(c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student’s individualized education program; or

(d) for a senior student with special circumstances as described in State Board of Education rule, the student shall fulfill a requirement associated with the student's special circumstances, as established in State Board of Education rule.

(4) The State Board of Regents shall, in consultation with the State Board of Education, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).

(5) The State Board of Regents, established in Section 53B-1-103, shall make a policy to select at least two tests for college-level math placement.

(6) The State Board of Regents shall, in consultation with the State Board of Education, make policies to:

(a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:

(i) receive college credit; and

(ii) satisfy the state system of higher education quantitative literacy requirement;

(b) allow a student, upon completion of required high school mathematics courses with at least a "C" grade, entry into a mathematics concurrent enrollment course;

(c) increase access to a range of mathematics concurrent enrollment courses;

(d) establish a consistent concurrent enrollment course approval process; and

(e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

Section 89. Section 53E-4-301, which is renumbered from Section 53A-1-602 is renumbered and amended to read:

Part 3. Assessments

[53A-1-602]. 53E-4-301. Definitions.

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Core standards for Utah public schools" means the standards established by the board as described in Section [53A-1-402.6] 53E-4-202.

(3) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(4) "Statewide assessment" means one or more of the following, as applicable:

(a) a standards assessment described in Section [53A-1-604] 53E-4-303;

(b) a high school assessment described in Section [53A-1-611.5] 53E-4-304;

(c) a college readiness assessment described in Section [53A-1-611] 53E-4-305; or

(d) an assessment of students in grade 3 to measure reading grade level described in Section [53A-1-606.6] 53E-4-307.

Section 90. Section 53E-4-301.5, which is renumbered from Section 53A-1-601 is renumbered and amended to read:

[53A-1-601]. 53E-4-301.5. Legislative intent.

(1) In enacting this part, the Legislature intends to determine the effectiveness of school districts and schools in assisting students to master the fundamental educational skills toward which instruction is directed.

(2) The board shall ensure that a statewide assessment provides the public, the Legislature, the board, school districts, public schools, and school teachers with:

(a) evaluative information regarding the various levels of proficiency achieved by students, so that they may have an additional tool to plan, measure, and evaluate the effectiveness of programs in the public schools; and

(b) information to recognize excellence and to identify the need for additional resources or to reallocate educational resources in a manner to ensure educational opportunities for all students and to improve existing programs.

Section 91. Section 53E-4-302, which is renumbered from Section 53A-1-603 is renumbered and amended to read:

[53A-1-603]. 53E-4-302. Statewide assessments -- Duties of State Board of Education.

(1) The board shall:

(a) require the state superintendent of public instruction to:

(i) submit and recommend statewide assessments to the board for adoption by the board; and

(ii) distribute the statewide assessments adopted by the board to a school district or charter school;

(b) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program; and

(c) require a school district or charter school to administer statewide assessments.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules for the administration of statewide assessments.

(3) The board shall ensure that statewide assessments are administered in compliance with the requirements of [Part 14, Student Data Protection Act, and Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act] Chapter 9, Student Privacy and Data Protection.

Section 92. Section 53E-4-303, which is renumbered from Section 53A-1-604 is renumbered and amended to read:

[53A-1-604]. 53E-4-303. Utah standards assessments -- Administration -- Review committee.

(1) As used in this section, “computer adaptive assessment” means an assessment that measures the range of a student’s ability by adapting to the student’s responses, selecting more difficult or less difficult questions based on the student’s responses.

(2) The board shall:

(a) adopt a standards assessment that:

(i) measures a student’s proficiency in:

(A) mathematics for students in each of grades 3 through 8;

(B) English language arts for students in each of grades 3 through 8;

(C) science for students in each of grades 4 through 8; and

(D) writing for students in at least grades 5 and 8; and

(ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and

(b) ensure that an assessment described in Subsection (2)(a) is:

(i) a criterion referenced assessment;

(ii) administered online;

(iii) aligned with the core standards for Utah public schools; and

(iv) adaptable to competency-based education as defined in Section [53A-15-1802] 53F-5-501.

(3) A school district or charter school shall annually administer the standards assessment adopted by the board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).

(4) A student’s score on the standards assessment adopted under Subsection (2) may not be considered in determining:

(a) the student’s academic grade for a course; or

(b) whether the student may advance to the next grade level.

(5) (a) The board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.

(b) The committee established in Subsection (5)(a) shall include the following parent members:

(i) five members appointed by the chair of the board;

(ii) five members appointed by the speaker of the House of Representatives or the speaker’s designee; and

(iii) five members appointed by the president of the Senate or the president’s designee.

(c) The board shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (5)(b) is four years.

(e) The chair of the board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member’s service on the committee.

Section 93. Section 53E-4-304, which is renumbered from Section 53A-1-611.5 is renumbered and amended to read:

[53A-1-611.5]. 53E-4-304. High school assessments.

(1) The board shall adopt a high school assessment that:

(a) is predictive of a student’s college readiness as measured by the college readiness assessment described in Section [53A-1-611] 53E-4-305; and

(b) provides a growth score for a student from grade 9 to 10.

(2) A school district or charter school shall annually administer the high school assessment adopted by the board under Subsection (1) to all students in grades 9 and 10.

Section 94. Section 53E-4-305, which is renumbered from Section 53A-1-611 is renumbered and amended to read:

[53A-1-611]. 53E-4-305. College readiness assessments.

(1) The Legislature recognizes the need for the board to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) The board shall adopt a college readiness assessment for secondary students that:

(a) is the college readiness assessment most commonly submitted to local universities; and

(b) may include:

(i) the Armed Services Vocational Aptitude Battery; or

(ii) a battery of assessments that are predictive of success in higher education.

(3) (a) Except as provided in Subsection (3)(b), a school district or charter school shall annually administer the college readiness assessment adopted under Subsection (2) to all students in grade 11.

(b) A student with an IEP may take an appropriate college readiness assessment other than the assessment adopted by the board under Subsection (2), as determined by the student's IEP.

(4) In accordance with Section 53F-4-202, the board shall contract with a provider to provide an online college readiness diagnostic tool.

Section 95. Section 53E-4-306, which is renumbered from Section 53A-1-606.5 is renumbered and amended to read:

[53A-1-606.5]. 53E-4-306. State reading goal -- Reading achievement plan.

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.

(2) (a) The Legislature recognizes that:

(i) reading is the most fundamental skill, the gateway to knowledge and lifelong learning;

(ii) there is an ever increasing demand for literacy in the highly technological society we live in;

(iii) students who do not learn to read will be economically and socially disadvantaged;

(iv) reading problems exist in almost every classroom;

(v) almost all reading failure is preventable if reading difficulties are diagnosed and treated early; and

(vi) early identification and treatment of reading difficulties can result in students learning to read by the end of the third grade.

(b) It is therefore the goal of the state to have every student in the state's public education system reading on or above grade level by the end of the third grade.

(3) (a) Each public school containing kindergarten, grade one, grade two, or grade three, including charter schools, shall develop, as a component of the school improvement plan described in Section ~~[53A-1-108.5]~~ 53G-7-1204, a reading achievement plan for its students in kindergarten through grade three to reach the reading goal set in Subsection (2)(b).

(b) The reading achievement plan shall be:

(i) created under the direction of:

(A) the school community council or a subcommittee or task force created by the school community council, in the case of a school district school; or

(B) the charter school governing board or a subcommittee or task force created by the governing board, in the case of a charter school; and

(ii) implemented by the school's principal, teachers, and other appropriate school staff.

(c) The school principal shall take primary responsibility to provide leadership and allocate resources and support for teachers and students, most particularly for those who are reading below grade level, to achieve the reading goal.

(d) Each reading achievement plan shall include:

(i) an assessment component that:

(A) focuses on ongoing formative assessment to measure the five domains of reading, as appropriate, and inform individualized instructional decisions; and

(B) includes a benchmark assessment of reading approved by the ~~[State Board of Education]~~ board pursuant to Section ~~[53A-1-606.6]~~ 53E-4-307;

(ii) an intervention component:

(A) that provides adequate and appropriate interventions focused on each student attaining competency in reading skills;

(B) based on best practices identified through proven researched-based methods;

(C) that provides intensive intervention, such as focused instruction in small groups and individualized data driven instruction, implemented at the earliest possible time for students having difficulty in reading;

(D) that provides an opportunity for parents to receive materials and guidance so that they will be able to assist their children in attaining competency in reading skills; and

(E) that, as resources allow, may involve a reading specialist; and

(iii) a reporting component that includes reporting to parents:

(A) at the beginning, in the middle, and at the end of grade one, grade two, and grade three, their child's benchmark assessment results as required by Section ~~[53A-1-606.6]~~ 53E-4-307; and

(B) at the end of third grade, their child's reading level.

(e) In creating or reviewing a reading achievement plan as required by this section, a school community council, charter school governing board, or a subcommittee or task force of a school community council or charter school governing board may not have access to data that reveal the identity of students.

(4) (a) The school district shall approve each plan developed by schools within the district prior to its implementation and review each plan annually.

(b) The charter school governing board shall approve each plan developed by schools under its control and review each plan annually.

(c) A school district and charter school governing board shall:

(i) monitor the learning gains of a school's students as reported by the benchmark assessments administered pursuant to Section ~~[53A-1-606.6]~~ 53E-4-307; and

(ii) require a reading achievement plan to be revised, if the school district or charter school governing board determines a school's students are not making adequate learning gains.

Section 96. Section 53E-4-307, which is renumbered from Section 53A-1-606.6 is renumbered and amended to read:

[53A-1-606.6]. 53E-4-307. Benchmark assessments in reading -- Report to parent or guardian.

(1) As used in this section ~~:- (a) "Board" means the State Board of Education. (b) "Competency"~~, "competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(2) The board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades one, two, and three as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades one, two, and three at the beginning, middle, and end of the school year using the benchmark assessment approved by the board; and

(b) after administering a benchmark assessment, report the results to a student's parent or guardian.

(4) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:

(a) provide focused individualized intervention to develop the reading skill;

(b) administer formative assessments to measure the success of the focused intervention;

(c) inform the student's parent or guardian of activities that the parent or guardian may engage in with the student to assist the student in improving reading proficiency; and

(d) provide information to the parent or guardian regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school.

(5) In accordance with Section 53F-4-201, the board shall contract with one or more educational technology providers for a diagnostic assessment system for reading for students in kindergarten through grade 3.

Section 97. Section 53E-4-308, which is renumbered from Section 53A-1-603.5 is renumbered and amended to read:

[53A-1-603.5]. 53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The board, through the superintendent of public instruction, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The board and the State Board of Regents shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.

(4) The board and the State Board of Regents shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

Section 98. Section 53E-4-309, which is renumbered from Section 53A-1-610 is renumbered and amended to read:

[53A-1-610]. 53E-4-309. Grade level specification change.

(1) The board may change a grade level specification for the administration of specific assessments under this part to a different grade level specification or a competency-based specification if the specification is more consistent with patterns of school organization.

(2) (a) If the board changes a grade level specification described in Subsection (1), the board shall submit a report to the Legislature explaining the reasons for changing the grade level specification.

(b) The board shall submit the report at least six months before the anticipated change.

Section 99. Section 53E-4-310, which is renumbered from Section 53A-1-607 is renumbered and amended to read:

[53A-1-607]. 53E-4-310. Scoring -- Reports of results.

(1) For a statewide assessment that requires the use of a student answer sheet, a local school board or charter school governing board shall submit all answer sheets on a per-school and per-class basis

to the state superintendent of public instruction for scoring unless the assessment requires scoring by a national testing service.

(2) The district, school, and class results of the statewide assessments, but not the score or relative position of individual students, shall be reported to each local school board or charter school governing board annually at a regularly scheduled meeting.

(3) A local school board or charter school governing board:

(a) shall make copies of the report available to the general public upon request; and

(b) may charge a fee for the cost of copying the report.

(4) (a) The board shall annually provide to school districts and charter schools a comprehensive report for each of the school district's and charter school's students showing the student's statewide assessment results for each year that the student took a statewide assessment.

(b) A school district or charter school shall give a copy of the comprehensive report to the student's parents and make the report available to school staff, as appropriate.

Section 100. Section 53E-4-311, which is renumbered from Section 53A-1-605 is renumbered and amended to read:

[53A-1-605]. 53E-4-311. Analysis of results -- Staff professional development.

(1) The board, through the state superintendent of public instruction, shall develop an online data reporting tool to analyze the results of statewide assessments.

(2) The online data reporting tool shall include components designed to:

(a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs;

(b) identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in improving student performance levels; and

(c) provide:

(i) for statistical reporting of statewide assessment results at state, school district, school, and grade or course levels; and

(ii) actual levels of performance on statewide assessments.

(3) A local school board or charter school governing board shall provide for:

(a) evaluation of the statewide assessment results and use of the evaluations in setting goals and establishing programs; and

(b) a professional development program that provides teachers, principals, and other professional staff with the training required to

successfully establish and maintain statewide assessments.

Section 101. Section 53E-4-312, which is renumbered from Section 53A-1-608 is renumbered and amended to read:

[53A-1-608]. 53E-4-312. Preparation for tests.

(1) School district employees may not conduct any specific instruction or preparation of students that would be a breach of testing ethics, such as the teaching of specific test questions.

(2) School district employees who administer the test shall follow the standardization procedures in the test administration manual for an assessment and any additional specific instructions developed by the board.

(3) The board may revoke the certification of an individual who violates this section.

Section 102. Section 53E-4-313, which is renumbered from Section 53A-1-609 is renumbered and amended to read:

[53A-1-609]. 53E-4-313. Construction of part.

Nothing in this part shall be construed to mean or represented to require that graduation from a high school or promotion to another grade is in any way dependent upon successful performance of any test administered as a part of the testing program established under this part.

Section 103. Section 53E-4-401 is enacted to read:

Part 4. State Instructional Materials Commission

53E-4-401. Definitions.

As used in this part, "instructional materials" means textbooks or materials used as, or in place of, textbooks and which may be used within the state curriculum framework for courses of study by students in public schools to include:

(1) textbooks;

(2) workbooks;

(3) computer software;

(4) laser discs or videodiscs; and

(5) multiple forms of communications media.

Section 104. Section 53E-4-402, which is renumbered from Section 53A-14-101 is renumbered and amended to read:

[53A-14-101]. 53E-4-402. Creation of commission -- Powers -- Payment of expenses.

(1) The State Board of Education shall appoint a State Instructional Materials Commission consisting of:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) a school district superintendent;

- (c) a secondary school principal;
- (d) an elementary school principal;
- (e) a secondary school teacher;
- (f) an elementary school teacher;
- (g) five persons not employed in public education; and
- (h) a dean of a school of education of a state college or university.

(2) The commission shall evaluate instructional materials for recommendation by the board.

~~[(3) As used in this chapter, "instructional materials" means textbooks or materials used as, or in place, of textbooks and which may be used within the state curriculum framework for courses of study by students in public schools to include:]~~

- ~~[(a) textbooks;]~~
- ~~[(b) workbooks;]~~
- ~~[(c) computer software;]~~
- ~~[(d) laserdiscs or videodiscs; and]~~
- ~~[(e) multiple forms of communications media.]~~

[(4)] (3) Members shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties shall be paid out of money appropriated to the board.

Section 105. Section 53E-4-403, which is renumbered from Section 53A-14-102 is renumbered and amended to read:

[53A-14-102]. 53E-4-403. Commission's evaluation of instructional materials -- Recommendation by the state board.

(1) Semi-annually after reviewing the evaluations of the commission, the board shall recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in Section ~~[53A-13-101]~~ 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:

- (a) instructional materials recommended by the board as provided in this section; or
- (b) other instructional materials the school considers appropriate to teach the core standards for Utah public schools.

Section 106. Section 53E-4-404, which is renumbered from Section 53A-14-103 is renumbered and amended to read:

[53A-14-103]. 53E-4-404. Meetings -- Notice.

(1) The commission shall meet at the call of the state superintendent of public instruction or the superintendent's designee.

(2) Notice of a meeting shall be given as required under Section 52-4-202.

Section 107. Section 53E-4-405, which is renumbered from Section 53A-14-104 is renumbered and amended to read:

[53A-14-104]. 53E-4-405. Sealed proposals for instructional materials contracts -- Sample copies -- Price of instructional materials.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) A person seeking a contract to furnish instructional materials for use in the public schools shall submit a sealed proposal to the commission.

(3) Each proposal must:

(a) be accompanied by sample copies of the instructional materials to be reviewed; and

(b) include the wholesale price at which the publisher agrees to furnish the instructional materials to districts and schools during the approval period.

Section 108. Section 53E-4-406, which is renumbered from Section 53A-14-105 is renumbered and amended to read:

[53A-14-105]. 53E-4-406. Awarding instructional materials contracts.

(1) The board shall award contracts for furnishing instructional materials.

(2) If a satisfactory proposal to furnish instructional materials is not received, a new request for proposals may be issued.

Section 109. Section 53E-4-407, which is renumbered from Section 53A-14-106 is renumbered and amended to read:

[53A-14-106]. 53E-4-407. Illegal acts -- Misdemeanor.

It is a misdemeanor for a member of the commission or the board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Section 110. Section 53E-4-408, which is renumbered from Section 53A-14-107 is renumbered and amended to read:

[53A-14-107]. 53E-4-408. Instructional materials alignment with core standards for Utah public schools.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for Utah public schools adopted under Section ~~[53A-1-402]~~ 53E-3-501;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the State Board of Education;

(b) the superintendent of public instruction or employees of the State Board of Education;

(c) the State Instructional Materials Commission appointed pursuant to Section ~~[53A-14-101]~~ 53E-4-402;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section 111. Section 53E-5-101 is enacted to read:

CHAPTER 5. ACCOUNTABILITY

Part 1. General Provisions

53E-5-101. Title.

This chapter is known as "Accountability."

Section 112. Section 53E-5-201, which is renumbered from Section 53A-1-1102 is renumbered and amended to read:

Part 2. School Accountability System

[53A-1-1102]. 53E-5-201. Definitions.

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Individualized education program" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(3) "Lowest performing 25% of students" means the proportion of a school's students who scored in the lowest 25% of students in the school on a statewide assessment based on the prior school year's scores.

(4) "Statewide assessment" means one or more of the following, as applicable:

(a) a standards assessment described in Section ~~[53A-1-604]~~ 53E-4-303;

(b) a high school assessment described in Section ~~[53A-1-611.5]~~ 53E-4-304;

(c) a college readiness assessment described in Section ~~[53A-1-611]~~ 53E-4-305; or

(d) an alternate assessment administered to a student with a disability.

Section 113. Section 53E-5-202, which is renumbered from Section 53A-1-1103 is renumbered and amended to read:

[53A-1-1103]. 53E-5-202. Statewide school accountability system -- State Board of Education rulemaking.

(1) There is established a statewide school accountability system.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement the school accountability system in accordance with this part.

Section 114. Section 53E-5-203, which is renumbered from Section 53A-1-1104 is renumbered and amended to read:

[53A-1-1104]. 53E-5-203. Schools included in school accountability system -- Other indicators and point distribution for a school that serves a special student population.

(1) Except as provided in Subsection (2), the board shall include all public schools in the state in the school accountability system established under this part.

(2) The board shall exempt from the school accountability system:

(a) a school in which the number of students tested on a statewide assessment is lower than the minimum sample size necessary, based on acceptable professional practice for statistical reliability, or when release of the information would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student data;

(b) a school in the school's first year of operations if the school's local school board or charter school governing board requests the exemption; or

(c) a high school in the school's second year of operations if the school's local school board or charter school governing board requests the exemption.

(3) Notwithstanding the provisions of this part, the board may use, to appropriately assess the

educational impact of a school that serves a special student population:

(a) other indicators in addition to the indicators described in Section [53A-1-1106] 53E-5-205 or [53A-1-1107] 53E-5-206; or

(b) different point distribution than the point distribution described in Section [53A-1-1108] 53E-5-207.

Section 115. Section 53E-5-204, which is renumbered from Section 53A-1-1105 is renumbered and amended to read:

[53A-1-1105]. 53E-5-204. Rating schools.

(1) Except as provided in Subsection (3), and in accordance with this part, the board shall annually assign to each school an overall rating using an A through F letter grading scale where, based on the school's performance level on the indicators described in Subsection (2):

- (a) an A grade represents an exemplary school;
- (b) a B grade represents a commendable school;
- (c) a C grade represents a typical school;
- (d) a D grade represents a developing school; and
- (e) an F grade represents a critical needs school.

(2) A school's overall rating described in Subsection (1) shall be based on the school's performance on the indicators described in:

(a) Section [53A-1-1106] 53E-5-205, for an elementary school or a middle school; or

(b) Section [53A-1-1107] 53E-5-206, for a high school.

(3) (a) For a school year in which the board determines it is necessary to establish, due to a transition to a new assessment, a new baseline to determine student growth described in Section [53A-1-1111] 53E-5-210, the board is not required to assign an overall rating described in Subsection (1) to a school to which the new baseline applies.

(b) For the 2017-2018 school year, the board:

(i) shall evaluate a school based on the school's performance level on the indicators described in Subsection (2) and in accordance with this part; and

(ii) is not required to assign a school an overall rating described in Subsection (1).

Section 116. Section 53E-5-205, which is renumbered from Section 53A-1-1106 is renumbered and amended to read:

[53A-1-1106]. 53E-5-205. Indicators for elementary and middle schools.

For an elementary school or a middle school, the board shall assign the school's overall rating, in accordance with Section [53A-1-1108] 53E-5-207, based on the school's performance on the following indicators:

(1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;

(2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science; and

(3) equitable educational opportunity as measured by:

(a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and

(b) except as provided in Section [53A-1-1110] 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the board.

Section 117. Section 53E-5-206, which is renumbered from Section 53A-1-1107 is renumbered and amended to read:

[53A-1-1107]. 53E-5-206. Indicators for high schools.

For a high school, in accordance with Section [53A-1-1108] 53E-5-207, the board shall assign the school's overall rating based on the school's performance on the following indicators:

(1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;

(2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science;

(3) equitable educational opportunity as measured by:

(a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and

(b) except as provided in Section [53A-1-1110] 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the board; and

(4) postsecondary readiness as measured by:

(a) the school's graduation rate, as described in Section [53A-1-1108] 53E-5-207;

(b) student performance, as described in Section [53A-1-1108] 53E-5-207, on a college readiness assessment described in Section [53A-1-611] 53E-4-305; and

(c) student achievement in advanced course work, as described in Section [53A-1-1108] 53E-5-207.

Section 118. Section 53E-5-207, which is renumbered from Section 53A-1-1108 is renumbered and amended to read:

[53A-1-1108]. 53E-5-207. Calculation of points.

(1) (a) The board shall award to a school points for academic achievement described in Subsection [53A-1-1106] 53E-5-205(1) or [53A-1-1107] 53E-5-206(1) as follows:

(i) the board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of English language arts, score at or above the proficient level on the assessment;

(ii) the board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of mathematics, score at or above the proficient level on the assessment; and

(iii) the board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of science, score at or above the proficient level on the assessment.

(b) (i) The maximum number of total points possible for academic achievement described in Subsection (1)(a) is 56 points.

(ii) The maximum number of points possible for a component listed in Subsection (1)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (1)(b)(i).

(2) (a) Subject to Subsection (2)(b), the board shall award to a school points for academic growth described in Subsection [53A-1-1106] 53E-5-205(2) or [53A-1-1107] 53E-5-206(2) as follows:

(i) the board shall award a school points for growth of the school's students on a statewide assessment of English language arts;

(ii) the board shall award a school points for growth of the school's students on a statewide assessment of mathematics; and

(iii) the board shall award a school points for growth of the school's students on a statewide assessment of science.

(b) The board shall determine points for growth awarded under Subsection (2)(a) by indexing the points based on:

(i) whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target; and

(ii) the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.

(c) (i) The maximum number of total points possible for academic growth described in Subsection (2)(a) is 56 points.

(ii) The maximum number of points possible for a component listed in Subsection (2)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (2)(c)(i).

(3) (a) Subject to Subsection (3)(b), the board shall award to a school points for equitable educational opportunity described in Subsection [53A-1-1106] 53E-5-205(3) or [53A-1-1107] 53E-5-206(3) as follows:

(i) the board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of English language arts;

(ii) the board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of mathematics;

(iii) the board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of science; and

(iv) except as provided in Section [53A-1-1110] 53E-5-209, the board shall award to a school points proportional to the percentage of English learners who achieve adequate progress as determined by the board on an English learner assessment established by the board.

(b) The board shall determine points for academic growth awarded under Subsection (3)(a)(i), (ii), or (iii) by indexing the points based on the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.

(c) (i) The maximum number of total points possible for equitable educational opportunity described in Subsection (3)(a) is 38 points.

(ii) The maximum number of points possible for the components listed in Subsection (3)(a)(i), (ii), and (iii), combined, is 25 points.

(iii) The maximum number of points possible for a component listed in Subsection (3)(a)(i), (ii), or (iii) is one-third of the number of the combined points described in Subsection (3)(c)(ii).

(iv) The maximum number of points possible for the component listed in Subsection (3)(a)(iv) is 13 points.

(4) (a) The board shall award to a high school points for postsecondary readiness described in Subsection [53A-1-1107] 53E-5-206(4) as follows:

(i) the board shall award to a high school points proportional to the percentage of the school's students who, out of all the school's students who take a college readiness assessment described in Section [53A-1-611] 53E-4-305, receive a composite score of at least 18 on the assessment;

(ii) the board shall award to a high school points proportional to the percentage of the school's students who achieve at least one of the following:

(A) a C grade or better in an Advanced Placement course;

(B) a C grade or better in a concurrent enrollment course;

(C) a C grade or better in an International Baccalaureate course; or

(D) completion of a career and technical education pathway, as defined by the board; and

(iii) in accordance with Subsection (4)(c), the board shall award to a high school points proportional to the percentage of the school's students who graduate from the school.

(b) (i) The maximum number of total points possible for postsecondary readiness described in Subsection (4)(a) is 75 points.

(ii) The maximum number of points possible for a component listed in Subsection (4)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (4)(b)(i).

(c) (i) In calculating the percentage of students who graduate described in Subsection (4)(a)(iii), except as provided in Subsection (4)(c)(ii), the board shall award to a high school points proportional to the percentage of the school's students who graduate from the school within four years.

(ii) The board may award up to 10% of the points allocated for high school graduation described in Subsection (4)(b)(ii) to a school for students who graduate from the school within five years.

Section 119. Section 53E-5-208, which is renumbered from Section 53A-1-1109 is renumbered and amended to read:

[53A-1-1109]. 53E-5-208. Calculation of total points awarded -- Maximum number of total points possible.

(1) Except as provided in Section [53A-1-1110] 53E-5-209, the board shall calculate the number of total points awarded to a school by totaling the number of points the board awards to the school in accordance with Section [53A-1-1108] 53E-5-207.

(2) The maximum number of total points possible under Subsection (1) is:

(a) for an elementary school or a middle school, 150 points; or

(b) for a high school, 225 points.

Section 120. Section 53E-5-209, which is renumbered from Section 53A-1-1110 is renumbered and amended to read:

[53A-1-1110]. 53E-5-209. Exclusion of English learner progress -- Calculation of total points awarded for a school with fewer than 10 English learners.

(1) For a school that has fewer than 10 English learners, the board shall:

(a) exclude the use of English learner progress in determining the school's overall rating by:

(i) awarding no points to the school for English learner progress described in Subsection [53A-1-1108] 53E-5-207(3)(a)(iv); and

(ii) excluding the points described in Subsection [53A-1-1108] 53E-5-207(3)(c)(iv) from the school's maximum points possible; and

(b) calculate the number of total points awarded to the school by totaling the number of points the board awards to the school in accordance with Section [53A-1-1108] 53E-5-207 subject to the exclusion described in Subsection (1)(a).

(2) The maximum number of total points possible under Subsection (1) is:

(a) for an elementary school or a middle school, 137 points; or

(b) for a high school, 212 points.

Section 121. Section 53E-5-210, which is renumbered from Section 53A-1-1111 is renumbered and amended to read:

[53A-1-1111]. 53E-5-210. State Board of Education duties -- Proficient level -- Student growth -- English learner adequate progress.

(1) (a) For the purpose of determining whether a student scores at or above the proficient level on a statewide assessment, the board shall determine, through a process that evaluates student performance based on specific criteria, the minimum level that demonstrates proficiency for each statewide assessment.

(b) If the board adjusts the minimum level that demonstrates proficiency described in Subsection (1)(a), the board shall report the adjustment and the reason for the adjustment to the Education Interim Committee no later than 30 days after the day on which the board makes the adjustment.

(2) (a) For the purpose of determining whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target, the board shall calculate, for each individual student, the amount of growth necessary to achieve or maintain proficiency by a future school year determined by the board.

(b) For the purpose of determining the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores, the board shall calculate growth as a percentile for a student using appropriate statistical methods.

(3) For the purpose of determining whether an English learner achieves adequate progress on an English learner assessment established by the board, the board shall determine the minimum progress that demonstrates adequate progress.

Section 122. Section 53E-5-211, which is renumbered from Section 53A-1-1112 is renumbered and amended to read:

[53A-1-1112]. 53E-5-211. Reporting.

(1) The board shall annually publish on the board's website a report card that includes for each school:

(a) the school's overall rating described in Subsection [53A-1-1105] 53E-5-204(1);

(b) the school's performance on each indicator described in:

(i) Section [53A-1-1106] 53E-5-205, for an elementary school or a middle school; or

(ii) Section [53A-1-1107] 53E-5-206, for a high school;

(c) information comparing the school's performance on each indicator described in Subsection (1)(b) with:

(i) the average school performance; and

(ii) the school's performance in all previous years for which data is available;

(d) the percentage of students who participated in statewide assessments;

(e) for an elementary school, the percentage of students who read on grade level in grades 1 through 3; and

(f) for a high school, performance on Advanced Placement exams.

(2) A school may include in the school's report card described in Subsection (1) up to two self-reported school quality indicators that:

(a) are approved by the board for inclusion; and

(b) may include process or input indicators.

(3) (a) The board shall develop an individualized student achievement report that includes:

(i) information on the student's level of proficiency as measured by a statewide assessment; and

(ii) a comparison of the student's academic growth target and actual academic growth as measured by a statewide assessment.

(b) The board shall, subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, make the individualized student achievement report described in Subsection (3)(a) available for a school district or charter school to access electronically.

(c) A school district or charter school shall distribute an individualized student achievement report to the parent or guardian of the student to whom the report applies.

Section 123. Section 53E-5-301, which is renumbered from Section 53A-1-1202 is renumbered and amended to read:
Part 3. School Turnaround and Leadership Development

[53A-1-1202]. 53E-5-301. Definitions.

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Charter school authorizer" means the same as that term is defined in Section [53A-1a-501.3] 53G-5-102.

(3) "Charter school governing board" means the governing board, as defined in Section [53A-1a-501.3] 53G-5-102, that governs a charter.

(4) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(5) "Educator" means the same as that term is defined in Section [53A-6-103] 53E-6-102.

(6) "Final remedial year" means the second school year following the initial remedial year.

(7) "Independent school turnaround expert" or "turnaround expert" means a person identified by the board under Section [53A-1-1206] 53E-5-305.

(8) "Initial remedial year" means the school year a district school or charter school is designated as a low performing school under Section [53A-1-1203] 53E-5-302.

(9) "Local education board" means a local school board or charter school governing board.

(10) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(11) "Low performing school" means a district school or charter school that has been designated a low performing school by the board because the school is:

(a) for two consecutive school years in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school accountability system; and

(b) a low performing school according to other outcome-based measures as may be defined in rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) "School accountability system" means the school accountability system established in Part [14] 2, School Accountability System.

(13) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.

(14) "School turnaround committee" means a committee established under:

(a) for a district school, Section [53A-1-1204] 53E-5-303; or

(b) for a charter school, Section [53A-1-1205] 53E-5-304.

(15) "School turnaround plan" means a plan described in:

(a) for a district school, Section [53A-1-1204] 53E-5-303; or

(b) for a charter school, Section [53A-1-1205] 53E-5-304.

Section 124. Section 53E-5-302, which is renumbered from Section 53A-1-1203 is renumbered and amended to read:

[53A-1-1203]. 53E-5-302. State Board of Education to designate low performing schools -- Needs assessment.

(1) Except as provided in Subsection (4), the board shall:

(a) annually designate a school as a low performing school; and

(b) conduct a needs assessment for a low performing school by thoroughly analyzing the root causes of the low performing school's low performance.

(2) The board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).

(3) A school that was designated as a low performing school based on 2015-2016 school year performance that is not in the lowest performing 3% of schools statewide following the 2016-2017 school year is exempt from the provisions of this part.

(4) The board is not required to designate as a low performing school a school for which the board is not required to assign an overall rating in accordance with Section ~~[53A-1-1105]~~ 53E-5-204.

Section 125. Section 53E-5-303, which is renumbered from Section 53A-1-1204 is renumbered and amended to read:

~~[53A-1-1204]. 53E-5-303. Required action to turn around a low performing district school.~~

(1) In accordance with deadlines established by the board, a local school board of a low performing school shall:

(a) establish a school turnaround committee composed of the following members:

(i) the local school board member who represents the voting district where the low performing school is located;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school appointed by the chair of the school community council;

(iv) one teacher at the low performing school appointed by the principal;

(v) one teacher at the low performing school appointed by the school district superintendent; and

(vi) one school district administrator;

(b) solicit proposals from a turnaround expert identified by the board under Section ~~[53A-1-1206]~~ 53E-5-305;

(c) partner with the school turnaround committee to select a proposal;

(d) submit the proposal described in Subsection (1)(b) to the board for review and approval; and

(e) subject to Subsections (3) and (4), contract with a turnaround expert.

(2) A proposal described in Subsection (1)(b) shall include a:

(a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section ~~[53A-1-1203]~~ 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection (4)(b).

(3) A local school board may not select a turnaround expert that is:

(a) the school district; or

(b) an employee of the school district.

(4) A contract between a local school board and a turnaround expert:

(a) shall be based on an explicit stipulation of desired outcomes and consequences for not meeting goals, including cancellation of the contract;

(b) shall include a scope of work that requires the turnaround expert to at a minimum:

(i) develop and implement, in partnership with the school turnaround committee, a school turnaround plan that meets the criteria described in Subsection (5);

(ii) monitor the effectiveness of a school turnaround plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;

(iii) provide ongoing implementation support and project management for a school turnaround plan;

(iv) provide high-quality professional development personalized for school staff that is designed to build:

(A) the leadership capacity of the school principal;

(B) the instructional capacity of school staff;

(C) educators' capacity with data-driven strategies by providing actionable, embedded data practices; and

(v) leverage support from community partners to coordinate an efficient delivery of supports to students inside and outside the classroom;

(c) may include a scope of work that requires the turnaround expert to:

(i) develop sustainable school district and school capacities to effectively respond to the academic and behavioral needs of students in high poverty communities; or

(ii) other services that respond to the needs assessment conducted under Section ~~[53A-1-1203]~~ 53E-5-302;

(d) shall include travel costs and payment milestones; and

(e) may include pay for performance provisions.

(5) A school turnaround committee shall partner with the turnaround expert selected under Subsection (1) to develop and implement a school turnaround plan that:

(a) addresses the root causes of the low performing school's low performance identified through the needs assessment described in Section ~~[53A-1-1203]~~ 53E-5-302;

(b) includes recommendations regarding changes to the low performing school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school turnaround plan;

(c) includes measurable student achievement goals and objectives and benchmarks by which to measure progress;

(d) includes a professional development plan that identifies a strategy to address problems of instructional practice;

(e) includes a detailed budget specifying how the school turnaround plan will be funded;

(f) includes a plan to assess and monitor progress;

(g) includes a plan to communicate and report data on progress to stakeholders; and

(h) includes a timeline for implementation.

(6) A local school board of a low performing school shall:

(a) prioritize school district funding and resources to the low performing school;

(b) grant the low performing school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school turnaround plan; and

(c) assist the turnaround expert and the low performing school with:

(i) addressing the root cause of the low performing school's low performance; and

(ii) the development or implementation of a school turnaround plan.

(7) (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the local school board for approval.

(b) Except as provided in Subsection (7)(c), on or before July 1 of an initial remedial year, a local school board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the local school board does not approve the school turnaround plan submitted under Subsection (7)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection ~~[53A-1-1206]~~ 53E-5-305(6).

(8) A local school board, or a local school board's designee, shall annually report to the board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Section 126. Section 53E-5-304, which is renumbered from Section 53A-1-1205 is renumbered and amended to read:

~~[53A-1-1205]. 53E-5-304. Required action to terminate or turn around a low performing charter school.~~

(1) In accordance with deadlines established by the board, a charter school authorizer of a low performing school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section ~~[53A-1a-508]~~ 53G-5-303, including the school's established minimum standards for student achievement.

(2) If a low performing school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter in accordance with Section ~~[53A-1a-510]~~ 53G-5-503.

(3) A charter school authorizer shall make a determination on the status of a low performing school's charter under Subsection (2) on or before a date specified by the board in an initial remedial year.

(4) In accordance with deadlines established by the board, if a charter school authorizer does not terminate a low performing school's charter under Subsection (2), a charter school governing board of a low performing school shall:

(a) establish a school turnaround committee composed of the following members:

(i) a member of the charter school governing board, appointed by the chair of the charter school governing board;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school, appointed by the chair of the charter school governing board; and

(iv) two teachers at the low performing school, appointed by the school principal;

(b) solicit proposals from a turnaround expert identified by the board under Section ~~[53A-1-1206]~~ 53E-5-305;

(c) partner with the school turnaround committee to select a proposal;

(d) submit the proposal described in Subsection (4)(b) to the board for review and approval; and

(e) subject to Subsections (6) and (7), contract with a turnaround expert.

(5) A proposal described in Subsection (4)(b) shall include a:

(a) strategy to address the root causes of the low performing school's low performance identified

through the needs assessment described in Section ~~[53A-1-1203]~~ 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection ~~[53A-1-1204]~~ 53E-5-303(4)(b).

(6) A charter school governing board may not select a turnaround expert that:

(a) is a member of the charter school governing board;

(b) is an employee of the charter school; or

(c) has a contract to operate the charter school.

(7) A contract entered into between a charter school governing board and a turnaround expert shall include and reflect the requirements described in Subsection ~~[53A-1-1204]~~ 53E-5-303(4).

(8) (a) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (4) to develop and implement a school turnaround plan that includes the elements described in Subsection ~~[53A-1-1204]~~ 53E-5-303(5).

(b) A charter school governing board shall assist a turnaround expert and a low performing charter school with:

(i) addressing the root cause of the low performing school's low performance; and

(ii) the development or implementation of a school turnaround plan.

(9) (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the charter school governing board for approval.

(b) Except as provided in Subsection (9)(c), on or before July 1 of an initial remedial year, a charter school governing board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the charter school governing board does not approve the school turnaround plan submitted under Subsection (9)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection ~~[53A-1-1206]~~ 53E-5-305(6).

(10) The provisions of this part do not modify or limit a charter school authorizer's authority at any time to terminate a charter school's charter in accordance with Section ~~[53A-1a-510]~~ 53G-5-503.

(11) A charter school governing board or a charter school governing board's designee shall annually report to the board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Section 127. Section 53E-5-305, which is renumbered from Section 53A-1-1206 is renumbered and amended to read:

~~[53A-1-1206]. 53E-5-305. State Board of Education to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.~~

(1) The board shall identify two or more approved independent school turnaround experts, through a standard procurement process, that a low performing school may contract with to:

(a) respond to the needs assessment conducted under Section ~~[53A-1-1203]~~ 53E-5-302; and

(b) provide the services described in Section ~~[53A-1-1204]~~ 53E-5-303 or ~~[53A-1-1205]~~ 53E-5-304, as applicable.

(2) In identifying independent school turnaround experts under Subsection (1), the board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section ~~[53A-1-602]~~ 53E-4-301;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and

(f) are willing to partner with any low performing school in the state, regardless of location.

(3) (a) The board shall:

(i) review a proposal submitted for approval under Section ~~[53A-1-1204]~~ 53E-5-303 or ~~[53A-1-1205]~~ 53E-5-304 no later than 30 days after the day on which the proposal is submitted;

(ii) review a school turnaround plan submitted for approval under Subsection ~~[53A-1-1204]~~ 53E-5-303(7)(b) or under Subsection ~~[53A-1-1205]~~ 53E-5-304(9)(b) within 30 days of submission; and

(iii) approve a school turnaround plan that:

(A) is timely;

(B) is well-developed; and

(C) meets the criteria described in Subsection ~~[53A-1-1204]~~ 53E-5-303(5).

(b) The board may not approve a school turnaround plan that is not aligned with the needs

assessment conducted under Section ~~[53A-1-1203]~~ ~~53E-5-302~~.

(4) (a) Subject to legislative appropriations, when a school turnaround plan is approved by the board, the board shall distribute funds to each local education board with a low performing school to carry out the provisions of Sections ~~[53A-1-1204]~~ ~~53E-5-303~~ and ~~[53A-1-1205]~~ ~~53E-5-304~~.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).

(5) The board shall:

(a) monitor and assess progress toward the goals, benchmarks and timetable in each school turnaround plan; and

(b) act as a liaison between a local school board, low performing school, and turnaround expert.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to establish an appeals process for:

(i) a low performing district school that is not granted approval from the district school's local school board under Subsection ~~[53A-1-1204]~~ ~~53E-5-303~~(7)(b);

(ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection ~~[53A-1-1205]~~ ~~53E-5-304~~(9)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the board under Subsection (3)(a) or (b).

(b) The board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:

(i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and

(ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.

(7) The board may use up to 4% of the funds appropriated by the Legislature to carry out the provisions of this part for administration if the amount for administration is approved by the board in an open meeting.

Section 128. Section 53E-5-306, which is renumbered from Section 53A-1-1207 is renumbered and amended to read:

[53A-1-1207]. 53E-5-306. Implications for failing to improve school performance.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and board rules;

(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and

(c) has received at least a B grade under the school accountability system in the previous two school years.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(i) exit criteria for a low performing school;

(ii) criteria for granting a school an extension as described in Subsection (3); and

(iii) implications for a low performing school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).

(b) In establishing exit criteria for a low performing school the board shall:

(i) determine for each low performing school the number of points awarded under the school accountability system in the final remedial year that represent a substantive and statistically significant improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year;

(ii) establish a method to estimate the exit criteria after a low performing school's first remedial year to provide a target for each low performing school; and

(iii) use generally accepted statistical practices.

(c) The board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the criteria adopted under this Subsection (2).

(3) (a) A low performing school may petition the board for an extension to continue school improvement efforts for up to two years if the low performing school does not meet the exit criteria established by the board as described in Subsection (2).

(b) A school that has been granted an extension under this Subsection (3) is eligible for:

(i) continued funding under Section ~~[53A-1-1206]~~ ~~53E-5-305~~; and

(ii) (A) the school teacher recruitment and retention incentive under Section ~~[53A-1-1208.1]~~ ~~53E-5-308~~; or

(B) the School Recognition and Reward Program under Section ~~[53A-1-1208]~~ ~~53E-5-307~~.

(4) If a low performing school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the board may intervene by:

(a) restructuring a district school, which may include:

(i) contract management;

(ii) conversion to a charter school; or

(iii) state takeover;

- (b) restructuring a charter school by:
 - (i) terminating a school's charter;
 - (ii) closing a charter school; or
 - (iii) transferring operation and control of the charter school to:
 - (A) a high performing charter school; or
 - (B) the school district in which the charter school is located; or
 - (c) other appropriate action as determined by the board.

Section 129. Section 53E-5-307, which is renumbered from Section 53A-1-1208 is renumbered and amended to read:

[53A-1-1208]. 53E-5-307. School Recognition and Reward Program.

(1) As used in this section, "eligible school" means a low performing school that:

- (a) was designated as a low performing school based on 2014-2015 school year performance; and
- (b) (i) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year; or

(ii) (A) has been granted an extension under Subsection [53A-1-1207] 53E-5-306(3); and

(B) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the last school year of the extension period.

(2) The School Recognition and Reward Program is created to provide incentives to schools and educators to improve the school grade of a low performing school.

(3) Subject to appropriations by the Legislature, upon the release of school grades by the board, the board shall distribute a reward equal to:

(a) for an eligible school that improves the eligible school's grade one letter grade:

- (i) \$100 per tested student; and
- (ii) \$1,000 per educator;

(b) for an eligible school that improves the eligible school's grade two letter grades:

- (i) \$200 per tested student; and
- (ii) \$2,000 per educator;

(c) for an eligible school that improves the eligible school's grade three letter grades:

- (i) \$300 per tested student; and
- (ii) \$3,000 per educator; and

(d) for an eligible school that improves the eligible school's grade four letter grades:

- (i) \$500 per tested student; and
- (ii) \$5,000 per educator.

(4) The principal of an eligible school that receives a reward under Subsection (3), in consultation with the educators at the eligible school, may determine how to use the money in the best interest of the school, including providing bonuses to educators.

(5) If the number of qualifying eligible schools exceeds available funds, the board may reduce the amounts specified in Subsection (3).

(6) A local school board of an eligible school, in coordination with the eligible school's turnaround committee, may elect to receive a reward under this section or receive funds described in Section [53A-1-1208.1] 53E-5-308 but not both.

Section 130. Section 53E-5-308, which is renumbered from Section 53A-1-1208.1 is renumbered and amended to read:

[53A-1-1208.1]. 53E-5-308. Turnaround school teacher recruitment and retention.

(1) As used in this section, "plan" means a teacher recruitment and retention plan.

(2) On a date specified by the board, a local education board of a low performing school shall submit to the board for review and approval a plan to address teacher recruitment and retention in a low performing school.

(3) The board shall:

- (a) review a plan submitted under Subsection (2);
- (b) approve a plan if the plan meets criteria established by the board in rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) subject to legislative appropriations, provide funding to a local education board for teacher recruitment and retention efforts identified in an approved plan if the local education board provides matching funds in an amount equal to at least the funding the low performing school would receive from the board.

(4) The money distributed under this section may only be expended to fund teacher recruitment and retention efforts identified in an approved plan.

Section 131. Section 53E-5-309, which is renumbered from Section 53A-1-1209 is renumbered and amended to read:

[53A-1-1209]. 53E-5-309. School Leadership Development Program.

(1) As used in this section, "school leader" means a school principal or assistant principal.

(2) There is created the School Leadership Development Program to increase the number of highly effective school leaders capable of:

- (a) initiating, achieving, and sustaining school improvement efforts; and
- (b) forming and sustaining community partnerships as described in Section [53A-4-303] 53F-5-402.

(3) The board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

(a) may provide in-depth training in proven strategies to turn around low performing schools;

(b) may emphasize hands-on and job-embedded learning;

(c) aligns with the state's leadership standards established by board rule;

(d) reflects the needs of a school district or charter school where a school leader serves;

(e) may include training on using student achievement data to drive decisions;

(f) may develop skills in implementing and evaluating evidence-based instructional practices;

(g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and

(h) includes instruction on forming and sustaining community partnerships as described in Section ~~[53A-4-303]~~ 53F-5-402.

(4) Subject to legislative appropriations, the State Board of Education shall provide incentive pay to a school leader who:

(a) completes leadership development training under this section; and

(b) agrees to work, for at least five years, in a school that received an F grade or D grade under the school accountability system in the school year previous to the first year the school leader:

(i) completes leadership development training; and

(ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules specifying:

(a) eligibility criteria for a school leader to participate in the School Leadership Development Program;

(b) application procedures for the School Leadership Development Program;

(c) criteria for selecting school leaders from the application pool; and

(d) procedures for awarding incentive pay under Subsection (4).

Section 132. Section 53E-5-310, which is renumbered from Section 53A-1-1210 is renumbered and amended to read:

[53A-1-1210]. 53E-5-310. Reporting requirement.

On or before November 30 of each year, the board shall report to the Education Interim Committee on the provisions of this part.

Section 133. Section 53E-5-311, which is renumbered from Section 53A-1-1211 is renumbered and amended to read:

[53A-1-1211]. 53E-5-311. Coordination with the Partnerships for Student Success Grant Program.

If a low performing school is a member of a partnership that receives a grant under ~~[Chapter 4, Part 3,]~~ Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program, the school turnaround committee shall:

(1) coordinate the school turnaround committee's efforts with the efforts of the partnership; and

(2) ensure that the goals and outcomes of the partnership are aligned with the school turnaround plan described in this part.

Section 134. Section 53E-6-101 is enacted to read:

CHAPTER 6. EDUCATION PROFESSIONAL LICENSURE

Part 1. General Provisions

53E-6-101. Title.

This chapter is known as "Education Professional Licensure."

Section 135. Section 53E-6-102, which is renumbered from Section 53A-6-103 is renumbered and amended to read:

[53A-6-103]. 53E-6-102. Definitions.

As used in this chapter:

(1) "Accredited institution" means an institution meeting the requirements of Section ~~[53A-6-107]~~ 53E-6-302.

(2) (a) "Alternative preparation program" means preparation for licensure in accordance with applicable law and rule through other than an approved preparation program.

(b) "Alternative preparation program" includes the competency-based licensing program described in Section ~~[53A-6-104.5]~~ 53E-6-306.

(3) "Ancillary requirement" means a requirement established by law or rule in addition to completion of an approved preparation program or alternative education program or establishment of eligibility under the NASDTEC Interstate Contract, and may include any of the following:

(a) minimum grade point average;

(b) standardized testing or assessment;

(c) mentoring;

(d) recency of professional preparation or experience;

(e) graduation from an accredited institution; or

(f) evidence relating to moral, ethical, physical, or mental fitness.

(4) “Approved preparation program” means a program for preparation of educational personnel offered through an accredited institution in Utah or in a state which is a party to a contract with Utah under the NASDTEC Interstate Contract and which, at the time the program was completed by the applicant:

(a) was approved by the governmental agency responsible for licensure of educators in the state in which the program was provided;

(b) satisfied requirements for licensure in the state in which the program was provided;

(c) required completion of a baccalaureate; and

(d) included a supervised field experience.

(5) “Board” means the State Board of Education.

(6) “Certificate” means a license issued by a governmental jurisdiction outside the state.

(7) “Core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(8) “Educator” means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by the board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(9) (a) “Endorsement” means a stipulation appended to a license setting forth the areas of practice to which the license applies.

(b) An endorsement shall be issued upon completion of a competency-based teacher preparation program from a regionally accredited university that meets state content standards.

(10) “License” means an authorization issued by the board which permits the holder to serve in a professional capacity in the public schools. The five levels of licensure are:

(a) “letter of authorization,” which is:

(i) a temporary license issued to a person who has not completed requirements for a competency-based, or level 1, 2, or 3 license, such as:

(A) a student teacher; or

(B) a person participating in an alternative preparation program; or

(ii) a license issued, pursuant to board rules, to a person who has achieved eminence, or has

outstanding qualifications, in a field taught in public schools;

(b) “competency-based license” which is issued to a teacher based on the teacher’s demonstrated teaching skills and abilities;

(c) “level 1 license,” which is a license issued upon completion of:

(i) a competency-based teacher preparation program from a regionally accredited university; or

(ii) an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule;

(d) “level 2 license,” which is a license issued after satisfaction of all requirements for a level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience; and

(e) “level 3 license,” which is a license issued to an educator who holds a current Utah level 2 license and has also received, in the educator’s field of practice, National Board certification or a doctorate from an accredited institution.

(11) “NASDTEC” means the National Association of State Directors of Teacher Education and Certification.

(12) “NASDTEC Interstate Contract” means the contract implementing [Title 53A, Chapter 6, Part 2] Part 10, Compact for Interstate Qualification of Educational Personnel, which is administered through NASDTEC.

(13) “National Board certification” means a current certificate issued by the National Board for Professional Teaching Standards.

~~[(14) “Necessarily existent small school” means a school classified as a necessarily existent small school in accordance with Section 53A-17a-109.]~~

~~[(15)]~~ (14) “Rule” means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(16)]~~ (15) “School” means a public or private entity which provides educational services to a minor child.

~~[(17) “Small school district” means a school district with an enrollment of less than 5,000 students.]~~

~~[(18)]~~ (16) “UPPAC” means the Utah Professional Practices Advisory Commission.

Section 136. Section 53E-6-103, which is renumbered from Section 53A-6-102 is renumbered and amended to read:

[53A-6-102]. 53E-6-103. Legislative findings on teacher quality -- Declaration of education as a profession.

(1) (a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the

future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.

(b) The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.

(2) (a) The Legislature finds that:

(i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;

(ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and

(iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.

(b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:

(i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs before assuming their responsibilities in the schools;

(ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;

(iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and

(iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Section 137. Section 53E-6-201, which is renumbered from Section 53A-6-104 is renumbered and amended to read:

Part 2. Licensing

[53A-6-104]. 53E-6-201. Board licensure.

(1) (a) The board may issue licenses for educators.

(b) A person employed in a position that requires licensure by the board shall hold the appropriate license.

(2) (a) The board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining and retaining licenses.

(b) (i) The board shall make rules requiring participation in professional development activities or compliance with a school district professional development plan as provided in Subsection (4) in order for educators to retain their licenses.

(ii) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the professional development requirements of Subsection (2)(b)(i) is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:

(A) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(B) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.

(3) Except as provided in Subsection (4), unless suspended or revoked by the board, or surrendered by the educator:

(a) a letter of authorization is valid for one year, or a shorter period as specified by the board, subject to renewal by the board in accordance with board rules;

(b) a competency-based license remains valid;

(c) a level 1 license is valid for three years, subject to renewal by the board in accordance with board rules;

(d) a level 2 license is valid for five years, subject to renewal by the board in accordance with board rules; and

(e) a level 3 license is valid for seven years, subject to renewal by the board in accordance with board rules.

(4) Unless suspended or revoked by the board, or surrendered by the educator, a level 1, level 2, level 3, or competency-based license shall remain valid if:

(a) the license holder is employed by a school district that has a comprehensive program to maintain and improve educators' skills in which performance standards, educator evaluation, and professional development are integrated; and

(b) the license holder complies with school or school district professional development requirements.

Section 138. Section 53E-6-202 (Superseded 07/01/18), which is renumbered from

Section 53A-6-104.1 (Superseded 07/01/18) is renumbered and amended to read:

[53A-6-104.1 (Superseded 07/01/18)]. 53E-6-202 (Superseded 07/01/18). Reinstatement of a license.

(1) An educator who previously held a license and whose license has expired may have the license reinstated by:

(a) filing an application with the board on the form prescribed by the board;

(b) paying the fee required by Section 53A-6-105; and

(c) submitting to a criminal background check as required by Section [~~53A-15-1504~~] 53G-11-403.

(2) Upon successful completion of the criminal background check and verification that the applicant's previous license had not been revoked, suspended, or surrendered, the board shall reinstate the license.

(3) An educator whose license is reinstated may not be required to obtain professional development not required of other educators with the same number of years of experience, except as provided in Subsection (4).

(4) The principal of the school at which an educator whose license is reinstated is employed shall provide information and training, based on the educator's experience and education, that will assist the educator in performing the educator's assigned position.

(5) The procedures for reinstating a license as provided in this section do not apply to an educator's license that expires while the educator is employed in a position requiring the license.

Section 139. Section 53E-6-202 (Effective 07/01/18), which is renumbered from Section 53A-6-104.1 (Effective 07/01/18) is renumbered and amended to read:

[53A-6-104.1 (Effective 07/01/18)]. 53E-6-202 (Effective 07/01/18). Reinstatement of a license.

(1) An educator who previously held a license and whose license has expired may have the license reinstated by:

(a) filing an application with the board on the form prescribed by the board; and

(b) submitting to a criminal background check as required by Section [~~53A-15-1504~~] 53G-11-403.

(2) Upon successful completion of the criminal background check and verification that the applicant's previous license had not been revoked, suspended, or surrendered, the board shall reinstate the license.

(3) An educator whose license is reinstated may not be required to obtain professional development not required of other educators with the same number of years of experience, except as provided in Subsection (4).

(4) The principal of the school at which an educator whose license is reinstated is employed shall provide information and training, based on the educator's experience and education, that will assist the educator in performing the educator's assigned position.

(5) The procedures for reinstating a license as provided in this section do not apply to an educator's license that expires while the educator is employed in a position requiring the license.

Section 140. Section 53E-6-203, which is renumbered from Section 53A-6-111 is renumbered and amended to read:

[53A-6-111]. 53E-6-203. Teacher classifications.

(1) As used in this section:

(a) "Associate teacher" means a person who does not currently hold a level 1, 2, or 3 license, but is permitted to teach in a public school under another authorization.

(b) "Teacher" means a person who currently holds a level 1, 2, or 3 license.

(2) Each school district and school shall identify and distinguish between teachers and associate teachers, including using the appropriate title in all communication with parents, guardians, and members of the public.

(3) Lists of teachers and associate teachers shall be maintained at each school and shall be available for review by any person upon request.

Section 141. Section 53E-6-301, which is renumbered from Section 53A-6-106 is renumbered and amended to read:
Part 3. Licensing Requirements

[53A-6-106]. 53E-6-301. Qualifications of applicants for licenses -- Changes in qualifications.

(1) The board shall establish by rule the scholarship, training, and experience required of license applicants.

(2) (a) The board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(3) The board may determine by examination or otherwise the qualifications of license applicants.

Section 142. Section 53E-6-302, which is renumbered from Section 53A-6-107 is renumbered and amended to read:

[53A-6-107]. 53E-6-302. Teacher preparation programs.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish standards for approval of a preparation program or an alternative preparation program.

(2) The board shall ensure that standards adopted under Subsection (1) meet or exceed

generally recognized national standards for preparation of educators, such as those developed by the:

(a) Interstate New Teacher Assessment and Support Consortium;

(b) National Board for Professional Teaching Standards; or

(c) Council for the Accreditation of Educator Preparation.

(3) The board shall designate an employee of the board's staff to:

(a) work with education deans of state institutions of higher education to coordinate on-site monitoring of teacher preparation programs that may include:

(i) monitoring courses for teacher preparation programs;

(ii) working with course instructors for teacher preparation programs; and

(iii) interviewing students admitted to teacher preparation programs;

(b) act as a liaison between:

(i) the board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the board; and

(ii) education deans of state institutions of higher education.

(4) The board shall:

(a) in good faith, consider the findings and recommendations described in Subsection (3)(c); and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the board determines is necessary, to implement recommendations described in Subsection (3)(c).

Section 143. Section 53E-6-303, which is renumbered from Section 53A-6-108 is renumbered and amended to read:

[53A-6-108]. 53E-6-303. Prohibition on use of degrees or credit from unapproved institutions.

(1) An individual may not use a postsecondary degree or credit awarded by a postsecondary institution or program to gain a license, employment, or any other benefit within the public school system unless the institution or program was, at the time the degree or credit was awarded:

(a) approved for the granting of the degree or credit by the board; or

(b) accredited by an accrediting organization recognized by the board.

(2) The board may grant an exemption from Subsection (1) to an individual who shows good cause for the granting of the exemption.

Section 144. Section 53E-6-304, which is renumbered from Section 53A-6-110 is renumbered and amended to read:

[53A-6-110]. 53E-6-304.

Administrative/supervisory letters of authorization.

(1) A local school board may request, and the board may grant, a letter of authorization permitting a person with outstanding professional qualifications to serve in any position that requires a person to hold an administrative/supervisory license or certificate, including principal, assistant principal, associate principal, vice principal, assistant superintendent, administrative assistant, director, specialist, or other district position.

(2) The board may grant a letter of authorization permitting a person with outstanding professional qualifications to serve in a position that requires a person to hold an administrative/supervisory license or certificate.

Section 145. Section 53E-6-305, which is renumbered from Section 53A-6-113 is renumbered and amended to read:

[53A-6-113]. 53E-6-305. Alternative preparation program -- Work experience requirement.

An individual who is employed at least half time in a position for which a teacher's license is required pursuant to board rule, including a position in an online school or a school that uses digital technologies for instruction or blended learning, satisfies the work experience requirement for participation in an alternative preparation program.

Section 146. Section 53E-6-306, which is renumbered from Section 53A-6-104.5 is renumbered and amended to read:

[53A-6-104.5]. 53E-6-306. Licensing by competency.

(1) A competency-based license to teach may be issued based on the demonstrated competence of a teacher as provided in this section.

(2) A local school board or charter school may request, and the board shall grant, upon receipt of documentation from the local school board or charter school verifying the person's qualifications as specified in this section, a competency-based license to a person who meets the qualifications specified in this section and submits to a criminal background check as required in Section [53A-15-1504] 53G-11-403.

(3) A local school board or charter school may request a competency-based license if the candidate meets the following qualifications:

(a) a license candidate who teaches one or more core academic subjects in an elementary school shall:

- (i) hold at least a bachelor's degree; and
- (ii) have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum;

(b) a license candidate who teaches one or more core academic subjects in a middle or secondary school shall:

- (i) hold at least a bachelor's degree; and
- (ii) have demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

(A) passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or

(B) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, or advanced certification or credentialing; or

(c) a license candidate who teaches subjects other than a core academic subject in an elementary, middle, or high school shall:

- (i) hold a bachelor's degree, associate's degree, or skill certification; and
- (ii) have skills, talents, or abilities, as evaluated by the employing entity, that make the person suited for the teaching position.

(4) A school district or charter school:

(a) shall monitor and assess the performance of each teacher holding a competency-based license; and

(b) may recommend that the competency-based license holder's training and assessment be reviewed by the board for a level 1 license.

Section 147. Section 53E-6-307, which is renumbered from Section 53A-6-404 is renumbered and amended to read:

[53A-6-404]. 53E-6-307. Certification in other jurisdictions -- Impact on licensing in Utah.

(1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.

(2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:

(a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;

(b) a complete list of prior school employers; and

(c) a release on a form provided by the administrator permitting the board to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Section ~~[53A-15-1506]~~ 53G-11-405.

(3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the board may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.

(4) The board may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Section 148. Section 53E-6-401, which is renumbered from Section 53A-6-401 is renumbered and amended to read:

Part 4. Background and Employment Checks

[53A-6-401]. 53E-6-401. Background checks.

In accordance with Section ~~[53A-15-1504]~~ 53G-11-403, the State Board of Education shall require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing.

Section 149. Section 53E-6-402, which is renumbered from Section 53A-6-402 is renumbered and amended to read:

[53A-6-402]. 53E-6-402. Board-required licensing or employment recommendations -- Local public school-required licensing recommendations -- Notice requirements for affected parties -- Exemption from liability.

(1) (a) The board shall provide the appropriate administrator of a public or private school or of an agency outside the state that is responsible for licensing or certifying educational personnel with a recommendation or other information possessed by the board that has significance in evaluating the employment or license of:

- (i) a current or prospective school employee;

- (ii) an educator or education license holder; or
 - (iii) a license applicant.
- (b) Information supplied under Subsection (1)(a) shall include:

- (i) the complete record of a hearing; and
- (ii) the investigative report for matters that:

(A) the educator has had an opportunity to contest; and

- (B) did not proceed to a hearing.

(2) At the request of the board, an administrator of a public school or school district shall, and an administrator of a private school may, provide the board with a recommendation or other information possessed by the school or school district that has significance in evaluating the:

(a) license of an educator or education license holder; or

- (b) potential licensure of a license applicant.

(3) If the board decides to deny licensure or to take action against an educator's license based upon information provided under this section, the board shall:

(a) give notice of the information to the educator or license applicant; and

(b) afford the educator or license applicant an opportunity to respond to the information.

(4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

Section 150. Section 53E-6-403, which is renumbered from Section 53A-6-403 is renumbered and amended to read:

[53A-6-403]. 53E-6-403. Tie-in with the Criminal Investigations and Technical Services Division.

- (1) The board shall:

(a) designate employees to act, with board supervision, as an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and

(b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section ~~[53A-6-492]~~ 53E-6-402.

(2) The cost of the online service shall be borne by the entity making the inquiry.

Section 151. Section 53E-6-501, which is renumbered from Section 53A-6-301 is renumbered and amended to read:

Part 5. Utah Professional Practices Advisory Commission

[53A-6-301]. 53E-6-501. Utah Professional Practices Advisory Commission established.

The Utah Professional Practices Advisory Commission, UPPAC, is established to assist and advise the board in matters relating to the professional practices of educators.

Section 152. Section 53E-6-502, which is renumbered from Section 53A-6-302 is renumbered and amended to read:

[53A-6-302]. 53E-6-502. UPPAC members -- Executive secretary.

(1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.

(2) Six of the voting members shall be persons whose primary responsibility is teaching.

(3) (a) The state superintendent of public instruction shall appoint an employee to serve as executive secretary.

(b) Voting members are appointed by the superintendent as provided under Section ~~[53A-6-303]~~ 53E-6-503.

(4) Board employees shall staff UPPAC activities.

Section 153. Section 53E-6-503, which is renumbered from Section 53A-6-303 is renumbered and amended to read:

[53A-6-303]. 53E-6-503. Nominations -- Appointment of commission members -- Reappointments.

(1) (a) The board shall adopt rules establishing procedures for nominating and appointing individuals to voting membership on UPPAC.

(b) Nomination petitions must be filed with the state superintendent prior to June 16 of the year of appointment.

(c) A nominee for appointment as a member of UPPAC as an educator must have been employed in the representative class in the Utah public school system or a private school accredited by the board during the three years immediately preceding the date of appointment.

(2) The state superintendent of public instruction shall appoint the members of the commission.

(3) Appointments begin July 1 and are for terms of three years and until a successor is appointed.

(4) Terms of office are staggered so that approximately 1/3 of UPPAC members are appointed annually.

- (5) A member may not serve more than two terms.

Section 154. Section 53E-6-504, which is renumbered from Section 53A-6-304 is renumbered and amended to read:

[53A-6-304]. 53E-6-504. Filling of vacancies.

(1) A UPPAC vacancy occurs if a member resigns, fails to attend three or more meetings during a calendar year, or no longer meets the requirements for nomination and appointment.

(2) If a vacancy occurs, the state superintendent shall appoint a successor to fill the unexpired term.

(3) If the superintendent does not fill the vacancy within 60 days, the board shall make the appointment.

(4) Nominations to fill vacancies are submitted to the superintendent in accordance with procedures established under rules of the board.

Section 155. Section 53E-6-505 (Superseded 07/01/18), which is renumbered from Section 53A-6-305 (Superseded 07/01/18) is renumbered and amended to read:

[53A-6-305 (Superseded 07/01/18)]. 53E-6-505 (Superseded 07/01/18). Meetings and expenses of UPPAC members.

(1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.

(2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.

(3) The board shall pay reimbursement to UPPAC members out of the Professional Practices Restricted Subfund in the Uniform School Fund.

Section 156. Section 53E-6-505 (Effective 07/01/18), which is renumbered from Section 53A-6-305 (Effective 07/01/18) is renumbered and amended to read:

[53A-6-305 (Effective 07/01/18)]. 53E-6-505 (Effective 07/01/18). Meetings and expenses of UPPAC members.

(1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.

(2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.

(3) The board shall pay reimbursement to UPPAC members out of the Education Fund.

Section 157. Section 53E-6-506, which is renumbered from Section 53A-6-306 is renumbered and amended to read:

[53A-6-306]. 53E-6-506. UPPAC duties and procedures.

(1) The board may direct UPPAC to review a complaint about an educator and recommend that the board:

(a) dismiss the complaint; or

(b) investigate the complaint in accordance with this section.

(2) (a) The board may direct UPPAC to:

(i) in accordance with this section, investigate a complaint's allegation or decision; or

(ii) hold a hearing.

(b) UPPAC may initiate a hearing as part of an investigation.

(c) Upon completion of an investigation or hearing, UPPAC shall:

(i) provide findings to the board; and

(ii) make a recommendation for board action.

(d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.

(3) (a) The board may:

(i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or

(ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.

(b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.

(c) In conducting an investigation, UPPAC or an independent investigator may:

(i) in accordance with Section ~~[53A-6-603]~~ 53E-6-606 administer oaths and issue subpoenas; or

(ii) receive evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109.

(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the board initiate a background check on an educator as described in Section ~~[53A-15-1504]~~ 53G-11-403.

(e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) The board may direct UPPAC to:

(a) recommend to the board procedures for:

(i) receiving and processing complaints;

(ii) investigating a complaint's allegation or decision;

- (iii) conducting hearings; or
- (iv) reporting findings and making recommendations to the board for board action;
- (b) recommend to the board or a professional organization of educators:
 - (i) standards of professional performance, competence, and ethical conduct for educators; or
 - (ii) suggestions for improvement of the education profession; or
 - (c) fulfill other duties the board finds appropriate.
 - (5) UPPAC may not participate as a party in a dispute relating to negotiations between:
 - (a) a school district and the school district's educators; or
 - (b) a charter school and the charter school's educators.
 - (6) The board shall make rules establishing UPPAC duties and procedures.

Section 158. Section 53E-6-601, which is renumbered from Section 53A-6-601 is renumbered and amended to read:

Part 6. License Denial and Discipline

[53A-6-601]. 53E-6-601. Definition.

As used in this part "hearing" means a proceeding held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried before a hearing body, and in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to:

- (1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; and
- (2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.

Section 159. Section 53E-6-602, which is renumbered from Section 53A-6-307 is renumbered and amended to read:

[53A-6-307]. 53E-6-602. Licensing power of the board -- Licensing final action -- Appeal rights.

- (1) The board holds the power to license educators.
- (2) (a) The board shall take final action with regard to an educator license.
- (b) An entity other than the board may not take final action with regard to an educator license.
- (3) (a) In accordance with Subsection (3)(b), a license applicant or an educator may seek judicial review of a final action made by the board under this chapter.

(b) A license applicant or educator may file a petition for judicial review of the board's final action if the license applicant or educator files a petition within 30 days after the day on which the license applicant or educator received notice of the final action.

Section 160. Section 53E-6-603, which is renumbered from Section 53A-6-405 is renumbered and amended to read:

[53A-6-405]. 53E-6-603. Ineligibility for educator license.

(1) The board may refuse to issue a license to a license applicant if the board finds good cause for the refusal, including behavior of the applicant:

- (a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and
- (b) considered, as behavior of an educator, to be:
 - (i) immoral, unprofessional, or incompetent behavior; or
 - (ii) a violation of standards of ethical conduct, performance, or professional competence.

(2) The board may not issue, renew, or reinstate an educator license if the license applicant or educator:

- (a) was convicted of a felony of a sexual nature;
- (b) pled guilty to a felony of a sexual nature;
- (c) entered a plea of no contest to a felony of a sexual nature;
- (d) entered a plea in abeyance to a felony of a sexual nature;
- (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
- (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

- (i) not a minor; and
- (ii) enrolled in a school where the license applicant or educator is or was employed; or
- (h) admits to the board or UPPAC that the license applicant or educator committed conduct that amounts to:

- (i) a felony of a sexual nature; or
- (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).

(3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:

- (a) employ the person in the public school; or
- (b) allow the person to volunteer in the public school.

(4) (a) If the board denies licensure under this section, the board shall immediately notify the applicant of:

- (i) the denial; and
- (ii) the applicant's right to request a hearing before UPPAC.

(b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the board based the denial.

(c) If the board receives a request for a hearing described in Subsection (4)(b), the board shall direct UPPAC to hold a hearing.

Section 161. Section 53E-6-604, which is renumbered from Section 53A-6-501 is renumbered and amended to read:

[53A-6-501]. 53E-6-604. Board disciplinary action against an educator.

(1) (a) The board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:

- (i) is immoral, unprofessional, or incompetent; or
- (ii) violates standards of ethical conduct, performance, or professional competence.

(b) If the board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the board may dismiss the allegation or decision without an investigation or hearing.

(2) The board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the board receives an allegation that the educator:

- (a) was charged with a felony of a sexual nature;
- (b) was convicted of a felony of a sexual nature;
- (c) pled guilty to a felony of a sexual nature;
- (d) entered a plea of no contest to a felony of a sexual nature;
- (e) entered a plea in abeyance to a felony of a sexual nature;
- (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or
- (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
 - (i) not a minor; and

(ii) enrolled in a school where the educator is or was employed.

(3) Upon notice that an educator allegedly violated Section [~~53A-6-502~~] 53E-6-701, the board shall direct UPPAC to:

- (a) investigate the alleged violation; and
- (b) hold a hearing to allow the educator to respond to the allegation.

(4) Upon completion of an investigation or hearing described in this section, UPPAC shall:

- (a) provide findings to the board; and
- (b) make a recommendation for board action.

(5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the board may:

- (i) revoke the educator's license;
- (ii) suspend the educator's license;
- (iii) restrict or prohibit the educator from renewing the educator's license;
- (iv) warn or reprimand the educator;
- (v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;
- (vi) direct UPPAC to further investigate or gather information; or
- (vii) take other action the board finds to be appropriate for and consistent with the educator's behavior.

(b) Upon review of UPPAC's findings and recommendation, the board shall revoke the license of an educator who:

- (i) was convicted of a felony of a sexual nature;
- (ii) pled guilty to a felony of a sexual nature;
- (iii) entered a plea of no contest to a felony of a sexual nature;
- (iv) entered a plea in abeyance to a felony of a sexual nature;
- (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
- (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

- (A) not a minor; and
- (B) enrolled in a school where the educator is or was employed; or
- (viii) admits to the board or UPPAC that the applicant committed conduct that amounts to:

- (A) a felony of a sexual nature; or

(B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).

(c) The board may not reinstate a revoked license.

(d) Before the board takes adverse action against an educator under this section, the board shall ensure that the educator had an opportunity for a UPPAC hearing.

Section 162. Section 53E-6-605, which is renumbered from Section 53A-6-602 is renumbered and amended to read:

[53A-6-602]. 53E-6-605. Designation of hearing officer or panel -- Review of findings.

(1) UPPAC or a state or local school board charged with responsibility for conducting a hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.

(2) UPPAC or the school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.

(3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Section 163. Section 53E-6-606, which is renumbered from Section 53A-6-603 is renumbered and amended to read:

[53A-6-603]. 53E-6-606. Administering of oaths -- Issuance of subpoenas.

(1) UPPAC or a state or local school board charged with responsibility for conducting an investigation or a hearing under this chapter may administer oaths and issue subpoenas in connection with the investigation or hearing.

(2) If a hearing is before a hearing officer or panel, the hearing officer or panel may administer oaths, and the appointing body may issue subpoenas upon the request of the hearing officer or panel.

(3) Subpoenas shall be enforced upon the petition of the issuing body by the district court in the jurisdiction where the subpoena was issued, in the same manner as subpoenas issued by the court.

Section 164. Section 53E-6-607, which is renumbered from Section 53A-6-604 is renumbered and amended to read:

[53A-6-604]. 53E-6-607. Rules for conducting hearings -- Standard of proof.

(1) The board and each local school board shall adopt rules for the conduct of hearings to ensure that requirements of due process are met.

(2) An accused party shall be provided not less than 15 days before a hearing with:

(a) notice of the hearing;

(b) the law, rule, or policy alleged to have been violated;

(c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and

(d) a copy of the rules under which the hearing will be conducted.

(3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local board, for actions taken under the auspices of a local board, or on the records of the board, for actions taken under the auspices of the board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.

(4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.

(5) Unless otherwise provided in this ~~title~~ public education code, the decisions of state and local boards are final determinations under this section, appealable to the appropriate court for review.

Section 165. Section 53E-6-701, which is renumbered from Section 53A-6-502 is renumbered and amended to read:

Part 7. Unprofessional and Unlawful Conduct

[53A-6-502]. 53E-6-701. Mandatory reporting of physical or sexual abuse of students.

(1) For purposes of this section, "educator" means, in addition to a person included under Section ~~[53A-6-103]~~ 53E-6-102, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the board.

(3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the board.

(4) Upon notice that an educator allegedly violated Subsection (2) or (3), the board shall direct UPPAC to investigate the educator's alleged violation as described in Section ~~[53A-6-501]~~ 53E-6-604.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Section 166. Section 53E-6-702, which is renumbered from Section 53A-6-503 is renumbered and amended to read:

[53A-6-503]. 53E-6-702. Reimbursement of legal fees and costs to educators.

(1) As used in this section:

(a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:

(i) the entity who licenses the educator; and

(ii) the school district that employs the educator or employed the educator at the time of the alleged act or omission.

(b) "Educator" means an individual who holds or is required to hold a license under this chapter and is employed by a school district located within the state.

(c) "School district" includes the Schools for the Deaf and the Blind and the state's applied technology centers.

(2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:

(a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and

(b) it is dismissed or results in findings favorable to the educator.

(3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Section 167. Section 53E-6-703, which is renumbered from Section 53A-3-421 is renumbered and amended to read:

[53A-3-421]. 53E-6-703. Professional competence or performance -- Administrative hearing by local school board -- Action on complaint.

(1) (a) No civil action by or on behalf of a student relating to the professional competence or performance of a licensed employee of a school district, or to the discipline of students by a licensed employee, application of in loco parentis, or a violation of ethical conduct by an employee of a school district, may be brought in a court until at least 60 days after the filing of a written complaint with the local board of education of the district, or until findings have been issued by the local board after a hearing on the complaint, whichever is sooner.

(b) As used in Subsection (1)(a), "in loco parentis" means the power of professional school personnel to exercise the rights, duties, and responsibilities of a

reasonable, responsible parent in dealing with students in school-related matters.

(c) A parent of a student has standing to file a civil action against an employee who provides services to a school attended by the student.

(2) Within 15 days of receiving a complaint under Subsection (1), a local school board may elect to refer the complaint to the State Board of Education.

(3) If a complaint is referred to the board, no civil action may be brought in a court on matters relating to the complaint until the board has provided a hearing and issued its findings or until 90 days after the filing of the complaint with the local school board, whichever is sooner.

Section 168. Section 53E-6-801, which is renumbered from Section 53A-7-101 is renumbered and amended to read:

Part 8. Dispute Resolution for Contract Negotiations

[53A-7-101]. 53E-6-801. Mediation of contract negotiations.

(1) The president of a professional local organization which represents a majority of the licensed employees of a school district or the chairman or president of a local school board may, after negotiating for 90 days, declare an impasse by written notification to the other party and to the State Board of Education.

(2) The party declaring the impasse may request the state superintendent of public instruction to appoint a mediator for the purpose of helping to resolve the impasse if the parties to the dispute have not been able to agree on a third party mediator.

(3) Within five working days after receipt of the written request, the state superintendent shall appoint a mediator who is mutually acceptable to the local school board and the professional organization representing a majority of the licensed employees.

(4) The mediator shall meet with the parties, either jointly or separately, and attempt to settle the impasse.

(5) The mediator may not, without the consent of both parties, make findings of fact or recommend terms for settlement.

(6) Both parties shall equally share the costs of mediation.

(7) Nothing in this section prevents the parties from adopting a written mediation procedure other than that provided in this section.

(8) If the parties have a mediation procedure, they shall follow that procedure.

Section 169. Section 53E-6-802, which is renumbered from Section 53A-7-102 is renumbered and amended to read:

[53A-7-102]. 53E-6-802. Appointment of hearing officer -- Hearing process.

(1) If a mediator appointed under Section [53A-7-101] 53E-6-801 is unable to effect

settlement of the controversy within 15 working days after his appointment, either party to the mediation may by written notification to the other party and to the state superintendent of public instruction request that their dispute be submitted to a hearing officer who shall make findings of fact and recommend terms of settlement.

(2) Within five working days after receipt of the request, the state superintendent of public instruction shall appoint a hearing officer who is mutually acceptable to the local school board and the professional organization representing a majority of the certificated employees.

(3) The hearing officer may not, without consent of both parties, be the same person who served as mediator.

(4) The hearing officer shall meet with the parties, either jointly or separately, may make inquiries and investigations, and may issue subpoenas for the production of persons or documents relevant to all issues in dispute.

(5) The State Board of Education and departments, divisions, authorities, bureaus, agencies, and officers of the state, local school boards, and the professional organization shall furnish the hearing officer, on request, all relevant records, documents, and information in their possession.

(6) If the final positions of the parties are not resolved before the hearing ends, the hearing officer shall prepare a written report containing the agreements of the parties with respect to all resolved negotiated contract issues and the positions that the hearing officer considers appropriate on all unresolved final positions of the parties.

(7) The hearing officer shall submit the report to the parties privately within 10 working days after the conclusion of the hearing or within the date established for the submission of posthearing briefs, but not later than 20 working days after the hearing officer's appointment.

(8) Either the hearing officer, the professional organization, or the local board may make the report public if the dispute is not settled within 10 working days after its receipt from the hearing officer.

(9) (a) The state superintendent of public instruction may determine the majority status of any professional organization which requests assistance under this section.

(b) The decision of the superintendent is final unless it is clearly inconsistent with the evidence.

Section 170. Section 53E-6-901, which is renumbered from Section 53A-6-109 is renumbered and amended to read:

Part 9. Additional Credentials

[53A-6-109]. 53E-6-901. Substitute teachers.

(1) A substitute teacher need not hold a license to teach, but school districts are encouraged to hire licensed personnel as substitutes when available.

(2) A person must submit to a background check under Section [53A-15-1503] 53G-11-402 prior to employment as a substitute teacher.

(3) A teacher's position in the classroom may not be filled by an unlicensed substitute teacher for more than a total of 20 days during any school year unless licensed personnel are not available.

(4) A person who is ineligible to hold a license for any reason other than professional preparation may not serve as a substitute teacher.

Section 171. Section 53E-6-902, which is renumbered from Section 53A-6-115 is renumbered and amended to read:

[53A-6-115]. 53E-6-902. Teacher leaders.

(1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.

(2) There is created the role of a teacher leader to:

(a) work with a student teacher and a teacher who supervises a student teacher;

(b) assist with the training of a recently hired teacher; and

(c) support school-based professional learning.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board:

(a) shall make rules that:

(i) define the role of a teacher leader, including the functions described in Subsection (2); and

(ii) establish the minimum criteria for a teacher to qualify as a teacher leader; and

(b) may make rules that create an endorsement for a teacher leader.

(4) A school district or charter school may assign a teacher to a teacher leader position without a teacher leader endorsement.

(5) (a) The board shall solicit recommendations from school districts and educators regarding:

(i) appropriate resources to provide a teacher leader; and

(ii) appropriate ways to compensate a teacher leader.

(b) The board shall report the board's findings and recommendations described in Subsection (5)(a) to the Education Interim Committee on or before the committee's November 2016 interim meeting.

Section 172. Section 53E-6-903, which is renumbered from Section 53A-6-116 is renumbered and amended to read:

[53A-6-116]. 53E-6-903. JROTC instructors.

(1) As used in this section:

(a) “Junior Reserve Officer’s Training Corps instructor” or “JROTC instructor” means an individual who:

(i) provides instruction authorized by 10 U.S.C. Sec. 2031; and

(ii) is qualified to provide instruction in accordance with 10 U.S.C. Sec. 2033.

(b) “Junior Reserve Officer’s Training Corps program” or “JROTC program” means a program established in a school district or charter school as described in 10 U.S.C. Sec. 2031.

(2) A school district, a charter school, or the board may not require that a JROTC instructor hold a license as described in this [part] chapter to teach a course that is part of a JROTC program.

(3) A JROTC instructor shall submit to a background check under Section [53A-15-1503] 53G-11-402 as a condition for employment in a school district or charter school.

Section 173. Section 53E-6-1001, which is renumbered from Section 53A-6-201 is renumbered and amended to read:

Part 10. Compact for Interstate Qualification of Educational Personnel

[53A-6-201]. 53E-6-1001. Enactment of compact.

The Compact for Interstate Qualification of Educational Personnel is hereby enacted into law and entered into with all other states legally joining therein.

Section 174. Section 53E-6-1002, which is renumbered from Section 53A-6-202 is renumbered and amended to read:

[53A-6-202]. 53E-6-1002. Purpose and intent of compact -- Findings.

(1) The states party to this compact, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this compact to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other

states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Section 175. Section 53E-6-1003, which is renumbered from Section 53A-6-203 is renumbered and amended to read:

[53A-6-203]. 53E-6-1003. Definitions.

As used in this compact and contracts made pursuant to it:

(1) The words “educational personnel” mean persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) The words “designated state official” mean the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this compact.

(3) The word “accept,” or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) The word “state” means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(5) The words “originating state” mean a state, and the subdivision thereof, if any, whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Section [53A-6-204] 53E-6-1004.

(6) The words “receiving state” mean a state, and the subdivisions thereof, which accept educational personnel in accordance with the terms of a contract made under Section [53A-6-204] 53E-6-1004.

Section 176. Section 53E-6-1004, which is renumbered from Section 53A-6-204 is renumbered and amended to read:

[53A-6-204]. 53E-6-1004. Contracts for acceptance of educational personnel.

(1) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this compact. A designated state official may enter into a contract pursuant to this section only with states in which he finds that there are programs of education, certification standards or other acceptable

qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(2) Any such contract shall provide for:

(a) its duration;

(b) the criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state;

(c) such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards; and

(d) any other necessary matters.

(3) No contract made pursuant to this compact shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this compact shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Section 177. Section 53E-6-1005, which is renumbered from Section 53A-6-205 is renumbered and amended to read:

[53A-6-205]. 53E-6-1005. Effect of compact on other state laws and regulations.

(1) Nothing in this compact shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this compact deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of

educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Section 178. Section 53E-6-1006, which is renumbered from Section 53A-6-206 is renumbered and amended to read:

[53A-6-206]. 53E-6-1006. Agreement by party states.

The party states agree that:

(1) They will, so far as practicable, prefer the making of multi-lateral contracts pursuant to Section [53A-6-204] 53E-6-1004 of this compact.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Section 179. Section 53E-6-1007, which is renumbered from Section 53A-6-207 is renumbered and amended to read:

[53A-6-207]. 53E-6-1007. Evaluation of compact.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the compact, and to formulate recommendations for changes.

Section 180. Section 53E-6-1008, which is renumbered from Section 53A-6-208 is renumbered and amended to read:

[53A-6-208]. 53E-6-1008. Scope of compact.

Nothing in this compact shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Section 181. Section 53E-6-1009, which is renumbered from Section 53A-6-209 is renumbered and amended to read:

[53A-6-209]. 53E-6-1009. Effective date -- Withdrawal from compact -- Continuing obligations.

(1) This compact shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Section 182. Section 53E-6-1010, which is renumbered from Section 53A-6-210 is renumbered and amended to read:

[53A-6-210]. 53E-6-1010. Construction of compact.

This compact shall be liberally construed so as to effectuate the purposes of it. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Section 183. Section 53E-6-1011, which is renumbered from Section 53A-6-211 is renumbered and amended to read:

[53A-6-211]. 53E-6-1011. Superintendent of public instruction as designated state official.

The designated state official for the state of Utah is the superintendent of public instruction.

Section 184. Section 53E-7-101 is enacted to read:

CHAPTER 7. SPECIAL EDUCATION

Part 1. General Provisions

53E-7-101. Title.

This chapter is known as "Special Education."

Section 185. Section 53E-7-201 is enacted to read:

Part 2. Special Education Program

53E-7-201. Definitions.

Reserved

Section 186. Section 53E-7-202, which is renumbered from Section 53A-15-301 is renumbered and amended to read:

[53A-15-301]. 53E-7-202. Education programs for students with disabilities -- Supervision by the State Board of Education -- Enforcement.

(1) (a) All students with disabilities, who are between the ages of three and 22 and have not graduated from high school with a regular diploma, are entitled to a free, appropriate public education.

(b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the school year, the entitlement extends to the:

(i) beginning of the school's winter holiday for those who turn 22 on or after the beginning of the school year and before December 31; and

(ii) end of the school year for those who turn 22 after December 31 and before the end of the school year.

(c) The State Board of Education shall adopt rules consistent with applicable state and federal law to implement this ~~[chapter]~~ part.

(2) The rules adopted by the state board shall include the following:

(a) appropriate and timely identification of students with disabilities;

(b) diagnosis, evaluation, and classification by qualified personnel;

(c) standards for classes and services;

(d) provision for multidistrict programs;

(e) provision for delivery of service responsibilities;

(f) certification and qualifications for instructional staff; and

(g) services for dual enrollment students attending public school on a part-time basis under Section ~~[53A-11-102.5]~~ 53G-6-702.

(3) (a) The state board shall have general control and supervision over all educational programs for students within the state who have disabilities.

(b) Those programs must comply with rules adopted by the state board under this section.

(4) The state superintendent of public instruction shall enforce this ~~[chapter]~~ part.

Section 187. Section 53E-7-203, which is renumbered from Section 53A-15-302 is renumbered and amended to read:

[53A-15-302]. 53E-7-203. State director of special education -- Qualifications -- Duties.

(1) The State Board of Education shall appoint a state director of special education, who shall be qualified and experienced in the area of special education.

(2) The state director has the following duties and responsibilities:

(a) to assist the state board and state superintendent of public instruction in performing their duties under this ~~[chapter]~~ part;

(b) to encourage and assist school districts and other authorized public agencies in the organization of programs for students with disabilities;

(c) to provide general supervision over all public programs offered through a public school, public agency, public institution, or private agency for students with disabilities;

(d) to cooperate with private schools and other private agencies concerned with educating and training students with disabilities; and

(e) to coordinate all state programs for students with disabilities.

Section 188. Section 53E-7-204, which is renumbered from Section 53A-15-303 is renumbered and amended to read:

[53A-15-303]. 53E-7-204. School district responsibility -- Reimbursement of costs -- Other programs.

(1) (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.

(b) The program shall include necessary special facilities, instruction, and education-related services.

(c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this ~~[chapter]~~ part in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under ~~[Title 53A, Chapter 17a, Minimum School Program Act,]~~ Title 53E, Chapter 2, State Funding -- Minimum School Program, and other applicable laws.

(3) (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are younger than three or older than 22 consistent with Subsection ~~[53A-15-301]~~ 53E-7-202(1).

(b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

Section 189. Section 53E-7-205, which is renumbered from Section 53A-15-303.5 is renumbered and amended to read:

[53A-15-303.5]. 53E-7-205. Participation of students with a disability in extracurricular activities.

(1) A student with a disability may not be denied the opportunity of participating in public school programs or extracurricular activities solely because of the student's age, unless the participation threatens the health or safety of the student.

(2) The school district in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.

(3) Subsection (1) applies to a student who:

(a) has not graduated from high school with a regular diploma; and

(b) is under the age of 20, if participation is recommended by the student's individualized education program team.

Section 190. Section 53E-7-206, which is renumbered from Section 53A-15-304 is renumbered and amended to read:

[53A-15-304]. 53E-7-206. Services provided by Department of Health.

The Department of Health shall provide diagnostic and evaluation services, which are required by state or federal law but are not typically otherwise provided by school districts, to students with disabilities.

Section 191. Section 53E-7-207, which is renumbered from Section 53A-15-304.5 is renumbered and amended to read:

[53A-15-304.5]. 53E-7-207. Special education assessments for children in the custody of the Division of Child and Family Services.

Each school district shall provide an initial special education assessment for children who enter the custody of the Division of Child and Family Services, upon request by that division, for children whose school records indicate that they may have disabilities requiring special education services. The assessment shall be conducted within 30 days of the request by the Division of Child and Family Services.

Section 192. Section 53E-7-208, which is renumbered from Section 53A-15-305 is renumbered and amended to read:

[53A-15-305]. 53E-7-208. Resolution of disputes in special education -- Hearing request -- Timelines -- Levels -- Appeal process -- Recovery of costs.

(1) The Legislature finds that it is in the best interest of students with disabilities to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parents, and the public schools.

(2) Therefore, the State Board of Education shall adopt rules meeting the requirements of 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards for students with disabilities and their parents or guardians as to the provision of free, appropriate public education to those students.

(3) The timelines established by the board shall provide adequate time to address and resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate public education for students with disabilities.

(4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under this section shall make a good faith effort to resolve the dispute informally at the school building level.

(5) (a) If the dispute is not resolved under Subsection (4), a party may request a due process hearing.

(b) The hearing shall be conducted under rules adopted by the board in accordance with 20 U.S.C. Section 1415.

(6) (a) A party to the hearing may appeal the decision issued under Subsection (5) to a court of competent jurisdiction under 20 U.S.C. Section 1415(i).

(b) The party must file the judicial appeal within 30 days after issuance of the due process hearing decision.

(7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking recovery of attorney fees under 20 U.S.C. Section 1415(i) for a special education administrative action shall file a court action within 30 days after issuance of a decision under Subsection (5).

**Section 193. Section 53E-7-301, which is renumbered from Section 53A-25a-102 is renumbered and amended to read:
Part 3. Braille Requirements for Blind Students**

[53A-25a-102]. 53E-7-301. Definitions.

As used in this [chapter] part:

(1) "Blind student" means an individual between ages three through 21 who is eligible for special education services and who:

(a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no greater than 20 degrees;

(b) has a medically indicated expectation of visual deterioration; or

(c) has functional blindness.

(2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.

(3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.

(4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Section 1414(d).

Section 194. Section 53E-7-302, which is renumbered from Section 53A-25a-103 is renumbered and amended to read:

[53A-25a-103]. 53E-7-302. Braille skills assessment -- Development of individualized education program.

(1) Any assessment required for a blind student shall include a Braille-related or Braille skills assessment, including a statement of the individual's present level of performance.

(2) (a) Prior to determining whether a blind student should use Braille as the primary reading mode, the student's IEP team must be provided with detailed information about the use and efficiency of Braille as a reading medium.

(b) The team shall acquire the information through pertinent literature or discussions with competent Braille users and educators, or both, in order to make an informed choice as to the student's primary reading mode.

(3) In developing an IEP for each blind student, there is a presumption that proficiency in Braille is essential for the student to achieve satisfactory educational progress.

(4) The use of and instruction in Braille are not required under this section if, in the course of developing the student's IEP, the team determines that the student's visual impairment does not significantly affect reading and writing performance commensurate with ability.

(5) Nothing in this section requires the exclusive use of Braille if other special education services are appropriate to meet the student's educational needs.

(6) The provision of other appropriate special education services does not preclude the use of Braille or Braille instruction.

Section 195. Section 53E-7-303, which is renumbered from Section 53A-25a-104 is renumbered and amended to read:

[53A-25a-104]. 53E-7-303. Instruction in reading and writing of Braille.

(1) Instruction in the reading and writing of Braille shall be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

(2) The student's IEP shall specify:

(a) the results obtained from the skills assessment required under Section [53A-25a-103] 53E-7-302;

(b) the manner in which Braille is to be implemented as a reading mode for learning in other academic activities;

(c) the date on which Braille instruction shall begin;

(d) the length of the period of instruction and the frequency and duration of each instructional session;

(e) the projected level of competency in the reading and writing of Braille to be achieved by the end of the IEP period and the objective assessment measures to be used; and

(f) if a decision has been made under Section [53A-25a-103] 53E-7-302 that Braille instruction or use is not required for the student:

(i) a statement that the decision was reached after fully complying with Subsection [53A-25a-103] 53E-7-302(2); and

(ii) a statement of the reasons for choosing another reading mode.

Section 196. Section 53E-7-304, which is renumbered from Section 53A-25a-105 is renumbered and amended to read:

[53A-25a-105]. 53E-7-304. Braille versions of textbooks.

(1) As a condition of the annual contract for instructional materials process and as a condition of textbook acceptance, the State Board of Education shall require publishers of textbooks recommended by the board to furnish, on request, their textbooks and related instructional materials in an electronic file set, in conformance with the National Instructional Materials Accessibility Standard, from which Braille versions of all or part of the textbook and related instructional materials can be produced.

(2) When Braille translation software for specialty code translation becomes available, publishers shall furnish, on request, electronic file sets, in conformance with the National Instructional Materials Accessibility Standard, for nonliterary subjects such as mathematics and science.

Section 197. Section 53E-7-305, which is renumbered from Section 53A-25a-106 is renumbered and amended to read:

[53A-25a-106]. 53E-7-305. Licensing of teachers.

(1) As part of the licensing process, teachers licensed in the education of blind and visually impaired students shall demonstrate their competence in reading and writing Braille.

(2) (a) The State Board of Education shall adopt procedures to assess the competencies referred to in Subsection (1), consistent with standards adopted by the National Library Service for the Blind and Physically Handicapped.

(b) The board shall require teachers of the blind to meet the standards referred to in Subsection (2)(a).

Section 198. Section 53E-8-101 is enacted to read:

CHAPTER 8. UTAH SCHOOLS FOR THE DEAF AND THE BLIND

Part 1. General Provisions

53E-8-101. Title.

This chapter is known as "Utah Schools for the Deaf and the Blind."

Section 199. Section 53E-8-102, which is renumbered from Section 53A-25b-102 is renumbered and amended to read:

[53A-25b-102]. 53E-8-102. Definitions.

As used in this chapter:

(1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.

(2) "Alternate format" includes braille, audio, or digital text, or large print.

(3) "Associate superintendent" means:

(a) the associate superintendent of the Utah School for the Deaf; or

(b) the associate superintendent of the Utah School for the Blind.

(4) "Blind" means:

(a) if the person is three years of age or older but younger than 22 years of age, having a visual impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and

(b) if the person is younger than three years of age, having a visual impairment.

(5) "Blindness" means an impairment in vision in which central visual acuity:

(a) does not exceed 20/200 in the better eye with correcting lenses; or

(b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(6) "Board" means the State Board of Education.

(7) "Cortical visual impairment" means a neurological visual disorder:

(a) that:

(i) affects the visual cortex or visual tracts of the brain;

(ii) is caused by damage to the visual pathways to the brain;

(iii) affects a person's visual discrimination, acuity, processing, and interpretation; and

(iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and

(b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.

(8) "Deaf" means:

(a) if the person is three years of age or older but younger than 22 years of age, having hearing loss, whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and

(b) if the person is younger than three years of age, having hearing loss.

(9) "Deafblind" means:

(a) if the person is three years of age or older but younger than 22 years of age:

(i) deaf;

(ii) blind; and

(iii) having hearing loss and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or

(b) if the person is younger than three years of age, having both hearing loss and vision

impairments that are diagnosed as provided in Section ~~[53A-25b-301]~~ 53E-8-401.

(10) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.

(11) "Educator" means a person who holds:

(a) (i) a license issued under ~~[Title 53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ Chapter 6, Education Professional Licensure; and

(ii) a position as:

- (A) a teacher;
- (B) a speech pathologist;
- (C) a librarian or media specialist;
- (D) a preschool teacher;
- (E) a guidance counselor;
- (F) a school psychologist;
- (G) an audiologist; or
- (H) an orientation and mobility specialist; or

(b) (i) a bachelor's degree or higher;

(ii) credentials from the governing body of the professional's area of practice; and

(iii) a position as:

- (A) a Parent Infant Program consultant;
- (B) a deafblind consultant;
- (C) a school nurse;
- (D) a physical therapist;
- (E) an occupational therapist;
- (F) a social worker; or
- (G) a low vision specialist.

(12) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.

(13) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.

(14) "Hard of hearing" means having a hearing loss, excluding deafness.

(15) "Individualized education program" or "IEP" means:

(a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or

(b) an individualized family service plan developed:

(i) for a child with a disability who is younger than three years of age; and

(ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(16) "LEA" means a local education agency that has administrative control and direction for public education.

(17) "LEA of record" means the school district of residence of a student as determined under Section ~~[53A-2-201]~~ 53G-6-302.

(18) "Low vision" means an impairment in vision in which:

- (a) visual acuity is at 20/70 or worse; or
- (b) the visual field is reduced to less than 20 degrees.

(19) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:

(a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and

(b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.

(20) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

(21) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(22) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.

(23) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Section 200. Section 53E-8-201, which is renumbered from Section 53A-25b-103 is renumbered and amended to read:

Part 2. Organization, Powers, and Duties
~~[53A-25b-103].~~ 53E-8-201. Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

(1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:

- (a) the Utah School for the Deaf;
- (b) the Utah School for the Blind;
- (c) programs for students who are deafblind; and
- (d) the Parent Infant Program.

(2) Under the general control and supervision of the board, consistent with the board's constitutional authority, the Utah Schools for the Deaf and the Blind:

(a) may provide services to students statewide:

(i) who are deaf, blind, or deafblind; or

(ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the board established pursuant to Section ~~[53A-25b-301]~~ 53E-8-401; and

(b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the student's LEA of record, parent or legal guardian, and the Utah Schools for the Deaf and the Blind determine that the student be placed at the Utah Schools for the Deaf and the Blind.

(3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.

(4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in ~~[Title 53A, Chapter 15, Part 3, Education of Children with Disabilities]~~ Chapter 7, Part 2, Special Education Program.

Section 201. Section 53E-8-202, which is renumbered from Section 53A-25b-104 is renumbered and amended to read:

[53A-25b-104]. 53E-8-202. Corporate powers -- Property -- Establishment of a foundation.

(1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual succession and a corporate seal.

(2) The Utah Schools for the Deaf and the Blind may:

(a) sue and be sued;

(b) contract and be contracted with;

(c) take and hold by purchase, gift, devise, or bequest real and personal property required for its uses; and

(d) convert property, if not suitable for its use, into other property or money.

(3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes and assessments.

(4) The Utah Schools for the Deaf and the Blind may establish a foundation as described in Section 53E-3-403.

Section 202. Section 53E-8-203, which is renumbered from Section 53A-25b-105 is renumbered and amended to read:

[53A-25b-105]. 53E-8-203. Applicability of statutes to the Utah Schools for the Deaf and the Blind.

(1) The Utah Schools for the Deaf and the Blind is subject to ~~[Title 53A, State System of Public Education,]~~ this public education code and other state laws applicable to public schools, except as otherwise provided by this chapter.

(2) The following provisions of ~~[Title 53A, State System of Public Education,]~~ this public education code do not apply to the Utah Schools for the Deaf and the Blind:

(a) provisions governing the budgets, funding, or finances of school districts or charter schools; and

(b) provisions governing school construction.

(3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is subject to state laws governing state agencies, including:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63A, Utah Administrative Services Code;

(e) Title 63G, Chapter 2, Government Records Access and Management Act;

(f) Title 63G, Chapter 4, Administrative Procedures Act;

(g) Title 63G, Chapter 6a, Utah Procurement Code;

(h) Title 63J, Chapter 1, Budgetary Procedures Act;

(i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(j) Title 67, Chapter 19, Utah State Personnel Management Act.

Section 203. Section 53E-8-204, which is renumbered from Section 53A-25b-201 is renumbered and amended to read:

[53A-25b-201]. 53E-8-204. Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.

(1) The State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind.

(2) (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

(i) demonstrated competency as an expert educator of deaf persons; and

(ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:

(i) demonstrated competency as an expert educator of blind persons; and

(ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) (a) The board shall:

(i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

(i) two members who are blind;

(ii) two members who are deaf; and

(iii) two members who are deafblind or parents of a deafblind child.

(5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) On or before the November interim meeting each year, the board shall report to the Education Interim Committee on the Utah Schools for the Deaf and the Blind.

(b) The board shall ensure that the report described in Subsection (6)(a) includes:

(i) a financial report;

(ii) a report on the activities of the superintendent and associate superintendents;

(iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and

(iv) a report on student achievement, including:

(A) longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;

(B) graduation rates; and

(C) a description of the educational placement of students exiting the Utah Schools for the Deaf and the Blind.

Section 204. Section 53E-8-301, which is renumbered from Section 53A-25b-401 is renumbered and amended to read:

Part 3. Educators

[53A-25b-401]. 53E-8-301. Educators exempt from Department of Human Resource Management rules -- Collective bargaining agreement.

(1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the Department of Human Resource Management.

(2) The board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the Department of Human Resource Management.

(3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section ~~[53A-3-411]~~ 53G-11-202.

Section 205. Section 53E-8-302, which is renumbered from Section 53A-25b-402 is renumbered and amended to read:

[53A-25b-402]. 53E-8-302. Annual salary adjustments for educators.

~~[(1) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the salary adjustments described in this section, including step and lane changes.]~~

(1) In accordance with Section 53F-7-301, the Legislature shall appropriate money to the board for the salary adjustments described in this section.

(2) The board shall include in its annual budget request for the Utah Schools for the Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in Subsection (3) and fund step and lane changes.

(3) (a) The board shall determine the salary adjustment specified in Subsection (2) by:

(i) calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state, with the average weighted by the number of teachers in each school district; and

(ii) increasing the weighted average salary adjustment by 10% in any year in which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in 20-year earnings when compared to earnings of teachers in the school districts of the state.

(b) In calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state under Subsection (3)(a), the board shall exclude educator salary adjustments provided pursuant to Section ~~[53A-17a-153]~~ 53F-2-405.

(4) From money appropriated to the board for salary adjustments, the board shall adjust the salary schedule applicable to educators at the school each year.

Section 206. Section 53E-8-401, which is renumbered from Section 53A-25b-301 is renumbered and amended to read:
Part 4. Eligibility, Services, and Programs

[53A-25b-301]. 53E-8-401. Eligibility for services of the Utah Schools for the Deaf and the Blind.

(1) Except as provided in Subsections (3), (4), and (5), a person is eligible to receive services of the Utah Schools for the Deaf and the Blind if the person is:

- (a) a resident of Utah;
 - (b) younger than 22 years of age;
 - (c) referred to the Utah Schools for the Deaf and the Blind by the person's school district of residence or a local early intervention program; and
 - (d) identified as deaf, blind, or deafblind through:
 - (i) the special education eligibility determination process; or
 - (ii) the Section 504 eligibility determination process.
- (2) (a) In diagnosing a person younger than age three who is deafblind, the following information may be used:
- (i) ophthalmological and audiological documentation;
 - (ii) functional vision or hearing assessments and evaluations; or
 - (iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

- (i) included in the determination of eligibility when documentation is incomplete or not conclusive; and
- (ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

(3) (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

(c) A parent or legal guardian of a child who is deaf, blind, or deafblind shall make the final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind program or in a

school district or charter school program subject to special education federal regulations regarding due process.

(4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with rules of the board.

(b) The rules shall require the payment of tuition for services provided to a nonresident.

(5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section ~~[53A-25b-308]~~ 53E-8-408.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, the board:

(a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and

(b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the student is younger than 22 years of age.

Section 207. Section 53E-8-402, which is renumbered from Section 53A-25b-302 is renumbered and amended to read:

[53A-25b-302]. 53E-8-402. Entrance policies and procedures.

With input from the Utah Schools for the Deaf and the Blind, school districts, parents, and the advisory council, the board shall establish entrance policies and procedures that IEP teams and Section 504 teams are to consider in making placement recommendations at the Utah Schools for the Deaf and the Blind.

Section 208. Section 53E-8-403, which is renumbered from Section 53A-25b-303 is renumbered and amended to read:

[53A-25b-303]. 53E-8-403. Educational programs.

(1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:

(a) based on assessments of the student's abilities; and

(b) in accordance with the student's IEP or Section 504 accommodation plan.

(2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.

(3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind as required by ~~[Chapter 25a, Blind Persons' Literacy Rights and Education Act]~~ Chapter 7, Part 3, Braille Requirements for Blind Students.

Section 209. Section 53E-8-404, which is renumbered from Section 53A-25b-304 is renumbered and amended to read:

[53A-25b-304]. 53E-8-404. Administration of statewide assessments.

The Utah Schools for the Deaf and the Blind shall annually administer, as applicable, the statewide assessments described in Section ~~[53A-1-602]~~ 53E-4-301, except a student may take an alternative test in accordance with the student's IEP.

Section 210. Section 53E-8-405, which is renumbered from Section 53A-25b-305 is renumbered and amended to read:

[53A-25b-305]. 53E-8-405. Collaboration with Department of Health.

The Utah Schools for the Deaf and the Blind shall collaborate with the Department of Health to provide services to children with disabilities who are younger than three years of age in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

Section 211. Section 53E-8-406, which is renumbered from Section 53A-25b-306 is renumbered and amended to read:

[53A-25b-306]. 53E-8-406. Programs for deafblind individuals -- State deafblind education specialist.

(1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.

(2) Except as provided in Subsection (4), the board shall designate an employee who holds a deafblind certification or equivalent training and expertise to:

(a) act as a resource coordinator for the board on public education programs designed for individuals who are deafblind;

(b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and

(c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.

(3) The board may authorize and approve the costs of an employee to obtain a deafblind certification or equivalent training and expertise to qualify for the position described in Subsection (2).

(4) The board may contract with a third party for the services required under Subsection (2).

Section 212. Section 53E-8-407, which is renumbered from Section 53A-25b-307 is renumbered and amended to read:

[53A-25b-307]. 53E-8-407. Educational Enrichment Program for Deaf, Hard of Hearing, and Visually Impaired Students -- Funding for the program.

(1) There is established the Educational Enrichment Program for Deaf, Hard of Hearing, and Visually Impaired Students.

(2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, hard of hearing, blind, or deafblind students.

(3) The advisory council shall design and implement the program, subject to the approval by the board.

(4) The program shall be funded from the interest and dividends derived from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Section 213. Section 53E-8-408, which is renumbered from Section 53A-25b-308 is renumbered and amended to read:

[53A-25b-308]. 53E-8-408. Educational services for an individual with a hearing loss.

(1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide educational services to an individual:

(a) who seeks to receive the educational services; and

(b) (i) whose results of a test for hearing loss are reported to the Utah Schools for the Deaf and the Blind in accordance with Section 26-10-6 or 26-10-13; or

(ii) who has been diagnosed with a hearing loss by a physician or an audiologist.

(2) If the individual who will receive the services described in Subsection (1) is a minor, the Utah Schools for the Deaf and the Blind may not provide the services to the individual until after receiving permission from the individual's parent or guardian.

Section 214. Section 53E-8-409, which is renumbered from Section 53A-25b-501 is renumbered and amended to read:

[53A-25b-501]. 53E-8-409. Instructional Materials Access Center -- Board to make rules.

(1) The board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to

instructional materials in alternate formats in a timely manner.

(2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the Utah State Instructional Materials Access Center;

(b) define how the Educational Resource Center at the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;

(c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:

(i) identify students who qualify for instructional materials in alternate formats; and

(ii) distribute and store instructional materials in alternate formats;

(d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and

(e) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Section 215. Section 53E-8-410, which is renumbered from Section 53A-17a-111.5 is renumbered and amended to read:

[53A-17a-111.5]. 53E-8-410. School districts to provide class space for deaf and blind programs.

(1) A school district with students who reside within the school district's boundaries and are served by the Schools for the Deaf and the Blind shall:

(a) furnish the schools with space required for their programs; or

(b) help pay for the cost of leasing classroom space in other school districts.

(2) A school district's participation in the program under Subsection (1) is based upon the number of students who are served by the Schools for the Deaf and the Blind and who reside within the school district as compared to the state total of students who are served by the schools.

Section 216. Section 53E-9-101 is enacted to read:

CHAPTER 9. STUDENT PRIVACY AND DATA PROTECTION

Part 1. General Provisions

53E-9-101. Title.

This chapter is known as "Student Privacy and Data Protection."

Section 217. Section 53E-9-201 is enacted to read:

Part 2. Student Privacy

53E-9-201. Definitions.

Reserved

Section 218. Section 53E-9-202, which is renumbered from Section 53A-13-301 is renumbered and amended to read:

[53A-13-301]. 53E-9-202. Application of state and federal law to the administration and operation of public schools -- Local school board and charter school governing board policies.

(1) As used in this section "education entity" means:

(a) the State Board of Education;

(b) a local school board or charter school governing board;

(c) a school district;

(d) a public school; or

(e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under this part and the Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation of all public school programs, regardless of the source of funding.

(3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this part.

Section 219. Section 53E-9-203, which is renumbered from Section 53A-13-302 is renumbered and amended to read:

[53A-13-302]. 53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Except as provided in Subsection (7), Section [53A-11a-203] 53G-9-604, and Section [53A-15-1301] 53G-9-702, policies adopted by a school district or charter school under Section [53A-13-301] 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

(a) political affiliations or, except as provided under Section [53A-13-101.1] 53G-10-202 or rules

of the State Board of Education, political philosophies;

- (b) mental or psychological problems;
- (c) sexual behavior, orientation, or attitudes;
- (d) illegal, anti-social, self-incriminating, or demeaning behavior;
- (e) critical appraisals of individuals with whom the student or family member has close family relationships;
- (f) religious affiliations or beliefs;
- (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
- (h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section ~~[53A-11a-203]~~ 53G-9-604, and Section ~~[53A-15-1301]~~ 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.

(4) (a) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

- (i) records or information, including information about relationships, that may be examined or requested;
- (ii) the means by which the records or information shall be examined or reviewed;
- (iii) the means by which the information is to be obtained;
- (iv) the purposes for which the records or information are needed;
- (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
- (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent or legal guardian can view the exact survey to be administered to the parent or legal guardian's student.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect

Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent or guardian may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section ~~[53A-13-101.3]~~ 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

- (i) referring the student to appropriate prevention services; and
- (ii) informing the student's parent or legal guardian.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for

teachers and administrators on the implementation of this section.

(9) The board shall provide procedures for disciplinary action for violations of this section.

Section 220. Section 53E-9-204, which is renumbered from Section 53A-13-303 is renumbered and amended to read:

[53A-13-303]. 53E-9-204. Access to education records -- Training requirement -- Certification.

(1) As used in this section, "education record" means the same as that term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(2) A local school board or charter school governing board shall require each public school to:

(a) create and maintain a list that includes the name and position of each school employee who the public school authorizes, in accordance with Subsection (4), to have access to an education record; and

(b) provide the list described in Subsection (2)(a) to the school's local school board or charter school governing board.

(3) A local school board or charter school governing board shall:

(a) provide training on student privacy laws; and

(b) require a school employee on the list described in Subsection (2) to:

(i) complete the training described in Subsection (3)(a); and

(ii) provide to the local school board or charter school governing board a certified statement, signed by the school employee, that certifies that the school employee completed the training described in Subsection (3)(a) and that the school employee understands student privacy requirements.

(4) (a) Except as provided in Subsection (4)(b), a local school board, charter school governing board, public school, or school employee may only share an education record with a school employee if:

(i) that school employee's name is on the list described in Subsection (2); and

(ii) federal and state privacy laws authorize the education record to be shared with that school employee.

(b) A local school board, charter school governing board, public school, or school employee may share an education record with a school employee if the board, school, or employee obtains written consent from:

(i) the parent or legal guardian of the student to whom the education record relates, if the student is younger than 18 years old; or

(ii) the student to whom the education record relates, if the student is 18 years old or older.

Section 221. Section 53E-9-301, which is renumbered from Section 53A-1-1402 is renumbered and amended to read:

Part 3. Student Data Protection

[53A-1-1402]. 53E-9-301. Definitions.

As used in this part:

(1) "Adult student" means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with board rule.

(3) (a) "Biometric identifier" means a:

(i) retina or iris scan;

(ii) fingerprint;

(iii) human biological sample used for valid scientific testing or screening; or

(iv) scan of hand or face geometry.

(b) "Biometric identifier" does not include:

(i) a writing sample;

(ii) a written signature;

(iii) a voiceprint;

(iv) a photograph;

(v) demographic data; or

(vi) a physical description, such as height, weight, hair color, or eye color.

(4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:

(a) based on an individual's biometric identifier; and

(b) used to identify the individual.

(5) "Board" means the State Board of Education.

(6) "Cumulative disciplinary record" means disciplinary student data that is part of a cumulative record.

(7) "Cumulative record" means physical or electronic information that the education entity intends:

(a) to store in a centralized location for 12 months or more; and

(b) for the information to follow the student through the public education system.

(8) “Data authorization” means written authorization to collect or share a student’s student data, from:

(a) the student’s parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

(9) “Data governance plan” means an education entity’s comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) provides for necessary technical assistance, training, support, and auditing;

(c) describes the process for sharing student data between an education entity and another person;

(d) describes the process for an adult student or parent to request that data be expunged; and

(e) is published annually and available on the education entity’s website.

(10) “Education entity” means:

(a) the board;

(b) a local school board;

(c) a charter school governing board;

(d) a school district;

(e) a charter school;

(f) the Utah Schools for the Deaf and the Blind; or

(g) for purposes of implementing the School Readiness Initiative described in [~~Chapter 1b, Part 1,~~ Title 53F, Chapter 6, Part 3, School Readiness Initiative ~~[Act],~~ the School Readiness Board created in Section [~~53A-1b-103]~~ 53F-6-302.

(11) “Expunge” means to seal or permanently delete data, as described in board rule made under Section [~~53A-1-1407]~~ 53E-9-306.

(12) “External application” means a general audience:

(a) application;

(b) piece of software;

(c) website; or

(d) service.

(13) “Individualized education program” or “IEP” means a written statement:

(a) for a student with a disability; and

(b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(14) “Internal application” means an Internet website, online service, online application, mobile

application, or software, if the Internet website, online service, online application, mobile application, or software is subject to a third-party contractor’s contract with an education entity.

(15) “Local education agency” or “LEA” means:

(a) a school district;

(b) a charter school;

(c) the Utah Schools for the Deaf and the Blind; or

(d) for purposes of implementing the School Readiness Initiative described in [~~Chapter 1b, Part 1,~~ Title 53F, Chapter 6, Part 3, School Readiness Initiative ~~[Act],~~ the School Readiness Board created in Section [~~53A-1b-103]~~ 53F-6-302.

(16) “Metadata dictionary” means a complete list of an education entity’s student data elements and other education-related data elements, that:

(a) defines and discloses all data collected, used, stored, and shared by the education entity, including:

(i) who uses a data element within an education entity and how a data element is used within an education entity;

(ii) if a data element is shared externally, who uses the data element externally and how a data element is shared externally;

(iii) restrictions on the use of a data element; and

(iv) parent and student rights to a data element;

(b) designates student data elements as:

(i) necessary student data; or

(ii) optional student data;

(c) designates student data elements as required by state or federal law; and

(d) without disclosing student data or security information, is displayed on the education entity’s website.

(17) “Necessary student data” means data required by state statute or federal law to conduct the regular activities of an education entity, including:

(a) name;

(b) date of birth;

(c) sex;

(d) parent contact information;

(e) custodial parent information;

(f) contact information;

(g) a student identification number;

(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;

(i) courses taken and completed, credits earned, and other transcript information;

(j) course grades and grade point average;

(k) grade level and expected graduation date or graduation cohort;

(l) degree, diploma, credential attainment, and other school exit information;

(m) attendance and mobility;

(n) drop-out data;

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

(r) tribal affiliation;

(s) remediation efforts;

(t) an exception from a vision screening required under Section ~~[53A-11-203]~~ 53G-9-404 or information collected from a vision screening required under Section ~~[53A-11-203]~~ 53G-9-404;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;

(v) student injury information;

(w) a cumulative disciplinary record created and maintained as described in Section ~~[53A-1-1407]~~ 53E-9-306;

(x) juvenile delinquency records;

(y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

(18) (a) "Optional student data" means student data that is not:

(i) necessary student data; or

(ii) student data that an education entity may not collect under Section ~~[53A-1-1406]~~ 53E-9-305.

(b) "Optional student data" includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(19) "Parent" means a student's parent or legal guardian.

(20) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) other information that is linked to a specific student that would allow a reasonable person in the school community, who does not have first-hand knowledge of the student, to identify the student with reasonable certainty.

(21) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(22) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(23) "Student data disclosure statement" means a student data disclosure statement described in Section ~~[53A-1-1406]~~ 53E-9-305.

(24) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section ~~[53A-1-1404]~~ 53E-9-303.

(25) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(26) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

Section 222. Section 53E-9-302, which is renumbered from Section 53A-1-1403 is renumbered and amended to read:

[53A-1-1403]. 53E-9-302. State student data protection governance.

(1) (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the board shall establish advisory groups to oversee student data protection in the state and make recommendations to the board regarding student data protection.

(a) The board shall establish a student data policy advisory group:

(i) composed of members from:

(A) the Legislature;

(B) the board and board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the board.

(b) The board shall establish a student data governance advisory group:

(i) composed of the state student data officer and other board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by board program offices; and

(B) preparing and maintaining the board's student data governance plan under the direction of the student data policy advisory group.

(c) The board shall establish a student data users advisory group:

(i) composed of members who use student data at the local level; and

(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4) (a) The board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data disclosure statement;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the board;

(B) an applicable education entity; and

(C) the student data policy advisory group; and

(v) act as a state level student data manager.

(5) The board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The board shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Section 223. Section 53E-9-303, which is renumbered from Section 53A-1-1404 is renumbered and amended to read:

[53A-1-1404]. 53E-9-303. Local student data protection governance.

(1) An LEA shall adopt policies to protect student data in accordance with this part and board rule, taking into account the specific needs and priorities of the LEA.

(2) (a) An LEA shall designate an individual to act as a student data manager to fulfill the responsibilities of a student data manager described in Section ~~[53A-1-1409]~~ 53E-9-308.

(b) If possible, an LEA shall designate the LEA's records officer as defined in Section 63G-2-103, as the student data manager.

(3) An LEA shall create and maintain an LEA:

(a) data governance plan; and

(b) metadata dictionary.

(4) An LEA shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Section 224. Section 53E-9-304, which is renumbered from Section 53A-1-1405 is renumbered and amended to read:

[53A-1-1405]. 53E-9-304. Student data ownership -- Notification in case of breach.

(1) (a) A student owns the student's personally identifiable student data.

(b) A student may download, export, transfer, save, or maintain the student's student data, including a document.

(2) If there is a release of a student's personally identifiable student data due to a security breach, an education entity shall notify:

(a) the student, if the student is an adult student; or

(b) the student's parent or legal guardian, if the student is not an adult student.

Section 225. Section 53E-9-305, which is renumbered from Section 53A-1-1406 is renumbered and amended to read:

[53A-1-1406]. 53E-9-305. Collecting student data -- Prohibition -- Student data disclosure statement -- Authorization.

(1) An education entity shall comply with this section beginning with the 2017-18 school year.

(2) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section 78A-6-112, criminal record.

(3) An education entity that collects student data into a cumulative record shall, in accordance with this section, prepare and distribute to parents and students a student data disclosure statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the necessary and optional student data the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (2);

(e) states the student data described in Section ~~[53A-1-1409]~~ 53E-9-308 that the education entity may not share without a data authorization;

(f) describes how the education entity may collect, use, and share student data;

(g) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(h) describes in general terms how the education entity stores and protects student data; and

(i) states a student's rights under this part.

(4) An education entity may collect the necessary student data of a student into a cumulative record if the education entity provides a student data disclosure statement to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data into a cumulative record if the education entity:

(a) provides, to an individual described in Subsection (4), a student data disclosure statement that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains a data authorization to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information into a cumulative record if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information disclosure statement that is separate from a student data disclosure statement, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains a data authorization to collect the biometric identifier or biometric information from an individual described in Subsection (4).

Section 226. Section 53E-9-306, which is renumbered from Section 53A-1-1407 is renumbered and amended to read:

[53A-1-1407]. 53E-9-306. Using and deleting student data -- Rulemaking -- Cumulative disciplinary record.

(1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding using and expunging student data, including:

(a) a categorization of cumulative disciplinary records that includes the following levels of maintenance:

- (i) one year;
- (ii) three years; and

(iii) except as required in Subsection (3), as determined by the education entity;

(b) the types of student data that may be expunged, including:

- (i) medical records; and
- (ii) behavioral test assessments; and
- (c) the types of student data that may not be expunged, including:
 - (i) grades;
 - (ii) transcripts;
 - (iii) a record of the student's enrollment; and
 - (iv) assessment information.

(2) In accordance with board rule, an education entity may create and maintain a cumulative disciplinary record for a student.

(3) (a) An education entity shall, in accordance with board rule, expunge a student's student data that is stored by the education entity if:

- (i) the student is at least 23 years old; and
- (ii) the student requests that the education entity expunge the student data.

(b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and board rule.

Section 227. Section 53E-9-307, which is renumbered from Section 53A-1-1408 is renumbered and amended to read:

[53A-1-1408]. 53E-9-307. Securing and cataloguing student data.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:

- (a) an education entity; and
- (b) a third-party contractor; and

(2) state requirements for an education entity's metadata dictionary.

Section 228. Section 53E-9-308, which is renumbered from Section 53A-1-1409 is renumbered and amended to read:

[53A-1-1409]. 53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager.

(1) An education entity shall comply with this section beginning with the 2017-18 school year.

(2) An education entity may not share a student's personally identifiable student data if the personally identifiable student data is not shared in accordance with:

(a) the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h; and

(b) this part.

(3) A student data manager shall:

(a) authorize and manage the sharing, outside of the education entity, of personally identifiable student data from a cumulative record for the education entity as described in this section; and

(b) act as the primary local point of contact for the state student data officer described in Section [53A-1-1403] 53E-9-302.

(4) (a) Except as provided in this section or required by federal law, a student data manager may not share, outside of the education entity, personally identifiable student data from a cumulative record without a data authorization.

(b) A student data manager may share the personally identifiable student data of a student with the student and the student's parent.

(5) A student data manager may share a student's personally identifiable student data from a cumulative record with:

(a) a school official;

(b) as described in Subsection (6), an authorized caseworker or other representative of the Department of Human Services; or

(c) a person to whom the student data manager's education entity has outsourced a service or function:

(i) to research the effectiveness of a program's implementation; or

(ii) that the education entity's employees would typically perform.

(6) A student data manager may share a student's personally identifiable student data from a cumulative record with a caseworker or representative of the Department of Human Services if:

- (a) the Department of Human Services is:
 - (i) legally responsible for the care and protection of the student; or
 - (ii) providing services to the student;
 - (b) the student's personally identifiable student data is not shared with a person who is not authorized:
 - (i) to address the student's education needs; or
 - (ii) by the Department of Human Services to receive the student's personally identifiable student data; and
 - (c) the Department of Human Services maintains and protects the student's personally identifiable student data.
- (7) The Department of Human Services, a school official, or the Utah Juvenile Court may share education information, including a student's personally identifiable student data, to improve education outcomes for youth:

- (a) in the custody of, or under the guardianship of, the Department of Human Services;
 - (b) receiving services from the Division of Juvenile Justice Services;
 - (c) in the custody of the Division of Child and Family Services;
 - (d) receiving services from the Division of Services for People with Disabilities; or
 - (e) under the jurisdiction of the Utah Juvenile Court.
- (8) Subject to Subsection (9), a student data manager may share aggregate data.
- (9) (a) If a student data manager receives a request to share data for the purpose of external research or evaluation, the student data manager shall:
- (i) submit the request to the education entity's external research review process; and
 - (ii) fulfill the instructions that result from the review process.
- (b) A student data manager may not share personally identifiable student data for the purpose of external research or evaluation.

(10) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (10)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(11) (a) In accordance with board rule, a student data manager may share personally identifiable information that is directory information.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

- (i) define directory information; and
- (ii) determine how a student data manager may share personally identifiable information that is directory information.

Section 229. Section 53E-9-309, which is renumbered from Section 53A-1-1410 is renumbered and amended to read:

[53A-1-1410]. 53E-9-309. Third-party contractors -- Use and protection of student data -- Contract requirements -- Completion of contract -- Required and allowed uses of student data -- Restrictions on the use of student data -- Exceptions.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor, an education entity shall require the following provisions in the contract:

- (a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;
- (b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;
- (c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;
- (d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and
- (e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

- (a) use student data for adaptive learning or customized student learning purposes;
- (b) market an educational application or product to a parent or legal guardian of a student if the

third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's internal application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's internal application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's internal application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and

(ii) except as provided in Subsection (5), only if the third-party contractor obtains written consent:

(A) of a student's parent or legal guardian through the student's school or LEA; or

(B) for a student who is age 18 or older or an emancipated minor, from the student.

(5) A third-party contractor is not required to obtain written consent under Subsection (4)(f)(ii) if the third-party contractor:

(a) is a national assessment provider; and

(b) (i) secures the express written consent of the student or the student's parent; and

(ii) the express written consent is given in response to clear and conspicuous notice that the national assessment provider requests consent solely to provide access to information on employment, educational scholarships, financial aid, or postsecondary educational opportunities.

(6) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.

(7) (a) A third-party contractor may not:

(i) except as provided in Subsections (5) and (7)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(8) A provider of an electronic store, gateway, marketplace, or other means of purchasing an external application is not required to ensure that the external application obtained through the provider complies with this section.

(9) The provisions of this section do not:

(a) apply to the use of an external application, including the access of an external application with login credentials created by a third-party contractor's internal application;

(b) apply to the providing of Internet service; or

(c) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

Section 230. Section 53E-9-310, which is renumbered from Section 53A-1-1411 is renumbered and amended to read:

[53A-1-1411]. 53E-9-310. Penalties.

(1) (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the board to pay a civil penalty of up to \$25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) The board may bring an action in the district court of the county in which the office of the board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A parent or student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section ~~[53A-1-1410]~~ 53E-9-309 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section ~~[53A-1-1410]~~ 53E-9-309, the court may award to the parent or student:

- (i) damages; and
- (ii) costs.

Section 231. Section 53E-10-101 is enacted to read:

CHAPTER 10. OTHER PROGRAMS

Part 1. General Provisions

53E-10-101. Title.

This chapter is known as "Other Programs."

Section 232. Section 53E-10-201 is enacted to read:

Part 2. Adult Education

53E-10-201. Definitions.

Reserved

Section 233. Section 53E-10-202, which is renumbered from Section 53A-15-401 is renumbered and amended to read:

[53A-15-401]. 53E-10-202. State Board of Education to supervise.

(1) The general control and supervision, but not the direct management, of adult education is vested in the State Board of Education.

(2) The board has the following powers:

(a) makes and enforces rules to organize, conduct, and supervise adult education;

(b) appoints state staff for the adult education program, establishes their duties, and fixes their compensation;

(c) determines the qualifications of, and issues teaching certificates to, persons employed to give adult education instruction; and

(d) determines the basis of apportionment and distributes funds made available for adult education.

(3) (a) The State Board of Education shall make rules providing for the establishment of fees which shall be imposed by local school boards for participation in adult education programs.

(b) A fee structure for adult education shall take into account the ability of a Utah resident who participates in adult education to pay the fees.

(c) Sections ~~[53A-12-103]~~ 53G-7-504 and ~~[53A-12-104]~~ 53G-7-505 pertaining to fees and fee waivers in secondary schools do not apply to adult education.

Section 234. Section 53E-10-203, which is renumbered from Section 53A-15-402 is renumbered and amended to read:

[53A-15-402]. 53E-10-203. Director of adult education.

(1) Upon recommendation of the state superintendent, the State Board of Education may appoint a full-time director for adult education to work under the supervision of the board.

(2) The director may coordinate the adult education program authorized under Sections ~~[53A-15-401]~~ 53E-10-202 through ~~[53A-15-405]~~ 53E-10-206 with other adult education programs.

Section 235. Section 53E-10-204, which is renumbered from Section 53A-15-403 is renumbered and amended to read:

[53A-15-403]. 53E-10-204. Local school boards' authority to direct adult education programs.

A local school board may do the following:

(1) establish and maintain classes for adult education, with classes being held at times and places convenient and accessible to the members of the class;

(2) raise and appropriate funds for an adult education program;

(3) subject to Sections ~~[53A-12-101 and 53A-15-401]~~ 53E-10-202 and 53G-7-502, determine fees for participation in an adult education program; and

(4) hire persons to instruct adult education classes.

Section 236. Section 53E-10-205, which is renumbered from Section 53A-15-404 is renumbered and amended to read:

[53A-15-404]. 53E-10-205. Eligibility.

(1) Adult education classes are open to every person 18 years of age or over and to any person who has completed high school.

(2) Eligible nonresidents of the state shall be charged tuition at least equal to that charged nonresident students for similar classes at a local or nearby state college or university, unless waived in whole or in part by the local school board in an open meeting.

(3) The district superintendent may, upon the recommendation of an authorized representative of the Division of Child and Family Services, exempt an adult domiciled in Utah from the payment of adult education fees.

Section 237. Section 53E-10-206, which is renumbered from Section 53A-15-405 is renumbered and amended to read:

[53A-15-405]. 53E-10-206. Salaries -- Costs.

(1) Salaries and other necessary expenses of the state adult education staff shall be paid from funds appropriated for adult education.

(2) The State Board of Education shall determine the terms and conditions of payment.

(3) A local school board shall pay all costs incident to the local administration and operation of its adult education program.

(4) The board shall submit reports required by the State Board of Education for the administration of adult education.

**Section 238. Section 53E-10-301, which is renumbered from Section 53A-15-1702 is renumbered and amended to read:
Part 3. Concurrent Enrollment**

[53A-15-1702]. 53E-10-301. Definitions.

(1) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section [53A-15-1703] 53E-10-302.

(2) "Educator" means the same as that term is defined in Section [53A-6-103] 53E-6-102.

(3) "Eligible instructor" means an instructor who is:

(a) employed as faculty by an institution of higher education; or

(b) (i) employed by an LEA;

(ii) licensed by the State Board of Education under [Title 53A, Chapter 6, Educator Licensing and Professional Practices Act] Chapter 6, Education Professional Licensure;

(iii) (A) approved as adjunct faculty by an institution of higher education; or

(B) a mathematics educator who has an upper level mathematics endorsement; and

(iv) supervised by an institution of higher education.

(4) "Eligible student" means a student who:

(a) is enrolled in, and counted in average daily membership in, a high school within the state;

(b) has a plan for college and career readiness, as described in Section [53A-1a-106] 53E-2-304, on file at a high school within the state; and

(c) (i) is a grade 11 or grade 12 student; or

(ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section [53A-15-1703] 53E-10-302.

(5) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies an area of practice to which the license applies.

(6) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.

(7) "License" means the same as that term is defined in Section [53A-6-103] 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Participating eligible student" means an eligible student enrolled in a concurrent enrollment course.

(10) "Upper level mathematics endorsement" means an endorsement required by the State Board of Education for an educator to teach calculus.

(11) "Value of the weighted pupil unit" means the same as that term is defined in Section [53A-1a-703] 53F-4-301.

Section 239. Section 53E-10-302, which is renumbered from Section 53A-15-1703 is renumbered and amended to read:

[53A-15-1703]. 53E-10-302. Concurrent enrollment program.

(1) The State Board of Education and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

(i) toward high school graduation; and

(ii) at an institution of higher education;

(b) includes only courses that:

(i) lead to a degree or certificate offered by an institution of higher education; and

(ii) are one of the following:

(A) general education courses;

(B) career and technical education courses;

(C) pre-major college level courses; or

(D) foreign language concurrent enrollment courses described in Section [53A-15-1708] 53E-10-307; and

(c) is designed and implemented to take full advantage of the most current available education technology.

(2) The State Board of Education and the State Board of Regents shall coordinate:

(a) to establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for concurrent enrollment courses align with:

(A) core standards for Utah public schools adopted by the State Board of Education; and

(B) except for foreign language concurrent enrollment courses described in Section ~~[53A-15-1708]~~ 53E-10-307, institution of higher education lower division courses numbered at or above the 1000 level; and

(b) advising to eligible students, including:

(i) providing information on general education requirements at institutions of higher education; and

(ii) choosing concurrent enrollment courses to avoid duplication or excess credit hours.

(3) The State Board of Regents shall provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course.

(4) To qualify for funds under Section ~~[53A-15-1707]~~ 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section ~~[53A-15-1704]~~ 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Section ~~[53A-15-1708]~~ 53E-10-307.

(6) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

(7) An institution of higher education shall require an eligible instructor to submit to a background check and ongoing monitoring, as described in Section ~~[53A-15-1503]~~ 53G-11-402, in the same manner as a non-licensed employee of an LEA, if the eligible instructor:

(a) teaches a concurrent enrollment course in a high school; and

(b) is not licensed by the State Board of Education under ~~[Title 53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ Chapter 6, Education Professional Licensure.

Section 240. Section 53E-10-303, which is renumbered from Section 53A-15-1704 is renumbered and amended to read:

~~[53A-15-1704]. 53E-10-303. Designated institution of higher education -- Concurrent enrollment course right of first refusal.~~

(1) As used in this section, "designated institution of higher education" means an institution of higher education that is designated by the State Board of Regents to provide a course or program of study within a specific geographic region.

(2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.

(3) If the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.

(4) An LEA may contract with an institution of higher education that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:

(a) chooses not to offer the concurrent enrollment course proposed by the LEA; or

(b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education.

Section 241. Section 53E-10-304, which is renumbered from Section 53A-15-1705 is renumbered and amended to read:

~~[53A-15-1705]. 53E-10-304. Concurrent enrollment participation form -- Parental permission.~~

(1) The State Board of Regents shall create a higher education concurrent enrollment participation form that includes a parental permission form.

(2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:

(a) submitted the participation form described in Subsection (1);

(b) signed an acknowledgment of program participation requirements; and

(c) obtained parental permission as indicated by the signature of a student's parent or legal guardian on the parental permission form.

Section 242. Section 53E-10-305, which is renumbered from Section 53A-15-1706 is renumbered and amended to read:

[53A-15-1706]. 53E-10-305. Tuition and fees.

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) requires the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) A higher education institution may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection [53A-15-1702] 53E-10-301(3)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

Section 243. Section 53E-10-306 is enacted to read:

53E-10-306. Funding.

Unless otherwise specified, the provisions of this part and Section 53F-2-409 govern concurrent enrollment funding.

Section 244. Section 53E-10-307, which is renumbered from Section 53A-15-1708 is renumbered and amended to read:

[53A-15-1708]. 53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) “Accelerated foreign language student” means a student who:

(i) has passed a world language advanced placement exam; and

(ii) is in grade 10, grade 11, or grade 12.

(b) “Blended learning delivery model” means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) “State university” means an institution of higher education that offers courses leading to a bachelor’s degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students who are eligible students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor that is faculty of a state institution of higher education.

Section 245. Section 53E-10-308, which is renumbered from Section 53A-15-1709 is renumbered and amended to read:

[53A-15-1709]. 53E-10-308. Reporting.

The State Board of Education and the State Board of Regents shall submit an annual written report to the Higher Education Appropriations Subcommittee and the Public Education Appropriations Subcommittee on student participation in the concurrent enrollment program, including:

(1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;

(2) tuition or fees charged under Section [53A-15-1706] 53E-10-305;

(3) an accounting of the money appropriated for concurrent enrollment; and

(4) a justification of the distribution method described in Subsections [53A-15-1707(2)] 53F-2-409(3)(d) and (e).

Section 246. Section 53E-10-401, which is renumbered from Section 53A-31-102 is renumbered and amended to read:

Part 4. American Indian-Alaskan Native Education State Plan

[53A-31-102]. 53E-10-401. Definitions.

As used in this [chapter] part:

(1) “Commission” means the American Indian-Alaskan Native Education Commission created in Section [53A-31-202] 53E-10-403.

(2) “Liaison” means the individual appointed under Section ~~[53A-31-201]~~ 53E-10-402.

(3) “Native American Legislative Liaison Committee” means the committee created in Section 36-22-1.

(4) “State plan” means the state plan adopted under Section ~~[53A-31-301]~~ 53E-10-405.

(5) “Superintendent” means the superintendent of public instruction appointed under Section ~~[53A-1-301]~~ 53E-3-301.

Section 247. Section 53E-10-402, which is renumbered from Section 53A-31-201 is renumbered and amended to read:

~~[53A-31-201]~~. 53E-10-402. American Indian-Alaskan Native Public Education Liaison.

(1) Subject to budget constraints, the superintendent shall appoint an individual as the American Indian-Alaskan Native Public Education Liaison.

(2) The liaison shall work under the direction of the superintendent in the development and implementation of the state plan.

(3) The liaison shall annually report to the Native American Legislative Liaison Committee about:

(a) the liaison’s activities; and

(b) the activities related to the education of American Indians and Alaskan Natives in the state’s public school system and efforts to close the achievement gap.

Section 248. Section 53E-10-403, which is renumbered from Section 53A-31-202 is renumbered and amended to read:

~~[53A-31-202]~~. 53E-10-403. Commission created.

(1) There is created a commission known as the “American Indian-Alaskan Native Education Commission.” The commission shall consist of 16 members as follows:

(a) the superintendent;

(b) the liaison;

(c) two individuals appointed by the State Board of Education that are coordinators funded in whole or in part under Title VII, Elementary and Secondary Education Act;

(d) three members of the Native American Legislative Liaison Committee appointed by the chairs of the Native American Legislative Liaison Committee;

(e) a representative of the Navajo Nation who resides in Utah selected by the Navajo Utah Commission;

(f) a representative of the Ute Indian Tribe of the Uintah and Ouray Reservation who resides in Utah selected by the Uintah and Ouray Tribal Business Committee;

(g) a representative of the Paiute Indian Tribe of Utah who resides in Utah selected by the Paiute Indian Tribe of Utah Tribal Council;

(h) a representative of the Northwestern Band of the Shoshone Nation who resides in Utah selected by the Northwestern Band of the Shoshone Nation Tribal Council;

(i) a representative of the Confederated Tribes of the Goshute who resides in Utah selected by the Confederated Tribes of the Goshute Reservation Tribal Council;

(j) a representative of the Skull Valley Band of Goshute Indians who resides in Utah selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;

(k) a representative of the Ute Mountain Ute Tribe who resides in Utah selected by the Ute Mountain Ute Tribal Council;

(l) a representative of the San Juan Southern Paiute Tribe who resides in Utah selected by the San Juan Southern Paiute Tribal Council; and

(m) an appointee from the governor.

(2) Unless otherwise determined by the State Board of Education, the superintendent shall chair the commission.

(3) (a) The superintendent shall call meetings of the commission.

(b) Eight members of the commission constitute a quorum of the commission.

(c) The action of a majority of the commission at a meeting when a quorum is present constitutes action of the commission.

(4) If a vacancy occurs in the membership for any reason, the replacement shall be appointed in the same manner of the original appointment for the vacant position.

(5) The commission may adopt procedures or requirements for:

(a) voting, when there is a tie of the commission members; and

(b) the frequency of meetings.

(6) (a) A member of the commission may not receive compensation or benefits for the member’s service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The staff of the State Board of Education shall staff the commission.

(8) The commission shall be dissolved on December 31, 2015.

Section 249. Section 53E-10-404, which is renumbered from Section 53A-31-203 is renumbered and amended to read:

[53A-31-203]. 53E-10-404. Duties of the commission.

(1) The commission shall develop a proposed state plan to be presented to the Native American Legislative Liaison Committee to address the educational achievement gap of the American Indian and Alaskan Native students in the state.

(2) The proposed state plan shall:

(a) identify the most critical academic needs of Utah's American Indian and Alaskan Native students;

(b) recommend a course of action to meet the identified needs;

(c) be based on, and include, a summary of the best available evidence and most recent data;

(d) focus on specific actions;

(e) identify existing programs and resources;

(f) prioritize more efficient and better use of existing programs and resources to meet the needs of American Indian and Alaskan Native students;

(g) include ongoing reporting to the Native American Legislative Liaison Committee;

(h) include a plan to hire, retain, and promote highly qualified teachers as quickly as feasible; and

(i) add a process for sharing data with tribal education leaders.

(3) The commission shall present the proposed state plan developed under Subsection (1) to the Native American Legislative Liaison Committee by no later than October 31, 2015.

Section 250. Section 53E-10-405, which is renumbered from Section 53A-31-301 is renumbered and amended to read:

[53A-31-301]. 53E-10-405. Adoption of state plan.

(1) After receipt of the proposed state plan from the commission in accordance with Section [53A-31-203] 53E-10-404, the Native American Legislative Liaison Committee may review the proposed state plan and make changes to the proposed state plan that the Native American Legislative Liaison Committee considers beneficial to addressing the educational achievement gap of the state's American Indian and Alaskan Native students.

(2) (a) The Native American Legislative Liaison Committee shall submit the proposed state plan as modified by the Native American Legislative Liaison Committee to the Utah State Board of Education.

(b) The Utah State Board of Education shall, by majority vote, within 60 days after receipt of the state plan under Subsection (2)(a), adopt, modify, or reject the state plan. If the Utah State Board of

Education does not act within 60 days after receipt of the state plan, the state plan is considered adopted by the Utah State Board of Education.

(3) The Native American Legislative Liaison Committee may prepare legislation to implement the state plan adopted under this section.

Section 251. Section 53E-10-406, which is renumbered from Section 53A-31-302 is renumbered and amended to read:

[53A-31-302]. 53E-10-406. Changes to state plan.

(1) The Native American Legislative Liaison Committee may recommend to the Utah State Board of Education changes to the state plan adopted under Section [53A-31-301] 53E-10-405 to ensure that the state plan continues to meet the academic needs of the state's American Indian and Alaskan Native students.

(2) The Native American Legislative Liaison Committee may recommend to the superintendent that the commission be reconstituted for an 18-month period if the Native American Legislative Liaison Committee determines that a substantial review of the state plan is necessary. If reconstituted under this Subsection (2), the commission shall comply with the requirements of [Part 2, Liaison and Commission] Sections 53E-10-402 through 53E-10-404.

Section 252. Section 53E-10-407 is enacted to read:

53E-10-407. Pilot program.

Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, creates a program to address the needs of American Indian and Alaskan Native students.

Section 253. Section 53E-10-501, which is renumbered from Section 53A-11-1502 is renumbered and amended to read:
Part 5. School Safety and Crisis Line

[53A-11-1502]. 53E-10-501. Definitions.

As used in this part:

(1) "Commission" means the School Safety and Crisis Line Commission established in Section [53A-11-1504] 53E-10-503.

(2) "University Neuropsychiatric Institute" means the mental health and substance abuse treatment institute within the University of Utah Hospitals and Clinics.

Section 254. Section 53E-10-502, which is renumbered from Section 53A-11-1503 is renumbered and amended to read:

[53A-11-1503]. 53E-10-502. School Safety and Crisis Line established.

The University Neuropsychiatric Institute shall:

(1) establish a School Safety and Crisis Line to provide:

(a) a means for an individual to anonymously report:

(i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;

(ii) incidents of bullying, cyber-bullying, harassment, or hazing; and

(iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and

(b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

(2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and

(3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:

(a) school officials; and

(b) law enforcement officials.

Section 255. Section 53E-10-503, which is renumbered from Section 53A-11-1504 is renumbered and amended to read:

[53A-11-1504]. 53E-10-503. School Safety and Crisis Line Commission established -- Members.

(1) There is created the School Safety and Crisis Line Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah Public Education System, appointed by the State Board of Education;

(c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;

(d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate;

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6) (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 256. Section 53E-10-504, which is renumbered from Section 53A-11-1505 is renumbered and amended to read:

[53A-11-1505]. 53E-10-504. School Safety and Crisis Line Commission duties.

The commission shall coordinate:

(1) statewide efforts related to the School Safety and Crisis Line; and

(2) with the State Board of Education and the State Board of Regents to promote awareness of the services available through the School Safety and Crisis Line.

Section 257. Section 53E-10-505, which is renumbered from Section 53A-11-1506 is renumbered and amended to read:

[53A-11-1506]. 53E-10-505. State Board of Education and local boards of education to update policies and promote awareness.

(1) The State Board of Education shall:

(a) revise the conduct and discipline policy models, described in Section [53A-11-901] 53G-8-202, to include procedures for responding to reports received under Subsection [53A-11-1503] 53E-10-502(3); and

(b) revise the curriculum developed by the State Board of Education for the parent seminar, described in Section [53A-15-1302] 53G-9-703, to include information about the School Safety and Crisis Line.

(2) A local school board or charter school governing board shall:

(a) revise the conduct and discipline policies, described in Section ~~[53A-11-902]~~ 53G-8-203, to include procedures for responding to reports received under Subsection ~~[53A-11-1503]~~ 53E-10-502(3); and

(b) inform students, parents, and school personnel about the School Safety and Crisis Line.

Section 258. Section 53E-10-601, which is renumbered from Section 53A-15-1002 is renumbered and amended to read:

Part 6. Electronic High School

~~[53A-15-1002].~~ **53E-10-601. Definitions.**

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Electronic High School" means a rigorous program offering grade 9 - 12 level online courses and coordinated by the board.

(3) "Home-schooled student" means a student:

(a) attends a home school;

(b) is exempt from school attendance pursuant to Section ~~[53A-11-102]~~ 53G-6-204; and

(c) attends no more than two regularly scheduled classes or courses in a public school per semester.

(4) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered; and

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered.

Section 259. Section 53E-10-602, which is renumbered from Section 53A-15-1002.5 is renumbered and amended to read:

~~[53A-15-1002.5].~~ **53E-10-602. Electronic High School created -- Purpose.**

The Electronic High School is created:

(1) to provide an opportunity for a student who has failed a course to retake the course and earn course credit;

(2) to allow a student to complete high school graduation requirements and exit high school early;

(3) to allow a student to take a course online so that the student has greater flexibility in scheduling courses during the regular school day; and

(4) to allow a home-schooled or private school student in Utah to take a course that meets the

Utah high school core standards for Utah public schools.

Section 260. Section 53E-10-603, which is renumbered from Section 53A-15-1003 is renumbered and amended to read:

~~[53A-15-1003].~~ **53E-10-603. Courses and credit.**

(1) The Electronic High School may only offer courses required for high school graduation or that fulfill course requirements established by the State Board of Education.

(2) The Electronic High School shall:

(a) offer courses in an open-entry, open-exit format; and

(b) offer courses that are in conformance with the core standards for Utah public schools established by the board.

(3) Public schools shall:

(a) accept all credits awarded to students by the Electronic High School; and

(b) apply credits awarded for a course described in Subsection (2)(b) toward the fulfillment of course requirements.

Section 261. Section 53E-10-604, which is renumbered from Section 53A-15-1004 is renumbered and amended to read:

~~[53A-15-1004].~~ **53E-10-604. Student eligibility for enrollment.**

(1) Utah students at any age or in any grade may enroll in Electronic High School courses.

(2) The Electronic High School shall accept students into courses on a first-come first-served basis.

Section 262. Section 53E-10-605, which is renumbered from Section 53A-15-1005 is renumbered and amended to read:

~~[53A-15-1005].~~ **53E-10-605. Services to students with disabilities.**

Students with disabilities who may need additional services or resources and who seek to enroll in Electronic High School classes may request appropriate accommodations through the students' assigned schools or school districts.

Section 263. Section 53E-10-606, which is renumbered from Section 53A-15-1006 is renumbered and amended to read:

~~[53A-15-1006].~~ **53E-10-606. Payment for an Electronic High School course.**

(1) Electronic High School courses are provided to students who are Utah residents, as defined in Section ~~[53A-2-201]~~ 53G-6-302, free of charge.

(2) Nonresident students may enroll in Electronic High School courses for a fee set by the board, provided that the course can accommodate additional students.

Section 264. Section 53E-10-607, which is renumbered from Section 53A-15-1007 is renumbered and amended to read:

~~[53A-15-1007]. 53E-10-607. Electronic High School diploma.~~

The Electronic High School may award a diploma to a student that meets any of the following criteria upon the student's completion of high school graduation requirements set by the board:

- (1) a home-schooled student;
- (2) a student who has dropped out of school and whose original high school class has graduated; or
- (3) a student who is identified by the student's resident school district as ineligible for graduation from a traditional high school program for specific reasons.

Section 265. Section 53E-10-608, which is renumbered from Section 53A-15-1008 is renumbered and amended to read:

~~[53A-15-1008]. 53E-10-608. Review by legislative auditor general.~~

(1) The legislative auditor general shall conduct a performance audit of the Electronic High School as directed by the Legislative Audit Subcommittee.

(2) In conducting the performance audit of the Electronic High School, the legislative auditor general shall develop performance metrics using factors such as:

- (a) course completion rate;
- (b) number of credits earned; and
- (c) cost of providing online courses.

(3) The legislative auditor general shall use the performance metrics developed under Subsection (2) to evaluate the Electronic High School in comparison with other online programs.

Section 266. Section 53E-10-609, which is renumbered from Section 53A-17a-131.15 is renumbered and amended to read:

~~[53A-17a-131.15]. 53E-10-609. State contribution for the Electronic High School.~~

Money appropriated to the State Board of Education for the Electronic High School shall be distributed to the school according to rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 267. Effective date.

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

Section 268. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

- (1) H.B. 11, Public Education Recodification - Funding;
- (2) S.B. 11, Public Education Recodification - Local System; or
- (3) S.B. 12, Public Education Recodification - Cross References and Repeals.

CHAPTER 2**H. B. 11**

Passed January 22, 2018
 Approved January 24, 2018
 Effective January 24, 2018

**PUBLIC EDUCATION
 RECODIFICATION - FUNDING**

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Ann Millner
 Cosponsors: LaVar Christensen
 Kim F. Coleman
 Bruce R. Cutler
 Justin L. Fawson
 Francis D. Gibson
 Eric K. Hutchings
 Bradley G. Last
 Daniel McCay
 Carol Spackman Moss
 Michael E. Noel
 Marie H. Poulson
 V. Lowry Snow
 Raymond P. Ward
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill reorganizes and renumbers certain provisions of the public education code related to public education system funding.

Highlighted Provisions:

This bill:

- ▶ reorganizes and renumbers certain provisions of the public education code related to public education system funding;
- ▶ defines terms;
- ▶ enacts provisions related to public education for organizational purposes;
- ▶ reenacts provisions related to public education for organizational purposes;
- ▶ repeals provisions related to public education for organizational purposes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**ENACTS:**

53F-1-101, Utah Code Annotated 1953
 53F-1-102, Utah Code Annotated 1953
 53F-1-103, Utah Code Annotated 1953
 53F-2-101, Utah Code Annotated 1953
 53F-2-303, Utah Code Annotated 1953
 53F-2-601, Utah Code Annotated 1953
 53F-2-602, Utah Code Annotated 1953
 53F-2-701, Utah Code Annotated 1953
 53F-2-704, Utah Code Annotated 1953
 53F-3-101, Utah Code Annotated 1953
 53F-3-204, Utah Code Annotated 1953
 53F-4-101, Utah Code Annotated 1953
 53F-4-102, Utah Code Annotated 1953
 53F-4-203, Utah Code Annotated 1953

53F-5-101, Utah Code Annotated 1953
 53F-5-102, Utah Code Annotated 1953
 53F-6-101, Utah Code Annotated 1953
 53F-6-102, Utah Code Annotated 1953
 53F-6-303, Utah Code Annotated 1953
 53F-7-101, Utah Code Annotated 1953
 53F-7-102, Utah Code Annotated 1953
 53F-7-301, Utah Code Annotated 1953
 53F-8-101, Utah Code Annotated 1953
 53F-8-102, Utah Code Annotated 1953
 53F-8-403, Utah Code Annotated 1953
 53F-9-101, Utah Code Annotated 1953
 53F-9-102, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53F-2-102, (Renumbered from 53A-17a-103, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-103, (Renumbered from 53A-17a-102, as renumbered and amended by Laws of Utah 1991, Chapter 72)
 53F-2-201, (Renumbered from 53A-17a-136, as last amended by Laws of Utah 2011, Chapter 371)
 53F-2-202, (Renumbered from 53A-17a-144, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-203, (Renumbered from 53A-17a-146, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-204, (Renumbered from 53A-17a-147, as last amended by Laws of Utah 2003, Chapter 221)
 53F-2-205, (Renumbered from 53A-17a-105, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-206, (Renumbered from 53A-17a-105.5, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-207, (Renumbered from 53A-17a-139, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-301, (Renumbered from 53A-17a-135, as last amended by Laws of Utah 2017, Chapters 6 and 173)
 53F-2-302, (Renumbered from 53A-17a-106, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-304, (Renumbered from 53A-17a-109, as last amended by Laws of Utah 2017, Chapters 173 and 316)
 53F-2-305, (Renumbered from 53A-17a-107, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-306, (Renumbered from 53A-17a-108, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-307, (Renumbered from 53A-17a-111, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-308, (Renumbered from 53A-17a-112, as last amended by Laws of Utah 2017, Chapter 173)
 53F-2-309, (Renumbered from 53A-17a-112.1, as enacted by Laws of Utah 2016, Chapter 246)

53F-2-310, (Renumbered from 53A-17a-158, as enacted by Laws of Utah 2008, Chapter 397)	53F-2-506, (Renumbered from 53A-17a-162, as last amended by Laws of Utah 2016, Chapter 188)
53F-2-311, (Renumbered from 53A-17a-113, as last amended by Laws of Utah 2017, Chapters 173 and 316)	53F-2-507, (Renumbered from 53A-17a-167, as last amended by Laws of Utah 2017, Chapter 173)
53F-2-312, (Renumbered from 53A-17a-124.5, as last amended by Laws of Utah 2017, Chapter 173)	53F-2-508, (Renumbered from 53A-17a-169, as last amended by Laws of Utah 2015, Chapter 456)
53F-2-313, (Renumbered from 53A-17a-116, as last amended by Laws of Utah 2017, Chapter 173)	53F-2-509, (Renumbered from 53A-17a-170, as enacted by Laws of Utah 2013, Chapter 381)
53F-2-401, (Renumbered from 53A-17a-119, as last amended by Laws of Utah 2017, Chapter 173)	53F-2-510, (Renumbered from 53A-1-1505, as enacted by Laws of Utah 2016, Chapter 318)
53F-2-402, (Renumbered from 53A-17a-126, as last amended by Laws of Utah 2017, Chapter 173)	53F-2-511, (Renumbered from 53A-17a-174, as enacted by Laws of Utah 2017, Chapter 202)
53F-2-403, (Renumbered from 53A-17a-127, as last amended by Laws of Utah 2017, Chapter 173)	53F-2-512, (Renumbered from 53A-17a-112.2, as enacted by Laws of Utah 2017, Chapter 357)
53F-2-404, (Renumbered from 53A-16-101.5, as last amended by Laws of Utah 2016, Chapter 172)	53F-2-513, (Renumbered from 53A-17a-173, as enacted by Laws of Utah 2017, Chapter 325 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 378)
53F-2-405, (Renumbered from 53A-17a-153, as last amended by Laws of Utah 2017, Chapters 173 and 372)	53F-2-514, (Renumbered from 53A-1a-601, as last amended by Laws of Utah 2015, Chapter 258)
53F-2-406, (Renumbered from 53A-17a-154, as last amended by Laws of Utah 2010, Chapter 3)	53F-2-515, (Renumbered from 53A-17a-143, as last amended by Laws of Utah 2017, Chapter 173)
53F-2-407, (Renumbered from 53A-17a-155, as last amended by Laws of Utah 2010, Chapter 3)	53F-2-516, (Renumbered from 53A-15-104, as last amended by Laws of Utah 2014, Chapter 63)
53F-2-408, (Renumbered from 53A-17a-165, as last amended by Laws of Utah 2017, Chapters 173 and 372)	53F-2-517, (Renumbered from 53A-17a-124, as last amended by Laws of Utah 2017, Chapter 173)
53F-2-409, (Renumbered from 53A-15-1707, as enacted by Laws of Utah 2016, Chapter 200)	53F-2-518, (Renumbered from 53A-17a-125, as last amended by Laws of Utah 2017, Chapter 173)
53F-2-410, (Renumbered from 53A-17a-166, as last amended by Laws of Utah 2017, Chapters 173, 372, and 378)	53F-2-702, (Renumbered from 53A-1a-513, as last amended by Laws of Utah 2016, Chapter 229)
53F-2-411, (Renumbered from 53A-17a-168, as last amended by Laws of Utah 2017, Chapter 372)	53F-2-703, (Renumbered from 53A-1a-513.1, as enacted by Laws of Utah 2016, Chapter 229)
53F-2-412, (Renumbered from 53A-17a-126.5, as enacted by Laws of Utah 2016, Chapter 214)	53F-2-705, (Renumbered from 53A-1a-513.5, as enacted by Laws of Utah 2012, Chapter 318)
53F-2-413, (Renumbered from 53A-17a-141, as last amended by Laws of Utah 2017, Chapter 173)	53F-3-102, (Renumbered from 53A-21-101.5, as last amended by Laws of Utah 2011, Chapter 371)
53F-2-501, (Renumbered from 53A-15-102, as last amended by Laws of Utah 2017, Chapters 359 and 382)	53F-3-201, (Renumbered from 53A-21-102, as last amended by Laws of Utah 2008, Chapter 236)
53F-2-502, (Renumbered from 53A-15-105, as enacted by Laws of Utah 2008, Chapter 235)	53F-3-202, (Renumbered from 53A-21-202, as last amended by Laws of Utah 2010, Chapter 185)
53F-2-503, (Renumbered from 53A-17a-150, as last amended by Laws of Utah 2017, Chapter 173)	53F-3-203, (Renumbered from 53A-21-302, as enacted by Laws of Utah 2008, Chapter 236)
53F-2-504, (Renumbered from 53A-17a-156, as last amended by Laws of Utah 2017, Chapters 56 and 316)	53F-4-201, (Renumbered from 53A-1-606.7, as last amended by Laws of Utah 2015, Chapters 372 and 415)
53F-2-505, (Renumbered from 53A-17a-159, as last amended by Laws of Utah 2017, Chapter 173)	

53F-4-202, (Renumbered from 53A-1-613, as last amended by Laws of Utah 2017, Chapter 378)	53F-4-503, (Renumbered from 53A-15-1204, as last amended by Laws of Utah 2017, Chapter 444)
53F-4-204, (Renumbered from 53A-1-415, as enacted by Laws of Utah 2017, Chapter 350 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 350)	53F-4-504, (Renumbered from 53A-15-1205, as last amended by Laws of Utah 2015, Chapter 404)
53F-4-205, (Renumbered from 53A-15-2003, as enacted by Laws of Utah 2017, Chapter 72)	53F-4-505, (Renumbered from 53A-15-1206, as last amended by Laws of Utah 2015, Chapter 415)
53F-4-206, (Renumbered from 53A-1a-110, as enacted by Laws of Utah 2012, Chapter 412)	53F-4-506, (Renumbered from 53A-15-1206.5, as enacted by Laws of Utah 2012, Chapter 238)
53F-4-301, (Renumbered from 53A-1a-703, as last amended by Laws of Utah 2015, Chapter 374)	53F-4-507, (Renumbered from 53A-15-1207, as last amended by Laws of Utah 2017, Chapter 472)
53F-4-301.5, (Renumbered from 53A-1a-702, as enacted by Laws of Utah 2005, Chapter 35)	53F-4-508, (Renumbered from 53A-15-1208, as last amended by Laws of Utah 2017, Chapter 444)
53F-4-302, (Renumbered from 53A-1a-704, as last amended by Laws of Utah 2017, Chapter 43)	53F-4-509, (Renumbered from 53A-15-1209, as last amended by Laws of Utah 2017, Chapter 444)
53F-4-303, (Renumbered from 53A-1a-705, as last amended by Laws of Utah 2016, Chapter 44)	53F-4-510, (Renumbered from 53A-15-1210, as enacted by Laws of Utah 2011, Chapter 419)
53F-4-304, (Renumbered from 53A-1a-706, as last amended by Laws of Utah 2015, Chapter 374)	53F-4-511, (Renumbered from 53A-15-1211, as last amended by Laws of Utah 2012, Chapter 238)
53F-4-305, (Renumbered from 53A-1a-707, as last amended by Laws of Utah 2008, Chapter 382)	53F-4-512, (Renumbered from 53A-15-1212, as last amended by Laws of Utah 2012, Chapter 238)
53F-4-306, (Renumbered from 53A-1a-708, as last amended by Laws of Utah 2015, Chapter 374)	53F-4-513, (Renumbered from 53A-15-1212.5, as enacted by Laws of Utah 2012, Chapter 238)
53F-4-307, (Renumbered from 53A-1a-709, as last amended by Laws of Utah 2015, Chapter 374)	53F-4-514, (Renumbered from 53A-15-1213, as enacted by Laws of Utah 2011, Chapter 419)
53F-4-308, (Renumbered from 53A-1a-710, as enacted by Laws of Utah 2005, Chapter 35)	53F-4-515, (Renumbered from 53A-15-1214, as enacted by Laws of Utah 2011, Chapter 419)
53F-4-401, (Renumbered from 53A-1a-1001, as last amended by Laws of Utah 2017, Chapter 468)	53F-4-516, (Renumbered from 53A-15-1216, as enacted by Laws of Utah 2012, Chapter 238)
53F-4-402, (Renumbered from 53A-1a-1002, as last amended by Laws of Utah 2017, Chapter 468)	53F-4-517, (Renumbered from 53A-15-1217, as enacted by Laws of Utah 2012, Chapter 238)
53F-4-403, (Renumbered from 53A-1a-1003, as last amended by Laws of Utah 2017, Chapter 468)	53F-5-201, (Renumbered from 53A-1-708, as last amended by Laws of Utah 2017, Chapters 30 and 378)
53F-4-404, (Renumbered from 53A-1a-1004, as last amended by Laws of Utah 2017, Chapter 468)	53F-5-202, (Renumbered from 53A-6-114, as enacted by Laws of Utah 2016, Chapter 217)
53F-4-405, (Renumbered from 53A-1a-1005, as enacted by Laws of Utah 2008, Chapter 397)	53F-5-203, (Renumbered from 53A-15-106, as enacted by Laws of Utah 2015, Chapter 431)
53F-4-406, (Renumbered from 53A-1a-1006, as enacted by Laws of Utah 2008, Chapter 397)	53F-5-204, (Renumbered from 53A-15-1601, as enacted by Laws of Utah 2015, Chapter 149)
53F-4-407, (Renumbered from 53A-1a-1007, as enacted by Laws of Utah 2008, Chapter 397)	53F-5-205, (Renumbered from 53A-6-802, as last amended by Laws of Utah 2010, Chapter 286)
53F-4-501, (Renumbered from 53A-15-1202, as last amended by Laws of Utah 2012, Chapter 238)	53F-5-206, (Renumbered from 53A-15-1303, as enacted by Laws of Utah 2017, Chapter 346)
53F-4-502, (Renumbered from 53A-15-1203, as enacted by Laws of Utah 2011, Chapter 419)	53F-5-207, (Renumbered from 53A-17a-171, as last amended by Laws of Utah 2017, Chapter 173)

53F-5-208, (Renumbered from 53A-3-402.11, as last amended by Laws of Utah 2008, Chapter 382)	53F-5-602, (Renumbered from 53A-31-403, as last amended by Laws of Utah 2017, Chapter 317)
53F-5-301, (Renumbered from 53A-1b-202, as enacted by Laws of Utah 2016, Chapter 336)	53F-5-603, (Renumbered from 53A-31-404, as enacted by Laws of Utah 2016, Chapter 63)
53F-5-302, (Renumbered from 53A-1b-203, as enacted by Laws of Utah 2016, Chapter 336)	53F-5-604, (Renumbered from 53A-31-405, as last amended by Laws of Utah 2017, Chapter 317)
53F-5-303, (Renumbered from 53A-1b-204, as enacted by Laws of Utah 2016, Chapter 336)	53F-6-201, (Renumbered from 53A-13-106.5, as enacted by Laws of Utah 2016, Chapter 169)
53F-5-304, (Renumbered from 53A-1b-205, as enacted by Laws of Utah 2016, Chapter 336)	53F-6-202, (Renumbered from 53A-1-709, as last amended by Laws of Utah 2015, Chapter 415)
53F-5-305, (Renumbered from 53A-1b-206, as enacted by Laws of Utah 2016, Chapter 336)	53F-6-301, (Renumbered from 53A-1b-102, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-306, (Renumbered from 53A-1b-207, as enacted by Laws of Utah 2016, Chapter 336)	53F-6-302, (Renumbered from 53A-1b-103, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-307, (Renumbered from 53A-1b-208, as enacted by Laws of Utah 2016, Chapter 336)	53F-6-304, (Renumbered from 53A-1b-105, as last amended by Laws of Utah 2016, Chapter 336)
53F-5-401, (Renumbered from 53A-4-302, as enacted by Laws of Utah 2016, Chapter 331)	53F-6-305, (Renumbered from 53A-1b-106, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-402, (Renumbered from 53A-4-303, as enacted by Laws of Utah 2016, Chapter 331)	53F-6-306, (Renumbered from 53A-1b-107, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-403, (Renumbered from 53A-4-304, as enacted by Laws of Utah 2016, Chapter 331)	53F-6-307, (Renumbered from 53A-1b-108, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-404, (Renumbered from 53A-4-305, as enacted by Laws of Utah 2016, Chapter 331)	53F-6-308, (Renumbered from 53A-1b-109, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-405, (Renumbered from 53A-4-306, as enacted by Laws of Utah 2016, Chapter 331)	53F-6-309, (Renumbered from 53A-1b-110, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-406, (Renumbered from 53A-4-307, as enacted by Laws of Utah 2016, Chapter 331)	53F-6-310, (Renumbered from 53A-1b-111, as enacted by Laws of Utah 2014, Chapter 304)
53F-5-501, (Renumbered from 53A-15-1802, as enacted by Laws of Utah 2016, Chapter 347)	53F-7-201, (Renumbered from 53A-13-206, as enacted by Laws of Utah 1988, Chapter 2)
53F-5-502, (Renumbered from 53A-15-1803, as enacted by Laws of Utah 2016, Chapter 347)	53F-8-201, (Renumbered from 53A-16-106, as last amended by Laws of Utah 2016, Chapters 350 and 367)
53F-5-503, (Renumbered from 53A-15-1804, as enacted by Laws of Utah 2016, Chapter 347)	53F-8-202, (Renumbered from 53A-16-108, as last amended by Laws of Utah 1993, Chapter 227)
53F-5-504, (Renumbered from 53A-15-1805, as enacted by Laws of Utah 2016, Chapter 347)	53F-8-203, (Renumbered from 53A-16-109, as enacted by Laws of Utah 1988, Chapter 2)
53F-5-505, (Renumbered from 53A-15-1806, as enacted by Laws of Utah 2016, Chapter 347)	53F-8-301, (Renumbered from 53A-17a-133, as last amended by Laws of Utah 2017, Chapter 173)
53F-5-506, (Renumbered from 53A-15-1807, as enacted by Laws of Utah 2016, Chapter 347)	53F-8-302, (Renumbered from 53A-17a-164, as last amended by Laws of Utah 2016, Chapters 229, 350, and 367)
53F-5-507, (Renumbered from 53A-15-1808, as enacted by Laws of Utah 2016, Chapter 347)	53F-8-303, (Renumbered from 53A-16-113, as last amended by Laws of Utah 2017, Chapter 181)
53F-5-601, (Renumbered from 53A-31-402, as enacted by Laws of Utah 2016, Chapter 63)	53F-8-401, (Renumbered from 53A-16-107, as last amended by Laws of Utah 2014, Chapter 189)

53F-8-402, (Renumbered from 53A-16-110, as last amended by Laws of Utah 2011, Chapter 371)

53F-8-404, (Renumbered from 53A-17a-134, as last amended by Laws of Utah 2017, Chapter 173)

53F-8-405, (Renumbered from 53A-17a-145, as last amended by Laws of Utah 2017, Chapter 173)

53F-8-406, (Renumbered from 53A-17a-151, as last amended by Laws of Utah 2017, Chapter 173)

53F-9-201, (Renumbered from 53A-16-101, as last amended by Laws of Utah 2016, Chapter 172)

53F-9-202, (Renumbered from 53A-16-103, as enacted by Laws of Utah 1988, Chapter 2)

53F-9-203, (Renumbered from 53A-1a-522, as enacted by Laws of Utah 2011, Chapter 30)

53F-9-204, (Renumbered from 53A-16-112, as enacted by Laws of Utah 2001, Chapter 215)

53F-9-205, (Renumbered from 53A-16-115, as enacted by Laws of Utah 2016, Chapter 172)

53F-9-206, (Renumbered from 53A-21-401, as last amended by Laws of Utah 2011, Chapters 30 and 303)

53F-9-301, (Renumbered from 53A-1a-513.2, as enacted by Laws of Utah 2016, Chapter 229)

53F-9-302, (Renumbered from 53A-17a-135.1, as enacted by Laws of Utah 2015, Chapter 287)

53F-9-303, (Renumbered from 53A-20b-301, as enacted by Laws of Utah 2012, Chapter 201)

53F-9-304, (Renumbered from 53A-13-114, as enacted by Laws of Utah 2017, Chapter 455)

53F-9-401, (Renumbered from 53A-1-304, as last amended by Laws of Utah 2011, Chapter 303)

53F-9-402, (Renumbered from 53A-1b-104, as enacted by Laws of Utah 2014, Chapter 304)

53F-9-501, (Renumbered from 53A-15-207, as enacted by Laws of Utah 2017, Chapter 166)

REPEALS:

53A-1-1502, as enacted by Laws of Utah 2016, Chapter 318

53A-1-1503, as renumbered and amended by Laws of Utah 2016, Chapter 318

53A-1-1504, as enacted by Laws of Utah 2016, Chapter 318

53A-1-1506, as enacted by Laws of Utah 2016, Chapter 318

53A-1-1507, as enacted by Laws of Utah 2016, Chapter 318

53A-6-801, as enacted by Laws of Utah 2008, Chapter 144

53A-6-901, as last amended by Laws of Utah 2015, Chapter 1

53A-15-1201.5, as enacted by Laws of Utah 2012, Chapter 238

53A-15-2002, as enacted by Laws of Utah 2017, Chapter 72

53A-17a-131.17, as last amended by Laws of Utah 2015, Chapter 276

53A-21-201, as last amended by Laws of Utah 2010, Chapter 185

53A-21-301, as last amended by Laws of Utah 2010, Chapter 185

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

Section 1. Section 53F-1-101 is enacted to read:

**TITLE 53F. PUBLIC EDUCATION SYSTEM
-- FUNDING**

CHAPTER 1. TITLE PROVISIONS

Part 1. General Provisions

53F-1-101. Title.

(1) This title is known as "Public Education System -- Funding."

(2) This chapter is known as "Title Provisions."

Section 2. Section 53F-1-102 is enacted to read:

53F-1-102. Public education code definitions.

The terms defined in Section 53E-1-102 apply to this title.

Section 3. Section 53F-1-103 is enacted to read:

53F-1-103. Title 53F definitions.

Reserved

Section 4. Section 53F-2-101 is enacted to read:

**CHAPTER 2. STATE FUNDING --
MINIMUM SCHOOL PROGRAM**

Part 1. General Provisions

53F-2-101. Title.

This chapter is known as "State Funding -- Minimum School Program."

Section 5. Section 53F-2-102, which is renumbered from Section 53A-17a-103 is renumbered and amended to read:

[53A-17a-103]. 53F-2-102. Definitions.

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in statute, except as otherwise provided in this chapter.

(2) (a) “Certified revenue levy” means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Section ~~53A-17a-135~~ 53F-2-301; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission; and

(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(b) For purposes of this Subsection (2), “ad valorem property tax revenue” does not include property tax revenue received statewide from personal property that is:

(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the State Tax Commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year’s assessment roll.

(3) “Charter school governing board” means the governing board, as defined in Section ~~53A-1a-501.3~~ 53G-5-102, that governs a charter school.

(4) “Local education board” means a local school board or charter school governing board.

(5) “Local school board” means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(6) “Pupil in average daily membership (ADM)” means a full-day equivalent pupil.

(7) (a) “State-supported minimum school program” or “Minimum School Program” means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (7).

(b) The minimum school program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by a local education board, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local education board may reallocate up to 32 instructional hours or four school days established under Subsection (7)(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (7)(d)(i) is subject to the approval of two-thirds of the members of a local education board voting in a regularly scheduled meeting:

(A) at which a quorum of the local education board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If a local education board reallocates instructional hours or school days as provided by this Subsection (7)(d), the school district or charter school shall notify students’ parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (7)(d) is considered part of a school term referred to in Subsection (7)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

(i) Basic School Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(8) “Weighted pupil unit or units or WPU or WPUs” means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each school district or charter school.

Section 6. Section 53F-2-103, which is renumbered from Section 53A-17a-102 is renumbered and amended to read:

53A-17a-102. 53F-2-103. Purpose of chapter.

(1) The purpose of this chapter is to provide a minimum school program for the state in accordance with the constitutional mandate. It recognizes that all children of the state are entitled to reasonably equal educational opportunities regardless of their place of residence in the state and of the economic situation of their respective school districts or other agencies.

(2) It further recognizes that although the establishment of an educational system is primarily a state function, school districts should be required to participate on a partnership basis in the payment of a reasonable portion of the cost of a minimum program.

(3) It is also the purpose of this chapter to describe the manner in which the state and the school districts shall pay their respective share of the costs of a minimum program. This chapter also recognizes that each locality should be empowered to provide educational facilities and opportunities beyond the minimum program and accordingly provide a method whereby that latitude of action is permitted and encouraged.

Section 7. Section 53F-2-201, which is renumbered from Section 53A-17a-136 is renumbered and amended to read:

Part 2. General Administration of the Minimum School Program

[53A-17a-136]. 53F-2-201. Cost of operation and maintenance of minimum school program -- Division between state and school districts.

(1) The total cost of operation and maintenance of the minimum school program in the state is divided between the state and school districts as follows:

(a) Each school district shall impose a minimum basic tax rate on all taxable, tangible property in the school district and shall contribute the tax proceeds toward the cost of the basic program as provided in this chapter.

(b) Each school district may also impose a levy under Section 53F-8-301 or 53F-8-302 for the purpose of participating in the respective levy programs provided in Section [53A-17a-133] 53F-2-601 or [53A-17a-164] 53F-2-602.

(c) The state shall contribute the balance of the total costs.

(2) The contributions by the school districts and by the state are computed separately for the purpose of determining their respective contributions to the basic program and to the levy programs provided in Section [53A-17a-133] 53F-2-601 or [53A-17a-164] 53F-2-602.

Section 8. Section 53F-2-202, which is renumbered from Section 53A-17a-144 is renumbered and amended to read:

[53A-17a-144]. 53F-2-202. Contribution of state to cost of minimum school program -- Determination of amounts -- Levy on taxable property -- Disbursal -- Deficiency.

The state's contribution to the total cost of the minimum school program is determined and distributed as follows:

(1) The State Tax Commission shall levy an amount determined by the Legislature on all taxable property of the state.

(a) This amount, together with other funds provided by law, is the state's contribution to the minimum school program.

(b) The statewide levy is set at zero until changed by the Legislature.

(2) During the first week in November, the State Tax Commission shall certify to the State Board of Education the amounts designated as state aid for each school district under Section 59-2-902.

(3) (a) The actual amounts computed under Section 59-2-902 are the state's contribution to the minimum school program of each school district.

(b) The State Board of Education shall provide each local education board with a statement of the amount of state aid.

(4) Before the first day of each month, the state treasurer and the Division of Finance, with the approval of the State Board of Education, shall disburse 1/12 of the state's contribution to the cost of the minimum school program to each school district and each charter school.

(a) The State Board of Education may not make a disbursement to a school district or charter school whose payments have been interrupted under Subsection (4)(d).

(b) Discrepancies between the monthly disbursements and the actual cost of the program shall be adjusted in the final settlement under Subsection (5).

(c) If the monthly distributions overdraw the money in the Uniform School Fund, the Division of Finance is authorized to run this fund in a deficit position.

(d) The State Board of Education may interrupt disbursements to a school district or charter school if, in the judgment of the State Board of Education, the school district or charter school is failing to comply with the minimum school program, is operating programs that are not approved by the State Board of Education, or has not submitted reports required by law or the State Board of Education.

(i) Disbursements shall be resumed upon request of the State Board of Education.

(ii) Back disbursements shall be included in the next regular disbursement, and the amount disbursed certified to the State Division of Finance and state treasurer by the State Board of Education.

(e) The State Board of Education may authorize exceptions to the 1/12 per month disbursement formula for grant funds if the State Board of Education determines that a different disbursement formula would better serve the purposes of the grant.

(5) (a) If money in the Uniform School Fund is insufficient to meet the state's contribution to the minimum school program as appropriated, the amount of the deficiency thus created shall be carried as a deficiency in the Uniform School Fund

until the next session of the Legislature, at which time the Legislature shall appropriate funds to cover the deficiency.

(b) If there is an operating deficit in public education Uniform School Fund appropriations, the Legislature shall eliminate the deficit by:

- (i) budget transfers or other legal means;
- (ii) appropriating money from the Education Budget Reserve Account;
- (iii) appropriating up to 25% of the balance in the General Fund Budget Reserve Account; or
- (iv) some combination of Subsections (5)(b)(i), (ii), and (iii).

(c) Nothing in Subsection (5)(b) precludes the Legislature from appropriating more than 25% of the balance in the General Fund Budget Reserve Account to fund operating deficits in public education appropriations.

Section 9. Section 53F-2-203, which is renumbered from Section 53A-17a-146 is renumbered and amended to read:

[53A-17a-146]. 53F-2-203. Reduction of local education board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the minimum school program, excluding:

- (a) the state-supported voted local levy program pursuant to Section ~~[53A-17a-133]~~ 53F-2-601;
- (b) the state-supported board local levy program pursuant to Section ~~[53A-17a-164]~~ 53F-2-602; and
- (c) the appropriation to charter schools to replace local property tax revenues pursuant to Section ~~[53A-1a-513]~~ 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each local education board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a local education board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A local education board may not reduce or reallocate spending of funds distributed to the

school district or charter school for the following programs:

- (a) educator salary adjustments provided in Section ~~[53A-17a-153]~~ 53F-2-405;
 - (b) the Teacher Salary Supplement Program provided in Section ~~[53A-17a-156]~~ 53F-2-504;
 - (c) the extended year for special educators provided in Section ~~[53A-17a-158]~~ 53F-2-310;
 - (d) USTAR centers provided in Section ~~[53A-17a-159]~~ 53F-2-505;
 - (e) the School LAND Trust Program created in Section ~~[53A-16-101.5]~~ 53F-2-404; or
 - (f) a special education program within the Basic School Program.
- (6) A local education board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A local education board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Section 10. Section 53F-2-204, which is renumbered from Section 53A-17a-147 is renumbered and amended to read:

[53A-17a-147]. 53F-2-204. Use of funds for approved programs -- Assessment of funded programs.

- (1) Funds appropriated under this chapter shall only be used for programs approved by the State Board of Education.
- (2) The State Board of Education shall assess the progress and degree of effectiveness of all programs funded under this chapter.

Section 11. Section 53F-2-205, which is renumbered from Section 53A-17a-105 is renumbered and amended to read:

[53A-17a-105]. 53F-2-205. Powers and duties of State Board of Education to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

- (1) For purposes of this section:
 - (a) "Board" means the State Board of Education.
 - (b) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.
 - (c) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:
 - (i) Basic Program;
 - (ii) Related to Basic Programs;
 - (iii) Voted and Board Levy Programs; or
 - (iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guarantee per weighted pupil unit provided under the voted local levy program established in Section [53A-17a-133] 53F-2-601 or the board local levy program established in Section [53A-17a-164] 53F-2-602, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section [53A-1a-513] 53F-2-704; or

(d) to support a school district with a loss in student enrollment as provided in Section [53A-17a-139] 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section [53A-17a-135] 53F-2-301 are overestimated, the board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section [53A-17a-135] 53F-2-301 are underestimated, the board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the board shall reduce the guarantee per weighted pupil unit provided under the voted local levy program established in Section [53A-17a-133] 53F-2-601 or board local levy program established in Section [53A-17a-164] 53F-2-602, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the board is nonlapsing.

(8) The board shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 12. Section 53F-2-206, which is renumbered from Section 53A-17a-105.5 is renumbered and amended to read:

[53A-17a-105.5]. 53F-2-206. Flexibility in the use of certain related to basic program funds.

(1) As used in this section, "qualifying program" means:

(a) the Enhancement for At-Risk Students Program created in Section [53A-17a-166] 53F-2-410;

(b) the Enhancement for Accelerated Students Program created in Section [53A-17a-165] 53F-2-408; and

(c) the concurrent enrollment program established in Section [53A-15-1703] 53E-10-302.

(2) If a school district or charter school receives an allocation of state funds for a qualifying program that is less than \$10,000, the local education board of the receiving school district or charter school may:

(a) (i) combine the funds with one or more qualifying program fund allocations each of which is less than \$10,000; and

(ii) use the combined funds in accordance with the program requirements for any of the qualifying programs that are combined; or

(b) (i) transfer the funds to a qualifying program for which the school district or charter school received an allocation of funds that is greater than or equal to \$10,000; and

(ii) use the combined funds in accordance with the program requirements for the qualifying program to which the funds are transferred.

Section 13. Section 53F-2-207, which is renumbered from Section 53A-17a-139 is renumbered and amended to read:

[53A-17a-139]. 53F-2-207. Loss in student enrollment -- Board action.

To avoid penalizing a school district financially for an excessive loss in student enrollment due to

factors beyond its control, the State Board of Education may allow a percentage increase in units otherwise allowable during any year when a school district's average daily membership drops more than 4% below the average for the highest two of the preceding three years in the school district.

Section 14. Section 53F-2-301, which is renumbered from Section 53A-17a-135 is renumbered and amended to read:

**Part 3. Basic Program
(Weighted Pupil Units)**

[53A-17a-135]. 53F-2-301. Minimum basic tax rate -- Certified revenue levy.

(1) As used in this section, "basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(2) (a) To qualify for receipt of the state contribution toward the basic program and as a school district's contribution toward the school district's costs of the basic program, each local school board shall impose a minimum basic tax rate per dollar of taxable value that generates \$399,041,300 in revenues statewide.

(b) The preliminary estimate for the 2017-18 minimum basic tax rate is .001596.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates \$399,041,300 in revenues statewide.

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

(3) The state shall contribute to each school district toward the cost of the basic program in the school district that portion that exceeds the proceeds of the difference between:

(a) the minimum basic tax rate to be imposed under Subsection (2); and

(b) the basic levy increment rate.

(4) (a) If the difference described in Subsection (3) equals or exceeds the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the difference described in Subsection (3) that exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

(5) The State Board of Education shall:

(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and

(b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth Account created in Section [~~53A-17a-135.1~~] 53F-9-302.

Section 15. Section 53F-2-302, which is renumbered from Section 53A-17a-106 is renumbered and amended to read:

[53A-17a-106]. 53F-2-302. Determination of weighted pupil units.

The number of weighted pupil units in the minimum school program for each year is the total of the units for each school district and, subject to [~~Section 53A-1a-513~~] Subsection (4), charter school, determined as follows:

(1) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school attending schools, other than kindergarten and self-contained classes for children with a disability.

(2) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school enrolled in kindergarten and multiplying the total by .55.

(a) In those school districts or charter schools that do not hold kindergarten for a full nine-month term, the local school board or charter school governing board may approve a shorter term of nine weeks' duration.

(b) Upon local education board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that school district or charter school in the regular school year.

(3) (a) The State Board of Education shall use prior year plus growth to determine average daily membership in distributing money under the minimum school program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

(4) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

(a) .55 for kindergarten pupils;

(b) .9 for pupils in grades 1 through 6;

(c) .99 for pupils in grades 7 through 8; and

(d) 1.2 for pupils in grades 9 through 12.

Section 16. Section 53F-2-303 is enacted to read:

53F-2-303. Foreign exchange student weighted pupil units.

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through (4).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2) shall be the lesser of:

(i) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding Sections 53F-2-601 and 53F-2-602, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under the voted or board local levies.

Section 17. Section 53F-2-304, which is renumbered from Section 53A-17a-109 is renumbered and amended to read:

[53A-17a-109]. 53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Necessarily existent small schools funding balance" means the difference between:

(i) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(ii) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and board rules adopted under Subsection (3).

(b) An application must be submitted to the board before April 2, and the board must report a decision to a local school board before June 2.

(3) The board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) A one or two-year secondary school that has received necessarily existent small school money under this section prior to July 1, 2000, may continue to receive such money in subsequent years.

(5) The board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(6) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using regression formulas adopted by the board.

(b) The regression formulas establish the following maximum sizes for funding under the necessarily existent small school program:

(i) an elementary school	160
(ii) a one or two-year secondary school	300
(iii) a three-year secondary school	450
(iv) a four-year secondary school	500
(v) a six-year secondary school	600

(c) Schools with fewer than 10 students shall receive the same add-on weighted pupil units as schools with 10 students.

(d) The board shall prepare and distribute an allocation table based on the regression formula to each school district.

(7) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what

the school district would have received for the small schools had the small schools not been consolidated.

(8) Subject to legislative appropriation, the board shall give first priority from an appropriation made under this section to funding an expense approved by the board as described in Subsection [53A-2-204] 53G-6-305(3)(a).

(9) (a) Subject to Subsection (9)(b) and after a distribution made under Subsection (8), the board may distribute a portion of necessarily existent small schools funding in accordance with a formula adopted by the board that considers the tax effort of a local school board.

(b) The amount distributed in accordance with Subsection (9)(a) may not exceed the necessarily

existent small schools fund in balance of the prior fiscal year.

(10) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the board.

Section 18. Section 53F-2-305, which is renumbered from Section 53A-17a-107 is renumbered and amended to read:

[53A-17a-107]. 53F-2-305. Professional staff weighted pupil units.

(1) Professional staff weighted pupil units are computed and distributed in accordance with the following schedule:

Years of Experience	Bachelor's Degree	Bachelor's +30. Qt. Hr	Master's Degree	Master's Degree +45 Qt. Hr	Doctorate
1	1.00	1.05	1.10	1.15	1.20
2	1.05	1.10	1.15	1.20	1.25
3	1.10	1.15	1.20	1.25	1.30
4	1.15	1.20	1.25	1.30	1.35
5	1.20	1.25	1.30	1.35	1.40
6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections [53A-17a-106] 53F-2-302 and [53A-17a-109] 53F-2-304.

(2) The State Board of Education shall enact rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require a certain percentage of a school district's or charter school's professional staff to be certified in the area in which the staff teaches in order for the school district or charter school to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the local education board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

Section 19. Section 53F-2-306, which is renumbered from Section 53A-17a-108 is renumbered and amended to read:

[53A-17a-108]. 53F-2-306. Weighted pupil units for small school district administrative costs -- Appropriation for charter school administrative costs.

(1) Administrative costs weighted pupil units are computed for a small school district and distributed to the small school district in accordance with the following schedule:

Administrative Costs Schedule

School District Enrollment as of October 1	Weighted Pupil Units
1 - 500 students	95
501 - 1,000 students	80
1,001 - 2,000 students	70
2,001 - 5,000 students	60

(2) (a) Except as provided in Subsection (2)(b), money appropriated to the State Board of Education for charter school administrative costs shall be distributed to charter schools in the amount of \$100 for each charter school student in enrollment.

(b) (i) If money appropriated for charter school administrative costs is insufficient to provide the amount per student prescribed in Subsection (2)(a), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations under Section ~~53A-17a-105~~ 53F-2-205, the allocation provided in Subsection (2)(b)(i) shall be determined after adjustments are made under Section ~~53A-17a-105~~ 53F-2-205.

(c) Charter school governing boards are encouraged to identify and use cost-effective methods of performing administrative functions, including contracting for administrative services with the State Charter School Board as provided in Section ~~53A-1a-501.6~~ 53G-5-202.

(3) Charter schools are not eligible for funds for administrative costs under Subsection (1).

Section 20. Section 53F-2-307, which is renumbered from Section 53A-17a-111 is renumbered and amended to read:

53A-17a-111. 53F-2-307. Weighted pupil units for programs for students with disabilities -- Local school board allocation.

(1) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Disability program money allocated to school districts or charter schools is restricted and shall be spent for the education of students with disabilities but may include expenditures for approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes.

(3) The State Board of Education shall establish and strictly interpret definitions and provide standards for determining which students have disabilities and shall assist school districts and charter schools in determining the services that should be provided to students with disabilities.

(4) Each year the State Board of Education shall evaluate the standards and guidelines that establish the identifying criteria for disability classifications to assure strict compliance with those standards by the school districts and charter schools.

(5) (a) Money appropriated to the State Board of Education for add-on WPU for students with disabilities enrolled in regular programs shall be allocated to school districts and charter schools as provided in this Subsection (5).

(b) The State Board of Education shall use a school district's or charter school's average number of special education add-on weighted pupil units

determined by the previous five year's average daily membership data as a foundation for the special education add-on appropriation.

(c) A school district's or charter school's special education add-on WPUs for the current year may not be less than the foundation special education add-on WPUs.

(d) Growth WPUs shall be added to the prior year special education add-on WPUs, and growth WPUs shall be determined as follows:

(i) The special education student growth factor is calculated by comparing S-3 total special education ADM of two years previous to the current year to the S-3 total special education ADM three years previous to the current year, not to exceed the official October total school district growth factor from the prior year.

(ii) When calculating and applying the growth factor, a school district's S-3 total special education ADM for a given year is limited to 12.18% of the school district's S-3 total student ADM for the same year.

(iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special education ADM of two years previous to the current year.

(iv) Growth ADMs for each school district or each charter school are multiplied by 1.53 weighted pupil units and added to the prior year special education add-on WPU to determine each school district's or each charter school's total allocation.

(6) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of school districts and charter schools for those programs, each school district and each charter school shall first receive the amount generated for each student with a disability under the basic program.

Section 21. Section 53F-2-308, which is renumbered from Section 53A-17a-112 is renumbered and amended to read:

53A-17a-112. 53F-2-308. Preschool special education appropriation -- Extended year program appropriation -- Appropriation for special education programs in state institutions -- Appropriations for stipends for special educators.

(1) (a) Money appropriated to the State Board of Education for the preschool special education program shall be allocated to school districts to provide a free, appropriate public education to preschool students with a disability, ages three through five.

(b) The money shall be distributed on the basis of the school district's count of preschool children with a disability for December 1 of the previous year, as mandated by federal law.

(2) Money appropriated for the extended school year program for children with a severe disability shall be limited to students with severe disabilities with education program goals identifying

significant regression and recoupment disability as approved by the State Board of Education.

(3) (a) Money appropriated for self-contained regular special education programs may not be used to supplement other school programs.

(b) Money in any of the other restricted line item appropriations may not be reduced more than 2% to be used for purposes other than those specified by the appropriation, unless otherwise provided by law.

(4) (a) The State Board of Education shall compute preschool funding by a factor of 1.47 times the current December 1 child count of eligible preschool aged three, four, and five-year-olds times the WPU value, limited to 8% growth over the prior year December 1 count.

(b) The State Board of Education shall develop guidelines to implement the funding formula for preschool special education, and establish prevalence limits for distribution of the money.

(5) Of the money appropriated for Special Education – State Programming, the State Board of Education shall distribute the revenue generated from 909 WPUs to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends to special educators for additional days of work pursuant to the requirements of Section ~~53A-17a-158~~ 53F-2-310.

Section 22. Section 53F-2-309, which is renumbered from Section 53A-17a-112.1 is renumbered and amended to read:

[53A-17a-112.1]. 53F-2-309. Appropriation for intensive special education costs.

(1) As used in this section:

(a) “Board” means the State Board of Education.

(b) “Local education agency” or “LEA” means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) On or before February 1, 2017, the board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing a distribution formula to allocate money appropriated to the board for Special Education -- Intensive Services that allocate to an LEA:

(i) 50% of the appropriation based on the highest cost students with disabilities; and

(ii) 50% of the appropriation based on the highest impact to an LEA due to high cost students with disabilities.

(b) Beginning with the 2017-18 school year, the board shall allocate money appropriated to the board for Special Education -- Intensive Services in accordance with rules described in Subsection (2)(a).

(3) Before initiating the rulemaking process under Subsection (2)(a), the board shall present the proposed rule to the Public Education Appropriations Subcommittee or Education Interim Committee.

Section 23. Section 53F-2-310, which is renumbered from Section 53A-17a-158 is renumbered and amended to read:

[53A-17a-158]. 53F-2-310. Stipends for special educators for additional days of work.

(1) As used in this section:

(a) “IEP” means an individualized education program developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended.

(b) “Special education teacher” means a teacher whose primary assignment is the instruction of students with disabilities who are eligible for special education services.

(c) “Special educator” means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(i) a license issued under ~~[Title 53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ Title 53E, Chapter 6, Education Professional Licensure; and

(ii) a position as a:

(A) special education teacher; or

(B) speech-language pathologist.

(2) The Legislature shall annually appropriate money for stipends to special educators for additional days of work:

(a) in recognition of the added duties and responsibilities assumed by special educators to comply with federal law regulating the education of students with disabilities and the need to attract and retain qualified special educators; and

(b) subject to future budget constraints.

(3) (a) The State Board of Education shall distribute money appropriated under this section to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends for special educators in the amount of \$200 per day for up to 10 additional working days.

(b) Money distributed under this section shall include, in addition to the \$200 per day stipend, money for the following employer-paid benefits:

(i) retirement;

(ii) workers’ compensation;

(iii) Social Security; and

(iv) Medicare.

(4) A special educator receiving a stipend shall:

(a) work an additional day beyond the number of days contracted with the special educator’s school district or school for each daily stipend;

(b) schedule the additional days of work before or after the school year; and

(c) use the additional days of work to perform duties related to the IEP process, including:

- (i) administering student assessments;
- (ii) conducting IEP meetings;
- (iii) writing IEPs;
- (iv) conferring with parents; and
- (v) maintaining records and preparing reports.

(5) A special educator may:

(a) elect to receive a stipend for one to 10 days of additional work; or

(b) elect to not receive a stipend.

(6) A person who does not hold a full-time position as a special educator is eligible for a partial stipend equal to the percentage of a full-time special educator position the person assumes.

Section 24. Section 53F-2-311, which is renumbered from Section 53A-17a-113 is renumbered and amended to read:

[53A-17a-113]. 53F-2-311. Weighted pupil units for career and technical education programs -- Funding of approved programs -- Performance measures -- Qualifying criteria.

(1) (a) Money appropriated to the State Board of Education for approved career and technical education programs and the comprehensive guidance program:

(i) shall be allocated to eligible recipients as provided in Subsections (2), (3), and (4); and

(ii) may not be used to fund programs below grade 9.

(b) Subsection (1)(a)(ii) does not apply to the following programs:

- (i) comprehensive guidance;
- (ii) Technology-Life-Careers; and
- (iii) work-based learning programs.

(2) (a) Weighted pupil units are computed for pupils in approved programs.

(b) (i) The State Board of Education shall fund approved programs based upon hours of membership of grades 9 through 12 students.

(ii) Subsection (2)(b)(i) does not apply to the following programs:

- (A) comprehensive guidance;
- (B) Technology-Life-Careers; and
- (C) work-based learning programs.

(c) The State Board of Education shall use an amount not to exceed 20% of the total appropriation under this section to fund approved programs based

on performance measures such as placement and competency attainment defined in standards set by the State Board of Education.

(d) Leadership organization funds shall constitute an amount not to exceed 1% of the total appropriation under this section, and shall be distributed to each school district or each charter school sponsoring career and technical education student leadership organizations based on the agency's share of the state's total membership in those organizations.

(e) The State Board of Education shall make the necessary calculations for distribution of the appropriation to a school district and charter school and may revise and recommend changes necessary for achieving equity and ease of administration.

(3) (a) Twenty weighted pupil units shall be computed for career and technical education administrative costs for each school district, except 25 weighted pupil units may be computed for each school district that consolidates career and technical education administrative services with one or more other school districts.

(b) Between 10 and 25 weighted pupil units shall be computed for each high school conducting approved career and technical education programs in a school district according to standards established by the State Board of Education.

(c) Forty weighted pupil units shall be computed for each school district that operates an approved career and technical education center.

(d) Between five and seven weighted pupil units shall be computed for each summer career and technical education agriculture program according to standards established by the State Board of Education.

(e) The State Board of Education shall, by rule, establish qualifying criteria for a school district or charter school to receive weighted pupil units under this Subsection (3).

(4) (a) Money remaining after the allocations made under Subsections (2) and (3) shall be allocated using average daily membership in approved programs for the previous year.

(b) A school district or charter school that has experienced student growth in grades 9 through 12 for the previous year shall have the growth factor applied to the previous year's weighted pupil units when calculating the allocation of money under this Subsection (4).

(5) (a) The State Board of Education shall establish rules for upgrading high school career and technical education programs.

(b) The rules shall reflect career and technical training and actual marketable job skills in society.

(c) The rules shall include procedures to assist school districts and charter schools to convert existing programs that are not preparing students for the job market into programs that will accomplish that purpose.

(6) Programs that do not meet State Board of Education standards may not be funded under this section.

Section 25. Section 53F-2-312, which is renumbered from Section 53A-17a-124.5 is renumbered and amended to read:

[53A-17a-124.5]. 53F-2-312. Appropriation for class size reduction.

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.

(2) Each school district or charter school shall receive an allocation based upon the school district or charter school's prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection [53A-17a-106] 53F-2-302(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).

(3) (a) A local education board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) Each local education board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 in grades kindergarten through grade 2, a local education board may petition the State Board of Education for, and the State Board of Education may grant, a waiver to use an allocation under Subsection (3)(b)(i) for class size reduction in the other grades.

(4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) A local education board may use up to 20% of an allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the local education board may use up to 50% of any allocation received by the respective school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the

number of students in the state in kindergarten through grade eight.

(8) (a) For a school district or charter school to qualify for class size reduction money, a local education board shall submit:

(i) a plan for the use of the allocation of class size reduction money to the State Board of Education; and

(ii) beginning with the 2014-15 school year, a report on the local education board's use of class size reduction money in the prior school year.

(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:

(i) (A) the number of teachers employed using class size reduction money;

(B) the amount of class size reduction money expended for teachers; and

(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;

(ii) (A) the number of paraprofessionals employed using class size reduction money;

(B) the amount of class size reduction money expended for paraprofessionals; and

(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and

(iii) the amount of class size reduction money expended for capital facilities.

(c) In addition to submitting a plan and report on the use of class size reduction money, a local education board shall annually submit a report to the State Board of Education that includes the following information:

(i) the number of teachers employed using K-3 Reading Improvement Program money received pursuant to Sections [53A-17a-150] 53F-2-503 and [53A-17a-151] 53F-8-406;

(ii) the amount of K-3 Reading Improvement Program money expended for teachers;

(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;

(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and

(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.

(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a

teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.

(e) The State Board of Education may make rules specifying procedures and standards for the submission of:

(i) a plan and a report on the use of class size reduction money as required by this section; and

(ii) a report required under Subsection (8)(c).

(f) Based on the data contained in the class size reduction plans and reports submitted by local education boards, and data on average class size, the State Board of Education shall annually report to the Public Education Appropriations Subcommittee on the impact of class size reduction, K-3 Reading Improvement Program, and Title I money on class size.

Section 26. Section 53F-2-313, which is renumbered from Section 53A-17a-116 is renumbered and amended to read:

[53A-17a-116]. 53F-2-313. Weighted pupil units for career and technical education set-aside programs.

(1) Each school district and charter school shall receive a guaranteed minimum allocation from the money appropriated to the State Board of Education for a career and technical education set-aside program.

(2) The set-aside funds remaining after the initial minimum payment allocation are distributed by a request for proposals process to help pay for equipment costs necessary to initiate new programs and for high priority programs as determined by labor market information.

Section 27. Section 53F-2-401, which is renumbered from Section 53A-17a-119 is renumbered and amended to read:

Part 4. Related to Basic Program -- Formula Programs

[53A-17a-119]. 53F-2-401. Appropriation for adult education programs.

(1) Money appropriated to the State Board of Education for adult education shall be allocated to school districts for adult high school completion and adult basic skills programs.

(2) Each school district shall receive a pro rata share of the appropriation for adult high school completion programs based on the number of people in the school district listed in the latest official census who are over 18 years of age and who do not have a high school diploma and prior year participation or as approved by State Board of Education rule.

(3) On February 1 of each school year, the State Board of Education shall recapture money not used for an adult high school completion program for reallocation to school districts that have implemented programs based on need and effort as determined by the State Board of Education.

(4) To the extent of money available, school districts shall provide program services to adults who do not have a diploma and who intend to graduate from high school, with particular emphasis on homeless individuals who are seeking literacy and life skills.

(5) Overruns in adult education in any school district may not reduce the value of the weighted pupil unit for this program in another school district.

(6) School districts shall spend money on adult basic skills programs according to standards established by the State Board of Education.

Section 28. Section 53F-2-402, which is renumbered from Section 53A-17a-126 is renumbered and amended to read:

[53A-17a-126]. 53F-2-402. State support of pupil transportation.

(1) Money appropriated to the State Board of Education for state-supported transportation of public school students shall be apportioned and distributed in accordance with Section [53A-17a-127] 53F-2-403, except as otherwise provided in this section or Section [53A-17a-126.5] 53F-2-412.

(2) (a) The Utah Schools for the Deaf and the Blind shall use an allocation of pupil transportation money to pay for transportation of students based on current valid contractual arrangements and best transportation options and methods as determined by the schools.

(b) All student transportation costs of the schools shall be paid from the allocation of pupil transportation money specified in statute.

(3) (a) A local school board may only claim eligible transportation costs as legally reported on the prior year's annual financial report submitted under Section [53A-3-404] 53G-4-404.

(b) The state shall contribute 85% of approved transportation costs, subject to budget constraints.

(c) If in a fiscal year the total transportation allowance for all school districts exceeds the amount appropriated for that purpose, all allowances shall be reduced pro rata to equal not more than the amount appropriated.

Section 29. Section 53F-2-403, which is renumbered from Section 53A-17a-127 is renumbered and amended to read:

[53A-17a-127]. 53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades seven through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the State Board

of Education for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the State Board of Education, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The State Board of Education shall distribute transportation money to school districts based on:

- (i) an allowance per mile for approved bus routes;
- (ii) an allowance per hour for approved bus routes; and
- (iii) a minimum allocation for each school district eligible for transportation funding.

(b) The State Board of Education shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection [53A-17a-126] 53F-2-402(3).

(c) The State Board of Education shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from school district superintendents, business officials, school district transportation supervisors, and State Board of Education employees shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) [(a) Except as provided in Subsection (6)(e), a] A local school board may provide for the transportation of students regardless of the distance from school, from [(i)] general funds of the school district [; and].

[(ii) a tax rate not to exceed .0003 per dollar of taxable value levied by the local school board.]

[(b) A local school board may use revenue from the tax described in Subsection (6)(a)(ii) to pay for transporting students and for the replacement of school buses.]

[(c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002, the state may

contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.]

[(ii) The State Board of Education's employees shall distribute the state contribution according to rules enacted by the State Board of Education.]

[(d) (i) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (6)(c) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.]

[(ii) Subsection (6)(d)(i) applies for a period of two years following the change in the certified tax rate.]

[(e) Beginning January 1, 2012, a local school board may not impose a tax in accordance with this Subsection (6).]

(7) (a) (i) If a local school board expends an amount of revenue equal to at least .0002 per dollar of taxable value of the school district's board local levy imposed under Section [53A-17a-164 for the uses described in Subsection (6)(b)] 53F-8-302 to pay for transporting students and for the replacement of school buses, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(ii) The State Board of Education's employees shall distribute the state contribution according to rules enacted by the State Board of Education.

(b) (i) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (7)(a) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(ii) Subsection (7)(b)(i) applies for a period of two years following the change in the certified tax rate.

Section 30. Section 53F-2-404, which is renumbered from Section 53A-16-101.5 is renumbered and amended to read:

[53A-16-101.5]. 53F-2-404. School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds.

(1) As used in this section:

(a) "Charter agreement" means an agreement made in accordance with Section [53A-1a-508] 53G-5-303 that authorizes the operation of a charter school.

(b) "Charter school authorizer" means the same as that term is defined in Section [53A-1a-501.3] 53G-5-102.

(c) "Charter trust land council" means a council established by a charter school governing board under this section.

(d) "Council" means a school community council or a charter trust land council.

(e) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(f) "School community council" means a council established at a district school in accordance with Section [~~53A-1a-108~~] 53G-7-1202.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school's school improvement plan or a charter school's charter agreement; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) (a) The program shall be funded each fiscal year:

(i) from the Trust Distribution Account created in Section [~~53A-16-101~~] 53F-9-201; and

(ii) in the amount of the sum of the following:

(A) the distributions from the investment of money in the permanent State School Fund deposited to the Trust Distribution Account on or about July 15 each year; and

(B) interest accrued on the Trust Distribution Account in the immediately preceding fiscal year.

(b) The program shall be funded as provided in Subsection (3)(a) up to an amount equal to 3% of the funds provided for the Minimum School Program, pursuant to [~~Title 53A, Chapter 17a, Minimum School Program Act~~] this chapter, each fiscal year.

(c) (i) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Trust Distribution Account created in Section [~~53A-16-101~~] 53F-9-201 to be used for:

(A) the administration of the School LAND Trust Program; and

(B) the performance of duties described in Section [~~53A-16-101.6~~] 53E-3-514.

(ii) Any unused balance remaining from an amount appropriated under Subsection (3)(c)(i) shall be deposited in the Trust Distribution Account for distribution to schools in the School LAND Trust Program.

(4) (a) The State Board of Education shall allocate the money referred to in Subsection (3) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (3);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (3); and

(iii) of the funds available for distribution under Subsection (3) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules specifying a formula to distribute the amount allocated under Subsection (4)(a)(ii) to charter schools.

(ii) In making rules under Subsection (4)(b)(i), the State Board of Education shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (4)(a)(iii) to each school within the school district on an equal per student basis.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (4)(a)(iii).

(5) To receive its allocation under Subsection (4):

(a) a district school shall have established a school community council in accordance with Section [~~53A-1a-108~~] 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Subsection (9); and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (5)(a) or (b).

(6) (a) A council shall create a program to use its allocation under Subsection (4) to implement a component of the school's improvement plan or charter agreement, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (6)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:

(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan; and

(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (6)(d)(ii)(A).

(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(7) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(8) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection (4)(c) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (7)(b).

(9) (a) The governing board of a charter school shall establish a council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements listed in Subsection (6).

(b) (i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (9)(b)(ii).

(d) (i) Except as provided in Subsection (9)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(ii) Subsection (9)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.

(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.

(10) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(11) If the amount of money prescribed for funding the School LAND Trust Program under this section is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding the School LAND

Trust Program in this section, up to a maximum of an amount equal to 3% of the funds provided for the Minimum School Program.

(12) The State Board of Education shall distribute the money appropriated in Subsection (11) in accordance with this section and rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 31. Section 53F-2-405, which is renumbered from Section 53A-17a-153 is renumbered and amended to read:

[53A-17a-153]. 53F-2-405. Educator salary adjustments.

(1) As used in this section, “educator” means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license issued under [~~Title 53A, Chapter 6, Educator Licensing and Professional Practices Act~~] Title 53E, Chapter 6, Education Professional Licensure; and

- (b) a position as a:
 - (i) classroom teacher;
 - (ii) speech pathologist;
 - (iii) librarian or media specialist;
 - (iv) preschool teacher;
 - (v) mentor teacher;
 - (vi) teacher specialist or teacher leader;
 - (vii) guidance counselor;
 - (viii) audiologist;
 - (ix) psychologist; or
 - (x) social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the State Board of Education for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator

position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator’s most recent evaluation.

(5) The State Board of Education may make rules as necessary to administer this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) worker’s compensation;
- (iii) social security; and
- (iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the State Board of Education, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 32. Section 53F-2-406, which is renumbered from Section 53A-17a-154 is renumbered and amended to read:

[53A-17a-154]. 53F-2-406. Appropriation for school nurses.

The State Board of Education shall distribute money appropriated for school nurses to award grants to school districts and charter schools that:

(1) provide an equal amount of matching funds; and

(2) do not supplant other money used for school nurses.

Section 33. Section 53F-2-407, which is renumbered from Section 53A-17a-155 is renumbered and amended to read:

[53A-17a-155]. 53F-2-407. Appropriation for library books and electronic resources.

(1) The State Board of Education shall distribute money appropriated for library books and electronic resources as follows:

(a) 25% shall be divided equally among all public schools; and

(b) 75% shall be divided among public schools based on each school's average daily membership as compared to the total average daily membership.

(2) A school district or charter school may not use money distributed under Subsection (1) to supplant other money used to purchase library books or electronic resources.

Section 34. Section 53F-2-408, which is renumbered from Section 53A-17a-165 is renumbered and amended to read:

[53A-17a-165]. 53F-2-408. Enhancement for Accelerated Students Program.

(1) As used in this section, "eligible low-income student" means a student who:

(a) takes an Advanced Placement test;

(b) has applied for an Advanced Placement test fee reduction; and

(c) qualifies for a free lunch or a lunch provided at reduced cost.

(2) The State Board of Education shall distribute money appropriated for the Enhancement for Accelerated Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(3) A distribution formula adopted under Subsection (2) may include an allocation of money for:

(a) Advanced Placement courses;

(b) Advanced Placement test fees of eligible low-income students;

(c) gifted and talented programs, including professional development for teachers of high ability students; and

(d) International Baccalaureate programs.

(4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for Accelerated Students Program may be allowed for International Baccalaureate programs.

(5) A school district or charter school shall use money distributed under this section to enhance the academic growth of students whose academic achievement is accelerated.

(6) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program.

(7) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

Section 35. Section 53F-2-409, which is renumbered from Section 53A-15-1707 is renumbered and amended to read:

[53A-15-1707]. 53F-2-409. Concurrent enrollment funding.

(1) The terms defined in Section 53F-10-301 apply to this section.

[4] (2) The State Board of Education shall allocate money appropriated for concurrent enrollment in accordance with this section.

[2] (3) (a) The State Board of Education shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection [2] (3)(a)(i), the State Board of Education shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection [2] (3)(a)(ii), the State Board of Education shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The State Board of Education shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to LEAs under Subsections [2] (3)(b)(i) and [2] (3)(c)(i).

(e) The State Board of Regents shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated to institutions of higher education under Subsections [2] (3)(b)(ii) and [2] (3)(c)(ii).

[3] (4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

Section 36. Section 53F-2-410, which is renumbered from Section 53A-17a-166 is renumbered and amended to read:

[53A-17a-166]. 53F-2-410. Enhancement for At-Risk Students Program.

(1) (a) Subject to the requirements of Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students for a gang prevention and intervention program designed to help students at-risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:

(a) low performance on statewide assessments described in Section [53A-1-602] 53E-4-301;

(b) poverty;

(c) mobility; and

(d) limited English proficiency.

(3) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure.

(4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

(5) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

Section 37. Section 53F-2-411, which is renumbered from Section 53A-17a-168 is renumbered and amended to read:

[53A-17a-168]. 53F-2-411. Appropriation for Title I Schools in Improvement Paraeducators Program.

(1) As used in this section:

(a) "Eligible school" means a Title I school that has not achieved adequate yearly progress, as defined in the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq. in the same subject area for two consecutive years.

(b) "Paraeducator" means a school employee who:

(i) delivers instruction under the direct supervision of a teacher; and

(ii) meets the requirements under Subsection (3).

(c) "Program" means the Title I Schools in Improvement Paraeducators Program created in this section.

(2) The program is created to provide funding for eligible schools to hire paraeducators to provide additional instructional aid in the classroom to assist students in achieving academic success and assist the school in exiting Title I school improvement status.

(3) A paraeducator who is funded under this section shall have:

(a) earned a secondary school diploma or a recognized equivalent;

(b) (i) completed at least two years with a minimum of 48 semester hours at an accredited higher education institution;

(ii) obtained an associates or higher degree from an accredited higher education institution; or

(iii) satisfied a rigorous state or local assessment about the individual's knowledge of, and ability to assist in instructing students in, reading, writing, and mathematics; and

(c) received large group-, small group-, and individual-level professional development that is intensive and focused and covers curriculum, instruction, assessment, classroom and behavior management, and teaming.

(4) The State Board of Education shall distribute money appropriated for the program to eligible schools, in accordance with rules adopted by the board.

(5) Funds appropriated under the program may not be used to supplant other money used for paraeducators at eligible schools.

Section 38. Section 53F-2-412, which is renumbered from Section 53A-17a-126.5 is renumbered and amended to read:

[53A-17a-126.5]. 53F-2-412. Grants for unsafe routes.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Transportation Advisory Committee" means the review committee for addressing school transportation needs described in Subsection [53A-17a-127] 53F-2-403(5).

(c) "Unsafe route" means a route between a student's residence and school that is:

(i) shorter than a distance described in:

(A) Subsection [53A-17a-127] 53F-2-403(1)(a) for a student enrolled in kindergarten through grade 6; or

(B) Subsection ~~[53A-17a-127]~~ 53F-2-403(1)(b) for a student enrolled in grades 7 through 12; and

(ii) due to a health or safety concern, dangerous for a student to walk.

(2) Subject to legislative appropriations for grants for unsafe routes provided under this section, the board shall:

(a) solicit proposals from school districts to receive a grant; and

(b) award grants to school districts.

(3) To receive a grant under this section, a school district shall submit a proposal to the board that:

(a) describes an unsafe route for which the school district intends to receive a grant;

(b) includes a written statement from the following describing why the route is unsafe:

(i) the school district;

(ii) local law enforcement; and

(iii) the municipality or county in which the described route is located; and

(c) includes other information as required by the board.

(4) (a) The Transportation Advisory Committee shall:

(i) evaluate a proposal submitted to the board under Subsection (3); and

(ii) make recommendations to the board regarding whether to fund the proposal.

(b) The board shall consider the recommendations of the Transportation Advisory Committee before awarding a grant described in Subsection (2)(b).

(5) In awarding a grant under this section, the board may not:

(a) contribute an amount exceeding 85% of the cost of an unsafe route funded by the grant; or

(b) award more than 15% of the appropriation under this section to a particular school district.

(6) The Transportation Advisory Committee shall:

(a) review each year an unsafe route funded by a grant; and

(b) make a recommendation to the board regarding whether the board, subject to legislative appropriations, should renew the grant.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement the grant program described in this section.

Section 39. Section 53F-2-413, which is renumbered from Section 53A-17a-141 is renumbered and amended to read:

~~[53A-17a-141]. 53F-2-413. Alternative programs.~~

(1) Since the State Board of Education has adopted a policy that requires school districts and charter schools to grant credit for proficiency through alternative programs, school districts and charter schools are encouraged to continue and expand school district and charter school cooperation with accredited institutions through performance contracts for educational services, particularly where it is beneficial to students whose progress could be better served through alternative programs.

(2) School districts and charter schools are encouraged to participate in programs that focus on increasing the number of ethnic minority and female students in the secondary schools who will go on to study mathematics, engineering, or related sciences at an institution of higher education.

Section 40. Section 53F-2-501, which is renumbered from Section 53A-15-102 is renumbered and amended to read:
Part 5. Related to Basic Program -- Grant Programs

~~[53A-15-102]. 53F-2-501. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.~~

(1) A secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may graduate at any time with the approval of:

(a) the student;

(b) the student's parent or guardian; and

(c) a local school official who is authorized by the school's principal or director to approve early graduation.

(2) The State Board of Education shall make a payment to a public high school in an amount equal to 1/2 of the scholarship awarded to each student under this section who graduates from the school at or before the conclusion of grade 11, or a proportionately lesser amount for a student who graduates after the conclusion of grade 11 but before the conclusion of grade 12.

(3) (a) The State Board of Education shall award to each student who graduates from high school at or before the conclusion of grade 11 a centennial scholarship in the amount of the greater of 30% of the previous year's value of the weighted pupil unit~~, as defined in Section 53A-1a-703,~~ or \$1,000, subject to this Subsection (3) through Subsection (6).

(b) A student who is awarded a centennial scholarship may use the scholarship for full time enrollment at:

(i) a Utah public college, university, or community college;

(ii) a technical college described in Section 53B-2a-105; or

(iii) any other institution in the state of Utah that:

(A) is accredited by an accrediting organization recognized by the State Board of Regents; and

(B) offers postsecondary courses of the student's choice.

(c) Before making a payment of a centennial scholarship, the State Board of Education shall verify that the student has registered at an institution described in Subsection (3)(b):

(i) during the fiscal year following the student's graduation from high school; or

(ii) at the end of the student's deferral period, in accordance with Subsection (4).

(d) If a student graduates after the conclusion of grade 11 but before the conclusion of grade 12, the State Board of Education shall award the student a centennial scholarship of a proportionately lesser amount than the scholarship amount described in Subsection (3)(a).

(4) (a) A student who is eligible for a centennial scholarship under Subsection (3) may make a request to the State Board of Education that the State Board of Education defer consideration of the student for the scholarship for a set period of time.

(b) A student who makes a request under Subsection (4)(a) shall state in the request the reason for which the student wishes not to be considered for the scholarship until the end of the deferral period, which may include:

(i) health reasons;

(ii) religious reasons;

(iii) military service; or

(iv) humanitarian service.

(c) If a student makes a request under Subsection (4)(a), the State Board of Education shall:

(i) (A) review the student's request; and

(B) approve or reject the student's request; and

(ii) if the State Board of Education approves the student's request, in consultation with the student, set the length of the deferral period, ensuring that the deferral period is sufficient to meet the student's needs under Subsection (4)(b).

(d) At the end of the deferral period, and upon request of the student, the State Board of Education shall:

(i) determine a student to be eligible for the scholarship if the student was eligible at the time of the student's request for deferral; and

(ii) if found eligible, make a payment to the student in an amount equal to the amount described in Subsection (4)(e).

(e) The amount of a student's deferred scholarship payment shall be determined by the

State Board of Education based on the amount of the scholarship the student would have been entitled to as described in Subsection (3) and based on the fiscal year prior to the student's request for deferral.

(5) Except as provided in Subsection (4)(b), the State Board of Education:

(a) shall make the payments authorized in Subsections (2) and (3)(a) during the fiscal year that follows the student's graduation; and

(b) may make the payments authorized in Subsection (3)(b) during the fiscal year:

(i) in which the student graduates; or

(ii) following the student's graduation.

(6) Subject to future budget constraints, the Legislature shall adjust the appropriation for the Centennial Scholarship Program based on:

(a) the anticipated increase of students awarded a centennial scholarship; and

(b) the percent increase of the prior year's weighted pupil unit value, as provided in Subsection (3).

Section 41. Section 53F-2-502, which is renumbered from Section 53A-15-105 is renumbered and amended to read:

[53A-15-105]. 53F-2-502. Dual Language Immersion Program -- Pilot.

(1) Subject to funding for the program, the State Board of Education shall establish a pilot program for school districts and schools to initially participate in the Dual Language Immersion Program.

(2) The program shall provide funds as an incentive to 15 qualifying schools for the following languages:

(a) six pilots for Chinese;

(b) six pilots for Spanish;

(c) two pilots for French; and

(d) one pilot for Navajo.

(3) Subject to funding for the program, a qualifying school shall:

(a) receive up to \$18,000 per year for up to six years;

(b) establish an instructional model that uses 50% of instruction in English and 50% of instruction in another language; and

(c) begin the instructional model described under Subsection (3)(b) in kindergarten or grade 1 and add an additional grade each year.

Section 42. Section 53F-2-503, which is renumbered from Section 53A-17a-150 is renumbered and amended to read:

[53A-17a-150]. 53F-2-503. K-3 Reading Improvement Program.

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.
- (c) "Program" means the K-3 Reading Improvement Program.
- (d) "Program money" means:
- (i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and
- (ii) money appropriated by the Legislature to the program.
- (2) The K-3 Reading Improvement Program consists of program money and is created to supplement other school resources to achieve the state's goal of having third graders reading at or above grade level.
- (3) Subject to future budget constraints, the Legislature may annually appropriate money to the K-3 Reading Improvement Program.
- (4) (a) For a school district or charter school to receive program money, a local education board shall submit a plan to the board for reading proficiency improvement that incorporates the following components:
- (i) assessment;
- (ii) intervention strategies;
- (iii) professional development for classroom teachers in kindergarten through grade three;
- (iv) reading performance standards; and
- (v) specific measurable goals that include the following:
- (A) a growth goal for each school within a school district and each charter school based upon student learning gains as measured by benchmark assessments administered pursuant to Section ~~[53A-1-606.6]~~ 53E-4-307; and
- (B) a growth goal for each school district and charter school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section ~~[53A-1-603]~~ 53E-4-302.
- (b) The board shall provide model plans that a local education board may use, or the local education board may develop the local education board's own plan.
- (c) Plans developed by a local education board shall be approved by the board.
- (d) The board shall develop uniform standards for acceptable growth goals that a local education board adopts for a school district or charter school as described in this Subsection (4).
- (5) (a) There is created within the K-3 Reading Achievement Program three funding programs:
- (i) the Base Level Program;
- (ii) the Guarantee Program; and
- (iii) the Low Income Students Program.
- (b) The board may use no more than \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.
- (6) Money appropriated to the board for the K-3 Reading Improvement Program and not used by the board for computer-assisted instructional learning and assessments as described in Subsection (5)(b), shall be allocated to the three funding programs as follows:
- (a) 8% to the Base Level Program;
- (b) 46% to the Guarantee Program; and
- (c) 46% to the Low Income Students Program.
- (7) (a) For a school district or charter school to participate in the Base Level Program, the local education board shall submit a reading proficiency improvement plan to the board as provided in Subsection (4) and must receive approval of the plan from the board.
- (b) (i) The local school board of a school district qualifying for Base Level Program funds and the governing boards of qualifying elementary charter schools combined shall receive a base amount.
- (ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:
- (A) each existing charter school's prior year fall enrollment in grades kindergarten through grade three; and
- (B) each new charter school's estimated fall enrollment in grades kindergarten through grade three.
- (8) (a) A local school board that applies for program money in excess of the Base Level Program funds shall choose to first participate in either the Guarantee Program or the Low Income Students Program.
- (b) A school district must fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.
- (c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.
- (d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the

state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the local school board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPU's and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPU's.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) A local education board shall use program money for reading proficiency improvement interventions in grades kindergarten through grade 3 that have proven to significantly increase the percentage of students reading at grade level, including:

(i) reading assessments; and

(ii) focused reading remediations that may include:

- (A) the use of reading specialists;
- (B) tutoring;
- (C) before or after school programs;
- (D) summer school programs; or
- (E) the use of reading software; or

(F) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) A local education board may use program money for portable technology devices used to administer reading assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) Each local education board shall annually submit a report to the board accounting for the expenditure of program money in accordance with its plan for reading proficiency improvement.

(b) If a local education board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) The board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each local education board to annually report progress in meeting goals stated in the school district's or charter school's plan for student reading proficiency.

(ii) If a school does not meet or exceed the school's goals, the local education board shall prepare a new plan which corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board before the local education board receives an allocation for the next year.

(15) (a) If for two consecutive school years, a school district fails to meet the school district's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section [53A-1-603] 53E-4-302, the school district shall terminate any levy imposed under Section [53A-17a-151] 53F-8-406 and may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(b) If for two consecutive school years, a charter school fails to meet the charter school's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section [53A-1-603] 53E-4-302, the charter school may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(16) The board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in reading for the past school year and the five-year trend;

(ii) the percentage of third grade students reading on grade level in the past school year and the five-year trend;

(iii) the progress of schools and school districts in meeting goals stated in a school district's or charter school's plan for student reading proficiency; and

(iv) the correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and

(b) may include recommendations on how to increase the percentage of third grade students who read on grade level.

Section 43. Section 53F-2-504, which is renumbered from Section 53A-17a-156 is renumbered and amended to read:

[53A-17a-156]. 53F-2-504. Teacher Salary Supplement Program -- Appeal process.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Certificate teacher" means a teacher who holds a National Board certification.

(c) "Eligible teacher" means a teacher who:

(i) has an assignment to teach:

(A) a secondary school level mathematics course;

(B) integrated science in grade seven or eight;

(C) chemistry;

(D) physics; or

(E) computer science;

(ii) holds the appropriate endorsement for the assigned course;

(iii) has qualifying educational background; and

(iv) (A) is a new employee; or

(B) received a satisfactory rating or above on the teacher's most recent evaluation.

(d) "National Board certification" means the same as that term is defined in Section [53A-6-103] 53E-6-102.

(e) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade seven or eight integrated science course, chemistry course, or physics course, a bachelor's degree major, master's degree, or doctoral degree in:

(A) integrated science;

(B) chemistry;

(C) physics;

(D) physical science;

(E) general science; or

(F) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)(e)(ii)(A) through (E);

(iii) for a teacher who is assigned a computer science course, a bachelor's degree major, master's degree, or doctoral degree in:

(A) computer science;

(B) computer information technology; or

(C) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)(e)(iii)(A) and (B).

(f) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.

(g) "Title I school certificate teacher" means a certificate teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the Teacher Salary Supplement Program.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) social security; and

(iv) Medicare.

(3) (a) (i) The annual salary supplement for an eligible teacher who is assigned full time to teach one or more courses listed in Subsections (1)(c)(i)(A) through (E) is \$4,100.

(ii) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)(c)(i)(A) through (E) shall receive a partial salary supplement based on the number of hours worked in a course assignment that meets the requirements of Subsections (1)(c)(ii) and (iii).

(b) The annual salary supplement for a certificate teacher is \$750.

(c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.

(ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b) and (c) may only receive the salary supplement that is greater in value.

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

- (b) determine if a teacher:
- (i) (A) is an eligible teacher; and
- (B) has a course assignment as listed in Subsections (1)(c)(i)(A) through (E);
- (ii) is a certificate teacher; or
- (iii) is a Title I school certificate teacher;
- (c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and
- (d) certify a list of eligible teachers, certificate teachers, and Title I school certificate teachers.
- (5) (a) An eligible teacher, a certificate teacher, or a Title I school certificate teacher shall apply with the board before the conclusion of a school year to receive the salary supplement authorized in this section.
- (b) An eligible teacher, a certificate teacher, or a Title I school certificate teacher may apply with the board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:
- (i) the school year as an annual award; or
- (ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.
- (6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for the salary supplement and is not certified under Subsection (4).
- (b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:
- (A) Subsection (1)(e)(i)(A);
- (B) Subsections (1)(e)(ii)(A) through (E); or
- (C) Subsections (1)(e)(iii)(A) and (B).
- (ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:
- (A) Subsection (1)(e)(i)(A);
- (B) Subsections (1)(e)(ii)(A) through (E); or
- (C) Subsections (1)(e)(iii)(A) and (B).
- (c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.
- (ii) A teacher shall provide to the board a certificate or other related documentation in order

for the board to determine if the teacher holds a current certificate.

(d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a Title I school certificate teacher on the basis that the teacher:

- (A) holds a current certificate; and
- (B) is assigned to teach at a Title I school.

(ii) A teacher shall provide to the board:

(A) information described in Subsection (6)(c)(ii); and

(B) verification that the teacher is assigned to teach at a Title I school.

(7) (a) The board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher, certificate teacher, or Title I school certificate teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher, a certificate teacher, or a Title I school certificate teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board may limit or reduce the salary supplements.

Section 44. Section 53F-2-505, which is renumbered from Section 53A-17a-159 is renumbered and amended to read:

[53A-17a-159]. 53F-2-505. Utah Science Technology and Research Initiative Centers Program.

(1) (a) The Utah Science Technology and Research Initiative (USTAR) Centers Program is created to provide a financial incentive for local education boards to adopt programs in respective charter schools and school districts that result in a more efficient use of human resources and capital facilities.

(b) The potential benefits of the program include:

(i) increased compensation for math and science teachers by providing opportunities for an expanded contract year which will enhance school

districts' and charter schools' ability to attract and retain talented and highly qualified math and science teachers;

(ii) increased capacity of school buildings by using buildings more hours of the day or more days of the year, resulting in reduced capital facilities costs;

(iii) decreased class sizes created by expanding the number of instructional opportunities in a year;

(iv) opportunities for earlier high school graduation;

(v) improved student college preparation;

(vi) increased opportunities to offer additional remedial and advanced courses in math and science;

(vii) opportunities to coordinate high school and post-secondary math and science education; and

(viii) the creation or improvement of science, technology, engineering, and math centers (STEM Centers).

(2) From money appropriated for the USTAR Centers Program, the State Board of Education shall award grants to charter schools and school districts to pay for costs related to the adoption and implementation of the program.

(3) The State Board of Education shall:

(a) solicit proposals from the State Charter School Board and local school boards for the use of grant money to facilitate the adoption and implementation of the program; and

(b) award grants on a competitive basis.

(4) The State Charter School Board shall:

(a) solicit proposals from charter school governing boards that may be interested in participating in the USTAR Centers Program;

(b) prioritize and consolidate the proposals into the equivalent of a single school district request; and

(c) submit the consolidated request to the State Board of Education.

(5) In selecting a grant recipient, the State Board of Education shall consider:

(a) the degree to which a charter school or school district's proposed adoption and implementation of an extended year for math and science teachers achieves the benefits described in Subsection (1);

(b) the unique circumstances of different urban, rural, large, small, growing, and declining charter schools and school districts; and

(c) providing pilot programs in as many different school districts and charter schools as possible.

(6) (a) Except as provided in Subsection (6)(b), a school district or charter school may only use grant money to provide full year teacher contracts, part-time teacher contract extensions, or

combinations of both, for math and science teachers.

(b) Up to 5% of the grant money may be used to fund math and science field trips, textbooks, and supplies.

(7) Participation in the USTAR Centers Program shall be:

(a) voluntary for an individual teacher; and

(b) voluntary for a charter school or school district.

Section 45. Section 53F-2-506, which is renumbered from Section 53A-17a-162 is renumbered and amended to read:

[53A-17a-162]. 53F-2-506. Beverley Taylor Sorenson Elementary Arts Learning Program.

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade six by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

(4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning

Program, and subject to Subsection (5), the State Board of Education shall, after consulting with endowed chairs and the integrated arts advocate and receiving their recommendations, administer a grant program to enable LEAs to:

(a) hire highly qualified arts specialists, art coordinators, and other positions that support arts education and arts integration;

(b) provide up to \$10,000 in one-time funds for each new school arts specialist described under Subsection (4)(a) to purchase supplies and equipment; and

(c) engage in other activities that improve the quantity and quality of integrated arts education.

(5) (a) An LEA that receives a grant under Subsection (4) shall provide matching funds of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a).

(b) An LEA may not:

(i) include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a); or

(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.

(6) An LEA that receives a grant under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.

(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the State Board of Education shall administer a grant program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:

(a) provide high quality professional development in elementary integrated arts education in accordance with the professional learning standards in Section ~~[53A-3-701]~~ 53G-11-303 to LEAs that receive a grant under Subsection (4);

(b) design and conduct research on:

(i) elementary integrated arts education and instruction;

(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(iii) effectiveness of the professional development under Subsection (7)(a); and

(c) provide the public with integrated elementary arts education resources.

(8) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the

Beverley Taylor Sorenson Elementary Arts Learning Program.

Section 46. Section 53F-2-507, which is renumbered from Section 53A-17a-167 is renumbered and amended to read:

[53A-17a-167]. 53F-2-507. Enhanced kindergarten early intervention program.

(1) The State Board of Education shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) A local education board shall use funds appropriated in this section for a school district or charter school to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age-appropriate literacy and numeracy skills;

(b) uses an evidence-based early intervention model;

(c) is targeted to at-risk students; and

(d) is delivered through additional hours or other means.

(3) A local education board may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) The State Board of Education shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the State Board of Education in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

~~[(5) In addition to an enhanced kindergarten program described in Subsection (2), the early intervention program includes a component to address early reading through the use of early interactive reading software.]~~

~~[(6) (a) Subject to legislative appropriations, the State Board of Education shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.]~~

~~[(b) By August 1 of each year, the State Board of Education shall distribute licenses for early interactive reading software described in Subsection (6)(a) to the school districts and charter schools of local education boards that apply for the licenses.]~~

~~[(c) Except as provided in Subsection (7)(e), a school district or charter school that received a license described in Subsection (6)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.]~~

~~[(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (6)(c) shall be distributed through a competitive process.]~~

~~[(7) (a) As used in this Subsection (7), "dosage" means amount of instructional time.]~~

~~[(b) A public school that receives a license described in Subsection (6)(b) shall use the license:]~~

~~[(i) for a student in kindergarten or grade 1:]~~

~~[(A) for intervention for the student if the student is reading below grade level; or]~~

~~[(B) for advancement beyond grade level for the student if the student is reading at or above grade level;]~~

~~[(ii) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level; and]~~

~~[(iii) in accordance with the technology provider's dosage recommendations.]~~

~~[(c) A public school that does not use the early interactive reading software in accordance with the technology provider's dosage recommendations for two consecutive years may not continue to receive a license.]~~

~~[(8) (a) On or before August 1 of each year, the State Board of Education shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.]~~

~~[(b) The State Board of Education shall ensure that a contract with an independent evaluator requires the independent evaluator to:]~~

~~[(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (6);]~~

~~[(ii) for the evaluation under Subsection (8)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and]~~

~~[(iii) determine the extent to which a public school uses the early interactive reading software in accordance with a technology provider's dosage recommendations under Subsection (7).]~~

~~[(e) The State Board of Education and the independent evaluator selected under Subsection (8)(a) shall report annually on the results of the evaluation to the Education Interim Committee and the governor.]~~

~~[(d) The State Board of Education may use up to 4% of the appropriation provided under Subsection (6)(a) to contract with an independent evaluator selected under Subsection (8)(a).]~~

Section 47. Section 53F-2-508, which is renumbered from Section 53A-17a-169 is renumbered and amended to read:

[53A-17a-169]. 53F-2-508. Student Leadership Skills Development Program.

(1) For purposes of this section:

(a) "Board" means the State Board of Education.

(b) "Program" means the Student Leadership Skills Development Program created in Subsection (2).

(2) There is created the Student Leadership Skills Development Program to develop student behaviors and skills that enhance a school's learning environment and are vital for success in a career, including:

(a) communication skills;

(b) teamwork skills;

(c) interpersonal skills;

(d) initiative and self-motivation;

(e) goal setting skills;

(f) problem solving skills; and

(g) creativity.

(3) (a) The board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) The board may award a grant of:

(i) up to \$10,000 per school for the first year a school participates in the program; and

(ii) up to \$20,000 per school for subsequent years a school participates in the program.

(c) (i) After awarding a grant to a school for a particular year, the board may not change the grant amount awarded to the school for that year.

(ii) The board may award a school a different amount in subsequent years.

(4) An elementary school may participate in the program established under this section in accordance with State Board of Education rules, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) In selecting elementary schools to participate in the program, the board shall:

(a) require a school in the first year the school participates in the program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the board;

(b) require a school to participate in the program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) The board shall make the following information related to the grants described in Subsection (3) publicly available on the board's website:

(a) reimbursement procedures that clearly define how a school may spend grant money and how the board will reimburse the school;

(b) the period of time a school is permitted to spend grant money;

(c) criteria for selecting a school to receive a grant; and

(d) a list of schools that receive a grant and the amount of each school's grant.

(7) A school that receives a grant described in Subsection (3) shall:

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the board after the first school year of implementation of the program:

(i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

(ii) a report on the effectiveness and impact of the school's student leadership skills development program on student behavior and academic results as measured by:

(A) a reduction in truancy;

(B) assessments of academic achievement;

(C) a reduction in incidents of student misconduct or disciplinary actions; and

(D) the achievement of school-wide goals and students' personal goals.

(8) After participating in the program for two years, a school may not receive additional grant

money in subsequent years if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection (7)(b).

(9) (a) The board shall make a report on the program to the Education Interim Committee by the committee's October 2016 meeting.

(b) The report shall include an evaluation of the program's success in enhancing a school's learning environment and improving academic achievement.

Section 48. Section 53F-2-509, which is renumbered from Section 53A-17a-170 is renumbered and amended to read:

53A-17a-170. 53F-2-509. Grants for field trips to the State Capitol.

(1) The State Board of Education may award grants to school districts and charter schools to take students on field trips to the State Capitol.

(2) Grant money may be used to pay for transportation expenses related to a field trip to the State Capitol.

(3) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants; and

(b) specifying how grant money shall be allocated among school districts and charter schools.

Section 49. Section 53F-2-510, which is renumbered from Section 53A-1-1505 is renumbered and amended to read:

53A-1-1505. 53F-2-510. Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the board under Subsection (9)(b).

(b) "Board" means the State Board of Education.

(c) "Digital readiness assessment" means an assessment provided by the board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(d) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(e) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(f) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the board and the advisory committee.

(g) “Local education agency” or “LEA” means:

- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(h) “Program” means the Digital Teaching and Learning Grant Program created and described in Subsections (8) through (13).

(i) “Utah Education and Telehealth Network” or “UETN” means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

- (i) the board;
- (ii) UETN;
- (iii) LEAs; and
- (iv) the Governor’s Education Excellence Commission.

(3) (a) The board, in consultation with the digital teaching and learning task force created in Subsection (2), shall create a funding proposal for a statewide digital teaching and learning program designed to:

(i) improve student outcomes through the use of digital teaching and learning technology; and

(ii) provide high quality professional learning for educators to improve student outcomes through the use of digital teaching and learning technology.

(b) The board shall:

(i) identify outcome based metrics to measure student achievement related to a digital teaching and learning program; and

(ii) develop minimum benchmark standards for student achievement and school level outcomes to measure successful implementation of a digital teaching and learning program.

(4) As funding allows, the board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

- (i) student and teacher devices;
- (ii) Wi-Fi and wireless compatible technology;
- (iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system’s current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the board;

(i) proposed rules that incorporate the principles of the master plan into the state’s public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(5) UETN shall:

(a) in consultation with the board, conduct an inventory of the state public education system’s current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(6) On or before December 1, 2015, the board and UETN shall present the funding proposal for a statewide digital teaching and learning program described in Subsection (3) to the Education Interim Committee and the Executive Appropriations Committee, including:

(a) the board's progress on the development of a master plan described in Subsection (4); and

(b) the progress of UETN on the inventory and study described in Subsection (5).

(7) Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an LEA, shall annually complete a digital readiness assessment.

[(4)] (8) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

[(2)] (9) The board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA plan to include measures to ensure that the LEA monitors and implements technology with best practices, including the recommended use for effectiveness;

(ii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement;

(iii) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds; and

(iv) an LEA to report on funds from expenses previous to the implementation of the LEA plan that the LEA has redirected after implementation;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the board; and

(c) in accordance with this ~~part~~ section, approve LEA plans and award grants.

[(3)] (10) (a) The board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection [(4)] (11); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection [(3)] (10)(b).

(b) The board or its designee shall provide the training described in Subsection [(3)] (10)(a)(ii).

[(4)] (11) The board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the board in rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

[(5)] (12) The board or the board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in realtime and for the LEA to use to create customized reports.

[(6)] (13) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in ~~[Title 53A, Chapter 1, Part 9, Implementing Federal or National Education Programs Act]~~ Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(14) (a) An LEA that receives a grant as part of the program shall:

(i) subject to Subsection (14)(b), complete an implementation assessment for each year that the LEA is expending grant money; and

(ii) (A) report the findings of the implementation assessment to the board; and

(B) submit to the board a plan to resolve issues raised in the implementation assessment.

(b) Each school within the LEA shall:

(i) complete an implementation assessment; and

(ii) submit a compilation report that meets the requirements described in Subsections (14)(a)(ii)(A) and (B).

(15) The board or the board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(16) The board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

(17) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall contract with an independent evaluator to:

(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;

(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and

(c) report on the information described in Subsections (17)(a) and (b) to the board.

(18) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the board, the board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (18)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (18)(b), the board shall pay the balance due to UETN from the LEA's funds received under Title 53F, Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (18)(b)(ii) or (18)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (18)(b)(ii) or (18)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 50. Section 53F-2-511, which is renumbered from Section 53A-17a-174 is renumbered and amended to read:

[53A-17a-174]. 53F-2-511. Reimbursement Program for Early Graduation From Competency-Based Education.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(c) "Eligible LEA" means an LEA that has demonstrated to the board that the LEA or, for a school district, a school within the LEA, provides and facilitates competency-based education that:

(i) is based on the core principles described in Section [53A-15-1803] 53F-5-502; and

(ii) meets other criteria established by the board in rule.

(d) "Eligible student" means an individual who:

(i) attended an eligible LEA and graduated by completing graduation requirements, as described in Section [53A-13-108] 53E-4-204, earlier than that individual's cohort completed graduation requirements because of the individual's participation in the eligible LEA's competency-based education;

(ii) no longer attends the eligible LEA; and

(iii) is not included in the LEA's average daily membership under this chapter.

(e) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(f) "Partial pupil" means if an eligible student attends less than a full year of membership, the number of days the student was in membership compared to a full membership year.

(g) "Program" means the Reimbursement Program for Early Graduation From Competency-Based Education established in this section.

(2) (a) There is established the Reimbursement Program for Early Graduation From Competency-Based Education.

(b) Subject to future budget constraints, the Legislature may annually appropriate money to the Reimbursement Program for Early Graduation From Competency-Based Education.

(3) An LEA may apply to the board to receive a reimbursement, as described in Subsection (5), for an eligible student.

(4) The board shall approve a reimbursement to an LEA after the LEA demonstrates:

(a) that the LEA is an eligible LEA; and

(b) that the individual for whom the eligible LEA requests reimbursement is an eligible student.

(5) (a) For each eligible student, the board shall only reimburse an eligible LEA:

(i) if the eligible student attended the eligible LEA for less than a full school year before the eligible student's cohort graduated, up to the value of one weighted pupil unit pro rated based on the difference between:

(A) the number of days of partial pupil in average daily membership earned by the eligible LEA while the eligible student was still in attendance; and

(B) a full pupil in average daily membership; and

(ii) the value of one weighted pupil unit for each full school year the eligible student graduated ahead of the eligible student's cohort.

(b) The board shall:

(i) use data from the prior year average daily membership to determine the number of eligible students; and

(ii) reimburse the eligible LEA in the current school year.

(6) The board shall in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to administer the provisions of this section.

Section 51. Section 53F-2-512, which is renumbered from Section 53A-17a-112.2 is renumbered and amended to read:

[53A-17a-112.2]. 53F-2-512. Appropriation for accommodation plans for students with Section 504 accommodations.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(c) "Section 504 accommodation plan" means an accommodation plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.

(2) (a) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish a reimbursement program that:

(i) distributes any money appropriated to the board for Special Education -- Section 504 Accommodations;

(ii) allows an LEA to apply for reimbursement of the costs of services that:

(A) an LEA renders to a student with a Section 504 accommodation plan; and

(B) exceed 150% of the average cost of a general education student; and

(iii) provides for a pro-rated reimbursement based on the amount of reimbursement applications received during a given fiscal year and the amount of money appropriated to the board that fiscal year.

(b) Beginning with the 2018-19 school year, the board shall allocate money appropriated to the board for Special Education -- Section 504 Accommodations in accordance with the rules described in Subsection (2)(a).

(3) On or before January 30, 2018, the board shall report to the Public Education Appropriations Subcommittee:

(a) information collected regarding the number of students who qualify for a Section 504 accommodation plan; and

(b) if available, the estimated financial impact of providing Section 504 accommodation services to the number of students described in Subsection (3)(a).

Section 52. Section 53F-2-513, which is renumbered from Section 53A-17a-173 is renumbered and amended to read:

[53A-17a-173]. 53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Cohort" means a group of students, defined by the year in which the group enters grade 1.

(c) "Eligible teacher" means a teacher who:

(i) is employed as a teacher in a high poverty school at the time the teacher is considered by the board for a salary bonus; and

(ii) achieves a median growth percentile of 70 or higher:

(A) a full school year before the school year the eligible teacher is being considered by the board for a salary bonus under this section, regardless of whether the teacher was employed the previous school year by a high poverty school or a different public school; and

(B) while teaching at any public school in the state a course for which a standards assessment is administered as described in Section [53A-1-604] 53E-4-303.

(d) "High poverty school" means a public school:

(i) in which:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; or

(ii) (A) that has previously met the criteria described in Subsection (1)(d)(i)(A) and for each school year since meeting that criteria at least 15%

of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection (1)(d)(i)(B) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch.

(e) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(f) "Median growth percentile" means a number that describes the comparative effectiveness of a teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs.

(g) "Program" means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

(h) "Student growth percentile" is a number that describes where a student ranks in comparison to the student's cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

- (i) the administration of the program;
- (ii) payment of a salary bonus; and
- (iii) application requirements.

(c) The board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

- (i) social security; and
- (ii) Medicare.

(4) (a) (i) A charter school or school district school shall annually apply to the board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is \$5,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection

(4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The board shall:

(a) determine if a teacher is an eligible teacher; and

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators.

(6) The board shall:

(a) distribute money from the program to school districts and charter schools in accordance with this section and board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by a school district or charter school to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by at least:

(i) surveying teachers who receive the salary bonus; and

(ii) examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the board conducts an evaluation described in Subsection (8)(a), the board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

(a) of the teacher's median growth percentile; and

(b) how the teacher's median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the board may limit or reduce a salary bonus.

Section 53. Section 53F-2-514, which is renumbered from Section 53A-1a-601 is renumbered and amended to read:

[53A-1a-601]. 53F-2-514. Job enhancements for mathematics, science, technology, and special education training.

(1) As used in this [part] section, "special education teacher" includes occupational therapist.

(2) The Public Education Job Enhancement Program is established to attract, train, and retain highly qualified:

(a) secondary teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology;

(b) special education teachers; and

(c) teachers in grades four through six with mathematics endorsements.

(3) The program shall provide for the following:

(a) application by a school district superintendent or the principal of a school on behalf of a qualified teacher;

(b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be given to selected public school teachers on a competitive basis:

(i) whose applications are approved; and

(ii) who teach in the state's public education system for four years in the areas identified in Subsection (2);

(c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two installments, with an initial payment of up to \$10,000 at the beginning of the term and up to \$10,000 at the conclusion of the term;

(ii) repayment of a portion of the initial payment by the teacher if the teacher fails to complete two years of the four-year teaching term in the areas identified in Subsection (2) as provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, unless waived for good cause by the State Board of Education; and

(iii) nonpayment of the second installment if the teacher fails to complete the four-year teaching term; and

(d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the providing institution to certify adequate performance in obtaining the master's degree, endorsement, or graduate education in order for the teacher to maintain the scholarship; and

(ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails to complete the authorized classes or program or to teach in the state system of public education in the areas identified in Subsection (2) for four years after obtaining the master's degree, the endorsement, or graduate education.

(4) An individual teaching in the public schools under a letter of authorization may participate in the cash award program if:

(a) the individual has taught under the letter of authorization for at least one year in the areas referred to in Subsection (2); and

(b) the application made under Subsection (3)(a) is based in large part upon the individual receiving a superior evaluation as a classroom teacher.

(5) (a) The program may provide for the expenditure of up to \$1,000,000 of available money, if at least an equal amount of matching money becomes available, to provide professional development training to superintendents, administrators, and principals in the effective use of technology in public schools.

(b) An award granted under this Subsection (5) shall be made in accordance with criteria developed and adopted by the State Board of Education and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may be expended, regardless of the matching money being available.

Section 54. Section 53F-2-515, which is renumbered from Section 53A-17a-143 is renumbered and amended to read:

[53A-17a-143]. 53F-2-515. Federal Impact Aid Program -- Offset for underestimated allocations from the Federal Impact Aid Program.

(1) In addition to the revenues received from the levy imposed by a local school board and authorized by the Legislature under Section ~~53A-17a-135~~ 53F-2-301, the Legislature shall provide an amount equal to the difference between the school district's anticipated receipts under the entitlement for the fiscal year from the Federal Impact Aid Program and the amount the school district actually received from this source for the next preceding fiscal year.

(2) If at the end of a fiscal year the sum of the receipts of a school district from a distribution from the Legislature pursuant to Subsection (1) plus the school district's allocations from the Federal Impact Aid Program for that fiscal year exceeds the amount allocated to the school district from the Federal Impact Aid Program for the next preceding fiscal year, the excess funds are carried into the next succeeding fiscal year and become in that year a part of the school district's contribution to the school district's basic program for operation and maintenance under the state minimum school finance law.

(3) During the next succeeding fiscal year described in Subsection (2), the school district's required tax rate for the basic program shall be reduced so that the yield from the reduced tax rate plus the carryover funds equal the school district's required contribution to the school district's basic program.

(4) For the school district of a local school board that is required to reduce the school district's basic tax rate under this section, the school district shall receive state minimum school program funds as

though the reduction in the tax rate had not been made.

Section 55. Section 53F-2-516, which is renumbered from Section 53A-15-104 is renumbered and amended to read:

[53A-15-104]. 53F-2-516. Critical Languages Program -- Pilot.

(1) (a) As used in this section, "critical languages" means those languages described in the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi, Hindi, and Korean.

(b) The Legislature recognizes:

(i) the importance of students acquiring skills in foreign languages in order for them to successfully compete in a global society; and

(ii) the academic, societal, and economic development benefits of the acquisition of critical languages.

(2) (a) The State Board of Education, in consultation with the Utah Education and Telehealth Network, shall develop and implement courses of study in the critical languages.

(b) A course may be taught:

(i) over the state's two-way interactive video conferencing system for video and audio, to students in the state's public education system;

(ii) through the Electronic High School;

(iii) through traditional instruction; or

(iv) by visiting guest teachers.

(3) (a) The courses authorized in Subsection (2) may use paraprofessionals in the classroom who:

(i) are fluent in the critical language being taught; and

(ii) can provide reinforcement and tutoring to students on days and at times when they are not receiving instruction under Subsection (2)(b).

(b) The State Board of Education, through the state superintendent of public instruction, shall ensure that the paraprofessionals are fluent in the critical languages.

(4) The State Board of Education shall make rules on the critical languages courses authorized under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to include:

(a) notification to school districts on the times and places of the course offerings; and

(b) instructional materials for the courses.

(5) The State Board of Education shall track and monitor the Critical Languages Program and may expand the program to include more course offerings and other critical languages, subject to student demand for the courses and available resources.

(6) (a) Subject to funding for the program, the State Board of Education shall establish a pilot program for school districts and schools to initially participate in the Critical Languages Program that provides:

(i) up to \$6,000 per language per school, for up to 60 schools, for courses offered in critical languages;

(ii) up to \$100 per student who completes a critical languages course; and

(iii) up to an additional \$400 per foreign exchange student who completes a critical languages course.

(b) If the available funding is insufficient to provide the amounts described under Subsection (6)(a), the amounts provided shall be reduced pro rata so that the total provided does not exceed the available funding.

Section 56. Section 53F-2-517, which is renumbered from Section 53A-17a-124 is renumbered and amended to read:

[53A-17a-124]. 53F-2-517. Quality Teaching Block Grant Program -- State contributions.

(1) The State Board of Education shall distribute money appropriated for the Quality Teaching Block Grant Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards, that allocates the funding in a fair and equitable manner.

(2) Local education boards shall use Quality Teaching Block Grant money to implement professional learning that meets the standards specified in Section [53A-3-704] 53G-11-303.

Section 57. Section 53F-2-518, which is renumbered from Section 53A-17a-125 is renumbered and amended to read:

[53A-17a-125]. 53F-2-518. Appropriation for retirement and social security.

(1) The employee's retirement contribution shall be 1% for employees who are under the state's contributory retirement program.

(2) The employer's contribution under the state's contributory retirement program is determined under Section 49-12-301, subject to the 1% contribution under Subsection (1).

(3) (a) The employer-employee contribution rate for employees who are under the state's noncontributory retirement program is determined under Section 49-13-301.

(b) The same contribution rate used under Subsection (3)(a) shall be used to calculate the appropriation for charter schools described under Subsection (5).

(4) (a) Money appropriated to the State Board of Education for retirement and social security money shall be allocated to school districts and charter schools based on a school district's or charter school's total weighted pupil units compared to the total weighted pupil units for all school districts and charter schools in the state.

(b) Subject to budget constraints, money needed to support retirement and social security shall be determined by taking a school district's or charter school's prior year allocation and adjusting it for:

- (i) student growth;
- (ii) the percentage increase in the value of the weighted pupil unit; and
- (iii) the effect of any change in the rates for retirement, social security, or both.

(5) A charter school governing board that makes an election of nonparticipation in the Utah State Retirement Systems in accordance with Section [53A-1a-512] 53G-5-407 and Title 49, Utah State Retirement and Insurance Benefit Act, shall use the funds described under this section for retirement to provide the charter school's own compensation, benefit, and retirement programs.

Section 58. Section 53F-2-601 is enacted to read:

Part 6. State Guarantee Funding

53F-2-601. Voted local levy state guarantee.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

- (a) the amount appropriated for the voted and board local levy program in a fiscal year; and
- (b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53F-2-602 in the same fiscal year.

(2) In addition to the revenue collected from the imposition of a levy pursuant to Section 53F-8-301, the state shall contribute an amount sufficient to guarantee \$35.55 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(3) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (2) shall apply to the portion of the board local levy authorized in Section 53F-8-302, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a local school board levies a tax rate under both programs.

(4) (a) Beginning July 1, 2015, the \$35.55 guarantee under Subsections (2) and (3) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(5) (a) The amount of state guarantee money to which a school district would otherwise be entitled

to receive under this section may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (5)(a) applies for a period of five years following any such change in the certified tax rate.

(6) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(7) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

- (i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4) in the current fiscal year; and
- (ii) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (7)(a)(i).

(b) The State Board of Education shall report action taken under this Subsection (7) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 59. Section 53F-2-602 is enacted to read:

53F-2-602. Board local levy state guarantee.

(1) In addition to the revenue a school district collects from the imposition of a levy pursuant to Section 53F-8-302, the state shall contribute an amount sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Section 53F-2-601.

(2) (a) The amount of state guarantee money to which a school district would otherwise be entitled to under this section may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (2)(a) applies for a period of five years following any changes in the certified tax rate.

Section 60. Section 53F-2-701 is enacted to read:

Part 7. Charter School Funding

53F-2-701. Definitions.

The terms defined in Section 53G-5-102 apply to this part.

Section 61. Section 53F-2-702, which is renumbered from Section 53A-1a-513 is renumbered and amended to read:

[53A-1a-513]. 53F-2-702. Funding for charter schools.

[1] As used in this section:

[(a) “Basic program” means the same as that term is defined in Section 53A-17a-103.]

[(b) “Charter school students’ average local revenues” means the amount determined as follows:]

[(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;]

[(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and]

[(iii) divide the sum calculated under Subsection (1)(b)(ii) by the number of students enrolled in charter schools on the previous October 1.]

[(c) “Charter school levy per pupil revenues” means the same as that term is defined in Section 53A-1a-513.1.]

[(d) “District local property tax revenues” means the sum of a school district’s revenue received from the following:]

[(i) a voted local levy imposed under Section 53A-17a-133;]

[(ii) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:]

[(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district’s board local levy; and]

[(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district’s board local levy;]

[(iii) a capital local levy imposed under Section 53A-16-113; and]

[(iv) a guarantee described in Section 53A-17a-133, 53A-17a-164, 53A-21-202, or 53A-21-302.]

[(e) “District per pupil local revenues” means, using data from the most recently published school district annual financial reports and state superintendent’s annual report, an amount equal to district local property tax revenues divided by the sum of:]

[(i) a school district’s average daily membership; and]

[(ii) the average daily membership of a school district’s resident students who attend charter schools.]

[(f) “Resident student” means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.]

[(g) “Statewide average debt service revenues” means the amount determined as follows, using data from the most recently published state superintendent’s annual report:]

[(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and]

[(ii) divide the sum calculated under Subsection (1)(g)(i) by statewide school district average daily membership.]

[(2)] (1) (a) Charter schools shall receive funding as described in this section, except Subsections [(3)] (2) through [(7)] (6) do not apply to charter schools described in Subsection [(2)] (1)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section [53A-1a-515] 53G-5-305.

[(3) (a) (2) Except as [provided in Subsections (3)(b) and (3)(e)] described in Section 53F-2-302, a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

[(b) For the 2015-16 school year, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:]

[(i) based on the higher of:]

[(A) October 1 enrollment in the current school year; or]

[(B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and]

[(ii) weighted as provided in Subsection (3)(c).]

[(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:]

[(i) .55 for kindergarten pupils;]

[(ii) .9 for pupils in grades 1 through 6;]

[(iii) .99 for pupils in grades 7 through 8; and]

[(iv) 1.2 for pupils in grades 9 through 12.]

[(4) (3) (a) As described in Section [53A-1a-513.1] 53F-2-703, the State Board of Education shall distribute charter school levy per pupil revenues to charter schools.

(b) [(i) Subject] As described in Section 53F-2-704, and subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection [(4)] (3)(a).

~~[(ii) Except as provided in Subsection (4)(b)(iii), the amount of money provided by the state for a charter school student shall be the sum of:]~~

~~[(A) charter school students' average local revenues minus the charter school levy per pupil revenues; and]~~

~~[(B) statewide average debt service revenues.]~~

~~[(iii) If the total of charter school levy per pupil revenues and the amount provided by the state under Subsection (4)(b)(ii) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under this Subsection (4).]~~

~~[(iv) (A) If the appropriation provided under this Subsection (4)(b) is less than the amount prescribed by Subsection (4)(b)(ii) or (4)(b)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.]~~

~~[(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(b)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.]~~

~~[(e) (i) Of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.]~~

~~[(ii) Subsection (4)(e)(i) does not apply to an online charter school.]~~

~~[(d) This Subsection (4) is effective July 1, 2017.]~~

~~[(5) (4) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.]~~

~~[(6) (5) The State Board of Education shall distribute funds for charter school students directly to the charter school.]~~

~~[(7) (6) (a) Notwithstanding Subsection [(3)] (2), a charter school is not eligible to receive state transportation funding.]~~

~~(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections [53A-2-210 and 53A-17a-127] 53F-2-403 and 53G-6-405.~~

~~(c) The governing board of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or parents.~~

~~[(8) (7) (a) (i) In accordance with Section [53A-1a-513.5] 53F-2-705, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.]~~

~~(ii) The governing board of a charter school that receives money from a grant under Section~~

~~[53A-1a-513.5] 53F-2-705 shall use the grant for expenses for planning and implementation of the charter school.~~

~~(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.~~

~~[(9) (8) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of [this part] Title 53G, Chapter 5, Charter Schools, or related provisions.]~~

~~(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.~~

Section 62. Section 53F-2-703, which is renumbered from Section 53A-1a-513.1 is renumbered and amended to read:

53A-1a-513.1. 53F-2-703. Charter school levy.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Charter School Levy Account" means the Charter School Levy Account created in Section 53A-1a-513.2 53F-9-301.

(c) "Charter school levy per district revenues" means the product of:

(i) a school district's district per pupil local revenues; and

(ii) the number of charter school students in the school district who are resident students.

(d) "Charter school levy per pupil revenues" means an amount equal to the following:

(i) charter school levy total local revenues for a given fiscal year, adjusted if necessary as described in Subsection (4); divided by

(ii) the number of students enrolled in a charter school on October 1 of the prior school year.

(e) "Charter school levy revenues" means the charter school levy revenues generated by a charter school levy rate described in Subsection (2)(b)(i).

(f) "Charter school levy total local revenues" means the sum of charter school levy per district revenues for every school district in the state for the same given fiscal year.

(g) "District per pupil local revenues" means the same as that term is defined in Section 53A-1a-513 53F-2-704.

(h) "Resident student" means the same as that term is defined in Section 53A-1a-513 53F-2-704.

(2) (a) Beginning with the taxable year beginning on January 1, 2017, the state shall annually impose a charter school levy as described in this Subsection (2).

(b) (i) For each school district, before June 22, the State Tax Commission shall certify a rate for the charter school levy described in Subsection (2)(a) to generate an amount of revenue within a school district equal to 25% of the charter school levy per district revenues excluding the amount of revenues:

(A) described in Subsection ~~53A-1a-513(1)(d)(iv)]~~ 53F-2-704(1)(c)(iv); and

(B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.

(ii) To calculate a charter school levy rate for a school district, the State Tax Commission shall use the calculation method described in Subsection 59-2-924~~(3)(e)(ii)]~~(4).

(c) The charter school levy shall be separately stated on a tax notice.

(3) (a) A county treasurer shall collect the charter school levy revenues for all school districts located within the county treasurer's county and remit the money monthly to the state treasurer.

(b) The state treasurer shall deposit the charter school levy revenues received from a county treasurer into the Charter School Levy Account.

(4) (a) For each charter school student, the board shall distribute the charter school per pupil levy revenues from the Charter School Levy Account to the student's charter school in accordance with this Subsection (4).

(b) For a given fiscal year, if the actual charter school levy total local revenues are more than the estimated charter school levy total local revenues the board shall:

(i) deduct the amount of revenue that exceeds the estimated charter school levy total local revenues from the actual charter school levy total local revenues; and

(ii) use the remaining amount to calculate the charter school per pupil levy revenues.

(c) For a given fiscal year, if the actual charter school total local revenues are less than the estimated charter school levy total local revenues, the board shall:

(i) if sufficient funds are available in the Charter School Levy Account, add an amount of funds from the Charter School Levy Account to the charter school levy total local revenues to equal the estimated charter school levy total local revenues; and

(ii) if sufficient funds are not available in the Charter School Levy Account, calculate the charter school per pupil levy revenues using the actual amount of the charter school levy total local revenues.

Section 63. Section 53F-2-704 is enacted to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-2-602, 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using

data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(3)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(3).

(d) (i) If the appropriation provided under this Subsection (2) is less than the amount prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53F-2-205, the allocation provided in Subsection (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(3), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 64. Section 53F-2-705, which is renumbered from Section 53A-1a-513.5 is renumbered and amended to read:

[53A-1a-513.5]. 53F-2-705. Grants for charter school start-up costs.

(1) (a) The State Charter School Board shall use money appropriated for charter school start-up costs to provide grants to charter schools to pay for expenses for the planning and implementation of a charter school.

(b) The State Charter School Board:

(i) may use up to 8% of the money appropriated for charter school start-up costs for financial monitoring of new charter schools and to provide professional development or technical assistance for governing board members and staff of new charter schools; and

(ii) in accordance with rules adopted by the State Board of Education, may use up to \$200,000 of the money appropriated for charter school start-up costs for a mentoring program for new and existing charter schools.

(2) The amount of a grant for charter school start-up costs shall be based on the authorized enrollment of the charter school.

(3) The State Board of Education shall make rules consistent with this section specifying:

(a) procedures for applying for and awarding grants for charter school start-up costs;

(b) permitted uses of grant money; and

(c) requirements for a charter school to submit the following to the State Charter School Board:

(i) a budget for the grant money; and

(ii) a final report on the expenditure of the grant money.

(4) The State Board of Education shall make rules establishing a mentoring program for new and existing charter schools.

Section 65. Section 53F-3-101 is enacted to read:

CHAPTER 3. STATE FUNDING -- CAPITAL OUTLAY PROGRAMS

Part 1. General Provisions

53F-3-101. Title.

This chapter is known as "State Funding -- Capital Outlay Programs."

Section 66. Section 53F-3-102, which is renumbered from Section 53A-21-101.5 is renumbered and amended to read:

[53A-21-101.5]. 53F-3-102. Definitions.

As used in this chapter:

(1) "ADM" or "pupil in average daily membership" is as defined in Section [53A-17a-103] 53F-2-102.

(2) "Base tax effort rate" means the average of:

(a) the highest combined capital levy rate; and

(b) the average combined capital levy rate for the school districts statewide.

(3) "Combined capital levy rate" means a rate that includes the sum of the following property tax levies:

(a) (i) the capital outlay levy authorized in Section [53A-16-107] 53F-8-401;

(ii) the portion of the 10% of basic levy described in Section [53A-17a-145] 53F-8-405 that is budgeted for debt service or capital outlay;

(iii) the debt service levy authorized in Section 11-14-310; and

(iv) the voted capital outlay leeway authorized in Section ~~[53A-16-110]~~ 53F-8-402; or

(b) (i) the capital local levy authorized in Section ~~[53A-16-113]~~ 53F-8-303; and

(ii) the debt service levy authorized in Section 11-14-310.

(4) "Derived net taxable value" means the quotient of:

(a) the total property tax collections from April 1 through the following March 31 for a school district for the calendar year preceding the March 31 date; divided by

(b) the school district's total tax rate for the calendar year preceding the March 31 referenced in Subsection (4)(a).

(5) "Highest combined capital levy rate" means the highest combined capital levy rate imposed by a school district within the state for a fiscal year.

(6) "Property tax base per ADM" means the quotient of:

(a) a school district's derived net taxable value; divided by

(b) the school district's ADM.

(7) "Property tax yield per ADM" means:

(a) the product of:

(i) a school district's derived net taxable value; and

(ii) the base tax effort rate; divided by

(b) the school district's ADM.

(8) "Statewide average property tax base per ADM" means the quotient of:

(a) the sum of all school districts' derived net taxable value; divided by

(b) the sum of all school districts' ADM.

Section 67. Section 53F-3-201, which is renumbered from Section 53A-21-102 is renumbered and amended to read:

Part 2. Capital Outlay Programs

~~[53A-21-102]. 53F-3-201. Capital outlay programs -- Use of funds.~~

A school district may only use the money provided under this chapter for school district capital outlay and debt service purposes.

Section 68. Section 53F-3-202, which is renumbered from Section 53A-21-202 is renumbered and amended to read:

~~[53A-21-202]. 53F-3-202. Capital Outlay Foundation Program created -- Distribution formulas -- Allocations.~~

(1) As used in this section:

(a) "Foundation guarantee level per ADM" means a minimum revenue amount per ADM generated by the base tax effort rate, including the following:

(i) the revenue generated locally from a school district's combined capital levy rate; and

(ii) the revenue allocated to a school district by the State Board of Education in accordance with Section 53F-3-202.

(b) "Qualifying school district" means a school district with a property tax yield per ADM less than the foundation guarantee level per ADM.

(c) "Small school district" means a school district that has fewer than 1,000 pupils in average daily membership.

(2) There is created the Capital Outlay Foundation Program to provide capital outlay funding to a school district based on a district's local property tax effort and property tax yield per student compared to a foundation guarantee funding level.

~~[4]~~ (3) (a) The State Board of Education shall determine the foundation guarantee level per ADM that fully allocates the funds appropriated to the State Board of Education for distribution under this section.

(b) In determining the foundation guarantee level per ADM and a school district's allocation of funds under this ~~part~~ section, the State Board of Education shall use data from the fiscal year that is two years prior to the fiscal year the school district receives the allocation, including the:

(i) number of pupils in average daily membership;

(ii) tax rates; and

(iii) derived net taxable value.

~~[2]~~ (4) By June 1, a county treasurer shall report to the State Board of Education the actual collections of property taxes in the school districts located within the county treasurer's county for the period beginning April 1 through the following March 31 immediately preceding that June 1.

~~[3]~~ (5) If a qualifying school district imposes a combined capital levy rate that is greater than or equal to the base tax effort rate, the State Board of Education shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM; and

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM, as determined in accordance with Subsection ~~[4]~~ (3); and

(ii) the qualifying school district's property tax yield per ADM.

~~[4]~~ (6) If a qualifying school district imposes a combined capital levy rate less than the base tax effort rate, the State Board of Education shall

allocate to the qualifying school district an amount equal to the product of the following:

- (a) the qualifying school district's ADM;
- (b) an amount equal to the difference between the following:
 - (i) the foundation guarantee level per ADM; and
 - (ii) the qualifying school district's property tax yield per ADM; and
- (c) a percentage equal to:
 - (i) the qualifying school district's combined capital levy rate; divided by
 - (ii) the base tax effort rate.

~~[(5)]~~ (7) (a) The State Board of Education shall allocate:

- (i) a minimum of \$200,000 to each small school district with a property tax base per ADM less than or equal to the statewide average property tax base per ADM;
- (ii) a minimum of \$100,000 to each small school district with a property tax base per ADM that is:
 - (A) greater than the statewide average property tax base per ADM; and
 - (B) less than or equal to two times the statewide average property tax base per ADM; and
- (iii) a minimum of \$50,000 to each small school district with a property tax base per ADM that is:
 - (A) greater than two times the statewide average property tax base per ADM; and
 - (B) less than or equal to five times the statewide average property tax base per ADM.

(b) The State Board of Education shall incorporate the minimum allocations described in Subsection ~~[(5)]~~ (7)(a) in its calculation of the foundation guarantee level per ADM determined in accordance with Subsection ~~[(4)]~~ (3).

Section 69. Section 53F-3-203, which is renumbered from Section 53A-21-302 is renumbered and amended to read:

[53A-21-302]. 53F-3-203. Capital Outlay Enrollment Growth Program created -- Distribution formulas -- Allocations.

- (1) As used in this section:
 - (a) "Average annual net enrollment increase" means the quotient of:
 - (i) (A) enrollment in the prior fiscal year, based on October 1 enrollment counts; minus
 - (B) enrollment in the year four years prior, based on October 1 enrollment counts; divided by
 - (ii) three.
 - (b) "Eligible district" or "eligible school district" means a school district that:
 - (i) has an average annual net enrollment increase; and

(ii) has a property tax base per ADM in the year two years prior that is less than two times the statewide average property tax base per ADM in the year two years prior.

(2) There is created the Capital Outlay Enrollment Growth Program to provide capital outlay funding to school districts experiencing net enrollment increases.

~~[(1)]~~ (3) For fiscal years beginning on or after July 1, 2008, the State Board of Education shall annually allocate appropriated funds to eligible school districts in accordance with Subsection ~~[(2)]~~ (4).

~~[(2)]~~ (4) The State Board of Education shall allocate to an eligible school district an amount equal to the product of:

- (a) the quotient of:
 - (i) the eligible school district's average annual net enrollment increase; divided by
 - (ii) the sum of the average annual net enrollment increase in all eligible school districts; and
- (b) the total amount appropriated for the Capital Outlay Enrollment Growth Program in that fiscal year.

Section 70. Section 53F-3-204 is enacted to read:

53F-3-204. School Building Revolving Account.

The School Building Revolving Account is created as described in Section 53F-9-206, to provide short-term help to school districts to meet district needs for school building construction and renovation.

Section 71. Section 53F-4-101 is enacted to read:

CHAPTER 4. STATE FUNDING -- CONTRACTED INITIATIVES

Part 1. General Provisions

53F-4-101. Title.

This chapter is known as "State Funding -- Contracted Initiatives."

Section 72. Section 53F-4-102 is enacted to read:

53F-4-102. Definitions.

Reserved

Section 73. Section 53F-4-201, which is renumbered from Section 53A-1-606.7 is renumbered and amended to read:

Part 2. Contracts

[53A-1-606.7]. 53F-4-201. State Board of Education required to contract for a diagnostic assessment system for reading.

(1) (a) As described in Section 53E-4-307, the State Board of Education shall approve a benchmark assessment for use statewide by school districts and charter schools.

~~[(4)]~~ (b) The State Board of Education shall contract with one or more educational technology

providers, selected through a request for proposals process, for a diagnostic assessment system for reading for students in kindergarten through grade three that meets the requirements of this section.

(2) Subject to legislative appropriations, a diagnostic assessment system for reading shall be made available to school districts and charter schools that apply to use a diagnostic assessment for reading beginning in the 2011-12 school year.

(3) A diagnostic assessment system for reading for students in kindergarten through grade three shall:

(a) be in a digital format;

(b) include benchmark assessments of reading proficiency to be administered at the beginning, in the middle, and at the end of kindergarten, grade one, grade two, and grade three;

(c) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

(d) align with the language arts core standards for Utah public schools adopted by the State Board of Education; and

(e) include a data analysis component hosted by the provider that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) may have the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

Section 74. Section 53F-4-202, which is renumbered from Section 53A-1-613 is renumbered and amended to read:

[53A-1-613]. 53F-4-202. College readiness diagnostic tool.

(1) The board shall contract with a provider, selected through a request for proposals process, to provide an online college readiness diagnostic tool that is aligned with the college readiness assessment [that is most commonly submitted to local universities] described in Section 53E-4-305.

(2) An online test preparation program described in Subsection (1):

(a) (i) shall allow a student to independently access online materials and learn at the student's own pace; and

(ii) may be used to provide classroom and teacher-assisted instruction;

(b) shall provide online study materials, diagnostic exams, drills, and practice tests in an approach that is engaging to high school students;

(c) shall enable electronic reporting of student progress to administrators, teachers, parents, and other facilitators;

(d) shall record a student's progress in an online dashboard that provides diagnostic assessment of the content areas tested and identifies mastery of corresponding skill sets; and

(e) shall provide training and professional development to personnel in school districts and charter schools on how to utilize the online test preparation program and provide teacher-assisted instruction to students.

(3) The board, school districts, and charter schools shall make the online test preparation program available to a student:

(a) beginning in the 2013-14 school year; and

(b) for at least one full year.

Section 75. Section 53F-4-203 is enacted to read:

53F-4-203. Early intervention interactive reading software -- Independent evaluator.

(1) In addition to an enhanced kindergarten program described in Section 53F-2-507, the early intervention program includes a component to address early reading through the use of early interactive reading software.

(2) (a) Subject to legislative appropriations, the State Board of Education shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) By August 1 of each year, the State Board of Education shall distribute licenses for early interactive reading software described in Subsection (2)(a) to the school districts and charter schools of local education boards that apply for the licenses.

(c) Except as provided in Subsection (3)(c), a school district or charter school that received a license described in Subsection (2)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (2)(c) shall be distributed through a competitive process.

(3) (a) As used in this Subsection (3), "dosage" means amount of instructional time.

(b) A public school that receives a license described in Subsection (2)(b) shall use the license:

(i) for a student in kindergarten or grade 1:

(A) for intervention for the student if the student is reading below grade level; or

(B) for advancement beyond grade level for the student if the student is reading at or above grade level;

(ii) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level; and

(iii) in accordance with the technology provider's dosage recommendations.

(c) A public school that does not use the early interactive reading software in accordance with the technology provider's dosage recommendations for two consecutive years may not continue to receive a license.

(4) (a) On or before August 1 of each year, the State Board of Education shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The State Board of Education shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (2);

(ii) for the evaluation under Subsection (4)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software in accordance with a technology provider's dosage recommendations under Subsection (3).

(c) The State Board of Education and the independent evaluator selected under Subsection (4)(a) shall report annually on the results of the evaluation to the Education Interim Committee and the governor.

(d) The State Board of Education may use up to 4% of the appropriation provided under Subsection (2)(a) to contract with an independent evaluator selected under Subsection (4)(a).

Section 76. Section 53F-4-204, which is renumbered from Section 53A-1-415 is renumbered and amended to read:

[53A-1-415]. 53F-4-204. Student intervention early warning pilot program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Digital program" means a program that provides information for student early intervention as described in this section.

(c) "Local education agency" or "LEA" means:

(i) a district school;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Online data reporting tool" means a system described in Section ~~[53A-1-605]~~ 53E-4-311.

(2) (a) The board shall, subject to legislative appropriations:

(i) enhance the online data reporting tool and provide additional formative actionable data on student outcomes subject to Subsection (2)(c); and

(ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

(b) The contract described in Subsection (2)(a)(ii) shall be for a two-year pilot program.

(c) Information collected or used by the board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student's results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section ~~[53A-1-604]~~ 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student's:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student's:

(i) gender;

(ii) special needs, including primary exceptionality;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

(vii) response to tiered intervention;

(viii) response to tiered-intervention enrollment date;

(ix) absence rate;

(x) feeder school;

(xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;

(xii) course failures; and

(xiii) other criteria, as determined by the board; and

(f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.

(4) Subject to legislative appropriations, the online data reporting tool and digital program shall:

(a) integrate criteria for early warning indicators, including the following criteria:

(i) discipline;

(ii) attendance;

(iii) behavior;

(iv) course failures; and

(v) other criteria as determined by a local school board or charter school governing board; and

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b).

(5) Subject to legislative appropriations, the online data reporting tool and the digital program shall:

(a) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;

(b) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents or guardians;

(c) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;

(d) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;

(e) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;

(f) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(g) have the ability to generate student parent or guardian communication to alert the parent or guardian of academic plans or interventions; and

(h) configure alerts based upon student academic results, including a student's performance on the

previous year standards assessment described in Section ~~[53A-1-604]~~ 53E-4-303.

(6) (a) The board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA that receives access to a digital program shall pay for 50% of the cost of the digital program.

(c) An LEA that receives access to a digital program shall no later than one school year after accessing a digital program report to the board in a format required by the board on the effectiveness of the digital program, positive and negative attributes of the digital program, recommendations for improving the online data reporting tool, and any other information regarding a digital program requested by the board.

(d) The board shall consider recommendations from an LEA for changes to the online data reporting tool.

(7) Information described in this section shall be used in accordance with and provided subject to:

~~[(a) Chapter 1, Part 14, Student Data Protection Act;]~~

~~[(b) Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act; and]~~

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

~~[(e)] (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.~~

Section 77. Section 53F-4-205, which is renumbered from Section 53A-15-2003 is renumbered and amended to read:

~~[53A-15-2003]. 53F-4-205. Kindergarten supplemental enrichment program.~~

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Eligible school" means a charter or school district school in which:

(i) at least 10% of the students experience intergenerational poverty; or

(ii) 50% of students were eligible to receive free or reduced lunch in the previous school year.

(c) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(d) "Kindergarten supplemental enrichment program" means a program to improve the academic competency of kindergarten students that:

(i) meets the criteria described in Subsection (4);

(ii) receives funding from a grant program described in Subsection (3); and

(iii) is administered by an eligible school.

~~[(4)] (2) (a) In accordance with this section, the board shall distribute funds appropriated under~~

this section to support kindergarten supplemental enrichment programs, giving priority first to awarding funds to an eligible school with at least 10% of the students experiencing intergenerational poverty and second priority to an eligible school in which 50% of students were eligible to receive free or reduced lunch in the previous school year.

(b) The board shall develop kindergarten entry and exit assessments for use by a kindergarten supplemental enrichment program.

~~[(2)]~~ ~~(3)~~ (a) The board shall administer a qualifying grant program as described in this Subsection ~~[(2)]~~ (3) to distribute funds described in Subsection ~~[(4)]~~ ~~(2)~~(a) to an eligible school:

(i) that applies for a grant;

(ii) that offers a kindergarten supplemental enrichment program that meets the requirements described in Subsection ~~[(3)]~~ (4);

(iii) that has an overall need for a kindergarten supplemental enrichment program, based on the results of the eligible school's kindergarten entry and exit assessments described in Subsection ~~[(3)]~~ (4)(b)(ii);

(iv) if the eligible school has previously established a kindergarten supplemental enrichment program under this section, that shows success of the eligible school's kindergarten supplemental enrichment program, based on the results of the eligible school's kindergarten entry and exit assessments described in Subsection ~~[(3)]~~ (4)(b)(ii); and

(v) that proposes a kindergarten supplemental enrichment program that addresses the particular needs of students at risk of experiencing intergenerational poverty.

(b) An eligible school shall include in a grant application a letter from the principal of the eligible school certifying that the eligible school's proposed kindergarten supplemental enrichment program will meet the needs of either children in intergenerational poverty or children who are eligible to receive free or reduced lunch as appropriate for the eligible school.

~~[(3)]~~ (4) An eligible school that receives a grant as described in Subsection ~~[(2)]~~ (3) shall:

(a) use the grant money to offer a kindergarten supplemental enrichment program to:

(i) target kindergarten students at risk for not meeting grade 3 core standards for Utah public schools, established by the board under Section ~~[53A-1-402.6]~~ 53E-4-202, by the end of each student's grade 3 year;

(ii) use an evidence-based early intervention model;

(iii) focus on academically improving age-appropriate literacy and numeracy skills;

(iv) emphasize the use of live instruction;

(v) administer the kindergarten entry and exit assessments described in Subsection ~~[(4)(e)]~~ (2)(b); and

(vi) deliver the kindergarten supplemental enrichment program through additional hours or other means; and

(b) report to the board annually regarding:

(i) how the eligible school used grant money received under Subsection ~~[(2)]~~ (3);

(ii) the results of the eligible school's kindergarten entry and exit assessments for the prior year;

(iii) with assistance from board employees, the number of students served, including the number of students who are eligible for free or reduced lunch; and

(iv) with assistance from board employees, student performance outcomes achieved by the eligible school's kindergarten supplemental enrichment program, disaggregated by economic and ethnic subgroups.

~~[(4)]~~ (5) An eligible school that receives a grant as described in Subsection ~~[(2)]~~ (3) may not receive funds appropriated under Section ~~[53A-17a-167]~~ 53F-2-507.

~~[(5)]~~ (6) A parent or legal guardian may decline participation of the parent or legal guardian's kindergarten student in an eligible school's kindergarten supplemental enrichment program.

~~[(6)]~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to establish reporting procedures and administer this section.

Section 78. Section 53F-4-206, which is renumbered from Section 53A-1a-110 is renumbered and amended to read:

[53A-1a-110]. 53F-4-206. Computer program for students with autism and other special needs.

(1) As used in this section, "board" means the State Board of Education.

(2) To improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2, the board shall contract with a provider, selected through a request for proposals process, to provide computer software programs and activity manuals.

(3) In evaluating proposals submitted under Subsection (2), the board shall:

(a) ensure that the board's evaluation criteria weighs heavily the proposer's ability and experience to provide computer software programs and activity manuals to improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2;

(b) consider, in evaluating the proposer's ability and experience, any quantitative and evaluative results from field testing, state tests, and other standardized achievement tests;

(c) ensure that the board's evaluation criteria weighs heavily the proposer's ability to:

(i) collect data from each computer using the computer software, regardless of where the computer is located;

(ii) provide students access to the proposer's program from any computer with internet access;

(iii) enable reporting of student progress to administrators, teachers, parents, and other facilitators; and

(iv) record a student's progress in the computer software; and

(d) consider the extent to which the computer software program uses engaging animation to teach students.

(4) The board shall provide the computer software programs and activity manuals procured under this section to school districts and charter schools that demonstrate a commitment by the school principal and staff to implement the computer software programs and activity manuals as prescribed by the provider.

Section 79. Section 53F-4-301, which is renumbered from Section 53A-1a-703 is renumbered and amended to read:
Part 3. Carson Smith Scholarship Program

[53A-1a-703]. 53F-4-301. Definitions.

As used in this part:

(1) "Assessment team" means a team consisting of:

(a) the student's parent or guardian;

(b) the student's private school classroom teacher;

(c) special education personnel from the student's school district; and

(d) if available, special education personnel from the private school at which the student is enrolled.

(2) "Board" means the State Board of Education.

(3) "Eligible private school" means a private school that meets the requirements of Section [53A-1a-705] 53F-4-303.

(4) "Individualized Education Program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5) "Local Education Agency" or "LEA" means:

(a) a school district; or

(b) a charter school.

(6) "Preschool" means an education program for a student who:

(a) is age three, four, or five; and

(b) has not entered kindergarten.

(7) "Scholarship student" means a student who receives a scholarship under this part.

(8) "Value of the weighted pupil unit" means the amount established each year in statute that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 80. Section 53F-4-301.5, which is renumbered from Section 53A-1a-702 is renumbered and amended to read:

[53A-1a-702]. 53F-4-301.5. Findings and purpose.

The Legislature finds that:

(1) the state system of public education as established and maintained under the state constitution shall be open to all children of the state;

(2) students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;

(3) those needs may include teachers trained in special teaching methods, small class sizes, and special materials, equipment, and classroom environments;

(4) parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;

(5) the establishment of this scholarship program is justified on the basis of funding the special needs of students with disabilities as with other programs similarly funded by the state for people with disabilities;

(6) children, parents, and families are the primary beneficiaries of the scholarship program authorized in this part and any benefit to private schools, sectarian or otherwise, is purely incidental;

(7) the scholarship program authorized in this part is:

(a) enacted for the valid secular purpose of tailoring a student's education to that student's specific needs;

(b) neutral with respect to religion;

(c) provides limited assistance to citizens who are then able to direct their resources to religious and secular schools solely as a result of their genuine and independent private choices; and

(d) in accordance with the best interests of the taxpayers and citizens of the state to encourage educational opportunities; and

(8) nothing in this part shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

Section 81. Section 53F-4-302, which is renumbered from Section 53A-1a-704 is renumbered and amended to read:

[53A-1a-704]. 53F-4-302. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

- (i) an intellectual disability;
- (ii) deafness or being hard of hearing;
- (iii) a speech or language impairment;
- (iv) a visual impairment;
- (v) a serious emotional disturbance;
- (vi) an orthopedic impairment;
- (vii) autism;
- (viii) traumatic brain injury;
- (ix) other health impairment;
- (x) specific learning disabilities; or

(xi) a developmental delay, provided the student is at least three years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;

(c) the student shall be at least three years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

(4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the LEA where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.

(b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) (a) A scholarship shall remain in force for three years.

(b) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(c) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(d) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (b):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student may not participate in a dual enrollment program pursuant to Section ~~[53A-11-102.5]~~ 53G-6-702.

(9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) An LEA shall notify in writing the parents or guardians of students enrolled in the LEA who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) An LEA or school within an LEA that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the LEA's or school's website, if the LEA or school has one.

Section 82. Section 53F-4-303, which is renumbered from Section 53A-1a-705 is renumbered and amended to read:

~~[53A-1a-705].~~ 53F-4-303. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:

(I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and

(II) working capital shall be calculated by subtracting current liabilities from current assets; and

(ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including the cost of those services;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection ~~[53A-1a-704]~~ 53F-4-302(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught;

(h) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section ~~[53A-15-1503]~~ 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the board under ~~[Title 53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ Title 53E, Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(i) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Section 83. Section 53F-4-304, which is renumbered from Section 53A-1a-706 is renumbered and amended to read:

[53A-1a-706]. 53F-4-304. Scholarship payments.

(1) (a) Scholarships shall be awarded by the board subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments.

(c) Beginning with the 2013-14 school year, the Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, new scholarships may not be awarded during that school year and the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year.

(2) Full-year scholarships shall be awarded in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) (a) The scholarship amount for a student who receives a waiver under Subsection [53A-1a-704] 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a

full-year scholarship is equal to the amount specified in Subsection (3).

(5) (a) Except as provided in Subsection (5)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with board rule, the board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(6) A parent of a scholarship student shall notify the board if the student does not have continuing enrollment and attendance at an eligible private school.

(7) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, LEAs, and youth in custody to ensure that scholarship payments are not erroneously made.

(8) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (8)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney-in-fact.

Section 84. Section 53F-4-305, which is renumbered from Section 53A-1a-707 is renumbered and amended to read:

[53A-1a-707]. 53F-4-305. Board to make rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part establishing:

(1) the eligibility of students to participate in the scholarship program; and

(2) the application process for the scholarship program.

Section 85. Section 53F-4-306, which is renumbered from Section 53A-1a-708 is renumbered and amended to read:

[53A-1a-708]. 53F-4-306. Enforcement and penalties.

(1) (a) The board shall require a private school to submit a signed affidavit assuring the private school will comply with the requirements of this part.

(b) If a school fails to submit a signed affidavit within 30 days of receiving notification that the

school is an approved private school to receive the Carson Smith Scholarship, the board may:

(i) deny the private school permission to enroll scholarship students; and

(ii) interrupt disbursement of or withhold scholarship payments.

(2) The board may investigate complaints and convene administrative hearings for an alleged violation of this part.

(3) Upon a finding that this part was violated, the board may:

(a) deny a private school permission to enroll scholarship students;

(b) interrupt disbursement of or withhold scholarship payments; or

(c) issue an order for repayment of scholarship payments fraudulently obtained.

Section 86. Section 53F-4-307, which is renumbered from Section 53A-1a-709 is renumbered and amended to read:

[53A-1a-709]. 53F-4-307. Limitation on regulation of private schools.

Nothing in this part grants additional authority to any state agency or LEA to regulate private schools except as expressly set forth in this part.

Section 87. Section 53F-4-308, which is renumbered from Section 53A-1a-710 is renumbered and amended to read:

[53A-1a-710]. 53F-4-308. Review by Legislative Auditor General.

The Legislative Auditor General shall conduct a review and issue a report on the Carson Smith Scholarship Program after the conclusion of the 2006-07 school year.

Section 88. Section 53F-4-401, which is renumbered from Section 53A-1a-1001 is renumbered and amended to read:
Part 4. UPSTART

[53A-1a-1001]. 53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the State Board of Education under Section [53A-1a-1002] 53F-4-402.

(2) "Low income" means an income below 185% of the federal poverty guideline.

(3) "Preschool children" means children who are:

(a) age four or five; and

(b) have not entered kindergarten.

(4) "UPSTART" means the project established by Section [53A-1a-1002] 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 89. Section 53F-4-402, which is renumbered from Section 53A-1a-1002 is renumbered and amended to read:

[53A-1a-1002]. 53F-4-402. UPSTART program to develop school readiness skills of preschool children.

(1) UPSTART, a project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) (a) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(b) (i) The State Board of Education shall, on or before July 1, 2019, issue a request for proposals for two-year pilot proposals from one or more educational technology providers that do not have an existing contract under this part with the state for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(ii) After the two-year pilots described in Subsection (3)(b)(i), the State Board of Education may enter into a contract with one or more educational technology providers that have participated in a Utah pilot.

(c) Every five years after July 1, 2021, the State Board of Education may issue a new request for proposals described in this section.

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of low income families that cannot afford the equipment and service;

(c) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

(d) the program shall include the following components:

(i) computer-assisted, individualized instruction in reading, mathematics, and science;

(ii) a multisensory reading tutoring program; and

(iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

(e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;

(f) the contractor shall work in cooperation with school district personnel who will provide administrative and technical support of the program as provided in Section ~~53A-1a-1003~~ 53F-4-403;

(g) the contractor shall solicit families to participate in the program as provided in Section ~~53A-1a-1004~~ 53F-4-404; and

(h) in implementing the home-based educational technology program, the contractor shall seek the advise and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:

(i) soliciting families to participate in the program;

(ii) providing training to families; and

(iii) motivating families to regularly use the instructional software.

(5) (a) The contract shall provide funding for a home-based educational technology program for preschool children, subject to the appropriation of money by the Legislature for UPSTART.

(b) An appropriation for a request for proposals described in Subsection (3)(b)(i) shall be separate from an appropriation described in Subsection (5)(a).

(6) The State Board of Education shall evaluate a proposal based on:

(a) whether the home-based educational technology program meets the standards specified in Subsection (4);

(b) the results of an independent evaluation of the home-based educational technology program;

(c) the experience of the home-based educational technology program provider; and

(d) the per pupil cost of the home-based educational technology program.

Section 90. Section 53F-4-403, which is renumbered from Section 53A-1a-1003 is renumbered and amended to read:

53A-1a-1003. 53F-4-403. School district participation in UPSTART.

(1) A school district may participate in UPSTART if the local school board agrees to work in cooperation with the contractor to provide administrative and technical support for UPSTART.

(2) Family participants in UPSTART shall be solicited from school districts that participate in UPSTART.

(3) A school district that participates in UPSTART shall:

(a) receive funding for:

(i) paraprofessional and technical support staff; and

(ii) travel, materials, and meeting costs of the program;

(b) participate in program training by the contractor; and

(c) agree to adopt standardized policies and procedures in implementing UPSTART.

Section 91. Section 53F-4-404, which is renumbered from Section 53A-1a-1004 is renumbered and amended to read:

[53A-1a-1004]. 53F-4-404. Family participation in UPSTART -- Low income family verification.

(1) The contractor shall:

(a) solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts; and

(b) work with the Department of Workforce Services and the State Board of Education to solicit participation from families of children experiencing intergenerational poverty, as defined in Section 35A-9-102, to participate in UPSTART.

(2) (a) Preschool children who participate in UPSTART shall:

(i) be from families with diverse socioeconomic and ethnic backgrounds;

(ii) reside in different regions of the state in both urban and rural areas; and

(iii) be given preference to participate if the preschool child's family resides in a rural area with limited prekindergarten services.

(b) (i) If the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation, the contractor shall give priority to preschool children from low income families and preschool children who are English language learners.

(ii) At least 30% of the preschool children who participate in UPSTART shall be from low income families.

(3) A low income family that cannot afford a computer and Internet service to operate the

instructional software may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the family's participation in UPSTART.

(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the State Board of Education and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The State Board of Education and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

(5) (a) The contractor shall:

(i) determine if a family is a low income family for purposes of this part; and

(ii) use the same application form as described in Section 35A-9-401 or create an application form that requires an individual to provide and certify the information necessary for the contractor to make the determination described in Subsection (5)(a)(i).

(b) The contractor may:

(i) require an individual to submit supporting documentation; and

(ii) create a deadline for an individual to submit an application, if necessary.

Section 92. Section 53F-4-405, which is renumbered from Section 53A-1a-1005 is renumbered and amended to read:

[53A-1a-1005]. 53F-4-405. Purchase of equipment and service through cooperative purchasing contracts.

The State Board of Education or a school district may purchase computers, peripheral equipment, and Internet service for low income families who cannot afford them through cooperative purchasing contracts administered by the state Division of Purchasing and General Services.

Section 93. Section 53F-4-406, which is renumbered from Section 53A-1a-1006 is renumbered and amended to read:

[53A-1a-1006]. 53F-4-406. Audit and evaluation.

(1) The state auditor shall:

(a) conduct an annual audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an annual audit.

(2) The State Board of Education shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% may be used for the evaluation of the program.

Section 94. Section 53F-4-407, which is renumbered from Section 53A-1a-1007 is renumbered and amended to read:

53A-1a-1007. 53F-4-407. Annual report.

(1) The State Board of Education shall make a report on UPSTART to the Education Interim Committee by November 30 each year.

(2) The report shall:

(a) address the extent to which UPSTART is accomplishing the purposes for which it was established as specified in Section 53A-1a-1002 53F-4-402; and

(b) include the following information:

(i) the number of families:

(A) volunteering to participate in the program;

(B) selected to participate in the program;

(C) requesting computers; and

(D) furnished computers;

(ii) the frequency of use of the instructional software;

(iii) obstacles encountered with software usage, hardware, or providing technical assistance to families;

(iv) student performance on pre-kindergarten and post-kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and

(v) as available, the evaluation of the program conducted pursuant to Section 53A-1a-1006 53F-4-406.

Section 95. Section 53F-4-501, which is renumbered from Section 53A-15-1202 is renumbered and amended to read:

Part 5. Statewide Online Education Program

53A-15-1202. 53F-4-501. Definitions.

As used in this part:

(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(2) "Eligible student" means:

(a) a student enrolled in a district school or charter school in Utah; or

(b) beginning on July 1, 2013, a student:

(i) who attends a private school or home school; and

(ii) whose custodial parent or legal guardian is a resident of Utah.

(3) "LEA" means a local education agency in Utah that has administrative control and direction for public education.

(4) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

(5) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

~~(5)~~ (6) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

~~(6)~~ (7) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent or guardian pursuant to rules of the State Board of Education.

Section 96. Section 53F-4-502, which is renumbered from Section 53A-15-1203 is renumbered and amended to read:

53A-15-1203. 53F-4-502. Statewide Online Education Program created -- Designated as program of the public education system -- Purposes.

(1) The Statewide Online Education Program is created to enable an eligible student to earn high school graduation credit through the completion of publicly funded online courses.

(2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system.

(3) The purposes of an online school are to:

(a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;

(b) provide high quality learning options for a student regardless of language, residence, family income, or special needs;

(c) provide online learning options to allow a student to acquire the knowledge and technology skills necessary in a digital world;

(d) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(e) utilize technology to remove the constraints of traditional classroom learning, allowing a student to access learning virtually at any time and in any place and giving the student the flexibility to take advantage of the student's peak learning time;

(f) provide personalized learning, where a student can spend as little or as much time as the student needs to master the material;

(g) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(h) allow a student to customize the student's schedule to better meet the student's academic goals;

(i) provide quality learning options to better prepare a student for post-secondary education and vocational or career opportunities; and

(j) allow a student to have an individualized educational experience.

(4) The program created under this part shall be known as the "Statewide Online Education Program."

(5) The program name, "Statewide Online Education Program," shall be used in the dissemination of information on the program.

Section 97. Section 53F-4-503, which is renumbered from Section 53A-15-1204 is renumbered and amended to read:

[53A-15-1204]. 53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to the course limitations provided in Subsection (2), an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment;

(c) the online course is aligned with the student's plan for college and career readiness;

(d) the online course is consistent with the student's individual education plan (IEP), if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

(2) An eligible student may enroll in online courses for no more than the following number of credits:

(a) in the 2011-12 and 2012-13 school years, two credits;

(b) in the 2013-14 school year, three credits;

(c) in the 2014-15 school year, four credits;

(d) in the 2015-16 school year, five credits; and

(e) beginning with the 2016-17 school year, six credits.

(3) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the State Board of Education may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(4) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent or legal guardian, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section ~~[53A-1a-106]~~ 53F-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

(5) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or online course provider.

(6) The State Board of Education, including an employee of the State Board of Education, may not give preference to an online course or online course provider.

(7) (a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

Section 98. Section 53F-4-504, which is renumbered from Section 53A-15-1205 is renumbered and amended to read:

[53A-15-1205]. 53F-4-504. Authorized online course providers.

The following entities may offer online courses to eligible students through the Statewide Online Education Program:

(1) a charter school or district school created exclusively for the purpose of serving students online;

(2) an LEA program, approved by the LEA's governing board, that is created exclusively for the purpose of serving students online; and

(3) a program of an institution of higher education listed in Section 53B-2-101 that:

(a) offers secondary school level courses; and

(b) is created exclusively for the purpose of serving students online.

Section 99. Section 53F-4-505, which is renumbered from Section 53A-15-1206 is renumbered and amended to read:

[53A-15-1206]. 53F-4-505. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) \$200 for the following courses, except a concurrent enrollment course:

- (i) financial literacy;
- (ii) health;
- (iii) fitness for life; and
- (iv) computer literacy;

(b) \$200 for driver education;

(c) \$250 for a course that meets core standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;

(d) \$300 for the following courses:

(i) a course that meets core standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) \$350 for the following courses:

(i) a course that meets core standards for Utah public schools requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) \$250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) Beginning with the 2013-14 school year, the online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An online learning provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section ~~[53A-15-1206.5]~~ 53F-4-506;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section ~~[53A-15-1206.5]~~ 53F-4-506 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course before the student graduates from high school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

Section 100. Section 53F-4-506, which is renumbered from Section 53A-15-1206.5 is renumbered and amended to read:

~~[53A-15-1206.5]. 53F-4-506. Withdrawal from an online course.~~

(1) An online course provider shall establish a start date for an online course, including a start date for the second .5 credit of a 1 credit online course.

(2) Except as provided in Subsection (3), a student may withdraw from an online course:

(a) within 20 school calendar days of the start date, if the student enrolls in an online course on or before the start date established pursuant to Subsection (1); or

(b) within 20 school calendar days of enrolling in the online course, if the student enrolls in an online course after the start date established pursuant to Subsection (1).

(3) (a) A student may withdraw from a 1 credit online course within 20 school calendar days of the start date of the second .5 credit of the online course.

(b) An online course provider shall refund a payment received for the second .5 credit of an online course if a student withdraws from the online course pursuant to Subsection (3)(a).

(c) If a student withdraws from a 1 credit online course as provided in Subsection (3)(a), the online course provider shall receive payment for the student's completion of .5 credit of the 1 credit course in the same manner as an online course provider receives payment for a student's completion of a .5 credit online course as described in Subsection ~~[53A-15-1206]~~ 53F-4-505(4).

Section 101. Section 53F-4-507, which is renumbered from Section 53A-15-1207 is renumbered and amended to read:

53A-15-1207]. 53F-4-507. State Board of Education to deduct funds and make payments -- Plan for the payment of online courses taken by private and home school students.

(1) For a fiscal year that begins on or after July 1, 2018, and subject to future budget constraints, the Legislature shall adjust the appropriation for the Statewide Online Education Program based on:

(a) the anticipated increase of eligible home school and private school students enrolled in the Statewide Online Education Program; and

(b) the value of the weighted pupil unit.

(2) (a) The State Board of Education shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter ~~[17a, Minimum School Program Act]~~ 2, State Funding -- Minimum School Program, to pay for online course fees.

(b) Money shall be deducted under Subsection (2) in the amount and at the time an online course provider qualifies to receive payment for an online course as provided in Subsection ~~[53A-15-1206]~~ 53F-4-505(4).

(3) From money deducted under Subsection (2), the State Board of Education shall make payments to the student's online course provider as provided in Section ~~[53A-15-1206]~~ 53F-4-505.

(4) The Legislature shall establish a plan, which shall take effect beginning on July 1, 2013, for the payment of online courses taken by a private school or home school student.

Section 102. Section 53F-4-508, which is renumbered from Section 53A-15-1208 is renumbered and amended to read:

53A-15-1208]. 53F-4-508. Course credit acknowledgment.

(1) A student's primary LEA of enrollment and the student's online course provider shall enter into a course credit acknowledgment in which the primary LEA of enrollment and the online course

provider acknowledge that the online course provider is responsible for the instruction of the student in a specified online course.

(2) The terms of the course credit acknowledgment shall provide that:

(a) the online course provider shall receive a payment in the amount provided under Section ~~[53A-15-1206]~~ 53F-4-505; and

(b) the student's primary LEA of enrollment acknowledges that the State Board of Education will deduct funds allocated to the LEA under Chapter ~~[17a, Minimum School Program Act]~~ 2, State Funding -- Minimum School Program, in the amount and at the time the online course provider qualifies to receive payment for the online course as provided in Subsection ~~[53A-15-1206]~~ 53F-4-505(4).

(3) (a) A course credit acknowledgment may originate with either an online course provider or primary LEA of enrollment.

(b) The originating entity shall submit the course credit acknowledgment to the State Board of Education who shall forward it to the primary LEA of enrollment for course selection verification or the online course provider for acceptance.

(c) (i) A primary LEA of enrollment may only reject a course credit acknowledgment if:

(A) the online course is not aligned with the student's plan for college and career readiness;

(B) the online course is not consistent with the student's IEP, if the student has an IEP;

(C) the online course is not consistent with the student's international baccalaureate program, if the student participates in an international baccalaureate program; or

(D) the number of online course credits exceeds the maximum allowed for the year as provided in Section ~~[53A-15-1204]~~ 53F-4-503.

(ii) Verification of alignment of an online course with a student's plan for college and career readiness does not require a meeting with the student.

(d) An online course provider may only reject a course credit acknowledgment if:

(i) the student does not meet course prerequisites; or

(ii) the course is not open for enrollment.

(e) A primary LEA of enrollment or online course provider shall submit an acceptance or rejection of a course credit acknowledgment to the State Board of Education within 72 business hours of the receipt of a course credit acknowledgment from the State Board of Education pursuant to Subsection (3)(b).

(f) If an online course provider accepts a course credit acknowledgment, the online course provider shall forward to the primary LEA of enrollment the online course start date as established under Section ~~[53A-15-1206.5]~~ 53F-4-506.

(g) If an online course provider rejects a course credit acknowledgment, the online course provider shall include an explanation which the State Board of Education shall forward to the primary LEA of enrollment for the purpose of assisting a student with future online course selection.

(h) If a primary LEA of enrollment does not submit an acceptance or rejection of a course credit acknowledgment to the State Board of Education within 72 business hours of the receipt of a course credit acknowledgment from the State Board of Education pursuant to Subsection (3)(b), the State Board of Education shall consider the course credit acknowledgment accepted.

(i) (i) Upon acceptance of a course credit acknowledgment, the primary LEA of enrollment shall notify the student of the acceptance and the start date for the online course as established under Section ~~[53A-15-1206.5]~~ 53F-4-506.

(ii) Upon rejection of a course credit acknowledgment, the primary LEA of enrollment shall notify the student of the rejection and provide an explanation of the rejection.

(j) If the online course student has an individual education plan (IEP) or 504 accommodations, the primary LEA of enrollment shall forward the IEP or description of 504 accommodations to the online course provider within 72 business hours after the primary LEA of enrollment receives notice that the online course provider accepted the course credit acknowledgment.

(4) (a) A primary LEA of enrollment may not reject a course credit acknowledgment, because the LEA is negotiating, or intends to negotiate, an online course fee with the online course provider pursuant to Subsection ~~[53A-15-1206]~~ 53F-4-505(6).

(b) If a primary LEA of enrollment negotiates an online course fee with an online course provider before the start date of an online course, a course credit acknowledgment may be amended to reflect the negotiated online course fee.

Section 103. Section 53F-4-509, which is renumbered from Section 53A-15-1209 is renumbered and amended to read: [53A-15-1209]. 53F-4-509. Online course credit hours included in daily membership -- Limitation.

(1) Subject to Subsection (2), a student's primary LEA of enrollment shall include online course credit hours in calculating daily membership.

(2) A student may not count as more than one FTE, unless the student intends to complete high school graduation requirements, and exit high school, early, in accordance with the student's plan for college and career readiness.

(3) A student who enrolls in an online course may not be counted in membership for a released-time class, if counting the student in membership for a

released-time class would result in the student being counted as more than one FTE.

(4) Except as provided in Subsection (5), a student enrolled in an online course may earn no more credits in a year than the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment.

(5) A student enrolled in an online course may earn more credits in a year than the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment:

(a) if the student intends to complete high school graduation requirements, and exit high school, early, in accordance with the student's plan for college and career readiness; or

(b) if allowed under local school board or charter school governing board policy.

Section 104. Section 53F-4-510, which is renumbered from Section 53A-15-1210 is renumbered and amended to read:

~~[53A-15-1210]. 53F-4-510. Administration of statewide assessments to students enrolled in online courses.~~

(1) A student enrolled in an online course that is a course for which a statewide assessment is administered under ~~[Chapter 1, Part 6, Achievement Tests]~~ Title 53E, Chapter 4, Part 3, Assessments, shall take the statewide assessment.

(2) (a) The State Board of Education shall make rules providing for the administration of a statewide assessment to a student enrolled in an online course.

(b) Rules made under Subsection (2)(a) shall:

(i) provide for the administration of a statewide assessment upon a student completing an online course; and

(ii) require an online course provider to proctor the statewide assessment.

Section 105. Section 53F-4-511, which is renumbered from Section 53A-15-1211 is renumbered and amended to read:

~~[53A-15-1211]. 53F-4-511. Report on performance of online course providers.~~

(1) The State Board of Education, in collaboration with online course providers, shall develop a report on the performance of online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an online course provider.

(2) A report on the performance of an online course provider shall include:

(a) scores aggregated by test on statewide assessments administered under ~~[Chapter 1, Part 6, Achievement Tests]~~ Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(b) the percentage of the online course provider's students who complete online courses within the applicable time period specified in Subsection ~~[53A-15-1206]~~ 53F-4-505(4)(c);

(c) the percentage of the online course provider's students who complete online courses after the applicable time period specified in Subsection ~~[53A-15-1206]~~ 53F-4-505(4)(c) and before the student graduates from high school; and

(d) the pupil-teacher ratio for the combined online courses of the online course provider.

(3) The State Board of Education shall post a report on the performance of an online course provider on the Statewide Online Education Program's website.

Section 106. Section 53F-4-512, which is renumbered from Section 53A-15-1212 is renumbered and amended to read:

~~[53A-15-1212]. 53F-4-512. Dissemination of information on the Statewide Online Education Program.~~

(1) The State Board of Education shall develop a website for the Statewide Online Education Program which shall include:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a directory of online course providers;

(d) a link to a course catalog for each online course provider; and

(e) a report on the performance of online course providers as required by Section ~~[53A-15-1211]~~ 53F-4-511.

(2) An online course provider shall provide the following information on the online course provider's website:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a course catalog;

(d) scores aggregated by test on statewide assessments administered under ~~[Chapter 1, Part 6, Achievement Tests]~~ Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(e) the percentage of an online course provider's students who complete online courses within the applicable time period specified in Subsection ~~[53A-15-1206]~~ 53F-4-505(4)(c);

(f) the percentage of an online course provider's students who complete online courses after the applicable time period specified in Subsection

~~[53A-15-1206]~~ 53F-4-505(4)(c) and before the student graduates from high school; and

(g) the online learning provider's pupil-teacher ratio for the online courses combined.

Section 107. Section 53F-4-513, which is renumbered from Section 53A-15-1212.5 is renumbered and amended to read:

~~[53A-15-1212.5]. 53F-4-513. Time period to enroll in an online course.~~

(1) To provide an LEA and online course providers with estimates of online course enrollment, a student should enroll in an online course, or declare an intention to enroll in an online course, during the high school course registration period designated by the LEA.

(2) Notwithstanding Subsection (1) and except as provided in Subsection (3), a student may enroll in an online course at any time during a calendar year.

(3) (a) A student may alter a course schedule by dropping a traditional classroom course and adding an online course consistent with course schedule alteration procedures adopted by the student's primary LEA of enrollment or high school.

(b) A school district's or high school's deadline for dropping a traditional classroom course and adding an online course shall be the same deadline for dropping and adding a traditional classroom course.

Section 108. Section 53F-4-514, which is renumbered from Section 53A-15-1213 is renumbered and amended to read:

~~[53A-15-1213]. 53F-4-514. State Board of Education -- Rulemaking.~~

The State Board of Education shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) establish a course credit acknowledgement form and procedures for completing and submitting to the State Board of Education a course credit acknowledgement; and

(2) establish procedures for the administration of a statewide assessment to a student enrolled in an online course.

Section 109. Section 53F-4-515, which is renumbered from Section 53A-15-1214 is renumbered and amended to read:

~~[53A-15-1214]. 53F-4-515. Review by legislative auditor general.~~

The legislative auditor general shall conduct a review and issue a report on the Statewide Online Education Program after the conclusion of the 2013-14 school year.

Section 110. Section 53F-4-516, which is renumbered from Section 53A-15-1216 is renumbered and amended to read:

~~[53A-15-1216]. 53F-4-516. Report of noncompliance -- Action to ensure compliance.~~

(1) The state superintendent shall report to the State Board of Education any report of noncompliance of this part made to a member of the staff of the State Board of Education.

(2) The State Board of Education shall take appropriate action to ensure compliance with this part.

Section 111. Section 53F-4-517, which is renumbered from Section 53A-15-1217 is renumbered and amended to read:

[53A-15-1217]. 53F-4-517. Agreements for online instruction.

(1) In addition to offering online courses to students through the Statewide Online Education Program, a school district or charter school may enter into an agreement with another school district or charter school or a consortium of school districts or charter schools to provide online instruction to the school district's or charter school's students.

(2) Online instruction offered pursuant to Subsection (1) is not subject to the requirements of this part.

Section 112. Section 53F-5-101 is enacted to read:

**CHAPTER 5. STATE FUNDING --
INITIATIVE GRANT PROGRAMS**

Part 1. General Provisions

53F-5-101. Title.

This chapter is known as "State Funding -- Initiative Grant Programs."

Section 113. Section 53F-5-102 is enacted to read:

53F-5-102. Definitions.

Reserved

Section 114. Section 53F-5-201, which is renumbered from Section 53A-1-708 is renumbered and amended to read:

Part 2. Miscellaneous Grant Programs

[53A-1-708]. 53F-5-201. Grants for online delivery of statewide assessments.

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) "Core standards for Utah public schools" means the standards established by the State Board of Education as described in Section [53A-1-402.6] 53E-4-202.

(c) "Statewide assessment" means the same as that term is defined in Section [53A-1-602] 53E-4-301.

(d) "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

(e) "Uniform online summative test system" means a single system for the online delivery of summative tests required as statewide assessments that:

(i) is coordinated by the State Board of Education;

(ii) ensures the reliability and security of statewide assessments; and

(iii) is selected through collaboration between the State Board of Education and school district representatives with expertise in technology, assessment, and administration.

(2) The State Board of Education may award grants to school districts and charter schools to implement:

(a) a uniform online summative test system to enable school staff and parents of students to review statewide assessment scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student's academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management; and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests required as statewide assessments, may be used for other purposes.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money is allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with ~~[Part 14, Student Data Protection Act, and Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act]~~ Title 53E, Chapter 9, Student Privacy and Data Protection, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with the core standards for Utah public schools;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) ensuring that student identifiable data is not released to any person, except as provided by ~~[Part 14, Student Data Protection Act, Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act]~~ Title 53E, Chapter 9, Student Privacy and Data Protection, and rules of the State Board of Education adopted under the authority of those parts.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the State Board of Education in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

Section 115. Section 53F-5-202, which is renumbered from Section 53A-6-114 is renumbered and amended to read:

[53A-6-114]. 53F-5-202. National Board certification reimbursement.

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

~~[(4)]~~ (b) As used in this section:

~~[(a)]~~ (i) “Eligible educator” means an educator who:

~~[(4)]~~ (A) holds a current National Board certification; and

~~[(iii)]~~ (B) is employed as an educator by an LEA.

~~[(b)]~~ (ii) “Local education agency” or “LEA” means:

~~[(4)]~~ (A) a school district;

~~[(iii)]~~ (B) a charter school; or

~~[(iii)]~~ (C) the Utah Schools for the Deaf and the Blind.

(2) (a) Subject to legislative appropriations and Subsection (2)(b), the board shall reimburse an eligible educator for the cost to attain or renew a National Board certification.

(b) The board may only issue a reimbursement under Subsection (2)(a) for a certification attained or renewed after July 1, 2016.

(3) The board shall reimburse an eligible educator under this section on a first come, first served basis.

(4) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying procedures and timelines for reimbursing costs under Subsection (2).

Section 116. Section 53F-5-203, which is renumbered from Section 53A-15-106 is renumbered and amended to read:

[53A-15-106]. 53F-5-203. Interventions for Reading Difficulties Pilot Program.

(1) As used in this section:

(a) “Board” means the State Board of Education.

(b) “Dyslexia” means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.

(c) “Endorsement” means the same as that term is defined in Section ~~[53A-6-103]~~ 53E-6-102.

(d) “Local education agency” or “LEA” means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(e) “Multi-Tier System of Supports” or “MTSS” means a framework integrating assessment and intervention that:

(i) provides increasingly intensive interventions for students at risk for or experiencing reading difficulties, including:

(A) tier II interventions that, in addition to standard classroom reading, provide supplemental and targeted small group instruction in reading using evidence-based curricula; and

(B) tier III interventions that address the specific needs of students who are the most at risk or who have not responded to tier II interventions by providing frequent, intensive, and targeted small group instruction using evidence-based curricula; and

(ii) is developed to:

(A) maximize student achievement;

- (B) reduce behavior problems; and
- (C) increase long-term success.
- (f) “Program” means the Interventions for Reading Difficulties Pilot Program.
- (g) “Reading difficulty” means an impairment, including dyslexia, that negatively affects a student’s ability to learn to read.
- (2) There is created the Interventions for Reading Difficulties Pilot Program to provide:
 - (a) specific evidence-based literacy interventions using an MTSS for students in kindergarten through grade 5 who are at risk for or experiencing a reading difficulty, including dyslexia; and
 - (b) professional development to educators who provide the literacy interventions described in Subsection (2)(a).
- (3) (a) An LEA may submit a proposal to the board to participate in the program.
- (b) An LEA proposal described in Subsection (3)(a) shall:
 - (i) specify:
 - (A) a range of current benchmark assessment in reading scores described in Section ~~[53A-1-606.6]~~ 53E-4-307 that the LEA will use to determine whether a student is at risk for a reading difficulty; and
 - (B) other reading difficulty risk factors that the LEA will use to determine whether a student is at risk for a reading difficulty;
 - (ii) describe the LEA’s existing reading program;
 - (iii) describe the LEA’s MTSS approach; and
 - (iv) include any other information requested by the board.
- (c) The board may:
 - (i) specify the format for an LEA proposal; and
 - (ii) set a deadline for an LEA to submit a proposal.
- (4) The board shall:
 - (a) define criteria for selecting an LEA to participate in the program;
 - (b) during fiscal year 2016, select five LEAs to participate in the program:
 - (i) on a competitive basis; and
 - (ii) using criteria described in Subsection (4)(a); and
 - (c) provide each LEA, selected as described in Subsection (4)(b), up to \$30,000 per school within the LEA.
 - (5) During fiscal years 2017, 2018, and 2019, if funding allows, the board may select additional LEAs to participate in the program.
 - (6) An LEA that participates in the program:

- (a) shall, beginning with the 2016-17 school year, provide the interventions described in Subsection (7)(c) from the time the LEA is selected until the end of the 2018-19 school year; and
- (b) may provide the professional development described in Subsections (8)(a) and (b) beginning in fiscal year 2016.
- (7) An LEA that participates in the program shall:
 - (a) select at least one school in the LEA to participate in the program;
 - (b) identify students in kindergarten through grade 5 for participation in the program by:
 - (i) using current benchmark assessment in reading scores as described in Section ~~[53A-1-606.6]~~ 53E-4-307; and
 - (ii) considering other reading difficulty risk factors identified by the LEA;
 - (c) provide interventions for each student participating in the program using an MTSS implemented by an educator trained in evidence-based interventions;
 - (d) include the LEA’s proposal submitted under Subsection (3)(b) in the reading achievement plan described in Section ~~[53A-1-606.5]~~ 53E-4-306 for each school in the LEA that participates in the program; and
 - (e) report annually to the board on:
 - (i) individual student outcomes in changes in reading ability;
 - (ii) school level outcomes; and
 - (iii) any other information requested by the board.
- (8) Subject to funding for the program, an LEA may use the funds described in Subsection (4)(c) for the following purposes:
 - (a) to provide for ongoing professional development in evidence-based literacy interventions;
 - (b) to support educators in earning a reading interventionist endorsement that prepares teachers to provide a student who is at risk for or experiencing reading difficulty, including dyslexia, with reading intervention that is:
 - (i) explicit;
 - (ii) systematic; and
 - (iii) targeted to a student’s specific reading difficulty; and
 - (c) to implement the program.
- (9) The board shall contract with an independent evaluator to evaluate the program on:
 - (a) whether the program improves reading outcomes for a student who receives the interventions described in Subsection (7)(c);
 - (b) whether the program may reduce future special education costs; and

(c) any other student or school achievement outcomes requested by the board.

(10) (a) The board shall make a final report on the program to the Education Interim Committee on or before November 1, 2018.

(b) In the final report described in Subsection (10)(a), the board shall include the results of the evaluation described in Subsection (9).

Section 117. Section 53F-5-204, which is renumbered from Section 53A-15-1601 is renumbered and amended to read:

~~[53A-15-1601]. 53F-5-204. Initiative to strengthen college and career readiness.~~

(1) As used in this section:

(a) "College and career counseling" means:

(i) nurturing college and career aspirations;

(ii) assisting students in planning an academic program that connects to college and career goals;

(iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;

(iv) promoting participation in college and career assessments;

(v) providing financial aid information; and

(vi) increasing understanding about college admission processes.

(b) "LEA" or "local education agency" means a school district or charter school.

(2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students' college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.

(3) The State Board of Education shall:

(a) on or before August 1, 2015, collaborate with the State Board of Regents, and business, community, and education stakeholders to develop a certificate for school counselors that:

(i) certifies that a school counselor is highly skilled at providing college and career counseling; and

(ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as defined in rules established by the State Board of Education;

(b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment of course fees for courses required to earn the certificate developed by the State Board of Education under Subsection (3)(a); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(i) procedures for applying for and awarding grants under this section;

(ii) criteria for awarding grants; and

(iii) reporting requirements for grantees.

(4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the State Board of Education under Subsection (3)(a).

(5) The State Board of Education shall report to the Education Interim Committee on the status of the Strengthening College and Career Readiness Program on or before:

(a) November 1, 2016; and

(b) November 1, 2017.

Section 118. Section 53F-5-205, which is renumbered from Section 53A-6-802 is renumbered and amended to read:

~~[53A-6-802]. 53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math teacher training programs.~~

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section, "paraeducator" means a school employee who:

(i) delivers instruction under the direct supervision of a teacher; and

(ii) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

~~[(4)]~~ (2) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

~~[(2)]~~ (3) The State Board of Education shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree program to become a licensed teacher.

~~[(3)]~~ (4) A paraeducator is eligible to receive a scholarship if:

(a) the paraeducator is employed by a school district or charter school;

(b) is admitted to, or has made an application to, an associate's degree program or bachelor's degree program that will prepare the paraeducator for teacher licensure; and

(c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.

~~[(4)]~~ (5) (a) The State Board of Education shall establish a committee to select scholarship recipients from nominations submitted by school principals.

(b) The committee shall include representatives of the State Board of Education, State Board of Regents, and the general public, excluding school district and charter school employees.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(d) The committee shall select scholarship recipients based on the following criteria:

(i) test scores, grades, or other evidence demonstrating the applicant's ability to successfully complete a teacher education program; and

(ii) the applicant's record of success as a paraeducator.

~~[(5)]~~ (6) The maximum scholarship amount is \$5,000.

~~[(6)]~~ (7) Scholarship money may only be used to pay for tuition costs:

(a) of:

(i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or

(ii) the first two years of a bachelor's degree program leading to teacher licensure; and

(b) at a higher education institution:

(i) located in Utah; and

(ii) accredited by the Northwest Commission on Colleges and Universities.

~~[(7)]~~ (8) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.

~~[(8)]~~ (9) The State Board of Education shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:

(a) scholarship application procedures;

(b) the number of, and qualifications for, committee members who select scholarship recipients; and

(c) procedures for distributing scholarship money.

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

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

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

(ii) does not have a teaching license;

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

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

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

(B) passing a mathematics content exam; or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and leadership skills to assist the teacher in becoming a teacher leader.

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

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

Section 119. Section 53F-5-206, which is renumbered from Section 53A-15-1303 is renumbered and amended to read:

[53A-15-1303]. 53F-5-206. Grant awards for elementary suicide prevention programs.

(1) To foster peer-to-peer suicide prevention, resiliency, and anti-bullying programs in elementary schools, the public education suicide prevention coordinator, described in Section ~~[53A-15-1301]~~ 53G-9-702, shall, subject to legislative appropriations, award grants to elementary schools.

(2) A grant award may not exceed \$500 per school per year.

(3) The application for a grant shall contain:

(a) a requested award amount;

(b) a budget; and

(c) a narrative plan of the peer-to-peer suicide prevention, resiliency, or anti-bullying program.

(4) When awarding a grant under this section, the public education suicide prevention coordinator shall consider:

(a) the content of a grant application; and

(b) whether an application is submitted in the manner and form prescribed.

Section 120. Section 53F-5-207, which is renumbered from Section 53A-17a-171 is renumbered and amended to read:

[53A-17a-171]. 53F-5-207.

Intergenerational Poverty Interventions

Grant Program -- Definitions -- Grant requirements -- Reporting requirements.

- (1) As used in this section:
- (a) "Board" means the State Board of Education.
- (b) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.
- (c) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.
- (d) "Local Education Agency" or "LEA" means a school district or charter school.
- (e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).
- (2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for eligible students, outside of the regular school day offerings.
- (3) Subject to future budget constraints, the board shall distribute to LEAs money appropriated for the program in accordance with this section.
- (4) The board shall:
- (a) solicit proposals from local education boards to receive money under the program; and
- (b) award grants to a local education board on behalf of an LEA based on criteria described in Subsection (5).
- (5) In awarding a grant under Subsection (4), the board shall consider:
- (a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;
- (b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and
- (c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.
- (6) To receive a grant under the program on behalf of an LEA, a local education board shall submit a proposal to the board detailing:
- (a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;
- (b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;
- (c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The board shall annually report to the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, by November 30 of each year, on:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

(b) The board shall provide the report described in Subsection (7)(a) to the Education Interim Committee upon request.

(c) An LEA that receives grant money pursuant to this section shall provide to the board information that is necessary for the board's report described in Subsection (7)(a).

Section 121. Section 53F-5-208, which is renumbered from Section 53A-3-402.11 is renumbered and amended to read:

[53A-3-402.11]. 53F-5-208. Reading Performance Improvement Scholarship Program.

(1) There is established a Reading Performance Improvement Scholarship Program to assist selected elementary teachers in obtaining a reading endorsement so that they may help improve the reading performance of students in their classes.

(2) The State Board of Education shall award scholarships of up to \$500 to each recipient under the program.

(3) The board shall give weighted consideration to scholarship applicants who:

(a) teach in grades kindergarten through three;

(b) are designated by their schools as, or are seeking the designation of, reading specialist; and

(c) teach in a rural area of the state.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall provide by rule for:

(a) the application procedure for the scholarship; and

(b) what constitutes a reading specialist at the elementary school level.

Section 122. Section 53F-5-301, which is renumbered from Section 53A-1b-202 is renumbered and amended to read:

Part 3. High Quality School Readiness Program

[53A-1b-202]. 53F-5-301. Definitions.

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Child Development Associate Credential" means a credential in early childhood education that is:
 - (a) based on a core set of competency standards; and
 - (b) nationally recognized.
- (3) "Department" means the Department of Workforce Services.
- (4) "Economically disadvantaged child" means a child who:
 - (a) is in a family that is eligible for assistance through TANF; or
 - (b) is eligible for free or reduced lunch.
- (5) "Eligible home-based technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.
- (6) "Eligible private provider" means the same as that term is defined in Section ~~[53A-1b-102]~~ 53F-6-301.
- (7) "Eligible student" means an individual who:
 - (a) will be four years of age on or before September 2 of the school year in which the individual intends to participate in a school readiness program;
 - (b) has not entered kindergarten; and
 - (c) (i) is experiencing intergenerational poverty, as determined by the department; or
 - (ii) (A) is an economically disadvantaged child; and
 - (B) is at risk for not meeting grade 3 core standards for Utah public schools, established by the State Board of Education under Section ~~[53A-1-402.6]~~ 53E-4-202, by the end of the individual's grade 3 year, as determined by an assessment.
- (8) "High quality school readiness program" means a school readiness program that:
 - (a) is provided by an LEA, eligible private provider, or eligible home-based technology provider; and
 - (b) meets the elements of a high quality school readiness program described in Section ~~[53A-1b-105]~~ 53F-6-304 as determined by the board or the department under Section ~~[53A-1b-204]~~ 53F-5-303, ~~[53A-1b-205]~~ 53F-5-304, or ~~[53A-1b-206]~~ 53F-5-305.
- (9) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.
- (10) "Intergenerational poverty scholarship" or "IGP scholarship" means a scholarship to attend a high quality school readiness program for an

eligible student who is experiencing intergenerational poverty.

- (11) "Local education agency" or "LEA" means a:
 - (a) school district; or
 - (b) charter school.
- (12) "TANF" means Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.

Section 123. Section 53F-5-302, which is renumbered from Section 53A-1b-203 is renumbered and amended to read:

~~[53A-1b-203]. 53F-5-302. Administration of programs.~~

- (1) The State Board of Education, in collaboration with the department, shall:
 - (a) administer the grant program described in Section ~~[53A-1b-204]~~ 53F-5-303 for LEAs;
 - (b) administer the grant program for eligible home-based technology providers described in Section ~~[53A-1b-205]~~ 53F-5-304; and
 - (c) oversee the evaluation described in Section ~~[53A-1b-208]~~ 53F-5-307.
- (2) The department, in collaboration with the board, shall administer:
 - (a) the grant program described in Section ~~[53A-1b-204]~~ 53F-5-303 for eligible private providers;
 - (b) the Intergenerational Poverty School Readiness Scholarship Program described in Section ~~[53A-1b-206]~~ 53F-5-305; and
 - (c) early childhood teacher training described in Section ~~[53A-1b-207]~~ 53F-5-306.

Section 124. Section 53F-5-303, which is renumbered from Section 53A-1b-204 is renumbered and amended to read:

~~[53A-1b-204]. 53F-5-303. Student Access to High Quality School Readiness Programs Grant Program -- Determination of high quality school readiness program-- Reporting requirement -- Fees.~~

- (1) There is created the Student Access to High Quality School Readiness Programs Grant Program to expand access to high quality school readiness programs for eligible students through:
 - (a) grants for LEAs administered by the board; and
 - (b) grants for eligible private providers administered by the department.
- (2) The board, in coordination with the department, shall develop a tool to determine whether a school readiness program is a high quality school readiness program.
- (3) (a) The board shall solicit proposals from LEAs to fund increases in the number of eligible students high quality school readiness programs can serve.

(b) The department shall solicit proposals from eligible private providers to fund increases in the number of eligible students high quality school readiness programs can serve.

(4) (a) Except as provided in Subsection (4)(c), a respondent shall submit a proposal that includes the information described in Subsection (4)(b):

(i) to the board, for a respondent that is an LEA; or

(ii) to the department, for a respondent that is an eligible private provider.

(b) A respondent's proposal for the grant solicitation described in Subsection (3) shall include:

(i) the respondent's existing and proposed school readiness program, including:

(A) the number of students served by the respondent's school readiness program;

(B) the respondent's policies and procedures for admitting students into the school readiness program;

(C) the estimated cost per student; and

(D) any fees the respondent charges to a parent or legal guardian for the school readiness program;

(ii) the respondent's plan to use funding sources, in addition to a grant described in this section, including:

(A) federal funding; or

(B) private grants or donations;

(iii) existing or planned partnerships between the respondent and an LEA, eligible private provider, or eligible home-based technology provider to increase access to high quality school readiness programs for eligible students;

(iv) how the respondent would use a grant to:

(A) expand the number of eligible students served by the respondent's school readiness program; and

(B) target the funding toward the highest risk students, including addressing the particular needs of children at risk of experiencing intergenerational poverty;

(v) how the respondent's school readiness program is a high quality school readiness program; and

(vi) the results of any evaluations of the respondent's school readiness program.

(c) In addition to the requirements described in Subsection (4)(b), a respondent that is an LEA shall describe in the respondent's proposal the percentage of the respondent's kindergarten through grade 12 students who are economically disadvantaged children.

(5) (a) For each LEA proposal received in response to the solicitation described in Subsection (3)(a), the board shall determine if the LEA school

readiness program is a high quality school readiness program by:

(i) applying the tool described in Subsection (2); and

(ii) conducting at least one site visit to the program.

(b) For each eligible private provider proposal received in response to the solicitation described in Subsection (3)(b), the department shall determine if the school readiness program is a high quality school readiness program by:

(i) applying the tool described in Subsection (2); and

(ii) conducting at least one site visit to the program.

(6) (a) Subject to legislative appropriations and Subsection (6)(b), the board shall award grants, on a competitive basis, to respondents that are LEAs.

(b) The board may only award a grant to an LEA if:

(i) the LEA submits a proposal that includes the information required under Subsection (4);

(ii) the board determines that the LEA's program is a high quality school readiness program as described in Subsection (5); and

(iii) the LEA agrees to the evaluation requirements described in Section ~~[53A-1b-208]~~ 53F-5-307.

(7) (a) Subject to legislative appropriations and Subsection (7)(b), the department shall award grants, on a competitive basis, to respondents that are eligible private providers.

(b) The department may only award a grant to a respondent if:

(i) the respondent submits a proposal that includes the information required under Subsection (4);

(ii) the department determines that the respondent's school readiness program is a high quality school readiness program as described in Subsection (5); and

(iii) the respondent agrees to the evaluation requirements described in Section ~~[53A-1b-208]~~ 53F-5-307.

(8) In evaluating a proposal received in response to the solicitation described in Subsection (3), the board and the department shall consider:

(a) the number and percent of students in the respondent's high quality school readiness program that are eligible students at the highest risk;

(b) geographic diversity, including whether the respondent is urban or rural;

(c) the extent to which the respondent intends to participate in a partnership with an LEA, eligible private provider, or eligible home-based technology provider; and

(d) the respondent's level of administrative support and leadership to effectively implement, monitor, and evaluate the program.

(9) (a) The board shall ensure that an LEA that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.

(b) The department shall ensure that a private provider that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.

(10) A respondent that receives a grant under this section shall:

(a) use the grant to expand access for eligible students to high quality school readiness programs by enrolling eligible students in a high quality school readiness program;

(b) report to the board annually regarding:

(i) how the respondent used the grant awarded under Subsection (6) or (7);

(ii) participation in any partnerships between an LEA, eligible private provider, or eligible home-based technology provider; and

(iii) the results of any evaluations;

(c) allow classroom or other visits by an independent evaluator selected by the board under Section ~~[53A-1b-208]~~ 53F-5-307; and

(d) for a respondent that is an LEA, notify a parent or legal guardian who expresses interest in enrolling the parent or legal guardian's child in the LEA's high quality school readiness program of each state-funded high quality school readiness program operating within the LEA's geographic boundaries.

(11) An LEA that receives a grant under this section may charge a student fee to participate in an LEA's school readiness program if:

(a) the LEA's local school board or charter school governing board approves the fee;

(b) the fee for a student does not exceed the actual cost of providing the high quality school readiness program to the student; and

(c) the fee structure for the program is designed on a sliding scale, based on household income.

(12) (a) The board shall establish interventions for a grantee that is an LEA that fails to comply with the requirements described in this section.

(b) The department shall establish interventions for a grantee that is an eligible private provider that fails to comply with the requirements described in this section.

(c) An intervention under this Subsection (12) may include discontinuing or reducing funding.

(13) Subject to legislative appropriations, the board and the department shall give first priority in awarding grants to a respondent that has

previously received a grant under this section if the respondent:

(a) makes the annual report described in Subsection (9)(b);

(b) participates in the annual evaluation described in Section ~~[53A-1b-208]~~ 53F-5-307; and

(c) continues to offer a high quality school readiness program as determined during an annual site visit by:

(i) the board, for an LEA; or

(ii) the department, for an eligible private provider.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the board shall make rules to:

(i) implement the tool described in Subsection (2); and

(ii) administer the grant program for LEAs described in this section; and

(b) the department shall make rules to administer the grant program for eligible private providers described in this section.

Section 125. Section 53F-5-304, which is renumbered from Section 53A-1b-205 is renumbered and amended to read:

~~[53A-1b-205]. 53F-5-304. Home-based technology high quality school readiness program.~~

(1) (a) The board shall offer a home-based technology high quality school readiness program to eligible students by awarding contracts to one or more home-based technology providers, as described in this section.

(b) The board shall solicit proposals from eligible home-based technology providers to provide high quality school readiness programs for eligible students to participate in:

(i) at home;

(ii) as part of a school readiness program offered by an LEA or private provider; or

(iii) in any other setting where Internet access is available, such as a library.

(c) The home-based technology high quality school readiness program described in this section is established in the public education system.

(2) An eligible home-based technology provider that responds to the solicitation described in Subsection (1) shall submit a proposal describing:

(a) how the home-based technology provider's school readiness program meets the elements of a high quality school readiness program described in Subsection ~~[53A-1b-195]~~ 53F-6-304(2);

(b) how the home-based technology provider intends to target the home-based technology provider's school readiness program to eligible

students who are at the highest risk, as determined by the board;

- (c) the cost of the program per student;
 - (d) the cost of a statewide license;
 - (e) existing or planned partnerships between the home-based technology provider and an LEA or eligible private provider; and
 - (f) the results of all evaluations of the home-based technology provider's school readiness program.
- (3) For each proposal received under Subsection (2), the board shall:
- (a) determine if the program is a high quality school readiness program using the tool described in Subsection ~~[53A-1b-204]~~ 53F-5-303(2); and
 - (b) receive a demonstration of the home-based technology.
- (4) (a) Subject to legislative appropriations, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall award contracts to one or more home-based technology providers to provide home-based school readiness programs.
- (b) The board may only award a contract to a home-based technology provider if the home-based technology provider:
- (i) submits a proposal that includes the information described in Subsection (2);
 - (ii) offers a high quality school readiness program; and
 - (iii) agrees to the evaluation requirements described in Section ~~[53A-1b-208]~~ 53F-5-307.
- (5) In evaluating a proposal received under Subsection (2), the board shall consider:
- (a) the number and percent of eligible students that the respondent intends to serve;
 - (b) the extent to which the respondent intends to participate in a partnership with an LEA or eligible private provider;
 - (c) the extent to which the respondent is able to reach students who do not have access to other high quality school readiness programs; and
 - (d) the cost per student.
- (6) A home-based technology provider that receives a contract under this section:
- (a) shall use the funding to provide a high quality school readiness program to eligible students; and
 - (b) may use the funding for the installation of computer or Internet access in homes of eligible students whose families cannot afford the equipment or services.
- (7) The board shall ensure that a home-based technology provider that receives a grant under this section funded by TANF funds uses the grant to provide a home-based high quality school readiness

program to eligible students who are eligible to receive TANF funded assistance.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement this section.

Section 126. Section 53F-5-305, which is renumbered from Section 53A-1b-206 is renumbered and amended to read:

[53A-1b-206]. 53F-5-305. Intergenerational Poverty School Readiness Scholarship Program.

(1) There is created the Intergenerational Poverty School Readiness Scholarship Program to provide an eligible student experiencing intergenerational poverty access to a high quality school readiness program.

(2) The department shall, in accordance with Section 35A-9-401:

- (a) determine if an individual is eligible for an IGP scholarship; and
- (b) award an IGP scholarship.

(3) (a) (i) An LEA or home-based technology provider may apply to the board to receive a designation as a high quality school readiness program.

(ii) The board shall determine if an LEA or home-based technology provider offers a high quality school readiness program using the tool described in Subsection ~~[53A-1b-204]~~ 53F-5-303(2).

(b) (i) An eligible private provider may apply to the department to receive a designation as a high quality school readiness program.

(ii) The department shall determine if an eligible private provider offers a high quality school readiness program using the tool described in Subsection ~~[53A-1b-204]~~ 53F-5-303(2).

(4) (a) The department and the board shall coordinate to assist a parent or legal guardian of a recipient of an IGP scholarship to enroll the IGP scholarship recipient in a high quality school readiness program:

- (i) offered by an LEA, eligible private provider, or eligible home-based technology provider; and
- (ii) of the parent or legal guardian's choice.

(b) The department shall pay the scholarship amount directly to a high quality school readiness program in which an IGP scholarship recipient enrolls.

(5) (a) Except as provided in Subsection (5)(b), the department may not provide an individual's IGP scholarship to an LEA, eligible private provider, or eligible home-based technology provider unless the LEA, eligible private provider, or eligible home-based technology provider offers a high quality school readiness program, as determined by the board or the department under Subsection (3).

(b) An LEA, eligible private provider, or eligible home-based technology provider that receives a

determination as a high quality school readiness program under Section ~~[53A-1b-204]~~ 53F-5-303 or ~~[53A-1b-206]~~ 53F-5-305 may enroll an IGP scholarship recipient.

Section 127. Section 53F-5-306, which is renumbered from Section 53A-1b-207 is renumbered and amended to read:

~~[53A-1b-207]. 53F-5-306. Early childhood teacher training.~~

(1) Subject to legislative appropriations, the department shall provide training to early childhood teachers by providing:

(a) a scholarship for individuals who intend to receive a Child Development Associate Credential; and

(b) consulting services to assist individuals to complete a Child Development Associate Credential.

(2) The department shall conduct an annual needs assessment to determine the number of scholarships to award each year.

(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 128. Section 53F-5-307, which is renumbered from Section 53A-1b-208 is renumbered and amended to read:

~~[53A-1b-208]. 53F-5-307. Evaluation -- Reporting requirements.~~

(1) In accordance with this section, the board, in coordination with the department, shall oversee the ongoing review and evaluation by an independent evaluator for each school year of:

(a) the Student Access to High Quality School Readiness Programs Grant Program described in Section ~~[53A-1b-204]~~ 53F-5-303;

(b) the home-based technology high quality school readiness program described in Section ~~[53A-1b-205]~~ 53F-5-304;

(c) the Intergenerational Poverty School Readiness Scholarship Program described in Section ~~[53A-1b-206]~~ 53F-5-305; and

(d) early childhood teacher training described in Section ~~[53A-1b-207]~~ 53F-5-306.

(2) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall enter into a contract with an independent evaluator to assist the board in the evaluation process.

(b) In selecting an independent evaluator, the board shall select an evaluator that:

(i) has the capacity to meet the requirements described in Subsection (3);

(ii) has a background in designing and conducting rigorous evaluations;

(iii) has a demonstrated ability to monitor and evaluate a program over an extended period of time;

(iv) is independent from agencies or providers implementing high quality school readiness programs funded under this part; and

(v) has experience in early childhood education or early childhood education evaluation.

(c) The board may not enter into a contract with an independent evaluator without obtaining approval from the department.

(3) Under the direction of the board, with input from the department, the independent evaluator selected under Subsection (2) shall:

(a) design an evaluation methodology that:

(i) assesses the effects of a high quality school readiness program on an eligible student's:

(A) readiness for kindergarten, using a uniform assessment methodology that includes a pre- and post-test chosen in coordination with the board;

(B) ability, as determined by following the student longitudinally, to meet grade 3 core standards for Utah public schools, established by the board under Section ~~[53A-1-402.6]~~ 53E-4-202, by the end of the student's grade 3 year; and

(C) attainment of a high school diploma or other completion certificate, as determined by following the student longitudinally; and

(ii) allows for comparisons between students with similar demographic characteristics who complete a high quality school readiness program and students who do not; and

(b) conduct an annual evaluation of the programs described in Subsection (1).

(4) To assist the independent evaluator selected under Subsection (2) in completing the evaluation required under Subsection (3):

(a) an LEA that receives a grant under Section ~~[53A-1b-204]~~ 53F-5-303, or enrolls an IGP scholarship recipient under Section ~~[53A-1b-206]~~ 53F-5-305, shall assign a statewide unique student identifier to each student who participates in the LEA's school readiness program;

(b) an eligible private provider that receives a grant described in Section ~~[53A-1b-204]~~ 53F-5-303 or an eligible home-based technology provider that receives a contract described in Section ~~[53A-1b-205]~~ 53F-5-304 shall work in conjunction with the board to assign a statewide unique student identifier to each student who is enrolled in the provider's school readiness program in the student's last year before kindergarten; and

(c) an eligible private provider or eligible home-based technology provider that receives an IGP scholarship under Section ~~[53A-1b-206]~~ 53F-5-305 shall work in conjunction with the board to assign a statewide unique student identifier to each student who is funded by an IGP scholarship.

(5) The board and the department shall report annually, on or before November 1, to the Education

Interim Committee on the results of an evaluation conducted under this section.

Section 129. Section 53F-5-401, which is renumbered from Section 53A-4-302 is renumbered and amended to read:

Part 4. Partnerships for Student Success Grant Program

[53A-4-302]. 53F-5-401. Definitions.

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Eligible elementary school" or "eligible junior high school" means a district school or charter school that has at least 50% of the school's students with a family income at or below 185% of the federal poverty level.
- (3) "Eligible partnership" means a partnership that:
 - (a) includes at least:
 - (i) a local education agency that has designated an eligible school feeder pattern;
 - (ii) a local nonprofit organization;
 - (iii) a private business;
 - (iv) a municipality or county in which the eligible school feeder pattern is located;
 - (v) an institution of higher education within the state;
 - (vi) a state or local government agency that provides services to students attending schools within the eligible school feeder pattern;
 - (vii) a local philanthropic organization; and
 - (viii) a local health care organization; and
 - (b) has designated a local education agency or local nonprofit organization to act as lead applicant for a grant described in this part.
- (4) "Eligible school feeder pattern" means the succession of schools that a student enrolls in as the student progresses from kindergarten through grade 12 that includes, as designated by a local education agency:
 - (a) a high school;
 - (b) an eligible junior high school that:
 - (i) is a district school within the geographic boundary of the high school described in Subsection (4)(a); or
 - (ii) is a charter school that sends at least 50% of the charter school's students to the high school described in Subsection (4)(a); and
 - (c) an eligible elementary school that:
 - (i) is a district school within the geographic boundary of the high school described in Subsection (4)(a); or

(ii) is a charter school that sends at least 50% of the charter school's students to the junior high school described in Subsection (4)(b).

(5) "Local education agency" means a school district or charter school.

Section 130. Section 53F-5-402, which is renumbered from Section 53A-4-303 is renumbered and amended to read:

[53A-4-303]. 53F-5-402. Partnerships for Student Success Grant Program established.

- (1) There is created the Partnerships for Student Success Grant Program to improve educational outcomes for low income students through the formation of cross sector partnerships that use data to align and improve efforts focused on student success.
 - (2) Subject to legislative appropriations, the board shall award grants to eligible partnerships that enter into a memorandum of understanding between the members of the eligible partnership to plan or implement a partnership that:
 - (a) establishes shared goals, outcomes, and measurement practices based on unique community needs and interests that:
 - (i) are aligned with the recommendations of the five- and ten-year plan to address intergenerational poverty described in Section 35A-9-303; and
 - (ii) address, for students attending a school within an eligible school feeder pattern:
 - (A) kindergarten readiness;
 - (B) grade 3 mathematics and reading proficiency;
 - (C) grade 8 mathematics and reading proficiency;
 - (D) high school graduation;
 - (E) postsecondary education attainment;
 - (F) physical and mental health; and
 - (G) development of career skills and readiness;
 - (b) coordinates and aligns services to:
 - (i) students attending schools within an eligible school feeder pattern; and
 - (ii) the families and communities of the students within an eligible school feeder pattern;
 - (c) implements a system for:
 - (i) sharing data to monitor and evaluate shared goals and outcomes, in accordance with state and federal law; and
 - (ii) accountability for shared goals and outcomes; and
 - (d) commits to providing matching funds as described in Section [53A-4-304] 53F-5-403.
 - (3) In making grant award determinations, the board shall prioritize funding for an eligible partnership that:

(a) includes a low performing school as determined by the board; or

(b) addresses parent and community engagement.

(4) In awarding grants under this part, the board:

(a) shall distribute funds to the lead applicant designated by the eligible partnership as described in Section ~~[53A-4-302]~~ 53F-5-401; and

(b) may not award more than \$500,000 per fiscal year to an eligible partnership.

Section 131. Section 53F-5-403, which is renumbered from Section 53A-4-304 is renumbered and amended to read:

[53A-4-304]. 53F-5-403. Matching funds -- Grantee requirements.

(1) (a) The board may not award a grant to an eligible partnership unless the eligible partnership provides matching funds equal to two times the amount of the grant.

(b) The board shall ensure that at least half of the matching funds provided under Subsection (1)(a) are provided by a local education agency.

(c) Matching funds may include cash or an in-kind contribution.

(2) A partnership that receives a grant under this part shall:

(a) select and contract with a technical assistance provider identified by the board as described in Section ~~[53A-4-305]~~ 53F-5-404;

(b) continually assess progress toward reaching shared goals and outcomes;

(c) publish results of the continual assessment described in Subsection (2)(b) on an annual basis;

(d) regularly report to the board in accordance with rules established by the board under Section ~~[53A-4-307]~~ 53F-5-406; and

(e) as requested, share information and data with the third party evaluator described in Section ~~[53A-4-306]~~ 53F-5-405, in accordance with state and federal law.

(3) A partnership that receives a grant under this part may use grant funds only for the following purposes:

(a) to contract with a technical assistance provider identified by the board as described in Section ~~[53A-4-305]~~ 53F-5-404; and

(b) to plan or implement a partnership, including:

(i) for project management;

(ii) for planning and adaptation of services and strategies;

(iii) to coordinate services;

(iv) to establish and implement shared measurement practices;

(v) to produce communication materials and conduct outreach activities to build public support;

(vi) to establish data privacy and sharing agreements, in accordance with state and federal law;

(vii) to purchase infrastructure, hardware, and software to collect and store data; or

(viii) to analyze data.

(4) (a) The board shall establish interventions for a partnership that:

(i) fails to comply with the requirements described in this section; or

(ii) is not making progress toward reaching the shared goals and outcomes established by the partnership as described in Section ~~[53A-4-303]~~ 53F-5-402.

(b) An intervention under Subsection (4)(a) may include discontinuing or reducing funding.

Section 132. Section 53F-5-404, which is renumbered from Section 53A-4-305 is renumbered and amended to read:

[53A-4-305]. 53F-5-404. Technical assistance.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall identify two or more technical assistance providers that a partnership may select from to assist the partnership in:

(a) establishing shared goals, outcomes, and measurement practices;

(b) creating the capabilities to achieve shared goals and outcomes that may include providing leadership development training to members of the partnership; and

(c) using data to align and improve efforts focused on student success.

(2) In identifying technical assistance providers under this section the board shall identify providers that have a credible track record of providing technical assistance as described in Subsection (1).

Section 133. Section 53F-5-405, which is renumbered from Section 53A-4-306 is renumbered and amended to read:

[53A-4-306]. 53F-5-405. Independent evaluation -- Reporting.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall contract with an independent evaluator to annually evaluate a partnership that receives a grant under this part.

(2) The evaluation described in Subsection (1) shall:

(a) assess implementation of a partnership, including the extent to which members of a partnership:

(i) share data to align and improve efforts focused on student success; and

(ii) meet regularly and communicate authentically; and

(b) assess the impact of a partnership on student outcomes using appropriate statistical evaluation methods.

(3) In identifying an independent evaluator under Subsection (1), the board shall identify an evaluator that:

(a) has a credible track record of conducting evaluations as described in Subsection (2); and

(b) is independent of any member of the partnership and does not otherwise have a vested interest in the outcome of the evaluation.

(4) Beginning in the 2017-18 school year, the board shall ensure that the independent evaluator:

(a) prepares an annual written report of an evaluation conducted under this section; and

(b) annually submits the report to the Education Interim Committee.

Section 134. Section 53F-5-406, which is renumbered from Section 53A-4-307 is renumbered and amended to read:

[53A-4-307]. 53F-5-406. Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer the Partnerships for Student Success Grant Program in accordance with this part.

Section 135. Section 53F-5-501, which is renumbered from Section 53A-15-1802 is renumbered and amended to read:

Part 5. Competency-Based Education Grants Program

[53A-15-1802]. 53F-5-501. Definitions.

As used in this part:

(1) “Blended learning” means a formal education program in which a student learns:

(a) at least in part, through online learning with some element of student control over time, place, path, and pace;

(b) at least in part, in a supervised brick-and-mortar location away from home; and

(c) in a program in which the modalities along each student’s learning path within a course or subject are connected to provide an integrated learning experience.

(2) “Board” means the State Board of Education.

(3) “Competency-Based education” means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(4) “Extended learning” means learning opportunities outside of a traditional school structure, including:

(a) online learning available anywhere, anytime;

(b) career-based experiences, including internships and job shadowing;

(c) community-based projects; and

(d) off-site postsecondary learning.

(5) “Grant program” means the Competency-Based Education Grants Program created in this part.

(6) “Institution of higher education” means an institution listed in Section 53B-1-102.

(7) “Local education agency” or “LEA” means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(8) “Review committee” means the committee established under Section [53A-15-1803] 53F-5-502.

(9) “STEM” means science, technology, engineering, and mathematics.

Section 136. Section 53F-5-502, which is renumbered from Section 53A-15-1803 is renumbered and amended to read:

[53A-15-1803]. 53F-5-502.

Competency-Based Education Grants Program -- Board duties -- Review committee -- Technical assistance training.

(1) There is created the Competency-Based Education Grants Program consisting of the grants created in this part to improve educational outcomes in public schools by advancing student mastery of concepts and skills through the following core principles:

(a) student advancement upon mastery of a concept or skill;

(b) competencies that include explicit, measurable, and transferable learning objectives that empower a student;

(c) assessment that is meaningful and provides a positive learning experience for a student;

(d) timely, differentiated support based on a student’s individual learning needs; and

(e) learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.

(2) The grant program shall incentivize an LEA to establish competency-based education within the LEA through the use of:

(a) personalized learning;

(b) blended learning;

(c) extended learning;

(d) educator professional learning in competency-based education; or

(e) any other method that emphasizes the core principles described in Subsection (1).

(3) The board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) for the administration of the grant program and awarding of grants; and

(ii) to define outcome-based measures appropriate to the type of grant for an LEA that is awarded a grant under this part to use to measure the performance of the LEA's plan or program;

(b) establish a grant application process;

(c) in accordance with Subsection (4), establish a review committee to make recommendations to the board for:

(i) metrics to analyze the quality of a grant application; and

(ii) approval of a grant application; and

(d) with input from the review committee, adopt metrics to analyze the quality of a grant application.

(4) (a) The review committee shall consist of STEM and blended learning experts, current and former school administrators, current and former teachers, and at least one former school district superintendent, in addition to other staff designated by the board.

(b) The review committee shall:

(i) review a grant application submitted by an LEA;

(ii) make recommendations to the LEA to modify the application, if necessary; and

(iii) make recommendations to the board regarding the final disposition of an application.

(5) (a) The board shall provide technical assistance training to assist an LEA with a grant application under this part.

(b) An LEA may not apply for a grant under this part unless:

(i) a representative of the LEA attends the technical assistance training before the LEA submits a grant application; and

(ii) the representative is a superintendent, principal, or a person in a leadership position within the LEA.

(c) The technical assistance training shall include:

(i) instructions on completing a grant application, including grant application requirements;

(ii) information on the scoring metrics used to review a grant application; and

(iii) information on competency-based education.

(6) The board may use up to 5% of an appropriation provided to fund this part for administration of the grant program.

Section 137. Section 53F-5-503, which is renumbered from Section 53A-15-1804 is renumbered and amended to read:

[53A-15-1804]. 53F-5-503. Planning grants -- Requirements.

(1) (a) The board shall, subject to legislative appropriations, award a planning grant to, subject to Subsection (1)(c), an LEA:

(i) that submits a planning grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section ~~[53A-15-1803]~~ 53F-5-502; and

(iii) if the LEA planning grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than one calendar year after receiving the funds.

(c) The board may not select more than three LEAs to award planning grants to under this section.

(2) (a) A planning grant application shall include evidence that the LEA:

(i) can provide a general description of the program the LEA would like to plan;

(ii) is intending to plan for:

(A) schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, phasing the plan in schoolwide or districtwide over a specified period of time;

(iii) can describe the types of partners that will help with the plan and, eventually, implement the program;

(iv) planning activities and program will focus on:

(A) implementation of the core principles described in Section ~~[53A-15-1803]~~ 53F-5-502;

(B) use of the methods, as applicable, described in Section ~~[53A-15-1803]~~ 53F-5-502; and

(C) the outcome-based measures adopted by the board under Section ~~[53A-15-1803]~~ 53F-5-502;

(v) has:

(A) the capacity, qualifications, local governing body support, and time to successfully plan the program; and

(B) an intentional and feasible planning process;

(vi) will align the LEA's budget as necessary with the planning process; and

(vii) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

Section 138. Section 53F-5-504, which is renumbered from Section 53A-15-1805 is renumbered and amended to read:

[53A-15-1805]. 53F-5-504. Implementation grants -- Requirements.

(1) (a) The board shall, subject to legislative appropriations, award an implementation grant to, subject to Subsection (1)(c), an LEA:

(i) that submits an implementation grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section [53A-15-1803] 53F-5-502; and

(iii) if the LEA implementation grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than two calendar years after receiving the funds.

(c) An LEA is not eligible to receive an implementation grant under this section unless the board has previously awarded the LEA a planning grant under Section [53A-15-1804] 53F-5-503.

(2) (a) An implementation grant application shall include evidence that the LEA:

(i) can logically articulate the proposed program's mission, theory of change, and the program's intended goals and outcomes;

(ii) (A) program will have schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, program includes steps to phase the program in schoolwide or districtwide over a specified period of time;

(iii) has an understanding of similar programs and can use this knowledge to strengthen the LEA's program implementation;

(iv) program will focus on:

(A) direct alignment with the core principles described in Section [53A-15-1803] 53F-5-502;

(B) use of the methods, as applicable, described in Section [53A-15-1803] 53F-5-502; and

(C) the outcome based measures adopted by the board under Section [53A-15-1803] 53F-5-502;

(v) program will address a need, determined by data, in the LEA or community;

(vi) has a strong evaluation plan that will clearly measure the success of the LEA's program against the stated goals and objectives;

(vii) has a list of signatures of key stakeholders and partners who are committed to implementing the program;

(viii) has the capacity, qualifications, local governing body support, and time to successfully implement this program;

(ix) has an intentional and feasible scope of work to implement the program;

(x) will align the LEA's budget as necessary with the planning process; and

(xi) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

(3) A program under this section may include:

(a) a waiver, subject to Section [53A-15-1807] 53F-5-506, of required school hours attended or traditional school calendar scheduling; and

(b) an adjustment of educator compensation to reflect the implementation of a waiver under Subsection (3)(a).

Section 139. Section 53F-5-505, which is renumbered from Section 53A-15-1806 is renumbered and amended to read:

[53A-15-1806]. 53F-5-505. Expansion grants -- Requirements.

(1) (a) The board shall, subject to legislative appropriations and to expand an existing LEA program schoolwide or districtwide, award a grant to, subject to Subsection (1)(c), an LEA:

(i) that submits an expansion grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section [53A-15-1803] 53F-5-502; and

(iii) if the LEA expansion grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than two calendar years after receiving the funds.

(c) An LEA is not eligible to receive an expansion grant under this section unless the board has previously awarded the LEA an implementation grant under Section [53A-15-1805] 53F-5-504.

(2) (a) An expansion grant application shall include evidence that the LEA:

(i) has an established program that:

(A) has successfully met previous goals;

(B) has shown outcomes that are in alignment with the core principles described in Section [53A-15-1803] 53F-5-502 and used methods, as applicable, described in Section [53A-15-1803] 53F-5-502;

(C) is supported by LEA management and leadership;

(D) is suitable for expansion schoolwide or districtwide; and

(E) is the program, with any necessary modifications, that the LEA plans to expand if awarded the expansion grant;

(ii) can logically articulate the LEA's program mission, theory of change, and the program's intended goals and outcomes;

(iii) program as proposed for expansion is focused on:

(A) direct alignment with the core principles identified in Section ~~[53A-15-1803]~~ 53F-5-502;

(B) use of the methods, as applicable, described in Section ~~[53A-15-1803]~~ 53F-5-502; and

(C) the outcome based measures adopted by the board under Section ~~[53A-15-1803]~~ 53F-5-502;

(iv) that the program will directly address a need, determined by data, in the LEA or community;

(v) has clearly articulated core components that ensure, when expanded, the program will yield positive outcomes;

(vi) has a strong evaluation plan that will clearly measure the success of the LEA's program against the stated goals and objectives;

(vii) has a list of signatures of key stakeholders and partners who are committed to expanding the program;

(viii) has the capacity, qualifications, local governing body support, and time to successfully expand the program;

(ix) has an intentional and feasible scope of work to expand the program;

(x) has a strategic budget that is aligned with the LEA's scope of work; and

(xi) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

(3) A program under this section may include:

(a) a waiver, subject to Section ~~[53A-15-1807]~~ 53F-5-506, of required school hours attended or traditional school calendar scheduling; and

(b) an adjustment of educator compensation to reflect the implementation of a waiver under Subsection (3)(a).

Section 140. Section 53F-5-506, which is renumbered from Section 53A-15-1807 is renumbered and amended to read:

[53A-15-1807]. 53F-5-506. Waiver from board rule -- Board recommended statutory changes.

(1) An LEA may apply to the board in a grant application submitted under this part for a waiver of a board rule that inhibits or hinders the LEA from accomplishing its goals set out in its grant application.

(2) The board may grant the waiver, unless:

(a) the waiver would cause the LEA to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the LEA.

(3) If the board denies the waiver, the board shall provide in writing the reason for the denial to the waiver applicant.

(4) (a) The board shall request from each LEA that receives a grant under this part for each year the LEA receives funds:

(i) information on a state statute that hinders an LEA from fully implementing the LEA's program; and

(ii) suggested changes to the statute.

(b) The board shall, in a written report, provide any information received from an LEA under Subsection (4)(a) and the board's recommendations to the Legislature no later than November 30 of each year.

Section 141. Section 53F-5-507, which is renumbered from Section 53A-15-1808 is renumbered and amended to read:

[53A-15-1808]. 53F-5-507. Cooperation of institutions of higher education -- Transferring students not to be penalized.

(1) An institution of higher education:

(a) shall recognize and accept on equal footing as a traditional high school diploma a high school diploma awarded to a student who successfully completes an educational program that uses, in whole or in part, competency-based education; and

(b) cooperate with an LEA:

(i) as applicable, to facilitate the advancement of a student who attends a competency-based education program; and

(ii) as requested, in the development of an LEA plan or program under this part.

(2) If a student attending an LEA that establishes competency-based education within the LEA transfers to another school within the LEA or to another LEA entirely that does not have a competency-based education program, the student may not be penalized by being required to repeat course work that the student has successfully completed, changing the student's grade, or receive any other penalty related to the student's previous attendance in the competency-based education program.

Section 142. Section 53F-5-601, which is renumbered from Section 53A-31-402 is renumbered and amended to read:

Part 6. American Indian and Alaskan Native Education State Plan Pilot Program

[53A-31-402]. 53F-5-601. Definitions.

(1) The terms defined in Section 53E-10-401 apply to this section.

(2) As used in this part:

~~(1)~~ (a) “American Indian and Alaskan Native concentrated school” means a school where at least 29% of its students are American Indian or Alaskan Native.

~~(2)~~ (b) “Board” means the State Board of Education.

~~(3)~~ (c) “Teacher” means an individual employed by a school district or charter school who is required to hold an educator license issued by the board and who has an assignment to teach in a classroom.

Section 143. Section 53F-5-602, which is renumbered from Section 53A-31-403 is renumbered and amended to read:

[53A-31-403]. 53F-5-602. Pilot programs created.

(1) (a) ~~Beginning~~ In addition to the state plan described in Title 53E, Chapter 10, Part 4, American Indian-Alaskan Native Education State Plan, beginning with fiscal year 2016-2017, there is created a five-year pilot program administered by the board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(b) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(2) (a) Beginning with fiscal year 2017-2018, there is created a four-year pilot program administered by the board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(b) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(c) In determining grant recipients under this Subsection (2), the board shall give priority to American Indian and Alaskan Native concentrated schools located in a county of the fourth, fifth, or sixth class with significant populations of American Indians and Alaskan Natives.

(3) Up to 3% of the money appropriated to a grant program under this part may be used by the board for costs in implementing the pilot program.

Section 144. Section 53F-5-603, which is renumbered from Section 53A-31-404 is renumbered and amended to read:

[53A-31-404]. 53F-5-603. Grant program to school districts and charter schools.

(1) From money appropriated to the grant program, the board shall distribute grant money on a competitive basis to a school district or charter school that applies for a grant and:

(a) (i) has within the school district one or more American Indian and Alaskan Native concentrated schools; or

(ii) is an American Indian and Alaskan Native concentrated school; and

(b) has a program to fund stipends, recruitment, retention, and professional development of teachers who teach at American Indian and Alaskan Native concentrated schools.

(2) The grant money distributed under this section may only be expended to fund a program described in Subsection (1)(b).

(3) (a) If a school district or charter school obtains a grant under this section, by no later than two years from the date the school district or charter school obtains the grant, the board shall review the implementation of the program described in Subsection (1)(b) to determine whether:

(i) the program is effective in addressing the need to retain teachers at American Indian and Alaskan Native concentrated schools; and

(ii) the money is being spent for a purpose not covered by the program described in Subsection (1)(b).

(b) If the board determines that the program is not effective or that the money is being spent for a purpose not covered by the program described in Subsection (1)(b), the board may terminate the grant money being distributed to the school district or charter school.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules providing:

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) a school district to apply to the board to receive grant money under this section; and

(ii) the review of the use of grant money described in Subsection (3).

(5) The grant money is intended to supplement and not replace existing money supporting American Indian and Alaskan Native concentrated schools.

Section 145. Section 53F-5-604, which is renumbered from Section 53A-31-405 is renumbered and amended to read:

[53A-31-405]. 53F-5-604. Reporting -- Meeting.

(1) The liaison shall annually report to the Native American Legislative Liaison Committee during the term of a pilot program under this part regarding:

(a) what entities receive a grant under this part;

(b) the effectiveness of the expenditures of grant money; and

(c) recommendations, if any, for additional legislative action.

(2) The Native American Legislative Liaison Committee shall annually schedule at least one meeting at which education is discussed with selected stakeholders.

Section 146. Section 53F-6-101 is enacted to read:

**CHAPTER 6. STATE FUNDING --
PROGRAMS ADMINISTERED BY OTHER
AGENCIES**

Part 1. General Provisions

53F-6-101. Title.

This chapter is known as "State Funding -- Programs Administered by Other Agencies."

Section 147. Section 53F-6-102 is enacted to read:

53F-6-102. Definitions.

Reserved

Section 148. Section 53F-6-201, which is renumbered from Section 53A-13-106.5 is renumbered and amended to read:

Part 2. Miscellaneous Programs

[~~53A-13-106.5~~]. 53F-6-201. Firearm Safety and Violence Prevention Pilot Program.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(c) "Pilot program" means the Firearm Safety and Violence Prevention Pilot Program created under Subsection (2).

(2) There is created a Firearm Safety and Violence Prevention Pilot Program to provide instruction that a public school may offer to a student in any of grades 5 through 12 on:

(a) firearm safety, including:

(i) developing the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and

(ii) teaching a student that to avoid injury when the student finds a firearm the student should:

(A) not touch the firearm;

(B) tell an adult about finding the firearm and the location of the firearm; and

(C) share the information described in Subsection (2)(a)(ii)(A) and (B) with any other minors who are with the student when the student finds the firearm; and

(b) what to do if the student becomes aware of a threat against the school.

(3) The instruction described in Subsection (2):

(a) may be delivered:

(i) in a public school using live instruction or a video or online materials; or

(ii) at home using a video or online materials; and

(b) shall be neutral of political statements on guns.

(4) The Office of the Attorney General, in collaboration with the State Board of Education, shall select one or more providers, through the standard procurement process or an exception to the standard procurement process as described in Title 63G, Chapter 6a, Utah Procurement Code, to supply materials and curriculum for the pilot program.

(5) (a) A district school or charter school may participate in the pilot program, subject to approval by the district school's local school board or charter school's charter school governing board.

(b) A district school or charter school that chooses to participate in the pilot program:

(i) shall use the materials and curriculum supplied by the provider selected under Subsection (4);

(ii) may permit the following to provide instruction on a voluntary basis:

(A) the Division of Wildlife Resources;

(B) a local law enforcement agency;

(C) a peace officer, as defined in Section 53-13-102; or

(D) another certified firearms safety instructor, as defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) shall ensure that a firearm is not used in providing the instruction.

(c) A student may not be given the instruction described in Subsection (2) unless the student's parent or legal guardian has given prior written consent.

(6) The Office of the Attorney General, in collaboration with the State Board of Education, shall evaluate the pilot program and report to the Law Enforcement and Criminal Justice Interim Committee on or before December 1, 2018.

Section 149. Section 53F-6-202, which is renumbered from Section 53A-1-709 is renumbered and amended to read:

[~~53A-1-709~~]. 53F-6-202. Smart School Technology Program.

(1) As used in this section, "program" means the Smart School Technology Program.

(2) The Smart School Technology Program is created to encourage the deployment of

whole-school one-to-one mobile device technology in public schools.

(3) The Board of Business and Economic Development with input from an independent evaluating committee, shall issue a request for proposals for the development and implementation of a whole-school one-to-one mobile device technology deployment plan for schools.

(4) From recommendations submitted by an independent evaluating committee, the Board of Business and Economic Development shall select a single education technology provider with integrated whole-school technology deployment experience through the request for proposals process.

(5) (a) An independent evaluating committee shall be established to:

(i) advise the Board of Business and Economic Development in issuing a request for proposals under Subsection (3);

(ii) evaluate proposals submitted through a request for proposals issued under Subsection (3); and

(iii) advise the State Board of Education on selecting schools to participate in the program.

(b) The membership of the independent evaluating committee shall include:

(i) three members of the State Board of Education appointed by the chair of the State Board of Education;

(ii) the state chief information officer;

(iii) two members appointed by the executive director of the Governor's Office of Economic Development; and

(iv) the governor's education director.

(c) The independent evaluating committee shall evaluate a proposal on:

(i) a provider's experience with integrated whole-school technology deployment; and

(ii) the components of a whole-school technology deployment plan.

(6) An educational technology provider selected under Subsection (4) shall develop a customized whole-school one-to-one mobile device technology deployment plan for each school participating in the program.

(7) The whole-school technology deployment plan shall be based on submitted proposals to the committee and may include the following components:

(a) a personal mobile learning device for each student;

(b) desktop or laptop computers for each classroom;

(c) peripherals and networking equipment, including a wireless network that is not self-interfering;

(d) wireless audio equipment in each classroom;

(e) digital projectors or televisions with wireless device mirroring technology;

(f) on and off campus Internet filtering;

(g) operating software for the technology system, including software that connects personal mobile learning devices among students and a teacher to facilitate classroom interaction;

(h) curriculum and instructional software purchase credits per device to be used toward improving student outcomes with respect to the core standards for Utah public schools and skill building on the use of technology;

(i) device repair and replacement criteria;

(j) professional development for educators and technology specialists on:

(i) the operation and use of the technology equipment; and

(ii) accessing and using online content; and

(k) ongoing technical support.

(8) (a) A school within a school district, with the approval of the local school board, or a charter school, may submit an application to the State Board of Education to participate in the program.

(b) With input from the independent evaluating committee established under Subsection (5), the State Board of Education shall select schools to participate in the program.

(c) In selecting schools, the State Board of Education shall seek to include in the program schools:

(i) from different regions of the state;

(ii) from urban and rural areas;

(iii) with a variety of economic and demographic characteristics; and

(iv) with documented technology implementation plans, including a plan for the use of:

(A) instructional software that improves student outcomes with respect to the core standards for Utah public schools; and

(B) software that provides students with skill building on the use of technology.

(d) The State Board of Education shall make rules:

(i) specifying procedures and criteria to be used for selecting schools that may participate in the program; and

(ii) requiring selected schools to provide matching funds to participate in the program.

(9) (a) The State Board of Education, in collaboration with the education technology

provider and the schools participating in the program, shall evaluate the program and submit a report on the evaluation to the Governor's Office of Economic Development and the Education Interim Committee by the committee's October meetings in 2013 and 2014.

(b) The State Board of Education may contract with an independent evaluator to conduct the evaluation required in Subsection (9)(a).

(c) The evaluation shall be based on the following criteria:

- (i) technology system functionality;
- (ii) school level outcomes;
- (iii) teacher instruction and outcomes; and
- (iv) student engagement and outcomes.

Section 150. Section 53F-6-301, which is renumbered from Section 53A-1b-102 is renumbered and amended to read:
Part 3. School Readiness Initiative

[53A-1b-102]. 53F-6-301. Definitions.

As used in this part:

(1) "Board" means the School Readiness Board, created in Section ~~[53A-1b-103]~~ 53F-6-302.

(2) "Economically disadvantaged" means a student who:

- (a) is eligible to receive free lunch;
- (b) is eligible to receive reduced price lunch; or
- (c) (i) is not otherwise accounted for in Subsection (2)(a) or (b); and

(ii) (A) is enrolled in a Provision 2 or Provision 3 school, as defined by the United States Department of Agriculture;

(B) has a Declaration of Household Income on file;

(C) is eligible for a fee waiver; or

(D) is enrolled at a school that does not offer a lunch program and is a sibling of a student accounted for in Subsection (2)(a) or (b).

(3) "Eligible home-based educational technology provider" means a provider that intends to offer a home-based educational technology program.

(4) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(5) (a) "Eligible private provider" means a child care program that:

(i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.

(b) "Eligible private provider" does not include residential child care, as defined in Section 26-39-102.

(6) "Eligible student" means a student who is economically disadvantaged.

(7) "Local Education Agency" or "LEA" means a school district or charter school.

(8) "Performance outcome measure" means a cost avoidance in special education use for a student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based school readiness contract.

(9) (a) "Private entity" means a private investor or investors that enter into a results-based school readiness contract.

(b) "Private entity" includes an authorized representative of the private investor or investors.

(10) "Results-based school readiness contract" means a contract entered into by the board, a private entity, and a provider of early childhood education that may result in repayment to a private entity if certain performance outcome measures are achieved.

(11) "Student at-risk for later special education placement" means a preschool student who, at preschool entry, scores at or below two standard deviations below the mean on the assessment selected by the board under Section ~~[53A-1b-110]~~ 53F-6-309.

Section 151. Section 53F-6-302, which is renumbered from Section 53A-1b-103 is renumbered and amended to read:

[53A-1b-103]. 53F-6-302. Establishment of the School Readiness Board -- Membership.

(1) There is created a School Readiness Board within the Governor's Office of Management and Budget composed of:

(a) the director of the Department of Workforces Services or the director's designee;

(b) one member appointed by the State Board of Education;

(c) one member appointed by the chair of the State Charter School Board;

(d) one member appointed by the speaker of the House of Representatives; and

(e) one member appointed by the president of the Senate.

(2) (a) A member described in Subsections (1)(c), (d), and (e) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection (1)(c), (d), or (e), the person appointing the member shall appoint a replacement to serve the remainder of the member's term.

(3) A member may not receive compensation or benefits for the member's service.

(4) Upon request, the Governor's Office of Management and Budget shall provide staff support to the board.

(5) (a) The board members shall elect a chair of the board from the board's membership.

(b) The board shall meet upon the call of the chair or a majority of the board members.

Section 152. Section 53F-6-303 is enacted to read:

53F-6-303. School Readiness Restricted Account.

As described in Section 53F-9-402, the School Readiness Restricted Account provides funding for this part.

Section 153. Section 53F-6-304, which is renumbered from Section 53A-1b-105 is renumbered and amended to read:

[53A-1b-105]. 53F-6-304. Elements of a high quality school readiness program.

(1) A high quality school readiness program run by an eligible LEA or eligible private provider shall include the following components:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah Early Childhood Standards adopted by the State Board of Education, and incorporates intentional and differentiated instruction in whole group, small group, and child-directed learning, including the following academic content areas:

- (i) oral language and listening comprehension;
- (ii) phonological awareness and prereading;
- (iii) alphabet and word knowledge;
- (iv) prewriting;
- (v) book knowledge and print awareness;
- (vi) numeracy;
- (vii) creative arts;
- (viii) science and technology; and
- (ix) social studies, health, and safety;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and developmental progress to inform instruction;

(d) a pre- and post-assessment of each student whose parent or legal guardian consents to the assessment that, for a school readiness program receiving funding under this part, is selected by the board in accordance with Section [53A-1b-110] 53F-6-309;

(e) for a preschool program run by an eligible LEA, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; and

(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field.

(2) A high quality school readiness program run by a home-based educational technology provider shall:

(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;

(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;

(c) be aligned with the Utah early childhood core standards;

(d) require the administration of a pre- and post-assessment of each student whose parent or legal guardian consents to the assessment that, for a home-based technology program that receives funding under this part, is designated by the board in accordance with Section [53A-1b-110] 53F-6-309; and

(e) require technology providers to ensure successful implementation and utilization of the technology program.

Section 154. Section 53F-6-305, which is renumbered from Section 53A-1b-106 is renumbered and amended to read:

[53A-1b-106]. 53F-6-305. High Quality School Readiness Grant Program.

(1) The High Quality School Readiness Grant Program is created to provide grants to the following, in order to upgrade an existing preschool or home-based technology program to a high quality school readiness program:

- (a) an eligible private provider;

- (b) an eligible LEA; or
- (c) an eligible home-based educational technology provider.
- (2) The State Board of Education shall:
- (a) solicit proposals from eligible LEAs; and
- (b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).
- (3) The Department of Workforce Services shall:
- (a) solicit proposals from eligible private providers and eligible home-based educational technology providers; and
- (b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).
- (4) Subject to legislative appropriations, the board shall award grants to respondents based on:
- (a) the recommendations of the State Board of Education;
- (b) the recommendations of the Department of Workforce Services; and
- (c) the criteria described in Subsection (5).
- (5) (a) In awarding a grant under Subsection (4), the State Board of Education, Department of Workforce Services, and the board shall consider:
- (i) a respondent's capacity to effectively implement the components described in Section ~~[53A-1b-105]~~ 53F-6-304;
- (ii) the percentage of a respondent's students who are economically disadvantaged; and
- (iii) the level of administrative support and leadership at a respondent's program to effectively implement, monitor, and evaluate the program.
- (b) The board may not award a grant to an LEA without obtaining approval from the State Board of Education to award the grant to the LEA.
- (6) To receive a grant under this section, a respondent that is an eligible LEA shall submit a proposal to the State Board of Education detailing:
- (a) the respondent's strategy to implement the high quality components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1);
- (b) the number of students the respondent plans to serve, categorized by age and economically disadvantaged status;
- (c) the number of high quality preschool classrooms the respondent plans to operate; and
- (d) the estimated cost per student.
- (7) To receive a grant under this section, a respondent that is an eligible private provider or an eligible home-based educational technology provider shall submit a proposal to the Department of Workforce Services detailing:

- (a) the respondent's strategy to implement the high quality components described in Section ~~[53A-1b-105]~~ 53F-6-304;
- (b) the number of students the respondent plans to serve, categorized by age and economically disadvantaged status;
- (c) for a respondent that is an eligible private provider, the number of high quality preschool classrooms the respondent plans to operate; and
- (d) the estimated cost per student.
- (8) All recipients of grants under this section shall establish a preschool or home-based educational technology program with the components described in Section ~~[53A-1b-105]~~ 53F-6-304.
- (9) (a) A grant recipient shall allow classroom or other visits by an independent evaluator chosen by the board in accordance with Section ~~[53A-1b-110]~~ 53F-6-309.
- (b) The independent evaluator shall:
- (i) determine whether a grant recipient has effectively implemented the components described in Section ~~[53A-1b-105]~~ 53F-6-304; and
- (ii) report the independent evaluator's findings to the board.
- (10) (a) A grant recipient that is an eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.
- (b) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.
- (11) A grant recipient that is an LEA shall report annually to the board and the State Board of Education the following:
- (a) number of students served by the preschool, reported by economically disadvantaged status;
- (b) attendance;
- (c) cost per student; and
- (d) assessment results.
- (12) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report annually to the board and the Department of Workforce Services the following:
- (a) number of students served by the preschool or program, reported by economically disadvantaged status;
- (b) attendance;
- (c) cost per student; and
- (d) assessment results.
- (13) The State Board of Education and the Department of Workforce Services shall make rules

to effectively administer and monitor the High Quality School Readiness Grant Program, including:

(a) requiring grant recipients to use the pre- and post-assessment selected by the board in accordance with Section ~~[53A-1b-110]~~ 53F-6-309; and

(b) establishing reporting requirements for grant recipients.

(14) At the request of the board, the State Board of Education and the Department of Workforce Services shall annually share the information received from grant recipients described in Subsections (11) and (12) with the board.

Section 155. Section 53F-6-306, which is renumbered from Section 53A-1b-107 is renumbered and amended to read:

~~[53A-1b-107]. 53F-6-306. High quality preschool programs for eligible LEAs.~~

(1) To receive funding pursuant to a results-based contract awarded under Section ~~[53A-1b-110]~~ 53F-6-309, an eligible LEA shall establish or currently operate a high quality preschool with the components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1).

(2) An eligible LEA shall assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract issued under this part.

(3) An eligible LEA may not use funds awarded pursuant to a results-based contract to supplant funds for an existing high quality preschool program, but may use the funds to supplement an existing high quality preschool program.

(4) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an LEA may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(5) An LEA that receives funds under this section shall report annually to the board the de-identified information described in Section ~~[53A-1b-111]~~ 53F-6-310.

(6) (a) An eligible LEA may contract with an eligible private provider to provide the high quality preschool program to a portion of the LEA's eligible students funded by a results-based contract.

(b) The board shall determine in a results-based contract the portion of an LEA's eligible students funded by the results-based contract to be served by an eligible private provider.

(7) To receive funding pursuant to a results-based contract, an eligible private provider shall:

(a) offer a preschool program that contains the components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1);

(b) allow classroom visits by the evaluator chosen in accordance with Section ~~[53A-1b-110]~~ 53F-6-309 and the private entity, to ensure the components described in this section are implemented;

(c) allow the evaluator chosen in accordance with Section ~~[53A-1b-110]~~ 53F-6-309 to administer the required pre- and post-assessments to eligible students funded under this part; and

(d) report the information described in Section ~~[53A-1b-111]~~ 53F-6-310 to the board and the contracting LEA.

(8) An LEA may provide the eligible private provider with:

(a) professional development;

(b) staffing or staff support;

(c) materials; and

(d) assessments.

(9) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(b) The eligible private provider may use grants, scholarships, or other funds to help fund the preschool program.

(10) A contractual partnership established under Subsection (6) shall be consistent with Utah Constitution, Article X, Section 1.

(11) The evaluator selected pursuant to Section ~~[53A-1b-110]~~ 53F-6-309 shall annually evaluate:

(a) the quality and outcomes of the high quality preschool program funded by a results-based contract between a private entity and the board, including:

(i) adherence to required components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1); and

(ii) the pre- and post-assessment results of the assessment, designated by the board under Section ~~[53A-1b-110]~~ 53F-6-309, of eligible students in the high quality preschool program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified data reported in Section ~~[53A-1b-111]~~ 53F-6-310.

Section 156. Section 53F-6-307, which is renumbered from Section 53A-1b-108 is renumbered and amended to read:

~~[53A-1b-108]. 53F-6-307. High quality preschool programs for eligible private providers.~~

(1) To receive funding pursuant to a results-based contract awarded under Section ~~[53A-1b-110]~~ 53F-6-309, an eligible private provider shall:

(a) establish or currently operate a high quality preschool with the components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1);

(b) allow classroom visits by the evaluator chosen in accordance with Section ~~[53A-1b-110]~~ 53F-6-309 and the private entity, to ensure the components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1) are being implemented; and

(c) allow the evaluator chosen in accordance with Section ~~[53A-1b-110]~~ 53F-6-309 to administer the required pre- and post-assessments to eligible students funded under this part.

(2) An eligible private provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract.

(3) An eligible private provider may not use funds awarded pursuant to a results-based contract to supplant funds for an existing high quality preschool program, but may use the funds to supplement an existing high quality preschool program.

(4) (a) If permitted under Title 1 of the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301-6578, an eligible private provider may charge a sliding scale fee to a student participating in a high quality preschool program under this section, based on household income.

(b) The eligible private provider may use grants, scholarships, or other funds to help fund the preschool program.

(5) An eligible private provider that receives funds under this section shall report annually to the board the de-identified information described in Section ~~[53A-1b-111]~~ 53F-6-310.

(6) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently receiving funding under this section and any eligible students who previously received funding under this section, including:

- (a) academic achievement outcomes;
- (b) special education use; and
- (c) English language learner services.

(7) The evaluator selected pursuant to Section ~~[53A-1b-110]~~ 53F-6-309 shall annually evaluate:

(a) the quality and outcomes of a high quality preschool program funded by a results-based contract between a private entity and the board, including:

(i) adherence to required components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(1); and

(ii) the pre- and post-assessment results of the assessment, designated by the board under Section ~~[53A-1b-110]~~ 53F-6-309, of eligible students in the high quality preschool program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified or aggregated data reported in Subsections (5) and (6).

Section 157. Section 53F-6-308, which is renumbered from Section 53A-1b-109 is renumbered and amended to read:

~~[53A-1b-109].~~ 53F-6-308. Home-based educational technology for school readiness.

(1) To receive funding pursuant to a results-based contract awarded under Section ~~[53A-1b-110]~~ 53F-6-309, an eligible home-based educational technology provider shall administer a home-based educational technology program designed to prepare eligible students for kindergarten.

(2) An eligible home-based educational technology provider described in Subsection (1) shall establish or currently operate a high quality school readiness program with the components described in Subsection ~~[53A-1b-105]~~ 53F-6-304(2).

(3) An eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a results-based contract.

(4) An eligible home-based educational technology provider that receives funds under this section shall report annually to the board the following de-identified information for eligible students funded in whole or in part pursuant to a results-based contract:

(a) number of eligible students served by the home-based educational technology program, reported by economically disadvantaged status and English language learner status;

(b) average time, and range of time usage, an eligible student spent using the program per week;

(c) cost per eligible student;

(d) assessment results of the pre- and post-assessments selected by the board; and

(e) number of eligible students served by the home-based educational technology program who participated in any other public or private preschool program, including the type of preschool attended.

(5) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently receiving funding under this section and any eligible students who previously received funding under this section, including:

(a) academic achievement outcomes;

(b) special education use; and

(c) English language learner services.

(6) The evaluator selected pursuant to Section ~~[53A-1b-110]~~ 53F-6-309 shall annually evaluate:

(a) the quality and outcomes of a home-based educational technology program funded by a results-based contract between a private entity and the board, including the pre- and post-assessment results, on the assessment designated by the board under Section ~~[53A-1b-110]~~ 53F-6-309, of eligible students in the program; and

(b) whether the performance outcome measures set in the results-based contract have been met, using de-identified or aggregated data reported in Subsections (4) and (5).

Section 158. Section 53F-6-309, which is renumbered from Section 53A-1b-110 is renumbered and amended to read:

[53A-1b-110]. 53F-6-309. Results-based school readiness contracts -- Board duties -- Independent evaluator.

(1) (a) The board may negotiate and enter into a results-based contract with a private entity, selected through a competitive process, to fund:

(i) a high quality preschool program described in Section ~~[53A-1b-107]~~ 53F-6-306;

(ii) a high quality preschool program described in Section ~~[53A-1b-108]~~ 53F-6-307; or

(iii) a home-based education technology program described in Section ~~[53A-1b-109]~~ 53F-6-308.

(b) The board may not issue a results-based contract if the total outstanding obligations of results-based contracts issued by the board under this part would exceed \$15,000,000 at any one time.

(c) The board may provide for a repayment to a private entity to include a return of investment and an additional return on investment, dependent on achievement of specific performance outcome measures set in the results-based contract.

(d) The additional return on investment described in Subsection (1)(c) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based school readiness contract.

(e) Funding obtained for an early education program under this part is not a procurement item under Section 63G-6a-103.

(2) A contract shall include:

(a) a requirement that the repayment to the private entity be conditioned on specific performance outcome measures set in the results-based contract;

(b) a requirement for an independent evaluator to determine whether the performance outcomes have been achieved;

(c) a provision that repayment to the private entity is:

(i) based upon available money in the School Readiness Restricted Account; and

(ii) subject to legislative appropriation; and

(d) that the private entity is not eligible to receive or view any personally identifiable student data of students funded through a results-based contract.

(3) The board shall select an independent, nationally recognized early childhood education evaluator, selected through a request for proposals process, to annually evaluate:

(a) performance outcome measures set in a results-based contract of the board; and

(b) a High Quality School Readiness Grant Program recipient's program.

(4) The board shall select a uniform assessment of age-appropriate cognitive or language skills that:

(a) is nationally norm-referenced;

(b) has established reliability;

(c) has established validity with other similar measures and with later school outcomes; and

(d) has strong psychometric characteristics.

(5) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator shall determine whether the performance outcome measures set in the results-based contract have been met.

(b) If the independent evaluator determines under Subsection (5)(a) that the performance outcome measures have been met, the board may pay the private entity according to the terms of the results-based contract.

(6) (a) The board shall ensure that a parent or guardian of an eligible student participating in a program funded pursuant to a results-based contract has given permission and signed an acknowledgment that the student's data may be shared with an independent evaluator for research and evaluation purposes.

(b) The board shall maintain documentation of parental permission required in Subsection (6)(a).

Section 159. Section 53F-6-310, which is renumbered from Section 53A-1b-111 is renumbered and amended to read:

[53A-1b-111]. 53F-6-310. Reporting requirements for recipients of a results-based school readiness contract -- Reporting requirements for the School Readiness Board.

(1) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that receives funds pursuant to a results-based contract under this part shall report annually to the board the following de-identified information for eligible students funded in whole or in part pursuant to a results-based contract:

(a) number of eligible students served by the recipient's preschool or home-based educational technology program, reported by economically

disadvantaged status and English language learner status;

- (b) attendance;
- (c) cost per eligible student;
- (d) assessment results of the pre- and post-assessments selected by the board; and
- (e) aggregated longitudinal data on eligible students currently receiving funding under this part and any eligible students who previously received funding under this part, including:

- (i) academic achievement outcomes;
- (ii) special education use; and
- (iii) English language learner services.

(2) For each year of a results-based contract, the board shall report to the Education Interim Committee the following:

(a) information collected under Subsection (1) for each participating LEA, private provider, and home-based educational technology provider; and

(b) the terms of the results-based contract, including:

- (i) the name of each private entity and funding source;
- (ii) the amount of money each private entity has invested;
- (iii) the performance outcome measures set in the results-based contract by which repayment will be determined; and
- (iv) the repayment schedule to the private entity if the performance outcomes are met.

Section 160. Section 53F-7-101 is enacted to read:

**CHAPTER 7. STATE FUNDING --
EDUCATION ADMINISTRATION**

Part 1. General Provisions

53F-7-101. Title.

This chapter is known as "State Funding -- Education Administration."

Section 161. Section 53F-7-102 is enacted to read:

53F-7-102. Definitions.

Reserved

Section 162. Section 53F-7-201, which is renumbered from Section 53A-13-206 is renumbered and amended to read:

[53A-13-206]. 53F-7-201. Appropriations from Automobile Driver Education Tax Account.

There is appropriated to the State Board of Education from the Automobile Driver Education Tax Account, annually, all money in the account, in excess of the expense of administering the collection

of the tax, for use and distribution in the administration and maintenance of driver education classes and programs with respect to classes offered in the school district and the establishment of experimental programs, including the purchasing of equipment, by the board.

Section 163. Section 53F-7-301 is enacted to read:

**Part 3. Utah Schools for the Deaf
and the Blind**

53F-7-301. Annual salary adjustments for Utah Schools for the Deaf and the Blind educators -- Legislative appropriation.

Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the salary adjustments described in Section 53E-8-302, including step and lane changes.

Section 164. Section 53F-8-101 is enacted to read:

CHAPTER 8. LOCAL FUNDING

Part 1. General Provisions

53F-8-101. Title.

This chapter is known as "Local Funding."

Section 165. Section 53F-8-102 is enacted to read:

53F-8-102. Definitions.

Reserved

Section 166. Section 53F-8-201, which is renumbered from Section 53A-16-106 is renumbered and amended to read:

Part 2. General Tax Provisions

[~~53A-16-106~~]. 53F-8-201. Annual certification of tax rate proposed by local school board -- Inclusion of school district budget -- Modified filing date.

(1) Prior to June 22 of each year, each local school board shall certify to the county legislative body in which the district is located, on forms prescribed by the State Tax Commission, the proposed tax rate approved by the local school board.

(2) A copy of the district's budget, including items under Section [~~53A-19-101~~] 53G-7-302, and a certified copy of the local school board's resolution which approved the budget and set the tax rate for the subsequent school year beginning July 1 shall accompany the tax rate.

(3) If the tax rate approved by the board is in excess of the certified tax rate, as defined in Section 59-2-924, the date for filing the tax rate and budget adopted by the board shall be that established under Section 59-2-919.

Section 167. Section 53F-8-202, which is renumbered from Section 53A-16-108 is renumbered and amended to read:

[~~53A-16-108~~]. 53F-8-202. Levy of tax -- Collection and deposit.

(1) After the valuation of property has been extended on the assessment rolls, the county legislative body shall levy a tax on the taxable property in the respective school districts at the rate submitted by each local school board under Section ~~[53A-16-106]~~ 53F-8-201.

(2) These taxes shall be collected by the county officers in the same manner as other taxes are collected.

(3) The county treasurer shall pay the tax revenues to the respective district's business administrator who shall hold the tax revenue subject to the order of the local school board.

Section 168. Section 53F-8-203, which is renumbered from Section 53A-16-109 is renumbered and amended to read:

[53A-16-109]. 53F-8-203. Payment out of tax money by county treasurer.

(1) Each county treasurer shall pay the appropriate proportionate share of delinquent taxes, together with interest and costs on all tax sales, to each affected school district.

(2) The treasurer shall make payment as quickly as possible after collection or realization.

Section 169. Section 53F-8-301, which is renumbered from Section 53A-17a-133 is renumbered and amended to read:

Part 3. Local Levies

[53A-17a-133]. 53F-8-301. State-supported voted local levy authorized -- Election requirements -- Reconsideration of the program.

~~[(1) As used in this section, "voted and board local levy funding balance" means the difference between:]~~

~~[(a) the amount appropriated for the voted and board local levy program in a fiscal year; and]~~

~~[(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.]~~

(1) The terms defined in Section 53F-2-102 apply to this section.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the local school board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a school district voting at an election in the manner set forth in Subsections ~~[(9) and (10)]~~ (8) and (9) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support in accordance with

Section 53F-2-601 the first year, a school district shall receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with ~~[Subsection (4)]~~ Section 53F-2-601 without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

~~[(4) (a) In addition to the revenue collected from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$35.55 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.]~~

~~[(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a local school board levies a tax rate under both programs.]~~

~~[(c) (i) Beginning July 1, 2015, the \$35.55 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.]~~

~~[(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.]~~

~~[(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.]~~

~~[(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.]~~

~~[(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.]~~

~~[(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:]~~

~~[(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(e) in the current fiscal year; and]~~

~~[(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).]~~

~~[(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.]~~

~~[(5)] (4) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.~~

~~(b) A majority vote opposing a modification does not deprive the local school board of authority to continue the levy.~~

~~(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the local school board shall allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.~~

~~(d) Nothing contained in this section terminates, without an election, the authority of a local school board to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.~~

~~[(6)] (5) Notwithstanding Section 59-2-919, a local school board may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from eligible new growth as defined in Section 59-2-924, without having to comply with the notice requirements of Section 59-2-919, if:~~

~~(a) the voted local levy is approved:~~

~~(i) in accordance with Subsections ~~[(9) and (10)] (8) and (9)~~ on or after January 1, 2003; and~~

~~(ii) within the four-year period immediately preceding the year in which the local school board seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and~~

~~(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the local school board complies with the requirements of Subsection ~~[(8)] (7)~~.~~

~~[(7)] (6) Notwithstanding Section 59-2-919, a local school board may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:~~

~~(a) the levy exceeds the certified tax rate as the result of a local school board budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;~~

~~(b) the voted local levy was approved:~~

~~(i) in accordance with Subsections ~~[(9) and (10)] (8) and (9)~~ on or after January 1, 2003; and~~

~~(ii) within the four-year period immediately preceding the year in which the local school board seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and~~

~~(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the local school board complies with requirements of Subsection ~~[(8)] (7)~~.~~

~~[(8)] (7) For purposes of Subsection ~~[(6)] (5)(b)~~ or ~~[(7)] (6)(c)~~, the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:~~

~~"A vote in favor of this tax means that the local school board of [name of the school district] may increase revenue from this property tax without advertising the increase for the next five years."~~

~~[(9)] (8) (a) Before a local school board may impose a property tax levy pursuant to this section, a local school board shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.~~

~~(b) The election required by this Subsection ~~[(9)] (8)~~ shall be held:~~

~~(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;~~

~~(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or~~

~~(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.~~

~~(c) Notwithstanding the requirements of Subsections ~~[(9)] (8)(a) and (b)~~, beginning on or after January 1, 2012, a local school board may levy a tax rate in accordance with this section without complying with the requirements of Subsections ~~[(9)] (8)(a) and (b)~~ if the local school board imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.~~

~~[(10)] (9) If a local school board determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection ~~[(9)] (8)~~, the local school board may impose the tax rate.~~

Section 170. Section 53F-8-302, which is renumbered from Section 53A-17a-164 is renumbered and amended to read:

53A-17a-164. 53F-8-302. Board local levy.

(1) The terms defined in Section 53F-2-102 apply to this section.

~~[(4)] (2)~~ Subject to the other requirements of this section, for a calendar year beginning on or after January 1, 2012, a local school board may levy a tax to fund the school district's general fund.

~~[(2)] (3) (a)~~ For purposes of this Subsection ~~[(2)] (3)~~, "combined rate" means the sum of:

(i) the rate imposed by a local school board under Subsection ~~[(4)] (2)~~; and

(ii) the charter school levy rate, described in Section ~~[53A-1a-513.1] 53F-2-703~~, for the local school board's school district.

(b) Except as provided in Subsection ~~[(2)] (3)(c)~~, beginning on January 1, 2017, a school district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.

(c) Beginning on January 1, 2017, a school district's combined rate may not exceed .0025 per dollar of taxable value in any calendar year if, during the calendar year beginning on January 1, 2011, the school district's total tax rate for the following levies was greater than .0018 per dollar of taxable value:

(i) a recreation levy imposed under Section 11-2-7;

(ii) a transportation levy imposed under Section ~~[53A-17a-127] 53F-8-403~~;

(iii) a board-authorized levy imposed under Section ~~[53A-17a-134] 53F-8-404~~;

(iv) an impact aid levy imposed under Section ~~[53A-17a-143] 53F-2-515~~;

(v) the portion of a 10% of basic levy imposed under Section ~~[53A-17a-145] 53F-8-405~~ that is budgeted for purposes other than capital outlay or debt service;

(vi) a reading levy imposed under Section ~~[53A-17a-151] 53F-8-406~~; and

(vii) a tort liability levy imposed under Section 63G-7-704.

~~[(3) (a)] (4)~~ In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount ~~[sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Subsection 53A-17a-133(4)]~~ as described in Section ~~53F-2-602~~.

~~[(b) (i)]~~ The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.]

~~[(ii)]~~ Subsection (3)(b)(i) applies for a period of five years following any changes in the certified tax rate.]

~~[(4)] (5) (a)~~ For a calendar year beginning on or after January 1, 2017, the State Tax Commission shall adjust a board local levy rate imposed by a local school board under this section by the amount necessary to offset the change in revenues from the charter school levy imposed under Section ~~[53A-1a-513.1] 53F-2-703~~.

(b) A local school board is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset described in Subsection ~~[(4)] (5)(a)~~ to the change in revenues from the charter school levy imposed under Section ~~[53A-1a-513.1] 53F-2-703~~.

(c) A local school board may not increase a board local levy rate under this section before December 31, 2016, if the local school board did not give public notice on or before March 4, 2016, of the local school board's intent to increase the board local levy rate.

(d) So long as the charter school levy rate does not exceed 25% of the charter school levy per district revenues, a local school board may not increase a board local levy rate under this section if the purpose of increasing the board local levy rate is to capture the revenues assigned to the charter school levy through the adjustment in a board local levy rate under Subsection ~~[(4)] (5)(a)~~.

(e) Before a local school board takes action to increase a board local levy rate under this section, the local school board shall:

(i) prepare a written statement that attests that the local school board is in compliance with Subsection ~~[(4)] (5)(d)~~;

(ii) read the statement described in Subsection ~~[(4)] (5)(e)(i)~~ during a local school board public meeting where the local school board discusses increasing the board local levy rate; and

(iii) send a copy of the statement described in Subsection ~~[(4)] (5)(e)(i)~~ to the State Tax Commission.

Section 171. Section 53F-8-303, which is renumbered from Section 53A-16-113 is renumbered and amended to read:

~~[53A-16-113]. 53F-8-303. Capital local levy -- First class county required levy -- Allowable uses of collected revenue.~~

(1) (a) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a capital outlay levy imposed under Section ~~[53A-16-107]~~ 53F-8-401; and

(ii) the portion of the 10% of basic levy described in Section ~~[53A-17a-145]~~ 53F-8-405 that is budgeted for debt service or capital outlay; and

(b) revenue from eligible new growth as defined in Section 59-2-924.

(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (3)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:

(i) before the local school board's budget hearing in accordance with the notification requirements described in Section ~~[53A-19-102]~~ 53G-7-303; and

(ii) at a budget hearing required in Section ~~[53A-19-102]~~ 53G-7-303.

(c) A local school board may not use the proceeds described in Subsection (3)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

Section 172. Section 53F-8-401, which is renumbered from Section 53A-16-107 is renumbered and amended to read:

Part 4. Obsolete Tax Levies

~~[53A-16-107]. 53F-8-401. Capital outlay levy -- Authority to use proceeds of .0002 tax rate for maintenance of school facilities -- Restrictions and procedure -- Limited authority to use proceeds for general fund purposes -- Notification required when using proceeds for general fund purposes -- Authority for small school districts to use levy proceeds for operation and maintenance of plant services.~~

(1) Subject to Subsection (3) and except as provided in Subsections (2), (5), (6), and (7), a local school board may annually impose a capital outlay levy not to exceed .0024 per dollar of taxable value to be used for:

(a) capital outlay; or

(b) debt service.

(2) (a) A local school board with an enrollment of 2,500 students or more may utilize the proceeds of a maximum of .0002 per dollar of taxable value of the

local school board's annual capital outlay levy for the maintenance of school facilities in the school district.

(b) A local school board that uses the option provided under Subsection (2)(a) shall:

(i) maintain the same level of expenditure for maintenance in the current year as it did in the preceding year, plus the annual average percentage increase applied to the maintenance and operation budget for the current year; and

(ii) identify the expenditure of capital outlay funds for maintenance by a district project number to ensure that the funds are expended in the manner intended.

(c) The State Board of Education shall establish by rule the expenditure classification for maintenance under this program using a standard classification system.

(3) Beginning January 1, 2009, and through the taxable year beginning January 1, 2011, in order to qualify for receipt of the state contribution toward the minimum school program, a local school board in a county of the first class shall impose a capital outlay levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection (3) to school districts within the county in accordance with Section 53A-16-114.

(b) (i) Except as provided in Subsection (4)(b)(ii), if a school district in a county of the first class imposes a capital outlay levy pursuant to this section which exceeds .0006 per dollar of taxable value, the county treasurer of a county of the first class shall distribute revenues generated by the portion of the capital outlay levy which exceeds .0006 to the school district imposing the levy.

(ii) If a new district and a remaining district are required to impose property tax levies pursuant to Subsection ~~[53A-2-118.4]~~ 53G-3-304(2), the county treasurer shall distribute revenues of the new district or remaining district generated by the portion of a capital outlay levy that exceeds .0006 in accordance with Section ~~[53A-2-118.4]~~ 53G-3-304.

(5) (a) Notwithstanding Subsections (1)(a) and (b) and subject to Subsections (5)(b), (c), and (d), for fiscal years 2010-11 and 2011-12, a local school board may use the proceeds of the local school board's capital outlay levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for general fund purposes:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section ~~[53A-19-102]~~ 53G-7-303; and

(ii) at a budget hearing required in Section ~~[53A-19-102]~~ 53G-7-303.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Section 53A-16-114 for general fund purposes.

(6) (a) In addition to the uses described in Subsection (1), a local school board of a school district with an enrollment of fewer than 2,500 students, may use the proceeds of the local school board's capital outlay levy, in fiscal years 2011-12, 2012-13, and 2013-14, for expenditures made within the accounting function classification 2600, Operation and Maintenance of Plant Services, of the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics, excluding expenditures for mobile phone service and vehicle operation and maintenance.

(b) If a local school board of a school district with an enrollment of fewer than 2,500 students uses the proceeds of a capital outlay levy for the operation and maintenance of plant services as described in Subsection (6)(a), the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for operation and maintenance of plant services:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section ~~[53A-19-102]~~ 53G-7-303; and

(ii) at a budget hearing required in Section ~~[53A-19-102]~~ 53G-7-303.

(7) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 173. Section 53F-8-402, which is renumbered from Section 53A-16-110 is renumbered and amended to read:

~~[53A-16-110]. 53F-8-402. Special tax to buy school building sites, build and furnish schoolhouses, or improve school property.~~

(1) (a) Except as provided in Subsection (6), a local school board may, by following the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a special election to determine whether a special property tax should be levied for one or more years to buy building sites, build and furnish schoolhouses, or improve the school property under its control.

(b) The tax may not exceed .2% of the taxable value of all taxable property in the district in any one year.

(2) The board shall give reasonable notice of the election and follow the same procedure used in elections for the issuance of bonds.

(3) If a majority of those voting on the proposition vote in favor of the tax, it is levied in addition to a levy authorized under Section ~~[53A-17a-145]~~ 53F-8-405 and computed on the valuation of the county assessment roll for that year.

(4) (a) Within 20 days after the election, the board shall certify the amount of the approved tax to the governing body of the county in which the school district is located.

(b) The governing body shall acknowledge receipt of the certification and levy and collect the special tax.

(c) It shall then distribute the collected taxes to the business administrator of the school district at the end of each calendar month.

(5) The special tax becomes due and delinquent and attaches to and becomes a lien on real and personal property at the same time as state and county taxes.

(6) Notwithstanding Subsections (3) and (4), beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 174. Section 53F-8-403 is enacted to read:

53F-8-403. School transportation levy.

(1) Except as provided in Subsection (5), a local school board may provide for the transportation of students regardless of the distance from school, from a tax rate not to exceed .0003 per dollar of taxable value levied by the local school board.

(2) A local school board may use revenue from the tax described in Subsection (1) to pay for transporting students and for the replacement of school buses.

(3) (a) If a local school board levies a tax under Subsection (1) of at least .0002, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(b) The State Board of Education's employees shall distribute the state contribution according to rules enacted by the State Board of Education.

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (3) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(b) Subsection (4)(a) applies for a period of two years following the change in the certified tax rate.

(5) Beginning January 1, 2012, a local school board may not impose a tax in accordance with this section.

(6) The terms defined in Section 53F-2-102 apply to this section.

Section 175. Section 53F-8-404, which is renumbered from Section 53A-17a-134 is renumbered and amended to read:

[53A-17a-134]. 53F-8-404. Board-approved leeway -- Purpose -- State support -- Disapproval.

(1) Except as provided in Subsection (9), a local school board may levy a tax rate of up to .0004 per dollar of taxable value to maintain a school program above the cost of the basic school program as follows:

(a) a local school board shall use the money generated by the tax for class size reduction within the school district;

(b) if a local school board determines that the average class size in the school district is not excessive, the local school board may use the money for other school purposes but only if the local school board has declared the use for other school purposes in a public meeting prior to levying the tax rate; and

(c) a local school board may not use the money for other school purposes under Subsection (1)(b) until the local school board has certified in writing that the local school board's class size needs are already being met and the local school board has identified the other school purposes for which the money will be used to the State Board of Education and the State Board of Education has approved the local school board's use for other school purposes.

(2) (a) The state shall contribute an amount sufficient to guarantee \$27.36 per weighted pupil unit for each .0001 per dollar of taxable value.

(b) The guarantee shall increase in the same manner as provided for the voted local levy guarantee in ~~[Subsection 53A-17a-133(4)(e)]~~ Section 53F-2-601.

(c) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (2) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (2)(c)(i) applies for a period of five years following any such change in the certified tax rate.

(d) The guarantee provided under this section does not apply to:

(i) a board-authorized leeway in the first fiscal year the levy is in effect, unless the levy was approved by voters pursuant to Subsections (4) through (6); or

(ii) the portion of a board-authorized levy rate that is in excess of the board-authorized leeway rate that was in effect for the previous fiscal year.

(3) The levy authorized under this section is not in addition to the maximum rate of .002 authorized in Section ~~[53A-17a-133]~~ 53F-8-301, but is a

board-authorized component of the total tax rate under that section.

(4) As an exception to Section ~~[53A-17a-133]~~ 53F-8-301, the board-authorized levy does not require voter approval, but the local school board may require voter approval if requested by a majority of the local school board.

(5) An election to consider disapproval of the board-authorized levy is required, if within 60 days after the levy is established by the local school board, referendum petitions signed by the number of legal voters required in Section 20A-7-301, who reside within the school district, are filed with the local school board.

(6) (a) A local school board shall establish its board-approved levy by April 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an election is required under this section, the levy applies to the fiscal year beginning July 1 of the next calendar year.

(b) (i) The approval and disapproval votes authorized in Subsections (4) and (5) shall occur at a general election in even-numbered years, except that a vote required under this section in odd-numbered years shall occur at a special election held on a day in odd-numbered years that corresponds to the general election date.

(ii) The school district shall pay for the cost of a special election.

(7) (a) Modification or termination of a voter-approved leeway rate authorized under this section is governed by Section ~~[53A-17a-133]~~ 53F-8-301.

(b) A board-authorized levy rate may be modified or terminated by a majority vote of the local school board subject to disapproval procedures specified in this section.

(8) A board-authorized levy election does not require publication of a voter information pamphlet.

(9) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

(10) The terms defined in Section 53F-2-102 apply to this section.

Section 176. Section 53F-8-405, which is renumbered from Section 53A-17a-145 is renumbered and amended to read:

[53A-17a-145]. 53F-8-405. Additional levy by local school board for debt service, school sites, buildings, buses, textbooks, and supplies.

(1) Except as provided in Subsection (5), a local school board may elect to increase the school district's tax rate by up to 10% of the cost of the basic program.

(2) The proceeds from the increase may only be used for debt service, the construction or

remodeling of school buildings, or the purchase of school sites, buses, equipment, textbooks, and supplies.

(3) This section does not prohibit a school district or local school board from exercising the authority granted by other laws relating to tax rates.

(4) This increase in the tax rate is not included in determining the apportionment of the State School Fund, and is in addition to other tax rates authorized by law.

(5) Beginning January 1, 2012, a local school board may not:

(a) levy a tax rate in accordance with this section; or

(b) increase its tax rate as described in Subsection (1).

(6) The terms defined in Section 53F-2-102 apply to this section.

Section 177. Section 53F-8-406, which is renumbered from Section 53A-17a-151 is renumbered and amended to read:

[53A-17a-151]. 53F-8-406. Board leeway for reading improvement.

(1) Except as provided in Subsection (4), a local school board may levy a tax rate of up to .000121 per dollar of taxable value for funding the school district's K-3 Reading Improvement Program created under Section ~~[53A-17a-150]~~ 53F-2-503.

(2) The levy authorized under this section:

(a) is in addition to any other levy or maximum rate;

(b) does not require voter approval; and

(c) may be modified or terminated by a majority vote of the local school board.

(3) A local school board shall establish a local school board-approved levy under this section by June 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year.

(4) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

(5) The terms defined in Section 53F-2-102 apply to this section.

Section 178. Section 53F-9-101 is enacted to read:

CHAPTER 9. FUNDS AND ACCOUNTS

Part 1. General Provisions

53F-9-101. Title.

This chapter is known as "Funds and Accounts."

Section 179. Section 53F-9-102 is enacted to read:

53F-9-102. Definitions.

Reserved

Section 180. Section 53F-9-201, which is renumbered from Section 53A-16-101 is renumbered and amended to read:

Part 2. Uniform School Fund

[53A-16-101]. 53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

(2) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of the average of:

(i) 4% of the average market value of the permanent State School Fund based on an annual review each July of the past 12 consecutive quarters; and

(ii) the prior year's distribution from the Trust Distribution Account as described in Section ~~[53A-16-101.5]~~ 53F-2-404, increased by prior year changes in the percentage of student enrollment growth and in the consumer price index.

(3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the average market value of the permanent State School Fund over the past 12 consecutive quarters.

(4) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review distribution of the Trust Distribution Account; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula described in Subsection (2)(b).

(5) (a) Upon appropriation by the Legislature, the director of the School and Institutional Trust Fund Office created in Section 53D-1-201 shall place in the Trust Distribution Account funds for:

(i) the administration of the School LAND Trust Program as provided in Section ~~[53A-16-101.5]~~ 53F-2-404;

(ii) the performance of duties described in Section ~~[53A-16-101.6]~~ 53E-3-514;

(iii) the School and Institutional Trust Fund Office; and

(iv) the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301.

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

Section 181. Section 53F-9-202, which is renumbered from Section 53A-16-103 is renumbered and amended to read:

[53A-16-103]. 53F-9-202. Duty of Division of Finance -- Apportionment of fund by state board -- Certification of apportionments.

(1) The Division of Finance shall give the state superintendent, upon request, a written accounting of the current balance in the Uniform School Fund.

(2) The State Board of Education shall apportion the fund among the several school districts.

(3) The state superintendent shall certify the apportionments to the Division of Finance and draws warrants on the state treasurer in favor of the school districts.

Section 182. Section 53F-9-203, which is renumbered from Section 53A-1a-522 is renumbered and amended to read:

[53A-1a-522]. 53F-9-203. Charter School Revolving Account.

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

[4] (b) As used in this section, "account" means the Charter School Revolving Account.

(2) (a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:

(i) meet school building construction and renovation needs; and

(ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The State Board of Education, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the State Board of Education.

(3) The Charter School Revolving Account shall consist of:

(a) money appropriated to the account by the Legislature;

(b) money received from the repayment of loans made from the account; and

(c) interest earned on money in the account.

(4) The state superintendent of public instruction shall make loans to charter schools from the account to pay for the costs of:

(a) planning expenses;

(b) constructing or renovating charter school buildings;

(c) equipment and supplies; or

(d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) (a) The State Board of Education shall establish a committee to:

(i) review requests by charter schools for loans under this section; and

(ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the State Board of Education.

(b) (i) A committee established under Subsection (6)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration.

(ii) Of the members appointed to a committee established under Subsection (6)(a):

(A) one member shall be nominated by the governor; and

(B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.

(c) If the committee recommends approval of a loan application under Subsection (6)(a)(ii), the committee's recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

(iii) the interest rate to be charged.

(d) A committee member may not:

(i) be a relative, as defined in Section ~~53A-1a-518~~ 53G-5-409, of a loan applicant; or

(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.

(7) A loan under this section may not be made unless the State Board of Education, in consultation with the State Charter School Board, approves the loan.

(8) The term of a loan to a charter school under this section may not exceed five years.

(9) The State Board of Education may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.

(10) (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the State Board of Education shall be deposited into the Charter School Revolving Account.

(b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Section 183. Section 53F-9-204, which is renumbered from Section 53A-16-112 is renumbered and amended to read:

[53A-16-112]. 53F-9-204. Growth in Student Population Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the “Growth in Student Population Restricted Account.”

(2) The account shall be funded from the following revenue sources:

(a) any voluntary contributions received to help alleviate the anticipated surge in student growth in public elementary and secondary schools during the early part of the 21st Century; and

(b) appropriations made to the fund by the Legislature.

(3) The account shall be used to help school districts meet the challenges created by anticipated significant increases in student growth in the state’s public schools.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

Section 184. Section 53F-9-205, which is renumbered from Section 53A-16-115 is renumbered and amended to read:

[53A-16-115]. 53F-9-205. Invest More for Education Account.

(1) There is created within the Uniform School Fund a restricted account known as the Invest More for Education Account.

(2) The account shall be funded by contributions deposited into the restricted account in accordance with Section 59-10-1318.

(3) The account shall earn interest.

(4) Interest earned on the account shall be deposited into the account.

(5) The Legislature may appropriate money from the account for the support of the public education system.

Section 185. Section 53F-9-206, which is renumbered from Section 53A-21-401 is renumbered and amended to read:

[53A-21-401]. 53F-9-206. School Building Revolving Account -- Access to the account.

(1) (a) There is created within the Uniform School Fund a restricted account known as the “School Building Revolving Account” to provide short-term help to school districts to meet district needs for school building construction and renovation.

(b) The state superintendent of public instruction shall administer the School Building Revolving Account in accordance with Chapter 3, State Funding -- Capital Outlay Programs, and rules adopted by the State Board of Education.

(2) The State Board of Education may not allocate funds from the School Building Revolving Account that exceed a school district’s bonding limit minus its outstanding bonds.

(3) In order to receive money from the School Building Revolving Account, a school district shall:

(a) levy a combined capital levy rate of at least .0024;

(b) contract with the state superintendent of public instruction to repay the money, with interest at a rate established by the state superintendent, within five years of receipt, using future state capital outlay allocations, local revenues, or both;

(c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan repayments, unless the state superintendent of public instruction alters the payment schedule to improve a hardship situation; and

(d) meet any other condition established by the State Board of Education pertinent to the loan.

(4) (a) The state superintendent shall establish a committee, including representatives from state and local education entities, to:

(i) review requests by school districts for loans under this section; and

(ii) make recommendations regarding approval or disapproval of the loan applications to the state superintendent.

(b) If the committee recommends approval of a loan application under Subsection (4)(a)(ii), the committee’s recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

(iii) the interest rate to be charged.

Section 186. Section 53F-9-301, which is renumbered from Section 53A-1a-513.2 is renumbered and amended to read:

Part 3. Education Fund

[53A-1a-513.2]. 53F-9-301. Charter School Levy Account.

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

(1)(b) As used in this section, “account” means the Charter School Levy Account created in this section.

(2) There is created within the Education Fund a restricted account known as the “Charter School Levy Account.”

(3) The account shall be funded by amounts deposited into the account in accordance with Section [53A-1a-513.1] 53F-2-703.

(4) Upon appropriation from the Legislature, the State Board of Education shall distribute funds from the account as described in Section [53A-1a-513.1] 53F-2-703.

(5) The account shall earn interest.

(6) Interest earned on the account shall be deposited into the account.

(7) Funds in the account are nonlapsing.

Section 187. Section 53F-9-302, which is renumbered from Section 53A-17a-135.1 is renumbered and amended to read:

[53A-17a-135.1]. 53F-9-302. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section ~~[53A-17a-135]~~ 53F-2-301.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted levy guarantee described in ~~[Subsection 53A-17a-133(4)]~~ Section 53F-2-601;

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in ~~[Title 53A, Chapter 21, Part 2, Capital Outlay Foundation Program]~~ Section 53F-3-203; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in ~~[Title 53A, Chapter 21, Part 3, Capital Outlay Enrollment Growth Program]~~ Section 53F-3-203.

Section 188. Section 53F-9-303, which is renumbered from Section 53A-20b-301 is renumbered and amended to read:

[53A-20b-301]. 53F-9-303. Charter School Reserve Account.

(1) The terms defined in Section 53G-5-601 apply to this section.

~~[(1)]~~ (2) There is created within the Education Fund a restricted account known as the "Charter School Reserve Account."

~~[(2)]~~ (3) The reserve account consists of:

(a) money credited to the account pursuant to Section ~~[53A-20b-202]~~ 53G-5-607;

(b) money appropriated to the account by the Legislature;

(c) all income and interest derived from the deposit and investment of money in the account;

(d) federal grants; and

(e) private donations.

~~[(3)]~~ (4) Money in the reserve account may be appropriated by the Legislature to:

(a) restore amounts on deposit in a debt service reserve fund of a qualifying charter school to the debt service reserve fund requirement;

(b) pay fees and expenses of the authority;

(c) pay the principal of and interest on bonds issued for a qualifying charter school; or

(d) otherwise provide financial assistance to a qualifying charter school.

Section 189. Section 53F-9-304, which is renumbered from Section 53A-13-114 is renumbered and amended to read:

[53A-13-114]. 53F-9-304. Underage Drinking Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Control remits any portion of the markup collected under Section 32B-2-304 to the State Tax Commission, the department shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the department deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the preceding calendar year and the Consumer Price Index for calendar year 2017.

(b) For purposes of this Subsection (3), the department shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The State Board of Education shall use money in the account for the Underage Drinking Prevention Program described in Section ~~[53A-13-113]~~ 53G-10-406.

Section 190. Section 53F-9-401, which is renumbered from Section 53A-1-304 is renumbered and amended to read:

Part 4. General Fund

[53A-1-304]. 53F-9-401. Autism Awareness Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Autism Awareness Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the superintendent shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) promote access to resources and responsible information for individuals of all ages who have, or are affected by, autism or related conditions;

(c) is an independent organization that has representation from state agencies and private providers serving individuals with autism spectrum disorder and their families in the state;

(d) includes representation of:

(i) national and local autism advocacy groups, as available; and

(ii) interested parents and professionals; and

(e) does not endorse any specific treatment, therapy, or intervention used for autism.

(4) (a) An organization described in Subsection (3) may apply to the superintendent to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the superintendent in accordance with Subsection (3) shall expend the distribution only to:

(i) pay for autism education and public awareness of programs and related services in the state;

(ii) enhance programs designed to serve individuals with autism;

(iii) provide support to caregivers providing services for individuals with autism;

(iv) pay for academic scholarships and research efforts in the area of autism spectrum disorder; and

(v) pay the costs of issuing or reordering Autism Awareness Support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules providing procedures for an organization to apply to the superintendent to receive a distribution under Subsection (3).

Section 191. Section 53F-9-402, which is renumbered from Section 53A-1b-104 is renumbered and amended to read:

[53A-1b-104]. 53F-9-402. School Readiness Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) The terms defined in Section 53F-6-301 apply to this section.

(2) There is created in the General Fund a restricted account known as the "School Readiness Restricted Account" to fund:

(a) the High Quality School Readiness Grant Program described in Section [53A-1b-106] 53F-6-305; and

(b) results-based school readiness contracts for eligible students to participate in:

(i) a high quality preschool program described in:

(A) Section [53A-1b-107] 53F-6-306; or

(B) Section [53A-1b-108] 53F-6-307; or

(ii) an eligible home-based educational technology program described in Section [53A-1b-109] 53F-6-308.

(3) The restricted account consists of:

(a) money appropriated to the restricted account by the Legislature;

(b) all income and interest derived from the deposit and investment of money in the account;

(c) federal grants; and

(d) private donations.

(4) Subject to legislative appropriations, money in the restricted account may be used for the following purposes:

(a) to award grants under the High Quality School Readiness Grant Program described in Section [53A-1b-106] 53F-6-305;

(b) to contract with an independent evaluator as required in Subsection [53A-1b-110] 53F-6-309(3);

(c) in accordance with Section [53A-1b-110] 53F-6-309, to make payments to one or more private entities that the board has entered into a results-based contract with if the independent evaluator selected by the board determines that the performance-based results have been met; and

(d) for administration costs and to monitor the programs described in this part.

Section 192. Section 53F-9-501, which is renumbered from Section 53A-15-207 is renumbered and amended to read:

Part 5. Miscellaneous Revenue

[53A-15-207]. 53F-9-501. Hospitality and Tourism Management Education Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Hospitality and Tourism Management Education Account," which the State Board of Education shall use to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section [53A-15-206] 53E-3-515.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature; and

(d) private donations, grants, gifts, bequests, or money made available from any other source to implement ~~[this part]~~ Section 53E-3-507 or 53E-3-515.

(3) The State Board of Education shall administer the account.

(4) The cost of administering the account shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 193. Repealer.

This bill repeals:

Section 53A-1-1502, Definitions.

Section 53A-1-1503, Digital teaching and learning program task force -- Funding proposal for a program -- Master plan -- Reporting requirements.

Section 53A-1-1504, Readiness assessments.

Section 53A-1-1506, Implementation assessment -- Board intervention.

Section 53A-1-1507, Procurement -- Independent evaluator.

Section 53A-6-801, Definition.

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

Section 53A-15-1201.5, Program name.

Section 53A-15-2002, Definitions.

Section 53A-17a-131.17, State contribution for School LAND Trust Program.

Section 53A-21-201, Capital Outlay Foundation Program -- Creation -- Definitions.

Section 53A-21-301, Capital Outlay Enrollment Growth Program -- Definitions.

Section 194. Effective date.

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

Section 195. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(1) H.B. 10, Public Education Recodification - State System;

(2) S.B. 11, Public Education Recodification - Local System; or

(3) S.B. 12, Public Education Recodification - Cross References and Repeals.

CHAPTER 3**S. B. 11**

Passed January 22, 2018
 Approved January 24, 2018
 Effective January 24, 2018

**PUBLIC EDUCATION
 RECODIFICATION - LOCAL
 ADMINISTRATION**

Chief Sponsor: Ann Millner
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill reorganizes and renumbers certain provisions of the public education code related to local administration of the public education system.

Highlighted Provisions:

This bill:

- ▶ reorganizes and renumbers certain provisions of the public education code related to local administration of the public education system;
- ▶ defines terms;
- ▶ enacts provisions related to public education for organizational purposes;
- ▶ reenacts provisions related to public education for organizational purposes;
- ▶ repeals provisions related to public education for organizational purposes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**ENACTS:**

53B-1-115, Utah Code Annotated 1953
 53G-1-101, Utah Code Annotated 1953
 53G-1-102, Utah Code Annotated 1953
 53G-1-103, Utah Code Annotated 1953
 53G-2-101, Utah Code Annotated 1953
 53G-2-102, Utah Code Annotated 1953
 53G-3-101, Utah Code Annotated 1953
 53G-4-101, Utah Code Annotated 1953
 53G-4-102, Utah Code Annotated 1953
 53G-4-501, Utah Code Annotated 1953
 53G-4-601, Utah Code Annotated 1953
 53G-4-701, Utah Code Annotated 1953
 53G-4-1001, Utah Code Annotated 1953
 53G-5-101, Utah Code Annotated 1953
 53G-5-103, Utah Code Annotated 1953
 53G-5-411, Utah Code Annotated 1953
 53G-5-412, Utah Code Annotated 1953
 53G-5-413, Utah Code Annotated 1953
 53G-6-101, Utah Code Annotated 1953
 53G-6-102, Utah Code Annotated 1953
 53G-6-301, Utah Code Annotated 1953
 53G-6-501, Utah Code Annotated 1953
 53G-6-701, Utah Code Annotated 1953
 53G-7-101, Utah Code Annotated 1953
 53G-7-102, Utah Code Annotated 1953
 53G-7-201, Utah Code Annotated 1953
 53G-7-202, Utah Code Annotated 1953

53G-7-301, Utah Code Annotated 1953
 53G-7-501, Utah Code Annotated 1953
 53G-7-1001, Utah Code Annotated 1953
 53G-7-1201, Utah Code Annotated 1953
 53G-8-101, Utah Code Annotated 1953
 53G-8-102, Utah Code Annotated 1953
 53G-8-201, Utah Code Annotated 1953
 53G-8-401, Utah Code Annotated 1953
 53G-8-601, Utah Code Annotated 1953
 53G-9-101, Utah Code Annotated 1953
 53G-9-102, Utah Code Annotated 1953
 53G-9-201, Utah Code Annotated 1953
 53G-9-401, Utah Code Annotated 1953
 53G-9-501, Utah Code Annotated 1953
 53G-9-701, Utah Code Annotated 1953
 53G-10-101, Utah Code Annotated 1953
 53G-10-102, Utah Code Annotated 1953
 53G-10-201, Utah Code Annotated 1953
 53G-10-301, Utah Code Annotated 1953
 53G-10-305, Utah Code Annotated 1953
 53G-10-401, Utah Code Annotated 1953
 53G-10-403, Utah Code Annotated 1953
 53G-10-501, Utah Code Annotated 1953
 53G-11-101, Utah Code Annotated 1953
 53G-11-102, Utah Code Annotated 1953
 53G-11-201, Utah Code Annotated 1953
 53G-11-301, Utah Code Annotated 1953
 53G-11-502, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

11-36a-206, (Renumbered from 53A-20-100.5, as enacted by Laws of Utah 1995, Chapter 283)
 53G-3-102, (Renumbered from 53A-2-112, as enacted by Laws of Utah 1988, Chapter 49)
 53G-3-103, (Renumbered from 53A-2-111, as enacted by Laws of Utah 1988, Chapter 49)
 53G-3-201, (Renumbered from 53A-2-101, as enacted by Laws of Utah 1988, Chapter 2)
 53G-3-202, (Renumbered from 53A-2-108, as last amended by Laws of Utah 2000, Chapter 185)
 53G-3-203, (Renumbered from 53A-2-101.5, as last amended by Laws of Utah 2009, Chapter 350)
 53G-3-204, (Renumbered from 53A-2-123, as last amended by Laws of Utah 2013, Chapter 445)
 53G-3-205, (Renumbered from 53A-2-116, as enacted by Laws of Utah 1988, Chapter 49)
 53G-3-301, (Renumbered from 53A-2-118, as last amended by Laws of Utah 2017, Chapter 91)
 53G-3-302, (Renumbered from 53A-2-118.1, as last amended by Laws of Utah 2017, Chapter 91)
 53G-3-303, (Renumbered from 53A-2-118.2, as last amended by Laws of Utah 2011, Chapter 371)
 53G-3-304, (Renumbered from 53A-2-118.4, as last amended by Laws of Utah 2015, Chapter 428)
 53G-3-305, (Renumbered from 53A-2-119, as last amended by Laws of Utah 2010, Chapter 230)

53G-3-306, (Renumbered from 53A-2-120, as last amended by Laws of Utah 2011, Chapter 295)	53G-4-404, (Renumbered from 53A-3-404, as last amended by Laws of Utah 2004, Chapter 206)
53G-3-307, (Renumbered from 53A-2-121, as last amended by Laws of Utah 2011, Chapter 295)	53G-4-405, (Renumbered from 53A-3-405, as enacted by Laws of Utah 1988, Chapter 2)
53G-3-308, (Renumbered from 53A-2-122, as last amended by Laws of Utah 2006, Chapter 183)	53G-4-406, (Renumbered from 53A-3-406, as enacted by Laws of Utah 1988, Chapter 2)
53G-3-401, (Renumbered from 53A-2-102, as last amended by Laws of Utah 1993, Chapter 227)	53G-4-407, (Renumbered from 53A-3-408, as enacted by Laws of Utah 1988, Chapter 2)
53G-3-402, (Renumbered from 53A-2-103, as last amended by Laws of Utah 2008, Chapter 236)	53G-4-408, (Renumbered from 53A-3-412, as enacted by Laws of Utah 1988, Chapter 2)
53G-3-403, (Renumbered from 53A-2-113, as last amended by Laws of Utah 1993, Chapter 4)	53G-4-409, (Renumbered from 53A-3-420, as last amended by Laws of Utah 2010, Chapter 305)
53G-3-404, (Renumbered from 53A-2-114, as last amended by Laws of Utah 2011, Chapter 371)	53G-4-410, (Renumbered from 53A-3-429, as last amended by Laws of Utah 2014, Chapter 63)
53G-3-501, (Renumbered from 53A-2-104, as last amended by Laws of Utah 2007, Chapter 215)	53G-4-411, (Renumbered from 53A-3-432, as enacted by Laws of Utah 2015, Chapter 300 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 300)
53G-3-502, (Renumbered from 53A-2-105, as last amended by Laws of Utah 2007, Chapter 215)	53G-4-502, (Renumbered from 53A-5-101, as last amended by Laws of Utah 1990, Chapter 78)
53G-3-503, (Renumbered from 53A-2-115, as last amended by Laws of Utah 2011, Chapter 371)	53G-4-503, (Renumbered from 53A-5-102, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-201, (Renumbered from 53A-3-101, as repealed and reenacted by Laws of Utah 1995, Chapter 1)	53G-4-504, (Renumbered from 53A-5-103, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-202, (Renumbered from 53A-3-106, as last amended by Laws of Utah 2015, Chapters 60 and 196)	53G-4-602, (Renumbered from 53A-18-101, as last amended by Laws of Utah 2005, Chapter 105)
53G-4-203, (Renumbered from 53A-3-201, as last amended by Laws of Utah 2005, Chapter 172)	53G-4-603, (Renumbered from 53A-18-102, as last amended by Laws of Utah 2014, Chapter 325)
53G-4-204, (Renumbered from 53A-3-202, as last amended by Laws of Utah 2010, Chapter 90)	53G-4-604, (Renumbered from 53A-18-103, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-205, (Renumbered from 53A-3-204, as last amended by Laws of Utah 2011, Chapter 366)	53G-4-605, (Renumbered from 53A-18-104, as last amended by Laws of Utah 2009, Chapter 388)
53G-4-301, (Renumbered from 53A-3-301, as last amended by Laws of Utah 2011, Chapters 209 and 322)	53G-4-606, (Renumbered from 53A-18-105, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-302, (Renumbered from 53A-3-302, as last amended by Laws of Utah 2012, Chapter 46)	53G-4-607, (Renumbered from 53A-18-106, as last amended by Laws of Utah 1993, Chapter 227)
53G-4-303, (Renumbered from 53A-3-303, as last amended by Laws of Utah 2008, Chapter 382)	53G-4-608, (Renumbered from 53A-18-107, as enacted by Laws of Utah 2013, Chapter 356)
53G-4-304, (Renumbered from 53A-3-304, as last amended by Laws of Utah 2011, Chapter 336)	53G-4-702, (Renumbered from 53A-23-101, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-401, (Renumbered from 53A-3-401, as last amended by Laws of Utah 2014, Chapter 336)	53G-4-703, (Renumbered from 53A-23-102, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-402, (Renumbered from 53A-3-402, as last amended by Laws of Utah 2017, Chapters 278 and 330)	53G-4-704, (Renumbered from 53A-23-103, as enacted by Laws of Utah 1988, Chapter 2)
53G-4-403, (Renumbered from 53A-3-403, as last amended by Laws of Utah 2017, Chapter 372)	53G-4-705, (Renumbered from 53A-23-104, as enacted by Laws of Utah 1988, Chapter 2)
	53G-4-801, (Renumbered from 53A-28-102, as enacted by Laws of Utah 1996, Chapter 62)
	53G-4-802, (Renumbered from 53A-28-201, as enacted by Laws of Utah 1996, Chapter 62)
	53G-4-803, (Renumbered from 53A-28-202, as enacted by Laws of Utah 1996, Chapter 62)

53G-4-804, (Renumbered from 53A-28-203, as last amended by Laws of Utah 2003, Chapter 221)	53G-5-305, (Renumbered from 53A-1a-515, as last amended by Laws of Utah 2014, Chapter 363)
53G-4-805, (Renumbered from 53A-28-301, as last amended by Laws of Utah 2011, Chapter 342)	53G-5-306, (Renumbered from 53A-1a-521, as last amended by Laws of Utah 2017, Chapter 382)
53G-4-806, (Renumbered from 53A-28-302, as last amended by Laws of Utah 2011, Chapter 342)	53G-5-401, (Renumbered from 53A-1a-503.5, as last amended by Laws of Utah 2016, Chapter 232)
53G-4-807, (Renumbered from 53A-28-401, as last amended by Laws of Utah 2011, Chapter 342)	53G-5-402, (Renumbered from 53A-1a-523, as enacted by Laws of Utah 2011, Chapter 436)
53G-4-808, (Renumbered from 53A-28-402, as last amended by Laws of Utah 2011, Chapter 342)	53G-5-403, (Renumbered from 53A-1a-517, as last amended by Laws of Utah 2014, Chapter 363)
53G-4-901, (Renumbered from 53A-2-402, as last amended by Laws of Utah 2015, Chapter 352)	53G-5-404, (Renumbered from 53A-1a-507, as last amended by Laws of Utah 2014, Chapter 363)
53G-4-902, (Renumbered from 53A-2-403, as last amended by Laws of Utah 2012, Chapter 104)	53G-5-405, (Renumbered from 53A-1a-511, as last amended by Laws of Utah 2016, Chapters 355 and 363)
53G-4-903, (Renumbered from 53A-2-404, as enacted by Laws of Utah 2006, Chapter 339)	53G-5-406, (Renumbered from 53A-1a-520, as last amended by Laws of Utah 2014, Chapter 363)
53G-4-1001.5, (Renumbered from 53A-22-101, as enacted by Laws of Utah 1988, Chapter 2)	53G-5-407, (Renumbered from 53A-1a-512, as last amended by Laws of Utah 2014, Chapter 363)
53G-4-1002, (Renumbered from 53A-22-102, as enacted by Laws of Utah 1988, Chapter 2)	53G-5-408, (Renumbered from 53A-1a-512.5, as last amended by Laws of Utah 2015, Chapter 389)
53G-4-1003, (Renumbered from 53A-22-103, as enacted by Laws of Utah 1988, Chapter 2)	53G-5-409, (Renumbered from 53A-1a-518, as last amended by Laws of Utah 2010, Chapter 162)
53G-4-1004, (Renumbered from 53A-22-104, as enacted by Laws of Utah 1988, Chapter 2)	53G-5-410, (Renumbered from 53A-1a-524, as last amended by Laws of Utah 2016, Chapter 220)
53G-4-1005, (Renumbered from 53A-22-105, as enacted by Laws of Utah 1988, Chapter 2)	53G-5-501, (Renumbered from 53A-1a-509, as last amended by Laws of Utah 2014, Chapter 363)
53G-4-1006, (Renumbered from 53A-22-106, as enacted by Laws of Utah 1988, Chapter 2)	53G-5-502, (Renumbered from 53A-1a-509.5, as last amended by Laws of Utah 2016, Chapter 363)
53G-5-102, (Renumbered from 53A-1a-501.3, as last amended by Laws of Utah 2017, Chapter 382)	53G-5-503, (Renumbered from 53A-1a-510, as last amended by Laws of Utah 2017, Chapter 378)
53G-5-104, (Renumbered from 53A-1a-503, as last amended by Laws of Utah 2008, Chapter 319)	53G-5-504, (Renumbered from 53A-1a-510.5, as last amended by Laws of Utah 2016, Chapter 213)
53G-5-201, (Renumbered from 53A-1a-501.5, as last amended by Laws of Utah 2011, Chapter 429)	53G-5-505, (Renumbered from 53A-1a-514, as last amended by Laws of Utah 2014, Chapter 363)
53G-5-202, (Renumbered from 53A-1a-501.6, as last amended by Laws of Utah 2014, Chapter 363)	53G-5-601, (Renumbered from 53A-20b-102, as last amended by Laws of Utah 2012, Chapter 201)
53G-5-203, (Renumbered from 53A-1a-501.7, as last amended by Laws of Utah 2016, Chapters 144 and 271)	53G-5-602, (Renumbered from 53A-20b-103, as last amended by Laws of Utah 2012, Chapter 201)
53G-5-204, (Renumbered from 53A-1a-507.1, as enacted by Laws of Utah 2005, Chapter 74)	53G-5-603, (Renumbered from 53A-20b-104, as last amended by Laws of Utah 2012, Chapter 201)
53G-5-301, (Renumbered from 53A-1a-501.9, as enacted by Laws of Utah 2013, Chapter 376)	53G-5-604, (Renumbered from 53A-20b-105, as last amended by Laws of Utah 2012, Chapter 201)
53G-5-302, (Renumbered from 53A-1a-504, as last amended by Laws of Utah 2017, Chapters 325 and 378)	53G-5-605, (Renumbered from 53A-20b-106, as enacted by Laws of Utah 2007, Chapter 167)
53G-5-303, (Renumbered from 53A-1a-508, as last amended by Laws of Utah 2017, Chapter 212)	
53G-5-304, (Renumbered from 53A-1a-505, as last amended by Laws of Utah 2014, Chapter 363)	

53G-5-606, (Renumbered from 53A-20b-201, as last amended by Laws of Utah 2014, Chapter 363)	53G-6-405, (Renumbered from 53A-2-210, as last amended by Laws of Utah 2008, Chapter 346)
53G-5-607, (Renumbered from 53A-20b-202, as enacted by Laws of Utah 2012, Chapter 201)	53G-6-406, (Renumbered from 53A-2-211, as last amended by Laws of Utah 1993, Chapter 119)
53G-5-608, (Renumbered from 53A-20b-203, as enacted by Laws of Utah 2012, Chapter 201)	53G-6-407, (Renumbered from 53A-2-213, as last amended by Laws of Utah 2008, Chapter 346)
53G-5-609, (Renumbered from 53A-20b-204, as enacted by Laws of Utah 2012, Chapter 201)	53G-6-502, (Renumbered from 53A-1a-506, as last amended by Laws of Utah 2017, Chapters 87 and 212)
53G-6-201, (Renumbered from 53A-11-101, as last amended by Laws of Utah 2007, Chapter 81)	53G-6-503, (Renumbered from 53A-1a-506.5, as last amended by Laws of Utah 2014, Chapter 363)
53G-6-202, (Renumbered from 53A-11-101.5, as last amended by Laws of Utah 2012, Chapter 203)	53G-6-504, (Renumbered from 53A-1a-502.5, as last amended by Laws of Utah 2016, Chapter 213)
53G-6-203, (Renumbered from 53A-11-101.7, as last amended by Laws of Utah 2017, Chapter 330)	53G-6-601, (Renumbered from 53A-11-501, as last amended by Laws of Utah 1998, Chapter 263)
53G-6-204, (Renumbered from 53A-11-102, as last amended by Laws of Utah 2014, Chapter 374)	53G-6-602, (Renumbered from 53A-11-502, as last amended by Laws of Utah 1998, Chapter 263)
53G-6-205, (Renumbered from 53A-11-101.3, as enacted by Laws of Utah 2007, Chapter 81)	53G-6-603, (Renumbered from 53A-11-503, as last amended by Laws of Utah 1993, Chapter 234)
53G-6-206, (Renumbered from 53A-11-103, as last amended by Laws of Utah 2017, Chapter 330)	53G-6-604, (Renumbered from 53A-11-504, as last amended by Laws of Utah 2017, Chapter 278)
53G-6-207, (Renumbered from 53A-11-104, as last amended by Laws of Utah 2007, Chapter 81)	53G-6-702, (Renumbered from 53A-11-102.5, as last amended by Laws of Utah 2010, Chapter 210)
53G-6-208, (Renumbered from 53A-11-105, as last amended by Laws of Utah 2017, Chapter 330)	53G-6-703, (Renumbered from 53A-11-102.6, as last amended by Laws of Utah 2011, Chapter 340)
53G-6-209, (Renumbered from 53A-11-106, as last amended by Laws of Utah 2007, Chapter 81)	53G-6-704, (Renumbered from 53A-1a-519, as last amended by Laws of Utah 2011, Chapter 433)
53G-6-302, (Renumbered from 53A-2-201, as last amended by Laws of Utah 2017, Chapter 175)	53G-6-705, (Renumbered from 53A-2-214, as last amended by Laws of Utah 2017, Chapter 173)
53G-6-303, (Renumbered from 53A-2-202, as last amended by Laws of Utah 1998, Chapter 263)	53G-6-706, (Renumbered from 53A-11-102.7, as enacted by Laws of Utah 2014, Chapter 374)
53G-6-304, (Renumbered from 53A-2-203.5, as enacted by Laws of Utah 1998, Chapter 124)	53G-6-707, (Renumbered from 53A-2-206, as last amended by Laws of Utah 2012, Chapter 398)
53G-6-305, (Renumbered from 53A-2-204, as last amended by Laws of Utah 2017, Chapter 316)	53G-6-708, (Renumbered from 53A-17a-114, as last amended by Laws of Utah 2017, Chapter 382)
53G-6-306, (Renumbered from 53A-2-205, as enacted by Laws of Utah 1988, Chapter 2)	53G-6-801, (Renumbered from 53A-15-1401, as last amended by Laws of Utah 2015, Chapter 444)
53G-6-401, (Renumbered from 53A-2-206.5, as last amended by Laws of Utah 2012, Chapter 67)	53G-6-802, (Renumbered from 53A-15-1402, as last amended by Laws of Utah 2015, Chapter 444)
53G-6-402, (Renumbered from 53A-2-207, as last amended by Laws of Utah 2012, Chapter 67)	53G-6-803, (Renumbered from 53A-15-1403, as last amended by Laws of Utah 2015, Chapter 444)
53G-6-403, (Renumbered from 53A-2-208, as last amended by Laws of Utah 2008, Chapter 346)	53G-7-203, (Renumbered from 53A-3-402.7, as enacted by Laws of Utah 1993, Chapter 122)
53G-6-404, (Renumbered from 53A-2-209, as repealed and reenacted by Laws of Utah 1993, Chapter 119)	

53G-7-204, (Renumbered from 53A-3-402.1, as enacted by Laws of Utah 1999, Chapter 268)	53G-7-502, (Renumbered from 53A-12-101, as enacted by Laws of Utah 1988, Chapter 2)
53G-7-205, (Renumbered from 53A-3-402.9, as last amended by Laws of Utah 2016, Chapter 144)	53G-7-503, (Renumbered from 53A-12-102, as last amended by Laws of Utah 2015, Chapter 258)
53G-7-206, (Renumbered from 53A-13-108.5, as last amended by Laws of Utah 2015, Chapter 415)	53G-7-504, (Renumbered from 53A-12-103, as last amended by Laws of Utah 2008, Chapter 382)
53G-7-207, (Renumbered from 53A-11-901.5, as renumbered and amended by Laws of Utah 1997, Chapter 10)	53G-7-505, (Renumbered from 53A-12-104, as enacted by Laws of Utah 1988, Chapter 2)
53G-7-208, (Renumbered from 53A-3-409, as last amended by Laws of Utah 2015, Chapter 286)	53G-7-601, (Renumbered from 53A-12-202, as enacted by Laws of Utah 1988, Chapter 2)
53G-7-209, (Renumbered from 53A-3-413, as last amended by Laws of Utah 2015, Chapters 232 and 342)	53G-7-602, (Renumbered from 53A-12-201, as enacted by Laws of Utah 1988, Chapter 2)
53G-7-210, (Renumbered from 53A-3-414, as last amended by Laws of Utah 2015, Chapter 232)	53G-7-603, (Renumbered from 53A-12-204, as last amended by Laws of Utah 2002, Chapter 299)
53G-7-211, (Renumbered from 53A-3-407, as enacted by Laws of Utah 1988, Chapter 2)	53G-7-604, (Renumbered from 53A-12-205, as enacted by Laws of Utah 1988, Chapter 2)
53G-7-212, (Renumbered from 53A-3-402.5, as repealed and reenacted by Laws of Utah 1993, Chapter 1)	53G-7-605, (Renumbered from 53A-12-206, as enacted by Laws of Utah 1988, Chapter 2)
53G-7-213, (Renumbered from 53A-3-417, as last amended by Laws of Utah 2004, Chapter 171)	53G-7-606, (Renumbered from 53A-12-207, as last amended by Laws of Utah 2010, Chapter 305)
53G-7-214, (Renumbered from 53A-3-427, as last amended by Laws of Utah 2013, Chapter 214)	53G-7-701, (Renumbered from 53A-11-1202, as last amended by Laws of Utah 2011, Chapter 403)
53G-7-215, (Renumbered from 53A-1-409, as last amended by Laws of Utah 2016, Chapter 347)	53G-7-702, (Renumbered from 53A-11-1203, as last amended by Laws of Utah 2011, Chapter 403)
53G-7-216, (Renumbered from 53A-1-706, as last amended by Laws of Utah 2016, Chapter 220)	53G-7-703, (Renumbered from 53A-11-1204, as enacted by Laws of Utah 2007, Chapter 114)
53G-7-302, (Renumbered from 53A-19-101, as last amended by Laws of Utah 2016, Chapter 363)	53G-7-704, (Renumbered from 53A-11-1205, as enacted by Laws of Utah 2007, Chapter 114)
53G-7-303, (Renumbered from 53A-19-102, as last amended by Laws of Utah 2016, Chapter 363)	53G-7-705, (Renumbered from 53A-11-1206, as last amended by Laws of Utah 2011, Chapter 403)
53G-7-304, (Renumbered from 53A-19-103, as enacted by Laws of Utah 1988, Chapter 2)	53G-7-706, (Renumbered from 53A-11-1207, as enacted by Laws of Utah 2007, Chapter 114)
53G-7-305, (Renumbered from 53A-19-104, as last amended by Laws of Utah 2016, Chapter 363)	53G-7-707, (Renumbered from 53A-11-1208, as last amended by Laws of Utah 2011, Chapter 403)
53G-7-306, (Renumbered from 53A-19-105, as last amended by Laws of Utah 2016, Chapters 350 and 367)	53G-7-708, (Renumbered from 53A-11-1209, as enacted by Laws of Utah 2007, Chapter 114)
53G-7-307, (Renumbered from 53A-19-106, as last amended by Laws of Utah 2016, Chapter 363)	53G-7-709, (Renumbered from 53A-11-1210, as enacted by Laws of Utah 2007, Chapter 114)
53G-7-308, (Renumbered from 53A-19-107, as enacted by Laws of Utah 1988, Chapter 2)	53G-7-710, (Renumbered from 53A-11-1211, as last amended by Laws of Utah 2011, Chapter 403)
53G-7-309, (Renumbered from 53A-19-108, as last amended by Laws of Utah 2016, Chapter 363)	53G-7-711, (Renumbered from 53A-11-1212, as last amended by Laws of Utah 2011, Chapter 403)
53G-7-401, (Renumbered from 53A-30-102, as enacted by Laws of Utah 2014, Chapter 433)	53G-7-712, (Renumbered from 53A-11-1213, as enacted by Laws of Utah 2007, Chapter 114)
53G-7-402, (Renumbered from 53A-30-103, as enacted by Laws of Utah 2014, Chapter 433)	53G-7-713, (Renumbered from 53A-11-1214, as enacted by Laws of Utah 2007, Chapter 114)
	53G-7-801, (Renumbered from 53A-15-1101, as enacted by Laws of Utah 2006, Chapter 190)

53G-7-802, (Renumbered from 53A-15-1102, as enacted by Laws of Utah 2006, Chapter 190)	53G-8-205, (Renumbered from 53A-11-904, as last amended by Laws of Utah 2010, Chapter 276)
53G-7-803, (Renumbered from 53A-15-1103, as enacted by Laws of Utah 2006, Chapter 190)	53G-8-206, (Renumbered from 53A-11-905, as last amended by Laws of Utah 2007, Chapter 161)
53G-7-901, (Renumbered from 53A-29-101, as enacted by Laws of Utah 1996, Chapter 73)	53G-8-207, (Renumbered from 53A-11-906, as last amended by Laws of Utah 2007, Chapters 82 and 161)
53G-7-902, (Renumbered from 53A-29-102, as enacted by Laws of Utah 1996, Chapter 73)	53G-8-208, (Renumbered from 53A-11-907, as last amended by Laws of Utah 2007, Chapter 161)
53G-7-903, (Renumbered from 53A-29-103, as last amended by Laws of Utah 2008, Chapter 250)	53G-8-209, (Renumbered from 53A-11-908, as last amended by Laws of Utah 2017, Chapter 330)
53G-7-904, (Renumbered from 53A-29-104, as last amended by Laws of Utah 2015, Chapter 389)	53G-8-210, (Renumbered from 53A-11-910, as last amended by Laws of Utah 2017, Chapter 330)
53G-7-905, (Renumbered from 53A-29-105, as enacted by Laws of Utah 1996, Chapter 73)	53G-8-211, (Renumbered from 53A-11-911, as enacted by Laws of Utah 2017, Chapter 330)
53G-7-1002, (Renumbered from 53A-3-422, as last amended by Laws of Utah 2002, Chapter 301)	53G-8-212, (Renumbered from 53A-11-806, as last amended by Laws of Utah 2017, Chapter 55)
53G-7-1003, (Renumbered from 53A-3-423, as enacted by Laws of Utah 2001, Chapter 172)	53G-8-301, (Renumbered from 53A-11-801, as last amended by Laws of Utah 2017, Chapter 55)
53G-7-1004, (Renumbered from 53A-3-424, as last amended by Laws of Utah 2016, Chapter 144)	53G-8-302, (Renumbered from 53A-11-802, as last amended by Laws of Utah 2017, Chapter 55)
53G-7-1101, (Renumbered from 53A-1-1601, as enacted by Laws of Utah 2017, Chapter 196)	53G-8-303, (Renumbered from 53A-11-803, as last amended by Laws of Utah 1994, Chapter 260)
53G-7-1102, (Renumbered from 53A-1-1602, as enacted by Laws of Utah 2017, Chapter 196)	53G-8-304, (Renumbered from 53A-11-804, as enacted by Laws of Utah 1992, Chapter 251)
53G-7-1103, (Renumbered from 53A-1-1603, as enacted by Laws of Utah 2017, Chapter 196)	53G-8-305, (Renumbered from 53A-11-805, as enacted by Laws of Utah 1992, Chapter 251)
53G-7-1104, (Renumbered from 53A-1-1604, as enacted by Laws of Utah 2017, Chapter 196)	53G-8-402, (Renumbered from 53A-11-1001, as last amended by Laws of Utah 2008, Chapter 3)
53G-7-1105, (Renumbered from 53A-1-1605, as enacted by Laws of Utah 2017, Chapter 196)	53G-8-403, (Renumbered from 53A-11-1002, as last amended by Laws of Utah 2004, Chapter 102)
53G-7-1106, (Renumbered from 53A-1-1606, as enacted by Laws of Utah 2017, Chapter 196)	53G-8-404, (Renumbered from 53A-11-1003, as enacted by Laws of Utah 1994, Chapter 256)
53G-7-1202, (Renumbered from 53A-1a-108, as last amended by Laws of Utah 2016, Chapter 220)	53G-8-405, (Renumbered from 53A-11-1004, as last amended by Laws of Utah 2008, Chapter 3)
53G-7-1203, (Renumbered from 53A-1a-108.1, as last amended by Laws of Utah 2015, Chapter 276)	53G-8-501, (Renumbered from 53A-11-401, as last amended by Laws of Utah 1989, Chapter 22)
53G-7-1204, (Renumbered from 53A-1a-108.5, as last amended by Laws of Utah 2016, Chapter 220)	53G-8-502, (Renumbered from 53A-11-402, as enacted by Laws of Utah 1988, Chapter 2)
53G-8-202, (Renumbered from 53A-11-901, as last amended by Laws of Utah 2017, Chapter 330)	53G-8-503, (Renumbered from 53A-11-403, as last amended by Laws of Utah 2017, Chapter 330)
53G-8-203, (Renumbered from 53A-11-902, as last amended by Laws of Utah 2017, Chapter 55)	53G-8-504, (Renumbered from 53A-11-404, as enacted by Laws of Utah 1988, Chapter 2)
53G-8-204, (Renumbered from 53A-11-903, as last amended by Laws of Utah 2007, Chapter 161)	53G-8-505, (Renumbered from 53A-11-1301, as renumbered and amended by Laws of Utah 2008, Chapter 3)

53G-8-506, (Renumbered from 53A-11-1302, as last amended by Laws of Utah 2017, Chapter 330)	53G-9-303 (Effective 07/01/18), (Renumbered from 53A-11-302 (Effective 07/01/18), as repealed and reenacted by Laws of Utah 2017, Chapter 344)
53G-8-507, (Renumbered from 53A-11-1303, as renumbered and amended by Laws of Utah 2008, Chapter 3)	53G-9-303 (Superseded 07/01/18), (Renumbered from 53A-11-302 (Superseded 07/01/18), as last amended by Laws of Utah 2017, Chapter 278)
53G-8-508, (Renumbered from 53A-11-1304, as renumbered and amended by Laws of Utah 2008, Chapter 3)	53G-9-304 (Effective 07/01/18), (Renumbered from 53A-11-302.5 (Effective 07/01/18), as repealed and reenacted by Laws of Utah 2017, Chapter 344)
53G-8-509, (Renumbered from 53A-11-1305, as renumbered and amended by Laws of Utah 2008, Chapter 3)	53G-9-304 (Superseded 07/01/18), (Renumbered from 53A-11-302.5 (Superseded 07/01/18), as enacted by Laws of Utah 1992, Chapter 129)
53G-8-510, (Renumbered from 53A-11-1101, as enacted by Laws of Utah 1994, Chapter 256)	53G-9-305 (Effective 07/01/18), (Renumbered from 53A-11-303 (Effective 07/01/18), as repealed and reenacted by Laws of Utah 2017, Chapter 344)
53G-8-602, (Renumbered from 53A-3-501, as last amended by Laws of Utah 1998, Chapter 10)	53G-9-305 (Superseded 07/01/18), (Renumbered from 53A-11-303 (Superseded 07/01/18), as enacted by Laws of Utah 1988, Chapter 2)
53G-8-603, (Renumbered from 53A-3-503, as last amended by Laws of Utah 1990, Chapter 78)	53G-9-306 (Effective 07/01/18), (Renumbered from 53A-11-304 (Effective 07/01/18), as repealed and reenacted by Laws of Utah 2017, Chapter 344)
53G-8-604, (Renumbered from 53A-3-504, as enacted by Laws of Utah 1988, Chapter 140)	53G-9-306 (Superseded 07/01/18), (Renumbered from 53A-11-304 (Superseded 07/01/18), as enacted by Laws of Utah 1988, Chapter 2)
53G-8-701, (Renumbered from 53A-11-1602, as enacted by Laws of Utah 2016, Chapter 165)	53G-9-307 (Repealed 07/01/18), (Renumbered from 53A-11-305 (Repealed 07/01/18), as repealed by Laws of Utah 2017, Chapter 344)
53G-8-702, (Renumbered from 53A-11-1603, as enacted by Laws of Utah 2016, Chapter 165)	53G-9-308 (Effective 07/01/18), (Renumbered from 53A-11-306 (Effective 07/01/18), as repealed and reenacted by Laws of Utah 2017, Chapter 344)
53G-8-703, (Renumbered from 53A-11-1604, as last amended by Laws of Utah 2017, Chapter 330)	53G-9-308 (Superseded 07/01/18), (Renumbered from 53A-11-306 (Superseded 07/01/18), as enacted by Laws of Utah 1988, Chapter 2)
53G-9-202, (Renumbered from 53A-11-205, as enacted by Laws of Utah 2001, First Special Session, Chapter 3)	53G-9-309 (Effective 07/01/18), (Renumbered from 53A-11-307 (Effective 07/01/18), as enacted by Laws of Utah 2017, Chapter 344)
53G-9-203, (Renumbered from 53A-11-605, as last amended by Laws of Utah 2013, Chapter 335)	53G-9-402, (Renumbered from 53A-11-201, as last amended by Laws of Utah 1996, Chapter 4)
53G-9-204, (Renumbered from 53A-11-204, as last amended by Laws of Utah 2002, Chapter 301)	53G-9-403, (Renumbered from 53A-11-202, as enacted by Laws of Utah 1988, Chapter 2)
53G-9-205, (Renumbered from 53A-19-301, as enacted by Laws of Utah 1996, Chapter 268)	53G-9-404, (Renumbered from 53A-11-203, as last amended by Laws of Utah 2016, Chapter 271)
53G-9-206, (Renumbered from 53A-13-103, as enacted by Laws of Utah 1988, Chapter 2)	53G-9-502, (Renumbered from 53A-11-601, as last amended by Laws of Utah 2017, Chapter 183)
53G-9-207, (Renumbered from 53A-13-112, as enacted by Laws of Utah 2014, Chapter 342)	53G-9-503, (Renumbered from 53A-11-602, as enacted by Laws of Utah 2004, Chapter 4)
53G-9-208, (Renumbered from 53A-11-606, as enacted by Laws of Utah 2017, Chapter 191)	53G-9-504, (Renumbered from 53A-11-603, as enacted by Laws of Utah 2006, Chapter 215)
53G-9-301 (Effective 07/01/18), (Renumbered from 53A-11-300.5 (Effective 07/01/18), as enacted by Laws of Utah 2017, Chapter 344)	
53G-9-302 (Effective 07/01/18), (Renumbered from 53A-11-301 (Effective 07/01/18), as repealed and reenacted by Laws of Utah 2017, Chapter 344)	
53G-9-302 (Superseded 07/01/18), (Renumbered from 53A-11-301 (Superseded 07/01/18), as last amended by Laws of Utah 1992, Chapter 53)	

53G-9-505, (Renumbered from 53A-11-603.5, as enacted by Laws of Utah 2016, Chapter 423)	53G-10-303, (Renumbered from 53A-13-101.5, as last amended by Laws of Utah 2017, Chapter 382)
53G-9-506, (Renumbered from 53A-11-604, as enacted by Laws of Utah 2006, Chapter 215)	53G-10-304, (Renumbered from 53A-13-101.6, as last amended by Laws of Utah 2012, Chapter 426)
53G-9-601, (Renumbered from 53A-11a-102, as last amended by Laws of Utah 2017, Chapters 170 and 213)	53G-10-402, (Renumbered from 53A-13-101, as last amended by Laws of Utah 2017, Chapter 162)
53G-9-602, (Renumbered from 53A-11a-201, as last amended by Laws of Utah 2017, Chapter 213)	53G-10-404, (Renumbered from 53A-13-107, as last amended by Laws of Utah 2010, Chapter 305)
53G-9-603, (Renumbered from 53A-11a-202, as last amended by Laws of Utah 2017, Chapter 213)	53G-10-405, (Renumbered from 53A-13-102, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
53G-9-604, (Renumbered from 53A-11a-203, as last amended by Laws of Utah 2017, Chapters 30, 170, and 213)	53G-10-406, (Renumbered from 53A-13-113, as enacted by Laws of Utah 2017, Chapter 455)
53G-9-605, (Renumbered from 53A-11a-301, as last amended by Laws of Utah 2017, Chapters 170 and 213)	53G-10-502, (Renumbered from 53A-13-201, as last amended by Laws of Utah 2008, Chapter 382)
53G-9-606, (Renumbered from 53A-11a-302, as last amended by Laws of Utah 2017, Chapters 170 and 213)	53G-10-503, (Renumbered from 53A-13-202, as last amended by Laws of Utah 2003, Chapter 23)
53G-9-607, (Renumbered from 53A-11a-401, as last amended by Laws of Utah 2017, Chapters 170, 213 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 213)	53G-10-504, (Renumbered from 53A-13-203, as enacted by Laws of Utah 1988, Chapter 2)
53G-9-608, (Renumbered from 53A-11a-402, as last amended by Laws of Utah 2017, Chapters 170 and 213)	53G-10-505, (Renumbered from 53A-13-204, as last amended by Laws of Utah 2003, Chapter 23)
53G-9-702, (Renumbered from 53A-15-1301, as last amended by Laws of Utah 2016, Chapter 144)	53G-10-506, (Renumbered from 53A-13-205, as enacted by Laws of Utah 1988, Chapter 2)
53G-9-703, (Renumbered from 53A-15-1302, as last amended by Laws of Utah 2015, Chapters 85 and 442)	53G-10-507, (Renumbered from 53A-13-208, as last amended by Laws of Utah 2016, Chapter 144)
53G-9-704, (Renumbered from 53A-15-1304, as enacted by Laws of Utah 2017, Chapter 378)	53G-10-508, (Renumbered from 53A-13-209, as last amended by Laws of Utah 2008, Chapter 382)
53G-9-801, (Renumbered from 53A-15-1902, as enacted by Laws of Utah 2016, Chapter 320)	53G-11-202, (Renumbered from 53A-3-411, as last amended by Laws of Utah 2005, Chapter 285)
53G-9-802, (Renumbered from 53A-15-1903, as enacted by Laws of Utah 2016, Chapter 320)	53G-11-203, (Renumbered from 53A-3-431, as enacted by Laws of Utah 2012, Chapter 127)
53G-9-803, (Renumbered from 53A-13-104, as last amended by Laws of Utah 2013, Chapter 377)	53G-11-204, (Renumbered from 53A-19-401, as enacted by Laws of Utah 2015, Chapter 399)
53G-10-202, (Renumbered from 53A-13-101.1, as enacted by Laws of Utah 1993, Chapter 95)	53G-11-205, (Renumbered from 53A-3-426, as enacted by Laws of Utah 2007, Chapter 88)
53G-10-203, (Renumbered from 53A-13-101.3, as enacted by Laws of Utah 1993, Chapter 95)	53G-11-206, (Renumbered from 53A-3-425, as last amended by Laws of Utah 2013, Chapter 278)
53G-10-204, (Renumbered from 53A-13-109, as last amended by Laws of Utah 2014, Chapter 387)	53G-11-207, (Renumbered from 53A-3-428, as enacted by Laws of Utah 2009, Chapter 392)
53G-10-205, (Renumbered from 53A-13-101.2, as last amended by Laws of Utah 2015, Chapter 91)	53G-11-302, (Renumbered from 53A-17a-140, as last amended by Laws of Utah 2017, Chapter 173)
53G-10-302, (Renumbered from 53A-13-101.4, as last amended by Laws of Utah 2011, Chapter 298)	53G-11-303, (Renumbered from 53A-3-701, as last amended by Laws of Utah 2015, Chapter 415)
	53G-11-401, (Renumbered from 53A-15-1502, as last amended by Laws of Utah 2016, Chapter 44)

53G-11-402, (Renumbered from 53A-15-1503, as last amended by Laws of Utah 2016, Chapter 44)

53G-11-403, (Renumbered from 53A-15-1504, as last amended by Laws of Utah 2016, Chapters 44 and 348)

53G-11-404, (Renumbered from 53A-15-1505, as enacted by Laws of Utah 2015, Chapter 389)

53G-11-405, (Renumbered from 53A-15-1506, as enacted by Laws of Utah 2015, Chapter 389)

53G-11-406, (Renumbered from 53A-15-1507, as enacted by Laws of Utah 2015, Chapter 389)

53G-11-407, (Renumbered from 53A-15-1508, as last amended by Laws of Utah 2016, Chapter 348)

53G-11-408, (Renumbered from 53A-15-1509, as last amended by Laws of Utah 2016, Chapter 348)

53G-11-409, (Renumbered from 53A-15-1510, as enacted by Laws of Utah 2015, Chapter 389)

53G-11-410, (Renumbered from 53A-15-1511, as enacted by Laws of Utah 2016, Chapter 199)

53G-11-501, (Renumbered from 53A-8a-102, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-501.5, (Renumbered from 53A-8a-401, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-503, (Renumbered from 53A-8a-201, as renumbered and amended by Laws of Utah 2012, Chapter 425)

53G-11-504, (Renumbered from 53A-8a-301, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-505, (Renumbered from 53A-8a-302, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-506, (Renumbered from 53A-8a-403, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-507, (Renumbered from 53A-8a-405, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-508, (Renumbered from 53A-8a-406, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-509, (Renumbered from 53A-8a-408, as renumbered and amended by Laws of Utah 2012, Chapter 425)

53G-11-510, (Renumbered from 53A-8a-409, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-511, (Renumbered from 53A-8a-410, as last amended by Laws of Utah 2017, Chapter 328)

53G-11-512, (Renumbered from 53A-8a-501, as last amended by Laws of Utah 2015, Chapter 203)

53G-11-513, (Renumbered from 53A-8a-502, as renumbered and amended by Laws of Utah 2012, Chapter 425)

53G-11-514, (Renumbered from 53A-8a-503, as enacted by Laws of Utah 2012, Chapter 425)

53G-11-515, (Renumbered from 53A-8a-504, as renumbered and amended by Laws of Utah 2012, Chapter 425)

53G-11-516, (Renumbered from 53A-8a-505, as renumbered and amended by Laws of Utah 2012, Chapter 425)

53G-11-517, (Renumbered from 53A-8a-506, as enacted by Laws of Utah 2012, Chapter 425)

53G-11-518, (Renumbered from 53A-8a-601, as last amended by Laws of Utah 2016, Chapter 204)

REPEALS:

53A-2-117, as last amended by Laws of Utah 2017, Chapter 91

53A-3-415, as last amended by Laws of Utah 1991, Chapter 72

53A-8a-402, as last amended by Laws of Utah 2017, Chapter 328

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

Section 1. Section 11-36a-206, which is renumbered from Section 53A-20-100.5 is renumbered and amended to read:

[53A-20-100.5]. 11-36a-206. Prohibition of school impact fees.

(1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.

(2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.

(3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

Section 2. Section 53B-1-115 is enacted to read:

53B-1-115. Purchases of educational technology.

(1) A college of education shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in purchasing technology.

(2) A college of education may purchase technology through cooperative purchasing

contracts administered by the state Division of Purchasing or through the college of education's own established purchasing program.

Section 3. Section 53G-1-101 is enacted to read:

**TITLE 53G. PUBLIC EDUCATION SYSTEM
-- LOCAL ADMINISTRATION**

CHAPTER 1. TITLE PROVISIONS

53G-1-101. Title.

(1) This title is known as "Public Education System -- Local Administration."

(2) This chapter is known as "Title Provisions."

Section 4. Section 53G-1-102 is enacted to read:

53G-1-102. Public education code definitions.

The terms defined in Section 53E-1-102 apply to this title.

Section 5. Section 53G-1-103 is enacted to read:

53G-1-103. Title 53G definitions.

Reserved

Section 6. Section 53G-2-101 is enacted to read:

CHAPTER 2. LOCAL PUBLIC EDUCATION SYSTEM POLICY

Part 1. General Provisions

53G-2-101. Title.

This chapter is known as "Local Public Education System Policy."

Section 7. Section 53G-2-102 is enacted to read:

53G-2-102. Definitions.

Reserved

Section 8. Section 53G-3-101 is enacted to read:

CHAPTER 3. SCHOOL DISTRICT CREATION AND CHANGE

Part 1. General Provisions

53G-3-101. Title.

This chapter is known as "School District Creation and Change."

Section 9. Section 53G-3-102, which is renumbered from Section 53A-2-112 is renumbered and amended to read:

[53A-2-112]. 53G-3-102. Definitions.

As used in [Sections 53A-2-113 through 53A-2-116] this chapter:

(1) "Allocation date" means:

(a) June 20 of the second calendar year after the local school board general election date described in Subsection 53G-3-302(3)(a)(i); or

(b) another date that the transition teams under Section 53G-3-302 mutually agree to.

(2) "Canvass date" means the date of the canvass of an election under Subsection 53G-3-301(5) at which voters approve the creation of a new school district under Section 53G-3-302.

(4) (3) "Consolidation" means the merger of two or more school districts into a single administrative unit.

(4) "Creation election date" means the date of the election under Subsection 53G-3-301(9) at which voters approve the creation of a new school district under Section 53G-3-302.

(5) "Divided school district," "existing district," or "existing school district" means a school district from which a new district is created.

(6) "New district" or "new school district" means a school district created under Section 53G-3-301 or 53G-3-302.

(7) "Remaining district" or "remaining school district" means an existing district after the creation of a new district.

(2) (8) "Restructuring" means the transfer of territory from one school district to another school district.

Section 10. Section 53G-3-103, which is renumbered from Section 53A-2-111 is renumbered and amended to read:

[53A-2-111]. 53G-3-103. Legislative findings.

The Legislature finds that restructuring and consolidation of school districts may provide long-term educational and financial benefits, but that short-term costs and other problems may make it difficult for school officials to move forward with such plans. The Legislature therefore adopts Sections [53A-2-111 through 53A-2-116] 53G-3-102, 53G-3-103, 53G-3-205, 53G-3-403, 53G-3-404, and 53G-3-503 to assist the public school system to create more efficient and effective administrative units.

Section 11. Section 53G-3-201, which is renumbered from Section 53A-2-101 is renumbered and amended to read:

[53A-2-101]. 53G-3-201. School districts.

School districts may be created, merged, dissolved, or their boundaries changed only as provided in this chapter.

Section 12. Section 53G-3-202, which is renumbered from Section 53A-2-108 is renumbered and amended to read:

[53A-2-108]. 53G-3-202. School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district.

Section 13. Section 53G-3-203, which is renumbered from Section 53A-2-101.5 is renumbered and amended to read:

[53A-2-101.5]. 53G-3-203. Filing of notice and plat relating to school district boundary changes including creation, consolidation, division, or dissolution -- Recording requirements -- Effective date.

(1) The county legislative body shall:

(a) within 30 days after the creation, consolidation, division, or dissolution of a school district, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5:

(i) if the school district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary action; and

(III) except in the case of dissolution, approved final local entity plat; and

(B) if applicable, a certified copy of the resolution approving the boundary action; or

(ii) if the school district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III); and

(II) if applicable, a certified copy of the resolution approving the boundary action; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I), (II), and (III); and

(II) if applicable, a certified copy of the resolution approving the boundary action.

(2) (a) Upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the creation, consolidation, division, dissolution, or other change affecting the boundary of a new or

existing school district that was the subject of the action has legal effect.

(b) (i) As used in this Subsection (2)(b), "affected area" means:

(A) in the case of the creation of a school district, the area within the school district's boundary;

(B) in the case of the consolidation of multiple school districts, the area within the boundary of each school district that is consolidated into another school district;

(C) in the case of the division of a school district, the area within the boundary of the school district created by the division; and

(D) in the case of an addition to an existing school district, the area added to the school district.

(ii) The effective date of a boundary action, as defined in Section 17-23-20, for purposes of assessing property within the school district is governed by Section 59-2-305.5.

(iii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a school district may not levy or collect a property tax on property within the affected area.

Section 14. Section 53G-3-204, which is renumbered from Section 53A-2-123 is renumbered and amended to read:

[53A-2-123]. 53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section 63F-1-701;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 15. Section 53G-3-205, which is renumbered from Section 53A-2-116 is renumbered and amended to read:

[53A-2-116]. 53G-3-205. Rights of transferred employees -- Salary during first year -- Leave and tenure benefits.

(1) If a school employee is transferred from one district to another because of district consolidation or restructuring, the employee's salary may not be less, during the first year after the transfer, than it would have been had the transfer not taken place.

(2) The district to which an employee is transferred under Subsection (1) shall credit the employee with all accumulated leave and tenure recognized by the district from which the employee was transferred.

(3) If the district to which an employee is transferred does not have a leave benefit which reasonably corresponds to one the employee seeks to transfer, that district shall compensate the employee for the benefit on the same basis as would have been done had the employee retired.

Section 16. Section 53G-3-301, which is renumbered from Section 53A-2-118 is renumbered and amended to read:

Part 3. Creating a New School District

[53A-2-118]. 53G-3-301. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this section.

(2) The process to create a new school district may be initiated:

(a) through a citizens' initiative petition;

(b) at the request of the board of the existing district or districts to be affected by the creation of the new district; or

(c) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section ~~[53A-2-118.1]~~ 53G-3-302.

(3) (a) An initiative petition submitted under Subsection (2)(a) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district in an amount equal to at least 15% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) Each request or petition submitted under Subsection (2) shall:

(i) be filed with the clerk of each county in which any part of the proposed new school district is located;

(ii) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(iii) describe the proposed new school district boundaries; and

(iv) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(c) The process described in Subsection (2)(a) may only be initiated once during any four-year period.

(d) A new district may not be formed under Subsection (2) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(4) A signer of a petition described in Subsection (2)(a) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written request for withdrawal or reinstatement with the county clerk.

(5) Within 45 days after the day on which a petition described in Subsection (2)(a) is filed, or five business days after the day on which a request described in Subsection (2)(b) or (c) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the request or petition complies with Subsections (2) and (3), as applicable; and

(b) (i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the request or petition and deliver the certified request or petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(6) (a) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (5), the request or petition is considered to be certified.

(b) (i) If the county clerk rejects a request or petition, the person that submitted the request or petition may amend the request or petition to correct the deficiencies for which the request or petition was rejected, and refile the request or petition.

(ii) Subsection (3)(c) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(c) If, on or before December 1, a county legislative body receives a request from a school board under Subsection (2)(b) or a petition under Subsection (2)(a) that is certified by the county clerk:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided in Subsection (7), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided in Subsection (7), on or before July 1; and

(iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, each legislative body shall submit the proposal to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.

(7) (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a) or (b).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the school board and school personnel of each existing school district;

(C) those citizens residing within the geographical boundaries of each existing school district;

(D) the State Board of Education; and

- (E) other interested parties;
- (ii) review data and gather information on at least:
- (A) the financial viability of the proposed new school district;
- (B) the proposal's financial impact on each existing school district;
- (C) the exact placement of school district boundaries; and
- (D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and
- (iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.
- (8) For a request or petition submitted under Subsection (2)(a) or (b):
- (a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (7)(b)(iii).
- (b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.
- (c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.
- (d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:
- (i) by the legal voters of each existing school district affected by the proposal;
- (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
- (iii) at the next regular general election or municipal general election, whichever is first.
- (e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district voting on the proposal vote in favor of the creation of the new district.
- (f) Each county legislative body shall comply with the requirements of Section [53A-2-101.5] 53G-3-203.
- (g) If a proposal submitted under Subsection (2)(a) or (b) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(9) (a) If a proposal submitted under Subsection (2)(c) is certified under Subsection (5) or (6)(a), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:

- (i) by the legal voters residing within the proposed new school district boundaries;
- (ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and
- (iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (9)(a) vote in favor of the creation of the new district:

(A) each county legislative body shall comply with the requirements of Section [53A-2-101.5] 53G-3-203; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (9)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the school board general election date described in Subsection [53A-2-118.1] 53G-3-302(3)(a)(i);

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (9)(b)(ii)(A); and

(C) each existing district shall continue, until the time specified in Subsection (9)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Section 17. Section 53G-3-302, which is renumbered from Section 53A-2-118.1 is renumbered and amended to read:

[53A-2-118.1]. 53G-3-302. Proposal initiated by a city or by interlocal agreement participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1) (a) After conducting a feasibility study, a city with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3), may by majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's boundaries, in accordance with Section [53A-2-118] 53G-3-301.

(b) (i) The determination of all matters relating to the scope, adequacy, and other aspects of a

feasibility study under Subsection (1)(a) is within the exclusive discretion of the city's legislative body.

(ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of a legal action or other challenge to:

(A) an election for voter approval of the creation of a new school district; or

(B) the creation of the new school district.

(2) (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.

(b) (i) In accordance with Section ~~53A-2-118~~ 53G-3-301, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:

(A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;

(B) the combined population within the proposed new school district boundaries is at least 50,000;

(C) the new school district boundaries:

(I) are contiguous;

(II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);

(III) include the entire boundaries of each participant city or town, except as provided in Subsection (2)(d)(ii); and

(IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

(D) the combined population within the proposed new school district of interlocal agreement participants that have entered into an interlocal agreement proposing to create a new school district is at least 80% of the total population of the proposed new school district.

(ii) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.

(iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the basis of a legal action or other challenge to:

(A) an election for voter approval of the creation of a new school district; or

(B) the creation of the new school district.

(iv) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection (2)(b)(i)(C)(IV):

(A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's land area and population is located in that same county than outside the county; and

(B) a municipality located in more than one county that participates in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may not be considered to cross county lines.

(c) (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(ii) Boundaries of a new school district created under this section may include:

(A) a portion of one or more existing school districts; and

(B) a portion of the unincorporated area of a county, including a portion of a township.

(d) (i) As used in this Subsection (2)(d):

(A) "Isolated area" means an area that:

(I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(B) (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(II) the portion of the municipality proposed to be excluded from the new school district is within the

boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(C) (I) This Subsection (2)(d)(iii)(C) applies if:

(Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection (2)(d)(iii)(A); and

(Bb) the creation of the new school district results in an isolated area.

(II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), become part of the municipality's school district.

(III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection (4) shall be modified to:

(Aa) include a third transition team, appointed by the local school board of the municipality's school district, to represent that school district; and

(Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.

(IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i).

(3) (a) If a proposal under this section is approved by voters:

(i) an election shall be held at the next regular general election to elect:

(A) members to the local school board of the existing school district whose terms are expiring;

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the remaining district;

(ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection (5) and Section ~~[53A-2-124]~~ 53G-3-307;

(iii) transferred employees shall be treated in accordance with Sections ~~[53A-2-116]~~ 53G-3-205 and ~~[53A-2-122]~~ 53G-3-308;

(iv) (A) an individual residing within the boundaries of a new school district at the time the new school district is created may, for six school years after the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the new school district if:

(I) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(II) the individual would have been eligible to enroll in that secondary school had the new school district not been created; and

(B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school year for which the individual makes the election; and

(v) within one year after the new district begins providing educational services, the superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the Superintendent of Public Instruction, to determine if further boundary changes should be proposed in accordance with Section ~~[53A-2-104]~~ 53G-3-501.

(b) (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.

(ii) The term of a member of the existing local school board, including a member elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection (3)(a)(i), regardless of when the term would otherwise have terminated.

(iii) Notwithstanding the existence of a local school board for the new district and a local school board for the remaining district under Subsection (3)(a)(i), the local school board of the existing district shall continue, until the time specified in

Subsection ~~[53A-2-118]~~ 53G-3-301(9)(b)(ii)(A), to function and exercise authority as a local school board to the extent necessary to continue to provide educational services to the entire existing district.

(iv) An individual may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:

- (A) a new district; or
- (B) a remaining district.

(4) (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing local school board who reside within the area of the remaining district, in consultation with:

(A) the legislative bodies of all municipalities in the area of the remaining district; and

(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local school board of the existing school district shall, within 60 days after the canvass date for the election at which voters approve the creation of a new district:

(i) prepare an inventory of the existing district's:

(A) assets, both tangible and intangible, real and personal; and

(B) liabilities; and

(ii) deliver a copy of the inventory to each of the transition teams.

(c) The transition teams appointed under Subsection (4)(a) shall:

(i) determine the allocation of the existing district's assets and, except for indebtedness under Section ~~[53A-2-121]~~ 53G-3-307, liabilities between the remaining district and the new district in accordance with Subsection (5);

(ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section ~~[53A-2-121]~~ 53G-3-307, liabilities are to be allocated; and

(iii) deliver a copy of the written report to:

(A) the local school board of the existing district;

(B) the local school board of the remaining district; and

(C) the local school board of the new district.

(d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:

(i) the local school board of the existing district; and

(ii) (A) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(B) the legislative bodies of all interlocal agreement participants, for each other new district.

(e) (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.

(ii) All costs and expenses of the transition team that represents a new district shall initially be borne by:

(A) the city whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city; or

(B) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants.

(iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal agreement participants for:

(A) transition team costs and expenses; and

(B) startup costs and expenses incurred by the city or interlocal agreement participants on behalf of the new district.

(5) (a) As used in this Subsection (5):

(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii) (A) "Discretionary asset or liability" means, except as provided in Subsection (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) “Physical asset” means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided in Subsection (5)(c), the transition teams appointed under Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

(i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;

(iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be located;

(iv) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(v) other vehicles shall be allocated:

(A) in proportion to the student populations of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection (5)(b).

(6) (a) As used in this Subsection (6):

(i) “New district startup costs” means:

(A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and

(B) the costs and expenses of the transition team that represents the new district.

(ii) “Remaining district startup costs” means:

(A) costs and expenses incurred by a remaining district in order to:

(I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and

(II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and

(B) the costs and expenses of the transition team that represents the remaining district.

(b) (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).

(ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.

(c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.

(d) The money made available under Subsection (6)(b) may be accessed and spent by:

(i) for the remaining district, the local school board of the remaining district; and

(ii) for the new district, the local school board of the new district.

(e) (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.

(ii) The new district may use its portion of the money made available under Subsection (6)(b) to pay for new district startup costs.

(7) (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection (4)(c)(ii).

(b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), except as that date is changed by the mutual agreement of:

(i) the local school board of the existing district;

(ii) the local school board of the remaining district; and

(iii) the local school board of the new district.

(c) The existing district shall complete the transfer of all property not included in Subsection (7)(b) by November 1 of the second calendar year after the local school board general election date described in Subsection (3)(a)(i).

(8) Except as provided in Subsections (6) and (7), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:

(a) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(b) the legislative bodies of all interlocal agreement participants, for each other new district.

(9) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section ~~[53A-2-118]~~ 53G-3-301.

Section 18. Section 53G-3-303, which is renumbered from Section 53A-2-118.2 is renumbered and amended to read:

~~[53A-2-118.2]. 53G-3-303. New school district property tax -- Limitations.~~

(1) (a) A new school district created under Section ~~[53A-2-118.1]~~ 53G-3-302 may not impose a property tax prior to the fiscal year in which the new school district assumes responsibility for providing student instruction.

(b) The remaining school district retains authority to impose property taxes on the existing school district, including the territory of the new school district, until the fiscal year in which the new school district assumes responsibility for providing student instruction.

(2) (a) If at the time a new school district created pursuant to Section ~~[53A-2-118.1]~~ 53G-3-302 assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy pursuant to Section ~~[53A-17a-133]~~ 53F-8-301, the new school district's board may:

(i) discontinue the levy for the new school district;

(ii) impose a levy on the new school district as provided in Section ~~[53A-17a-133]~~ 53F-8-301; or

(iii) impose the levy on the new school district, subject to Subsection (2)(b).

(b) If the new school district's board applies a levy to the new school district pursuant to Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the existing district or districts at the time of the vote to create the new school district.

Section 19. Section 53G-3-304, which is renumbered from Section 53A-2-118.4 is renumbered and amended to read:

~~[53A-2-118.4]. 53G-3-304. Property tax levies in new district and remaining district -- Distribution of property tax revenue.~~

(1) ~~[As]~~ Notwithstanding terms defined in Section ~~53G-3-102~~, as used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section ~~[53A-2-118.1]~~ 53G-3-302 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic rate imposed under Section ~~[53A-17a-135]~~ 53F-2-301;

(ii) a debt service levy imposed under Section 11-14-310; or

(iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) (a) Except as provided in Subsection (4)(b), the county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section ~~[53A-16-113]~~ 53F-8-303 in accordance with the distribution method specified in Section 53A-16-114.

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

(i) the maximum rate, if any, allowed by law; or

(ii) the maximum rate authorized by voters for a voted local levy under Section ~~[53A-17a-133]~~ 53F-8-301.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Section 20. Section 53G-3-305, which is renumbered from Section 53A-2-119 is renumbered and amended to read:

[53A-2-119]. 53G-3-305. Reapportionment -- Local school board membership.

(1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.

(2) Except as provided in Section ~~[53A-2-118.1]~~ 53G-3-302, school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

Section 21. Section 53G-3-306, which is renumbered from Section 53A-2-120 is renumbered and amended to read:

[53A-2-120]. 53G-3-306. Transfer of school property to new school district.

(1) (a) (i) On July 1 of the year following the school board elections for a new district created pursuant to a citizens' initiative petition or school board request under Section ~~[53A-2-118]~~ 53G-3-301 and an existing district as provided in Section ~~[53A-2-119]~~ 53G-3-305, the board of the existing district shall convey and deliver to the board of the new district all school property which the new district is entitled to receive.

(ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection ~~[53A-2-118.1]~~ 53G-3-302(4).

(b) An existing district shall transfer property to a new district created under Section ~~[53A-2-118.1]~~ 53G-3-302 in accordance with Section ~~[53A-2-118.1]~~ 53G-3-302.

(2) Title vests in the new school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

Section 22. Section 53G-3-307, which is renumbered from Section 53A-2-121 is renumbered and amended to read:

[53A-2-121]. 53G-3-307. Tax to pay for indebtedness of divided school district.

(1) (a) For a new district created prior to May 10, 2011, the local school boards of the remaining and new districts shall determine the portion of the divided school district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the divided school district's outstanding indebtedness.

(b) The proportionate share of the divided school district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the divided school district:

(i) in the year immediately preceding the date the new district was created; or

(ii) at a time mutually agreed upon by the local school boards of the new district and the remaining district.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the State Board of Education.

(2) (a) Except as provided in Subsection (2)(b), the local school board of a new district created prior to May 10, 2011 shall levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under Subsection (1).

(b) If a new district has money available to pay the new district's proportionate share of the indebtedness determined under Subsection (1), the new district may abate a property tax to the extent of money available.

(3) As used in Subsections (4) and (5), "outstanding bonded indebtedness" means debt owed for a general obligation bond issued by the divided school district:

(a) prior to the creation of the new district; or

(b) in accordance with a mutual agreement of the local school boards of the remaining and new districts under Subsection (6).

(4) If a new district is created on or after May 10, 2011, property within the new district and the remaining district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection (5).

(5) (a) Except as provided in Subsection (5)(b), the local school board of the new district and the local school board of the remaining district shall impose a tax levy at a rate that:

(i) generates from the combined districts the amount of revenue required each year to meet the

outstanding bonded indebtedness of the divided school district; and

(ii) is uniform within the new district and remaining district.

(b) A local school board of a new district may abate a property tax required to be imposed under Subsection (5)(a) to the extent the new district has money available to pay to the remaining district the amount of revenue that would be generated within the new district from the tax rate specified in Subsection (5)(a).

(6) (a) The local school boards of the remaining and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the divided school district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

(b) Before a determination is made under Subsection (6)(a), a remaining district may not issue bonds approved but not issued before the creation of the new district if property in the new district would be subject to the levy of a tax to pay the bonds.

Section 23. Section 53G-3-308, which is renumbered from Section 53A-2-122 is renumbered and amended to read:

[53A-2-122]. 53G-3-308. Employees of a new district.

(1) Upon the creation of a new district:

(a) an employee of an existing district who is employed at a school that is transferred to the new district shall become an employee of the new district; and

(b) the school board of the new district shall:

(i) have discretion in the hiring of all other staff;

(ii) adopt the personnel policies and practices of the existing district, including salary schedules and benefits; and

(iii) enter into agreements with employees of the new district, or their representatives, that have the same terms as those in the negotiated agreements between the existing district and its employees.

(2) (a) Subject to Subsection (2)(b), an employee of a school district from which a new district is created who becomes an employee of the new district shall retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

(b) Subsection (2)(a) applies to:

(i) employees of an existing district who are transferred to a new district pursuant to Subsection (1)(a); and

(ii) employees of a school district from which a new district is created who are hired by the new district within one year of the date of the creation of the new district.

(3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and is rehired by the existing district within one year of the date of the creation of the new district shall, when rehired by the existing district, retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

Section 24. Section 53G-3-401, which is renumbered from Section 53A-2-102 is renumbered and amended to read:

Part 4. Consolidating School Districts

[53A-2-102]. 53G-3-401. Consolidation of school districts -- Resolution by school board members -- Petition by electors -- Election.

(1) Two or more school districts may unite and form a single school district in one of the following ways:

(a) a majority of the members of each of the boards of education of the affected districts shall approve and present to the county legislative body of the affected counties a resolution to consolidate the districts. Once this is done, consolidation shall be established under this chapter; or

(b) a majority of the members of the board of education of each affected district, or 15% of the qualified electors in each of the affected districts, shall sign and present a petition to the county legislative body of each affected county. The question shall be voted upon at an election called for that purpose, which shall be the next general or municipal election. Consolidation shall occur if a majority of those voting on the question in each district favor consolidation.

(2) The elections required under Subsection (1)(b) shall be conducted and the returns canvassed as provided by election laws.

Section 25. Section 53G-3-402, which is renumbered from Section 53A-2-103 is renumbered and amended to read:

[53A-2-103]. 53G-3-402. Transfer of property to new school district -- Rights and obligations of new school board -- Outstanding indebtedness -- Special tax.

(1) On July 1 following the approval of the creation of a new school district under Section [53A-2-102] 53G-3-401, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new board.

(2) The new board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.

(3) The new board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

(4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which cannot be reasonably paid from the assets of the former district, shall be paid by a special tax levied by the new board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section ~~[53A-18-102]~~ 53G-4-603, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.

(5) Bonded indebtedness of a former district which has been refunded shall be paid in the same manner as that which the new district assumes under Section ~~[53A-18-101]~~ 53G-4-602.

(6) State funds received by the new district under Section ~~[53A-21-202]~~ 53F-3-202 may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Section 26. Section 53G-3-403, which is renumbered from Section 53A-2-113 is renumbered and amended to read:

[53A-2-113]. 53G-3-403. School district consolidation -- State funding of consolidated districts.

When districts consolidate, payments made by the state under ~~[Title 53A, Chapter 17a, Minimum School Program Act]~~ Title 53F, Public Education System -- Funding, shall continue for a period of five years from the date of consolidation on the same basis as if no consolidation had occurred. At the end of the five-year period, the consolidated district shall receive funding as a single district.

Section 27. Section 53G-3-404, which is renumbered from Section 53A-2-114 is renumbered and amended to read:

[53A-2-114]. 53G-3-404. Additional levies -- School board options to abolish or continue after consolidation.

(1) If a school district that has approved an additional levy under Section ~~[53A-17a-133]~~ 53F-8-301 is consolidated with a district which does not have such a levy, the board of education of the consolidated district may choose to abolish the levy, or apply it in whole or in part to the entire consolidated district.

(2) If the board chooses to apply any part of the levy to the entire district, the levy may continue in force for no more than three years, unless approved by the electors of the consolidated district in the manner set forth in Section ~~[53A-17a-133]~~ 53F-8-301.

Section 28. Section 53G-3-501, which is renumbered from Section 53A-2-104 is renumbered and amended to read:

Part 5. Restructuring a School District

[53A-2-104]. 53G-3-501. Transfer of a portion of a school district -- Board resolution -- Board petition -- Elector petition -- Transfer election.

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local board of education of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county.

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective boards as soon as reasonably possible.

(c) The boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local board shall appoint one member to a boundary review committee; or

(B) if the local board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the State Superintendent of Public Instruction shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local board accepts the recommendation of the committee, or accepts the recommendation after amendment by the boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local board rejects the recommendation, the affected boards may agree to extend the time for the committee to prepare an acceptable recommendation or either board may request the State Board of Education to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Section 29. Section 53G-3-502, which is renumbered from Section 53A-2-105 is renumbered and amended to read:

[53A-2-105]. 53G-3-502. Transfer of school property -- Indebtedness on transferred property.

(1) If a transfer of a portion of one school district to another school district is approved under Section [53A-2-104] 53G-3-501, the state superintendent and the superintendents and presidents of the boards of education of each of the affected school districts shall determine the basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.

(2) (a) Title to property transferred vests in the transferee board of education.

(b) The transfer of a school building that is in operation at the time of determination shall be made at the close of a fiscal year.

(c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section [53A-2-104] 53G-3-501.

(3) (a) The individuals referred to in Subsection (1) shall determine the portion of bonded

indebtedness and other indebtedness of the transferor board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor board.

(b) This is done by:

(i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor board of education;

(ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and

(iii) calculating the portion of the indebtedness of the transferor board for which the transferred portion retains liability.

(4) (a) The agreement reflecting these determinations takes effect upon being filed with the State Board of Education.

(b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor school board.

(c) The transferee school board may assume the obligation to pay the proportionate share of the transferor school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor school board's indebtedness, the transferee school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(6) If the transferee school board does not assume this obligation, the transferee school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section [53A-2-104] 53G-3-501.

Section 30. Section 53G-3-503, which is renumbered from Section 53A-2-115 is renumbered and amended to read:

[53A-2-115]. 53G-3-503. Additional levies in transferred territory -- Transferee board option to abolish or continue.

If two or more districts undergo restructuring that results in a district receiving territory that increases the population of the district by at least 25%, and if the transferred territory was, at the time of transfer, subject to an additional levy under Section ~~[53A-17a-133]~~ 53F-8-301, the board of education of the transferee district may abolish the levy or apply the levy in whole or in part to the entire restructured district. Any such levy made applicable to the entire district may continue in force for no more than five years, unless approved by the electors of the restructured district in the manner set forth in Section ~~[53A-17a-133]~~ 53F-8-301.

Section 31. Section 53G-4-101 is enacted to read:

CHAPTER 4. SCHOOL DISTRICTS

Part 1. General Provisions

53G-4-101. Title.

This chapter is known as "School Districts."

Section 32. Section 53G-4-102 is enacted to read:

53G-4-102. Definitions.

Reserved

Section 33. Section 53G-4-201, which is renumbered from Section 53A-3-101 is renumbered and amended to read:

Part 2. Local School Board Organization and Meetings

[53A-3-101]. 53G-4-201. Selection and election of members to local boards of education.

Members of local boards of education shall be elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

Section 34. Section 53G-4-202, which is renumbered from Section 53A-3-106 is renumbered and amended to read:

[53A-3-106]. 53G-4-202. Local school board meetings -- Rules of order and procedure -- Location requirements -- Expulsion of members prohibited -- Exceptions.

(1) As used in this section:

(a) "Disaster" means an event that:

(i) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomenon, or technological hazard; and

(ii) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require a response by a governmental, not-for-profit, or private entity.

(b) "Local emergency" means a condition in any municipality or county of the state that requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster or to avoid or reduce the threat of a disaster.

(c) "Rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:

- (i) parliamentary order and procedure;
- (ii) ethical behavior; and
- (iii) civil discourse.

(2) Subject to Subsection (4), a local school board ~~[or charter school governing board]~~ shall:

(a) adopt rules of order and procedure to govern a public meeting of the local school board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

- (i) at each public meeting of the local school board; and
- (ii) on the local school board's public website, if available.

(3) (a) Except as provided in Subsections (3)(b) and (c), a local school board may not hold a public meeting outside of the geographic boundary of the local school board's school district.

(b) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district if it is necessary for the local school board to hold a meeting during a disaster or local emergency.

(c) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district to conduct a site visit if:

(i) the location of the site visit provides the local school board members the opportunity to see or experience an activity that:

(A) relates to the local school board's responsibilities; and

(B) does not exist within the geographic boundaries of the local school board's school district; and

(ii) the local school board does not vote or take other action during the public meeting held at the site visit location.

(d) This Subsection (3) does not apply to a charter school governing board.

(4) The requirements of this section do not affect a local school ~~board or charter school governing~~ board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) (a) Except as provided in Subsection (5)(b), a local school board may not expel a member of the school board from an open public meeting or prohibit the member from attending an open public meeting.

(b) Except as provided in Subsection (5)(c), following a two-thirds vote of the members of the local school board, the local school board may fine or expel a member of the local school board for:

- (i) disorderly conduct at the open public meeting;
- (ii) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or
- (iii) a commission of a crime during the open public meeting.

(c) A local school board may adopt rules or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Section 35. Section 53G-4-203, which is renumbered from Section 53A-3-201 is renumbered and amended to read:

[53A-3-201]. 53G-4-203. Election of officers -- Terms -- Time of election -- Removal of officers -- Quorum requirements.

(1) A local school board shall elect a president and a vice-president whose terms of office are for two years and until their successors are elected.

(2) The elections shall be held during the first board meeting in January following a regular school board election held in the district.

(3) An officer appointed or elected by a local school board may be removed from office for cause by a vote of two-thirds of the board.

(4) When a vacancy occurs in the office of president or vice president of the board for any reason, a replacement shall be elected for the unexpired term.

(5) Attendance of a simple majority of the board members constitutes a quorum for the transaction of official business.

Section 36. Section 53G-4-204, which is renumbered from Section 53A-3-202 is renumbered and amended to read:

[53A-3-202]. 53G-4-204. Compensation for services -- Additional per diem -- Approval of expenses.

(1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with board compensation schedules adopted by the

local school board in accordance with the provisions of this section.

(2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its board compensation schedules, the board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) Notice of the time, place, and purpose of the meeting shall be provided at least seven days prior to the meeting by:

(a) (i) publication at least once in a newspaper published in the county where the school district is situated and generally circulated within the school district; and

(ii) publication on the Utah Public Notice Website created in Section 63F-1-701; and

(b) posting a notice:

(i) at each school within the school district;

(ii) in at least three other public places within the school district; and

(iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.

(4) After the conclusion of the public hearing, the local school board may adopt or amend its board compensation schedules.

(5) Each member shall submit an itemized account of necessary travel expenses for board approval.

(6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007 until, at the discretion of the board, the compensation schedule is amended or a new compensation schedule is adopted.

Section 37. Section 53G-4-205, which is renumbered from Section 53A-3-204 is renumbered and amended to read:

[53A-3-204]. 53G-4-205. Duties of president.

(1) The president of each local school board shall preside at all meetings of the board, appoint all committees, and sign all warrants ordered by the board to be drawn upon the business administrator for school money.

(2) If the president is absent or acquires a disability, these duties are performed by the vice president.

**Section 38. Section 53G-4-301, which is renumbered from Section 53A-3-301 is renumbered and amended to read:
Part 3. Local School Board Administrative Officers**

[53A-3-301]. 53G-4-301. Superintendent of schools -- Appointment -- Qualifications -- Term -- Compensation.

(1) Subject to Subsection (8), a local school board shall appoint a district superintendent of schools

who serves as the local school board's chief executive officer.

(2) A local school board shall appoint the superintendent on the basis of outstanding professional qualifications.

(3) (a) A superintendent's term of office is for two years and until, subject to Subsection (8), a successor is appointed and qualified.

(b) A local school board that appoints a superintendent in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the superintendent.

(4) Unless a vacancy occurs during an interim vacancy period subject to Subsection (8), if it becomes necessary to appoint an interim superintendent due to a vacancy in the office of superintendent, the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new superintendent.

(5) (a) The superintendent shall hold an administrative/supervisory license issued by the State Board of Education, except as otherwise provided in Subsection (5)(b).

(b) At the request of a local school board, the State Board of Education shall grant a letter of authorization permitting a person with outstanding professional qualifications to serve as superintendent without holding an administrative/supervisory license.

(6) A local school board shall set the superintendent's compensation for services.

(7) A superintendent qualifies for office by taking the constitutional oath of office.

(8) (a) As used in this Subsection (8), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and

(ii) ends on the day on which the member-elect begins the member's term.

(b) (i) The local school board may not appoint a superintendent during an interim vacancy period.

(ii) Notwithstanding Subsection (8)(b)(i):

(A) the local school board may appoint an interim superintendent during an interim vacancy period; and

(B) the interim superintendent's term shall expire once a new superintendent is appointed by the new local school board after the interim vacancy period has ended.

(c) Subsection (8)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are re-elected to the local school board for the following term.

Section 39. Section 53G-4-302, which is renumbered from Section 53A-3-302 is renumbered and amended to read:

[53A-3-302]. 53G-4-302. Business administrator -- Term -- Oath.

(1) Subject to Subsection (5), a local school board shall appoint a business administrator.

(2) (a) The business administrator's term of office is for two years and until, subject to Subsection (5), a successor is appointed and qualified.

(b) A local school board that appoints a business administrator in accordance with this section may not, on or after May 8, 2012, enter into an employment contract that contains an automatic renewal provision with the business administrator.

(3) Unless a vacancy occurs during an interim vacancy period subject to Subsection (5), if it becomes necessary to appoint an interim business manager due to a vacancy in the office of business administrator, then the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new business manager.

(4) The business administrator qualifies for office by taking the constitutional oath of office.

(5) (a) As used in this Subsection (5), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and

(ii) ends on the day on which the member-elect begins the member's term.

(b) (i) A local school board may not appoint a business administrator during an interim vacancy period.

(ii) Notwithstanding Subsection (5)(b)(i):

(A) the local school board may appoint an interim business administrator during an interim vacancy period; and

(B) the interim business administrator's term shall expire once a new business administrator is appointed by the new local school board after the interim vacancy period has ended.

(c) Subsection (5)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are reelected to the local school board for the following term.

Section 40. Section 53G-4-303, which is renumbered from Section 53A-3-303 is renumbered and amended to read:

[53A-3-303]. 53G-4-303. Duties of business administrator.

Subject to the direction of the district superintendent of schools, the district's business administrator shall:

(1) attend all meetings of the board, keep an accurate record of its proceedings, and have custody of the seal and records;

(2) be custodian of all district funds, be responsible and accountable for all money received and disbursed, and keep accurate records of all revenues received and their sources;

(3) countersign with the president of the board all warrants and claims against the district as well as other legal documents approved by the board;

(4) prepare and submit to the board each month a written report of the district's receipts and expenditures;

(5) use uniform budgeting, accounting, and auditing procedures and forms approved by the State Board of Education, which shall be in accordance with generally accepted accounting principles or auditing standards and Title 63J, Chapter 1, Budgetary Procedures Act;

(6) prepare and submit to the board a detailed annual statement for the period ending June 30, of the revenue and expenditures, including beginning and ending fund balances;

(7) assist the superintendent in the preparation and submission of budget documents and statistical and fiscal reports required by law or the State Board of Education;

(8) insure that adequate internal controls are in place to safeguard the district's funds; and

(9) perform other duties as the superintendent may require.

Section 41. Section 53G-4-304, which is renumbered from Section 53A-3-304 is renumbered and amended to read:

[53A-3-304]. 53G-4-304. Other board officers.

(1) A board may appoint other necessary officers who serve at the pleasure of the board.

(2) These officers shall qualify by taking the constitutional oath of office before assuming office.

Section 42. Section 53G-4-401, which is renumbered from Section 53A-3-401 is renumbered and amended to read:

Part 4. Local School Board Powers and Miscellaneous Duties

[53A-3-401]. 53G-4-401. Boards of education are bodies corporate -- Seal -- Authority to sue -- Conveyance of property -- Duty to residents of the local school board member's district -- Establishment of public education foundation.

(1) As used in this section, "body corporate" means a public corporation and legal subdivision of the state, vested with the powers and duties of a government entity as specified in this chapter.

(2) The board of education of a school district is a body corporate under the name of the "Board of Education of School District" (inserting the proper name), and shall have an official seal conformable to its name.

(3) The seal is used by its business administrator in the authentication of all required matters.

(4) A local school board may sue and be sued, and may take, hold, lease, sell, and convey real and personal property as the interests of the schools may require.

(5) Notwithstanding a local school board's status as a body corporate, an elected member of a local school board serves and represents the residents of the local school board member's district, and that service and representation may not be restricted or impaired by the local school board member's membership on, or obligations to, the local school board.

(6) A local school board may establish a foundation in accordance with Section 53E-3-403.

Section 43. Section 53G-4-402, which is renumbered from Section 53A-3-402 is renumbered and amended to read:

[53A-3-402]. 53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress, which shall be submitted to the State Board of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Board of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section ~~[53A-1-402]~~ 53E-3-501.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section ~~[53A-1-1004]~~ ~~53E-3-905~~, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians before, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title ~~[53A, Chapter 1, Part 9]~~ ~~53E, Chapter 3, Part 8~~, Implementing Federal or National Education Programs ~~[Act]~~.

(b) Federal funds are not considered funds within the school district budget under ~~[Title 53A, Chapter 19, Public School]~~ Chapter 7, Part 3, Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private

grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for the board's own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) Board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) A board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A school board shall adopt and implement a comprehensive emergency response plan to

prevent and combat violence in the school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under ~~[Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans]~~ Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(c) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

Section 44. Section 53G-4-403, which is renumbered from Section 53A-3-403 is renumbered and amended to read:

[53A-3-403]. 53G-4-403. School district fiscal year -- Statistical reports.

(1) A school district's ~~[or charter school's]~~ fiscal year begins on July 1 and ends on June 30.

(2) (a) A school district ~~[or charter school]~~ shall forward statistical reports for the preceding school

year, containing items required by law or by the State Board of Education, to the state superintendent on or before November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement required under Subsection [53A-1-301] 53E-3-301(3)(d)(v).

(3) A school district ~~or charter school~~ shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Section 45. Section 53G-4-404, which is renumbered from Section 53A-3-404 is renumbered and amended to read:

[53A-3-404]. 53G-4-404. Annual financial report -- Audit report.

(1) The annual financial report of each school district, containing items required by law or by the State Board of Education and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.

(2) If auditors are employed under Section 51-2a-201, the auditors shall complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.

(3) (a) (i) The district shall forward the annual financial report to the state superintendent not later than October 1.

(ii) The report shall include information to enable the state superintendent to complete the statement required under Subsection [53A-1-301] 53E-3-301(3)(d)(v).

(b) The State Board of Education shall publish electronically a copy of the report on the Internet not later than December 15.

(4) The completed audit report shall be delivered to the school district board of education and the state superintendent of public instruction not later than November 30 of each year.

Section 46. Section 53G-4-405, which is renumbered from Section 53A-3-405 is renumbered and amended to read:

[53A-3-405]. 53G-4-405. Approval of purchases or indebtedness -- Board approval of identified purchases.

(1) An officer or employee of a school district may not make a purchase or incur indebtedness on behalf of the district without the approval and order of the board.

(2) The board shall adopt one of the following approval methods, or a combination of the two:

(a) The board shall approve an appropriation for identified purchases in the district budget. Each purchase made under an identified purchase does not require additional board approval.

(b) The board shall approve individual purchases when made throughout the fiscal year.

Section 47. Section 53G-4-406, which is renumbered from Section 53A-3-406 is renumbered and amended to read:

[53A-3-406]. 53G-4-406. Claims against the board -- Itemized.

Except for salary which is regularly authorized by the board, the board may not hear or consider any claim against the board which is not itemized.

Section 48. Section 53G-4-407, which is renumbered from Section 53A-3-408 is renumbered and amended to read:

[53A-3-408]. 53G-4-407. Tax exemption of school board property.

(1) Real and personal property held by a local school board is exempt from general and special taxation and from local assessments.

(2) This property may not be taken in any manner for debt.

Section 49. Section 53G-4-408, which is renumbered from Section 53A-3-412 is renumbered and amended to read:

[53A-3-412]. 53G-4-408. Residence not condition of employment.

A local school board may not require an employee to reside within its school district as a condition of employment.

Section 50. Section 53G-4-409, which is renumbered from Section 53A-3-420 is renumbered and amended to read:

[53A-3-420]. 53G-4-409. Activity disclosure statements.

(1) ~~[For a school year beginning with or after the 2012-13 school year, a]~~ A local school board shall require the development of activity disclosure statements for each school-sponsored group or program which involves students and faculty in grades 9 through 12 in contests, performances, events, or other activities that require them to miss normal class time or takes place outside regular school time.

(2) The activity disclosure statements shall be disseminated to the students desiring involvement in the specific activity or to the students' parents or legal guardians or to both students and their parents.

(3) An activity disclosure statement shall contain the following information:

(a) the specific name of the team, group, or activity;

(b) the maximum number of students involved;

(c) whether or not tryouts are used to select students, specifying date and time requirements for tryouts, if applicable;

(d) beginning and ending dates of the activity;

(e) a tentative schedule of the events, performances, games, or other activities with dates, times, and places specified if available;

(f) if applicable, designation of any nonseason events or activities, including an indication of the status, required, expected, suggested, or optional, with the dates, times, and places specified;

(g) personal costs associated with the activity;

(h) the name of the school employee responsible for the activity; and

(i) any additional information considered important for the students and parents to know.

Section 51. Section 53G-4-410, which is renumbered from Section 53A-3-429 is renumbered and amended to read:

[53A-3-429]. 53G-4-410. Regional service centers.

(1) For purposes of this section, “eligible regional service center” means a regional service center formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) An eligible regional service center formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, may receive a distribution described in Subsection (5) if the Legislature appropriates money for eligible regional service centers.

(4) (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional service center in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional service center in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional service center shall have the effect of confirming and ratifying in the regional service center, the title to any property held in the name, or for the benefit of the regional service center as of the effective date of the interlocal agreement.

(5) (a) The State Board of Education shall distribute any funding appropriated to eligible regional service centers as provided by the Legislature.

(b) The State Board of Education may provide funding to an eligible regional service center in addition to legislative appropriations.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of

Education shall make rules regarding eligible regional service centers including:

(a) the distribution of legislative appropriations to eligible regional service centers;

(b) the designation of eligible regional service centers as agents to distribute Utah Education and Telehealth Network services; and

(c) the designation of eligible regional service centers as agents for regional coordination of public education and higher education services.

~~[(7) A public school that is a charter school may enter into a contract with an eligible regional service center to receive education related services from the eligible regional service center.]~~

Section 52. Section 53G-4-411, which is renumbered from Section 53A-3-432 is renumbered and amended to read:

[53A-3-432]. 53G-4-411. Interlocal agreement for public education transportation services.

(1) In accordance with Title 11, Chapter 13, Interlocal Cooperation Act, at least two school districts may, for the purpose of coordinating public education transportation services:

(a) create an interlocal entity as defined in Section 11-13-103 if the school districts establish an interlocal entity governing board as described in Subsection (2); or

(b) enter into a joint or cooperative undertaking as described in Section 11-13-207 if the school districts establish a joint board as described in Subsection (2).

(2) A governing board described in Subsection (1)(a) or a joint board described in Subsection (1)(b) shall consist of:

(a) at least one elected member of a local school board from each school district that creates the interlocal entity or enters into the joint or cooperative undertaking; and

(b) only elected members of the local school boards of the school districts that create the interlocal entity or enter into the joint or cooperative undertaking.

Section 53. Section 53G-4-501 is enacted to read:

Part 5. Utah School Boards Association

53G-4-501. Definitions.

Reserved

Section 54. Section 53G-4-502, which is renumbered from Section 53A-5-101 is renumbered and amended to read:

[53A-5-101]. 53G-4-502. Utah School Boards Association.

The Utah School Boards Association is recognized as an organization and agency of the school boards of Utah and is representative of those boards.

Section 55. Section 53G-4-503, which is renumbered from Section 53A-5-102 is renumbered and amended to read:

[53A-5-102]. 53G-4-503. Boards of education authorized to become members of association.

The State Board of Education, local school boards, and their agencies may become members of the Utah School Boards Association and cooperate with the association and its members on activities and problems relating to the state's educational system.

Section 56. Section 53G-4-504, which is renumbered from Section 53A-5-103 is renumbered and amended to read:

[53A-5-103]. 53G-4-504. Payment of dues -- Expenses in attending meetings -- Contributions.

(1) Member boards may pay dues and make other contributions to the association for its educational activities.

(2) They may also incur reasonable travel and subsistence expenses for the purpose of attending meetings and conferences of the association.

(3) Dues and contributions expenses shall be paid in the same manner as are other expenses of the member boards.

Section 57. Section 53G-4-601 is enacted to read:

Part 6. School District Indebtedness

53G-4-601. Definitions.

Reserved

Section 58. Section 53G-4-602, which is renumbered from Section 53A-18-101 is renumbered and amended to read:

[53A-18-101]. 53G-4-602. School district tax anticipation notes.

(1) A local school board may borrow money in anticipation of the collection of taxes or other revenue of the school district so long as it complies with Title 11, Chapter 14, Local Government Bonding Act.

(2) The board may incur indebtedness under this section for any purpose for which district funds may be expended, but not in excess of the estimated district revenues for the current school year.

(3) Revenues include all revenues of the district from the state or any other source.

(4) The district may incur the indebtedness prior to imposing or collecting the taxes or receiving the revenues. The indebtedness bears interest at the lowest obtainable rate or rates.

Section 59. Section 53G-4-603, which is renumbered from Section 53A-18-102 is renumbered and amended to read:

[53A-18-102]. 53G-4-603. Additional indebtedness -- Election -- Voter information pamphlet.

(1) As used in this section:

(a) "Qualifying general obligation bond" means a bond:

(i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and

(ii) authorized by an election held on or after July 1, 2014.

(b) "Voter information pamphlet" means the notification required by Section 11-14-202.

(2) A local school board may require the qualified electors of the district to vote on a proposition as to whether to incur indebtedness, subject to conditions provided in Title 11, Chapter 14, Local Government Bonding Act, if:

(a) the debts of the district are equal to school taxes and other estimated revenues for the school year, and it is necessary to create and incur additional indebtedness in order to maintain and support schools within the district; or

(b) the local school board determines it advisable to issue school district bonds to purchase school sites, buildings, or furnishings or to improve existing school property.

(3) A local school board shall specify, in the voter information pamphlet for a bond election, a plan of finance, including:

(a) the specific project or projects for which a bond is to be issued; and

(b) a priority designation for each project.

(4) Except as provided in Subsection (5), a local school board shall ensure that qualifying general obligation bond proceeds are used to complete projects in accordance with the plan of finance described in Subsection (3).

(5) (a) After distribution to the public of the voter information pamphlet, with two-thirds majority approval of the local school board, a local school board may upon a determination of compelling circumstances adjust the plan of finance described in Subsection (3) by:

(i) changing the priority designation of a project;

(ii) adding a project that was not listed in the voter information pamphlet; or

(iii) removing a project that was listed in the voter information pamphlet.

(b) A local school board may not vote on more than one adjustment described in Subsection (5)(a) per meeting.

(6) For a qualifying general obligation bond, a local school board shall post on the local school board's website:

(a) the plan of finance as described in the voter information pamphlet; and

(b) a progress report detailing the status of the projects listed in the plan of finance, including:

(i) the status of any construction contracts related to a project;

- (ii) the bid amount;
- (iii) the estimated and actual construction start date;
- (iv) the estimated and actual construction end date; and
- (v) the final cost.

(7) (a) If a local school board violates Subsection (4), a registered voter in the school district may file an action for an extraordinary writ to prohibit the local school board from adjusting the plan of finance without obtaining the necessary local school board approval.

(b) If a registered voter prevails in an action under Subsection (7)(a), the court shall award reasonable costs and attorney fees to the registered voter.

(c) The action described in Subsection (7)(a) may not be used to challenge the validity of a bond.

Section 60. Section 53G-4-604, which is renumbered from Section 53A-18-103 is renumbered and amended to read:

[53A-18-103]. 53G-4-604. Consolidated school district bonds.

(1) A consolidated county school district may issue bonds, without an election, to fund, purchase, or redeem the district's outstanding indebtedness if the debt was incurred prior to consolidation and assumed by the consolidated school district.

(2) The legality, regularity, and validity of the outstanding indebtedness shall be determined in the same manner used to determine the validity of other bonds to be refunded by the board.

Section 61. Section 53G-4-605, which is renumbered from Section 53A-18-104 is renumbered and amended to read:

[53A-18-104]. 53G-4-605. Testing validity of bonds to be refunded -- Procedure.

If considered advisable by the local school board, the validity of any bonds intended to be refunded may be determined in the following manner:

- (1) The board shall:
 - (a) publish a notice describing with sufficient particularity for identification the bond or bonds intended to be refunded:
 - (i) once a week for two successive weeks in a newspaper published in the school district; and
 - (ii) as required in Section 45-1-101; and
 - (b) post a notice for two successive weeks in three public and conspicuous places describing with sufficient particularity for identification the bond or bonds intended to be refunded.

(2) The notice shall require any person objecting to the legality, regularity, or validity of the bonds, their issue or sale, or the indebtedness represented by the bonds, to appear before the board at a

specified place within the district on a specified day and time.

(3) The time may not be less than 14 nor more than 60 days after the first publication or posting of the notice.

(4) The notice shall require the person to appear at the meeting with his objections in writing, duly verified.

(5) The board shall convene at the time and place specified in the notice and receive all objections as prescribed in Subsection (4).

(6) The objections shall be filed with and preserved by the board.

(7) If no written objections are presented at the time and place specified in the notice, the board shall so certify.

(8) All persons are then prohibited from questioning in any manner or proceeding the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds, and the board may then refund the bonds.

(9) Any person filing a written objection under Subsection (4) shall, within 20 days after the filing, commence appropriate legal proceedings against the board and others as may be proper parties, in the district court for the county in which the school district is situated, to challenge and determine the legality, regularity, and validity of the bond or bonds, their issue and sale, or the indebtedness represented by them.

(10) Failure to commence the proceedings within 20 days bars the person filing objections from questioning, in any manner or proceeding, the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds.

(11) Upon proof of failure to commence proceedings, by certificate of the clerk of the court, the board may refund the bonds.

Section 62. Section 53G-4-606, which is renumbered from Section 53A-18-105 is renumbered and amended to read:

[53A-18-105]. 53G-4-606. Sinking fund -- Investment.

(1) The money levied and collected to create a sinking fund for the redemption of bonds issued by a local school board shall be immediately credited to a special fund.

(2) After retaining an amount sufficient to pay the principal of the bonds maturing during the year, the board shall invest the fund and any surplus as provided under Title 51, Chapter 7, State Money Management Act.

Section 63. Section 53G-4-607, which is renumbered from Section 53A-18-106 is renumbered and amended to read:

[53A-18-106]. 53G-4-607. Bonds a lien on property -- Levy of tax to pay bonds.

(1) Bonds issued under this ~~chapter~~ part are a lien upon the taxable property of the school district issuing them.

(2) If the local school board neglects or refuses to cause a tax to be levied in accordance with law to meet the outstanding bonds or the interest on the bonds, the county legislative body of the county in which the district is located shall levy the tax and apply the money collected to the payment of the bonds and the interest.

Section 64. Section 53G-4-608, which is renumbered from Section 53A-18-107 is renumbered and amended to read:

[53A-18-107]. 53G-4-608. Requirement to conduct seismic safety evaluations when issuing a bond.

(1) As used in this section:

(a) "Federal guidelines" means guidelines and procedures specified in "Rapid Visual Screening of Buildings for Potential Seismic Hazards: A Handbook, 2nd Edition" published by the United States Federal Emergency Management Agency.

(b) "Qualifying general obligation bond" means a bond:

(i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and

(ii) authorized by an election held on or after July 1, 2013.

(c) "Seismic safety evaluation" means a seismic safety rapid visual screening evaluated in accordance with federal guidelines or a more detailed seismic structural evaluation.

(2) If a school district issues a qualifying general obligation bond, the school district shall:

(a) except as provided in Subsection (4), conduct or update a seismic safety evaluation of each school district building:

(i) constructed before 1975; and

(ii) used by the school district as a school; and

(b) provide a copy of a seismic safety evaluation prepared under Subsection (2)(a) to the Utah Seismic Safety Commission created in Section 63C-6-101.

(3) A seismic safety evaluation conducted under Subsection (2) shall be conducted by a licensed structural engineer familiar with seismic codes.

(4) A school district is not required to conduct or update a seismic safety evaluation of a building as required in Subsection (2)(a) if:

(a) a seismic safety evaluation was performed on the building within the 25-year period before the school district issues the qualifying general obligation bond; and

(b) the school district provides a copy of the school district's seismic safety evaluation described in Subsection (4)(a) to the Utah Seismic Safety Commission.

(5) Creation of a seismic safety evaluation of a school, or a list of schools needing seismic upgrades, shall not be construed as expanding or changing the state's or a school district's common law duty of care for liability purposes.

Section 65. Section 53G-4-701 is enacted to read:

Part 7. Local School Board Building Reserve Fund

53G-4-701. Definitions.

Reserved

Section 66. Section 53G-4-702, which is renumbered from Section 53A-23-101 is renumbered and amended to read:

[53A-23-101]. 53G-4-702. School board reserve fund.

Each local school board may establish and maintain a reserve fund to accumulate funds to meet the capital outlay costs of the school district, including costs for planning, constructing, replacing, improving, equipping, and furnishing school buildings and purchasing school sites.

Section 67. Section 53G-4-703, which is renumbered from Section 53A-23-102 is renumbered and amended to read:

[53A-23-102]. 53G-4-703. Revenues to be allocated to fund.

A local school board may annually allocate to the fund any revenues from the state which are made available for capital outlay purposes, and not otherwise earmarked, and such other revenues as the school district may raise locally for this purpose.

Section 68. Section 53G-4-704, which is renumbered from Section 53A-23-103 is renumbered and amended to read:

[53A-23-103]. 53G-4-704. Building Reserve Fund -- Investment of fund.

(1) The fund shall be known as the Building Reserve Fund of _____ (name of school district) School District.

(2) Any interest or capital gains accrue to the benefit of the fund.

(3) The fund may only be invested as provided in Title 51, Chapter 7, State Money Management Act of 1974.

Section 69. Section 53G-4-705, which is renumbered from Section 53A-23-104 is renumbered and amended to read:

[53A-23-104]. 53G-4-705. Accumulations -- Expenditures from fund -- Public notice -- Transfer to other funds.

(1) The money in the fund shall accumulate from year to year.

(2) However, the local school board may make expenditures from the fund if public notice is given stating the purpose for which the expenditures are to be made.

(3) The procedure for giving public notice is set forth in Section [53A-19-102] 53G-7-303.

(4) Expenditures shall be made for capital outlay costs only.

(5) Money in the fund at the end of the year shall remain intact and may not be transferred to any other fund or used for any other purpose.

Section 70. Section 53G-4-801, which is renumbered from Section 53A-28-102 is renumbered and amended to read:

Part 8. School District Bond Guaranty

[53A-28-102]. 53G-4-801. Definitions.

(1) "Board" means the board of education of a school district existing now or later under the laws of the state.

(2) "Bond" means any general obligation bond or refunding bond issued after the effective date of this [chapter] part.

(3) "Default avoidance program" means the school bond guaranty program established by this [chapter] part.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a board payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Paying agent" means the corporate paying agent selected by the board for a bond issue who is:

- (a) duly qualified; and
- (b) acceptable to the state treasurer.

(6) "Permanent school fund" means the state school fund described in the Utah Constitution, Article X, Section 5(1).

(7) "Refunding bond" means any general obligation bond issued by a board for the purpose of refunding its outstanding general obligation bonds.

(8) "School district" means any school district existing now or later under the laws of the state.

Section 71. Section 53G-4-802, which is renumbered from Section 53A-28-201 is renumbered and amended to read:

[53A-28-201]. 53G-4-802. Contract with bondholders -- Full faith and credit of state is pledged -- Limitation as to certain refunded bonds.

(1) (a) The state of Utah pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding Subsection (1)(a), nothing contained in this [chapter] part precludes an alteration, impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each board may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The full faith and credit and unlimited taxing power of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, bonds as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default of otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this [chapter] part by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this [chapter] part.

(3) (a) Any bond guaranteed under this [chapter] part that is refunded and considered paid for the purposes of and within the meaning of Subsection 11-27-3(6), no longer has the benefit of the guaranty provided by this [chapter] part from and after the date on which that bond was considered to be paid.

(b) Any refunding bond issued by a board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, is not guaranteed under the provisions of this [chapter] part, until the refunding bonds cease to be secured by government obligations as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

(4) Only validly issued bonds issued after the effective date of this [chapter] part are guaranteed under this [chapter] part.

Section 72. Section 53G-4-803, which is renumbered from Section 53A-28-202 is renumbered and amended to read:

[53A-28-202]. 53G-4-803. Program eligibility -- Option to forego guaranty.

(1) (a) Any board may request that the state treasurer issue a certificate evidencing eligibility for the state's guaranty under this [chapter] part.

(b) After reviewing the request, if the state treasurer determines that the board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting board.

(c) (i) The board receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one year from and after the date of the certificate, without making further inquiry of the state treasurer during that year.

(ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the school board is ineligible.

(2) Any board that chooses to forego the benefits of the guaranty provided by this [chapter] part for a particular issue of bonds may do so by not referring to this [chapter] part on the face of its bonds.

(3) Any board that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this [chapter] part may not issue any additional bonds guaranteed by this act until:

(a) all payment obligations of the board to the state under the default avoidance program are satisfied; and

(b) the state treasurer and the state superintendent of public instruction each certify in writing, to be kept on file by the state treasurer and the state superintendent, that the board is fiscally solvent.

(4) Bonds not guaranteed by this [chapter] part are not included in the definition of "bonds" in Section [53A-28-201] 53G-4-802 as used generally in this [chapter] part and are not subject to the requirements of and do not receive the benefits of this [chapter] part.

Section 73. Section 53G-4-804, which is renumbered from Section 53A-28-203 is renumbered and amended to read:

[53A-28-203]. 53G-4-804. Fiscal solvency of school districts -- Duties of state treasurer and attorney general.

(1) The state superintendent of public instruction shall:

(a) monitor the financial affairs and condition of each board in the state to evaluate each school board's financial solvency; and

(b) report immediately to the governor and state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) (a) The state treasurer shall determine whether or not the financial affairs and condition of a board are such that it would be imprudent for the state to guarantee the bonds of that board.

(b) If the state treasurer determines that the state should not guarantee the bonds of that board, the state treasurer shall:

(i) prepare a determination of ineligibility; and

(ii) keep it on file in the office of the state treasurer.

(c) The state treasurer may remove a board from the status of ineligibility when a subsequent report or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that board.

(3) Nothing in this section affects the state's guaranty of bonds of a board issued:

(a) before determination of ineligibility;

(b) after the eligibility of the board is restored; or

(c) under a certificate of eligibility issued under Section [53A-28-202] 53G-4-803.

Section 74. Section 53G-4-805, which is renumbered from Section 53A-28-301 is renumbered and amended to read:

[53A-28-301]. 53G-4-805. Business administrator duties -- Paying agent to provide notice -- State treasurer to execute transfer to paying agents -- Effect of transfer.

(1) (a) The business administrator of each board with outstanding, unpaid bonds shall transfer money sufficient for the scheduled debt service payment to its paying agent at least 15 days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the business administrator, invest the money at the risk and for the benefit of the board until the payment date.

(c) A business administrator who is unable to transfer the scheduled debt service payment to the paying agent 15 days before the payment date shall immediately notify the paying agent and the state treasurer by:

(i) telephone;

(ii) a writing sent by facsimile transmission; and

(iii) a writing sent by first-class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by Subsection (1), the paying agent shall notify the state treasurer of that failure in writing at least 10 days before the scheduled debt service payment date by:

(a) telephone;

(b) a writing sent by facsimile transmission; and

(c) a writing sent by first-class United States mail.

(3) (a) If sufficient money to pay the scheduled debt service payment has not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, transfer sufficient money to the paying agent to make the scheduled debt service payment.

(b) The payment by the treasurer:

(i) discharges the obligation of the issuing board to its bondholders for the payment; and

(ii) transfers the rights represented by the general obligation of the board from the bondholders to the state.

(c) The board shall pay the transferred obligation to the state as provided in this [chapter] part.

Section 75. Section 53G-4-806, which is renumbered from Section 53A-28-302 is renumbered and amended to read:

[53A-28-302]. 53G-4-806. State financial assistance intercept mechanism -- State treasurer duties -- Interest and penalty provisions.

(1) (a) If one or more payments on bonds are made by the state treasurer as provided in Section ~~[53A-28-302]~~ 53G-4-805, the state treasurer shall:

(i) immediately intercept any payments from the Uniform School Fund or from any other source of operating money provided by the state to the board that issued the bonds that would otherwise be paid to the board by the state; and

(ii) apply the intercepted payments to reimburse the state for payments made pursuant to the state's guaranty until all obligations of the board to the state arising from those payments, including interest and penalties, are paid in full.

(b) The state has no obligation to the board or to any person or entity to replace any money intercepted under authority of Subsection (1)(a).

(2) The board that issued bonds for which the state has made all or part of a debt service payment shall:

(a) reimburse all money drawn by the state treasurer on its behalf;

(b) pay interest to the state on all money paid by the state from the date the money was drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus 1%; and

(c) pay all penalties required by this ~~[chapter]~~ part.

(3) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the board on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payment on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the board to make payment on its bonds in a timely manner, impose on the board a penalty of not more than 5% of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.

(4) (a) (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one year from the state's payment of a board's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the board to compel it to:

(A) levy and provide property tax revenues to pay debt service on its bonds when due as required by

Title 11, Chapter 14, Local Government Bonding Act; and

(B) meet its repayment obligations to the state.

(ii) In pursuing its rights under this Subsection (4)(a), the state shall have the same substantive and procedural rights under Title 11, Chapter 14, Local Government Bonding Act, as would a holder of the bonds of a board.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The board shall pay the attorney's fees, expenses, and costs of the state treasurer and the attorney general.

(5) (a) Except as provided in Subsection (5)(c), any board whose operating funds were intercepted under this section may replace those funds from other board money or from ad valorem property taxes, subject to the limitations provided in this Subsection (5).

(b) A board may use ad valorem property taxes or other money to replace intercepted funds only if the ad valorem property taxes or other money was derived from:

(i) taxes originally levied to make the payment but which were not timely received by the board;

(ii) taxes from a special levy made to make the missed payment or to replace the intercepted money;

(iii) money transferred from the capital outlay fund of the board or the undistributed reserve, if any, of the board; or

(iv) any other source of money on hand and legally available.

(c) Notwithstanding the provisions of Subsections (5)(a) and (b), a board may not replace operating funds intercepted by the state with money collected and held to make payments on bonds if that replacement would divert money from the payment of future debt service on the bonds and increase the risk that the state's guaranty would be called upon a second time.

Section 76. Section 53G-4-807, which is renumbered from Section 53A-28-401 is renumbered and amended to read:

[53A-28-401]. 53G-4-807. Backup liquidity arrangements -- Issuance of notes.

(1) (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a board, sufficient money of the state is not on hand and available for that purpose, the state treasurer may:

(i) seek a loan from the Permanent School Fund sufficient to make the required payment; or

(ii) issue state debt as provided in Subsection (2).

(b) Nothing in this Subsection (1) requires the Permanent School Fund to lend money to the state treasurer.

(2) (a) The state treasurer may issue state debt in the form of general obligation note to meet its obligations under this ~~[chapter]~~ part.

(b) The amount of notes issued may not exceed the amount necessary to make payment on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and delivery of the notes, rounded up to the nearest natural multiple of \$5,000.

(c) Each series of notes issued may not mature later than 18 months from the date the notes are issued.

(d) Notes issued may be refunded using the procedures set forth in this ~~[chapter]~~ part for the issuance of notes, in an amount not more than the amount necessary to pay principal of and accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery of the refunding notes, rounded up to the nearest natural multiple of \$5,000.

(e) Each series of refunding notes may not mature later than 18 months from the date the refunding notes are issued.

(3) (a) Before issuing or selling any general obligation note to other than a state fund or account, the state treasurer shall:

(i) prepare a written plan of financing; and

(ii) file it with the governor.

(b) The plan of financing shall provide for:

(i) the terms and conditions under which the notes will be issued, sold, and delivered;

(ii) the taxes or revenues to be anticipated;

(iii) the maximum amount of notes that may be outstanding at any one time under the plan of financing;

(iv) the sources of payment of the notes;

(v) the rate or rates of interest, if any, on the notes or a method, formula, or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and

(vi) all other details relating to the issuance, sale, and delivery of the notes.

(c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:

(i) the taxes authorized by Section ~~[53A-28-402]~~ 53G-4-808;

(ii) the intercepted revenues authorized by Section ~~[53A-28-302]~~ 53G-4-806;

(iii) the proceeds of refunding notes; or

(iv) any combination of Subsections (3)(c)(i), (ii), and (iii).

(d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the state treasurer.

(e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, above, or below face value, and all details of issuance of the notes.

(f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this ~~[chapter]~~ part.

(g) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Utah.

(ii) These general obligation notes do not constitute debt of the state for the purposes of the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.

(h) Immediately upon the completion of any sale of notes, the state treasurer shall:

(i) make a verified return of the sale to the state auditor, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale; and

(ii) credit the proceeds of sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the General Fund to be applied to the purpose for which the notes were issued.

Section 77. Section 53G-4-808, which is renumbered from Section 53A-28-402 is renumbered and amended to read:

~~[53A-28-402]. 53G-4-808. Unlimited ad valorem tax as pledge of full faith and credit -- State Tax Commission duties -- Property tax abated.~~

(1) (a) In each year after the issuance of general obligation notes under this ~~[chapter]~~ part and until all outstanding notes are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay all principal of and interest on the general obligation notes as they become due.

(b) If money expected to be intercepted under Section ~~[53A-28-302]~~ 53G-4-806 is expected to be insufficient to reimburse the state for its payments of school districts' scheduled debt service payments or if it is necessary for the state treasurer to borrow as provided in Section ~~[53A-28-401]~~ 53G-4-807 and amounts to be intercepted under Section

[53A-28-302] 53G-4-806 are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section, the state treasurer shall certify to and give notice to the state tax commission of the amount of the deficiency.

(c) After receipt of that certified notice from the state treasurer, the state tax commission shall:

(i) immediately fix the tax rate necessary and levy direct ad valorem property tax on all real and personal property in the state subject to state taxation sufficient to provide money in the amount of the deficiency stated in the notice; and

(ii) require that the tax be collected and remitted as soon as may be in the ordinary course of ad valorem tax levy and collection.

(2) To the extent that other legally available revenues and funds of the state are sufficient to meet the certified deficiency, the property tax for this purpose is abated.

**Section 78. Section 53G-4-901, which is renumbered from Section 53A-2-402 is renumbered and amended to read:
Part 9. Surplus School District Land**

[53A-2-402]. 53G-4-901. Definitions.

As used in this part:

(1) "Eligible entity" means:

(a) a city or town with a population density of 3,000 or more people per square mile; or

(b) a county whose unincorporated area includes a qualifying planning advisory area.

(2) "Purchase price" means the greater of:

(a) an amount that is the average of:

(i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and

(ii) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the school district; and

(b) the amount the school district paid to acquire the surplus property.

(3) "Qualifying planning advisory area" means a planning advisory area under Section 17-27a-306 that has a population density of 3,000 or more people per square mile within the boundaries of the planning advisory area.

(4) "Surplus property" means land owned by a school district that:

(a) was purchased with taxpayer money;

(b) is located within a city or town that is an eligible entity or within a qualifying planning advisory area;

(c) consists of one contiguous tract at least three acres in size; and

(d) has been declared by the school district to be surplus.

Section 79. Section 53G-4-902, which is renumbered from Section 53A-2-403 is renumbered and amended to read:

[53A-2-403]. 53G-4-902. Purchase of surplus property.

(1) An eligible entity may purchase, and each school district shall sell, surplus property as provided in this section.

(2) (a) Upon declaring land to be surplus property, each school district shall give written notice to each eligible entity in which the surplus property is located.

(b) Each notice under Subsection (2)(a) shall:

(i) state that the school district has declared the land to be surplus property; and

(ii) describe the surplus property.

(3) Subject to Subsection (4), an eligible entity may purchase the surplus property by paying the school district the purchase price.

(4) (a) The legislative body of each eligible entity desiring to purchase surplus property under this section shall:

(i) within 90 days after the eligible entity receives notice under Subsection (2), adopt a resolution declaring the intent to purchase the surplus property and deliver a copy of the resolution to the school district; and

(ii) within 90 days after delivering a copy of the resolution under Subsection (4)(a)(i) to the school district, deliver to the school district an earnest money offer to purchase the surplus property at the purchase price.

(b) If an eligible entity fails to comply with either of the requirements under Subsection (4)(a) within the applicable time period, the eligible entity forfeits the right to purchase the surplus property.

(5) (a) An eligible entity may waive its right to purchase surplus property under this part by submitting a written waiver to the school district.

(b) If an eligible entity submits a waiver under Subsection (5)(a), the school district has no further obligation under this part to sell the surplus property to the eligible entity.

(6) Surplus property acquired by an eligible entity may not be used for any purpose other than:

(a) a county, city, or town hall;

(b) a park or other open space;

(c) a cultural center or community center;

(d) a facility for the promotion, creation, or retention of public or private jobs within the state through planning, design, development, construction, rehabilitation, business relocation, or

any combination of these, within a county, city, or town;

(e) office, industrial, manufacturing, warehousing, distribution, parking, or other public or private facilities, or other improvements that benefit the state or a county, city, or town; or

(f) a facility for a charter school under Chapter ~~[1a, Part 5, The Utah Charter Schools Act]~~ 5, Charter Schools.

(7) (a) A school district that sells surplus property under this part may use proceeds from the sale only for bond debt reduction or school district capital facilities.

(b) Each school district that sells surplus property under this part shall place all proceeds from the sale that are not used for bond debt reduction in a capital facilities fund of the school district for use for school district capital facilities.

Section 80. Section 53G-4-903, which is renumbered from Section 53A-2-404 is renumbered and amended to read:

[53A-2-404]. 53G-4-903. Resale of surplus property.

(1) If an eligible entity that has acquired surplus property under Section ~~[53A-2-403]~~ 53G-4-902 afterwards declares that property to be surplus, the school district from which the eligible entity acquired the property may purchase, and the eligible entity shall sell, the property as provided in Section ~~[53A-2-403]~~ 53G-4-902, except that the price at which the school district shall be entitled to reacquire the property shall be the price that the eligible entity paid for the property, plus the cost of any existing improvements that the eligible entity made to the property after it purchased the property.

(2) If the school district does not reacquire the surplus property under Subsection (1) and the eligible entity sells the surplus property to another buyer, the eligible entity and the school district shall equally share any proceeds of that sale that exceed the amount the eligible entity paid for the property plus the cost of any existing improvements the eligible entity made to the property after it purchased the property.

Section 81. Section 53G-4-1001 is enacted to read:

Part 10. School Construction Due to New Industrial Plants

53G-4-1001. Definitions.

Reserved

Section 82. Section 53G-4-1001.5, which is renumbered from Section 53A-22-101 is renumbered and amended to read:

[53A-22-101]. 53G-4-1001.5. Purpose of part.

It is the purpose of this ~~[chapter]~~ part to provide school districts with the ability to raise funds for necessary new school construction, including additions to existing school buildings caused by the development of industrial plants that require large numbers of workers for their construction and operation.

Section 83. Section 53G-4-1002, which is renumbered from Section 53A-22-102 is renumbered and amended to read:

[53A-22-102]. 53G-4-1002. New industrial plants in school district -- Duty of school district.

A school district confronted with actual or anticipated large increases in enrollment because of the construction of a new industrial plant or plants to a degree that new buildings or additions to existing buildings are required shall make the following efforts to raise funds to meet those building needs:

(1) bond to its maximum capacity and maintain maximum bonding by rebonding at least once every other year until building needs are met;

(2) maintain an annual property tax levy for capital outlay and debt service combined of not less than .0036 per dollar of taxable value; and

(3) initiate any action necessary to qualify for any state, federal, or other funds for capital outlay for which the district may be eligible.

Section 84. Section 53G-4-1003, which is renumbered from Section 53A-22-103 is renumbered and amended to read:

[53A-22-103]. 53G-4-1003. Funds raised -- Highest priority projects.

(1) Funds raised by the school district in accordance with this ~~[chapter]~~ part shall be used on the highest priority projects established by the district's five-year comprehensive capital outlay plan, which shall be approved by the State Board of Education.

(2) The plan must include appropriate priorities for the construction of minimal facilities for new students.

(3) If priority use of the funds raised by the district in accordance with this ~~[chapter]~~ part does not provide minimal facilities as defined by the State Board of Education for students in any new and remote community established in the district, or for students in existing communities because of the location of new or expanded industries in the area, the district may enter into lease-purchase agreements or lease with option to purchase agreements with private builders to furnish the minimal facilities required by the district and approved by the State Board of Education.

(4) The district may make payments on these agreements from any of its otherwise uncommitted capital outlay funds.

Section 85. Section 53G-4-1004, which is renumbered from Section 53A-22-104 is renumbered and amended to read:

[53A-22-104]. 53G-4-1004. Minimal school facilities -- Lease-purchase or lease with option to purchase agreement authorized.

(1) If a school district is unable to find any private builder who is capable of furnishing minimal school facilities in new or existing communities, on terms acceptable to the district and to the State Board of Education, the developers of the industrial plant, or plants, may agree to provide minimal school facilities under a lease-purchase agreement or lease with option to purchase agreement with the district.

(2) The district shall pay the developers according to the terms of the agreement from sources listed for such payments in this ~~chapter~~ part.

Section 86. Section 53G-4-1005, which is renumbered from Section 53A-22-105 is renumbered and amended to read:

[53A-22-105]. 53G-4-1005. Remote industrial plant requiring new school building -- Construction permit requirements.

A state officer or local governmental official may not issue a construction permit or other authorization for the construction of a remote industrial plant requiring the provision of a new community, including new public elementary and secondary school buildings, until the local school board of the district in which the plant will be located has certified to the state office or local official, in writing, that the district has obtained the funds, or a firm commitment that funds will be made available as necessary, to build the required minimal school facilities.

Section 87. Section 53G-4-1006, which is renumbered from Section 53A-22-106 is renumbered and amended to read:

[53A-22-106]. 53G-4-1006. Rules and regulations authorized.

The State Board of Education shall adopt all standards and rules necessary for the administration and enforcement of this ~~chapter~~ part.

Section 88. Section 53G-5-101 is enacted to read:

CHAPTER 5. CHARTER SCHOOLS

Part 1. General Provisions

53G-5-101. Title.

This chapter is known as "Charter Schools."

Section 89. Section 53G-5-102, which is renumbered from Section 53A-1a-501.3 is renumbered and amended to read:

[53A-1a-501.3]. 53G-5-102. Definitions.

As used in this ~~part~~ chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

- (a) cash;
- (b) stock or other investments;
- (c) real property;
- (d) equipment and supplies;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

- (a) the board of trustees of:
 - (i) the University of Utah;
 - (ii) Utah State University;
 - (iii) Weber State University;
 - (iv) Southern Utah University;
 - (v) Snow College;
 - (vi) Dixie State University;
 - (vii) Utah Valley University; or
 - (viii) Salt Lake Community College; or
- (b) the board of directors of a technical college described in Section 53B-2a-108.

(3) "Charter agreement" or "charter" means an agreement made in accordance with Section ~~[53A-1a-508]~~ 53G-5-303 that authorizes the operation of a charter school.

(4) "Charter school authorizer" or "authorizer" means the State Charter School Board, a local school board, or a board of trustees of a higher education institution that authorizes the establishment of a charter school.

(5) "Governing board" means the board that operates a charter school.

Section 90. Section 53G-5-103 is enacted to read:

53G-5-103. Charter school funding.

Unless otherwise specified, the provisions of Title 53F, Public Education System -- Funding, govern charter school funding, including Title 53F, Chapter 2, Part 7, Charter School Funding, which governs levies imposed for charter school funding.

Section 91. Section 53G-5-104, which is renumbered from Section 53A-1a-503 is renumbered and amended to read:

[53A-1a-503]. 53G-5-104. Purpose of charter schools.

The purposes of the state's charter schools as a whole are to:

- (1) continue to improve student learning;

(2) encourage the use of different and innovative teaching methods;

(3) create new professional opportunities for educators that will allow them to actively participate in designing and implementing the learning program at the school;

(4) increase choice of learning opportunities for students;

(5) establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools;

(6) provide opportunities for greater parental involvement in management decisions at the school level; and

(7) expand public school choice in areas where schools have been identified for school improvement, corrective action, or restructuring under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

Section 92. Section 53G-5-201, which is renumbered from Section 53A-1a-501.5 is renumbered and amended to read:

Part 2. State Charter School Board

[~~53A-1a-501.5~~]. 53G-5-201. State Charter School Board created.

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2) (a) The State Charter School Board is created consisting of the following members appointed by the governor:

(i) two members who have expertise in finance or small business management;

(ii) three members who:

(A) are nominated by an organization that represents Utah's charter schools; and

(B) have expertise or experience in developing or administering a charter school; and

(iii) two members who are nominated by the State Board of Education.

(b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section [~~53A-1a-503~~] 53G-5-104.

(c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).

(d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired term.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall annually elect a chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 93. Section 53G-5-202, which is renumbered from Section 53A-1a-501.6 is renumbered and amended to read:

[~~53A-1a-501.6~~]. 53G-5-202. Power and duties of State Charter School Board.

(1) The State Charter School Board shall:

(a) authorize and promote the establishment of charter schools, subject to the provisions in this [~~part~~] chapter and other related provisions;

(b) annually review and evaluate the performance of charter schools authorized by the State Charter School Board and hold the schools accountable for their performance;

(c) monitor charter schools authorized by the State Charter School Board for compliance with federal and state laws, rules, and regulations;

(d) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization;

(iii) directing charter schools and persons seeking to establish charter schools to sources of private funding and support;

(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; and

(v) assisting charter schools to understand and carry out their charter obligations;

(e) provide technical support, as requested, to a charter school authorizer relating to charter schools;

(f) make recommendations on legislation and rules pertaining to charter schools to the

Legislature and State Board of Education, respectively; and

(g) make recommendations to the State Board of Education on the funding of charter schools.

(2) The State Charter School Board may:

(a) contract;

(b) sue and be sued; and

(c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and

(ii) charge fees for the provision of services or functions.

Section 94. Section 53G-5-203, which is renumbered from Section 53A-1a-501.7 is renumbered and amended to read:

[53A-1a-501.7]. 53G-5-203. State Charter School Board -- Staff director -- Facilities.

(1) (a) The State Charter School Board, with the consent of the superintendent of public instruction, shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director with the consent of the superintendent of public instruction.

(c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The superintendent of public instruction shall provide space for staff of the State Charter School Board in facilities occupied by the State Board of Education or the State Board of Education's employees, with costs charged for the facilities equal to those charged other sections and divisions under the State Board of Education.

Section 95. Section 53G-5-204, which is renumbered from Section 53A-1a-507.1 is renumbered and amended to read:

[53A-1a-507.1]. 53G-5-204. Charter school innovative practices -- Report to State Charter School Board.

Prior to July 31 of each year, a charter school may identify and report to the State Charter School Board its innovative practices which fulfill the purposes of charter schools as outlined in Section [53A-1a-503] 53G-5-104, including:

(1) unique learning opportunities providing increased choice in education;

(2) new public school models;

(3) innovative teaching practices;

(4) opportunities for educators to actively participate in the design and implementation of the learning program;

(5) new forms of accountability emphasizing the measurement of learning outcomes and the creation of new measurement tools;

(6) opportunities for greater parental involvement, including involvement in management decisions; and

(7) the impact of the innovative practices on student achievement.

Section 96. Section 53G-5-301, which is renumbered from Section 53A-1a-501.9 is renumbered and amended to read:

Part 3. Charter School Authorization

[53A-1a-501.9]. 53G-5-301. State Charter School Board to request applications for certain types of charter schools.

(1) To meet the unique learning styles and needs of students, the State Charter School Board shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.

(2) (a) The State Charter School Board shall request individuals, groups of individuals, or not-for-profit legal entities to submit an application to the State Charter School Board to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:

(i) a military charter school;

(ii) a charter school whose mission is to enhance learning opportunities for students at risk of academic failure;

(iii) a charter school whose focus is career and technical education;

(iv) a single gender charter school; or

(v) a charter school with an international focus that provides opportunities for the exchange of students or teachers.

(b) In addition to a charter school identified in Subsection (2)(a), the State Charter School Board shall request applications for other types of charter schools that meet the unique learning styles and needs of students.

(3) The State Charter School Board shall publicize a request for applications to establish a charter school specified in Subsection (2).

(4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures specified in Section [53A-1a-505] 53G-5-304.

(5) The State Charter School Board and the State Board of Education may approve one or more applications for each charter school specified in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as provided in Section [53A-1a-502.5] 53G-6-504.

(6) The State Board of Education shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Section 97. Section 53G-5-302, which is renumbered from Section 53A-1a-504 is renumbered and amended to read:

[53A-1a-504]. 53G-5-302. Charter school application -- Applicants -- Contents.

(1) (a) An application to establish a charter school may be submitted by:

- (i) an individual;
- (ii) a group of individuals; or
- (iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements described in Section [53A-1a-512.5] 53G-5-408;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school; and

(n) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, administering the statewide assessments described in Section [53A-1-602] 53E-4-301;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Section 98. Section 53G-5-303, which is renumbered from Section 53A-1a-508 is renumbered and amended to read:

[53A-1a-508]. 53G-5-303. Charter agreement -- Content -- Modification.

(1) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

(2) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels and number of students the charter school will serve;

(e) a description of the structure of the charter school governing board, including:

- (i) the number of board members;
- (ii) how members of the board are appointed; and
- (iii) board members' terms of office;
- (f) assurances that:

(i) the charter school governing board will comply with:

- (A) the charter school's bylaws;
- (B) the charter school's articles of incorporation; and
- (C) applicable federal law, state law, and State Board of Education rules;

(ii) the charter school governing board will meet all reporting requirements described in Section ~~[53A-1a-507]~~ 53G-5-404; and

(iii) except as provided in ~~[Title 53A, Chapter 20b, Part 2]~~ Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(g) which administrative rules the State Board of Education will waive for the charter school;

(h) minimum financial standards for operating the charter school;

(i) minimum standards for student achievement; and

(j) signatures of the charter school authorizer and the charter school governing board members.

(3) (a) Except as provided in Subsection (3)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection (3)(a) to include an enrollment preference described in Subsection ~~[53A-1a-506]~~ 53G-6-502(4)(g).

Section 99. Section 53G-5-304, which is renumbered from Section 53A-1a-505 is renumbered and amended to read:

[53A-1a-505]. 53G-5-304. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited bases of application denial.

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) The State Board of Education shall, by majority vote, within 60 days after action by the State Charter School Board under Subsection (1)(d):

- (i) approve or deny an application approved by the State Charter School Board; or
- (ii) hear an appeal, if any, of an application denied by the State Charter School Board.

(f) The State Board of Education's action under Subsection (1)(d) is final action subject to judicial review.

(g) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(2) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section ~~[53A-1a-508]~~ 53G-5-303, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with State Board of Education rules, establish and make public the State Charter School Board's:

- (a) application requirements, in accordance with Section ~~[53A-1a-504]~~ 53G-5-302;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Section 100. Section 53G-5-305, which is renumbered from Section 53A-1a-515 is renumbered and amended to read:

[53A-1a-515]. 53G-5-305. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1) (a) An applicant identified in Section ~~[53A-1a-504]~~ 53G-5-302 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b) (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

(i) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or board policy regarding reduction in staff would apply.

(2) (a) An existing public school that converts to charter status under a charter granted by a local school board may:

(i) continue to receive the same services from the school district that it received prior to its conversion; or

(ii) contract out for some or all of those services with other public or private providers.

(b) Any other charter school authorized by a local school board may contract with the board to receive some or all of the services referred to in Subsection (3)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

(3) (a) (i) A public school that converts to a charter school under a charter granted by a local school board shall receive funding:

(A) through the school district; and

(B) on the same basis as it did prior to its conversion to a charter school.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(b) (i) A local school board-authorized charter school operating in a facility owned by the school district and not paying reasonable rent to the school district shall receive funding:

(A) through the school district; and

(B) on the same basis that other district schools receive funding.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(c) Subject to the provisions in Section ~~[53A-1a-502.5]~~ 53G-6-504, a charter school authorized by a local school board shall receive funding as provided in ~~[Section 53A-1a-513]~~ Title 53F, Chapter 2, Part 7, Charter School Funding.

(d) (i) A charter school authorized by a local school board, but not described in Subsection (3)(a), (b), or (c) shall receive funding:

(A) through the school district; and

(B) on the same basis that other district schools receive funding.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(4) (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.

(b) If the board rejects the application, it shall notify the applicant in writing of the reason for the rejection.

(c) The applicant may submit a revised application for reconsideration by the board.

(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from the State Charter School Board under Section ~~[53A-1a-505]~~ 53G-5-304.

(5) The State Board of Education shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.

(6) After approval of a charter school application and in accordance with Section ~~[53A-1a-508]~~ 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(7) A local school board shall:

(a) annually review and evaluate the performance of charter schools authorized by the local school board and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the local school board for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the local school board to assist them in understanding and performing their charter obligations.

(8) A local school board may terminate a charter school it authorizes as provided in Sections ~~[53A-1a-509]~~ 53G-5-501 and ~~[53A-1a-510]~~ 53G-5-503.

(9) In addition to the exemptions described in Sections ~~[53A-1a-511]~~ 53G-5-405, 53G-7-202, and ~~[53A-1a-512]~~ 53G-5-407, a charter school authorized by a local school board is:

(a) not required to separately submit a report or information required under this ~~[title]~~ public education code to the State Board of Education if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section ~~[53A-1a-507]~~ 53G-5-404 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(10) Before a local school board accepts a charter school application, the local school board shall, in accordance with State Board of Education rules, establish and make public the local school board's:

(a) application requirements, in accordance with Section ~~[53A-1a-504]~~ 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 101. Section 53G-5-306, which is renumbered from Section 53A-1a-521 is renumbered and amended to read:

~~[53A-1a-521]. 53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.~~

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section ~~[53A-1a-504]~~ 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or

the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(7) A board of trustees shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a technical college

board of directors described in Section 53B-2a-108 shall obtain the approval of the Utah System of Technical Colleges Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of directors approves an application to establish and operate a charter school, the technical college board of directors shall submit the application to the Utah System of Technical Colleges Board of Trustees.

(c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote, within 60 days of receipt of an application described in Subsection (8)(b), approve or deny the application.

(d) The Utah System of Technical Colleges Board of Trustees may deny an application approved by a technical college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section ~~[53A-1a-503]~~ 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(9) (a) Subject to the requirements of this ~~[part]~~ chapter and other related provisions, a technical college board of directors may establish:

(i) procedures for submitting applications to establish and operate a charter school; or

(ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah System of Technical Colleges Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

(10) Before a technical college board of directors accepts a charter school application, the technical college board of directors shall, in accordance with State Board of Education rules, establish and make public:

(a) application requirements, in accordance with Section ~~[53A-1a-504]~~ 53G-5-302;

(b) the application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 102. Section 53G-5-401, which is renumbered from Section 53A-1a-503.5 is renumbered and amended to read:

Part 4. Powers and Duties

~~[53A-1a-503.5].~~ 53G-5-401. Status of charter schools.

(1) Charter schools are:

(a) considered to be public schools within the state's public education system;

(b) subject to Subsection ~~[53A-1-401]~~ 53E-3-401(8); and

(c) governed by independent boards and held accountable to a legally binding written contractual agreement.

(2) A charter school may be established by:

(a) creating a new school; or

(b) converting an existing public school to charter status.

(3) A parochial school or home school is not eligible for charter school status.

Section 103. Section 53G-5-402, which is renumbered from Section 53A-1a-523 is renumbered and amended to read:

~~[53A-1a-523].~~ 53G-5-402. Property tax exemption for property owned by a charter school.

For purposes of a property tax exemption for property of school districts under Subsection 59-2-1101(3)(a)(ii)(B), a charter school is considered to be a school district.

Section 104. Section 53G-5-403, which is renumbered from Section 53A-1a-517 is renumbered and amended to read:

~~[53A-1a-517].~~ 53G-5-403. Charter school assets.

(1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this ~~[part]~~ chapter and other related provisions.

(b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1) shall be presumed to be made to the charter school and shall be included in the charter school's assets.

(2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

(3) All assets purchased with charter school funds shall be included in the charter school's assets.

(4) A charter school may not dispose of its assets in violation of the provisions of this ~~[part]~~ chapter or other related provisions, state board rules, policies of its charter school authorizer, or its charter, including the provisions governing the closure of a charter school under Section ~~[53A-1a-510.5]~~ 53G-5-504.

Section 105. Section 53G-5-404, which is renumbered from Section 53A-1a-507 is renumbered and amended to read:

~~[53A-1a-507].~~ 53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this [title] public education code, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section [53A-1a-503] 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section [53A-1a-515] 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section [53A-6-501] 53E-6-604.

Section 106. Section 53G-5-405, which is renumbered from Section 53A-1a-511 is renumbered and amended to read:

[53A-1a-511]. 53G-5-405. Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter and is subject to [Title 53A, State System of Public Education,] this public education code and other state laws applicable to public schools, except as otherwise provided in this [part] chapter and other related provisions.

~~[(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.]~~

~~[(b) The state board may grant the waiver, unless:]~~

~~[(i) the waiver would cause the school district or the school to be in violation of state or federal law; or]~~

~~[(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.]~~

~~[(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.]~~

~~[(3) (2) (a) Except as provided in Subsection [(3) (2)(b), State Board of Education rules governing the following do not apply to a charter school:~~

~~(i) school libraries;~~

~~(ii) required school administrative and supervisory services; and~~

~~(iii) required expenditures for instructional supplies.~~

~~(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.~~

~~[(4) (3) The following provisions of [Title 53A, State System of Public Education] this public education code, and rules adopted under those provisions, do not apply to a charter school:~~

~~(a) Sections [53A-1a-108] 53G-7-1202 and [53A-1a-108.5] 53G-7-1204, requiring the establishment of a school community council and school improvement plan;~~

~~(b) Section [53A-3-420] 53G-4-409, requiring the use of activity disclosure statements;~~

~~(c) Section [53A-12-207] 53G-7-606, requiring notification of intent to dispose of textbooks;~~

~~(d) Section [53A-13-107] 53G-10-404, requiring annual presentations on adoption;~~

~~(e) Sections [53A-19-103] 53G-7-304 and [53A-19-105] 53G-7-306 pertaining to fiscal procedures of school districts and local school boards; and~~

(f) Section ~~[53A-14-107]~~ 53E-4-408, requiring an independent evaluation of instructional materials.

~~[(5)]~~ (4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

~~[(6)]~~ (5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

~~[(7)]~~ (6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section ~~[53A-1a-507]~~ 53G-5-404.

~~[(8)]~~ (7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 107. Section 53G-5-406, which is renumbered from Section 53A-1a-520 is renumbered and amended to read:

[53A-1a-520]. 53G-5-406. Accountability -- Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with chartering entities, the State Board of Education shall make rules that:

(1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;

(2) require an authorizer to:

(a) visit a charter school at least once during:

(i) its first year of operation; and

(ii) the review period described under Subsection (3); and

(b) provide written reports to its charter schools after the visits; and

(3) establish a review process that is required of a charter school once every five years by its authorizer.

Section 108. Section 53G-5-407, which is renumbered from Section 53A-1a-512 is renumbered and amended to read:

[53A-1a-512]. 53G-5-407. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The school's governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this ~~[part]~~ chapter and other related provisions.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter ~~[8a, Public Education Human Resource Management Act]~~ 11, Part 5, School District and Utah Schools for the Deaf and the Blind Employee Requirements; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:

(i) are licensed; or

(ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.

(b) The school's governing board shall disclose the qualifications of its teachers to the parents of its students.

(5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.

(7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(b) An election under this Subsection (7):

(i) shall be documented by a resolution adopted by the governing board of the charter school; and

(ii) applies to the charter school as the employer and to all employees of the charter school.

(c) The governing board of a charter school may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(8) A charter school may not revoke an election to participate made under Subsection (7).

(9) The governing board of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging that the employee:

(a) has received:

(i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or

(ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and

(b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Section 109. Section 53G-5-408, which is renumbered from Section 53A-1a-512.5 is renumbered and amended to read:

[53A-1a-512.5]. 53G-5-408. Criminal background checks on school personnel.

The following individuals are required to submit to a criminal background check and ongoing monitoring as provided in Section ~~[53A-15-1503]~~ 53G-11-402:

(1) an employee of a charter school who does not hold a current Utah educator license issued by the State Board of Education under Title ~~[53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ 53E, Chapter 6, Education Professional Licensure;

(2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment;

(3) a contract employee, as defined in Section ~~[53A-15-1502]~~ 53G-11-401, who works at a charter school; and

(4) a charter school governing board member.

Section 110. Section 53G-5-409, which is renumbered from Section 53A-1a-518 is renumbered and amended to read:

[53A-1a-518]. 53G-5-409. Regulated transactions and relationships -- Definitions -- Rulemaking.

(1) As used in this section:

(a) "Charter school officer" means:

(i) a member of a charter school's governing board;

(ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or

(iii) the chief administrative officer of a charter school.

(b) (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.

(ii) "Employment" does not include a charter school volunteer.

(c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.

(b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:

(i) disclose the relationship, in writing, to the other charter school officers;

(ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;

(iii) abstain from voting on the issue; and

(iv) be absent from any meeting when the employment is being considered and determined.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.

(b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the charter school officer shall:

(i) disclose the financial interest, in writing, to the other charter school officers;

(ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;

(iii) abstain from voting on the issue; and

(iv) be absent from any meeting when the contract or transaction is being considered and determined.

(c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:

(i) the chief administrative officer of a charter school; or

(ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).

(4) The State Board of Education or State Charter School Board may not operate a charter school.

Section 111. Section 53G-5-410, which is renumbered from Section 53A-1a-524 is renumbered and amended to read:

[53A-1a-524]. 53G-5-410. Safe technology utilization and digital citizenship.

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section ~~[53A-16-101.5]~~ 53F-2-404:

(1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(a) a student to make smart media and online choices; and

(b) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child;

(2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection ~~[53A-1-706]~~ 53G-7-216(3); and

(3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

Section 112. Section 53G-5-411 is enacted to read:

53G-5-411. Charter school fiscal year -- Statistical reports.

(1) A charter school's fiscal year begins on July 1 and ends on June 30.

(2) (a) A charter school shall forward statistical reports for the preceding school year, containing items required by law or by the State Board of Education, to the state superintendent on or before November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement required under Subsection ~~53E-3-301(3)(d)(v)~~.

(3) A charter school shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Section 113. Section 53G-5-412 is enacted to read:

53G-5-412. Contract with regional service centers.

A public school that is a charter school may enter into a contract with an eligible regional service center, as defined in Section 53G-4-410, to receive education-related services from the eligible regional service center.

Section 114. Section 53G-5-413 is enacted to read:

53G-5-413. Charter school governing board meetings -- Rules of order and procedure.

(1) As used in this section, "rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(2) Subject to Subsection (4), a charter school governing board shall:

(a) adopt rules of order and procedure to govern a public meeting of the charter school governing board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

(i) at each public meeting of the charter school governing board; and

(ii) on the charter school governing board's public website, if available.

(3) The requirements of this section do not affect a charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 115. Section 53G-5-501, which is renumbered from Section 53A-1a-509 is renumbered and amended to read:

Part 5. Noncompliance, Charter Termination, and Liability

[53A-1a-509]. 53G-5-501. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section ~~[53A-1a-507]~~ 53G-5-404 or the school's charter, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection ~~[53A-1a-510]~~ 53G-5-503(4):

(a) the governing board of the charter school; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with ~~[Chapter 20b, Part 2]~~ Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(a) subject to the requirements of Subsection (4), take one or more of the following actions:

(i) remove a charter school director or finance officer;

(ii) remove a governing board member; or

(iii) appoint an interim director or mentor to work with the charter school; or

(b) subject to the requirements of Section [~~53A-1a-510~~] 53G-5-503, terminate the school's charter.

(3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with [~~Chapter 20b, Part 2~~] Part 6, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter.

Section 116. Section 53G-5-502, which is renumbered from Section 53A-1a-509.5 is renumbered and amended to read:

[~~53A-1a-509.5~~]. 53G-5-502. Voluntary school improvement process.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and State Board of Education rules;

(b) has operated for at least three years meeting the terms of the school's charter agreement; and

(c) has students performing at or above the academic performance standard in the school's charter agreement.

(2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the charter school's authorizer to place the school in a school improvement process.

(b) A governing board shall provide notice and a hearing on the governing board's intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled in the charter school.

(3) An authorizer may grant a governing board's request to be placed in a school improvement process if the governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a governing board shall:

(a) enter into a contract with the governing board on the terms of the school improvement process;

(b) notify the State Board of Education that the authorizer has entered into a school improvement process with the governing board;

(c) make a report to a committee of the State Board of Education regarding the school improvement process; and

(d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with [~~Chapter 20b, Part 2~~] Part 6, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the State Board of Education shall notify charter schools and the school district in which the charter school is located that the governing board has entered into a school improvement process with the charter school's authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:

(a) terminate the school's charter, notwithstanding the requirements of Section [~~53A-1a-510~~] 53G-5-503; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located; or

(ii) a high performing charter school.

(8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:

(a) approve a governing board's proposal under Subsection (7); or

(b) (i) deny a governing board's proposal under Subsection (7); and

(ii) (A) terminate the school's charter in accordance with Section [~~53A-1a-510~~] 53G-5-503;

(B) allow the governing board to submit a revised proposal; or

(C) take no action.

(9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with [~~Chapter 20b, Part 2~~] Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(10) (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the State Board of Education.

(b) (i) The State Board of Education shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the State Board of Education denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the State Board of Education does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

Section 117. Section 53G-5-503, which is renumbered from Section 53A-1a-510 is renumbered and amended to read:

[53A-1a-510]. 53G-5-503. Termination of a charter.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter;

(b) failure to meet generally accepted standards of fiscal management;

(c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;

(d) (i) designation as a low performing school under [~~Chapter 1, Part 12~~] Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development [~~Act~~]; and

(ii) failure to improve the school's grade under the conditions described in [~~Chapter 1, Part 12~~] Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development [~~Act~~];

(e) violation of requirements under this [~~part~~] chapter or another law; or

(f) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:

(i) the governing board of the charter school; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with [~~Chapter 20b, Part 2~~] Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.

(d) (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The State Board of Education's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with [~~Chapter 20b, Part 2~~] Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

(3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with [~~Chapter 20b, Part 2~~] Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the governing board of another charter school; or

(c) a private management company.

(7) (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of [~~Chapter 2, Part 2,~~] Chapter 6, Part 3, School District [~~of~~] Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

(8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Section 118. Section 53G-5-504, which is renumbered from Section 53A-1a-510.5 is renumbered and amended to read:

[53A-1a-510.5]. 53G-5-504. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section [53A-1a-510] 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection [53A-1a-510] 53G-5-503(2)(c);

(b) when the State Board of Education takes final action described in Subsection [53A-1a-510] 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(3) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the State Board of Education did not make the decision to close, the State Board of Education;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The notice described in Subsection (3)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(4) After a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) maintain a base of operation throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) complete a financial audit or other procedure required by board rule immediately after the decision to close is made;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).

(6) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with board rule.

(8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the State Board of Education, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(10) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after considering suggestions from charter school authorizers, make rules that:

- (a) provide additional closure procedures for charter schools; and
- (b) establish a charter school closure process.

Section 119. Section 53G-5-505, which is renumbered from Section 53A-1a-514 is renumbered and amended to read:

[53A-1a-514]. 53G-5-505. Tort liability.

(1) An employee of a charter school is a public employee and the governing board is a public employer in the same manner as a local school board for purposes of tort liability.

(2) The governing board of a charter school, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Section 120. Section 53G-5-601, which is renumbered from Section 53A-20b-102 is renumbered and amended to read:
Part 6. Charter School Credit Enhancement Program

[53A-20b-102]. 53G-5-601. Definitions.

As used in this [chapter] part:

(1) "Annual charter school enrollment" means the total enrollment of all students in the state enrolled in a charter school in grades kindergarten through grade 12, based on October 1 enrollment counts.

(2) "Annual state enrollment" means the total enrollment of all students in the state enrolled in a public school in grades kindergarten through grade 12, based on October 1 enrollment counts.

(3) "Authority" means the Utah Charter School Finance Authority created by this part.

(4) "Board" means the governing board of the authority described in Section [53A-20b-103] 53G-5-602.

(5) "Charter school" means a school created under [Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act] this chapter.

(6) "Credit enhancement program" means the Charter School Credit Enhancement Program established in [Part 2, Charter School Credit Enhancement Program] Section 53G-5-606.

(7) "Debt service reserve fund" means the reserve fund created or established by, or for the benefit of, a qualifying charter school for the purpose of paying principal of and interest on bonds issued under the credit enhancement program as the payments become due and other money of the qualifying charter school is not available to make the payments.

(8) "Debt service reserve fund requirement" means, as of a particular date of computation, and

with respect to a particular issue of bonds, the amount required to be on deposit in the debt service reserve fund, which amount:

- (a) may be a sum certain or as set forth in a formula; and
- (b) may not be less than the maximum annual debt service requirement for the related bonds.

(9) (a) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of financial indebtedness, except as provided in Subsection (9)(b).

(b) "Obligations" do not include general obligation bonds.

(10) "Project" means:

(a) any building, structure, or property owned, to be acquired, or used by a charter school for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and lands; or

(b) any capital equipment owned, to be acquired, or used by a charter school for any of its educational purposes, interests in land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.

(11) "Qualifying charter school" means a charter school that:

(a) meets standards adopted by the authority for participation in the credit enhancement program; and

(b) is designated by the authority as a qualifying charter school for purposes of participation in the credit enhancement program.

(12) "Reserve account" means the Charter School Reserve Account created in Section [53A-20b-301] 53F-9-303.

Section 121. Section 53G-5-602, which is renumbered from Section 53A-20b-103 is renumbered and amended to read:

[53A-20b-103]. 53G-5-602. Utah Charter School Finance Authority created -- Members -- Compensation -- Services.

(1) There is created a body politic and corporate known as the Utah Charter School Finance Authority. The authority is created to provide an efficient and cost-effective method of financing charter school facilities.

(2) The governing board of the authority shall be composed of:

- (a) the governor or the governor's designee;
- (b) the state treasurer; and
- (c) the state superintendent of public instruction or the state superintendent's designee.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) Upon request, the State Board of Education shall provide staff support to the authority.

Section 122. Section 53G-5-603, which is renumbered from Section 53A-20b-104 is renumbered and amended to read:

[53A-20b-104]. 53G-5-603. Powers and duties of authority.

(1) The authority shall have perpetual succession as a body politic and corporate.

(2) The authority may:

(a) sue and be sued in its own name;

(b) have, and alter at will, an official seal;

(c) contract with experts, advisers, consultants, and agents for needed services;

(d) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part, subject to the conditions upon which the aid and contributions are made, for any purpose consistent with this part;

(e) exercise the powers granted to municipalities and counties pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, including the power to borrow money and issue obligations, including refunding obligations, subject to the same limitations as that imposed on a municipality or county under the act, except:

(i) the authority may only exercise powers under the act to finance or refinance a project as defined in Section ~~[53A-20b-102]~~ 53G-5-601; and

(ii) the authority's area of operation shall include all areas of the state;

(f) employ advisers, consultants, and agents, including financial experts, independent legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment and fix their compensation;

(g) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(h) in accordance with Section ~~[53A-20b-201]~~ 53G-5-606, designate a charter school as a qualifying charter school for purposes of participation in the credit enhancement program; and

(i) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this ~~[chapter]~~ part.

(3) Except as provided in ~~[Part 2, Charter School Credit Enhancement Program]~~ Section 53G-5-607, 53G-5-608, or 53G-5-609, the Utah Charter School Finance Authority may not exercise

power in any manner which would create general or moral obligations of the state or of any agency, department, or political subdivision of the state.

Section 123. Section 53G-5-604, which is renumbered from Section 53A-20b-105 is renumbered and amended to read:

[53A-20b-105]. 53G-5-604. Limited obligations.

Except as provided in ~~[Part 2, Charter School Credit Enhancement Program]~~ Section 53G-5-607, 53G-5-608, or 53G-5-609, bonds, notes, and other obligations issued by the authority:

(1) do not constitute a debt, moral obligation, or liability of the state, or of any county, city, town, school district, or any other political subdivision of the state;

(2) do not constitute the loan of credit of the state or of any county, city, town, school district, or any other political subdivision of the state; and

(3) may not be paid from funds other than loan payments or lease revenues received from a charter school or other funds pledged by a charter school.

Section 124. Section 53G-5-605, which is renumbered from Section 53A-20b-106 is renumbered and amended to read:

[53A-20b-106]. 53G-5-605. State to succeed to property of authority when encumbrances paid or authority dissolved.

(1) If the authority is dissolved at any time, for any reason, all funds, property, rights, and interests of the authority, following the satisfaction of the authority's obligations, shall immediately vest in and become the property of the state, which shall succeed to all rights of the authority subject to any encumbrances which may then exist on any particular properties.

(2) None of the net earnings of the authority shall inure to the benefit of any private person.

Section 125. Section 53G-5-606, which is renumbered from Section 53A-20b-201 is renumbered and amended to read:

[53A-20b-201]. 53G-5-606. Charter School Credit Enhancement Program -- Standards for the designation of qualifying charter schools -- Debt service reserve fund requirements.

(1) There is created the Charter School Credit Enhancement Program to assist qualifying charter schools in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.

(2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.

(3) In establishing the standards described in Subsection (2) the authority shall consider:

(a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;

- (b) the location of the charter school's project;
- (c) the operating history of the charter school;
- (d) the financial strength of the charter school; and
- (e) any other criteria the authority determines are relevant.

(4) The bonds issued by the authority for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:

- (a) the revenues or other funds pledged by the qualifying charter school; and
- (b) amounts appropriated by the Legislature pursuant to Subsection (9).

(5) The authority shall notify the authorizer of a charter school that the charter school is participating in the credit enhancement program if the authority:

- (a) designates the charter school as a qualifying charter school; and
- (b) issues bonds for the qualifying charter school under the credit enhancement program.

(6) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.

(7) (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement.

(b) So long as the applicable bonds issued under the credit enhancement program remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:

(i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or

(ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.

(8) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.

(9) (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.

(d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require.

(10) The authority may create and establish other funds for its purposes.

Section 126. Section 53G-5-607, which is renumbered from Section 53A-20b-202 is renumbered and amended to read:

[53A-20b-202]. 53G-5-607. Charter School Reserve Account contribution requirements for qualifying charter schools.

(1) When bonds are issued under the credit enhancement program for a qualifying charter school, the qualifying charter school shall contribute money to the reserve account in the amount determined as provided in Subsection (2).

(2) The authority shall determine the up-front and ongoing requirements for contributions of money to the reserve account for each qualifying charter school.

Section 127. Section 53G-5-608, which is renumbered from Section 53A-20b-203 is renumbered and amended to read:

[53A-20b-203]. 53G-5-608. Bond issuance.

(1) (a) The state may not alter, impair, or limit the rights of bondholders or persons contracting with a qualifying charter school until the bonds, including interest and other contractual obligations, are fully met and discharged.

(b) Nothing in this [chapter] part precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with a qualifying charter school.

(2) The authority may require a qualifying charter school to vest in the authority the right to enforce any covenant made to secure bonds issued under the credit enhancement program by making appropriate provisions in the indenture related to the qualifying charter school's bonds.

(3) The authority may require a qualifying charter school to make covenants and agreements in indentures or in a reimbursement agreement to protect the interests of the state and to secure repayment to the state of any money received by the qualifying charter school from an appropriation to

restore amounts deposited in the qualifying charter school's debt service reserve fund to the debt service reserve fund requirement.

(4) The authority may charge a fee to administer the issuance of bonds for a qualifying charter school.

Section 128. Section 53G-5-609, which is renumbered from Section 53A-20b-204 is renumbered and amended to read:

[53A-20b-204]. 53G-5-609. Limitation on participation in Charter School Credit Enhancement Program.

(1) In accordance with Subsection (2), on or before January 1 of each year, the authority shall determine the credit enhancement program's bond issuance limitation.

(2) The authority may not issue bonds for a qualifying charter school under the credit enhancement program if the total par amount outstanding under the program would exceed an amount equal to the product of:

- (a) 1.3;
- (b) an amount equal to the quotient of:
 - (i) annual charter school enrollment; divided by
 - (ii) annual state enrollment; and

(c) the total par amount then outstanding under the school bond guarantee program established in [~~Chapter 28, Utah School Bond Guaranty Act~~] Chapter 4, Part 8, School District Bond Guaranty.

Section 129. Section 53G-6-101 is enacted to read:

CHAPTER 6. PARTICIPATION IN PUBLIC SCHOOLS

Part 1. General Provisions

53G-6-101. Title.

This chapter is known as "Participation in Public Schools."

Section 130. Section 53G-6-102 is enacted to read:

53G-6-102. Definitions.

Reserved

Section 131. Section 53G-6-201, which is renumbered from Section 53A-11-101 is renumbered and amended to read:

Part 2. Compulsory Education

[53A-11-101]. 53G-6-201. Definitions.

For purposes of this part:

(1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a school-age minor assigned to a class or class period to attend the entire class or class period.

(b) A school-age minor may not be considered absent under this part more than one time during one day.

(2) "Habitual truant" means a school-age minor who:

- (a) is at least 12 years old;
- (b) is subject to the requirements of Section [~~53A-11-101.5~~] 53G-6-202; and
- (c) (i) is truant at least 10 times during one school year; or
 - (ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section [~~53A-11-103~~] 53G-6-206.

(3) "Minor" means a person under the age of 18 years.

(4) "Parent" includes:

- (a) a custodial parent of the minor;
- (b) a legally appointed guardian of a minor; or
- (c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (4)(a) or (b).

(5) "School-age minor" means a minor who:

- (a) is at least six years old, but younger than 18 years old; and
- (b) is not emancipated.

(6) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor:

- (a) is enrolled; or
- (b) should be enrolled, if the school-age minor is not enrolled in school.

(7) "Truant" means absent without a valid excuse.

(8) "Truant minor" means a school-age minor who:

- (a) is subject to the requirements of Section [~~53A-11-101.5~~] 53G-6-202 or [~~53A-11-101.7~~] 53G-6-203; and

(b) is truant.

(9) "Valid excuse" means:

- (a) an illness;
- (b) a family death;
- (c) an approved school activity;
- (d) an absence permitted by a school-age minor's:
 - (i) individualized education program, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended; or
 - (ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended; or
- (e) any other excuse established as valid by a local school board, local charter board, or school district.

Section 132. Section 53G-6-202, which is renumbered from Section 53A-11-101.5 is renumbered and amended to read:

[53A-11-101.5]. 53G-6-202. Compulsory education.

(1) For purposes of this section:

(a) "Intentionally" is as defined in Section 76-2-103.

(b) "Recklessly" is as defined in Section 76-2-103.

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which the notice of compulsory education violation described in Subsection (3) is served and ending on the last day of the school year.

(d) "School-age child" means a school-age minor under the age of 14.

(2) Except as provided in Section [53A-11-102] 53G-6-204 or [53A-11-102.5] 53G-6-702, the parent of a school-age minor shall enroll and send the school-age minor to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year.

(4) The notice of compulsory education violation, described in Subsection (3):

(a) shall direct the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent of the school-age child to intentionally or recklessly:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year;

(d) shall be served on the school-age child's parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or recklessly fail to enroll the school-age minor in school, unless the

school-age minor is exempt from enrollment under Section [53A-11-102] 53G-6-204 or [53A-11-102.5] 53G-6-702.

(6) It is a class B misdemeanor for a parent of a school-age child to, after being served with a notice of compulsory education violation in accordance with Subsections (3) and (4), intentionally or recklessly:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year.

(7) A local school board, local charter board, or school district shall report violations of this section to the appropriate county or district attorney.

Section 133. Section 53G-6-203, which is renumbered from Section 53A-11-101.7 is renumbered and amended to read:

[53A-11-101.7]. 53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.

(1) Except as provided in Section [53A-11-102] 53G-6-204 or [53A-11-102.5] 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section [53A-11-911] 53G-8-211 who is truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section [53A-11-102] 53G-6-204 or [53A-11-102.5] 53G-6-702;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's truantries; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

(5) Nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age minor who has been truant less than five times, provided that the action does not conflict with the requirements of this part.

Section 134. Section 53G-6-204, which is renumbered from Section 53A-11-102 is renumbered and amended to read:

[53A-11-102]. 53G-6-204. Minors exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age minor from attendance for any of the following reasons:

(i) a school-age minor over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age minor has completed the eighth grade; or

(ii) on an annual basis, a school-age minor may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age minor has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection [53A-15-102] 53F-2-501(1);

(B) the school-age minor is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age minor's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age minor over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age minor receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age minor from attendance, if the school-age minor's parent files a signed and notarized affidavit with the school-age minor's school district of residence, as defined in Section [53A-2-201] 53G-6-302, that:

(i) the school-age minor will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age minor, except to the extent the school-age minor is dual enrolled in a public school as provided in Section [53A-11-102.5] 53G-6-702.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age minor attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age minor's district of residence.

(c) A parent of a school-age minor who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age minor who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age minor from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age minor is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age minor from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age minor's parent pursuant to Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age minor enrolls in a school within the school district;

(B) the school-age minor's parent or guardian notifies the school district that the school-age minor no longer attends a home school; or

(C) the school-age minor's parent or guardian notifies the school district that the school-age minor's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections ~~[53A-11-101.5]~~ 53G-6-202(2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or guardian of a minor attending a home school.

Section 135. Section 53G-6-205, which is renumbered from Section 53A-11-101.3 is renumbered and amended to read:

[53A-11-101.3]. 53G-6-205. Preapproval of extended absence.

In determining whether to preapprove an extended absence of a school-age minor as a valid excuse under Subsection ~~[53A-11-101]~~ 53G-6-201(9)(e), a local school board, local charter board, or school district shall approve the absence if the local school board, local charter board, or school district determines that the extended absence will not adversely impact the school-age minor's education.

Section 136. Section 53G-6-206, which is renumbered from Section 53A-11-103 is renumbered and amended to read:

[53A-11-103]. 53G-6-206. Duties of a school board, local charter board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed.

(1) (a) Except as provided in Subsection (1)(b), a local school board, local charter board, or school district shall make efforts to resolve the school attendance problems of each school-age minor who is, or should be, enrolled in the school district.

(b) A minor exempt from school attendance under Section ~~[53A-11-102]~~ 53G-6-204 or ~~[53A-11-102.5]~~ 53G-6-702 is not considered to be a minor who is or should be enrolled in a school district or charter school under Subsection (1)(a).

(2) The efforts described in Subsection (1) shall include, as reasonably feasible:

(a) counseling of the minor by school authorities;

(b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in accordance with Section ~~[53A-11-101.7]~~ 53G-6-203;

(c) issuing a notice of compulsory education violation to a parent of a school-age child, in accordance with Section ~~[53A-11-101.5]~~ 53G-6-202;

(d) making any necessary adjustment to the curriculum and schedule to meet special needs of the minor;

(e) considering alternatives proposed by a parent;

(f) monitoring school attendance of the minor;

(g) voluntary participation in truancy mediation, if available; and

(h) providing a school-age minor's parent, upon request, with a list of resources available to assist the parent in resolving the school-age minor's attendance problems.

(3) In addition to the efforts described in Subsection (2), the local school board, local charter board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

(4) This section does not impose civil liability on boards of education, local school boards, local charter boards, school districts, or their employees.

(5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.

Section 137. Section 53G-6-207, which is renumbered from Section 53A-11-104 is renumbered and amended to read:

[53A-11-104]. 53G-6-207. Truancy specialists.

A local school board or local charter board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the board.

Section 138. Section 53G-6-208, which is renumbered from Section 53A-11-105 is renumbered and amended to read:

[53A-11-105]. 53G-6-208. Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or

(c) a truancy center established under Subsection (5).

(3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5) (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Section 139. Section 53G-6-209, which is renumbered from Section 53A-11-106 is renumbered and amended to read:

[53A-11-106]. 53G-6-209. Truancy support centers.

(1) A school district may establish one or more truancy support centers for:

(a) truant minors taken into custody under Section ~~[53A-11-105]~~ 53G-6-208; or

(b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

(a) assessments of the truant minor's needs and abilities;

(b) support for the parents and truant minor through counseling and community programs; and

(c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent or guardian shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent or guardian demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents or guardian.

Section 140. Section 53G-6-301 is enacted to read:

Part 3. School District Residency

53G-6-301. Definitions.

Reserved

Section 141. Section 53G-6-302, which is renumbered from Section 53A-2-201 is renumbered and amended to read:

[53A-2-201]. 53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(2) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

(a) the school district in which the custodial parent or legal guardian resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section [53A-2-207] 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the State Board of Education;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section [53A-2-207] 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the State Board of Education; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section [53A-2-202] 53G-6-303; or

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought.

(4) (a) If admission is sought under Subsection (2)(b)(iii), or (3)(c), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section [53A-12-103] 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 142. Section 53G-6-303, which is renumbered from Section 53A-2-202 is renumbered and amended to read:

[53A-2-202]. 53G-6-303. Guardianship for residency purposes by responsible adult -- Procedure to obtain -- Termination.

(1) For purposes of this part, "responsible adult" means a person 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.

(2) A local board of education may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent or legal guardian does not reside within the state upon compliance with the following requirements:

(a) submission to the school district of a signed and notarized affidavit by the child's custodial parent or legal guardian stating that:

(i) the child's presence in the district is not for the primary purpose of attending the public schools;

(ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;

(iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

(iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;

(v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and

(vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

(b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:

(i) the affiant is a resident of the school district and desires to become the guardian of the child;

(ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and

(iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

(c) submission to the school district of a signed and notarized affidavit by the child stating that:

(i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and

(ii) the child will abide by all applicable rules of any public school which the child may attend after guardianship is awarded; and

(d) if the child's custodial parent or legal guardian cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and

Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.

(4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

(5) (a) If a local school board has adopted a policy permitting the board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.

(b) The court shall uphold the decision of the board unless it finds, by clear and convincing evidence, that the board's decision was arbitrary and capricious.

(c) An applicant may, rather than appealing the board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the school board.

(6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.

(7) (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.

(b) The court may not charge the school district a fee for filing guardianship papers under this section.

(8) (a) The authority and responsibility of a custodial parent or legal guardian submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:

(i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2)(a) requesting termination of the guardianship; or

(ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.

(b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.

(9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.

(10) (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.

(b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:

(i) void any guardianship, authorization, or action which was based upon the false or misleading information; and

(ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, and other unpaid school charges, together with any related costs of recovery.

(c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Section 143. Section 53G-6-304, which is renumbered from Section 53A-2-203.5 is renumbered and amended to read:

[53A-2-203.5]. 53G-6-304. Recognition of guardianship.

(1) A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.

(2) The procedure for obtaining approval under Subsection (1) is the procedure required under Title 75, Chapter 5, Part 2, Guardians of Minors, for obtaining a court appointment of a guardian.

Section 144. Section 53G-6-305, which is renumbered from Section 53A-2-204 is renumbered and amended to read:

[53A-2-204]. 53G-6-305. District paying tuition -- Effect on state aid.

(1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the State Board of Education.

(2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.

(3) (a) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved in advance by the State Board of Education.

(b) (i) If a child who resides in a Utah school district's boundaries attends school in a neighboring state under this section, the State Board of Education may make an out-of-state tuition payment to the Utah school district of residence.

(ii) If the State Board of Education approves the use of state funds for an out-of-state tuition payment described in Subsection (3)(b)(i), the State Board of Education shall use funds appropriated by the Legislature for necessarily existent small schools as described in Section [53A-17a-109] 53F-2-304.

Section 145. Section 53G-6-306, which is renumbered from Section 53A-2-205 is renumbered and amended to read:

[53A-2-205]. 53G-6-306. Permitting attendance by nonresident of the state -- Tuition.

(1) A local school board may permit a child residing outside the state to attend school within the district. With the exception of a child enrolled under Section [53A-2-206] 53G-6-707, the child is not included for the purpose of apportionment of state funds.

(2) The board shall charge the nonresident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

Section 146. Section 53G-6-401, which is renumbered from Section 53A-2-206.5 is renumbered and amended to read:

Part 4. School District Enrollment

[53A-2-206.5]. 53G-6-401. Definitions.

As used in Sections [53A-2-207] 53G-6-402 through [53A-2-213] 53G-6-407:

(1) "Early enrollment" means:

(a) except as provided in Subsection (1)(b), application prior to the third Friday in February for admission for the next school year to a school that is not a student's school of residence; and

(b) application prior to November 1 for admission for the next school year to a school that is not a student's school of residence if:

(i) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(ii) the grade reconfiguration described in Subsection (1)(b) will be implemented in the next school year.

(2) (a) “Early enrollment school capacity” or “maximum capacity” means the total number of students who could be served in a school building if each of the building’s instructional stations were to have the enrollment specified in Subsection (2)(b).

(b) (i) Except as provided in Subsection (2)(b)(ii):

(A) for an elementary school, an instructional station shall have an enrollment at least equal to the school district’s average class size for the corresponding grade; and

(B) for a middle, junior, or senior high school, an instructional station shall have an enrollment at least equal to the district’s average class size for similar classes.

(ii) (A) A local school board shall determine the instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by the school district and another community agency for joint use, and similar rooms.

(B) Capacity for self-contained special education classrooms shall be based upon students per class as defined by State Board of Education and federal special education standards.

(3) (a) “Instructional station” means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education could reasonably assign a class, teacher, or program during a given class period.

(b) More than one instructional station may be assigned to a classroom, laboratory, shop, study hall, or physical education facility during a class period.

(4) “Late enrollment” means application:

(a) after the third Friday in February for admission for the next school year to a school that is not the student’s school of residence; or

(b) for admission for the current year to a school that is not the student’s school of residence.

(5) (a) “Late enrollment school capacity” or “adjusted capacity” means the total number of students who could be served in a school if each teacher were to have the class size specified in Subsection (5)(b).

(b) (i) An elementary school teacher shall have a class size at least equal to the district’s average class size for the corresponding grade.

(ii) A middle, junior, or senior high school teacher shall have a class size at least equal to the district’s average class size for similar classes.

(6) “Nonresident student” means a student who lives outside the boundaries of the school attendance area.

(7) “Open enrollment threshold” means:

(a) for early enrollment, a projected school enrollment level that is the greater of:

(i) 90% of the maximum capacity; or

(ii) maximum capacity minus 40 students; and

(b) for late enrollment, actual school enrollment that is the greater of:

(i) 90% of adjusted capacity; or

(ii) adjusted capacity minus 40 students.

(8) “Projected school enrollment” means the current year enrollment of a school as of October 1, adjusted for projected growth for the next school year.

(9) “School attendance area” means an area established by a local school board from which students are assigned to attend a certain school.

(10) “School of residence” means the school to which a student is assigned to attend based on the student’s place of residence.

Section 147. Section 53G-6-402, which is renumbered from Section 53A-2-207 is renumbered and amended to read:

[53A-2-207]. 53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the State Board of Education for each student who resides in the district and, as provided in this section through Section ~~[53A-2-213]~~ 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school’s enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district’s schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the State Board of Education;

(iii) (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission

during the early enrollment period for the following year in a school district described in Subsection [53A-2-206.5] 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent or legal guardian of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents or legal guardians of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection [53A-2-206.5] 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; or

(d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent or guardian of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Section 148. Section 53G-6-403, which is renumbered from Section 53A-2-208 is renumbered and amended to read:

[53A-2-208]. 53G-6-403. Rules for acceptance and rejection of applications.

(1) (a) A local school board shall adopt rules governing acceptance and rejection of applications required under Section ~~[53A-2-207]~~ 53G-6-402.

(b) The rules adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).

(2) Standards for accepting or rejecting an application for enrollment may include:

(a) for an elementary school, the capacity of the grade level;

(b) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;

(c) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;

(d) maintenance of reduced class sizes:

(i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or

(ii) in a school that uses school trust money to reduce class size;

(e) willingness of prospective students to comply with district policies; and

(f) giving priority to intradistrict transfers over interdistrict transfers.

(3) (a) Standards for accepting or rejecting applications for enrollment may not include:

(i) previous academic achievement;

(ii) athletic or other extracurricular ability;

(iii) the fact that the student requires special education services for which space is available;

(iv) proficiency in the English language; or

(v) previous disciplinary proceedings, except as provided in Subsection (3)(b).

(b) A board may provide for the denial of applications from students who:

(i) have committed serious infractions of the law or school rules, including rules of the district in which enrollment is sought; or

(ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:

(A) endanger persons or property;

(B) cause serious disruptions in the school; or

(C) place unreasonable burdens on school staff.

(c) A board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.

(4) (a) The State Board of Education, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.

(b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).

(5) For each school in the district, the local school board shall post on the school district's website:

(a) the school's maximum capacity;

(b) the school's adjusted capacity;

(c) the school's projected enrollment used in the calculation of the open enrollment threshold;

(d) actual enrollment on October 1, January 2, and April 1;

(e) the number of nonresident student enrollment requests;

(f) the number of nonresident student enrollment requests accepted; and

(g) the number of resident students transferring to another school.

Section 149. Section 53G-6-404, which is renumbered from Section 53A-2-209 is renumbered and amended to read:

[53A-2-209]. 53G-6-404. Denial of enrollment -- Appeal.

(1) Denial of initial or continuing enrollment in a nonresident school may be appealed to the board of education of the nonresident district.

(2) The decision of the board shall be upheld in any subsequent proceedings unless the board's decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

Section 150. Section 53G-6-405, which is renumbered from Section 53A-2-210 is renumbered and amended to read:

[53A-2-210]. 53G-6-405. Funding.

(1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.

(2) The State Board of Education shall adopt rules providing that:

(a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

(b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.

(3) (a) Except as provided in this Subsection (3), the parent or guardian of a nonresident student shall arrange for the student's own transportation to and from school.

(b) The State Board of Education may adopt rules under which nonresident students may be transported to their schools of attendance if:

(i) the transportation of students to schools in other districts would relieve overcrowding or other serious problems in the district of residence and the costs of transportation are not excessive; or

(ii) the Legislature has granted an adequate specific appropriation for that purpose.

(c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

(d) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.

(e) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Section 151. Section 53G-6-406, which is renumbered from Section 53A-2-211 is renumbered and amended to read:

[53A-2-211]. 53G-6-406. Graduation credits.

(1) A nonresident district shall accept credits toward graduation that were awarded by a school accredited or approved by the State Board of

Education or a regional accrediting body recognized by the U.S. Department of Education.

(2) A nonresident district shall award a diploma to a nonresident student attending school within the district during the semester immediately preceding graduation if the student meets graduation requirements generally applicable to students in the school.

(3) A district may not require that a student attend school within the district for more than one semester prior to graduation in order to receive a diploma.

Section 152. Section 53G-6-407, which is renumbered from Section 53A-2-213 is renumbered and amended to read:

[53A-2-213]. 53G-6-407. Intradistrict transfers for students impacted by boundary changes -- Transportation of students who transfer within a district.

(1) (a) In adjusting school boundaries, a local school board shall strive to avoid requiring current students to change schools and shall, to the extent reasonably feasible, accommodate parents who wish to avoid having their children attend different schools of the same level because of boundary changes which occur after one or more children in the family begin attending one of the affected schools.

(b) In granting interdistrict and intradistrict transfers to a particular school, the local school board shall take into consideration the fact that an applicant's brother or sister is attending the school or another school within the district.

(2) (a) A district shall receive transportation money under Sections [53A-17a-126] 53F-2-402 and [53A-17a-127] 53F-2-403 for resident students who enroll in schools other than the regularly assigned school on the basis of the distance from the student's residence to the school the student would have attended had the intradistrict attendance option not been used.

(b) The parent or guardian of the student shall arrange for the student's transportation to and from school, except that the district shall provide transportation on the basis of available space on an approved route within the district to the school of the student's attendance if the student would be otherwise eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

Section 153. Section 53G-6-501 is enacted to read:

Part 5. Charter School Enrollment

53G-6-501. Definitions.

As used in this part:

(1) "Asset" means the same as that term is defined in Section 53G-5-102.

(2) "Board of trustees of a higher education institution" or "board of trustees" means the same as that term is defined in Section 53G-5-102.

(3) “Charter agreement” or “charter” means the same as that term is defined in Section 53G-5-102.

(4) “Charter school authorizer” or “authorizer” means the same as that term is defined in Section 53G-5-102.

(5) “Governing board” means the same as that term is defined in Section 53G-5-102.

Section 154. Section 53G-6-502, which is renumbered from Section 53A-1a-506 is renumbered and amended to read:

[53A-1a-506]. 53G-6-502. Eligible students.

(1) As used in this section:

(a) “At capacity” means operating above the school’s open enrollment threshold.

(b) “District school” means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) “Open enrollment threshold” means the same as that term is defined in Section [53A-2-206.5] 53G-6-401.

(d) “Refugee” means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(e) “School of residence” means the same as that term is defined in Section [53A-2-206.5] 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section [53A-1a-506.5] 53G-6-503.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement

between the charter schools that is approved by the State Charter School Board; or

(g) a student who resides within a two-mile radius of the charter school and whose school of residence is at capacity.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area as defined in Section [53A-1a-502.5] 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection [53A-1a-502.5] 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school’s lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school’s admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Section 155. Section 53G-6-503, which is renumbered from Section 53A-1a-506.5 is renumbered and amended to read:

[53A-1a-506.5]. 53G-6-503. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

(a) “District school” means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) “Nonresident school district” means a school district other than a student’s school district of residence.

(c) “School district of residence” means a student’s school district of residence as determined under Section [~~53A-2-201~~] 53G-6-302.

(d) “School of residence” means the school to which a student is assigned to attend based on the student’s place of residence.

(2) (a) The State School Board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school’s Internet website, beginning no later than 60 days before the school’s initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) the school’s opening date, if the school has not yet opened, or the school calendar; and

(C) information on how a student may transfer from a charter school to another charter school or a district school;

(ii) written notification to a student’s parent or legal guardian of an offer of admission;

(iii) written acceptance of an offer of admission by a student’s parent or legal guardian;

(iv) written notification to a student’s current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and

(v) the admission of students at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student’s school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student’s school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student’s school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

(b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.

(5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.

(6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.

(7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student’s school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student’s school district of residence after June 30 for the student’s enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:

(i) the student’s grade level, if the student is an elementary school student; or

(ii) the core classes that the student needs to take, if the student is a secondary school student.

(c) State Board of Education rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).

(8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.

(9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Section 156. Section 53G-6-504, which is renumbered from Section 53A-1a-502.5 is renumbered and amended to read:

[53A-1a-502.5]. 53G-6-504. Approval of increase in charter school enrollment capacity -- Expansion.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The State Board of Education may approve an increase in charter school enrollment capacity subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section ~~[53A-1a-501.9]~~ 53G-5-301.

(4) (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under ~~[Section 53A-1a-513]~~ Title 53F, Chapter 2, Part 7, Charter School Funding, to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after considering suggestions from charter school authorizers, make rules establishing

requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

(i) an expansion of a charter school when another charter school issues a notice of closure; and

(ii) the establishment of a satellite campus.

(6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(7) (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the State Board of Education shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).

Section 157. Section 53G-6-601, which is renumbered from Section 53A-11-501 is renumbered and amended to read:

Part 6. Preventing Enrollment or Transfer of Missing Children

[53A-11-501]. 53G-6-601. Definitions.

As used in this ~~chapter~~ part:

(1) "Division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(2) "Missing child" has the same meaning as provided in Section 26-2-27.

(3) "State registrar" means the State Registrar of Vital Statistics within the Department of Health.

Section 158. Section 53G-6-602, which is renumbered from Section 53A-11-502 is renumbered and amended to read:

[53A-11-502]. 53G-6-602. Identifying records -- Reporting requirements.

(1) Upon notification by the division of a missing child in accordance with Section 53-10-203, a school in which that child is currently or was previously enrolled shall flag the record of that child in a manner that whenever a copy of or information

regarding the record is requested, the school is alerted to the fact that the record is that of a missing child.

(2) The school shall immediately report any request concerning flagged records or knowledge as to the whereabouts of any missing child to the division.

(3) Upon notification by the division that a missing child has been recovered, the school shall remove the flag from that child's record.

Section 159. Section 53G-6-603, which is renumbered from Section 53A-11-503 is renumbered and amended to read:

[53A-11-503]. 53G-6-603. Requirement of birth certificate for enrollment of students -- Procedures.

(1) Upon enrollment of a student for the first time in a particular school, that school shall notify in writing the person enrolling the student that within 30 days he must provide either a certified copy of the student's birth certificate, or other reliable proof of the student's identity and age, together with an affidavit explaining the inability to produce a copy of the birth certificate.

(2) (a) Upon the failure of a person enrolling a student to comply with Subsection (1), the school shall notify that person in writing that unless he complies within 10 days the case shall be referred to the local law enforcement authority for investigation.

(b) If compliance is not obtained within that 10 day period, the school shall refer the case to the division.

(3) The school shall immediately report to the division any affidavit received pursuant to this subsection which appears inaccurate or suspicious.

Section 160. Section 53G-6-604, which is renumbered from Section 53A-11-504 is renumbered and amended to read:

[53A-11-504]. 53G-6-604. Requirement of school record for transfer of student -- Procedures.

(1) Except as provided in Section [53A-1-1004] 53E-3-905, a school shall request a certified copy of a transfer student's record, directly from the transfer student's previous school, within 14 days after enrolling the transfer student.

(2) (a) Except as provided in Subsection (2)(b) and Section [53A-1-1004] 53E-3-905, a school requested to forward a certified copy of a transferring student's record to the new school shall comply within 30 school days of the request.

(b) If the record has been flagged pursuant to Section [53A-11-502] 53G-6-602, a school may not forward the record to the new school and the requested school shall notify the division of the request.

Section 161. Section 53G-6-701 is enacted to read:

Part 7. Other Public School Participation
53G-6-701. Definitions.

Reserved

Section 162. Section 53G-6-702, which is renumbered from Section 53A-11-102.5 is renumbered and amended to read:

[53A-11-102.5]. 53G-6-702. Dual enrollment.

(1) (a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Minor" means the same as that term is defined in Section 53G-6-201.

(2) A person having control of a minor who is enrolled in a regularly established private school or a home school may also enroll the minor in a public school for dual enrollment purposes.

(3) The minor may participate in any academic activity in the public school available to students in the minor's grade or age group, subject to compliance with the same rules and requirements that apply to a full-time student's participation in the activity.

(4) (a) A student enrolled in a dual enrollment program in a district school is considered a student of the district in which the district school of attendance is located for purposes of state funding to the extent of the student's participation in the district school programs.

(b) A student enrolled in a dual enrollment program in a charter school is considered a student of the charter school for purposes of state funding to the extent of the student's participation in the charter school programs.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules for purposes of dual enrollment to govern and regulate the transferability of credits toward graduation that are earned in a private or home school.

Section 163. Section 53G-6-703, which is renumbered from Section 53A-11-102.6 is renumbered and amended to read:

[53A-11-102.6]. 53G-6-703. Private school and home school students' participation in extracurricular activities in a public school.

(1) As used in this section:

(a) "Academic eligibility requirements" means the academic eligibility requirements that a home school student is required to meet to participate in an extracurricular activity in a public school.

(b) "Minor" means the same as that term is defined in Section 53G-6-201.

(c) "Parent" means the same as that term is defined in Section 53G-6-201.

~~(b)~~ (d) "Principal" means the principal of the school in which a home school student participates or intends to participate in an extracurricular activity.

(2) (a) A minor who is enrolled in a private school or a home school shall be eligible to participate in an extracurricular activity at a public school as provided in this section.

(b) A private school student may only participate in an extracurricular activity at a public school that is not offered by the student's private school.

(c) Except as provided in Subsection (2)(d), a private school student or a home school student may only participate in an extracurricular activity at:

(i) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(ii) the school from which the student withdrew for the purpose of attending a private or home school.

(d) A school other than a school described in Subsection (2)(c)(i) or (ii) may allow a private school student or a home school student to participate in an extracurricular activity other than:

(i) an interscholastic competition of athletic teams sponsored and supported by a public school; or

(ii) an interscholastic contest or competition for music, drama, or forensic groups or teams sponsored and supported by a public school.

(3) (a) Except as provided in Subsections (4) through (13), a private school or home school student shall be eligible to participate in an extracurricular activity at a public school consistent with eligibility standards:

(i) applied to a fully enrolled public school student;

(ii) of the public school where the private school or home school student participates in an extracurricular activity; and

(iii) for the extracurricular activity in which the private school or home school student participates.

(b) A school district or public school may not impose additional requirements on a private school or home school student to participate in an extracurricular activity that are not imposed on a fully enrolled public school student.

(c) (i) A private school or home school student who participates in an extracurricular activity at a public school shall pay the same fees as required of a fully enrolled public school student to participate in an extracurricular activity.

(ii) If a local school board or charter school governing board imposes a mandatory student activity fee for a student enrolled in a public school, the fee may be imposed on a private school or home school student who participates in an

extracurricular activity at the public school if the same benefits of paying the mandatory student activity fee that are available to a fully enrolled public school student are available to a private school or home school student who participates in an extracurricular activity at the public school.

(4) Eligibility requirements based on school attendance are not applicable to a home school student.

(5) A home school student meets academic eligibility requirements to participate in an extracurricular activity if:

(a) the student is mastering the material in each course or subject being taught; and

(b) the student is maintaining satisfactory progress towards achievement or promotion.

(6) (a) To establish a home school student's academic eligibility, a parent, teacher, or organization providing instruction to the student shall submit an affidavit to the principal indicating the student meets academic eligibility requirements.

(b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school student shall:

(i) be considered to meet academic eligibility requirements; and

(ii) retain academic eligibility for all extracurricular activities during the activity season for which the affidavit is submitted, until:

(A) a panel established under Subsection (10) determines the home school student does not meet academic eligibility requirements; or

(B) the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the student no longer meets academic eligibility requirements.

(7) (a) A home school student who loses academic eligibility pursuant to Subsection (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the home school student has reestablished academic eligibility.

(b) If a home school student reestablishes academic eligibility pursuant to Subsection (7)(a), the home school student may participate in extracurricular activities for the remainder of the activity season for which an affidavit was submitted under Subsection (6)(a).

(8) A person who has probable cause to believe a home school student does not meet academic eligibility requirements may submit an affidavit to the principal:

(a) asserting the home school student does not meet academic eligibility requirements; and

(b) providing information indicating that the home school student does not meet the academic eligibility requirements.

(9) A principal shall review the affidavit submitted under Subsection (8), and if the principal determines it contains information which constitutes probable cause to believe a home school student may not meet academic eligibility requirements, the principal shall request a panel established pursuant to Subsection (10) to verify the student's compliance with academic eligibility requirements.

(10) (a) A school district superintendent shall:

(i) appoint a panel of three individuals to verify a home school student's compliance with academic eligibility requirements when requested by a principal pursuant to Subsection (9); and

(ii) select the panel members from nominees submitted by national, state, or regional organizations whose members are home school students and parents.

(b) Of the members appointed to a panel under Subsection (10)(a):

(i) one member shall have experience teaching in a public school as a licensed teacher and in home schooling high school-age students;

(ii) one member shall have experience teaching in a higher education institution and in home schooling; and

(iii) one member shall have experience in home schooling high school-age students.

(11) A panel appointed under Subsection (10):

(a) shall review the affidavit submitted under Subsection (8);

(b) may confer with the person who submitted the affidavit under Subsection (8);

(c) shall request the home school student to submit test scores or a portfolio of work documenting the student's academic achievement to the panel;

(d) shall review the test scores or portfolio of work; and

(e) shall determine whether the home school student meets academic eligibility requirements.

(12) A home school student who meets academic eligibility requirements pursuant to Subsection (11), retains academic eligibility for all extracurricular activities during the activity season for which an affidavit is submitted pursuant to Subsection (6).

(13) (a) A panel's determination that a home school student does not comply with academic eligibility requirements is effective for an activity season and all extracurricular activities that have academic eligibility requirements.

(b) A home school student who is not in compliance with academic eligibility requirements as determined by a panel appointed under Subsection (11) may seek to establish academic eligibility under this section for the next activity season.

(14) (a) A public school student who has been declared to be academically ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student:

(i) demonstrates academic eligibility by providing test results or a portfolio of the student's work to the school principal, provided that a student may not reestablish academic eligibility under this Subsection (14)(a) during the same activity season in which the student was declared to be academically ineligible;

(ii) returns to public school and reestablishes academic eligibility; or

(iii) enrolls in a private school and establishes academic eligibility.

(b) A public school student who has been declared to be behaviorally ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student meets eligibility standards as provided in Subsection (3).

(15) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a private school student and a home school student shall be eligible to try out for and participate in the activity as provided in this section.

(16) (a) If a student exits a public school to enroll in a private or home school mid-semester or during an activity season, and the student desires to participate in an extracurricular activity at the public school, the public school shall issue an interim academic assessment based on the student's work in each class.

(b) A student's academic eligibility to participate in an extracurricular activity under the circumstances described in Subsection (16)(a) shall be based on the student meeting public school academic eligibility standards at the time of exiting public school.

(c) A student may appeal an academic eligibility determination made under Subsection (16)(b) in accordance with procedures for appealing a public school student's academic eligibility.

Section 164. Section 53G-6-704, which is renumbered from Section 53A-1a-519 is renumbered and amended to read:

[53A-1a-519]. 53G-6-704. Charter school students' participation in extracurricular activities at other public schools.

(1) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides;

(b) the public school from which the student withdrew for the purpose of attending a charter school; or

(c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate on the campus of the public school.

(2) In addition to the public schools listed in Subsection (1), the State Board of Education may establish rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection (1).

(3) A school other than a school described in Subsection (1)(a), (b), or (c) may allow a charter school student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) A charter school student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for charter school students' participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) charter school students pay the same fees as other students to participate in extracurricular activities;

(ii) charter school students are eligible for fee waivers pursuant to Section ~~[53A-12-103]~~ 53G-7-504;

(iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining a charter school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and participate in the activity as provided in this section.

Section 165. Section 53G-6-705, which is renumbered from Section 53A-2-214 is renumbered and amended to read:

[53A-2-214]. 53G-6-705. Online students' participation in extracurricular activities.

(1) As used in this section:

(a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

(b) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the State Board of Education, a school district, or charter school; and

(ii) generates funding for the school district or school pursuant to Subsection ~~[53A-17a-103]~~ 53F-2-102(7) and rules of the State Board of Education.

(2) An online student is eligible to participate in extracurricular activities at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(b) the public school from which the student withdrew for the purpose of participating in an online education program.

(3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in extracurricular activities;

(ii) online school students are eligible for fee waivers pursuant to Section ~~[53A-12-103]~~ 53G-7-504;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Section 166. Section 53G-6-706, which is renumbered from Section 53A-11-102.7 is renumbered and amended to read:

~~[53A-11-102.7]. 53G-6-706. Placement of a home school student who transfers to a public school.~~

(1) For the purposes of this section~~[-,"home"]~~:

(a) "Home school student" means a student who attends a home school pursuant to Section ~~[53A-11-102]~~ 53G-6-204.

(b) "Parent" means the same as that term is defined in Section 53G-6-201.

(2) When a home school student transfers from a home school to a public school, the public school shall place the student in the grade levels, classes, or courses that the student's parent or guardian and in consultation with the school administrator determine are appropriate based on the parent's or guardian's assessment of the student's academic performance.

(3) (a) Within 30 days of a home school student's placement in a public school grade level, class, or course, either the student's teacher or the student's parent or guardian may request a conference to consider changing the student's placement.

(b) If the student's teacher and the student's parent or guardian agree on a placement change, the public school shall place the student in the agreed upon grade level, class, or course.

(c) If the student's teacher and the student's parent or guardian do not agree on a placement change, the public school shall evaluate the student's subject matter mastery in accordance with Subsection (3)(d).

(d) The student's parent or guardian has the option of:

(i) allowing the public school to administer, to the student, assessments that are:

(A) regularly administered to public school students; and

(B) used to measure public school students' subject matter mastery and determine placement; or

(ii) having a private entity or individual administer assessments of subject matter mastery to the student at the parent's or guardian's expense.

(e) After an evaluation of a student's subject matter mastery, a public school may change a student's placement in a grade level, class, or course.

(4) This section does not apply to a student who is dual enrolled in a public school and a home school pursuant to Section ~~[53A-11-102.5]~~ 53G-6-702.

Section 167. Section 53G-6-707, which is renumbered from Section 53A-2-206 is renumbered and amended to read:

~~[53A-2-206]. 53G-6-707. Interstate compact students -- Inclusion in attendance count -- Foreign exchange students -- Annual report -- Requirements for exchange student agencies.~~

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

~~[(2) (a) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2)(b) through (d).]~~

~~[(b) (i) Notwithstanding Section 53A-17a-106, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.]~~

~~[(ii) Subject to the limitation in Subsection (2)(e), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:]~~

~~[(A) enrolled in a school district or charter school on October 1 of the previous fiscal year; and]~~

~~[(B) sponsored by an agency approved by the district's local school board or charter school's governing board.]~~

~~[(c) (i) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2)(b) shall be the lesser of:]~~

~~[(A) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or]~~

~~[(B) 328 foreign exchange students.]~~

~~[(ii) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2)(b).]~~

~~[(d) Notwithstanding Sections 53A-17a-133 and 53A-17a-164, weighted pupil units in the grades 1 through 12 basic program for foreign exchange students, as determined by Subsections (2)(b) and (c), may not be included for the purposes of determining a school district's state guarantee money under the voted or board local levies.]~~

~~[(3)] (2) A school district or charter school may:~~

~~(a) enroll foreign exchange students that do not qualify for state money; and~~

~~(b) pay for the costs of those students with other funds available to the school district or charter school.~~

~~[(4)] (3) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection [(3)] (2), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.~~

~~[(5)] (4) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.~~

~~[(6)] (5) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.~~

~~(b) The affidavit shall include the following assurances:~~

~~(i) that the agency has complied with all applicable policies of the board;~~

~~(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;~~

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

~~[(7)] (6) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.~~

~~(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.~~

~~[(8)] (7) Notwithstanding Subsection [(2)(e)(i)] 53F-2-303(3)(a), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:~~

~~(a) is sponsored by an agency approved by the State Board of Education;~~

~~(b) attends the same school during the same time period that another student from the school is:~~

~~(i) sponsored by the same agency; and~~

~~(ii) enrolled in a school in a foreign country; and~~

~~(c) is enrolled in the school for one year or less.~~

Section 168. Section 53G-6-708, which is renumbered from Section 53A-17a-114 is renumbered and amended to read:

[53A-17a-114]. 53G-6-708. Career and technical education program alternatives.

(1) A secondary student may attend a technical college described in Section 53B-2a-105 if the secondary student's career and technical education goals are better achieved by attending a technical college as determined by:

(a) the secondary student; and

(b) if the secondary student is a minor, the secondary student's parent or legal guardian.

(2) A secondary student served under this section by a technical college described in Section 53B-2a-105 shall be counted in the average daily

membership of the sending school district or charter school.

Section 169. Section 53G-6-801, which is renumbered from Section 53A-15-1401 is renumbered and amended to read:

Part 8. Parental Rights

[53A-15-1401]. 53G-6-801. Definitions.

As used in this part:

- (1) "Federal law" means:
 - (a) a statute passed by the Congress of the United States; or
 - (b) a final regulation:
 - (i) adopted by an administrative agency of the United States government; and
 - (ii) published in the code of federal regulations or the federal register.
- (2) "Individualized Education Program" or "IEP" means a written statement, for a student with a disability, that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (3) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.
- (4) "Reasonably accommodate" means an LEA shall make its best effort to enable a parent or guardian to exercise a parental right specified in Section [53A-15-1403] 53G-6-803:
 - (a) without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises and for school activities, and the efficient allocation of school expenditures; and
 - (b) while balancing:
 - (i) the parental rights of parents or guardians;
 - (ii) the educational needs of other students;
 - (iii) the academic and behavioral impacts to a classroom;
 - (iv) a teacher's workload; and
 - (v) the assurance of the safe and efficient operation of a school.

Section 170. Section 53G-6-802, which is renumbered from Section 53A-15-1402 is renumbered and amended to read:

[53A-15-1402]. 53G-6-802. Annual notice of parental rights.

- (1) An LEA shall annually notify a parent or guardian of a student enrolled in the LEA of the parent's or guardian's rights as specified in this part.
- (2) An LEA satisfies the notification requirement described in Subsection (1) by posting the information on the LEA's website or through other means of electronic communication.

Section 171. Section 53G-6-803, which is renumbered from Section 53A-15-1403 is renumbered and amended to read:

[53A-15-1403]. 53G-6-803. Parental right to academic accommodations.

- (1) (a) A student's parent or guardian is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent or guardian. As such, a student's parent or guardian has the right to reasonable academic accommodations from the student's LEA as specified in this section.
 - (b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.
 - (c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent or guardian as a user of the public education system.
 - (d) An accommodation under this section may only be provided if the accommodation is:
 - (i) consistent with federal law; and
 - (ii) consistent with a student's IEP if the student already has an IEP.
 - (2) An LEA shall reasonably accommodate a parent's or guardian's written request to retain a student in kindergarten through grade 8 on grade level based on the student's academic ability or the student's social, emotional, or physical maturity.
 - (3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a teacher or request for a change of teacher.
 - (4) An LEA shall reasonably accommodate the request of a student's parent or guardian to visit and observe any class the student attends.
 - (5) Notwithstanding [~~Chapter 11, Part 1, Compulsory Education Requirements~~] Part 2, Compulsory Education, an LEA shall record an excused absence for a scheduled family event or a scheduled proactive visit to a health care provider if:
 - (a) the parent or guardian submits a written statement at least one school day before the scheduled absence; and
 - (b) the student agrees to make up course work for school days missed for the scheduled absence in accordance with LEA policy.
 - (6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request to place a student in a specialized class, a specialized program, or an advanced course.
 - (b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).
 - (7) Consistent with Section [53A-13-108] 53E-4-204, which requires the State Board of Education to establish graduation requirements that use competency-based standards and

assessments, an LEA shall allow a student to earn course credit towards high school graduation without completing a course in school by:

- (a) testing out of the course; or
- (b) demonstrating competency in course standards.

(8) An LEA shall reasonably accommodate a parent's or guardian's request to meet with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a regularly scheduled parent teacher conference.

(9) (a) At the request of a student's parent or guardian, an LEA shall excuse a student from taking an assessment that:

- (i) is federally mandated;
- (ii) is mandated by the state under this [title] public education code; or
- (iii) requires the use of:
 - (A) a state assessment system; or
 - (B) software that is provided or paid for by the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(i) to establish a statewide procedure for excusing a student under Subsection (9)(a) that:

- (A) does not place an undue burden on a parent or guardian; and
- (B) may be completed online; and

(ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school grading or employee evaluations due to a student not taking a test under Subsection (9)(a).

(c) An LEA:

(i) shall follow the procedures outlined in rules made by the State Board of Education under Subsection (9)(b) to excuse a student under Subsection (9)(a);

(ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the State Board of Education under Subsection (9)(b); and

(iii) may not reward a student for taking an assessment described in Subsection (9)(a).

(d) The State Board of Education shall:

(i) maintain and publish a list of state assessments, state assessment systems, and software that qualify under Subsection (9)(a); and

(ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section [53A-11-903] 53G-8-204; and

(ii) a parent's or guardian's signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent or guardian of a student's violation of a school's discipline and conduct policy and allow a parent or guardian to respond to the notice in accordance with [Chapter 11, Part 9] Chapter 8, Part 2, School Discipline and Conduct Plans.

Section 172. Section 53G-7-101 is enacted to read:

CHAPTER 7. PUBLIC SCHOOL GENERAL REQUIREMENTS

Part 1. General Provisions

53G-7-101. Title.

This chapter is known as "Public School General Requirements."

Section 173. Section 53G-7-102 is enacted to read:

53G-7-102. Definitions.

Reserved

Section 174. Section 53G-7-201 is enacted to read:

Part 2. Powers and Miscellaneous Duties

53G-7-201. Definitions.

Reserved

Section 175. Section 53G-7-202 is enacted to read:

53G-7-202. Waivers from state board rules.

(1) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(2) The state board may grant the waiver, unless:

(a) the waiver would cause the school district or the school to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(3) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

Section 176. Section 53G-7-203, which is renumbered from Section 53A-3-402.7 is renumbered and amended to read:

[53A-3-402.7]. 53G-7-203. Kindergartens -- Establishment -- Funding.

(1) Kindergartens are an integral part of the state's public education system.

(2) [By July 1, 1994, each] Each local board of education shall provide kindergarten classes free of

charge for kindergarten children residing within the district.

(3) Kindergartens established under Subsection (2) shall receive state money under [~~Title 53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Public Education System -- Funding.

Section 177. Section 53G-7-204, which is renumbered from Section 53A-3-402.1 is renumbered and amended to read:

[~~53A-3-402.1~~]. 53G-7-204. Access to student records by custodial and noncustodial parents.

(1) Except as provided in Subsection (2), a public school shall allow a custodial parent and a noncustodial parent of a child the same access to their child's education records.

(2) A school may not allow a noncustodial parent access to the child's education records if:

(a) a court has issued an order that limits the noncustodial parent's access to the child's education records; and

(b) the school has received a copy of the court order or has actual knowledge of the court order.

Section 178. Section 53G-7-205, which is renumbered from Section 53A-3-402.9 is renumbered and amended to read:

[~~53A-3-402.9~~]. 53G-7-205. Assessment of emerging and early reading skills -- Resources provided by school districts.

(1) The Legislature recognizes that well-developed reading skills help:

(a) children to succeed in school, develop self esteem, and build positive relationships with others;

(b) young adults to become independent learners; and

(c) adults to become and remain productive members of a rapidly changing technology-based society.

(2) (a) Each potential kindergarten student, the student's parent or guardian, and kindergarten personnel at the student's school may participate in an assessment of the student's reading and numeric skills.

(b) The State Board of Education, in cooperation with the state's school districts, may develop the assessment instrument and any additional materials needed to implement and supplement the assessment program.

(3) The potential kindergarten student's teacher may use the assessment in planning and developing an instructional program to meet the student's identified needs.

(4) (a) Each school is encouraged to schedule the assessment early enough before the kindergarten starting date so that a potential kindergarten student's parent or guardian has time to develop

the child's needed skills as identified by the assessment.

(b) Based on the assessment under Subsection (2), the school shall provide the potential student's parent or guardian with appropriate resource materials to assist the parent or guardian at home in the student's literacy development.

Section 179. Section 53G-7-206, which is renumbered from Section 53A-13-108.5 is renumbered and amended to read:

[~~53A-13-108.5~~]. 53G-7-206. Acceptance of credits and grades awarded by accredited schools.

(1) (a) A public school shall accept credits and grades awarded to a student by a school accredited or approved by the State Board of Education or accredited or recognized by the Northwest Association of Accredited Schools as issued by the school, without alterations.

(b) Credits awarded for a core standards for Utah public schools course shall be applied to fulfilling core standards for Utah public schools requirements.

(2) Subsection (1) applies to credits awarded to a student who:

(a) transfers to a public school; or

(b) while enrolled in the public school, takes courses offered by another public or private school.

(3) Subsection (1) applies to:

(a) traditional classes in which an instructor is present in the classroom and the student is required to attend the class for a particular length of time;

(b) open entry/open exit classes in which the student has the flexibility to begin or end study at any time, progress through course material at his own pace, and demonstrate competency when knowledge and skills have been mastered;

(c) courses offered over the Internet; or

(d) distance learning courses.

Section 180. Section 53G-7-207, which is renumbered from Section 53A-11-901.5 is renumbered and amended to read:

[~~53A-11-901.5~~]. 53G-7-207. Period of silence.

A teacher may provide for the observance of a period of silence each school day in a public school.

Section 181. Section 53G-7-208, which is renumbered from Section 53A-3-409 is renumbered and amended to read:

[~~53A-3-409~~]. 53G-7-208. Local governmental entities and school districts -- Contracts and cooperation -- Disbursement of funds -- Municipal and county representative participation in school district board meetings -- Notice required.

(1) Local governmental entities and school districts may contract and cooperate with one

another in matters affecting the health, welfare, education, and convenience of the inhabitants within their respective territorial limits.

(2) A local governmental entity may disburse public funds in aid of a school district located wholly or partially within the limits of its jurisdiction.

(3) (a) As used in this Subsection (3):

(i) "Interested county executive" means the county executive or county manager of a county with unincorporated area within the boundary of a school district, or the designee of the county executive or county manager.

(ii) "Interested mayor" means the mayor of a municipality that is partly or entirely within the boundary of a school district, or the mayor's designee.

(b) A school district board shall allow an interested mayor and interested county executive to attend and participate in the board discussions at a school district board meeting that is open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(c) An interested county executive and interested mayor may attend and participate in board discussions at a school district board meeting that is closed to the public under Title 52, Chapter 4, Open and Public Meetings Act, if:

(i) the school district board invites the interested county executive or interested mayor to attend and participate; and

(ii) for a closed meeting held for the purpose of discussing the board's disposition or acquisition of real property, the interested county executive or interested mayor does not have a conflict of interest with respect to the real estate disposition or acquisition.

(d) (i) A county or municipality may enter into an agreement with a school district under Title 11, Chapter 13, Interlocal Cooperation Act, to govern the attendance of an interested county executive or interested mayor at a school district board meeting.

(ii) An agreement under Subsection (3)(d)(i) may not be inconsistent with the provisions of this Subsection (3).

(e) Each local school board shall give notice of board meetings to each interested mayor and interested county executive.

(f) The notice required under Subsection (3)(c) shall be provided by:

(i) mail;

(ii) e-mail; or

(iii) other effective means agreed to by the person to whom notice is given.

Section 182. Section 53G-7-209, which is renumbered from Section 53A-3-413 is renumbered and amended to read:

[53A-3-413]. 53G-7-209. Use of public school buildings and grounds as civic centers.

(1) As used in this section, "civic center" means a public school building or ground, including a charter school building or ground, that is established and maintained as a limited public forum for supervised recreational activities and meetings.

(2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.

(3) The use of school property as a civic center:

(a) may not interfere with a school function or purpose; and

(b) is considered a permit for governmental immunity purposes for a governmental entity under Subsection 63G-7-201(4)(c).

(4) The organizer of an event may not use a civic center unless the organizer resides within the geographic boundaries of the school district in which the civic center is located.

Section 183. Section 53G-7-210, which is renumbered from Section 53A-3-414 is renumbered and amended to read:

[53A-3-414]. 53G-7-210. Local school boards' and charter school governing boards' responsibility for school buildings and grounds when used as civic centers.

(1) As used in this section, "civic center" means the same as that term is defined in Section [53A-3-413] 53G-7-209.

(2) A local school board or charter school governing board:

(a) shall manage, direct, and control civic centers [~~under this chapter~~];

(b) shall adopt policies for the use of civic centers;

(c) may charge a reasonable fee for the use of a civic center so that the school district or charter school incurs no expense for that use;

(d) may appoint a special functions officer under Section 53-13-105 to have charge of the grounds and protect school property when used for civic center purposes;

(e) shall allow the use of a civic center, for other than school purposes, unless it determines that the use interferes with a school function or purpose; and

(f) shall ensure that school administrators are trained about and properly implement the provisions of this section and Section [53A-3-413] 53G-7-209.

Section 184. Section 53G-7-211, which is renumbered from Section 53A-3-407 is renumbered and amended to read:

[53A-3-407]. 53G-7-211. Display of American flag.

(1) Each local school board shall provide each school within the district with a suitable flagpole.

(2) The American flag shall be displayed on every school day and on every state and national holiday.

(3) The flag shall be maintained in a respectable condition.

Section 185. Section 53G-7-212, which is renumbered from Section 53A-3-402.5 is renumbered and amended to read:

[53A-3-402.5]. 53G-7-212. Voter registration forms for high school students.

Each public school district and each accredited nonpublic school shall provide voter registration forms to students as required by Section 20A-2-302.

Section 186. Section 53G-7-213, which is renumbered from Section 53A-3-417 is renumbered and amended to read:

[53A-3-417]. 53G-7-213. Child care centers in public schools -- Requirements -- Availability -- Compliance with state and local laws.

(1) (a) Upon receiving a request from a community group such as a community council, local PTA, or parent/student organization, a local school board may authorize the use of a part of any school building in the district to provide child care services for school aged children.

(b) (i) The school board shall provide written public notice of its intent to authorize a child care center.

(ii) The board shall file a copy of the notice with the Office of Child Care within the Department of Workforce Services and the Department of Health.

(2) (a) Establishment of a child care center in a public school building is contingent upon the local school board determining that the center will not interfere with the building's use for regular school purposes.

(b) The decision shall be made at the sole discretion of the school board.

(c) A school board may withdraw its approval to operate a child care center at any time if it determines that such use interferes with the operation or interest of the school.

(d) The school district and its employees and agents are immune from any liability that might otherwise result from a withdrawal of approval if the withdrawal was made in good faith.

(3) (a) The board shall charge a commercially reasonable fee for the use of a school building as a child care center so that the district does not incur an expense.

(b) The fee shall include but not be limited to costs for utility, building maintenance, and administrative services supplied by the school that are related to the operation of the child care center.

(4) (a) Child care service may be provided by governmental agencies other than school districts, nonprofit community service groups, or private providers.

(b) If competitive proposals to provide child care services are submitted by the entities listed in Subsection (4)(a), the board shall give preference to the private provider and nonprofit community service groups so long as their proposals are judged to be at least equal to the proposal of the governmental agency.

(c) It is intended that these programs function at the local community level with minimal state and district involvement.

(5) It is the intent of the Legislature that providers not be required to go through a complex procedure in order to obtain approval for providing the service.

(6) (a) Child care centers within a public school building shall make their services available to all children regardless of where the children reside.

(b) If space and resources are limited, first priority shall be given to those who reside within the school boundaries where the center is located, and to the children of teachers and other employees of the school where the child care center is located.

(c) Second priority shall be given to those who reside within the school district boundaries where the center is located.

(7) (a) The school board shall require proof of liability insurance which is adequate in the opinion of the school board for use of school property as a child care center.

(b) A school district participating in the state Risk Management Fund shall require the provider of child care services to comply with the applicable provisions of Title 63A, Chapter 4, Risk Management.

(8) Child care centers established under this section shall operate in compliance with state and local laws and regulations, including zoning and licensing requirements, and applicable school rules.

(9) Except for Subsection (8), this section does not apply to child care centers established by a school district within a public school building if the center offers child care services primarily to children of employees or children of students of the school district.

Section 187. Section 53G-7-214, which is renumbered from Section 53A-3-427 is renumbered and amended to read:

[53A-3-427]. 53G-7-214. Honorary high school diploma for certain veterans.

(1) A board of education of a school district may award an honorary high school diploma to a veteran, if the veteran:

(a) left high school before graduating in order to serve in the armed forces of the United States;

(b) served in the armed forces of the United States during the period of World War II, the Korean War, or the Vietnam War;

- (c) (i) was honorably discharged; or
- (ii) was released from active duty because of a service-related disability; and
- (d) (i) resides within the school district; or
- (ii) resided within the school district at the time of leaving high school to serve in the armed forces of the United States.
- (2) To receive an honorary high school diploma, a veteran or immediate family member or guardian of a veteran shall submit to a local school board:
- (a) a request for an honorary high school diploma; and
- (b) information required by the local school board to verify the veteran's eligibility for an honorary high school diploma under Subsection (1).
- (3) At the request of a veteran, a veteran's immediate family member or guardian, or a local school board, the Department of Veterans' and Military Affairs shall certify whether the veteran meets the requirements of Subsections (1)(b) and (c).

Section 188. Section 53G-7-215, which is renumbered from Section 53A-1-409 is renumbered and amended to read:

[53A-1-409]. 53G-7-215. Competency-based education -- Recommendations -- Coordination.

(1) As used in this section, "competency-based education" means the same as that term is defined in Section ~~[53A-15-1802]~~ 53F-5-501.

(2) A local school board or a charter school governing board may establish a competency-based education program.

(3) A local school board or charter school governing board that establishes a competency-based education program shall:

- (a) establish assessments to accurately measure competency;
- (b) provide the assessments to an enrolled student at no cost to the student;
- (c) award credit to a student who demonstrates competency and subject mastery;
- (d) submit the competency-based standards to the State Board of Education for review; and
- (e) publish the competency-based standards on its website or by other electronic means readily accessible to the public.
- (4) A local school board or charter school governing board may:
- (a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;
- (b) waive or adapt traditional attendance requirements;

(c) adjust class sizes to maximize the value of course instructors or course mentors;

(d) enroll students from any geographic location within the state; and

(e) provide proctored online competency-based assessments.

Section 189. Section 53G-7-216, which is renumbered from Section 53A-1-706 is renumbered and amended to read:

[53A-1-706]. 53G-7-216. Purchases of educational technology.

(1) (a) A school district~~[,]~~ or charter school~~[, or college of education]~~ shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in purchasing technology, except as otherwise provided in Subsection (1)(b).

(b) A school district or charter school may purchase computers from, and contract for the repair or refurbishing of computers with, the Utah Correctional Industries without going through the bidding or competition procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code.

(2) A school district~~[,]~~ or charter school~~[, or college of education]~~ may purchase technology through cooperative purchasing contracts administered by the state Division of Purchasing or through its own established purchasing program.

(3) Consistent with policies adopted by a local school board or charter school governing board, a school district or charter school that purchases technology under this section shall ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel.

Section 190. Section 53G-7-301 is enacted to read:

Part 3. Budgets

53G-7-301. Definitions.

Reserved

Section 191. Section 53G-7-302, which is renumbered from Section 53A-19-101 is renumbered and amended to read:

[53A-19-101]. 53G-7-302. School district and charter school budgets.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) Before June 1 of each year, the budget officer shall prepare a tentative budget, with supporting

documentation, to be submitted to the budget officer's governing board.

(3) The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) for a school district, an estimate of the revenues for the succeeding fiscal year based upon the lowest tax levy that will raise the required revenue, using the current year's taxable value as the basis for this calculation;

(d) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(e) the estimated financial condition of the school district or charter school by funds at the close of the current fiscal year.

(4) The tentative budget shall be filed with the district business administrator or charter school executive director for public inspection at least 15 days before the date of the tentative budget's proposed adoption by the governing board.

Section 192. Section 53G-7-303, which is renumbered from Section 53A-19-102 is renumbered and amended to read:

[53A-19-102]. 53G-7-303. Local governing board budget procedures.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) (a) For a school district, before June 22 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.

(b) For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section ~~[53A-17a-133]~~ 53F-8-301.

(3) (a) For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.

(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in

Subsection (3)(a), at least 10 days prior to the public hearing, a local school board shall:

(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;

(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;

(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and

(iv) post the proposed budget on the school district's Internet website.

(c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections (3)(b)(iii) and (iv).

(4) For a charter school, before June 22 of each year, a charter school governing board shall adopt a budget for the next fiscal year.

(5) Within 30 days of adopting a budget, a governing board shall file a copy of the adopted budget with the state auditor and the State Board of Education.

Section 193. Section 53G-7-304, which is renumbered from Section 53A-19-103 is renumbered and amended to read:

[53A-19-103]. 53G-7-304. Undistributed reserve in school board budget.

(1) A local school board may adopt a budget with an undistributed reserve. The reserve may not exceed 5% of the maintenance and operation budget adopted by the board in accordance with a scale developed by the State Board of Education. The scale is based on the size of the school district's budget.

(2) The board may appropriate all or a part of the undistributed reserve made to any expenditure classification in the maintenance and operation budget by written resolution adopted by a majority vote of the board setting forth the reasons for the appropriation. The board shall file a copy of the resolution with the State Board of Education and the state auditor.

(3) The board may not use undistributed reserves in the negotiation or settlement of contract salaries for school district employees.

Section 194. Section 53G-7-305, which is renumbered from Section 53A-19-104 is renumbered and amended to read:

[53A-19-104]. 53G-7-305. Limits on appropriations -- Estimated expendable revenue.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) “Governing board” means:

- (i) for a school district, the local school board; or
- (ii) for a charter school, the charter school governing board.

(2) A governing board may not make an appropriation in excess of its estimated expendable revenue, including undistributed reserves, for the following fiscal year.

(3) A governing board may reduce a budget appropriation at the governing board’s regular meeting if notice of the proposed action is given to all governing board members and to the district superintendent or charter school executive director, as applicable, at least one week before the meeting.

(4) For a school district, in determining the estimated expendable revenue, any existing deficits arising through excessive expenditures from former years are deducted from the estimated revenue for the ensuing year to the extent of at least 10% of the entire tax revenue of the district for the previous year.

(5) For a school district, in the event of financial hardships, the local school board may deduct from the estimated expendable revenue for the ensuing year, by fund, at least 25% of the deficit amount.

(6) For a school district, all estimated balances available for appropriations at the end of the fiscal year shall revert to the funds from which they were appropriated and shall be fund balances available for appropriation in the budget of the following year.

(7) For a school district, an increase in an appropriation may not be made by the local school board unless the following steps are taken:

(a) the local school board receives a written request from the district superintendent that sets forth the reasons for the proposed increase;

(b) notice of the request is published:

(i) in a newspaper of general circulation within the school district at least one week before the local school board meeting at which the request will be considered; and

(ii) in accordance with Section 45-1-101, at least one week before the local school board meeting at which the request will be considered; and

(c) the local school board holds a public hearing on the request before the local school board’s acting on the request.

Section 195. Section 53G-7-306, which is renumbered from Section 53A-19-105 is renumbered and amended to read:

[53A-19-105]. 53G-7-306. School district interfund transfers.

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The State Board of Education may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The State Board of Education may also authorize school district interfund transfers of residual equity for a financially distressed district if the board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section ~~[53A-19-104]~~ 53G-7-305; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the State Board of Education.

(5) The board shall develop standards for defining and aiding financially distressed school districts under this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924 (5)(c) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section ~~[53A-19-102]~~ 53G-7-303.

Section 196. Section 53G-7-307, which is renumbered from Section 53A-19-106 is renumbered and amended to read:

~~[53A-19-106]. 53G-7-307. Warrants drawn by budget officer.~~

(1) As used in this section:

(a) “Budget officer” means:

(i) for a school district, the school district’s superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) “Governing board” means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) The budget officer of a governing board may not draw warrants on school district or charter

school funds except in accordance with and within the limits of the budget passed by the governing board.

Section 197. Section 53G-7-308, which is renumbered from Section 53A-19-107 is renumbered and amended to read:

[53A-19-107]. 53G-7-308. Emergency expenditures.

This [chapter] part does not apply to appropriations required because of emergencies involving loss of life or great loss of property.

Section 198. Section 53G-7-309, which is renumbered from Section 53A-19-108 is renumbered and amended to read:

[53A-19-108]. 53G-7-309. Monthly budget reports.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) The business administrator or budget officer of a governing board shall provide each board member with a report, on a monthly basis, that includes the following information:

(a) the amounts of all budget appropriations;

(b) the disbursements from the appropriations as of the date of the report; and

(c) the percentage of the disbursements as of the date of the report.

(3) Within five days of providing the monthly report described in Subsection (2) to a governing board, the business administrator or budget officer shall make a copy of the report available for public review.

Section 199. Section 53G-7-401, which is renumbered from Section 53A-30-102 is renumbered and amended to read:

Part 4. Internal Audits

[53A-30-102]. 53G-7-401. Definitions.

As used in this part:

(1) "Audit committee" means a standing committee:

(a) appointed by the local school board or charter school governing board with the following number of members as applicable to the local school board or charter school governing board:

(i) for a board of a local education agency that consists of seven or more members, three members of that board; or

(ii) for a board of a local education agency that consists of six or fewer members, two members of that board; and

(b) composed of people who are not administrators or employees of the local education agency.

(2) "Audit director" means the person who directs the internal audit program.

(3) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(4) "Internal audit" means an independent appraisal activity established within a local education agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the local education agency.

(5) "Internal audit program" means an audit function that:

(a) is conducted by a local school board or charter school governing board independent of the local education agency offices or other operations;

(b) objectively evaluates the effectiveness of the local education agency governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(6) "Local education agency" means a school district or charter school.

Section 200. Section 53G-7-402, which is renumbered from Section 53A-30-103 is renumbered and amended to read:

[53A-30-103]. 53G-7-402. Internal auditing program -- Audit committee -- Powers and duties.

(1) A local school board or charter school governing board shall establish an audit committee.

(2) (a) The audit committee shall establish an internal audit program that provides internal audit services for the programs administered by the local education agency.

(b) A local education agency that has fewer than 10,000 students is not subject to Subsection (2)(a).

(3) (a) A local school board or charter school governing board shall appoint the audit director, with the advisement of the audit committee, if the local school board or charter school governing board hires an audit director.

(b) If the local school board or charter school governing board has not appointed an audit

director and the school board or governing board contracts directly for internal audit services, the local school board or charter school governing board shall approve a contract for internal audit services, with the advisement of the audit committee.

(4) The audit committee shall ensure that copies of all reports of audit findings issued by the internal auditors are available, upon request, to the audit director of the State Board of Education, the Office of the State Auditor, and the Office of Legislative Auditor General.

(5) The audit committee shall ensure that significant audit matters that cannot be appropriately addressed by the local education agency internal auditors are referred to either the audit director of the State Board of Education, the Office of the State Auditor, or the Office of Legislative Auditor General.

(6) The audit director may contract with a consultant to assist with an audit.

(7) The audit director of the State Board of Education and the Office of the State Auditor may contract to provide internal audit services.

Section 201. Section 53G-7-501 is enacted to read:

Part 5. Student Fees

53G-7-501. Definitions.

Reserved

Section 202. Section 53G-7-502, which is renumbered from Section 53A-12-101 is renumbered and amended to read:

[53A-12-101]. 53G-7-502. Schools to be free -- Age limitations.

(1) Except as otherwise provided in [~~Title 53A, State System of Public Education~~] this public education code, in each school district the public schools shall be free to all children between five and 18 years of age who are residents of the district, and also to persons over 18 who are domiciled in the state of Utah and have not completed high school.

(2) A person over the age of 18 taking courses under this section must declare an intent to complete requirements for a high school diploma. All courses taken must lead toward that diploma and must be approved by those directly responsible for administering the program.

(3) A person required to pay tuition under this section may have the tuition waived under Section [~~53A-15-404~~] 53E-10-205.

Section 203. Section 53G-7-503, which is renumbered from Section 53A-12-102 is renumbered and amended to read:

[53A-12-102]. 53G-7-503. State policy on student fees, deposits, or other charges.

(1) For purposes of this part:

(a) "Board" means the State Board of Education.

(b) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(c) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) (a) A secondary school may impose fees on secondary school students.

(b) The board shall adopt rules regarding the imposition of fees in secondary schools in accordance with the requirements of this part.

(3) A fee, deposit, or other charge may not be made, or any expenditure required of a student or the student's parent or guardian, as a condition for student participation in an activity, class, or program provided, sponsored, or supported by or through a public school or school district, unless authorized by the local school board or charter school governing board under rules adopted by the board.

(4) (a) A fee, deposit, charge, or expenditure may not be required for elementary school activities which are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to a student's parent or guardian a suggested list of supplies for use during the regular school day so that a parent or guardian may furnish on a voluntary basis those supplies for student use.

(c) A list provided to a student's parent or guardian pursuant to Subsection (4)(b) shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

Section 204. Section 53G-7-504, which is renumbered from Section 53A-12-103 is renumbered and amended to read:

[53A-12-103]. 53G-7-504. Waiver of fees.

(1) (a) A local school board shall require, as part of an authorization granted under Section [~~53A-12-102~~] 53G-7-503, that adequate waivers or other provisions are available to ensure that no student is denied the opportunity to participate because of an inability to pay the required fee, deposit, or charge.

(b) (i) If, however, a student must repeat a course or requires remediation to advance or graduate and a fee is associated with the course or the remediation program, it is presumed that the student will pay the fee.

(ii) If the student or the student's parent or guardian is financially unable to pay the fee, the board shall provide for alternatives to waiving the

fee, which may include installment payments and school or community service or work projects for the student.

(iii) In cases of extreme financial hardship or where the student has suffered a long-term illness, or death in the family, or other major emergency and where installment payments and the imposition of a service or work requirement would not be reasonable, the student may receive a partial or full waiver of the fee required under Subsection (1)(b)(i).

(iv) The waiver provisions in Subsections (2) and (3) apply to all other fees, deposits, and charges made in the secondary schools.

(2) (a) The board shall require each school in the district that charges a fee under this ~~chapter~~ part and Part 6, Textbook Fees, to provide a variety of alternatives for satisfying the fee requirement to those who qualify for fee waivers, in addition to the outright waiver of the fee.

(b) The board shall develop and provide a list of alternatives for the schools, including such options as allowing the student to provide:

- (i) tutorial assistance to other students;
- (ii) assistance before or after school to teachers and other school personnel on school related matters; and
- (iii) general community or home service.

(c) Each school may add to the list of alternatives provided by the board, subject to approval by the board.

(3) A local school board may establish policies providing for partial fee waivers or other alternatives for those students who, because of extenuating circumstances, are not in a financial position to pay the entire fee.

(4) With regard to children who are in the custody of the Division of Child and Family Services who are also eligible under Title IV-E of the federal Social Security Act, local school boards shall require fee waivers or alternatives in accordance with Subsections (1) through (3).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(a) requiring a parent or guardian of a student applying for a fee waiver to provide documentation and certification to the school verifying:

- (i) the student's eligibility to receive the waiver; and
- (ii) that the alternatives for satisfying the fee requirements under Subsection (2) have been complied with to the fullest extent reasonably possible according to the individual circumstances of both the fee waiver applicant and the school; and
- (b) specifying the acceptable forms of documentation for the requirement under

Subsection (5)(a), which shall include verification based on income tax returns or current pay stubs.

(6) Notwithstanding the requirements under Subsection (5), a school is not required to keep documentation on file after the verification is completed.

Section 205. Section 53G-7-505, which is renumbered from Section 53A-12-104 is renumbered and amended to read:

[53A-12-104]. 53G-7-505. Notice of student fees and waivers.

A local school board shall annually give written notice of its student fee schedules and fee waiver policies to the parent or guardian of a child who attends a public school within the district.

Section 206. Section 53G-7-601, which is renumbered from Section 53A-12-202 is renumbered and amended to read:
Part 6. Textbook Fees

[53A-12-202]. 53G-7-601. "Textbooks" defined.

For the purposes of Sections [53A-12-201] 53G-7-602 through [53A-12-206] 53G-7-605, "textbooks" includes textbooks and workbooks necessary for participation in any instructional course. Textbooks shall not include personal or consumable items, such as pencils, papers, pens, erasers, notebooks, other items of personal use, or products which a student may purchase at his option, such as school publications, class rings, annuals, and similar items.

Section 207. Section 53G-7-602, which is renumbered from Section 53A-12-201 is renumbered and amended to read:

[53A-12-201]. 53G-7-602. State policy on providing textbooks.

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

(3) A school board may not sell textbooks or otherwise charge textbook fees or deposits except as provided in [Title 53A, State System of Public Education] this public education code.

Section 208. Section 53G-7-603, which is renumbered from Section 53A-12-204 is renumbered and amended to read:

[53A-12-204]. 53G-7-603. Purchase of textbooks by local school board -- Sales to pupils -- Free textbooks -- Textbooks provided to teachers -- Payment of costs -- Rental of textbooks.

(1) A local school board, under rules adopted by the State Board of Education, may purchase textbooks for use in the public schools directly from the publisher at prices and terms approved by the state board and may sell those books to pupils in

grades nine through 12 at a cost not to exceed the actual cost of the book plus costs of transportation and handling.

(2) Each local school board, however, shall provide, free of charge, textbooks and workbooks required for courses of instruction for each child attending public schools whose parent or guardian is financially unable to purchase them.

(3) Children who are receiving cash assistance under Title 35A, Chapter 3, Part 3, Family Employment Program, supplemental security income, or who are in the custody of the Division of Child and Family Services within the Department of Human Services are eligible for free textbooks and workbooks under this section.

(4) The local school board shall also purchase all books necessary for teachers to conduct their classes.

(5) The cost of furnishing textbooks and workbooks may be paid from school operating funds, the textbook fund, or from other available funds.

(6) Books provided to teachers and pupils without charge or at less than full cost are paid for out of funds of the district and remain the property of the district.

(7) In school districts that require pupils to rent books instead of purchasing them or providing them free of charge, the local school board shall waive rental fees for a child whose parent or guardian is financially unable to pay the rental fee. The children considered eligible under Subsection (3) are also eligible for the purposes of this Subsection (7).

Section 209. Section 53G-7-604, which is renumbered from Section 53A-12-205 is renumbered and amended to read:

[53A-12-205]. 53G-7-604. Free textbook system.

(1) If a local school board considers it desirable or necessary, or if the board is petitioned by two-thirds of those voting in the district, it shall provide free textbooks to all pupils in the schools under its charge.

(2) Books purchased under this section shall be paid for out of the funds of the district.

(3) The board shall assure that sufficient funds are raised and set aside for this purpose.

(4) A board that has adopted the free textbook system shall terminate the system if petitioned by two-thirds of those voting in an election conducted for that purpose vote to terminate the system.

(5) The board may not act upon a petition to terminate the free textbook system during a period of four years after the system is adopted.

(6) The board may not reinstitute a free textbook system until four years after its termination.

Section 210. Section 53G-7-605, which is renumbered from Section 53A-12-206 is renumbered and amended to read:

[53A-12-206]. 53G-7-605. Repurchase and resale of textbooks.

(1) If a student moves from a district in which free textbooks were not provided, the school board of that district may purchase the books used by the student at a reasonable price, based upon the original cost and the condition of the book upon return.

(2) The books purchased by the district under this section may be resold to other students in the district.

Section 211. Section 53G-7-606, which is renumbered from Section 53A-12-207 is renumbered and amended to read:

[53A-12-207]. 53G-7-606. Disposal of textbooks.

(1) For a school year beginning with or after the 2012-13 school year, a local school district may not dispose of textbooks used in its public schools without first notifying all other school districts in the state of its intent to dispose of the textbooks.

(2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.

(3) The State Board of Education shall develop rules and procedures directing the disposal of textbooks.

Section 212. Section 53G-7-701, which is renumbered from Section 53A-11-1202 is renumbered and amended to read:

Part 7. Student Clubs

[53A-11-1202]. 53G-7-701. Definitions.

As used in this part:

(1) "Bigotry" means action or advocacy of imminent action involving:

(a) the harassment or denigration of a person or entity; or

(b) any intent to cause a person not to freely enjoy or exercise any right secured by the constitution or laws of the United States or the state, except that an evaluation or prohibition may not be made of the truth or falsity of any religious belief or expression of conscience unless the means of expression or conduct arising therefrom violates the standards of conduct outlined in this section, Section [53A-13-101.3] 53G-10-203, or 20 U.S.C. [Section] Sec. 4071(f).

(2) "Club" means any student organization that meets during noninstructional time.

(3) "Conscience" means a standard based upon learned experiences, a personal philosophy or system of belief, religious teachings or doctrine, an absolute or external sense of right and wrong which is felt on an individual basis, a belief in an external absolute, or any combination of the foregoing.

(4) "Curricular club" means a club that is school sponsored and that may receive leadership,

direction, and support from the school or school district beyond providing a meeting place during noninstructional time. An elementary school curricular club means a club that is organized and directed by school sponsors at the elementary school. A secondary school curricular club means a club:

(a) whose subject matter is taught or will soon be taught in a regular course;

(b) whose subject matter concerns the body of courses as a whole;

(c) in which participation is required for a particular course; or

(d) in which participation results in academic credit.

(5) (a) "Discretionary time" means school-related time for students that is not instructional time.

(b) "Discretionary time" includes free time before and after school, during lunch and between classes or on buses, and private time before athletic and other events or activities.

(6) (a) "Encourage criminal or delinquent conduct" means action or advocacy of imminent action that violates any law or administrative rule.

(b) "Encourage criminal or delinquent conduct" does not include discussions concerning changing of laws or rules, or actions taken through lawfully established channels to effectuate such change.

(7) (a) "Instructional time" means time during which a school is responsible for a student and the student is required or expected to be actively engaged in a learning activity.

(b) "Instructional time" includes instructional activities in the classroom or study hall during regularly scheduled hours, required activities outside the classroom, and counseling, private conferences, or tutoring provided by school employees or volunteers acting in their official capacities during or outside of regular school hours.

(8) "Involve human sexuality" means:

(a) presenting information in violation of laws governing sex education, including Sections ~~[53A-13-101]~~ 53G-10-402 and ~~[53A-13-302]~~ 53E-9-203;

(b) advocating or engaging in sexual activity outside of legally recognized marriage or forbidden by state law; or

(c) presenting or discussing information relating to the use of contraceptive devices or substances, regardless of whether the use is for purposes of contraception or personal health.

(9) "Limited open forum" means a forum created by a school district or charter school for student expression within the constraints of Subsection ~~[53A-13-101.3]~~ 53G-10-203(2)(b).

(10) "Noncurricular club" is a student initiated group that may be authorized and allowed school facilities use during noninstructional time in

secondary schools by a school and school governing board in accordance with the provisions of this part. A noncurricular club's meetings, ideas, and activities are not sponsored or endorsed in any way by a school governing board, the school, or by school or school district employees.

(11) "Noninstructional time" means time set aside by a school before instructional time begins or after instructional time ends, including discretionary time.

(12) "Religious club" means a noncurricular club designated in its application as either being religiously based or based on expression or conduct mandated by conscience.

(13) "School" means a public school, including a charter school.

(14) (a) "School facilities use" means access to a school facility, premises, or playing field.

(b) "School facilities use" includes access to a limited open forum.

(15) "School governing board" means a local school board or charter school board.

Section 213. Section 53G-7-702, which is renumbered from Section 53A-11-1203 is renumbered and amended to read:

~~[53A-11-1203]. 53G-7-702. Student clubs -- Limited open forum -- Authorization.~~

(1) (a) A school may establish and maintain a limited open forum for student clubs pursuant to the provisions of this part, State Board of Education rules, and school governing board policies.

(b) Notwithstanding the provisions under Subsection (1)(a), a school retains the right to create a closed forum at any time by allowing curricular clubs only.

(2) (a) A school shall review applications for authorization of clubs on a case-by-case basis.

(b) Before granting an authorization, the school shall find:

(i) that the proposed club meets this part's respective requirements of a curricular club or a noncurricular club; and

(ii) that the proposed club's purpose and activities comply with this part.

(c) Before granting an authorization, a school may request additional information from the faculty sponsor, from students proposing the club, or from its school governing board, if desired.

(3) A school shall grant authorization and school facilities use to curricular and noncurricular clubs whose applications are found to meet the requirements of this part, rules of the State Board of Education, and policies of the school governing board and shall limit or deny authorization or school facilities use to proposed clubs that do not meet the requirements of this part, rules of the State Board of Education, and policies of the school governing board.

Section 214. Section 53G-7-703, which is renumbered from Section 53A-11-1204 is renumbered and amended to read:

[53A-11-1204]. 53G-7-703. Curricular clubs -- Authorization.

(1) Faculty members or students proposing a curricular club shall submit written application for authorization on a form approved by the school governing board.

(2) A school governing board may exempt a club whose membership is determined by student body election or a club that is governed by an association that regulates interscholastic activities from the authorization requirements under this section.

(3) An application for authorization of a curricular club shall include:

(a) the recommended club name;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be included in the parental consent required under Section ~~[53A-11-1210]~~ 53G-7-709, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) the recommended meeting times, dates, and places;

(e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and

(f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.

(4) The application may be as brief as a single page so long as it contains the items required under this section.

(5) A school shall approve the name of a curricular club consistent with the club's purposes and its school sponsorship.

(6) (a) A school shall determine curriculum relatedness by strictly applying this part's definition of curricular club to the club application.

(b) If the school finds that the proposed club is a curricular club, the school shall continue to review the application as an application for authorization of a curricular club.

(c) If the school finds that the proposed club is a noncurricular club, the school may:

(i) return the application to the faculty member or students proposing the club for amendment; or

(ii) review the application as an application for authorization of a noncurricular club.

(7) (a) Only curricular clubs may be authorized for elementary schools.

(b) A school governing body may limit, or permit a secondary school to limit, the authorization of clubs at the secondary school to only curricular clubs.

Section 215. Section 53G-7-704, which is renumbered from Section 53A-11-1205 is renumbered and amended to read:

[53A-11-1205]. 53G-7-704. Noncurricular clubs -- Annual authorization.

(1) A noncurricular club shall have a minimum of three members.

(2) Students proposing a noncurricular club shall submit a written application for authorization on a form approved by the school governing board.

(3) An application for authorization of a noncurricular club shall include:

(a) the recommended club name;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be included in the parental consent required under Section ~~[53A-11-1210]~~ 53G-7-709, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) the recommended meeting times, dates, and places;

(e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and

(f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.

(4) The application may be as brief as a single page so long as it contains the items required under this section.

(5) (a) A school governing board may provide for approval of a noncurricular club name in an action separate from that relating to authorization of the club itself.

(b) A school governing board shall require:

(i) that a noncurricular club name shall reasonably reflect the club's purpose, goals, and activities; and

(ii) that the noncurricular club name shall be a name that would not result in or imply a violation of this part.

Section 216. Section 53G-7-705, which is renumbered from Section 53A-11-1206 is renumbered and amended to read:

[53A-11-1206]. 53G-7-705. Clubs -- Limitations and denials.

(1) A school shall limit or deny authorization or school facilities use to a club, or require changes prior to granting authorization or school facilities use:

(a) as the school determines it to be necessary to:

(i) protect the physical, emotional, psychological, or moral well-being of students and faculty;

(ii) maintain order and discipline on school premises;

(iii) prevent a material and substantial interference with the orderly conduct of a school's educational activities;

(iv) protect the rights of parents or guardians and students;

(v) maintain the boundaries of socially appropriate behavior; or

(vi) ensure compliance with all applicable laws, rules, regulations, and policies; or

(b) if a club's proposed charter and proposed activities indicate students or advisors in club related activities would as a substantial, material, or significant part of their conduct or means of expression:

(i) encourage criminal or delinquent conduct;

(ii) promote bigotry;

(iii) involve human sexuality; or

(iv) involve any effort to engage in or conduct mental health therapy, counseling, or psychological services for which a license would be required under state law.

(2) A school governing board has the authority to determine whether any club meets the criteria of Subsection (1).

(3) If a school or school governing board limits or denies authorization to a club, the school or school governing board shall provide, in writing, to the applicant the factual and legal basis for the limitation or denial.

(4) A student's spontaneous expression of sentiments or opinions otherwise identified in Subsection [53A-13-302] 53E-9-203(1) is not prohibited.

Section 217. Section 53G-7-706, which is renumbered from Section 53A-11-1207 is renumbered and amended to read:

[53A-11-1207]. 53G-7-706. Faculty oversight of authorized clubs.

(1) A school shall approve the faculty sponsor, supervisor, or monitor for each authorized curricular, noncurricular, and religious club to provide oversight consistent with this part and the needs of the school to ensure that the methods of expression, religious practices, or other conduct of the students or advisors involved do not:

(a) unreasonably interfere with the ability of school officials to maintain order and discipline;

(b) unreasonably endanger or threaten the well-being of persons or property;

(c) violate concepts of civility or propriety appropriate to a school setting; or

(d) violate applicable laws, rules, regulations, and policies.

(2) (a) A school shall annually approve faculty members as sponsors of curricular clubs.

(b) Faculty sponsors shall organize and direct the purpose and activities of a curricular club.

(3) (a) A school shall approve faculty members to serve as supervisors for authorized noncurricular clubs.

(b) A faculty supervisor shall provide oversight to ensure compliance with the approved club purposes, goals, and activities and with the provisions of this part and other applicable laws, rules, and policies.

(c) The approval of a faculty supervisor or monitor does not constitute school sponsorship of the club.

(d) A faculty monitor approved for a religious club may not participate in the activities of the religious club, except to perform the supervisory role required by this section.

(4) Without the prior approval by the school, a person who is not a school faculty member or a club member may not:

(a) make a presentation to a noncurricular club; or

(b) direct, conduct, control, or regularly attend the meetings of a noncurricular club.

Section 218. Section 53G-7-707, which is renumbered from Section 53A-11-1208 is renumbered and amended to read:

[53A-11-1208]. 53G-7-707. Use of school facilities by clubs.

(1) A school shall determine and assign school facilities use for curricular and noncurricular clubs consistent with the needs of the school.

(2) The following rules apply to curricular clubs:

(a) in assigning school facilities use, the administrator may give priority to curricular clubs over noncurricular clubs; and

(b) the school may provide financial or other support to curricular clubs.

(3) The following rules apply to noncurricular clubs:

(a) a preference or priority may not be given among noncurricular clubs;

(b) (i) a school shall only provide the space for noncurricular club meetings; and

(ii) a school may not spend public funds for noncurricular clubs, except as required to implement the provisions of this part, including providing space and faculty oversight for noncurricular clubs;

(c) a school shall establish the noninstructional times during which noncurricular clubs may meet;

(d) a school may establish the places that noncurricular clubs may meet;

(e) a school may set the number of hours noncurricular clubs may use the school's facilities per month, provided that all noncurricular clubs shall be treated equally; and

(f) a school shall determine what access noncurricular clubs shall be given to the school newspaper, yearbook, bulletin boards, or public address system, provided that all noncurricular clubs shall be treated equally.

Section 219. Section 53G-7-708, which is renumbered from Section 53A-11-1209 is renumbered and amended to read:

[53A-11-1209]. 53G-7-708. Club membership.

(1) A school shall require written parental or guardian consent for student participation in all curricular and noncurricular clubs at the school.

(2) Membership in curricular clubs is governed by the following rules:

(a) (i) membership may be limited to students who are currently attending the sponsoring school or school district; and

(ii) members who attend a school other than the sponsoring school shall have, in addition to the consent required under Section [53A-11-1210] 53G-7-709, specific parental or guardian permission for membership in a curricular club at another school;

(b) (i) curricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and

(ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies; and

(c) other rules as determined by the State Board of Education, school district, or school.

(3) Membership in noncurricular clubs is governed by the following rules:

(a) student membership in a noncurricular club is voluntary;

(b) membership shall be limited to students who are currently attending the school;

(c) (i) noncurricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and

(ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies;

(d) a copy of any written or other media materials that were presented at a noncurricular club meeting by a nonschool person shall be delivered to a school administrator no later than 24 hours after the noncurricular club meeting and, if requested, a student's parent or legal guardian shall have an opportunity to review those materials; and

(e) other rules as determined by the State Board of Education, school district, or school.

Section 220. Section 53G-7-709, which is renumbered from Section 53A-11-1210 is renumbered and amended to read:

[53A-11-1210]. 53G-7-709. Parental consent.

(1) A school shall require written parental or guardian consent for student participation in all curricular and noncurricular clubs at the school.

(2) The consent described in Subsection (1) shall include an activity disclosure statement containing the following information:

(a) the specific name of the club;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be obtained from the application for authorization of a club in accordance with the provisions of Section [53A-11-1204] 53G-7-703 or [53A-11-1205] 53G-7-704, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) beginning and ending dates;

(e) a tentative schedule of the club activities with dates, times, and places specified;

(f) personal costs associated with the club, if any;

(g) the name of the sponsor, supervisor, or monitor who is responsible for the club; and

(h) any additional information considered important for the students and parents to know.

(3) All completed parental consent forms shall be filed by the parent or the club's sponsor, supervisor, or monitor with the school's principal, the chief administrative officer of a charter school, or their designee.

Section 221. Section 53G-7-710, which is renumbered from Section 53A-11-1211 is renumbered and amended to read:

[53A-11-1211]. 53G-7-710. Violations -- Investigations -- School responses.

(1) A school shall investigate any report or allegation that an authorized curricular or noncurricular club is:

(a) participating in activities beyond the scope of its purpose; or

(b) in violation of a provision of this part or another applicable law, rule, regulation, or policy.

(2) After meeting with the faculty sponsor, faculty supervisor, or faculty monitor, the students involved, and the person making the report or allegation, if a violation is substantiated, the school may do any of the following:

(a) allow the club's original statement of its purpose, goals, and activities to be modified to include the activities if they are in compliance with the provisions of this part and other applicable laws, rules, regulations, or policies;

(b) instruct the faculty sponsor, supervisor, or monitor not to allow similar violations in the future;

(c) limit or suspend the club's authorization or school facilities use pending further corrective action as determined by the school; or

(d) terminate the club's authorization and dissolve the club.

(3) Any limitation on expression, practice, or conduct of any student, advisor, or guest in a meeting of a curricular or noncurricular club, or limitation on school facilities use, shall be by the least restrictive means necessary to satisfy the school's interests as identified in this part.

(4) A club that has been terminated in accordance with Subsection (2)(d) may not reapply for authorization until the following school year.

(5) A student who makes a false allegation or report under this section shall be subject to school discipline.

Section 222. Section 53G-7-711, which is renumbered from Section 53A-11-1212 is renumbered and amended to read:

[53A-11-1212]. 53G-7-711. Appeals -- Procedures.

(1) (a) A completed application or complaint shall be approved, denied, or investigated by the school within a reasonable amount of time.

(b) If an application or complaint is denied, written reasons for the denial or results of the investigation shall be stated and, if appropriate, suggested corrections shall be made to remedy the deficiency.

(c) A club that is denied school facilities use shall be informed at the time of the denial of the factual and legal basis for the denial, and, if appropriate, how the basis for the denial could be corrected.

(2) (a) If denied, suspended, or terminated, a club, student desirous of participating or speaking, or a complaining parent or guardian, has 10 school days from the date of the denial, suspension, or termination to file a written appeal from the denial, suspension, or termination to a designee authorized by the school governing board.

(b) The designee shall issue a determination within a reasonable amount of time from receipt of the appeal, which decision is final and constitutes satisfaction of all administrative remedies unless the time for evaluation is extended by agreement of all parties.

(3) A person directly affected by a decision made in accordance with the provisions of this part may appeal the decision by writing to a person designated by the school governing board.

Section 223. Section 53G-7-712, which is renumbered from Section 53A-11-1213 is renumbered and amended to read:

[53A-11-1213]. 53G-7-712. Rulemaking -- State Board of Education -- School governing boards.

The State Board of Education may adopt additional rules and school governing boards may adopt additional rules or policies governing clubs that do not conflict with the provisions of this part.

Section 224. Section 53G-7-713, which is renumbered from Section 53A-11-1214 is renumbered and amended to read:

[53A-11-1214]. 53G-7-713. Severability.

If any provision of this part or the application of any provision to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Section 225. Section 53G-7-801, which is renumbered from Section 53A-15-1101 is renumbered and amended to read:

Part 8. School Uniforms

[53A-15-1101]. 53G-7-801. Definitions.

As used in this part:

(1) "Principal" includes the chief administrator of a school that does not have a principal.

(2) "School" means a public school, including a charter school.

(3) "School official" means the principal of a school or the local school board for a school district.

(4) "School uniform" means student clothing conforming to a school uniform policy under this part, which may include a dress code, dress of

designated colors, or a reasonable designated uniform of a particular style. A school uniform policy may not include very expensive or prescriptive clothing requirements.

Section 226. Section 53G-7-802, which is renumbered from Section 53A-15-1102 is renumbered and amended to read:

[53A-15-1102]. 53G-7-802. Uniforms in schools -- Legislative finding -- Policies.

(1) The Legislature finds that:

(a) each student should be allowed to learn in a safe environment which fosters the learning process and is free from unnecessary disruptions;

(b) the wearing of certain types of clothing may identify students as members of youth gangs and contribute to disruptive behavior and violence in the schools;

(c) school uniform policies may be part of an overall program to:

(i) improve school safety and discipline; and

(ii) help avoid the disruption of the classroom atmosphere and decorum and prevent disturbances among students; and

(d) school uniforms may:

(i) decrease violence and theft among students; and

(ii) foster and promote desirable school operating conditions and a positive educational environment in accordance with this part.

(2) In accordance with Section ~~[53A-15-1103]~~ 53G-7-803, a school may adopt a school uniform policy that requires students enrolled at that school to wear a designated school uniform during the school day.

(3) A school uniform policy shall:

(a) protect students' free exercise of religious beliefs;

(b) specify whether the uniform policy is voluntary or mandatory for students;

(c) specify whether or not the uniform policy has an opt-out provision in addition to the provisions under Subsection (5); and

(d) include a provision for financial assistance to families who cannot afford to purchase a required uniform, which may include:

(i) the school providing school uniforms to students;

(ii) the school making used school uniforms available to students; or

(iii) other programs to make school uniforms available to economically disadvantaged students.

(4) A school uniform policy under this part is not considered a fee for either an elementary or a secondary school.

(5) A school uniform policy shall include a provision allowing a principal at any time during the school year to grant an exemption from wearing a school uniform to a student because of extenuating circumstances.

(6) (a) If a school adopts a school uniform policy under this part, that school's governing body or local school board shall adopt local appellate procedures for school actions under this part, including a denial of an exemption requested under Subsection (5).

(b) A person may seek judicial review of an action under this part only after exhausting the remedies provided under this Subsection (6).

Section 227. Section 53G-7-803, which is renumbered from Section 53A-15-1103 is renumbered and amended to read:

[53A-15-1103]. 53G-7-803. Uniforms in schools -- Policy approval.

(1) The school uniform policy authorized in Section ~~[53A-15-1102]~~ 53G-7-802 may be adopted:

(a) for a charter school:

(i) by the governing body or administrator of the charter school in accordance with Subsection (2); or

(ii) by including the school uniform policy in the school's charter approved in accordance with ~~[Title 53A, Chapter 1a, Part 5, The]~~ Chapter 5, Utah Charter Schools ~~[Act]~~;

(b) for more than one school at the district level by a local school board in accordance with Subsection (2); or

(c) for a single school at the school level by the principal of the school in accordance with Subsection (2).

(2) A school uniform policy adopted by an election is subject to the following requirements:

(a) the adopting authority shall hold a public hearing on the matter prior to formal adoption of the school uniform policy;

(b) (i) the adopting authority shall hold an election for approval of a school uniform policy prior to its adoption and shall receive an affirmative vote from a majority of those voting at the election; and

(ii) only parents and guardians of students subject to the proposed school uniform policy may vote at the election, limited to one vote per family.

(3) (a) A local school board or principal is required to hold an election to consider adoption of a school uniform policy for an entire school district or an individual school if initiative petitions are presented as follows:

(i) for a school district, a petition signed by a parent or guardian of 20% of the district's students presented to the local school board; and

(ii) for an individual school, a petition signed by a parent or guardian of 20% of the school's students presented to the principal.

(b) The public hearing and election procedures required in Subsection (2) apply to Subsection (3).

(4) (a) The procedures set forth in Subsections (3) and (4) shall apply to the discontinuance or modification of a school uniform policy adopted under this section.

(b) A vote to discontinue an adopted school uniform policy may not take place during the first year of its operation.

(5) The adopting authority shall establish the manner and time of an election required under this section.

Section 228. Section 53G-7-901, which is renumbered from Section 53A-29-101 is renumbered and amended to read:

Part 9. Internships

[53A-29-101]. 53G-7-901. Definitions.

As used in this [chapter] part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through a school, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section [53A-29-102] 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.

(4) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.

(5) "Public school" means:

- (a) a public school district;
- (b) an applied technology center or applied technology service region;
- (c) the Schools for the Deaf and the Blind; or
- (d) other components of the public education system authorized by the State Board of Education to offer internships.

Section 229. Section 53G-7-902, which is renumbered from Section 53A-29-102 is renumbered and amended to read:

[53A-29-102]. 53G-7-902. Public or private school internships.

A public or private school may offer internships in connection with work experience and career exploration programs operated in accordance with the rules of the State Board of Education.

Section 230. Section 53G-7-903, which is renumbered from Section 53A-29-103 is renumbered and amended to read:

[53A-29-103]. 53G-7-903. Interns -- Workers' compensation medical benefits.

(1) An intern participating in an internship under Section [53A-29-102] 53G-7-902 is considered to be a volunteer government worker of the sponsoring public school, or an employee of the sponsoring private school, solely for purposes of receiving workers' compensation medical benefits.

(2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy against the school and the cooperating employer for all injuries and occupational diseases as provided under Title 34A, Chapters 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

Section 231. Section 53G-7-904, which is renumbered from Section 53A-29-104 is renumbered and amended to read:

[53A-29-104]. 53G-7-904. Internship programs -- Criminal background checks.

Officers and employees of a cooperating employer who will be given significant unsupervised access to a student in connection with the student's activities as an intern shall be considered to be a volunteer for purposes of criminal background checks under Section [53A-15-1503] 53G-11-402.

Section 232. Section 53G-7-905, which is renumbered from Section 53A-29-105 is renumbered and amended to read:

[53A-29-105]. 53G-7-905. Recognition of participation in internship program.

A cooperating employer may be given appropriate recognition by a school, including the posting of the employer's name and a short description of the employer's business in an appropriate location on school property, or publication of that information in official publications of the school or school district.

Section 233. Section 53G-7-1001 is enacted to read:

Part 10. Internet Policy

53G-7-1001. Definitions.

Reserved

Section 234. Section 53G-7-1002, which is renumbered from Section 53A-3-422 is renumbered and amended to read:

[53A-3-422]. 53G-7-1002. Internet and online access policy required.

State funds may not be provided to any local school board that provides access to the Internet or an online service unless the local school board adopts and enforces a policy to restrict access to Internet or online sites that contain obscene material.

Section 235. Section 53G-7-1003, which is renumbered from Section 53A-3-423 is renumbered and amended to read:

[53A-3-423]. 53G-7-1003. Process and content standards for policy.

(1) "Policy" as used in this section means the elementary and secondary school online access policy adopted by a local school board to meet the requirements of Section [53A-3-422] 53G-7-1002.

(2) (a) Each policy shall be developed under the direction of the local school board, adopted in an open meeting, and have an effective date. The local school board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.

(b) Notice of the availability of the policy shall be posted in a conspicuous place within each school. The local school board may issue any other public notice it considers appropriate.

(3) The policy shall:

(a) state that it restricts access to Internet or online sites that contain obscene material and shall state how the local school board intends to meet the requirements of Section [53A-3-422] 53G-7-1002;

(b) inform the public that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the school; and

(c) inform the public that procedures to handle complaints about the policy, its enforcement, or about observed behavior have been adopted and are available for review at the school.

Section 236. Section 53G-7-1004, which is renumbered from Section 53A-3-424 is renumbered and amended to read:

[53A-3-424]. 53G-7-1004. Rulemaking -- Reporting.

The State Board of Education may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding compliance standards and reporting requirements for local school boards with respect to the policy required by Section [53A-3-422] 53G-7-1002.

Section 237. Section 53G-7-1101, which is renumbered from Section 53A-1-1601 is renumbered and amended to read:

Part 11. Public School Membership in Associations

[53A-1-1601]. 53G-7-1101. Definitions.

As used in this part:

(1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of assigning a public school a classification or region.

(2) "Appeals panel" means the appeals panel created in Section [53A-1-1606] 53G-7-1106.

(3) (a) "Association" means an organization that governs or regulates a student's participation in an athletic interscholastic activity.

(b) "Association" does not include an institution of higher education described in Section 53B-1-102.

(4) "Classification" means the designation of a school based on the size of the school's student

enrollment population for purposes of interscholastic activities.

(5) "Eligibility" means eligibility to participate in an interscholastic activity regulated or governed by an association.

(6) "Governing body" means a body within an association that:

(a) is responsible for:

(i) adopting rules or policies that govern interscholastic activities or the administration of the association;

(ii) adopting or amending the association's governing document or bylaws;

(iii) enforcing the rules and policies of the association; and

(iv) adopting the association's budget; and

(b) has oversight of other boards, committees, councils, or bodies within the association.

(7) "Interscholastic activity" means an activity within the state in which:

(a) a student that participates represents the student's school in the activity; and

(b) the participating student is enrolled in grade 9, 10, 11, or 12.

(8) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(9) "Region" means a grouping of schools of the same classification for purposes of interscholastic activities.

Section 238. Section 53G-7-1102, which is renumbered from Section 53A-1-1602 is renumbered and amended to read:

[53A-1-1602]. 53G-7-1102. Public schools prohibited from membership.

(1) A public school may not be a member of or pay dues to an association that is not in compliance on or after July 1, 2017, with:

(a) this part;

(b) Title 52, Chapter 4, Open and Public Meetings Act;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:

(a) the association's public or private status; or

(b) the public or private employment status of the employee or officer.

Section 239. Section 53G-7-1103, which is renumbered from Section 53A-1-1603 is renumbered and amended to read:

[53A-1-1603]. 53G-7-1103. Governing body membership.

(1) (a) A governing body shall have 15 members as follows:

(i) six members who:

(A) are each an elected member of a local school board; and

(B) each represent a different classification;

(ii) (A) one school superintendent representing the two largest classifications;

(B) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(A); and

(C) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(B);

(iii) (A) one school principal representing the two largest classifications;

(B) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(A); and

(C) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(B);

(iv) one representative of charter schools;

(v) one representative of private schools, if private schools are members of or regulated by the association; and

(vi) one member representing the State Board of Education.

(b) Only a member respectively described in Subsection (1)(a)(iv) or (v) may be elected or appointed by or represent charter or private schools on the governing body.

(2) (a) A member described in Subsection (1)(a)(i), (ii), (iii), or (v) may be elected, appointed, or otherwise selected in accordance with association rule or policy to the extent the selection reflects the membership requirements in Subsection (1)(a)(i), (ii), (iii), or (v).

(b) A governing body member described in Subsection (1)(a)(vi) shall be the chair of the State Board of Education or the chair's designee if the designee is an elected member of the State Board of Education.

Section 240. Section 53G-7-1104, which is renumbered from Section 53A-1-1604 is renumbered and amended to read:

[53A-1-1604]. 53G-7-1104. Reporting requirements.

An association shall provide a verbal report, accompanied by a written report, annually to the State Board of Education, including:

(1) the association's annual budget in accordance with Section ~~[53A-1-1605]~~ 53G-7-1105;

(2) a schedule of events scheduled or facilitated by the association;

(3) procedures for alignment or realignment;

(4) any amendments or changes to the association's governing document or bylaws; and

(5) any other information requested by the State Board of Education.

Section 241. Section 53G-7-1105, which is renumbered from Section 53A-1-1605 is renumbered and amended to read:

[53A-1-1605]. 53G-7-1105. Association budgets.

(1) An association shall:

(a) adopt a budget in accordance with this section; and

(b) use uniform budgeting, accounting, and auditing procedures and forms, which shall be in accordance with generally accepted accounting principles or auditing standards.

(2) An association budget officer or executive director shall annually prepare a tentative budget, with supporting documentation, to be submitted to the governing body.

(3) The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(d) the estimated financial condition of the association by funds at the close of the current fiscal year.

(4) The tentative budget shall be filed with the governing body 15 days, or earlier, before the date of the tentative budget's proposed adoption by the governing body.

(5) The governing body shall adopt a budget.

(6) Before the adoption or amendment of a budget, the governing body shall hold a public hearing on the proposed budget or budget amendment.

(7) (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (6), at least 10 days before the public hearing, a governing body shall:

(i) publish a notice of the public hearing electronically in accordance with Section 63F-1-701; and

(ii) post the proposed budget on the association's Internet website.

(b) A notice of a public hearing on an association's proposed budget shall include information on how the public may access the proposed budget as provided in Subsection (7)(a).

(8) No later than September 30 of each year, the governing body shall file a copy of the adopted budget with the state auditor and the State Board of Education.

Section 242. Section 53G-7-1106, which is renumbered from Section 53A-1-1606 is renumbered and amended to read:

[53A-1-1606]. 53G-7-1106. Procedures for disputes -- Appeals -- Appeals panel -- Compensation.

(1) (a) An association shall establish a uniform procedure for hearing and deciding:

(i) disputes;

(ii) allegations of violations of the association's rules or policies;

(iii) requests to establish eligibility after a student transfers schools; and

(iv) disputes related to alignment or realignment.

(b) An individual may appeal to an appeals panel established in this section an association decision regarding a request to establish eligibility after a student transfers schools.

(2) (a) There is established an appeals panel for an association decision described in Subsection (1)(b).

(b) The appeals panel shall consist of the following three members:

(i) a judge or attorney who is not employed by, or contracts with, a school;

(ii) a retired educator, principal, or superintendent; and

(iii) a retired athletic director or coach.

(c) A review and decision by the appeals panel is limited to whether the association properly followed the association's rules and procedures in regard to a decision described in Subsection (1)(b).

(d) (i) An association shall adopt policies for filing an appeal with the appeals panel.

(ii) The appeals panel shall review an appeal and issue a written decision explaining the appeals panel's decision no later than 10 business days after an appeal is filed.

(e) The appeals panel's decision is final.

(3) (a) The State Board of Education shall appoint the members of the appeals panel described in Subsection (2):

(i) from the association's nominations described in Subsection (3)(b); and

(ii) in accordance with the State Board of Education's appointment process.

(b) (i) The association shall nominate up to three individuals for each position described in Subsection (2) for the State Board of Education's consideration.

(ii) If the State Board of Education refuses to appoint members to the panel who were nominated by the association as described in Subsection (3)(b)(i), the State Board of Education shall request additional nominations from the association.

(iii) No later than 45 days after the association provides the nominations, the State Board of Education shall appoint to the appeals panel an individual from the names provided by the association.

(c) For the initial membership, the State Board of Education shall appoint two of the positions having an initial term of three years and one position having an initial term of two years.

(d) Except as required by Subsection (3)(e), as terms of appeals panel members expire, the State Board of Education shall appoint each new member or reappointed member to a two-year term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The State Board of Education shall reimburse an association for per diem and travel expenses of members of the appeals panel.

Section 243. Section 53G-7-1201 is enacted to read:

Part 12. School Community Councils and Charter Trust Land Councils

53G-7-1201. Definitions.

Reserved

Section 244. Section 53G-7-1202, which is renumbered from Section 53A-1a-108 is renumbered and amended to read:

[53A-1a-108]. 53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section [53A-6-103] 53E-6-102.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section ~~[53A-16-101.5]~~ 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section ~~[53A-1a-108.5]~~ 53G-7-1204;

(ii) create the School LAND Trust Program in accordance with Section ~~[53A-16-101.5]~~ 53F-2-404;

(iii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section ~~[53A-3-402]~~ 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and

(v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection ~~[53A-1-706]~~ 53G-7-216(3).

(b) To fulfill the school community council's duties described in Subsections (3)(a)(iv) and (v), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that

the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section ~~[53A-1a-108.1]~~ 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) Section ~~[53A-1a-108]~~ 53G-7-1202;

(ii) Section ~~[53A-1a-108.1]~~ 53G-7-1203;

(iii) Section ~~[53A-1a-108.5]~~ 53G-7-1204; and

(iv) Section ~~[53A-16-101.5]~~ 53F-2-404.

Section 245. Section 53G-7-1203, which is renumbered from Section 53A-1a-108.1 is renumbered and amended to read:

~~53A-1a-108.1~~. 53G-7-1203. School community councils -- Open and public meeting requirements.

(1) As used in this section:

(a) (i) "Charter trust land council" means a council established by a charter school governing board under Section ~~[53A-16-101.5]~~ 53F-2-404.

(ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.

(b) "School community council" means a council established at a school within a school district under Section ~~[53A-1a-108]~~ 53G-7-1202.

(c) "Council" means a school community council or a charter trust land council.

(2) A school community council or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) As required by Section ~~[53A-1a-108]~~ 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

(4) (a) A meeting of a council is open to the public.

(b) A council may not close any portion of a meeting.

(5) A council shall, at least one week prior to a meeting, post the following information on the school's website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

(6) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:

(i) the proposed council meeting schedule for the year;

(ii) a telephone number or email address, or both, where each council member can be reached directly; and

(iii) a summary of the annual report required under Section ~~[53A-16-101.5]~~ 53F-2-404 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.

(b) (i) A council shall identify and use methods of providing the information listed in Subsection (6)(a) to a parent or guardian who does not have Internet access.

(ii) Money allocated to a school under the School LAND Trust Program created in Section ~~[53A-16-101.5]~~ 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).

(7) (a) The notice requirement of Subsection (5) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a council may not be held unless:

(i) an attempt has been made to notify all the members of the council; and

(ii) a majority of the members of the council approve the meeting.

(8) (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (8)(a) shall be listed under an agenda item on the meeting agenda.

(c) A council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (8)(b); and

(ii) included with the advance public notice required by Subsection (5).

(9) (a) Written minutes shall be kept of a council meeting.

(b) Written minutes of a council meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) a brief statement of the matters proposed, discussed, or decided;

(iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the council; and

(B) after being recognized by the chair, provided testimony or comments to the council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (9)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

(10) (a) As used in this Subsection (10), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A council shall:

(i) adopt rules of order and procedure to govern a public meeting of the council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (10)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (10)(b)(i) available to the public:

(A) at each public meeting of the council; and

(B) on the school's website.

Section 246. Section 53G-7-1204, which is renumbered from Section 53A-1a-108.5 is renumbered and amended to read:

~~53A-1a-108.5~~. 53G-7-1204. School improvement plan.

(1) (a) A school community council established under Section ~~[53A-1a-108]~~ 53G-7-1202 shall annually evaluate, with the school's principal, the school's statewide achievement test results, reading achievement plan, class size reduction needs, and technology needs, and use the evaluations in developing a school improvement plan to improve teaching and learning conditions.

(b) In evaluating statewide achievement test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) A school community council shall develop a school improvement plan that:

(a) identifies the school's most critical academic needs;

(b) recommends a course of action to meet the identified needs;

(c) lists any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance;

(d) describes how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program money received under Section ~~[53A-16-101.5]~~ ~~53F-2-404~~ and state and federal grants, will be used to enhance or improve academic achievement; and

(e) if the school community council represents a school that educates students in kindergarten, grade 1, grade 2, or grade 3, includes a reading achievement plan as described in Section ~~[53A-1-606.5]~~ ~~53E-4-306~~.

(3) Although a school improvement plan focuses on the school's most critical academic needs, the school improvement plan may include other actions to enhance or improve academic achievement and the community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) The school improvement plan is subject to the approval of the local school board of the school district in which the school is located.

(6) A school community council may develop a multiyear school improvement plan, but the multiyear school improvement plan must be presented to and approved annually by the local school board.

(7) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by the local school board;

(b) provide ongoing support for the council's school improvement plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

(8) The school community council of a low performing school, as defined in Section ~~[53A-1-1202]~~ 53E-5-301, shall develop a school improvement plan that is consistent with the school turnaround plan developed by the school turnaround committee under ~~[Chapter 1, Part 12]~~ Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development ~~[Act]~~.

Section 247. Section 53G-8-101 is enacted to read:

CHAPTER 8. DISCIPLINE AND SAFETY

Part 1. General Provisions

53G-8-101. Title.

This chapter is known as "Discipline and Safety."

Section 248. Section 53G-8-102 is enacted to read:

53G-8-102. Definitions.

Reserved

Section 249. Section 53G-8-201 is enacted to read:

Part 2. School Discipline and Conduct Plans

53G-8-201. Definitions.

Reserved

Section 250. Section 53G-8-202, which is renumbered from Section 53A-11-901 is renumbered and amended to read:

~~[53A-11-901]. 53G-8-202. Public school discipline policies -- Basis of the policies -- Enforcement.~~

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) On or before September 1, 2015, the State Board of Education shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the School Safety and Crisis Line under Subsection ~~[53A-11-1503]~~ 53E-10-502(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Section 251. Section 53G-8-203, which is renumbered from Section 53A-11-902 is renumbered and amended to read:

~~[53A-11-902]. 53G-8-203. Conduct and discipline policies and procedures.~~

(1) The conduct and discipline policies required under Section ~~[53A-11-901]~~ 53G-8-202 shall include:

~~[(1)]~~ (a) provisions governing student conduct, safety, and welfare;

~~[(2)]~~ (b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

~~[(3)]~~ (c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection ~~[(2)]~~ (1)(b);

~~[(4)]~~ (d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section ~~[53A-11-802]~~ 53G-8-302;

~~[(5)]~~ (e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection ~~[(2)]~~ (1)(b), if the conduct threatens harm or does harm to:

~~[(a)]~~ (i) the school;

~~[(b)]~~ (ii) school property;

~~[(c)]~~ (iii) a person associated with the school; or

~~[(4)]~~ (iv) property associated with a person described in Subsection ~~[(5)(e)]~~ (1)(e)(iii);

~~[(6)]~~ (f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

~~[(7)]~~ (g) specific provisions, consistent with Section ~~[53A-15-603]~~ 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

~~[(8)]~~ (h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

~~[(9)]~~ (i) procedures for responding to reports received through the School Safety and Crisis Line under Subsection ~~[53A-11-1503]~~ 53E-10-502(3).

(2) (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b) (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through six.

(ii) The board shall receive input from teachers, school administrators, and parents and guardians of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent or guardian of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

Section 252. Section 53G-8-204, which is renumbered from Section 53A-11-903 is renumbered and amended to read:

[53A-11-903]. 53G-8-204. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a

procedure adopted by the local school board or the governing board of a charter school.

(2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

Section 253. Section 53G-8-205, which is renumbered from Section 53A-11-904 is renumbered and amended to read:

[53A-11-904]. 53G-8-205. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for any of the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if

committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section ~~[53A-11-907]~~ 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection ~~[53A-11-102]~~ 53G-6-204(1).

(5) Each local school board and governing board of a charter school shall prepare an annual report for the State Board of Education on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

Section 254. Section 53G-8-206, which is renumbered from Section 53A-11-905 is renumbered and amended to read:

~~[53A-11-905]. 53G-8-206. Delegation of authority to suspend or expel a student -- Procedure for suspension -- Readmission.~~

(1) (a) A local board of education may delegate to any school principal or assistant principal within the school district the power to suspend a student in the principal's school for up to 10 school days.

(b) A governing board of a charter school may delegate to the chief administrative officer of the

charter school the power to suspend a student in the charter school for up to 10 school days.

(2) The board may suspend a student for up to one school year or delegate that power to the district superintendent, the superintendent's designee, or chief administrative officer of a charter school.

(3) The board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the board, at least once each year.

(4) If a student is suspended, a designated school official shall notify the parent or guardian of the student of the following without delay:

(a) that the student has been suspended;

(b) the grounds for the suspension;

(c) the period of time for which the student is suspended; and

(d) the time and place for the parent or guardian to meet with a designated school official to review the suspension.

(5) (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent or guardian or other person authorized by the parent or applicable law to accept custody of the student.

(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent or guardian have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent or guardian of the suspended student and the student have agreed to participate in such a meeting.

(c) A suspension may not extend beyond 10 school days unless the student and the student's parent or guardian have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

Section 255. Section 53G-8-207, which is renumbered from Section 53A-11-906 is renumbered and amended to read:

~~[53A-11-906]. 53G-8-207. Alternatives to suspension or expulsion.~~

(1) Each local school board or governing board of a charter school shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good

faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent or guardian of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

(4) The state superintendent of public instruction, in cooperation with school districts and charter schools, shall:

(a) research methods of motivating and providing incentives to students that:

(i) directly and regularly reward or recognize appropriate behavior;

(ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and

(iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;

(b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel;

(e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and

(f) maintain data for purposes of accountability, later reporting, and future analysis.

Section 256. Section 53G-8-208, which is renumbered from Section 53A-11-907 is renumbered and amended to read:

[53A-11-907]. 53G-8-208. Student suspended or expelled -- Responsibility of parent or guardian -- Application for students with disabilities.

(1) If a student is suspended or expelled from a public school under this part for more than 10 school

days, the parent or guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent or guardian shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent or guardian and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent or guardian.

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

(b) The district or charter school shall contact the parent or guardian of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

Section 257. Section 53G-8-209, which is renumbered from Section 53A-11-908 is renumbered and amended to read:

[53A-11-908]. 53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those

activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and rules of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff.

(b) The rules described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section ~~[53A-11-911]~~ 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections ~~[53A-11-902(5)(a) through (d)]~~ 53G-8-203(1)(e)(i) through (iv):

(i) use of foul, abusive, or profane language while engaged in school related activities;

(ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section ~~[53A-11-1004]~~ 53G-8-405 apply to this section.

Section 258. Section 53G-8-210, which is renumbered from Section 53A-11-910 is renumbered and amended to read:

~~[53A-11-910]. 53G-8-210. Disruptive student behavior.~~

(1) As used in this section:

(a) "Disruptive student behavior" includes:

(i) the grounds for suspension or expulsion described in Section ~~[53A-11-904]~~ 53G-8-205; and

(ii) the conduct described in Subsection ~~[53A-11-908]~~ 53G-8-209(2)(b).

(b) "Parent" includes:

(i) a custodial parent of a school-age minor;

(ii) a legally appointed guardian of a school-age minor; or

(iii) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (1)(b)(i) or (ii).

(c) "Qualifying minor" means a school-age minor who:

(i) is at least nine years old; or

(ii) turns nine years old at any time during the school year.

(d) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor is enrolled.

(2) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties in accordance with Section ~~[53A-11-911]~~ 53G-8-211 on a school-age minor who violates this part.

(3) (a) A local school board or governing board of a charter school shall:

(i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and

(ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.

(c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems.

(4) The notice of disruptive student behavior described in Subsection (3)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and

(ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior; and

(c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(5) A habitual disruptive student behavior notice:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or governing board of a local charter school to issue a habitual disruptive student behavior notice.

(6) (a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.

(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

Section 259. Section 53G-8-211, which is renumbered from Section 53A-11-911 is renumbered and amended to read:

[53A-11-911]. 53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Class A misdemeanor person offense" means a class A misdemeanor described in Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 5b, Sexual Exploitation Act.

(b) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.

(c) "Nonperson class A misdemeanor" means a class A misdemeanor that is not a class A misdemeanor person offense.

(d) "Restorative justice program" means a school-based program that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense:

(a) on school property; or

(b) that is truancy.

(3) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to alternative school-related interventions, including:

(a) a mobile crisis outreach team, as defined in Section 78A-6-105;

(b) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104; and

(c) a youth court or comparable restorative justice program.

(4) If the alleged offense is a class B misdemeanor or a nonperson class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator or the school administrator's designee, or the minor may be referred to the alternative interventions in Subsection (3).

Section 260. Section 53G-8-212, which is renumbered from Section 53A-11-806 is renumbered and amended to read:

[53A-11-806]. 53G-8-212. Defacing or damaging school property -- Student's liability -- Work program alternative.

(1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.

(2) (a) If a school's property has been lost or willfully cut, defaced, or otherwise damaged, the school may withhold the issuance of an official written grade report, diploma, or transcript of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.

(b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.

(3) (a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parent or guardian that the student's interests would not be served if the parent or guardian were to pay for the damages, the school

shall provide for a program of work the student may complete in lieu of the payment.

(b) The school shall release the official grades, diploma, and transcripts of the student upon completion of the work.

(4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Section 261. Section 53G-8-301, which is renumbered from Section 53A-11-801 is renumbered and amended to read:

Part 3. Physical Restraint of Students

[53A-11-801]. 53G-8-301. Definitions.

As used in this part:

(1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(2) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of guiding a student to another location.

(3) "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.

(4) "School" means a public or private elementary school, secondary school, or preschool.

(5) "Student" means an individual who is:

(a) under the age of 19 and receiving educational services; or

(b) under the age of 23 and receiving educational services as an individual with a disability.

Section 262. Section 53G-8-302, which is renumbered from Section 53A-11-802 is renumbered and amended to read:

[53A-11-802]. 53G-8-302. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint.

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a student.

(2) A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:

(a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student;

(b) protect a student or another individual from physical injury;

(c) remove from a situation a student who is violent; or

(d) protect property from being damaged, when physical safety is at risk.

(3) Nothing in this section prohibits a school employee from using less intrusive means, including a physical escort, to address circumstances described in Subsection (2).

(4) (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(5) A parochial or private school that does not receive state funds to provide for the education of a student may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of students in the school of the exemption.

(6) This section does not apply to a law enforcement officer as defined in Section 53-13-103.

Section 263. Section 53G-8-303, which is renumbered from Section 53A-11-803 is renumbered and amended to read:

[53A-11-803]. 53G-8-303. Investigation of complaint -- Confidentiality -- Immunity.

(1) (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

Section 264. Section 53G-8-304, which is renumbered from Section 53A-11-804 is renumbered and amended to read:

[53A-11-804]. 53G-8-304. Liability.

(1) (a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if

the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401 [and 53A-11-805].

Section 265. Section 53G-8-305, which is renumbered from Section 53A-11-805 is renumbered and amended to read:

[53A-11-805]. 53G-8-305. Exception.

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section [53A-15-301] 53E-7-202 is excepted from this part.

Section 266. Section 53G-8-401 is enacted to read:

Part 4. Juvenile Court and Law Enforcement Notification to Public Schools

53G-8-401. Definitions.

Reserved

Section 267. Section 53G-8-402, which is renumbered from Section 53A-11-1001 is renumbered and amended to read:

[53A-11-1001]. 53G-8-402. Notification by juvenile court and law enforcement agencies.

(1) Notifications received from the juvenile court or law enforcement agencies by the school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b) are governed by this part.

(2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

Section 268. Section 53G-8-403, which is renumbered from Section 53A-11-1002 is renumbered and amended to read:

[53A-11-1002]. 53G-8-403. Superintendent required to notify school.

(1) Within three days of receiving the information from the juvenile court or a law enforcement agency, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

Section 269. Section 53G-8-404, which is renumbered from Section 53A-11-1003 is renumbered and amended to read:

[53A-11-1003]. 53G-8-404. Board to set procedures.

The State Board of Education shall make rules governing the dissemination of the information.

Section 270. Section 53G-8-405, which is renumbered from Section 53A-11-1004 is renumbered and amended to read:

[53A-11-1004]. 53G-8-405. Liability for release of information.

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b)[s] or 78A-6-117(1)(b), or Section [53A-11-1002] 53G-8-403 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

Section 271. Section 53G-8-501, which is renumbered from Section 53A-11-401 is renumbered and amended to read:

Part 5. Substance Abuse Reporting and Weapons Notification

[53A-11-401]. 53G-8-501. Definitions.

For purposes of Sections [53A-11-402] 53G-8-502 through [53A-11-404] 53G-8-504:

(1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

(2) "Prohibited act" means an act prohibited by Section [53A-3-501] 53G-8-602, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

Section 272. Section 53G-8-502, which is renumbered from Section 53A-11-402 is renumbered and amended to read:

[53A-11-402]. 53G-8-502. Mandatory reporting of prohibited acts.

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

Section 273. Section 53G-8-503, which is renumbered from Section 53A-11-403 is renumbered and amended to read:

[53A-11-403]. 53G-8-503. Reporting procedure.

(1) The principal of a public school affected by this chapter shall appoint one educator as the “designated educator” to make all reports required under Sections ~~[53A-11-401]~~ 53G-8-501 through ~~[53A-11-404]~~ 53G-8-504.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section ~~[53A-11-402]~~ 53G-8-502, shall immediately report the violation to the student’s parent or legal guardian, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

(3) The designated educator may not disclose to the student or to the student’s parent or legal guardian the identity of the educator who made the initial report.

Section 274. Section 53G-8-504, which is renumbered from Section 53A-11-404 is renumbered and amended to read:

~~[53A-11-404]. 53G-8-504. Immunity from civil or criminal liability.~~

An educator who in good faith makes a report under Sections ~~[53A-11-402]~~ 53G-8-502 and ~~[53A-11-403]~~ 53G-8-503 is immune from any liability, civil or criminal, that might otherwise result from that action.

Section 275. Section 53G-8-505, which is renumbered from Section 53A-11-1301 is renumbered and amended to read:

~~[53A-11-1301]. 53G-8-505. Definitions.~~

For purposes of Sections 53G-8-506 through 53G-8-509:

(1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply ~~[to this part]~~ to Sections 53G-8-506 through 53G-8-509.

~~[(2) As used in this part:]~~

~~[(a)]~~ (2) “Prohibited act” means an act punishable under Section ~~[53A-3-501]~~ 53G-8-602, Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b, Imitation Controlled Substances Act.

~~[(b)]~~ (3) “School” means a public or private elementary or secondary school.

Section 276. Section 53G-8-506, which is renumbered from Section 53A-11-1302 is renumbered and amended to read:

~~[53A-11-1302]. 53G-8-506. Reporting of prohibited acts affecting a school -- Confidentiality.~~

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section ~~[53A-11-911]~~ 53G-8-211, immediately notify:

(a) the principal;

(b) an administrator of the affected school;

(c) the superintendent of the affected school district; or

(d) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school grounds or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

Section 277. Section 53G-8-507, which is renumbered from Section 53A-11-1303 is renumbered and amended to read:

~~[53A-11-1303]. 53G-8-507. Immunity from civil or criminal liability.~~

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school or law enforcement authorities under ~~[this part]~~ Section 53G-8-505, 53G-8-506, 53G-8-508, or 53G-8-509, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

Section 278. Section 53G-8-508, which is renumbered from Section 53A-11-1304 is renumbered and amended to read:

~~[53A-11-1304]. 53G-8-508. Admissibility of evidence in civil and criminal actions.~~

(1) Evidence relating to ~~[violations of this part]~~ a violation of Section 53G-8-505, 53G-8-506, 53G-8-509, or 53G-9-507, which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.

(2) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

Section 279. Section 53G-8-509, which is renumbered from Section 53A-11-1305 is renumbered and amended to read:

~~[53A-11-1305]. 53G-8-509. Board rules to ensure protection of individual rights.~~

The State Board of Education and local boards of education shall adopt rules to implement ~~[this part]~~ Sections 53G-8-505 through 53G-8-508. The rules shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

Section 280. Section 53G-8-510, which is renumbered from Section 53A-11-1101 is renumbered and amended to read:

[53A-11-1101]. 53G-8-510. Notification of teachers of weapons on school property -- Immunity from civil and criminal liability.

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Section 281. Section 53G-8-601 is enacted to read:

Part 6. Criminal Offenses and Traffic Ordinances

53G-8-601. Definitions.

Reserved

Section 282. Section 53G-8-602, which is renumbered from Section 53A-3-501 is renumbered and amended to read:

[53A-3-501]. 53G-8-602. Possession or consumption of alcoholic beverages at school or school-sponsored activities -- Penalty.

(1) Except as approved by a local school board as part of the curriculum, a person may not possess or drink an alcoholic beverage:

(a) inside or on the grounds of any building owned or operated by a part of the public education system; or

(b) in those portions of any building, park, or stadium which are being used for an activity sponsored by or through any part of the public education system.

(2) (a) Subsection (1)(a) does not apply to property owned by a school district in contemplation of future use for school purposes while the property is under lease to another party.

(b) (i) For purposes of Subsection (2)(a), a lease must be full time for a period of not less than two years.

(ii) The property may not be used for school purposes at any time during the lease period.

(3) Violation of this section is a class B misdemeanor.

Section 283. Section 53G-8-603, which is renumbered from Section 53A-3-503 is renumbered and amended to read:

[53A-3-503]. 53G-8-603. Criminal trespass upon school property -- Penalty.

(1) A person is guilty of criminal trespass upon school property if the person does the following:

(a) enters or remains unlawfully upon school property, and:

(i) intends to cause annoyance or injury to a person or damage to property on the school property;

(ii) intends to commit a crime; or

(iii) is reckless as to whether the person's presence will cause fear for the safety of another; or

(b) enters or remains without authorization upon school property if notice against entry or remaining has been given by:

(i) personal communication to the person by a school official or an individual with apparent authority to act for a school official;

(ii) the posting of signs reasonably likely to come to the attention of trespassers;

(iii) fencing or other enclosure obviously designed to exclude trespassers; or

(iv) a current order of suspension or expulsion.

(2) As used in this section:

(a) "Enter" means intrusion of the entire body.

(b) "School official" means a public or private school administrator or person in charge of a school program or activity.

(c) "School property" means real property owned or occupied by a public or private school, including real property temporarily occupied for a school activity or program.

(3) Violation of this section is a class B misdemeanor.

Section 284. Section 53G-8-604, which is renumbered from Section 53A-3-504 is renumbered and amended to read:

[53A-3-504]. 53G-8-604. Traffic ordinances on school property -- Enforcement.

(1) A local political subdivision in which real property is located that belongs to, or is controlled by, the State Board of Education, a local board of education, an area vocational center, or the Schools for the Deaf and the Blind may, at the request of the responsible board of education or institutional council, adopt ordinances for the control of vehicular traffic on that property.

(2) A law enforcement officer whose jurisdiction includes the property in question may enforce an ordinance adopted under Subsection (1).

Section 285. Section 53G-8-701, which is renumbered from Section 53A-11-1602 is renumbered and amended to read:

Part 7. School Resource Officers

[53A-11-1602]. 53G-8-701. Definitions.

As used in this section:

(1) "Governing authority" means:

- (a) for a school district, the local school board;
- (b) for a charter school, the governing board; or
- (c) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(2) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(3) "Local education agency" or "LEA" means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind.

(4) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

Section 286. Section 53G-8-702, which is renumbered from Section 53A-11-1603 is renumbered and amended to read:

[53A-11-1603]. 53G-8-702. School resource officer training -- Curriculum.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that prepare and make available a training program for school principals and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the State Board of Education shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

- (a) childhood and adolescent development;
- (b) responding age-appropriately to students;
- (c) working with disabled students;
- (d) techniques to de-escalate and resolve conflict;
- (e) cultural awareness;
- (f) restorative justice practices;
- (g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;
- (h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement; and

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.

Section 287. Section 53G-8-703, which is renumbered from Section 53A-11-1604 is renumbered and amended to read:

[53A-11-1604]. 53G-8-703. Contracts between an LEA and law enforcement for school resource officer services -- Requirements.

(1) An LEA may contract with a law enforcement agency or an individual to provide school resource officer services at the LEA if the LEA's governing authority reviews and approves the contract.

(2) If an LEA contracts with a law enforcement agency or an individual to provide SRO services at the LEA, the LEA's governing authority shall require in the contract:

(a) an acknowledgment by the law enforcement agency or the individual that an SRO hired under the contract shall:

(i) provide for and maintain a safe, healthy, and productive learning environment in a school;

(ii) act as a positive role model to students;

(iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;

(iv) emphasize the use of restorative approaches to address negative behavior; and

(v) at the request of the LEA, teach a vocational law enforcement class;

(b) a description of the shared understanding of the LEA and the law enforcement agency or individual regarding the roles and responsibilities of law enforcement and the LEA to:

(i) maintain safe schools;

(ii) improve school climate; and

(iii) support educational opportunities for students;

(c) a designation of student offenses that the SRO shall confer with the LEA to resolve, including an offense that:

(i) is a minor violation of the law; and

(ii) would not violate the law if the offense was committed by an adult;

(d) a designation of student offenses that are administrative issues that an SRO shall refer to a school administrator for resolution in accordance with Section ~~[53A-11-911]~~ 53G-8-211;

(e) a detailed description of the rights of a student under state and federal law with regard to:

- (i) searches;
- (ii) questioning; and
- (iii) information privacy;
- (f) a detailed description of:
- (i) job duties;
- (ii) training requirements; and

(iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;

(g) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section ~~[53A-11-1603]~~ 53G-8-702; and

(h) if the contract is between an LEA and a law enforcement agency, that:

(i) both parties agree to jointly discuss SRO applicants; and

(ii) the law enforcement agency will accept feedback from an LEA about an SRO's performance.

Section 288. Section 53G-9-101 is enacted to read:

CHAPTER 9. HEALTH AND WELFARE

Part 1. General Provisions

53G-9-101. Title.

This chapter is known as "Health and Welfare."

Section 289. Section 53G-9-102 is enacted to read:

53G-9-102. Definitions.

Reserved

Section 290. Section 53G-9-201 is enacted to read:

Part 2. Miscellaneous Requirements

53G-9-201. Definitions.

Reserved

Section 291. Section 53G-9-202, which is renumbered from Section 53A-11-205 is renumbered and amended to read:

[53A-11-205]. 53G-9-202. Notification to the parent of an injured or sick child.

(1) A public school shall notify the custodial parent and, if requested in writing by a noncustodial parent, make reasonable efforts to notify the noncustodial parent of a student who is injured or becomes ill at the school during the regular school day if:

(a) the injury or illness requires treatment at a hospital, doctor's office, or other medical facility not located on the school premises; and

(b) the school has received a current telephone number for the party it is required to notify or make reasonable efforts to notify.

(2) (a) Subsection (1) does not apply to a noncustodial parent forbidden to have contact with the student under a court order or similar procedure.

(b) The custodial parent is responsible for providing the school with the noncustodial parent's status under Subsection (2)(a) through a procedure adopted by the local school board.

Section 292. Section 53G-9-203, which is renumbered from Section 53A-11-605 is renumbered and amended to read:

[53A-11-605]. 53G-9-203. Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:

(a) provide information and observations to a student's parent or guardian about that student, including observations and concerns in the following areas:

(i) progress;

(ii) health and wellness;

(iii) social interactions;

(iv) behavior; or

(v) topics consistent with Subsection ~~[53A-13-302]~~ 53E-9-203(6);

(b) communicate information and observations between school personnel regarding a child;

(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;

(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;

(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section ~~[53A-11-904]~~ 53G-8-205; and

(f) complete a behavioral health evaluation form if requested by a student's parent or guardian to provide information to a licensed physician.

(3) School personnel shall:

(a) report suspected child abuse consistent with Section 62A-4a-403;

(b) comply with applicable state and local health department laws, rules, and policies; and

(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2), Subsection (6), and Section ~~[53A-11a-203]~~ 53G-9-604, school personnel may not:

(a) recommend to a parent or guardian that a child take or continue to take a psychotropic medication;

(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;

(c) recommend that a parent or guardian seek or use a type of psychiatric or psychological treatment for a child;

(d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

(e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent or guardian refuses to consent to:

(i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

(ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the State Board of Education, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section ~~[53A-13-302]~~ 53E-9-203; and

(d) provide to a parent or guardian, upon the specific request of the parent or guardian, a list of three or more health care professionals or providers, including licensed physicians, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section ~~[53A-8a-502]~~ 53G-11-513.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent or guardian.

Section 293. Section 53G-9-204, which is renumbered from Section 53A-11-204 is renumbered and amended to read:

[53A-11-204]. 53G-9-204. Nursing services in the public schools -- Collaborative efforts.

(1) (a) Students in the state's public schools may be better protected against risks to health and safety if schools were to have registered nurses readily available to assist in providing educational and nursing services in the public schools.

(b) Those services would be further enhanced if they could be offered with the active support and participation of local public health departments and private medical providers, most particularly in those areas of the state without currently functioning collaborative programs.

(c) (i) School districts, local health departments, private medical providers, and parents of students are therefore encouraged to work together in determining needs and risks to student health in the state's public schools and in developing and implementing plans to meet those needs and minimize risks to students.

(ii) School community councils or school directors of affected schools shall review the plans prior to their implementation.

(2) School districts are encouraged to provide nursing services equivalent to the services of one registered nurse for every 5,000 students or, in districts with fewer than 5,000 students, the level of services recommended by the Department of Health.

Section 294. Section 53G-9-205, which is renumbered from Section 53A-19-301 is renumbered and amended to read:

[53A-19-301]. 53G-9-205. School Breakfast Program -- Review of nonparticipants.

(1) (a) Each local school board shall, at least once every three years, review each elementary school in its district that does not participate in the School Breakfast Program as to the school's reasons for nonparticipation.

(b) (i) If the school board determines that there are valid reasons for the school's nonparticipation, no further action is needed.

(ii) Reasons for nonparticipation may include a recommendation from the school community

council authorized under Section ~~[53A-1a-108]~~ 53G-7-1202 or a similar group of parents and school employees that the school should not participate in the program.

(2) (a) After two nonparticipation reviews, a local school board may, by majority vote, waive any further reviews of the nonparticipatory school.

(b) A waiver of the review process under Subsection (2)(a) does not prohibit subsequent consideration by the local school board of an individual school's nonparticipation in the School Breakfast Program.

(3) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.

Section 295. Section 53G-9-206, which is renumbered from Section 53A-13-103 is renumbered and amended to read:

~~[53A-13-103]. 53G-9-206. Eye protective devices for industrial education, physics laboratory, and chemistry laboratory activities.~~

(1) Any individual who participates in any of the following activities in public or private schools that may endanger his vision shall wear quality eye protective devices:

(a) industrial education activities that involve:

(i) hot molten metals;

(ii) the operation of equipment that could throw particles of foreign matter into the eyes;

(iii) heat treating, tempering, or kiln firing of any industrial materials;

(iv) gas or electric arc welding; or

(v) caustic or explosive material;

(b) chemistry or physics laboratories when using caustic or explosive chemicals, and hot liquids and solids.

(2) "Quality eye protective devices" means devices that meet the standards of the American Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.

(3) (a) The local school board shall furnish these protective devices to individuals involved in these activities.

(b) The board may sell these protective devices at cost or rent or loan them to individuals involved in these activities.

Section 296. Section 53G-9-207, which is renumbered from Section 53A-13-112 is renumbered and amended to read:

~~[53A-13-112]. 53G-9-207. Child sexual abuse prevention.~~

(1) As used in this section, "school personnel" is as defined in Section ~~[53A-11-605]~~ 53G-9-203.

(2) On or before July 1, 2015, the State Board of Education shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) Beginning in the 2016-17 school year, a school district or charter school shall provide training and instruction on child sexual abuse prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(B) the mandatory reporting requirements described in Sections ~~[53A-6-502]~~ 53E-6-701 and 62A-4a-403; and

(ii) parents or guardians of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the State Board of Education under Subsection (2) to provide the training and instruction to school personnel and parents or guardians under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse prevention and awareness to elementary school students using age-appropriate curriculum.

(b) Beginning in the 2016-17 school year, a school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent or guardian of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent or guardian's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent or guardian of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections ~~[53A-13-301]~~ 53E-9-202 and ~~[53A-13-302]~~ 53E-9-203.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) (a) The State Board of Education shall report to the Education Interim Committee on the progress of the provisions of this section by the committee's November 2017 meeting.

(b) Upon request of the State Board of Education, a school district or charter school shall provide to the State Board of Education information that is necessary for the report required under Subsection (7)(a).

Section 297. Section 53G-9-208, which is renumbered from Section 53A-11-606 is renumbered and amended to read:

[53A-11-606]. 53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.

(1) As used in this section, "sunscreen" means a compound topically applied to prevent sunburn.

(2) A public school shall permit a student, without a parent or physician's authorization, to possess or self-apply sunscreen that is regulated by the Food and Drug Administration.

(3) If a student is unable to self-apply sunscreen, a volunteer school employee may apply the sunscreen on the student if the student's parent or legal guardian provides written consent for the assistance.

(4) A volunteer school employee who applies sunscreen on a student in compliance with Subsection (3) and the volunteer school employee's employer are not liable for:

- (a) an adverse reaction suffered by the student as a result of having the sunscreen applied; or
- (b) discontinuing the application of the sunscreen at any time.

Section 298. Section 53G-9-301 (Effective 07/01/18), which is renumbered from Section 53A-11-300.5 (Effective 07/01/18) is renumbered and amended to read:

Part 3. Immunization Requirements

[53A-11-300.5 (Effective 07/01/18)]. 53G-9-301 (Effective 07/01/18). Definitions.

As used in this part:

(1) "Department" means the Department of Health, created in Section 26-1-4.

(2) "Health official" means an individual designated by a local health department from within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection [53A-11-302.5] 53G-9-304(2)(a).

(3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection [53A-11-302.5] 53G-9-304(2)(b), to consult with

parents, licensed health care professionals, and school officials.

(4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.

(5) "Immunization record" means a record relating to a student that includes:

(a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:

- (i) a licensed health care provider;
- (ii) an authorized representative of a local health department;
- (iii) an authorized representative of the department;
- (iv) a registered nurse; or
- (v) a pharmacist;

(b) information regarding each disease against which the student has been immunized by previously contracting the disease; and

(c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section [53A-11-302] 53G-9-303.

(6) "Legally responsible individual" means:

- (a) a student's parent;
- (b) the student's legal guardian;
- (c) an adult brother or sister of a student who has no legal guardian; or
- (d) the student, if the student:
 - (i) is an adult; or
 - (ii) is a minor who may consent to treatment under Section 26-10-9.

(7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:

- (a) a medical doctor;
- (b) an osteopathic doctor;
- (c) a physician assistant; or
- (d) an advanced practice registered nurse.

(8) "Local education agency" or "LEA" means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind.

(9) "Local health department" means the same as that term is defined in Section 26A-1-102.

(10) "Required vaccines" means vaccines required by department rule described in Section [53A-11-303] 53G-9-305.

(11) "School" means any public or private:

- (a) elementary or secondary school through grade 12;
- (b) preschool;
- (c) child care program, as that term is defined in Section 26-39-102;
- (d) nursery school; or
- (e) kindergarten.

(12) "Student" means an individual who attends a school.

(13) "Vaccinating" or "vaccination" means the administration of a vaccine.

(14) "Vaccination exemption form" means a form, described in Section ~~[53A-11-302.5]~~ 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.

(15) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Section 299. Section 53G-9-302 (Superseded 07/01/18), which is renumbered from Section 53A-11-301 (Superseded 07/01/18) is renumbered and amended to read:

~~[53A-11-301 (Superseded 07/01/18)].~~

53G-9-302 (Superseded 07/01/18).

Certificate of immunization required.

(1) Unless exempted for personal, medical, or religious objections as provided in Section ~~[53A-11-302]~~ 53G-9-303, a student may not attend a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family care home, or headstart program in this state unless there is presented to the appropriate official of the school a certificate of immunization from a licensed physician or authorized representative of the state or local health department stating that the student has received immunization against communicable diseases as required by rules adopted under Section ~~[53A-11-303]~~ 53G-9-305.

(2) School districts may not receive weighted pupil unit money for a student unless the student has obtained a certificate of immunization under this section or qualifies for conditional enrollment or an exemption from immunization under Section ~~[53A-11-302]~~ 53G-9-303.

Section 300. Section 53G-9-302 (Effective 07/01/18), which is renumbered from Section 53A-11-301 (Effective 07/01/18) is renumbered and amended to read:

~~[53A-11-301 (Effective 07/01/18)].~~ 53G-9-302 (Effective 07/01/18). Immunization required -- Exception -- Weighted pupil unit funding.

(1) A student may not attend a school unless:

(a) the school receives an immunization record from the legally responsible individual of the student, the student's former school, or a statewide registry that shows:

- (i) that the student has received each vaccination required by the department under Section ~~[53A-11-303]~~ 53G-9-305; or
- (ii) for any required vaccination that the student has not received, that the student:

(A) has immunity against the disease for which the vaccination is required, because the student previously contracted the disease as documented by a health care provider, as that term is defined in Section 78B-3-103; or

(B) is exempt from receiving the vaccination under Section ~~[53A-11-302]~~ 53G-9-303;

(b) the student qualifies for conditional enrollment under Section ~~[53A-11-306]~~ 53G-9-308; or

(c) the student:

(i) is a student, as defined in Section ~~[53A-1-1002]~~ 53E-3-903; and

(ii) complies with the immunization requirements for military children under Section ~~[53A-1-1004]~~ 53E-3-905.

(2) An LEA may not receive weighted pupil unit money for a student who is not permitted to attend school under Subsection (1).

Section 301. Section 53G-9-303 (Superseded 07/01/18), which is renumbered from Section 53A-11-302 (Superseded 07/01/18) is renumbered and amended to read:

~~[53A-11-302 (Superseded 07/01/18)].~~

53G-9-303 (Superseded 07/01/18).

Immunizations required -- Exceptions -- Grounds for exemption from required immunizations.

(1) A student may not enter school without a certificate of immunization, except as provided in this section.

(2) Except as provided in Section ~~[53A-1-1004]~~ 53E-3-905, a student who at the time of school enrollment has not been completely immunized against each specified disease may attend school under a conditional enrollment if the student has received one dose of each specified vaccine prior to enrollment.

(3) A student is exempt from receiving the required immunizations if there is presented to the appropriate official of the school one or more of the following:

(a) a certificate from a licensed physician stating that due to the physical condition of the student one or more specified immunizations would endanger the student's life or health;

(b) A completed form obtained at the local health department where the student resides, providing:

(i) the information required under Subsection [53A-11-302.5] 53G-9-304(1); and

(ii) a statement that the person has a personal belief opposed to immunizations, which is signed by one of the individuals listed in Subsection [53A-11-302] 53G-9-303(3)(c) and witnessed by the local health officer or his designee; or

(c) a statement that the person is a bona fide member of a specified, recognized religious organization whose teachings are contrary to immunizations, signed by one of the following persons:

- (i) one of the student's parents;
- (ii) the student's guardian;
- (iii) a legal age brother or sister of a student who has no parent or guardian; or
- (iv) the student, if of legal age.

Section 302. Section 53G-9-303 (Effective 07/01/18), which is renumbered from Section 53A-11-302 (Effective 07/01/18) is renumbered and amended to read:

[53A-11-302 (Effective 07/01/18)]. 53G-9-303 (Effective 07/01/18). Grounds for exemption from required vaccines -- Renewal.

(1) A student is exempt from the requirement to receive a vaccine required under Section [53A-11-303] 53G-9-305 if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3).

(2) A student qualifies for a medical exemption from a vaccination required under Section [53A-11-303] 53G-9-305 if the student's legally responsible individual provides to the student's school:

- (a) a completed vaccination exemption form; and
- (b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.

(3) A student qualifies for a personal exemption from a vaccination required under Section [53A-11-303] 53G-9-305 if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.

(4) (a) A vaccination exemption form submitted under this section is valid for as long as the student remains at the school to which the form first is presented.

(b) If the student changes schools before the student is old enough to enroll in kindergarten, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

- (i) the student enrolls in kindergarten; or

(ii) the student turns six years old.

(c) If the student changes schools after the student is old enough to enroll in kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

- (i) the student enrolls in grade 7; or
- (ii) the student turns 12 years old.

(d) If the student changes schools after the student is old enough to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the student completes grade 12.

(e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained through completion of the online education module created in Section 26-7-9 is valid for at least two years.

Section 303. Section 53G-9-304 (Superseded 07/01/18), which is renumbered from Section 53A-11-302.5 (Superseded 07/01/18) is renumbered and amended to read:

[53A-11-302.5 (Superseded 07/01/18)]. 53G-9-304 (Superseded 07/01/18). Personal belief immunization exemption.

(1) The Department of Health shall provide to all local health departments a form to be used by persons claiming an exemption from immunization requirements based on a personal belief opposed to immunization. The form shall include a statement printed on the form and drafted by the Department of Health stating the department's position regarding the benefits of immunization. The form shall require, at a minimum:

(a) a statement claiming exemption from immunizations required under Section [53A-11-302] 53G-9-303, signed by a person listed under Subsection [53A-11-302] 53G-9-303(3)(c);

(b) the name and address of the person who signs the form;

(c) the name of the student exempted from immunizations; and

(d) the school at which the student is enrolling.

(2) (a) The Department of Health shall provide these forms to the local health departments.

(b) Local health departments shall make the forms available to the public upon request.

(3) (a) A student enrolling in a school and who claims exemption from immunizations based on a personal belief shall complete the form described in Subsection (1) and provide it to the school officials at the school in which the student is enrolling.

(b) Students who prior to July 1, 1992, claimed an exemption from immunizations based on personal beliefs shall prior to December 1, 1992, complete the form described in Subsection (1) and provide it to the appropriate official of the school the student attends.

Section 304. Section 53G-9-304 (Effective 07/01/18), which is renumbered from

Section 53A-11-302.5 (Effective 07/01/18) is renumbered and amended to read:

~~53A-11-302.5 (Effective 07/01/18)~~. 53G-9-304 (Effective 07/01/18). Vaccination exemption form.

- (1) The department shall:
- (a) develop a vaccination exemption form that includes only the following information:
- (i) identifying information regarding:
- (A) the student to whom an exemption applies; and
- (B) the legally responsible individual who claims the exemption for the student and signs the vaccination exemption form;
- (ii) an indication regarding the vaccines to which the exemption relates;
- (iii) a statement that the claimed exemption is for:
- (A) a medical reason; or
- (B) a personal or religious belief; and
- (iv) an explanation of the requirements, in the event of an outbreak of a disease for which a required vaccine exists, for a student who:
- (A) has not received the required vaccine; and
- (B) is not otherwise immune from the disease; and
- (b) provide the vaccination exemption form created in this Subsection (1) to local health departments.
- (2) (a) Each local health department shall designate one or more individuals from within the local health department as a health official to consult, regarding the requirements of this part, with:
- (i) parents, upon the request of parents;
- (ii) school principals and administrators; and
- (iii) licensed health care providers.
- (b) A local health department may designate a licensed health care provider as a health official designee to provide the services described in Subsection (2)(a).
- (3) (a) To receive a vaccination exemption form described in Subsection (1), a legally responsible individual shall complete the online education module described in Section 26-7-9, permitting an individual to:
- (i) complete any requirements online; and
- (ii) download and print the vaccine exemption form immediately upon completion of the requirements.
- (b) A legally responsible individual may decline to take the online education module and obtain a

vaccination exemption form from a local health department if the individual:

- (i) requests and receives an in-person consultation at a local health department from a health official or a health official designee regarding the requirements of this part; and
- (ii) pays any fees established under Subsection (4)(b).
- (4) (a) Neither the department nor any other person may charge a fee for the exemption form offered through the online education module in Subsection (3)(a).
- (b) A local health department may establish a fee of up to \$25 to cover the costs of providing an in-person consultation.

Section 305. ~~Section 53G-9-305 (Superseded 07/01/18), which is renumbered from Section 53A-11-303 (Superseded 07/01/18) is renumbered and amended to read:~~

~~53A-11-303 (Superseded 07/01/18)~~. 53G-9-305 (Superseded 07/01/18). Regulations of department.

- (1) The Department of Health shall adopt rules to establish which immunizations are required and the manner and frequency of their administration.
- (2) The rules adopted shall conform to recognized standard medical practices.
- (3) The rules shall require the reporting of statistical information and names of noncompliers by the schools.

Section 306. ~~Section 53G-9-305 (Effective 07/01/18), which is renumbered from Section 53A-11-303 (Effective 07/01/18) is renumbered and amended to read:~~

~~53A-11-303 (Effective 07/01/18)~~. 53G-9-305 (Effective 07/01/18). Regulations of department.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules regarding:
- (a) which vaccines are required as a condition of attending school;
- (b) the manner and frequency of the vaccinations; and
- (c) the vaccination exemption form described in Section ~~53A-11-302.5~~ 53G-9-304.
- (2) The department shall ensure that the rules described in Subsection (1):
- (a) conform to recognized standard medical practices; and
- (b) require schools to report to the department statistical information and names of students who are not in compliance with Section ~~53A-11-304~~ 53G-9-302.

Section 307. ~~Section 53G-9-306 (Superseded 07/01/18), which is renumbered from~~

Section 53A-11-304 (Superseded 07/01/18) is renumbered and amended to read:

[53A-11-304 (Superseded 07/01/18)]. 53G-9-306 (Superseded 07/01/18). Certificate part of student's record -- Forms for certificates -- Transfer of immunization record to official certificate.

(1) Each school shall retain official certificates of immunization for every enrolled student. The certificate becomes a part of the individual student's permanent school record and follows the student through his or her public or private school career.

(2) The Department of Health shall provide official certificate of immunization forms to public and private schools, physicians, and local health departments. The forms referred to in this subsection shall include a clear statement of the student's rights under Section [53A-11-302] 53G-9-303.

(3) Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by a school official as a certificate of immunization if the type of immunization given and the dates given are specified and the information is transferred to an official certificate of immunization and verified by the school district in which the public or private school is located.

Section 308. Section 53G-9-306 (Effective 07/01/18), which is renumbered from Section 53A-11-304 (Effective 07/01/18) is renumbered and amended to read:

[53A-11-304 (Effective 07/01/18)]. 53G-9-306 (Effective 07/01/18). Immunization record part of student's record -- School review process at enrollment -- Transfer.

(1) Each school:

(a) shall request an immunization record for each student at the time the student enrolls in the school;

(b) may not charge a fee related to receiving or reviewing an immunization record or a vaccination exemption form; and

(c) shall retain an immunization record for each enrolled student as part of the student's permanent school record.

(2) (a) Within five business days after the day on which a student enrolls in a school, an individual designated by the school principal or administrator shall:

(i) determine whether the school has received an immunization record for the student;

(ii) review the student's immunization record to determine whether the record complies with Subsection [53A-11-304] 53G-9-302(1); and

(iii) identify any deficiencies in the student's immunization record.

(b) If the school has not received a student's immunization record or there are deficiencies in the immunization record, the school shall:

(i) place the student on conditional enrollment, in accordance with Section [53A-11-306] 53G-9-308; and

(ii) within five days after the day on which the school places the student on conditional enrollment, provide the written notice described in Subsection [53A-11-306] 53G-9-308(2).

(3) A school from which a student transfers shall provide the student's immunization record to the student's new school upon request of the student's legally responsible individual.

Section 309. Section 53G-9-307 (Repealed 07/01/18), which is renumbered from Section 53A-11-305 (Repealed 07/01/18) is renumbered and amended to read:

[53A-11-305 (Repealed 07/01/18)]. 53G-9-307 (Repealed 07/01/18). Immunization by local health departments -- Fees.

(1) If a student has not been immunized against a disease specified by the Department of Health, he may be immunized by the local health department upon the request of his parent or guardian, or upon the student's request if he is of legal age. The local health department may charge a fee to cover the cost of administration of the vaccine.

(2) The vaccine necessary for immunizations required under Sections [53A-11-301] 53G-9-302 and [53A-11-303] 53G-9-305 shall be furnished to local departments of health by the Department of Health. The Department of Health may recover all or part of the cost of vaccines purchased with state funds by charging local health departments a fee for those vaccines. Local health departments may pass the cost of the vaccine on to the student, his parent or guardian, or other responsible party. However, a child may not be refused immunizations by the local health department in his area of residence because of inability to pay.

(3) The Department of Health shall establish the fee for administration of vaccines, as provided by Subsection (1), and shall establish fees for vaccines.

Section 310. Section 53G-9-308 (Superseded 07/01/18), which is renumbered from Section 53A-11-306 (Superseded 07/01/18) is renumbered and amended to read:

[53A-11-306 (Superseded 07/01/18)]. 53G-9-308 (Superseded 07/01/18). Conditional enrollment -- Suspension for noncompliance -- Procedure.

(1) Conditional enrollment time periods may be modified by the department by legally adopted rules.

(2) The requirements for conditional enrollment shall apply to each student unless that student is exempted under Section [53A-11-302] 53G-9-303.

(3) After five days written notice of a pending suspension and of the student's rights under Section [53A-11-302] 53G-9-303 shall be mailed to

the last-known address of a parent, guardian, or legal age brother or sister of a student who is without parent or guardian, the governing authority of any school shall prohibit further attendance by a student under a conditional enrollment who has failed to obtain the immunization required within time period set forth in Section ~~[53A-11-302]~~ 53G-9-303 or otherwise established by rule.

(4) Parents or guardians of children who are prohibited from attending school for failure to comply with the provisions of this part shall be referred to the juvenile court.

Section 311. Section 53G-9-308 (Effective 07/01/18), which is renumbered from Section 53A-11-306 (Effective 07/01/18) is renumbered and amended to read:

~~[53A-11-306 (Effective 07/01/18)]. 53G-9-308 (Effective 07/01/18). Conditional enrollment -- Suspension for noncompliance -- Procedure.~~

(1) A student for whom a school has not received a complete immunization record may attend the school on a conditional enrollment:

(a) during the period in which the student's immunization record is under review by the school; or

(b) for 21 calendar days after the day on which the school provides the notice described in Subsection (2).

(2) (a) Within five days after the day on which a school places a student on conditional enrollment, the school shall provide written notice to the student's legally responsible individual, in person or by mail, that:

(i) the school has placed the student on conditional enrollment for failure to comply with the requirements of Subsection ~~[53A-11-301]~~ 53G-9-302(1);

(ii) describes the identified deficiencies in the student's immunization record or states that the school has not received an immunization record for the student;

(iii) gives notice that the student will not be allowed to attend school unless the legally responsible individual cures the deficiencies, or provides an immunization record that complies with Subsection ~~[53A-11-301]~~ 53G-9-302(1), within the conditional enrollment period described in Subsection (1)(b); and

(iv) describes the process for obtaining a required vaccination.

(b) A school shall remove the conditional enrollment status from a student after the school receives an immunization record for the student that complies with Subsection ~~[53A-11-301]~~ 53G-9-302(1).

(c) Except as provided in Subsection (2)(d), at the end of the conditional enrollment period, a school shall prohibit a student who does not comply with

Subsection ~~[53A-11-301]~~ 53G-9-302(1) from attending the school until the student complies with Subsection ~~[53A-11-301]~~ 53G-9-302(1).

(d) A school principal or administrator:

(i) shall grant an additional extension of the conditional enrollment period, if the extension is necessary to complete all required vaccination dosages, for a time period medically recommended to complete all required vaccination dosages; and

(ii) may grant an additional extension of the conditional enrollment period in cases of extenuating circumstances, if the school principal or administrator and a school nurse, a health official, or a health official designee agree that an additional extension will likely lead to compliance with Subsection ~~[53A-11-301]~~ 53G-9-302(1) during the additional extension period.

Section 312. Section 53G-9-309 (Effective 07/01/18), which is renumbered from Section 53A-11-307 (Effective 07/01/18) is renumbered and amended to read:

~~[53A-11-307 (Effective 07/01/18)]. 53G-9-309 (Effective 07/01/18). School record of students' immunization status -- Confidentiality.~~

(1) Each school shall maintain a current list of all enrolled students, noting each student:

(a) for whom the school has received a valid and complete immunization record;

(b) who is exempt from receiving a required vaccine; and

(c) who is allowed to attend school under Section ~~[53A-11-306]~~ 53G-9-308.

(2) Each school shall ensure that the list described in Subsection (1) specifically identifies each disease against which a student is not immunized.

(3) Upon the request of an official from a local health department in the case of a disease outbreak, a school principal or administrator shall:

(a) notify the legally responsible individual of any student who is not immune to the outbreak disease, providing information regarding steps the legally responsible individual may take to protect students;

(b) identify each student who is not immune to the outbreak disease; and

(c) for a period determined by the local health department not to exceed the duration of the disease outbreak, do one of the following at the discretion of the school principal or administrator after obtaining approval from the local health department:

(i) provide a separate educational environment for the students described in Subsection (3)(b) that ensures the protection of the students described in Subsection (3)(b) as well as the protection of the remainder of the student body; or

(ii) prevent each student described in Subsection (3)(b) from attending school.

(4) A name appearing on the list described in Subsection (1) is subject to confidentiality requirements described in Section 26-1-17.5 and Section [53A-13-301] 53E-9-202.

Section 313. Section 53G-9-401 is enacted to read:

Part 4. Health Examinations

53G-9-401. Definitions.

Reserved

Section 314. Section 53G-9-402, which is renumbered from Section 53A-11-201 is renumbered and amended to read:

[53A-11-201]. 53G-9-402. Rules for examinations prescribed by Department of Health -- Notification of impairment.

(1) (a) Each local school board shall implement rules as prescribed by the Department of Health for vision, dental, abnormal spinal curvature, and hearing examinations of students attending the district's schools.

(b) Under guidelines of the Department of Health, qualified health professionals shall provide instructions, equipment, and materials for conducting the examinations.

(c) The rules shall include exemption provisions for students whose parents or guardians contend the examinations violate their personal beliefs.

(2) The school shall notify, in writing, a student's parent or guardian of any impairment disclosed by the examinations.

Section 315. Section 53G-9-403, which is renumbered from Section 53A-11-202 is renumbered and amended to read:

[53A-11-202]. 53G-9-403. Personnel to perform health examination.

A local school board may use teachers or licensed registered nurses to conduct examinations required under this ~~chapter~~ part and licensed physicians as needed for medical consultation related to those examinations.

Section 316. Section 53G-9-404, which is renumbered from Section 53A-11-203 is renumbered and amended to read:

[53A-11-203]. 53G-9-404. Vision screening.

(1) As used in this section:

(a) "Office" means the Utah State Office of Rehabilitation created in Section 35A-1-202.

(b) "Qualifying child" means a child who is at least 3-1/2 years old, but is less than nine years old.

(2) A child under nine years old entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional approved by the office, stating that the child has

received vision screening to determine the presence of amblyopia or other visual defects; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(3) (a) The office:

(i) shall provide vision screening report forms to a person approved by the office to conduct a free vision screening for a qualifying child;

(ii) may work with health care professionals, teachers, and vision screeners to develop protocols that may be used by a parent, teacher, or vision screener to help identify a child who may have conditions that are not detected in a vision screening, such as problems with eye focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence insufficiency; and

(iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice required by Subsection (3)(b).

(b) The report forms shall include the following information for a parent or guardian: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(4) A school district or charter school may conduct free vision screening clinics for a qualifying child.

(5) (a) The office shall maintain a central register of qualifying children who fail vision screening and who are referred for follow-up treatment.

(b) The register described in Subsection (5)(a) shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results.

(c) A school district or charter school shall report to the office referral follow-up results for a qualifying child.

(6) (a) A school district or charter school shall ensure that a volunteer who serves as a vision screener for a free vision screening clinic for a qualifying child:

(i) is a school nurse;

(ii) holds a certificate issued by the office under Subsection (6)(b)(ii); or

(iii) is directly supervised by an individual described in Subsection (6)(a)(i) or (ii).

(b) The office shall:

(i) provide vision screening training to a volunteer seeking a certificate described in Subsection (6)(b)(ii), using curriculum established by the office; and

(ii) issue a certificate to a volunteer who successfully completes the vision screening training described in Subsection (6)(b)(i).

(c) An individual described in Subsection (6)(a) is not liable for damages that result from acts or

omissions related to the vision screening, unless the acts or omissions are willful or grossly negligent.

(7) (a) Except as provided in Subsection (7)(b), a licensed health professional providing vision care to private patients may not participate as a screener in a free vision screening program provided by a school district.

(b) A school district or charter school may:

(i) allow a licensed health professional who provides vision care to private patients to participate as a screener in a free vision screening program for a child 3-1/2 years old or older;

(ii) establish guidelines to administer a free vision screening program described in Subsection (7)(b)(i); and

(iii) establish penalties for a violation of the requirements of Subsection (7)(c).

(c) A licensed health professional or other person who participates as a screener in a free vision screening program described in Subsection (7)(b):

(i) may not market, advertise, or promote the licensed health professional's business in connection with providing the free screening at the school; and

(ii) shall provide the child's results of the free vision screening on a form produced by the school or school district, which:

(A) may not include contact information other than the name of the licensed health professional; and

(B) shall include a statement: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(d) A school district or charter school may provide information to a parent or guardian of the availability of follow up vision services for a student.

(8) The Department of Health shall:

(a) by rule, set standards and procedures for vision screening required by this ~~[chapter]~~ part, which shall include a process for notifying the parent or guardian of a child who fails a vision screening or is identified as needing follow-up care; and

(b) provide the office with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(9) The office shall supervise screening, referral, and follow-up required by this ~~[chapter]~~ part.

Section 317. Section 53G-9-501 is enacted to read:

Part 5. Administration of Medication

53G-9-501. Definitions.

Reserved

Section 318. Section 53G-9-502, which is renumbered from Section 53A-11-601 is renumbered and amended to read:

~~[53A-11-601]. 53G-9-502. Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability.~~

(1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication to any student during periods when the student is under the control of the school, subject to the following conditions:

(a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and school nurses shall adopt policies that provide for:

(i) the designation of volunteer employees who may administer medication;

(ii) proper identification and safekeeping of medication;

(iii) the training of designated volunteer employees by the school nurse;

(iv) maintenance of records of administration; and

(v) notification to the school nurse of medication that will be administered to students; and

(b) medication may only be administered to a student if:

(i) the student's parent or legal guardian has provided a current written and signed request that medication be administered during regular school hours to the student; and

(ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.

(2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent or guardian.

(3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:

(a) any adverse reaction suffered by the student as a result of taking the medication; and

(b) discontinuing the administration of the medication under Subsection (2).

(4) Subsections (1) through (3) do not apply to:

(a) the administration of glucagon in accordance with Section ~~[53A-11-603]~~ 53G-9-504;

(b) the administration of a seizure rescue medication in accordance with Section ~~[53A-11-603.5]~~ 53G-9-505; or

(c) the administration of an opiate antagonist in accordance with Title 26, Chapter 55, Opiate Overdose Response Act.

Section 319. Section 53G-9-503, which is renumbered from Section 53A-11-602 is renumbered and amended to read:

[53A-11-602]. 53G-9-503.

Self-administration of asthma medication.

(1) As used in this section, "asthma medication" means prescription or nonprescription, inhaled asthma medication.

(2) A public school shall permit a student to possess and self-administer asthma medication if:

(a) the student's parent or guardian signs a statement:

(i) authorizing the student to self-administer asthma medication; and

(ii) acknowledging that the student is responsible for, and capable of, self-administering the asthma medication; and

(b) the student's health care provider provides a written statement that states:

(i) it is medically appropriate for the student to self-administer asthma medication and be in possession of asthma medication at all times; and

(ii) the name of the asthma medication prescribed or authorized for the student's use.

(3) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).

(4) Section ~~[53A-11-904]~~ 53G-8-205 does not apply to the possession and self-administration of asthma medication in accordance with this section.

Section 320. Section 53G-9-504, which is renumbered from Section 53A-11-603 is renumbered and amended to read:

[53A-11-603]. 53G-9-504. Administration of glucagon -- Training of volunteer school personnel -- Authority to use glucagon -- Immunity from liability.

(1) As used in this section, "glucagon authorization" means a signed statement from a parent or guardian of a student with diabetes:

(a) certifying that glucagon has been prescribed for the student;

(b) requesting that the student's public school identify and train school personnel who volunteer to be trained in the administration of glucagon in accordance with this section; and

(c) authorizing the administration of glucagon in an emergency to the student in accordance with this section.

(2) (a) A public school shall, within a reasonable time after receiving a glucagon authorization, train

two or more school personnel who volunteer to be trained in the administration of glucagon, with training provided by the school nurse or another qualified, licensed medical professional.

(b) A public school shall allow all willing school personnel to receive training in the administration of glucagon, and the school shall assist and may not obstruct the identification or training of volunteers under this Subsection (2).

(c) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design a glucagon authorization form to be used by public schools in accordance with this section.

(3) (a) Training in the administration of glucagon shall include:

(i) techniques for recognizing the symptoms that warrant the administration of glucagon;

(ii) standards and procedures for the storage and use of glucagon;

(iii) other emergency procedures, including calling the emergency 911 number and contacting, if possible, the student's parent or guardian; and

(iv) written materials covering the information required under this Subsection (3).

(b) A school shall retain for reference the written materials prepared in accordance with Subsection (3)(a)(iv).

(4) A public school shall permit a student or school personnel to possess or store prescribed glucagon so that it will be available for administration in an emergency in accordance with this section.

(5) (a) A person who has received training in accordance with this section may administer glucagon at a school or school activity to a student with a glucagon authorization if:

(i) the student is exhibiting the symptoms that warrant the administration of glucagon; and

(ii) a licensed health care professional is not immediately available.

(b) A person who administers glucagon in accordance with Subsection (5)(a) shall direct a responsible person to call 911 and take other appropriate actions in accordance with the training materials retained under Subsection (3)(b).

(6) School personnel who provide or receive training under this section and act in good faith are not liable in any civil or criminal action for any act taken or not taken under the authority of this section with respect to the administration of glucagon.

(7) Section ~~[53A-11-601]~~ 53G-9-502 does not apply to the administration of glucagon in accordance with this section.

(8) Section ~~[53A-11-904]~~ 53G-8-205 does not apply to the possession and administration of glucagon in accordance with this section.

(9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health professional under Title 58, Occupations and Professions, including a nurse, physician, or pharmacist who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with this section.

Section 321. Section 53G-9-505, which is renumbered from Section 53A-11-603.5 is renumbered and amended to read:

[~~53A-11-603.5~~]. 53G-9-505. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.

(1) As used in this section:

(a) "Prescribing health care professional" means:

(i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(b) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(c) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent or legal guardian has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

(d) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

(e) "Trained school employee volunteer" means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2) (a) The Department of Health shall, with input from the State Board of Education and a children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

(B) contacting the student's parent or legal guardian;

(iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;

(v) an annual refresher training component; and

(vi) written materials describing the information required under this Subsection (2)(a).

(b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).

(c) The following individuals may provide the training described in Subsection (2)(a):

(i) a school nurse; or

(ii) a licensed health care professional.

(3) (a) A public school shall, after receiving a seizure rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.

(5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:

(a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and

(b) a licensed health care professional is not immediately available to administer the seizure rescue medication.

(6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).

(7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(8) Section ~~[53A-11-601]~~ 53G-9-502 does not apply to the administration of a seizure rescue medication.

(9) Section ~~[53A-11-904]~~ 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section 322. Section 53G-9-506, which is renumbered from Section 53A-11-604 is renumbered and amended to read:

~~[53A-11-604]. 53G-9-506. Diabetes medication -- Possession -- Self-administration.~~

(1) As used in this section, "diabetes medication" means prescription or nonprescription medication used to treat diabetes, including related medical devices, supplies, and equipment used to treat diabetes.

(2) A public school shall permit a student to possess or possess and self-administer diabetes medication if:

(a) the student's parent or guardian signs a statement:

(i) authorizing the student to possess or possess and self-administer diabetes medication; and

(ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering the diabetes medication; and

(b) the student's health care provider provides a written statement that states:

(i) it is medically appropriate for the student to possess or possess and self-administer diabetes medication and the student should be in possession of diabetes medication at all times; and

(ii) the name of the diabetes medication prescribed or authorized for the student's use.

(3) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).

(4) Section ~~[53A-11-904]~~ 53G-8-205 does not apply to the possession and self-administration of diabetes medication in accordance with this section.

Section 323. Section 53G-9-601, which is renumbered from Section 53A-11a-102 is renumbered and amended to read:

Part 6. Bullying and Hazing

~~[53A-11a-102]. 53G-9-601. Definitions.~~

As used in this ~~chapter~~ part:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

(2) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

(a) causing physical or emotional harm to the school employee or student;

(b) causing damage to the school employee's or student's property;

(c) placing the school employee or student in reasonable fear of:

(i) harm to the school employee's or student's physical or emotional well-being; or

(ii) damage to the school employee's or student's property;

(d) creating a hostile, threatening, humiliating, or abusive educational environment due to:

(i) the pervasiveness, persistence, or severity of the actions; or

(ii) a power differential between the bully and the target; or

(e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

(3) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

(4) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

(5) (a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

(i) (A) endangers the mental or physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or

(D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and

(ii) (A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or

school sponsored team, organization, program, club, or event; or

(B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

(b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(6) "Policy" means a school board policy described in Section [~~53A-11a-301~~] 53G-9-605.

(7) "Retaliate" means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

(8) "School" means a public elementary or secondary school, including a charter school.

(9) "School board" means:

(a) a local school board; or

(b) a charter school governing board.

(10) "School employee" means an individual working in the individual's official capacity as:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) an individual:

(i) who is employed, directly or indirectly, by a school, school board, or school district; and

(ii) who works on a school campus.

Section 324. Section 53G-9-602, which is renumbered from Section 53A-11a-201 is renumbered and amended to read:

[~~53A-11a-201~~]. 53G-9-602. Bullying, hazing, and cyber-bullying prohibited.

(1) A school employee or student may not engage in bullying a school employee or student:

(a) on school property;

(b) at a school related or sponsored event;

(c) on a school bus;

(d) at a school bus stop; or

(e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).

(2) A school employee or student may not engage in hazing or cyber-bullying a school employee or student at any time or in any location.

Section 325. Section 53G-9-603, which is renumbered from Section 53A-11a-202 is renumbered and amended to read:

[53A-11a-202]. 53G-9-603. Retaliation and making a false allegation prohibited.

(1) A school employee or student may not engage in retaliation against:

(a) a school employee;

(b) a student; or

(c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.

(2) A school employee or student may not make a false allegation of bullying, cyber-bullying, hazing, or retaliation against a school employee or student.

Section 326. Section 53G-9-604, which is renumbered from Section 53A-11a-203 is renumbered and amended to read:

[53A-11a-203]. 53G-9-604. Parental notification of certain incidents and threats required.

(1) For purposes of this section, "parent" includes a student's guardian.

(2) A school shall:

(a) notify a parent if the parent's student threatens to commit suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student.

(3) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school shall maintain a record described in Subsection (3)(a) in accordance with the requirements of:

~~(i) Chapter 1, Part 14, Student Data Protection Act;~~

~~(ii) Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act;~~

(i) Title 53E, Chapter 9, Part 2, Student Privacy;

(ii) Title 53E, Chapter 9, Part 3, Student Data Protection;

(iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(iv) 34 C.F.R. Part 99.

(4) A local school board or charter school governing board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (2); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

(6) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

Section 327. Section 53G-9-605, which is renumbered from Section 53A-11a-301 is renumbered and amended to read:

[53A-11a-301]. 53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(1) On or before September 1, 2018, a school board shall update the school board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

(2) A policy shall:

(a) be developed only with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

(b) provide protection to a student, regardless of the student's legal status.

(3) A policy shall include the following components:

(a) definitions of bullying, cyber-bullying, hazing, and abusive conduct that are consistent with this ~~chapter~~ part;

(b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;

(c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this ~~chapter~~ part;

(d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;

(e) as required in Section ~~[53A-11a-203]~~ 53G-9-604, parental notification of:

(i) a student's threat to commit suicide; and

(ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;

(f) a grievance process for a school employee who has experienced abusive conduct;

(g) an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the school board's policy, from each:

(i) school employee;

(ii) student who is at least eight years old; and

(iii) parent or guardian of a student enrolled in the charter school or school district.

(4) A copy of a policy shall be:

(a) included in student conduct handbooks;

(b) included in employee handbooks;

(c) provided to a parent or a guardian of a student enrolled in the charter school or school district; and

(d) distributed to parents.

(5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation.

(6) Nothing in this [chapter] part is intended to infringe upon the right of a school employee, parent, or student to exercise the right of free speech.

Section 328. Section 53G-9-606, which is renumbered from Section 53A-11a-302 is renumbered and amended to read:

[53A-11a-302]. 53G-9-606. Model policy and State Board of Education duties.

(1) On or before September 1, 2018, the State Board of Education shall:

(a) update the State Board of Education's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and

(b) post the model policy described in Subsection (1)(a) on the State Board of Education's website.

(2) The State Board of Education shall require a school board to report annually to the State Board of Education on:

(a) the school board's policy, including implementation of the signed statement requirement described in Subsection [53A-11a-301] 53G-9-605(3)(g);

(b) the school board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section [53A-11a-401] 53G-9-607; and

(c) other information related to this [chapter] part, as determined by the State Board of Education.

Section 329. Section 53G-9-607, which is renumbered from Section 53A-11a-401 is renumbered and amended to read:

[53A-11a-401]. 53G-9-607. Training, education, and prevention -- Standards.

(1) (a) A school board shall include in the training of a school employee training regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).

(b) A school board may offer voluntary training to parents and students regarding abusive conduct.

(2) To the extent that state or federal funding is available for this purpose, school boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, abusive conduct, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

(a) the establishment of a bullying task force; or

(b) the involvement of school employees, students, or law enforcement.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

Section 330. Section 53G-9-608, which is renumbered from Section 53A-11a-402 is renumbered and amended to read:

[53A-11a-402]. 53G-9-608. Other forms of legal redress.

(1) Nothing in this [chapter] part prohibits a victim of bullying, cyber-bullying, hazing, abusive conduct, or retaliation from seeking legal redress under any other provisions of civil or criminal law.

(2) This section does not create or alter tort liability.

Section 331. Section 53G-9-701 is enacted to read:

Part 7. Suicide Prevention

53G-9-701. Definitions.

Reserved

Section 332. Section 53G-9-702, which is renumbered from Section 53A-15-1301 is renumbered and amended to read:

[53A-15-1301]. 53G-9-702. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the board as described in Subsection (3).

(f) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) (a) In collaboration with the public education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:

(i) in collaboration with the training, programs, and initiatives described in Section ~~[53A-11a-401]~~ 53G-9-607, programs and training to address bullying and cyberbullying, as those terms are defined in Section ~~[53A-11a-102]~~ 53G-9-601;

(ii) prevention of youth suicides;

(iii) youth suicide intervention; and

(iv) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; ~~[and]~~

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator~~[-]; and~~

(c) award grants in accordance with Section 53F-5-206.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7) (a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the public education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator;

(iii) the public education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

Section 333. Section 53G-9-703, which is renumbered from Section 53A-15-1302 is renumbered and amended to read:

~~[53A-15-1302]. 53G-9-703. Parent education -- Mental health -- Bullying -- Safety.~~

(1) (a) Except as provided in Subsection (4), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

- (ii) begins at or after 6 p.m.;
 - (iii) is held in at least one school located in the school district; and
 - (iv) covers the topics described in Subsection (2).
- (b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.
- (ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.
- (c) A school district may:
- (i) develop its own curriculum for the seminar described in Subsection (1)(a); or
 - (ii) use the curriculum developed by the State Board of Education under Subsection (2).
- (d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.
- (2) The State Board of Education shall:
- (a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:
 - (i) substance abuse, including illegal drugs and prescription drugs and prevention;
 - (ii) bullying;
 - (iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;
 - (iv) Internet safety, including pornography addiction; and
 - (v) the School Safety and Crisis Line established in Section ~~[53A-11-1503]~~ 53E-10-502; and
 - (b) provide the curriculum, including resources and training, to school districts upon request.
- (3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, on:
- (a) the progress of implementation of the parent seminar;
 - (b) the number of parent seminars conducted in each school district;
 - (c) the estimated attendance reported by each school district;
 - (d) a recommendation of whether to continue the parent seminar program; and
 - (e) if a local school board has opted out of providing the parent seminar, as described in Subsection (4), the reasons why a local school board opted out.
- (4) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of

significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Section 334. Section 53G-9-704, which is renumbered from Section 53A-15-1304 is renumbered and amended to read:

~~[53A-15-1304]. 53G-9-704. Youth suicide prevention training for employees.~~

(1) A school district or charter school shall require a licensed employee to complete two hours of professional development training on youth suicide prevention within the employee's license cycle described in Section ~~[53A-6-104]~~ 53E-6-201.

(2) The board shall:

(a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and

(b) in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, incorporate the training described in Subsection (1) into professional development training described in Section ~~[53A-6-104]~~ 53E-6-201.

Section 335. Section 53G-9-801, which is renumbered from Section 53A-15-1902 is renumbered and amended to read:
Part 8. Dropout Prevention and Recovery and Remediation Programs

~~[53A-15-1902]. 53G-9-801. Definitions.~~

As used in ~~[this part]~~ Section 53G-9-802:

(1) "Attainment goal" means earning:

(a) a high school diploma;

(b) a Utah High School Completion Diploma, as defined in State Board of Education rule;

(c) an Adult Education Secondary Diploma, as defined in State Board of Education rule; or

(d) an employer-recognized, industry-based certificate that is:

(i) likely to result in job placement; and

(ii) included in the State Board of Education's approved career and technical education industry certification list.

(2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(3) "Designated student" means a student:

(a) (i) who has withdrawn from an LEA before earning a diploma;

(ii) who has been dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's

LEA, using risk factors defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the State Board of Education for federal accountability and reporting purposes; or

(b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.

(6) "Nontraditional program" means a program, as defined in rules made by the State Board of Education under Subsection ~~[53A-1-402]~~ 53E-3-501(1)(e), in which a student receives instruction through:

- (a) distance learning;
- (b) online learning;
- (c) blended learning; or
- (d) competency-based learning.

(7) "Statewide graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the State Board of Education; or

(b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.

(8) "Third party" means:

- (a) a private provider; or
- (b) an LEA that does not meet the criteria described in Subsection ~~[53A-15-1903]~~ 53G-9-802(3).

Section 336. Section 53G-9-802, which is renumbered from Section 53A-15-1903 is renumbered and amended to read:

~~[53A-15-1903]. 53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.~~

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

- (i) engaging with or attempting to recover a designated student;
- (ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section ~~[53A-1a-508]~~ 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section ~~[53A-2-201]~~ 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this [Title 53A, State System of Public Education,] public education code, rules established by the State Board of Education, and policies established by the LEA;

(ii) the Electronic High School, in accordance with [Part 10, Electronic High School Act] Title 53E, Chapter 10, Part 6, Electronic High School; or

~~[(iii)]~~ (iii) the Statewide Online Education Program, in accordance with [Part 12] Title 53F, Chapter 4, Part 5, Statewide Online Education Program [Act].

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA that is in the LEA's first three years of operation is not subject to the requirement described in Subsection (3).

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the State Board of Education on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(7) The State Board of Education shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and

(b) on or before October 30, 2017, and each year thereafter, report to the Education Interim Committee on the provisions of this section, including a summary of the reports submitted under Subsection (6).

Section 337. Section 53G-9-803, which is renumbered from Section 53A-13-104 is renumbered and amended to read:

~~[53A-13-104]. 53G-9-803. Remediation programs for secondary students.~~

(1) For purposes of this section:

(a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(b) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the State Board of Education.

(3) (a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.

(b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.

(4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until they meet the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter their first year of high school to complete their remediation program during that first year.

(5) (a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.

(b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

(6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs.

Section 338. Section 53G-10-101 is enacted to read:

**CHAPTER 10. CURRICULUM
PARTICIPATION AND REQUIREMENTS**

Part 1. General Provisions

53G-10-101. Title.

This chapter is known as "Curriculum Participation and Requirements."

Section 339. Section 53G-10-102 is enacted to read:

53G-10-102. Definitions.

Reserved

Section 340. Section 53G-10-201 is enacted to read:

**Part 2. General Requirements and
Participation**

53G-10-201. Definitions.

Reserved

Section 341. Section 53G-10-202, which is renumbered from Section 53A-13-101.1 is renumbered and amended to read:

[53A-13-101.1]. 53G-10-202. Maintaining constitutional freedom in the public schools.

(1) Any instructional activity, performance, or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence thereof on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, which is designed to achieve secular educational objectives included within the context of a course or activity and conducted in accordance with applicable rules of the state and local boards of education, may be undertaken in the public schools.

(2) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.

(3) Public schools may not sponsor prayer or religious devotionals.

(4) School officials and employees may not use their positions to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Section 342. Section 53G-10-203, which is renumbered from Section 53A-13-101.3 is renumbered and amended to read:

[53A-13-101.3]. 53G-10-203. Expressions of belief -- Discretionary time.

(1) Expression of personal beliefs by a student participating in school-directed curricula or activities may not be prohibited or penalized unless the expression unreasonably interferes with order or discipline, threatens the well-being of persons or property, or violates concepts of civility or propriety appropriate to a school setting.

(2) (a) As used in this section, "discretionary time" means noninstructional time during which a student is free to pursue personal interests.

(b) Free exercise of voluntary religious practice or freedom of speech by students during discretionary time shall not be denied unless the conduct unreasonably interferes with the ability of school officials to maintain order and discipline, unreasonably endangers persons or property, or violates concepts of civility or propriety appropriate to a school setting.

(3) Any limitation under Sections ~~53A-13-101.2 and 53A-13-101.3~~ 53G-10-203 and 53G-10-205 on student expression, practice, or conduct shall be by the least restrictive means necessary to satisfy the school's interests as stated in those sections, or to satisfy another specifically identified compelling governmental interest.

Section 343. Section 53G-10-204, which is renumbered from Section 53A-13-109 is renumbered and amended to read:

[53A-13-109]. 53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section 67-1a-11, by December 30 of

each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.

(7) Each year, the State Board of Education shall report to the Education Interim Committee, on or before the October meeting, the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.

Section 344. Section 53G-10-205, which is renumbered from Section 53A-13-101.2 is renumbered and amended to read:

53A-13-101.2. 53G-10-205. Waivers of participation.

(1) As used in this section:

~~(a) (i) "Human sexuality instruction" means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:~~

~~[(A) sexual abstinence;]~~

~~[(B) human sexuality;]~~

~~[(C) human reproduction;]~~

~~[(D) reproductive anatomy;]~~

~~[(E) physiology;]~~

~~[(F) pregnancy;]~~

~~[(G) marriage;]~~

~~[(H) childbirth;]~~

~~[(I) parenthood;]~~

~~[(J) contraception;]~~

~~[(K) HIV/AIDS; or]~~

~~[(L) sexually transmitted diseases.]~~

~~(ii) "Human sexuality instruction" does not include child sexual abuse prevention instruction described in Section 53A-13-112.~~

~~(b) (a) "Parent" means a parent or legal guardian.~~

~~(e) (b) "School" means a public school.~~

(2) If a parent of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent or the secondary student may request:

(a) a waiver of the requirement to participate; or

(b) a reasonable alternative that requires reasonably equivalent performance by the student

of the secular objectives of the curriculum or activity in question.

(3) The school shall promptly notify a student's parent if the secondary student makes a request under Subsection (2).

(4) If a request is made under Subsection (2), the school shall:

- (a) waive the participation requirement;
- (b) provide a reasonable alternative to the requirement; or
- (c) notify the requesting party that participation is required.

(5) The school shall ensure that the provisions of Subsection ~~[53A-13-101.3]~~ 53G-10-203(3) are met in connection with any required participation under Subsection (4)(c).

~~[(6) A school shall obtain prior written consent from a student's parent before the school may provide human sexuality instruction to the student.]~~

~~[(7) If a student's parent chooses not to have the student participate in human sexuality instruction, a school shall:]~~

~~[(a) waive the requirement for the student to participate in the human sexuality instruction; or]~~

~~[(b) provide the student with a reasonable alternative to the human sexuality instruction requirement.]~~

~~[(8) In cooperation with the student's teacher or school, a parent shall take responsibility for the parent's student's human sexuality instruction if a school:]~~

~~[(a) waives the student's human sexuality instruction requirement in Subsection (7)(a); or]~~

~~[(b) provides the student with a reasonable alternative to the human sexuality instruction requirement described in Subsection (7)(b).]~~

~~[(9)]~~ (6) A student's academic or citizenship performance may not be penalized if ~~[(a)]~~ the secondary student or the student's parent chooses to exercise a religious right or right of conscience in accordance with the provisions of this section ~~[(e)]~~.

~~[(b) the student's parent chooses not to have the student participate in human sexuality instruction as described in Subsection (7).]~~

Section 345. Section 53G-10-301 is enacted to read:

Part 3. Miscellaneous Curriculum Requirements

53G-10-301. Definitions.

Reserved

Section 346. Section 53G-10-302, which is renumbered from Section 53A-13-101.4 is renumbered and amended to read:

~~[53A-13-101.4].~~ 53G-10-302. Instruction in American history and government -- Study and posting of American heritage documents.

(1) The Legislature recognizes that a proper understanding of American history and government is essential to good citizenship, and that the public schools are the primary public institutions charged with responsibility for assisting children and youth in gaining that understanding.

(2) (a) The State Board of Education and local school boards shall periodically review school curricula and activities to ensure that effective instruction in American history and government is taking place in the public schools.

(b) The boards shall solicit public input as part of the review process.

(c) Instruction in American history and government shall include a study of:

- (i) forms of government, such as a republic, a pure democracy, a monarchy, and an oligarchy;
- (ii) political philosophies and economic systems, such as socialism, individualism, and free market capitalism; and
- (iii) the United States' form of government, a compound constitutional republic.

(3) School curricula and activities shall include a thorough study of historical documents such as:

- (a) the Declaration of Independence;
- (b) the United States Constitution;
- (c) the national motto;
- (d) the pledge of allegiance;
- (e) the national anthem;
- (f) the Mayflower Compact;
- (g) the writings, speeches, documents, and proclamations of the Founders and the Presidents of the United States;

(h) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post Federalist eras;

- (i) United States Supreme Court decisions;
- (j) Acts of the United States Congress, including the published text of the Congressional Record; and
- (k) United States treaties.

(4) To increase student understanding of, and familiarity with, American historical documents, public schools may display historically important excerpts from, or copies of, those documents in school classrooms and common areas as appropriate.

(5) There shall be no content-based censorship of American history and heritage documents referred

to in this section due to their religious or cultural nature.

(6) Public schools shall display “In God we trust,” which is declared in 36 U.S.C. 302 to be the national motto of the United States, in one or more prominent places within each school building.

Section 347. Section 53G-10-303, which is renumbered from Section 53A-13-101.5 is renumbered and amended to read:

[53A-13-101.5]. 53G-10-303. Teaching of American sign language.

(1) The Legislature recognizes that American sign language is a fully developed, autonomous, natural language with distinct grammar, syntax, and art forms.

(2) American sign language shall be accorded equal status with other linguistic systems in the state’s public and higher education systems.

(3) The State Board of Education, in consultation with the state’s school districts and members of the deaf and hard of hearing community, shall develop and implement policies and procedures for the teaching of American sign language in the state’s public education system at least at the middle school or high school level.

(4) A student may count credit received for completion of a course in American sign language at the middle school or high school level toward the satisfaction of a foreign language requirement in the public education system under rules made by the State Board of Education.

(5) The State Board of Regents, in consultation with the state’s public institutions of higher education and members of the state’s deaf and hard of hearing community, shall develop and implement policies and procedures for offering instruction in American sign language in the state’s system of higher education.

(6) The Joint Liaison Committee, in consultation with members of the state’s deaf and hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

Section 348. Section 53G-10-304, which is renumbered from Section 53A-13-101.6 is renumbered and amended to read:

[53A-13-101.6]. 53G-10-304. Instruction on the flag of the United States of America.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall provide by rule for a program of instruction within the public schools relating to the flag of the United States.

(2) The instruction shall include the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises as provided by 4 U.S.C. Secs. 1 to 10.

(3) (a) The pledge of allegiance to the flag shall be recited once at the beginning of each day in each public school classroom in the state, led by a student in the classroom, as assigned by the classroom teacher on a rotating basis.

(b) Each student shall be informed by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge.

(c) A student shall be excused from reciting the pledge upon written request from the student’s parent or legal guardian.

(d) (i) At least once a year students shall be instructed that:

(A) participation in the pledge of allegiance is voluntary and not compulsory; and

(B) not only is it acceptable for someone to choose not to participate in the pledge of allegiance for religious or other reasons, but students should show respect for any student who chooses not to participate.

(ii) A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in Subsection (3)(d)(i).

Section 349. Section 53G-10-305 is enacted to read:

53G-10-305. Financial education information.

A public school shall provide the following to the parents or guardian of a kindergarten student during kindergarten enrollment:

(1) a financial and economic literacy passport, as defined in Section 53E-3-505; and

(2) information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

Section 350. Section 53G-10-401 is enacted to read:

Part 4. Health Curriculum Requirements

53G-10-401. Definitions.

Reserved

Section 351. Section 53G-10-402, which is renumbered from Section 53A-13-101 is renumbered and amended to read:

[53A-13-101]. 53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) (a) The State Board of Education shall establish curriculum requirements under Section [53A-1-402,] 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene; and

(iv) prevention of communicable disease.

(b) (i) That instruction shall stress:

(A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and

(B) personal skills that encourage individual choice of abstinence and fidelity.

(ii) (A) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(c) (i) The board shall recommend instructional materials for use in the curricula required under Subsection (1)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(ii) A local school board may choose to adopt:

(A) the instructional materials recommended under Subsection (1)(c)(i); or

(B) other instructional materials as provided in state board rule.

(iii) The state board rule made under Subsection (1)(c)(ii)(B) shall include, at a minimum:

(A) that the materials adopted by a local school board under Subsection (1)(c)(ii)(B) shall be based upon recommendations of the school district's Curriculum Materials Review Committee that comply with state law and state board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:

(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(II) the advocacy of premarital or extramarital sexual activity; or

(III) the advocacy or encouragement of the use of contraceptive methods or devices;

(IV) the advocacy of sexual activity outside of marriage;

(B) that the adoption of instructional materials shall take place in an open and regular meeting of the local school board for which prior notice is given to parents and guardians of students attending schools in the district and an opportunity for them to express their views and opinions on the materials at the meeting;

(C) provision for an appeal and review process of the local school board's decision; and

(D) provision for a report by the local school board to the State Board of Education of the action taken

and the materials adopted by the local school board under Subsections (1)(c)(ii)(B) and (1)(c)(iii).

(2) (a) Instruction in the courses described in Subsection (1) shall be consistent and systematic in grades eight through 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

(3) (a) The board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent or legal guardian to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(4) (a) In keeping with the requirements of Section ~~[53A-13-109]~~ 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official capacities if:

(i) they knew or should have known that their action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) Neither the State Board of Education nor local school districts may allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The State Board of Education shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the State Board of Education and local school boards to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(5) Except as provided in Section ~~[53A-13-101.1]~~ 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(6) (a) Local school boards and their employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) Each school district shall provide appropriate inservice training for its teachers, counselors, and school administrators to enable them to

understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections ~~[53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302]~~ 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the inservice training.

(c) The written materials shall also be made available to classified employees, students, and parents and guardians of students.

(d) In order to assist school districts in providing the inservice training required under Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop and disseminate model teacher inservice programs which districts may use to train the individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of character referenced in that subsection.

(e) In accordance with the provisions of Subsection (4)(c), inservice training may not support or encourage criminal conduct.

(7) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 352. Section 53G-10-403 is enacted to read:

53G-10-403. Required parental consent for human sexuality instruction.

(1) As used in this section:

(a) (i) “Human sexuality instruction” means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

- (A) sexual abstinence;
- (B) human sexuality;
- (C) human reproduction;
- (D) reproductive anatomy;
- (E) physiology;
- (F) pregnancy;
- (G) marriage;
- (H) childbirth;
- (I) parenthood;
- (J) contraception;
- (K) HIV/AIDS; or
- (L) sexually transmitted diseases.

(ii) “Human sexuality instruction” does not include child sexual abuse prevention instruction described in Section 53G-9-207.

(b) “Parent” means the same as that term is defined in Section 53G-10-205.

(c) “School” means the same as that term is defined in Section 53G-10-205.

(2) A school shall obtain prior written consent from a student’s parent before the school may provide human sexuality instruction to the student.

(3) If a student’s parent chooses not to have the student participate in human sexuality instruction, a school shall:

(a) waive the requirement for the student to participate in the human sexuality instruction; or

(b) provide the student with a reasonable alternative to the human sexuality instruction requirement.

(4) In cooperation with the student’s teacher or school, a parent shall take responsibility for the parent’s student’s human sexuality instruction if a school:

(a) waives the student’s human sexuality instruction requirement in Subsection (3)(a); or

(b) provides the student with a reasonable alternative to the human sexuality instruction requirement described in Subsection (3)(b).

(5) A student’s academic or citizenship performance may not be penalized if the student’s parent chooses not to have the student participate in human sexuality instruction as described in Subsection (3).

Section 353. Section 53G-10-404, which is renumbered from Section 53A-13-107 is renumbered and amended to read:

[53A-13-107]. 53G-10-404. Adoption information.

(1) For a school year beginning with or after the 2012-13 school year, a local school board shall ensure that an annual presentation on adoption is given to its secondary school students in grades 7-12, so that each student receives the presentation at least once during grades 7-9 and at least once during grades 10-12.

(2) The presentation shall be made by a licensed teacher as part of the health education core.

Section 354. Section 53G-10-405, which is renumbered from Section 53A-13-102 is renumbered and amended to read:

[53A-13-102]. 53G-10-405. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.

(1) The State Board of Education shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the human body and society. The

rules shall require but are not limited to instruction on the following:

(a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, and controlled substances;

(b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, and controlled substances; and

(c) discouraging the use of alcohol, tobacco, and controlled substances.

(2) At the request of the board, the Division of Substance Abuse and Mental Health shall cooperate with the board in developing programs to provide this instruction.

(3) The board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.

Section 355. Section 53G-10-406, which is renumbered from Section 53A-13-113 is renumbered and amended to read:

[53A-13-113]. 53G-10-406. Underage Drinking Prevention Program -- State Board of Education rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Board" means the State Board of Education.

(c) "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Program" means the Underage Drinking Prevention Program created in this section.

(e) "School-based prevention presentation" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention presentation for students in grade 8; and

(b) a school-based prevention presentation for students in grade 10 that increases awareness of

the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 8 and grade 10.

(b) An LEA shall select from the providers qualified by the board under Subsection (6) to offer the program.

(4) The board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent of public instruction or the state superintendent of public instruction's designee; and

(g) two members of the State Board of Education, appointed by the chair of the State Board of Education.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

(7) (a) The board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section [53A-13-114] 53F-9-304 for the program.

(b) The board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking

Prevention Program each school year to each student in grade 8 and grade 10; and

(b) establish criteria for the board to use in selecting a provider described in Subsection (6).

Section 356. Section 53G-10-501 is enacted to read:

Part 5. Driver Education Classes

53G-10-501. Definitions.

Reserved

Section 357. Section 53G-10-502, which is renumbered from Section 53A-13-201 is renumbered and amended to read:

[53A-13-201]. 53G-10-502. Driver education established by school districts.

(1) As used in this part:

(a) "Driver education" includes classroom instruction and driving and observation in a dual-controlled motor vehicle.

(b) "Driving" or "behind-the-wheel driving" means operating a dual-controlled motor vehicle under the supervision of a certified instructor.

(2) (a) Local school districts may establish and maintain driver education for pupils.

(b) A school or local school district that provides driver education shall provide an opportunity for each pupil enrolled in that school or local school district to take the written test when the pupil is 15 years and nine months of age.

(c) Notwithstanding the provisions of Subsection (2)(b), a school or local school district that provides driver education may provide an opportunity for each pupil enrolled in that school or school district to take the written test when the pupil is 15 years of age.

(3) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules for driver education offered in the public schools.

(5) The rules under Subsection (4) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil; and

(b) establish minimum standards for approved driving ranges under Section 53-3-505.5.

(6) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

Section 358. Section 53G-10-503, which is renumbered from Section 53A-13-202 is renumbered and amended to read:

[53A-13-202]. 53G-10-503. Driver education funding -- Reimbursement of school districts for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1) (a) Except as provided in Subsection (1)(b), a school district that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a school district may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A school district may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2) (a) The state superintendent of public instruction shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each school district that applied for reimbursement in accordance with this section.

(b) A school district that maintains driver education classes that conform to this part and the rules prescribed by the board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a school district may:

(a) employ personnel who are not licensed by the board under Section ~~[53A-6-104]~~ 53E-6-201; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) \$100 per student who has completed driver education during the school year;

(b) \$30 per student who has only completed the classroom portion in the school or through the electronic high school during the school year; or

(c) \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the

reimbursable costs, the state superintendent of public instruction shall allocate the money to each school district in the same proportion that its reimbursable costs bear to the total reimbursable costs of all school districts.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the superintendent may allocate the excess funds to school districts:

(a) to reimburse each school district that applies for reimbursement of the cost of a fee waived under Section ~~[53A-12-103]~~ 53G-7-504 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) A local school board shall establish the student fee for driver education for the school district. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 359. Section 53G-10-504, which is renumbered from Section 53A-13-203 is renumbered and amended to read:

[53A-13-203]. 53G-10-504. Enrollment of private school pupils.

(1) A school district maintaining driver education classes shall allow pupils enrolled in grades nine to 12 of regularly established private schools located within the school district to enroll in the most accessible public school in the school district to receive driver education.

(2) Enrollment is on the same terms and conditions as applies to students in public schools within the district, as such terms and conditions relate to the driver education classes only.

Section 360. Section 53G-10-505, which is renumbered from Section 53A-13-204 is renumbered and amended to read:

[53A-13-204]. 53G-10-505. Reports as to costs of driver training programs.

A local school board seeking reimbursement shall, at the end of each school year and at other times as designated by the State Board of Education, report the following to the state superintendent of public instruction:

(1) the costs of providing driver education including a separate accounting for:

(a) course work; and

(b) behind-the-wheel and observation training to students;

(2) the costs of fees waived under Section ~~[53A-12-103]~~ 53G-7-504 for driver education including a separate accounting for:

(a) course work; and

(b) behind-the-wheel and observation training to students;

(3) the number of students who completed driver education including a separate accounting for:

(a) course work; and

(b) behind-the-wheel and observation training to students;

(4) whether or not a passing grade was received; and

(5) any other information the State Board of Education may require for the purpose of administering this program.

Section 361. Section 53G-10-506, which is renumbered from Section 53A-13-205 is renumbered and amended to read:

[53A-13-205]. 53G-10-506. Promoting the establishment and maintenance of classes -- Payment of costs.

(1) The superintendent of public instruction shall promote the establishment and maintenance of driver education classes in school districts under rules adopted by the State Board of Education.

(2) The state board may employ personnel and sponsor experimental programs considered necessary to give full effect to this program.

(3) The costs of implementing this section shall be paid from the legislative appropriation to the board made from the Automobile Driver Education Tax Account in the Uniform School Fund.

Section 362. Section 53G-10-507, which is renumbered from Section 53A-13-208 is renumbered and amended to read:

[53A-13-208]. 53G-10-507. Driver education teachers certified as license examiners.

(1) The Driver License Division of the Department of Public Safety and the State Board of Education shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.

(2) The division is the certifying authority.

(3) (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.

(b) The Driver License Division shall, in conjunction with the State Board of Education, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.

(c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.

(4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.

(5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.

(6) The Driver License Division and the State Board of Education shall establish procedures to enable school districts to administer or process any tests for students to receive a learner permit or class D operator's license.

(7) The division and board shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 363. Section 53G-10-508, which is renumbered from Section 53A-13-209 is renumbered and amended to read:

[53A-13-209]. 53G-10-508. Programs authorized -- Minimum standards.

(1) Local school districts may:

(a) allow students to complete the classroom training portion of driver education through the following programs:

(i) home study; or

(ii) the electronic high school;

(b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;

(c) offer driver education outside of school hours in order to reduce the cost of providing driver education;

(d) offer driver education through community education programs;

(e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:

(i) licensed under Section 53-3-504; and

(ii) not associated with the school or under contract with the school under Subsection [53A-13-202] 53G-10-503(3); or

(f) any combination of Subsections (1)(a) through (e).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall establish minimum standards for the school-related programs under Subsection (1).

Section 364. Section 53G-11-101 is enacted to read:

CHAPTER 11. EMPLOYEES

Part 1. General Provisions

53G-11-101. Title.

This chapter is known as "Employees."

Section 365. Section 53G-11-102 is enacted to read:

53G-11-102. Definitions.

Reserved

Section 366. Section 53G-11-201 is enacted to read:

Part 2. Miscellaneous Requirements

53G-11-201. Definitions.

Reserved

Section 367. Section 53G-11-202, which is renumbered from Section 53A-3-411 is renumbered and amended to read:

[53A-3-411]. 53G-11-202. Employment of school personnel -- Length of contract -- Termination for cause -- Individual contract of employment -- Employee acknowledgment of liability protection.

(1) A local school board may enter into a written employment contract for a term not to exceed five years.

(2) Nothing in the terms of the contract shall restrict the power of a local school board to terminate the contract for cause at any time.

(3) (a) A local school board may not enter into a collective bargaining agreement that prohibits or limits individual contracts of employment.

(b) Subsection (3)(a) does not apply to an agreement that was entered into before May 5, 2003.

(4) Each local school board shall:

(a) ensure that each employment contract complies with the requirements of Section 34-32-1.1;

(b) comply with the requirements of Section 34-32-1.1 in employing any personnel, whether by employment contract or otherwise; and

(c) ensure that at the time an employee enters into an employment contract, the employee shall sign a separate document acknowledging that the employee:

(i) has received:

(A) the disclosure required under Subsection 63A-4-204(4)(d) if the school district participates in the Risk Management Fund; or

(B) written disclosure similar to the disclosure required under Section 63A-4-204 if the school district does not participate in the Risk Management Fund; and

(ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Section 368. Section 53G-11-203, which is renumbered from Section 53A-3-431 is renumbered and amended to read:

[53A-3-431]. 53G-11-203. Health insurance mandates.

A local school board and the governing body of a charter school shall include in a health plan it offers to school district employees, or charter school employees insurance mandates in accordance with Section 31A-22-605.5.

Section 369. Section 53G-11-204, which is renumbered from Section 53A-19-401 is renumbered and amended to read:

[53A-19-401]. 53G-11-204. Postemployment health insurance benefits restrictions -- Definitions -- Restrictions -- Exceptions.

(1) As used in this section:

(a) "Budgetary accounts" means the same as that term is defined in Section 51-5-3.

(b) "GASB" means the same as that term is defined in Section 51-5-3.

(c) "Liabilities" means the same as that term is defined in Section 51-5-3.

(d) "Postemployment" means the same as that term is defined in Section 51-5-3.

(e) "Postemployment health insurance benefits" means health insurance benefits:

(i) offered or promised to an employee for the employee's postemployment; or

(ii) continued into postemployment.

(2) Except as provided under Subsection (3), a school district or charter school may not offer or provide a postemployment health insurance benefit to an employee who begins employment with the school district or charter school on or after July 1, 2015.

(3) A school district or charter school may offer or provide postemployment health care insurance to employees if the school district or charter school:

(a) calculates the liabilities associated with postemployment health insurance benefits by applying GASB standards;

(b) recognizes current payments and all liabilities associated with the postemployment health insurance benefits in budgetary accounts;

(c) fully funds the annual required contributions associated with the postemployment health insurance benefits liabilities;

(d) establishes and implements a plan approved by the school district's local school board or charter school's governing board to catch up on any unfunded liabilities within no more than 20 years; and

(e) provides for ongoing payments against the postemployment health insurance liabilities as

employees qualify for receiving the postemployment health insurance benefits.

(4) (a) Except as provided in Subsection (4)(b), if in a fiscal year, a school district or charter school fails to fully fund the annual required contributions described in Subsection (3)(c), the school district or charter school may not offer or provide a postemployment health insurance benefit for new employees beginning on the first day of that fiscal year.

(b) The provisions of Subsection (4)(a) do not apply if:

(i) for a school district only, the school district is imposing the maximum allowed local school board levy under Section [53A-17a-164] 53F-8-302;

(ii) the school district or charter school fully funds the annual required contributions, including any missed contributions, by the end of the fiscal year following the fiscal year of inadequate funding; or

(iii) no increase was approved by the Legislature in the weighted pupil unit as defined in Section [53A-17a-103] 53F-2-102 for the fiscal year the annual required contributions were not fully funded.

Section 370. Section 53G-11-205, which is renumbered from Section 53A-3-426 is renumbered and amended to read:

[53A-3-426]. 53G-11-205. Education employee associations -- Equal participation -- Prohibition on endorsement or preferential treatment -- Naming of school breaks.

(1) As used in this section:

(a) "Education employee association" includes teacher associations, teacher unions, teacher organizations, and classified education employees' associations.

(b) "School" means a school district, a school in a school district, a charter school, or the State Board of Education and its employees.

(2) A school shall allow education employee associations equal access to the following activities:

(a) distribution of information in or access to teachers' or employees' physical or electronic mailboxes, including email accounts that are provided by the school; and

(b) membership solicitation activities at new teacher or employee orientation training or functions.

(3) If a school permits an education employee association to engage in any of the activities described in Subsection (2), the school shall permit all other education employee associations to engage in the activity on the same terms and conditions afforded to the education employee association.

(4) It is unlawful for a school to:

(a) establish or maintain structures, procedures, or policies that favor one education employee

association over another or otherwise give preferential treatment to an education employee association; or

(b) explicitly or implicitly endorse any education employee association.

(5) A school's calendars and publications may not include or refer to the name of any education employee association in relation to any day or break in the school calendar.

Section 371. Section 53G-11-206, which is renumbered from Section 53A-3-425 is renumbered and amended to read:

[53A-3-425]. 53G-11-206. Association leave -- District policy.

(1) As used in this section:

(a) "Association leave" means leave from a school district employee's regular school responsibilities granted for that employee to spend time for association, employee association, or union duties.

(b) "Employee association" means an association that:

(i) negotiates employee salaries, benefits, contracts, or other conditions of employment; or

(ii) performs union duties.

(2) Except as provided in Subsection (3), a local school board may not allow paid association leave for a school district employee to perform an employee association or union duty.

(3) (a) A local school board may allow paid association leave for a school district employee to perform an employee association duty if:

(i) the duty performed by the employee on paid association leave will directly benefit the school district, including representing the school district's licensed educators:

(A) on a board or committee, such as the school district's foundation, a curriculum development board, insurance committee, or catastrophic leave committee;

(B) at a school district leadership meeting; or

(C) at a workshop or meeting conducted by the school district's local school board;

(ii) the duty performed by the employee on paid association leave does not include political activity, including:

(A) advocating for or against a candidate for public office in a partisan or nonpartisan election;

(B) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; or

(C) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102; and

(iii) the local school board ensures compliance with the requirements of Subsections (4)(a) through (g).

(b) Prior to a school district employee's participation in paid or unpaid association leave, a local school board shall adopt a written policy that governs association leave.

(c) Except as provided in Subsection (3)(d), a local school board policy that governs association leave shall require reimbursement to the school district of the costs for an employee, including benefits, for the time that the employee is:

(i) on unpaid association leave; or

(ii) participating in a paid association leave activity that does not provide a direct benefit to the school district.

(d) For a school district that allowed association leave described in Subsections (3)(c)(i) and (ii) prior to January 1, 2011, the local school board policy that governs association leave may allow up to 10 days of association leave before requiring a reimbursement described in Subsection (3)(c).

(e) A reimbursement required under Subsection (3)(c), (d), or (4)(g) may be provided by an employee, association, or union.

(4) If a local school board adopts a policy to allow paid association leave, the policy shall include procedures and controls to:

(a) ensure that the duties performed by employees on paid association leave directly benefit the school district;

(b) require the school district to document the use and approval of paid association leave;

(c) require school district supervision of employees on paid association leave;

(d) require the school district to account for the costs and expenses of paid association leave;

(e) ensure that during the hours of paid association leave a school district employee may not engage in political activity, including:

(i) advocating for or against a candidate for public office in a partisan or nonpartisan election;

(ii) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; and

(iii) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102;

(f) ensure that association leave is only paid out of school district funds when the paid association leave directly benefits the district; and

(g) require the reimbursement to the school district of the cost of paid association leave activities that do not provide a direct benefit to education within the school district.

(5) If a local school board adopts a policy to allow paid association leave, that policy shall indicate

that a willful violation of this section or of a policy adopted in accordance with Subsection (3) or (4) may be used for disciplinary action under Section [53A-8a-502] 53G-11-513.

Section 372. Section 53G-11-207, which is renumbered from Section 53A-3-428 is renumbered and amended to read:

[53A-3-428]. 53G-11-207. Collective bargaining agreement -- Website posting.

(1) As used in this section, "collective bargaining agreement" includes:

- (a) a master agreement; and
- (b) an amendment, addendum, memorandum, or other document modifying the master agreement.

(2) The board of education of a school district:

(a) shall post on the school district's website a collective bargaining agreement entered into by the board of education within 10 days of the ratification of the agreement; and

(b) may remove from the school district's website a collective bargaining agreement that is no longer in effect.

(3) The governing board of a charter school:

(a) shall post on the charter school's website a collective bargaining agreement entered into by the governing board of the charter school within 10 days of the ratification of the agreement; and

(b) may remove from the charter school's website a collective bargaining agreement that is no longer in effect.

Section 373. Section 53G-11-301 is enacted to read:

Part 3. Licensed Employee Requirements

53G-11-301. Definitions.

Reserved

Section 374. Section 53G-11-302, which is renumbered from Section 53A-17a-140 is renumbered and amended to read:

[53A-17a-140]. 53G-11-302. Contracts with teachers.

A school district may not enter into contracts with teachers that would prevent the school district from paying differential salaries or putting limitations on an individual salary paid in order to fill a shortage in specific teaching areas.

Section 375. Section 53G-11-303, which is renumbered from Section 53A-3-701 is renumbered and amended to read:

[53A-3-701]. 53G-11-303. Professional learning standards.

(1) As used in this section, "professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the State Board of Education; and

(ii) performance standards for students as described in the core standards for Utah public schools adopted by the State Board of Education pursuant to Section [53A-1-402.6] 53E-4-202; and

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) (a) In the fall of 2014, the State Board of Education, through the state superintendent of public instruction, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:

(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);

(ii) determine the effectiveness of current professional learning practices; and

(iii) identify resources to implement professional learning as described in Subsection (2).

(b) The State Board of Education shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.

(c) (i) Annually in the fall, beginning in 2015 through 2020, the State Board of Education, through the state superintendent of public instruction, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.

(ii) Data used to determine the impact of professional learning efforts and resources under Subsection (4)(c)(i) shall include:

- (A) student achievement data;
- (B) educator evaluation data; and
- (C) survey data.

Section 376. Section 53G-11-401, which is renumbered from Section 53A-15-1502 is renumbered and amended to read:
Part 4. Background Checks

[53A-15-1502]. 53G-11-401. Definitions.

As used in this part:

(1) "Authorized entity" means an LEA, qualifying private school, or the State Board of Education that is authorized to request a background check and ongoing monitoring under this part.

(2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.

(3) "Contract employee" means an employee of a staffing service or other entity who works at a public or private school under a contract.

(4) "FBI" means the Federal Bureau of Investigation.

~~[(6)]~~ (5) (a) "License applicant" means an applicant for a license issued by the State Board of Education under Title ~~[53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ 53E, Chapter 6, Education Professional Licensure.

(b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.

~~[(5)]~~ (6) "Local education agency" or "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(7) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the State Board of Education under Title ~~[53A, Chapter 6, Educator Licensing and Professional Practices Act]~~ 53E, Chapter 6, Education Professional Licensure.

(8) "Personal identifying information" means:

(a) current name, former names, nicknames, and aliases;

(b) date of birth;

(c) address;

(d) telephone number;

(e) driver license number or other government-issued identification number;

(f) social security number; and

(g) fingerprints.

(9) "Qualifying private school" means a private school that:

(a) enrolls students under Title ~~[53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act]~~ 53F, Chapter 4, Part 3, Carson Smith Scholarship Program; and

(b) is authorized to conduct fingerprint-based background checks of national crime information databases under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.

(10) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(11) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

Section 377. Section 53G-11-402, which is renumbered from Section 53A-15-1503 is renumbered and amended to read:

[53A-15-1503]. 53G-11-402. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

(1) An LEA or qualifying private school shall:

(a) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring as a condition for employment or appointment:

(i) a non-licensed employee;

(ii) a contract employee;

(iii) a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and

(iv) a charter school governing board member;

(b) collect the following from an individual required to submit to a background check under Subsection (1)(a):

(i) personal identifying information;

(ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and

(iii) consent, on a form specified by the LEA or qualifying private school, for:

(A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section ~~[53A-15-1505]~~ 53G-11-404;

(c) submit the individual's personal identifying information to the bureau for:

(i) an initial fingerprint-based background check by the FBI and the bureau; and

(ii) ongoing monitoring through registration with the systems described in Section ~~[53A-15-1505]~~ 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section ~~[53A-15-1506]~~ 53G-11-405; and

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

(a) has passed an initial review; and

(b) is one of a pool of no more than five candidates for the position.

(3) By September 1, 2018, an LEA or qualifying private school shall:

(a) collect the information described in Subsection (1)(b) from individuals:

(i) who were employed or appointed prior to July 1, 2015; and

(ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section ~~[53A-15-1505]~~ 53G-11-404.

(4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection ~~[53A-15-1504]~~ 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section ~~[53A-15-1506]~~ 53G-11-405.

(5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

Section 378. Section 53G-11-403, which is renumbered from Section 53A-15-1504 is renumbered and amended to read:

~~[53A-15-1504]. 53G-11-403. Background checks for licensed educators.~~

The State Board of Education shall:

(1) require a license applicant to submit to a nationwide criminal background check and ongoing monitoring as a condition for licensing;

(2) collect the following from an applicant:

(a) personal identifying information;

(b) a fee described in Subsection 53-10-108(15); and

(c) consent, on a form specified by the State Board of Education, for:

(i) an initial fingerprint-based background check by the FBI and bureau upon submission of the application;

(ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section ~~[53A-15-1505]~~ 53G-11-404; and

(iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;

(3) submit an applicant's personal identifying information to the bureau for:

(a) an initial fingerprint-based background check by the FBI and bureau; and

(b) ongoing monitoring through registration with the systems described in Section ~~[53A-15-1505]~~ 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the State Board of Education in accordance with Section ~~[53A-15-1506]~~ 53G-11-405;

(4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the State Board of Education only receives notifications for individuals with whom the State Board of Education maintains an authorizing relationship;

(5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and

(6) (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section ~~[53A-15-1505]~~ 53G-11-404.

Section 379. Section 53G-11-404, which is renumbered from Section 53A-15-1505 is renumbered and amended to read:

~~[53A-15-1505]. 53G-11-404. Bureau responsibilities.~~

The bureau shall:

(1) upon request from an authorized entity, register the fingerprints submitted by the authorized entity as part of a background check with:

(a) the WIN Database rap back system, or any successor system; and

(b) the rap back system maintained by the Federal Bureau of Investigation;

(2) notify an authorized entity when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (1) regarding:

(a) an alleged offense; or

(b) a conviction, including a plea in abeyance;

(3) assist authorized entities to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the authorized entity only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and

(4) collaborate with the State Board of Education to provide training to authorized entities on the notification procedures and privacy risk mitigation strategies described in this part.

Section 380. Section 53G-11-405, which is renumbered from Section 53A-15-1506 is renumbered and amended to read:

[53A-15-1506]. 53G-11-405. Due process for individuals--Review of criminal history information.

(1) (a) In accordance with Section 53-10-108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.

(b) If an authorized entity decides to disqualify an individual as a result of criminal history information received under this part, an individual may request a review of:

(i) information received; and

(ii) the reasons for the disqualification.

(c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:

(i) the reasons for the disqualification; and

(ii) the individual's right to request a review of the disqualification.

(2) (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section [53A-15-1503] 53G-11-402 in accordance with:

(i) Subsection (3);

(ii) administrative procedures established by the LEA or qualifying private school; and

(iii) rules established by the State Board of Education.

(b) The State Board of Education shall make decisions regarding criminal history information for licensed educators in accordance with:

(i) Subsection (3);

(ii) Title [53A, Chapter 6, Educator Licensing and Professional Practices Act] 53E, Chapter 6, Education Professional Licensure; and

(iii) rules established by the State Board of Education.

(3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:

(a) any convictions, including pleas in abeyance;

(b) any matters involving a felony; and

(c) any matters involving an alleged:

(i) sexual offense;

(ii) class A misdemeanor drug offense;

(iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person;

(iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and

(v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Section 381. Section 53G-11-406, which is renumbered from Section 53A-15-1507 is renumbered and amended to read:

[53A-15-1507]. 53G-11-406. Self-reporting requirement.

(1) Individuals subject to the background check requirements under this part shall self-report conviction, arrest, or offense information in accordance with rules established by the State Board of Education.

(2) An LEA shall report conviction, arrest, or offense information received from licensed educators under Subsection (1) to the State Board of Education in accordance with rules established by the State Board of Education.

Section 382. Section 53G-11-407, which is renumbered from Section 53A-15-1508 is renumbered and amended to read:

[53A-15-1508]. 53G-11-407. Update criminal background check rules and policies.

On or before September 1, 2015:

(1) the State Board of Education shall update the State Board of Education's criminal background check rules consistent with this part; and

(2) an LEA shall update the LEA's criminal background check policies consistent with this part.

Section 383. Section 53G-11-408, which is renumbered from Section 53A-15-1509 is renumbered and amended to read:

[53A-15-1509]. 53G-11-408. Training provided to authorized entities.

The State Board of Education shall collaborate with the bureau to provide training to authorized entities on the provisions of this part.

Section 384. Section 53G-11-409, which is renumbered from Section 53A-15-1510 is renumbered and amended to read:

[53A-15-1510]. 53G-11-409. Legislative audit.

After the conclusion of the 2018-2019 school year, subject to the prioritization of the Legislative Audit Subcommittee, the legislative auditor general shall conduct a review and issue a report on the extent to which the criminal background check procedures and ongoing monitoring described in this part adequately detect and identify the criminal histories of individuals who are employed by or volunteering in public schools.

Section 385. Section 53G-11-410, which is renumbered from Section 53A-15-1511 is renumbered and amended to read:

[53A-15-1511]. 53G-11-410. Reference check requirements for LEA applicants and volunteers.

(1) As used in this section:

(a) "Child" means an individual who is younger than 18 years old.

(b) "LEA applicant" means an applicant for employment by an LEA.

(c) "Physical abuse" means the same as that term is defined in Section 78A-6-105.

(d) "Potential volunteer" means an individual who:

(i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and

(ii) during the last three years, has worked in a qualifying position.

(e) "Qualifying position" means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.

(f) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.

(g) "Student" means an individual who:

(i) is enrolled in an LEA in any grade from preschool through grade 12; or

(ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.

(2) (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:

(i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer's previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;

(ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;

(iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and

(iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).

(b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).

(c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).

(d) An LEA shall use the LEA's best efforts to request information under Subsection (2)(a)(ii) or (iii) before:

(i) hiring an LEA applicant; or

(ii) giving an unsupervised volunteer assignment to a potential volunteer.

(e) In accordance with state and federal law, an LEA may request from an LEA applicant or potential volunteer other information the LEA determines is relevant.

(3) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall use the LEA's best efforts to respond to the request within 20 business days after the day on which the LEA received the request.

(b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from civil and criminal liability for the disclosure.

Section 386. Section 53G-11-501, which is renumbered from Section 53A-8a-102 is renumbered and amended to read:
Part 5. School District and Utah Schools for the Deaf and the Blind Employee Requirements

[53A-8a-102]. 53G-11-501. Definitions.

As used in this [chapter] part:

(1) “Administrator” means an individual who:

(a) serves in a position that requires:

(i) an educator license with an administrative area of concentration; or

(ii) a letter of authorization described in Section ~~[53A-3-301 or 53A-6-110]~~ 53E-6-304 or 53G-4-301; and

(b) supervises school administrators or teachers.

(2) “Career educator” means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.

~~[(2)]~~ (3) “Career employee” means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section ~~[53A-8a-201]~~ 53G-11-503 and an agreement with the employee or the employee’s association, district practice, or policy.

~~[(3)]~~ (4) “Contract term” or “term of employment” means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

~~[(4)]~~ (5) “Dismissal” or “termination” means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee’s contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

(6) “Educator” means an individual employed by a school district who is required to hold a professional license issued by the State Board of Education, except:

(a) a superintendent; or

(b) an individual who works less than three hours per day or is hired for less than half of a school year.

~~[(5)]~~ (7) (a) “Employee” means a career or provisional employee of a school district, except as provided in Subsection ~~[(5)]~~ (7)(b).

(b) ~~[For]~~ Excluding Section 53G-11-518, for purposes of [Part 2, Status of Employment, Part 4, Educator Evaluations, and Part 5, Orderly School Termination Procedures] this part, “employee” does not include:

(i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;

(ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or

(iii) a temporary employee.

~~[(6)]~~ (8) “Last-hired, first-fired layoff policy” means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.

(9) “Probationary educator” means an educator employed by a school district who, under local school board policy, has been advised by the school district that the educator’s performance is inadequate.

(10) “Provisional educator” means an educator employed by a school district who has not achieved status as a career educator within the school district.

~~[(7)]~~ (11) “Provisional employee” means an individual, other than a career employee or a temporary employee, who is employed by a school district.

~~[(8)]~~ (12) “School board” or “board” means a district school board or, for the Utah Schools for the Deaf and the Blind, the State Board of Education.

~~[(9)]~~ (13) “School district” or “district” means:

(a) a public school district; or

(b) the Utah Schools for the Deaf and the Blind.

(14) “Summative evaluation” means the annual evaluation that summarizes an educator’s performance during a school year and that is used to make decisions related to the educator’s employment.

~~[(10)]~~ (15) “Temporary employee” means an individual who is employed on a temporary basis as defined by policies adopted by the local board of education. If the class of employees in question is represented by an employee organization recognized by the local board, the board shall adopt the board’s policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

~~[(11)]~~ (16) (a) “Unsatisfactory performance” means a deficiency in performing work tasks that may be:

(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and

(ii) remediated through training, study, mentoring, or practice.

(b) “Unsatisfactory performance” does not include the following conduct that is designated as a cause for termination under Section ~~[53A-8a-501]~~ 53G-11-512 or a reason for license discipline by the State Board of Education or Utah Professional Practices Advisory Commission:

(i) a violation of work rules;

(ii) a violation of local school board policies, State Board of Education rules, or law;

(iii) a violation of standards of ethical, moral, or professional conduct; or

(iv) insubordination.

Section 387. Section 53G-11-501.5, which is renumbered from Section 53A-8a-401 is renumbered and amended to read:

[53A-8a-401]. 53G-11-501.5. Legislative findings.

(1) The Legislature finds that the effectiveness of public educators can be improved and enhanced by providing specific feedback and support for improvement through a systematic, fair, and competent annual evaluation and remediation of public educators whose performance is inadequate.

(2) The State Board of Education and each local school board shall implement ~~[this part,] Sections 53G-11-501, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511~~ in accordance with Subsections ~~[53A-1a-104] 53E-2-302(7) and [53A-6-102] 53E-6-103(2)(a) and (b), to:~~

(a) allow the educator and the school district to promote the professional growth of the educator; and

(b) identify and encourage quality instruction in order to improve student academic growth.

Section 388. Section 53G-11-502 is enacted to read:

53G-11-502. Applicability.

Reserved

Section 389. Section 53G-11-503, which is renumbered from Section 53A-8a-201 is renumbered and amended to read:

[53A-8a-201]. 53G-11-503. Career employee status for provisional employees -- Career status in the event of change of position -- Continuation of probationary status when position changes -- Temporary status for extra duty assignments -- Employees not eligible for career status.

(1) (a) A provisional employee must work for a school district on at least a half-time basis for three consecutive years to obtain career employee status.

(b) A school district may extend the provisional status of an employee up to an additional two consecutive years in accordance with a written policy adopted by the district's school board that specifies the circumstances under which an employee's provisional status may be extended.

(2) Policies of an employing school district shall determine the status of a career employee in the event of the following:

(a) the employee accepts a position which is substantially different from the position in which career status was achieved; or

(b) the employee accepts employment in another school district.

(3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district, the order shall stand until its provisions are satisfied.

(4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those extra duty assignments and may not acquire career status beyond the primary assignment.

(5) A person is an at-will employee and is not eligible for career employee status if the person:

(a) is a teacher who holds a competency-based license pursuant to Section ~~[53A-6-104.5] 53E-6-306~~ and does not hold a level 1, 2, or 3 license as defined in Section ~~[53A-6-103] 53E-6-102~~; or

(b) holds an administrative/supervisory letter of authorization pursuant to Section ~~[53A-6-110] 53E-6-304~~.

Section 390. Section 53G-11-504, which is renumbered from Section 53A-8a-301 is renumbered and amended to read:

[53A-8a-301]. 53G-11-504. Evaluation of employee performance.

(1) Except as provided in Subsection (2), a local school board shall require that the performance of each school district employee be evaluated annually in accordance with rules of the State Board of Education adopted in accordance with this ~~[chapter] part~~ and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Rules adopted by the State Board of Education under Subsection (1) may include an exemption from annual performance evaluations for a temporary employee or a part-time employee.

Section 391. Section 53G-11-505, which is renumbered from Section 53A-8a-302 is renumbered and amended to read:

[53A-8a-302]. 53G-11-505. State Board of Education rules -- Reporting to Legislature.

(1) Subject to ~~[Part 4, Educator Evaluations]~~ Sections ~~53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511~~, rules adopted by the State Board of Education under Section ~~[53A-8a-301] 53G-11-504~~ shall:

(a) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;

(b) establish required components and allow for optional components of employee evaluations;

(c) require school districts to choose valid and reliable methods and tools to implement the evaluations; and

(d) establish a timeline for school districts to implement employee evaluations.

(2) The State Board of Education shall report to the Education Interim Committee, as requested, on progress in implementing employee evaluations in accordance with ~~[this part and Part 4, Educator Evaluations]~~ this section and Sections 53G-11-504, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511.

Section 392. Section 53G-11-506, which is renumbered from Section 53A-8a-403 is renumbered and amended to read:

[53A-8a-403]. 53G-11-506. Establishment of educator evaluation program -- Joint committee.

(1) A local school board shall develop an educator evaluation program in consultation with its joint committee.

(2) The joint committee described in Subsection (1) shall consist of an equal number of classroom teachers, parents, and administrators appointed by the local school board.

(3) A local school board may appoint members of the joint committee from a list of nominees:

(a) voted on by classroom teachers in a nomination election;

(b) voted on by the administrators in a nomination election; and

(c) of parents submitted by school community councils within the district.

(4) Subject to Subsection (5), the joint committee may:

(a) adopt or adapt an evaluation program for educators based on a model developed by the State Board of Education; or

(b) create the local school board's own evaluation program for educators.

(5) The evaluation program developed by the joint committee shall comply with the requirements of ~~[this part]~~ Sections 53G-11-507 through 53G-11-511 and rules adopted by the State Board of Education under Section ~~[53A-8a-409]~~ 53G-11-510.

Section 393. Section 53G-11-507, which is renumbered from Section 53A-8a-405 is renumbered and amended to read:

[53A-8a-405]. 53G-11-507. Components of educator evaluation program.

(1) A local school board in consultation with a joint committee established in Section ~~[53A-8a-403]~~ 53G-11-506 shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards established by the State Board of Education and includes:

(a) a systematic annual evaluation of all provisional, probationary, and career educators;

(b) use of multiple lines of evidence, including:

(i) self-evaluation;

(ii) student and parent input;

(iii) for an administrator, employee input;

(iv) a reasonable number of supervisor observations to ensure adequate reliability;

(v) evidence of professional growth and other indicators of instructional improvement based on educator professional standards established by the State Board of Education; and

(vi) student academic growth data;

(c) a summative evaluation that differentiates among four levels of performance; and

(d) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.

(2) (a) An educator evaluation program described in Subsection (1) may include a reasonable number of peer observations.

(b) An educator evaluation program described in Subsection (1) may not use end-of-level assessment scores in educator evaluation.

Section 394. Section 53G-11-508, which is renumbered from Section 53A-8a-406 is renumbered and amended to read:

[53A-8a-406]. 53G-11-508. Summative evaluation timelines -- Review of summative evaluations.

(1) The person responsible for administering an educator's summative evaluation shall:

(a) at least 15 days before an educator's first evaluation:

(i) notify the educator of the evaluation process; and

(ii) give the educator a copy of the evaluation instrument, if an instrument is used;

(b) allow the educator to respond to any part of the evaluation;

(c) attach the educator's response to the evaluation if the educator's response is provided in writing;

(d) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and

(e) based upon the educator's performance, assign to the educator one of the four levels of performance described in Section ~~[53A-8a-405]~~ 53G-11-507.

(2) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.

(3) (a) If a review is requested in accordance with Subsection (2), the school district superintendent or the superintendent's designee shall appoint a person not employed by the school district who has expertise in teacher or personnel evaluation to

review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules prescribing standards for an independent review of an educator's summative evaluation.

(c) A review of an educator's summative evaluation under Subsection (3)(a) shall be conducted in accordance with State Board of Education rules made under Subsection (3)(b).

Section 395. Section 53G-11-509, which is renumbered from Section 53A-8a-408 is renumbered and amended to read:

[53A-8a-408]. 53G-11-509. Mentor for provisional educator.

(1) In accordance with Subsections ~~[53A-1a-104]~~ 53E-2-302(7) and ~~[53A-6-102]~~ 53F-6-103(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign a person who has received training or will receive training in mentoring educators as a mentor to the provisional educator.

(2) Where possible, the mentor shall be a career educator who performs substantially the same duties as the provisional educator and has at least three years of educational experience.

(3) The mentor shall assist the provisional educator to become effective and competent in the teaching profession and school system, but may not serve as an evaluator of the provisional educator.

(4) An educator who is assigned as a mentor may receive compensation for those services in addition to the educator's regular salary.

Section 396. Section 53G-11-510, which is renumbered from Section 53A-8a-409 is renumbered and amended to read:

[53A-8a-409]. 53G-11-510. State Board of Education to describe a framework for the evaluation of educators.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(a) describing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Employee Evaluations, and ~~[this part]~~ Sections 53G-11-506, 53G-11-507, 53G-11-508, ~~53G-11-509~~, 53G-11-510, and ~~53G-11-511~~; and

(b) requiring an educator's summative evaluation to be based on:

(i) educator professional standards established by the State Board of Education; and

(ii) the requirements described in Subsection ~~[53A-8a-405]~~ 53G-11-507(1).

(2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores in educator evaluation.

Section 397. Section 53G-11-511, which is renumbered from Section 53A-8a-410 is renumbered and amended to read:

[53A-8a-410]. 53G-11-511. Report of performance levels.

(1) A school district shall report to the State Board of Education the number and percent of educators in each of the four levels of performance assigned under Section ~~[53A-8a-406]~~ 53G-11-508.

(2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:

(a) administrators;

(b) teachers, including separately reported data for provisional teachers and career teachers; and

(c) other classifications or demographics of educators as determined by the State Board of Education.

(3) The state superintendent shall include the data reported by school districts under this section in the state superintendent's annual report of the public school system required by Section ~~[53A-1-301]~~ 53E-3-301.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to ensure the privacy and protection of individual evaluation data.

Section 398. Section 53G-11-512, which is renumbered from Section 53A-8a-501 is renumbered and amended to read:

[53A-8a-501]. 53G-11-512. Local school board to establish dismissal procedures.

(1) A local school board shall, by contract with its employees or their associations, or by resolution of the board, establish procedures for dismissal of employees in an orderly manner without discrimination.

(2) The procedures shall include:

(a) standards of due process;

(b) causes for dismissal; and

(c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.

(3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:

(a) specific, measurable, and actionable deficiencies;

(b) the available resources provided for improvement; and

(c) a course of action to improve employee performance.

(4) If a career employee exhibits both unsatisfactory performance as described in Subsection ~~[53A-8a-102(10)(a)]~~ 53G-11-501(16)(a) and conduct described in

Subsection [53A-8a-102(10)(b)]
53G-11-501(16)(b), an employer:

(a) may:

(i) attempt to remediate the conduct of the career employee; or

(ii) terminate the career employee for cause if the conduct merits dismissal consistent with procedures established by the local school board; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section [53A-8a-503] 53G-11-514.

(5) If the conduct of a career employee described in Subsection (4) is satisfactorily remediated, and unsatisfactory performance issues remain, an employer shall develop and implement a plan of assistance for the career employee, as provided in Section [53A-8a-503] 53G-11-514.

(6) If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated, an employer:

(a) may dismiss the career employee for cause in accordance with procedures established by the local school board that include standards of due process and causes for dismissal; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section [53A-8a-503] 53G-11-514.

Section 399. Section 53G-11-513, which is renumbered from Section 53A-8a-502 is renumbered and amended to read:

[53A-8a-502]. 53G-11-513. Dismissal procedures.

(1) A district shall provide employees with a written statement specifying:

(a) the causes under which a career employee's contract may not be renewed or continued beyond the current school year;

(b) the causes under which a career or provisional employee's contract may be terminated during the contract term; and

(c) the orderly dismissal procedures that are used by the district in cases of contract termination, discontinuance, or nonrenewal.

(2) A career employee's contract may be terminated during its term for reasons of unsatisfactory performance or discontinued beyond the current school year for reasons of unsatisfactory performance as provided in Section [53A-8a-503] 53G-11-514.

(3) (a) A district is not required to provide a cause for not offering a contract to a provisional employee.

(b) If a district intends to not offer a contract for a subsequent term of employment to a provisional employee, the district shall give notice of that intention to the employee at least 60 days before the end of the provisional employee's contract term.

(4) In the absence of a notice, an employee is considered employed for the next contract term with a salary based upon the salary schedule applicable to the class of employee into which the individual falls.

(5) If a district intends to not renew or discontinue the contract of a career employee or to terminate a career or provisional employee's contract during the contract term:

(a) the district shall give written notice of the intent to the employee;

(b) the notice shall be served by personal delivery or by certified mail addressed to the employee's last-known address as shown on the records of the district;

(c) the district shall give notice at least 30 days prior to the proposed date of termination;

(d) the notice shall state the date of termination and the detailed reasons for termination;

(e) the notice shall advise the employee that the employee has a right to a fair hearing and that the hearing is waived if it is not requested within 15 days after the notice of termination was either personally delivered or mailed to the employee's most recent address shown on the district's personnel records; and

(f) the notice shall state that failure of the employee to request a hearing in accordance with procedures set forth in the notice constitutes a waiver of that right and that the district may then proceed with termination without further notice.

(6) (a) The procedure under which a contract is terminated during its term may include a provision under which the active service of the employee is suspended pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the district.

(b) Suspension pending a hearing may be without pay if an authorized representative of the district determines, after providing the employee with an opportunity for an informal conference to discuss the allegations, that it is more likely than not that the allegations against the employee are true.

(c) If termination is not subsequently ordered, the employee shall receive back pay for the period of suspension without pay.

(7) The procedure under which an employee's contract is terminated during its term shall provide for a written notice of suspension or final termination including findings of fact upon which the action is based.

Section 400. Section 53G-11-514, which is renumbered from Section 53A-8a-503 is renumbered and amended to read:

[53A-8a-503]. 53G-11-514. Nonrenewal or termination of a career employee's contract for unsatisfactory performance.

(1) If a district intends to not renew a career employee's contract for unsatisfactory performance or terminate a career employee's contract during

the contract term for unsatisfactory performance, the district shall:

(a) provide and discuss with the career employee written documentation clearly identifying the deficiencies in performance;

(b) provide written notice that the career employee's contract is subject to nonrenewal or termination if, upon a reevaluation of the career employee's performance, the career employee's performance is determined to be unsatisfactory;

(c) develop and implement a plan of assistance, in accordance with procedures and standards established by the local school board under Section ~~[53A-8a-501]~~ 53G-11-512, to allow the career employee an opportunity to improve performance;

(d) reevaluate the career employee's performance; and

(e) if the career employee's performance remains unsatisfactory, give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection ~~[53A-8a-502]~~ 53G-11-513(5).

(2) (a) The period of time for implementing a plan of assistance:

(i) may not exceed 120 school days, except as provided under Subsection (2)(b);

(ii) may continue into the next school year;

(iii) should be sufficient to successfully complete the plan of assistance; and

(iv) shall begin when the career employee receives the written notice provided under Subsection (1)(b) and end when the determination is made that the career employee has successfully remediated the deficiency or notice of intent to not renew or terminate the career employee's contract is given in accordance with Subsection ~~[53A-8a-502]~~ 53G-11-513(5).

(b) In accordance with local school board policy, the period of time for implementing a plan of assistance may extend beyond 120 school days if:

(i) a career employee is on leave from work during the time period the plan of assistance is scheduled to be implemented; and

(ii) (A) the leave was approved and scheduled before the written notice was provided under Subsection (1)(b); or

(B) the leave is specifically approved by the local school board.

(3) (a) If upon a reevaluation of the career employee's performance, the district determines the career employee's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency pursuant to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career employee's contract.

(b) If a district intends to not renew or terminate a career employee's contract as provided in Subsection (3)(a), the district shall:

(i) provide written documentation of the career employee's deficiencies in performance; and

(ii) give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection ~~[53A-8a-502]~~ 53G-11-513(5).

Section 401. Section 53G-11-515, which is renumbered from Section 53A-8a-504 is renumbered and amended to read:

~~[53A-8a-504]. 53G-11-515. Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.~~

(1) (a) Hearings are held under this ~~chapter~~ part before the board or before hearing officers selected by the board to conduct the hearings and make recommendations concerning findings.

(b) The board shall establish procedures to appoint hearing officers.

(c) The board may delegate its authority to a hearing officer to make decisions relating to the employment of an employee which are binding upon both the employee and the board.

(d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.

(2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.

(3) Subpoenas may be issued and oaths administered as provided under Section ~~[53A-6-603]~~ 53E-6-606.

Section 402. Section 53G-11-516, which is renumbered from Section 53A-8a-505 is renumbered and amended to read:

~~[53A-8a-505]. 53G-11-516. Necessary staff reduction not precluded -- Last-hired, first-fired layoffs prohibited.~~

(1) Nothing in this ~~chapter~~ part prevents staff reduction if necessary to reduce the number of employees because of the following:

(a) declining student enrollments in the district;

(b) the discontinuance or substantial reduction of a particular service or program;

(c) the shortage of anticipated revenue after the budget has been adopted; or

(d) school consolidation.

(2) A school district may not utilize a last-hired, first-fired layoff policy when terminating school district employees.

(3) A school district may consider the following factors when terminating a school district employee:

(a) the results of an employee's performance evaluation; and

(b) a school's personnel needs.

Section 403. Section 53G-11-517, which is renumbered from Section 53A-8a-506 is renumbered and amended to read:

~~53A-8a-506~~. 53G-11-517. Restriction on transfer of employee with unsatisfactory performance.

An employee whose performance is unsatisfactory may not be transferred to another school unless the local school board specifically approves the transfer of the employee.

Section 404. Section 53G-11-518, which is renumbered from Section 53A-8a-601 is renumbered and amended to read:

~~53A-8a-601~~. 53G-11-518. State Board of Education to make rules on performance compensation.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section ~~[53A-8a-405]~~ 53G-11-507.

(2) Rules adopted under Subsection (1) shall:

(a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and

(b) provide that beginning no later than the 2016-17 school year:

(i) any advancement on an adopted wage or salary schedule:

(A) shall be based primarily on an evaluation; and

(B) may not be based on end-of-level assessment scores; and

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Section 405. Repealer.

This bill repeals:

Section 53A-2-117, Definitions.

Section 53A-3-415, School board policy on detaining students after school.

Section 53A-8a-402, Definitions.

Section 406. Effective date.

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

Section 407. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(1) H.B. 10, Public Education Recodification - State System;

(2) H.B. 11, Public Education Recodification - Funding; or

(3) S.B. 12, Public Education Recodification - Cross References and Repeals.

CHAPTER 4**H. B. 316**

Passed February 14, 2018
 Approved February 20, 2018
 Effective February 20, 2018

**TAX COMMISSION INFORMATION
 SHARING AMENDMENTS**

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill amends provisions related to certain offices' access to information attached to or included with a return filed with the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ amends the circumstances under which the State Tax Commission shall share income tax return information with certain offices; and
- ▶ amends the offices' responsibility regarding privacy of return information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-1-403, as last amended by Laws of Utah 2017, Chapters 181, 277, and 430

ENACTS:

59-1-403.1, Utah Code Annotated 1953

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

Section 1. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

- (i) who brings action to set aside or review a tax based on the report or return;
- (ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
- (iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

~~[(A)]~~ (B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

~~[(B)]~~ "Office" means the Office of the Legislative Fiscal Analyst, established in Section 36-12-13, the Office of Legislative Research and General Counsel, established in Section 36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or the Governor's Office of Management and Budget, created in Section 63J-4-2011.]

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of ~~[an office]~~ GOED provide to ~~[the office]~~ GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), ~~[an office]~~ GOED may not request and the commission may not provide to ~~[an office]~~ GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to ~~[an office]~~ GOED, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of ~~[an office]~~ GOED provide to ~~[the office]~~ GOED other tax information.

(B) Before providing other tax information to ~~[an office]~~ GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) ~~[An office]~~ GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from ~~[an office]~~ GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if ~~[that office]~~ GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) ~~[An office]~~ GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information ~~[the office]~~ GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to:

(i) the board of the Utah Communications Authority created in Section 63H-7a-201; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any ~~[person]~~ individual who violates this section is guilty of a class A misdemeanor.

(b) If the ~~[person]~~ individual described in Subsection (5)(a) is an officer or employee of the state, the ~~[person]~~ individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), ~~[an office that requests]~~ GOED, when requesting

information in accordance with Subsection (3)(n)(iii), or ~~[a person that]~~ an individual who requests information in accordance with Subsection (3)(n)(v):

- (i) is not guilty of a class A misdemeanor; and
- (ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 2. Section 59-1-403.1 is enacted to read:

59-1-403.1. Disclosure of return information.

(1) As used in this section:

(a) "Office" means:

(i) the Office of the Legislative Fiscal Analyst, established in Section 36-12-13;

(ii) the Office of Legislative Research and General Counsel, established in Section 36-12-12; or

(iii) the Governor's Office of Management and Budget, created in Section 63J-4-201.

(b) (i) "Return information" means information gained by the commission that is required to be attached to or included in a return filed with the commission.

(ii) "Return information" does not include information that the commission is prohibited from disclosing by federal law, federal regulation, or federal publication.

(2) (a) Notwithstanding Subsection 59-1-403(1), the commission, at the request of an office, shall provide to the office all return information with the items described in Subsection (2)(b) removed.

(b) For purposes of a request for return information made under Subsection (2)(a), the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(3) (a) An office may disclose return information received from the commission in accordance with this section only:

(i) (A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) in a manner that reasonably protects the identification of a particular taxpayer; or

(ii) to another office.

(b) A person may not request return information, other than the return information that the office discloses in accordance with Subsection (3)(a), from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the return

information from the commission in accordance with this section.

(c) An office may not disclose to a person that requests return information any return information other than the return information that the office discloses in accordance with Subsection (3)(a).

(4) Any individual who violates Subsection (3)(a):

(a) is guilty of a class A misdemeanor; and

(b) shall be:

(i) dismissed from office; and

(ii) disqualified from holding public office in this state for a period of five years after dismissal.

(5) (a) An office and the commission may enter into an agreement specifying the procedures for accessing, storing, and destroying return information requested in accordance with this section.

(b) An office's access to return information is governed by this section, and except as provided in Subsection (5)(a), may not be limited by any agreement.

Section 3. Effective date.

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

CHAPTER 5**S. B. 89**

Passed February 14, 2018
 Approved February 20, 2018
 Effective February 20, 2018

BOARD OF PARDONS AUTHORITY

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill provides that the Board of Pardons and Parole has the authority to pardon all convictions except those for treason or impeachment.

Highlighted Provisions:

This bill:

- ▶ clarifies that the Board of Pardons and Parole has the authority to pardon any conviction except for treason or impeachment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

77-27-5, as last amended by Laws of Utah 2017, Chapter 475
 77-27-9, as last amended by Laws of Utah 2010, Chapter 110

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

Section 1. Section 77-27-5 is amended to read:**77-27-5. Board of Pardons and Parole authority.**

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and under what conditions any convictions, except for treason or impeachment, may be pardoned or commuted, subject to this chapter and other laws of the state.

~~(1)(a)~~ (b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, persons committed to serve sentences [in class A misdemeanor cases] at penal or correctional facilities [which] that are under the jurisdiction of the Department of Corrections, [and all felony cases] except treason or impeachment convictions or as otherwise limited by law, may be released upon parole, [pardoned,] ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences [commuted or] terminated.

~~(b)~~ (c) The board may sit together or in panels to conduct hearings. The chair shall appoint members to the panels in any combination and in accordance with rules promulgated by the board, [except in hearings involving commutation and pardons]. The chair may participate on any panel and when doing so is chair of the panel. The chair of the board may designate the chair for any other panel.

~~(e)~~ (d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection other than by a majority of the board shall be affirmed by a majority of the board.

~~(d)~~ (e) A commutation or pardon may be granted only after a full hearing before the board.

~~(e)~~ (f) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(iii)(A).

(2) (a) In the case of original parole grant hearings, rehearings, and parole revocation hearings, timely prior notice of the time and location of the hearing shall be given to the defendant, the county or district attorney's office responsible for prosecution of the case, the sentencing court, law enforcement officials responsible for the defendant's arrest and conviction, and whenever possible, the victim or the victim's family.

(b) Notice to the victim, the victim's representative, or the victim's family shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section. This information shall be provided in terms that are reasonable for the lay person to understand.

(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) In determining when, where, and under what conditions offenders serving sentences may be paroled, pardoned, have restitution ordered, or have their fines or forfeitures remitted, or their sentences commuted or terminated, the board shall:

(a) consider whether the persons have made or are prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; and

(b) develop and use a list of criteria for making determinations under this Subsection (5).

(6) In determining whether parole may be terminated, the board shall consider the offense committed by the parolee, the parole period as provided in Section 76-3-202, and in accordance with Section 77-27-13.

Section 2. Section 77-27-9 is amended to read:

77-27-9. Parole proceedings.

(1) (a) The Board of Pardons and Parole may [~~pardon or~~] parole any offender or [~~commute or~~] terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections [~~for a felony or class A misdemeanor~~] except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(c) The board may not [~~pardon or~~] parole any offender [~~or commute~~] or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) A person sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:

(i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault,

kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person; and

(ii) the victim of the offense was under 18 years of age at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (6).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(3) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of its members or by a designated hearing examiner in the performance of its duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

(4) (a) The board may adopt rules consistent with law for its government, meetings and hearings, the conduct of proceedings before it, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

(5) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

(6) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

Section 3. Effective date.

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

CHAPTER 6**H. B. 1**

Passed February 6, 2018
Approved February 21, 2018
Effective July 1, 2018

**PUBLIC EDUCATION
BASE BUDGET AMENDMENTS**

Chief Sponsor: Daniel McCay
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2017, and ending June 30, 2018, and for the fiscal year beginning July 1, 2018, and ending June 30, 2019.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ sets the value of the weighted pupil unit (WPU) initially at \$3,311 for fiscal year 2019;
- ▶ sets the estimated minimum basic tax rate at .001498 to generate an estimated \$408,073,800 in local property tax revenue to support the Basic School Program for fiscal year 2019;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Monies Appropriated in this Bill:

This bill appropriates (\$350,000) in operating and capital budgets for fiscal year 2018, all of which is from the Education Fund. This bill appropriates \$4,883,192,800 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$5,959,700 from the General Fund;
- ▶ \$27,500,000 from the Uniform School Fund;
- ▶ \$3,248,847,200 from the Education Fund; and
- ▶ \$1,600,885,900 from various sources as detailed in this bill.

This bill appropriates \$3,246,900 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$79,750,000 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$3,000,000 from the General Fund;
- ▶ \$75,000,000 from the Education Fund; and
- ▶ \$1,750,000 from various sources as detailed in this bill.

This bill appropriates \$145,700 in fiduciary funds for fiscal year 2019.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53F-2-301, as renumbered and amended by Laws of Utah 2018, Chapter 2

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53F-2-301 is amended to read:**53F-2-301. Minimum basic tax rate -- Certified revenue levy.**

(1) As used in this section, "basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(2) (a) To qualify for receipt of the state contribution toward the basic program and as a school district's contribution toward the school district's costs of the basic program, each local school board shall impose a minimum basic tax rate per dollar of taxable value that generates [~~\$399,041,300~~] \$408,073,800 in revenues statewide.

(b) The preliminary estimate for the [2017-18] 2018-19 minimum basic tax rate is [~~.001596~~] .001498.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates [~~\$399,041,300~~] \$408,073,800 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy, the state is subject to the notice requirements of Section 59-2-926.

(3) The state shall contribute to each school district toward the cost of the basic program in the school district that portion that exceeds the proceeds of the difference between:

(a) the minimum basic tax rate to be imposed under Subsection (2); and

(b) the basic levy increment rate.

(4) (a) If the difference described in Subsection (3) equals or exceeds the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the difference described in Subsection (3) that exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

(5) The State Board of Education shall:

(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and

(b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth Account created in Section 53F-9-302.

Section 2. Fiscal year 2018 appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 2(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the

Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 1 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-Time (187,600)

Schedule of Programs:

Digital Teaching and Learning Program (187,600)

STATE BOARD OF EDUCATION

ITEM 2 To State Board of Education - Initiative Programs

From Education Fund, One-Time (350,000)

Schedule of Programs:

Contracts and Grants (350,000)

ITEM 3 To State Board of Education - MSP Categorical Program Administration

From Education Fund, One-Time 187,600

Schedule of Programs:

Digital Teaching and Learning 187,600

ITEM 4 To State Board of Education - State Administrative Office

From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account, One-Time (1,750,000)

From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account, One-Time 1,750,000

Section 3. Fiscal year 2019 appropriations -- Value of the weighted pupil unit.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019.

(2) The value of the weighted pupil unit for fiscal year 2019 is initially set at \$3,311.

Subsection 3(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 5 To State Board of Education - Minimum School Program - Basic School Program

From Education Fund 2,287,033,700

From Uniform School Fund 27,500,000

From Local Revenue 408,073,800

From Beginning Nonlapsing Balances 25,487,700

From Closing Nonlapsing Balances (25,487,700)

Schedule of Programs:

Kindergarten (27,099 WPU's) 89,724,800

Grades 1 - 12 (587,693 WPU's) 1,954,884,000

Foreign Exchange (328 WPU's) 1,086,000

Necessarily Existent Small Schools (9,514 WPU's) 31,501,000

Professional Staff (55,808 WPU's) 184,780,300

Administrative Costs (1,565 WPU's) 5,181,700

Special Education - Add-On (80,250 WPU's) 265,707,700

Special Education - Preschool (10,777 WPU's) 35,682,600

Special Education - Self-Contained (13,944 WPU's) 46,168,600

Special Education - Extended School Year (439 WPU's) 1,453,500

Special Education - Impact Aid (1,988 WPU's) 6,584,100

Special Education - Intensive Services (769 WPU's) 2,546,200

Special Education - Extended Year for Special Educators (909 WPU's) 3,009,700

Career and Technical Education - Add-On (28,480 WPU's) 94,297,300

(1) The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Basic School Program line item:

(a) school readiness, as measured by:

(i) the percentage of students who are ready for kindergarten (fiscal year 2019 will establish a baseline, no target determined); and

(ii) the percentage of students who demonstrate proficiency on a kindergarten exit assessment (fiscal year 2019 will establish a baseline, no target determined);

(b) early indicator of academic success, as measured by the percentage of students who are proficient in English language arts and mathematics at the end of grade 3 (target = 67%);

(c) proficiency in core academic subjects, as measured by:

(i) proficiency on a statewide assessment, including:

(A) the percentage of students who are proficient in English language arts, on average, across grades 3 through 8 (target = 64%);

(B) the percentage of students who are proficient in mathematics, on average, across grades 3 through 8 (target = 66%); and

(C) the percentage of students who are proficient in science, on average, across grades 4 through 8 (target = 67%); and

(ii) proficiency on a nationally administered assessment, including:

(A) the percentage of grade 4 students who are proficient in English language arts (target = 40%);

(B) the percentage of grade 4 students who are proficient in mathematics (target = 44%);

(C) the percentage of grade 4 students who are proficient in science (target = 45%);

(D) the percentage of grade 8 students who are proficient in English language arts (target = 38%);

(E) the percentage of grade 8 students who are proficient in mathematics (target = 38%); and

(F) the percentage of grade 8 students who are proficient in science (target = 33%);

(d) postsecondary access, as measured by the percentage of students who score at least 18 on the ACT (target = 77%);

(e) high school completion, as measured by the percentage of students who graduate from high school in four years (target = 90%); and

(f) preparation for college, as measured by the percentage of students who have earned a concentration in or completed a certificate in career and technical education or have earned credit in an Advanced Placement, a concurrent enrollment, or an International Baccalaureate course (target = 82%).

(2) The Legislature further intends that the State Board of Education include in the report described in Subsection (1) any recommended changes to the performance measures.

ITEM 6 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund	707,334,600
From Education Fund Restricted - Charter School Levy Account	22,100,000
From Uniform School Fund Restricted - Trust Distribution Account	50,400,000
From Beginning Nonlapsing Balances	23,366,400
From Closing Nonlapsing Balances	(23,366,400)
Schedule of Programs:	
To and From School - Pupil Transportation	83,730,200
Guarantee Transportation Program	500,000
Flexible Allocation - WPU Distribution	345,929,100
Enhancement for At-Risk Students	28,034,600
Youth in Custody	22,716,200
Adult Education	11,159,000
Enhancement for Accelerated Students	5,032,400
Centennial Scholarship Program	250,000

Concurrent Enrollment	10,784,300
Title I Schools Paraeducators Program	300,000
School LAND Trust Program	50,400,000
Charter School Local Replacement	170,579,200
Charter School Administration	7,825,600
Teacher Salary Supplement	6,799,900
School Library Books and Electronic Resources	850,000
Critical Languages and Dual Immersion	3,556,000
USTAR Centers (Year-Round Math and Science)	6,200,000
Teacher Supplies and Materials	5,000,000
Beverly Taylor Sorenson Elementary Arts Learning Program	9,880,000
Civics Education - State Capitol Field Trips	150,000
Digital Teaching and Learning Program	9,852,400
Effective Teachers in High Poverty Schools Incentive Program	250,000
Early Graduation from Competency-Based Education	55,700
ITEM 7 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs	

From Education Fund	123,790,100
From Local Revenue	449,289,000
From Education Fund Restricted - Minimum Basic Growth Account	56,250,000
Schedule of Programs:	
Voted Local Levy Program	470,339,700
Board Local Levy Program	143,989,400
Board Local Levy Program - Reading Improvement	15,000,000
STATE BOARD OF EDUCATION - SCHOOL BUILDING PROGRAMS	

ITEM 8 To State Board of Education - School Building Programs - Capital Outlay Programs	
From Education Fund	14,499,700
From Education Fund Restricted - Minimum Basic Growth Account	18,750,000
Schedule of Programs:	
Foundation Program	27,610,900
Enrollment Growth Program	5,638,800
STATE BOARD OF EDUCATION	

ITEM 9 To State Board of Education - Child Nutrition	
From Education Fund	143,900
From Federal Funds	159,673,500
From Dedicated Credit - Liquor Tax	39,274,300
From Revenue Transfers	(321,600)
Schedule of Programs:	
Child Nutrition	198,770,100
The Legislature intends that the State Board of Education report on or before September 30, 2018,	

to the Public Education Appropriations Subcommittee on the following performance measures for the Child Nutrition line item:

(1) school districts and charter schools served (target = maintain 65%);

(2) administrative reviews completed (target = 33% annually/100% over three-year cycle); and

(3) reimbursement claims paid within 30 days of claim submission for payment with an error rate of 1% or less (target = 100%).

ITEM 10 To State Board of Education - Child Nutrition - Federal Commodities

From Federal Funds 19,159,300

Schedule of Programs:

Child Nutrition - Federal Commodities 19,159,300

ITEM 11 To State Board of Education - Education Contracts

From Education Fund 3,142,900

From Beginning Nonlapsing Balances 362,000

From Closing Nonlapsing Balances (362,000)

Schedule of Programs:

Corrections Institutions 1,989,700

Youth Center 1,153,200

ITEM 12 To State Board of Education - Educator Licensing

From Education Fund 2,634,600

From Dedicated Credits Revenue 34,500

From Revenue Transfers (317,500)

Schedule of Programs:

Educator Licensing 2,351,600

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Educator Licensing line item:

(1) background check response and notification of local education agency within 72 hours (target = 100%);

(2) teachers in a Utah local education agency who hold a standard level 1, 2, or 3 license (target = 95%); and

(3) teachers in a Utah local education agency who have demonstrated preparation in assigned subject area (target = 95%).

ITEM 13 To State Board of Education - Fine Arts Outreach

From Education Fund 4,625,000

Schedule of Programs:

Professional Outreach Programs in the Schools 4,571,000

Subsidy Program 54,000

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Fine Arts Outreach line item:

(1) local education agencies served in a three-year period (target = 95%);

(2) number of students and educators receiving services (target = 450,000 students and 25,000 educators); and

(3) efficacy of education programming as determined by peer review (target = 85%).

ITEM 14 To State Board of Education - Initiative Programs

From General Fund 5,735,400

From Education Fund 26,088,500

From General Fund Restricted - Autism Awareness Account 39,000

From Revenue Transfers 2,811,700

From Beginning Nonlapsing Balances 40,200

From Closing Nonlapsing Balances (40,200)

Schedule of Programs:

Autism Awareness 39,000

Carson Smith Scholarships 5,714,800

Contracts and Grants 300,000

CTE Online Assessments 341,000

Early Warning Pilot Program 250,000

Electronic Elementary Reading Tool 2,100,000

ELL Software Licenses 3,000,000

General Financial Literacy 378,000

Intergenerational Poverty Interventions 1,000,000

IT Academy 500,000

Kindergarten Supplement

Enrichment Program 2,900,000

Paraeducator to Teacher

Scholarships 24,500

Partnerships for Student Success 2,982,600

ProStart Culinary Arts Program 403,100

School Turnaround and

Leadership Development 6,977,700

UPSTART 7,763,900

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Initiative Programs line item:

(1) Carson Smith Scholarship annual compliance reporting (target = 100%);

(2) number of students served by UPSTART (target = 11,920);

(3) School Turnaround and Leadership Development schools meeting the exit criteria or qualifying for an extension (target = 100%); and

(4) number of students receiving services through Partnerships for Student Success that promote kindergarten readiness, grade 3 mathematics and reading proficiency, and grade 8 mathematics and

reading proficiency (target = 50 students per school feeder system).

ITEM 15 To State Board of Education - MSP Categorical Program Administration

<u>From Education Fund</u>	<u>2,183,100</u>
<u>From Revenue Transfers</u>	<u>(148,700)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>100</u>
<u>From Closing Nonlapsing Balances</u>	<u>(200)</u>

Schedule of Programs:

<u>Adult Education</u>	<u>211,000</u>
<u>Beverley Taylor Sorenson Elementary Arts Learning Program</u>	<u>95,100</u>
<u>CTE Comprehensive Guidance</u>	<u>158,800</u>
<u>Digital Teaching and Learning</u>	<u>487,600</u>
<u>Dual Immersion</u>	<u>183,600</u>
<u>Enhancement for At-Risk Students</u>	<u>264,000</u>
<u>Special Education State Programs</u>	<u>220,000</u>
<u>Youth-in-Custody</u>	<u>414,200</u>

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the MSP Categorical Program Administration line item:

- (1) number of schools engaged in Digital Teaching and Learning (target = 600);
- (2) professional development for Dual Immersion educators (target = 650 educators);
- (3) support for guest Dual Immersion educators (target = 175 educators);
- (4) Beverley Taylor Sorenson Elementary Arts Learning Program fidelity of implementation (target = 50 site visits); and
- (5) Beverley Taylor Sorenson Elementary Arts Learning Program application processing (target = 34 school districts and 22 charter schools).

ITEM 16 To State Board of Education - Regional Service Centers

<u>From Education Fund</u>	<u>2,000,000</u>
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Schedule of Programs:

<u>Regional Service Centers</u>	<u>2,000,000</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Regional Service Centers line item:

- (1) professional development services (target = 3,200 educator training hours and 20,000 participation hours);
- (2) technical support services (target = 7,500 support hours); and
- (3) higher education services (target = 1,500 graduate level credit hours).

ITEM 17 To State Board of Education - Science Outreach

<u>From Education Fund</u>	<u>4,750,000</u>
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Schedule of Programs:

<u>Informal Science Education Enhancement Provisional Program</u>	<u>4,525,000</u>
	<u>225,000</u>

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Science Outreach line item:

- (1) student science experiences (target = 380,000);
- (2) student field trips (target = 375,000); and
- (3) educator professional development (target = 1,800 educators).

ITEM 18 To State Board of Education - State Administrative Office

<u>From General Fund</u>	<u>23,100</u>
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<u>From Education Fund</u>	<u>15,960,200</u>
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<u>From Federal Funds</u>	<u>299,017,900</u>
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<u>From Dedicated Credits Revenue</u>	<u>116,500</u>
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<u>From General Fund Restricted - Mineral Lease</u>	<u>1,286,000</u>
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<u>From General Fund Restricted - Land Exchange Distribution Account</u>	<u>16,000</u>
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<u>From Land Grant Management Fund</u>	<u>2,000</u>
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<u>From General Fund Restricted - Substance Abuse Prevention</u>	<u>508,000</u>
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<u>From Revenue Transfers</u>	<u>3,146,900</u>
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<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>712,300</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>3,711,400</u>
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Schedule of Programs:

<u>Board and Administration</u>	<u>3,626,300</u>
<u>Data and Statistics</u>	<u>2,207,900</u>
<u>Financial Operations</u>	<u>2,766,500</u>
<u>Indirect Cost Pool</u>	<u>9,934,000</u>
<u>Information Technology</u>	<u>4,102,300</u>
<u>Law and Legislation</u>	<u>188,400</u>
<u>Policy and Communication</u>	<u>1,456,100</u>
<u>School Trust</u>	<u>671,200</u>
<u>Special Education</u>	<u>181,177,300</u>
<u>Statewide Online Education Program</u>	<u>706,600</u>
<u>Student Advocacy Services</u>	<u>117,663,700</u>

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the State Administrative Office line item:

- (1) educators participating in trauma-informed practices training (target = 500); and

(2) local education agency Individuals with Disabilities Education Act noncompliance correction (target = 100%).

ITEM 19 To State Board of Education - General System Support

<u>From General Fund</u>	<u>201,200</u>
<u>From Education Fund</u>	<u>22,134,900</u>
<u>From Federal Funds</u>	<u>42,181,800</u>
<u>From Dedicated Credits Revenue</u>	<u>5,909,600</u>
<u>From General Fund Restricted - Mineral Lease</u>	<u>402,300</u>
<u>From Revenue Transfers</u>	<u>(1,624,400)</u>
<u>From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account</u>	<u>1,750,000</u>

Schedule of Programs:

<u>Student Achievement</u>	<u>251,500</u>
<u>Teaching and Learning</u>	<u>32,548,000</u>
<u>Assessment and Accountability</u>	<u>19,676,500</u>
<u>Career and Technical Education</u>	<u>17,979,400</u>
<u>Pilot Teacher Retention Grant Program</u>	<u>500,000</u>

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the General System Support line item:

(1) local education agencies served by Teaching and Learning (target = 100%);

(2) contract amendments generated for the statewide assessment system not due to failure or lack of planning (target = 100%); and

(3) career and technical education professional development (target = 4,464).

ITEM 20 To State Board of Education - State Charter School Board

<u>From Education Fund</u>	<u>3,874,500</u>
<u>From Revenue Transfers</u>	<u>(181,600)</u>

Schedule of Programs:

<u>State Charter School Board</u>	<u>3,692,900</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the State Charter School Board line item:

(1) communication survey average score from stakeholders (target = increase from previous year average);

(2) increase charter schools in compliance with charter agreement (target = 75%); and

(3) develop plan for restructuring the State Charter School Board staff (target = complete plan).

ITEM 21 To State Board of Education - Teaching and Learning

<u>From Education Fund</u>	<u>122,900</u>
<u>From Revenue Transfers</u>	<u>8,974,800</u>

Schedule of Programs:

<u>Student Access to High Quality School Readiness Programs</u>	<u>9,097,700</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Teaching and Learning line item:

(1) significant positive outcomes in literacy, mathematics, and social emotional skills;

(2) significant differences in school readiness as measured by the Kindergarten Entry and Exit Profile; and

(3) significant differences in literacy and numeracy achievement as measured by the Kindergarten Entry and Exit Profile and grade 3 Student Assessment of Growth and Excellence proficiency.

ITEM 22 To State Board of Education - Utah Charter School Finance Authority

<u>From Education Fund Restricted - Charter School Reserve Account</u>	<u>50,000</u>
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Schedule of Programs:

<u>Utah Charter School Finance Authority</u>	<u>50,000</u>
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ITEM 23 To State Board of Education - Utah Schools for the Deaf and the Blind

<u>From Education Fund</u>	<u>28,528,600</u>
<u>From Federal Funds</u>	<u>101,100</u>
<u>From Dedicated Credits Revenue</u>	<u>1,613,700</u>
<u>From Revenue Transfers</u>	<u>5,764,300</u>
<u>From Beginning Nonlapsing Balances</u>	<u>2,347,800</u>
<u>From Closing Nonlapsing Balances</u>	<u>(900,300)</u>

Schedule of Programs:

<u>Educational Services</u>	<u>17,875,100</u>
<u>Support Services</u>	<u>19,580,100</u>

The Legislature intends that the State Board of Education report on or before September 30, 2018, to the Public Education Appropriations Subcommittee on the following performance measures for the Utah Schools for the Deaf and the Blind line item:

(1) campus educational services - percentage of students who have achieved their individualized education plan (IEP) goals (target = 80%);

(2) outreach educational services - provide contracted outreach services (target = 100%); and

(3) deaf-blind educational services - improve communication matrix scores (target = 3%).

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

ITEM 24 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account 912,600

Schedule of Programs:

School and Institutional Trust Fund Office 912,600

Subsection 3(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

ITEM 25 To State Board of Education - Charter School Revolving Account

From Interest Income 56,200

From Repayments 1,511,400

From Beginning Fund Balance 6,989,300

From Closing Fund Balance (7,045,500)

Schedule of Programs:

Charter School Revolving Account 1,511,400

ITEM 26 To State Board of Education - Hospitality and Tourism Management Education Account

From Dedicated Credits Revenue 269,900

Schedule of Programs:

Hospitality and Tourism Management Education Account 269,900

ITEM 27 To State Board of Education - School Building Revolving Account

From Interest Income 83,900

From Repayments 1,465,600

From Beginning Fund Balance 9,833,600

From Closing Fund Balance (9,917,500)

Schedule of Programs:

School Building Revolving Account 1,465,600

Subsection 3(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

PUBLIC EDUCATION

ITEM 28 To General Fund Restricted - School Readiness Account

From General Fund 3,000,000

Schedule of Programs:

General Fund Restricted - School Readiness Account 3,000,000

ITEM 29 To Education Fund Restricted - Minimum Basic Growth Account

From Education Fund 75,000,000

Schedule of Programs:

Education Fund Restricted - Minimum Basic Growth Account 75,000,000

ITEM 30 To Underage Drinking Prevention Program Restricted Account

From Liquor Control Fund 1,750,000

Schedule of Programs:

Underage Drinking Prevention Program Restricted Account 1,750,000

Subsection 3(d). Fiduciary Funds.

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

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

ITEM 31 To State Board of Education - Education Tax Check-Off Lease Refunding

From Trust and Agency Funds 27,500

From Beginning Fund Balance 31,300

From Closing Fund Balance (33,500)

Schedule of Programs:

Education Tax Check-Off Lease Refunding 25,300

ITEM 32 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Dedicated Credits Revenue 115,000

From Interest Income 5,400

From Beginning Fund Balance 687,800

From Closing Fund Balance (687,800)

Schedule of Programs:

Schools for the Deaf and the Blind Donation Fund 120,400

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2018.

(2) If approved by two-thirds of all the members elected to each house, Section 2, Fiscal year 2018 appropriations, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 7
H.B. 5**

Passed February 6, 2018
Approved February 21, 2018
Effective May 8, 2018

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

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates (\$540,900) in operating and capital budgets for fiscal year 2018, including:

- ▶ \$1,520,900 from the General Fund;
- ▶ (\$2,061,800) from various sources as detailed in this bill.

This bill appropriates \$360,986,300 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$70,938,900 from the General Fund;
- ▶ \$290,047,400 from various sources as detailed in this bill.

This bill appropriates \$5,199,900 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$67,343,900 in business-like activities for fiscal year 2019.

This bill appropriates \$5,275,100 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$4,171,100 from the General Fund;
- ▶ \$1,104,000 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to

amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 1

To Department of Environmental Quality -
Executive Director's Office
From General Fund, One-Time 195,600
Schedule of Programs:
Executive Director's Office 195,600

DEPARTMENT OF NATURAL RESOURCES

Item 2

To Department of Natural Resources -
DNR Pass Through
From General Fund, One-Time 60,000
Schedule of Programs:
DNR Pass Through 60,000

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 3

To Public Lands Policy Coordinating Office -
Public Lands Litigation
From General Fund Restricted -
Constitutional Defense, One-Time . . . (15,600)
Schedule of Programs:
Public Lands Litigation (15,600)

Item 4

To Public Lands Policy Coordinating Office
From General Fund, One-Time 1,265,300
From General Fund Restricted -
Constitutional Defense, One-Time .. 1,461,200
From Beginning Nonlapsing
Balances (960,300)
From Closing Nonlapsing Balances . . . (2,547,100)
Schedule of Programs:
Public Lands Policy Coordinating
Office (780,900)

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Lands Policy Coordinating Office in Item 24, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to litigation and operation expenses.

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that all base budget changes related to FY 2017 lapsing balances within this House Bill 5 for the Public Lands Policy Coordinating Office not lapse at the close of FY 2018.

The Legislature intends that the Public Lands Policy Coordinating Office receive the \$1,145,600 appropriated in FY 2018 from the

Constitutional Defense Restricted Account in this House Bill 5 before other appropriations from the account are proportionally distributed.

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 5

To Department of Agriculture and Food - Administration

From General Fund	3,117,100
From Federal Funds	482,700
From Dedicated Credits Revenue	91,000
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account	30,400
From General Fund Restricted - Horse Racing	21,700
From Revenue Transfers	57,200
From General Fund Rest. - Agriculture and Wildlife Damage Prevention	30,000
From Beginning Nonlapsing Balances ...	439,000
Schedule of Programs:	
Chemistry Laboratory	974,200
General Administration	3,240,900
Sheep Promotion	30,000
Utah Horse Commission	24,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Administration line item, whose mission is "Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply:" (1) Sample turnaround time (Target = 12 days), (2) Cost per sample (Target = \$175), and (3) Cost per test (Target = \$35) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 6

To Department of Agriculture and Food - Animal Health

From General Fund	3,317,400
From Federal Funds	1,648,400
From Dedicated Credits Revenue	169,800
From General Fund Restricted - Livestock Brand	1,140,200
From Revenue Transfers	3,900
From Beginning Nonlapsing Balances ...	556,200
Schedule of Programs:	
Animal Health	2,749,200
Auction Market Veterinarians	72,700
Brand Inspection	1,864,200

Meat Inspection 2,149,800

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Animal Health line item, Livestock Inspection Program, whose mission is "to deny a market to potential thieves & to detect the true owners of livestock. It is the mission of the Livestock Inspection Bureau to provide quality, timely, and courteous service to the livestock men and women of the state, in an effort to protect the cattle and horse industry:" (1) Return of branded estrays to rightful owner within 10 days (Target = 80%); (2) proceeds from sale of estrays returned to rightful owner within one year (Target = 100%); (3) percentage of these CVIs forwarded to receiving states within seven working days after receipt (Target = 100%) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 7

To Department of Agriculture and Food - Building Operations

From General Fund	356,600
Schedule of Programs:	
Building Operations	356,600

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Building Operations line item, whose mission is "to promote the healthy growth of the Utah agriculture, conserve our natural resources and protect our food supply:" (1) With an aging primary facility the goal is to work with DFCM to maintain the DFCM rates at the current rate of \$7.98 per square foot (Target = 100%), (2) With the Chemistry Lab moving to the Unified Lab #2, the Department will optimize square foot usage by moving individuals currently located in halls and corridors to established work areas (Target 100%), and (3) According to a Tier 1 Seismic evaluation conducted in August of 2015, the William Spry Building does not meet the Life Safety Performance Level for the hazard level. When a structure does not meet this level, the structure may experience failure and/or collapse, risking the lives of those working in the facility. The department will work with DFCM and the Programming Services contractor to complete specifications and justification for a new facility (Target = 100% participation) by June 30, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 8

To Department of Agriculture and Food - Invasive Species Mitigation

From General Fund Restricted - Invasive Species Mitigation Account	2,006,200
From Beginning Nonlapsing Balances	1,000,000
Schedule of Programs:	

Invasive Species Mitigation 3,006,200

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Invasive Species Mitigation line item, whose mission is “to help government and private entities control noxious weeds in the state through providing project funding and help those entities meet the requirements of the Noxious Weed Act:” (1) Treated Acres (Target = 30,000), (2) Number of Private, Government, and Other Groups Cooperated (Target = 120), and (3) Number of Utah Watersheds Impacted by Projects (Target = 60) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 9

To Department of Agriculture and Food - Marketing and Development

From General Fund	772,000
From Dedicated Credits Revenue	21,300
From Beginning Nonlapsing Balances	67,500
Schedule of Programs:	
Marketing and Development	860,800

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Marketing line item, whose mission is “Promoting the healthy growth of Utah agriculture .” (1) Increased web traffic to utahsown.org by the primary shopper (female 25-55) which visits three or more pages (Target = 25% increase from previous year), (2) Marketing dollars spent to create an impression on consumers (Target = \$5 per impression), and (3) Visits to the market news reporting page on ag.utah.gov (Target = 6,000 visits a year) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 10

To Department of Agriculture and Food - Plant Industry

From General Fund	722,400
From Federal Funds	3,842,000
From Dedicated Credits Revenue	2,686,300
From Dedicated Credits Revenue, One-Time	(14,500)
From Agriculture Resource Development Fund	198,200
From Revenue Transfers	382,400
From Pass-through	173,700
From Beginning Nonlapsing Balances	772,000
Schedule of Programs:	

Environmental Quality	1,547,100
Grain Inspection	466,300
Grazing Improvement Program	1,976,600
Insect Infestation	543,400
Plant Industry	4,229,100

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Plant Industry line item, whose mission is “ensuring consumers of disease free and pest

free plants, grains, seeds, as well as properly labeled agricultural commodities, and the safe application of pesticides and farm chemicals:” (1) Pesticide Compound Enforcement Action Rate (Target = 40%), (2) Fertilizer Compliance Violation Rate (Target = 20%), and (3) Seed Compliance Violation Rate (Target = 10%) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 11

To Department of Agriculture and Food - Predatory Animal Control

From General Fund	842,600
From Revenue Transfers	711,300
From General Fund Rest. - Agriculture and Wildlife Damage Prevention	666,300
From Beginning Nonlapsing Balances	225,000
Schedule of Programs:	
Predatory Animal Control	2,445,200

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Predatory Animal Control line item, whose mission is “protecting Utahs agriculture including protecting livestock, with the majority of the programs efforts directed at protecting adult sheep, lambs and calves from predation:” (1) Conduct survey of producers to determine an acceptable response time. Survey will be completed by December with results analyzed and measures established by June. (2) Conduct survey of producers to determine acceptable communication levels. Survey will be completed by December with results analyzed and measures established by June. (3) Conduct survey of producers to determine overall satisfaction level. Survey will be completed by December with results analyzed and measures established by June. Results will be presented by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 12

To Department of Agriculture and Food - Rangeland Improvement

From General Fund Restricted - Rangeland Improvement Account	1,500,200
From Beginning Nonlapsing Balances	1,000,000
Schedule of Programs:	
Rangeland Improvement	2,500,200

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Rangeland Improvement line item, whose mission is “to improve the productivity, health and sustainability of our rangelands and watersheds:” (1) Number of Animal Unit Months Affected by GIP Projects per Year (Target = 150,000), (2) Number of Projects with Water Systems Installed Per Year (Target = 50/year), and (3) Number of GIP Projects that Time, Timing, and Intensity

Grazing Management to Improve Grazing Operations (Target = To be determined in next few months as previous year's data is assessed) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 13

To Department of Agriculture and

Food - Regulatory Services

From General Fund	2,182,100
From Federal Funds	571,300
From Dedicated Credits Revenue	2,272,500
From Revenue Transfers	1,300
From Pass-through	56,800
From Beginning Nonlapsing Balances ...	852,000

Schedule of Programs:

Regulatory Services	5,936,000
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The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Regulatory Services line item, whose mission is "Through continuous improvement, become a world class leader in regulatory excellence through our commitment to food safety, public health and fair and equitable trade of agricultural and industrial commodities:" (1) Reduce the number of "two in a row" violations observed on dairy farms and thereby reduce the number of follow up inspections required (Target = 10% of current), (2) Reduce the number of retail fuel station follow up inspections by our weights and measures program (Target = increase to 95% compliance), and (3) Reduce the number of observed Temperature Control violations observed by our food program inspectors at retail (Target = 25% improvement) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 14

To Department of Agriculture and Food -

Resource Conservation

From General Fund	1,317,800
From Federal Funds	411,600
From Agriculture Resource Development Fund	892,200
From Revenue Transfers	355,900
From Utah Rural Rehabilitation Loan State Fund	134,200
From Beginning Nonlapsing Balances ...	150,000

Schedule of Programs:

Conservation Commission	11,900
Resource Conservation	2,520,800
Resource Conservation Administration	729,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Resource Conservation line item, whose mission is "for UDAF to assist Utahs agricultural producers in caring for and enhancing our states vast natural resources:" (1) Agriculture Resource Development Loans to keep the delinquency rates as low as

possible, so that funds can be repaid and loaned out again to meet the intent of the program (Target = 2%), (2) Utah Conservation Commission Capital Funds Project will be evaluated by the conservation units divided by costs per project (Target = >Conservation units for Air, soil and water resources), and (3) Increase the average amount and number of ARDL Loans per year by 7% (Target = \$71,917; 31 Loans) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 15

To Department of Agriculture and Food -

Utah State Fair Corporation

From Dedicated Credits Revenue	3,592,400
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Schedule of Programs:

State Fair Corporation	3,592,400
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The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the State Fair line item, whose mission is "maximize revenue opportunities by establishing strategic partnerships to develop the Fairpark:" (1) identify opportunities (Target = update master plan for Fairpark and White Ball Park that identifies strategic opportunities and potential partners. (2) Enter into agreement with developer/s to construct "one" new project that will provide the Fairpark with a new revenue stream on Fairpark or adjacent property. Receive building board and legislative approval of the project, and accompanying financial package. (Target = ONE Project Oct 2019) and (3) increase Fairpark NET revenue (Target = 80% increase over 2016 year ending Fairpark fiscal year) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the State Fair line item, whose mission is "Showcase agriculture and innovative technology with an emphasis on families:" (1) Develop Student Handbooks to be distributed to schools PTA, and students attending the Fair as part of school field trips (Target = 8% increase in field trip attendance), (2) Host Little Hands on the Farm and Barnyard Friends educational exhibits (Target = 5% increase in attendance and engagement), and (3) Partner with ROOTS Charter High School or similar program to provide youth hands-on learning and opportunity to further their chosen Supervised Agricultural Experience (SAE), such as raising livestock projects (Target = provide learning opportunity that otherwise would not be available to at risk students) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 16

To Department of Environmental Quality - Air Quality

From General Fund	5,975,200
From Federal Funds	6,001,400
From Dedicated Credits Revenue	5,596,900
From Clean Fuel Conversion Fund	115,800
From Revenue Transfers	(1,113,900)
From Beginning Nonlapsing Balances ...	450,000
Schedule of Programs:	
Air Quality	17,025,400

The Legislature intends that the Division of Air Quality report on the following performance measures for the division, whose mission is “to protect public health and the environment from the harmful effects of air pollution.” (1) Percent of facilities inspected that are in compliance with permit requirements (Target-100%), (2) Percent of approval orders that are issued within 180-days after the receipt of a complete application (Target-95%), (3) Percent of data availability from the established network of air monitoring samplers for criteria air pollutants (Target-100%). (4) Per Capita Rate of State-Wide Air Emissions. (Target - 0.63), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 17

To Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology

From Beginning Nonlapsing Balances ...	216,200
Schedule of Programs:	
Clean Air Retrofit, Replacement, and Off-road Technology	216,200

Item 18

To Department of Environmental Quality - Drinking Water

From General Fund	1,137,200
From Federal Funds	3,950,600
From Dedicated Credits Revenue	189,500
From Revenue Transfers	(412,400)
From Water Dev. Security Fund - Drinking Water Loan Program	972,000
From Water Dev. Security Fund - Drinking Water Origination Fee	218,000
From Beginning Nonlapsing Balances ...	440,000
Schedule of Programs:	
Drinking Water	6,494,900

The Legislature intends that the Division of Drinking Water report on the following performance measures for the division, whose mission is “to cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water”: (1) Percent of population served by Approved public water systems (Target - 99%), (2) Percent of water systems with an Approved rating (Target - 95%), and (3) Number of water borne disease outbreaks (Target - 0), by October 15, 2019 to the

Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 19

To Department of Environmental Quality - Environmental Response and Remediation

From General Fund	819,700
From Federal Funds	4,429,000
From Dedicated Credits Revenue	584,200
From General Fund Restricted - Petroleum Storage Tank	51,000
From Petroleum Storage Tank Cleanup Fund	595,000
From Petroleum Storage Tank Trust Fund	1,839,600
From Revenue Transfers	(636,200)
From General Fund Restricted - Voluntary Cleanup	685,700
From Beginning Nonlapsing Balances ...	25,000
Schedule of Programs:	
Environmental Response and Remediation	8,393,000

The Legislature intends that the Division of Environmental Response and Remediation report on the following performance measures for the division, whose mission is “to protect public health and Utahs environment by cleaning up contaminated sites, helping to return contaminated properties to a state of beneficial reuse, ensuring underground storage tanks are managed and used properly, and providing chemical usage and emission data to the public and local response agencies”: (1) Percent of UST facilities in Significant Operational Compliance at time of inspection, and in compliance within 60 days of inspection (Target - 90%), (2) Leaking Underground Storage Tank (LUST) site release closures, (Target - 70), (3) Issued brownfields tools facilitating cleanup and redevelopment of impaired properties, (Target - 10), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 20

To Department of Environmental Quality - Executive Director’s Office

From General Fund	1,585,300
From Federal Funds	255,300
From Dedicated Credits Revenue	1,000
From General Fund Restricted - Environmental Quality	809,500
From Revenue Transfers	2,892,700
From Beginning Nonlapsing Balances ...	610,000
Schedule of Programs:	
Executive Director’s Office	6,153,800

The Legislature intends that the Department of Environmental Quality, Executive Directors Office report on the following performance measures for the division, whose mission is “safeguarding and improving Utahs air, land and water through balanced regulation”: (1) Percent of systems within the Department involved in a continuous improvement project in the last

year (Target-100%), (2) Percent of customers surveyed that reported good or exceptional customer service (Target-90%), and (3) Number of state audit findings/Percent of state audit findings resolved within 30 days (Target - 0 and 100%), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 21

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From General Fund 745,400
 From Federal Funds 1,361,400
 From Dedicated Credits Revenue 2,265,600
 From General Fund Restricted -
 Environmental Quality 5,855,000
 From Revenue Transfers (193,000)
 From General Fund Restricted -
 Used Oil Collection Administration 806,200
 From Waste Tire Recycling Fund 146,800
 From Beginning Nonlapsing Balances ... 400,000
 Schedule of Programs:

Waste Management and Radiation
 Control 11,387,400

The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Division of Waste Management and Radiation Control, whose mission is “to protect human health and the environment by ensuring proper management of solid wastes, hazardous wastes and used oil, and to protect the general public and occupationally exposed employees from sources of radiation that constitute a health hazard”: (1) Percent of x-ray machines in compliance (Target - 90%), (2) Percent of permits issued/modified within set timeframes (Target - 85%), (3) Percent of monitoring inspections completed within set time frame (Target - 100%), (4) Compliance Assistance for Small Businesses (Target - 50 businesses), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 22

To Department of Environmental Quality -
 Water Quality
 From General Fund 3,243,200
 From Federal Funds 4,948,800
 From Dedicated Credits Revenue 1,611,800
 From Revenue Transfers 386,800
 From General Fund Restricted -
 Underground Wastewater System 77,200
 From Water Dev. Security Fund -
 Utah Wastewater Loan Program 1,559,700
 From Water Dev. Security Fund -
 Water Quality Origination Fee 101,700
 From Beginning Nonlapsing Balances ... 335,000
 Schedule of Programs:

Water Quality 12,264,200

The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Division of Water Quality, whose mission

is “to protect, maintain and enhance the quality of Utah’s surface and underground waters for appropriate beneficial uses; and protect the public health through eliminating and preventing water related health hazards which can occur as a result of improper disposal of human, animal or industrial wastes while giving reasonable consideration to the economic impact”: (1) Percent of permits renewed “On-time”, (Target - 100%), (2) Percent of permit holders in compliance, (Target - 100%), (3) Municipal wastewater effluent quality (mg/L oxygen consumption potential), (Target - 331 mg/L oxygen consumption potential {state average} by 2025), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

GOVERNOR’S OFFICE

Item 23

To Governor’s Office - Office of
 Energy Development
 From General Fund 1,567,600
 From Federal Funds 408,000
 From Dedicated Credits Revenue 91,800
 From Utah State Energy Program
 Revolving Loan Fund (ARRA) 112,200
 From Beginning Nonlapsing Balances ... 28,000
 Schedule of Programs:
 Office of Energy Development 2,207,600

DEPARTMENT OF NATURAL RESOURCES

Item 24

To Department of Natural
 Resources - Administration
 From General Fund 2,673,500
 From General Fund Restricted -
 Sovereign Land Management 78,000
 From Beginning Nonlapsing Balances ... 225,000
 Schedule of Programs:
 Administrative Services 1,023,900
 Executive Director 1,430,200
 Lake Commissions 78,700
 Law Enforcement 221,100
 Public Information Office 222,600

The Legislature intends that the Department of Natural Resources report on the following performance measures for the DNR Administration line item, whose mission is “to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah.” (1) To keep the ratio of total employees in DNR in proportion to the employees in DNR administration at greater than or equal to 55:1 (Target = 55:1), (2) To continue to grow non-general fund revenue sources in order to maintain a total DNR non-general fund ratio to total funds at 80% or higher (Target = 80%), (3) To maintain or reduce out of state travel costs through the use of technology (Target = \$10,000 or less) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 25

To Department of Natural Resources -
 Building Operations
 From General Fund 1,788,800
 Schedule of Programs:
 Building Operations 1,788,800

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Building Operations line item, whose mission is “to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah:” (1) With two aging facilities we have a goal to request DFCM keep our O&M rates at the current cost of \$4.25 (Target = 100%), (2) To have the DFCM O&M rate remain at least 32% more cost competitive than the private sector rate (Target = 32%), (3) To improve building services customer satisfaction with DFCM facility operations by 10% (Target = 10%) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 26

To Department of Natural Resources -
 Contributed Research
 From Dedicated Credits Revenue 1,503,100
 Schedule of Programs:
 Contributed Research 1,503,100

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Contributed Research line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Percentage of mule deer units at or exceeding 90% of their population objective (Target = 50%), (2) Percentage of elk units at or exceeding 90% of their population objective (Target = 75%), and (3) Maintain positive hunter satisfaction index for general season deer hunt (Target = 3.3) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 27

To Department of Natural Resources -
 Cooperative Agreements
 From Federal Funds 12,415,700
 From Dedicated Credits Revenue 1,109,500
 From Revenue Transfers 5,628,600
 Schedule of Programs:
 Cooperative Agreements 19,153,800

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Cooperative Agreements line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Aquatic Invasive Species containment - number of public contacts and boat decontaminations (Targets = 135,000 contacts and 2,000 decontaminations), (2) Number of new wildlife species listed under

the Endangered Species Act (Target = 0), and (3) Number of habitat acres restored annually (Target = 100,000) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 28

To Department of Natural Resources -
 DNR Pass Through
 From General Fund 608,400
 From Beginning Nonlapsing Balances ... 700,000
 Schedule of Programs:
 DNR Pass Through 1,308,400

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Pass Through line item, whose mission is “to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah:” (1) To pass funding from legislative appropriations to other entities such as zoos, counties and other public and non-public entities. The goal is to complete these transactions in accordance with legislative direction (Target = 100%), (2) To keep the charges to this account and the costs of auditing and administering these funds at 8% or less of the funding appropriated for pass through (Target = 8%), (3) To complete the project(s) within the established timeframe(s) and budget (Target = 100%) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 29

To Department of Natural Resources -
 Forestry, Fire and State Lands
 From General Fund 2,516,300
 From Federal Funds 6,531,000
 From Dedicated Credits Revenue 6,581,200
 From General Fund Restricted -
 Sovereign Land Management 6,507,400
 From Beginning Nonlapsing
 Balances 6,000,000
 Schedule of Programs:
 Division Administration 1,234,900
 Fire Management 1,837,600
 Fire Suppression Emergencies 2,100,000
 Forest Management 3,769,200
 Lands Management 897,400
 Lone Peak Center 3,313,400
 Program Delivery 7,957,300
 Project Management 7,026,100

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Forestry, Fire, and State Lands line item, whose mission is “to manage, sustain, and strengthen Utah’s forests, range lands, sovereign lands and watersheds for its citizens and visitors:” (1) Fuel Reduction Treatment Acres (Target = 4,721), (2) Fire Fighters Trained to Meet Standards (Target = 2,343), and (3) Communities With Tree City USA Status (Target = 92) by October 15, 2019 to the Natural Resources, Agriculture, and

Environmental Quality Appropriations Subcommittee.

Item 30

To Department of Natural Resources -

Oil, Gas and Mining

From General Fund	2,651,200
From Federal Funds	7,620,700
From Dedicated Credits Revenue	242,900
From General Fund Restricted -	
Oil & Gas Conservation Account	4,487,400
From Beginning Nonlapsing	
Balances	2,327,300

Schedule of Programs:

Abandoned Mine	5,155,700
Administration	2,231,500
Board	80,000
Coal Program	2,134,500
Minerals Reclamation	1,056,300
OGM Misc. Nonlapsing	2,327,300
Oil and Gas Program	4,344,200

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Oil, Gas, and Mining line item, whose mission is "The Division of Oil, Gas and Mining regulates and ensures industry compliance and site restoration while facilitating oil, gas and mining activities:" (1) Timing of Issuing Coal Permits (Target = 100%), (2) Customer Satisfaction from Survey (Target = 4.4), and (3) Well Drilling Inspections without Violations (Target = 100%) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 31

To Department of Natural Resources -

Parks and Recreation

From General Fund	4,532,500
From Federal Funds	1,527,200
From Dedicated Credits Revenue	1,051,700
From General Fund Restricted -	
Boating	4,724,100
From General Fund Restricted -	
Off-highway Access and Education	17,800
From General Fund Restricted -	
Off-highway Vehicle	6,208,500
From General Fund Restricted -	
State Park Fees	17,561,700
From Revenue Transfers	35,800
From General Fund Restricted -	
Zion National Park Support Programs ...	4,000

Schedule of Programs:

Executive Management	820,400
Park Management Contracts	1,034,100
Park Operation Management	29,015,400
Planning and Design	892,000
Recreation Services	1,839,300
Support Services	2,062,100

The Legislature intends that the Division of Parks and Recreation report on the following performance measures for the Operations line item, whose mission is "To enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration

of this and future generations:" (1) Total Revenue Collections (Target = \$34,500,000), (2) Gate Revenue (Target = \$19,500,000), and (3) Expenditures (Target = \$34,500,000) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 32

To Department of Natural Resources -

Parks and Recreation Capital Budget

From General Fund	39,700
From Federal Funds	3,119,700
From Dedicated Credits Revenue	25,000
From General Fund Restricted -	
Boating	575,000
From General Fund Restricted -	
Off-highway Vehicle	400,000
From General Fund Restricted -	
State Park Fees	433,000

Schedule of Programs:

Boat Access Grants	350,000
Donated Capital Projects	25,000
Land and Water Conservation	447,600
Major Renovation	458,500
Off-highway Vehicle Grants	175,000
Region Renovation	100,000
Renovation and Development	546,700
Trails Program	2,489,600

The Legislature intends that the Division of Parks and Recreation report on the following performance measures for the Capital line item, whose mission is "To enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations:" (1) Donations Revenue (Target = \$115,000), (2) Capital renovation projects completed (Target = 11), and (3) Boating projects completed (Target = 10) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 33

To Department of Natural Resources -

Predator Control

From General Fund	59,600
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Schedule of Programs:

Predator Control	59,600
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The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Predator Control line item, whose mission is "To serve the people of Utah as trustee and guardian of states wildlife:" (1) That the funds were transferred (Target 100%), (2) That DWR review the use of these funds (Target = 1), and (3) DWR be able to report on the use of these funds as needed (Target = 1) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 34

To Department of Natural Resources -

Species Protection

From General Fund	300
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From Dedicated Credits Revenue	2,450,000
From General Fund Restricted -	
Species Protection	646,700
From Beginning Nonlapsing Balances	200,000
Schedule of Programs:	
Species Protection	3,297,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Species Protection line item, whose mission is "To eliminate the need in Utah for federal regulatory intervention and oversight associated with the Endangered Species Act:"

(1) Delisting or Downlisting (Target = one delisting or downlisting proposed or final rule published in the Federal Register per year), (2) Red Shiner Eradication (Target = Eliminate 100% of Red Shiner from 37 miles of the Virgin River in Utah), and (3) June Sucker Population Enhancement (Target = 5,000 adult spawning June Sucker) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 35

To Department of Natural Resources -	
Utah Geological Survey	
From General Fund	4,239,500
From Federal Funds	753,800
From Dedicated Credits Revenue	561,000
From General Fund Restricted -	
Mineral Lease	1,528,000
From General Fund Restricted - Land	
Exchange Distribution Account	20,300
From Beginning Nonlapsing Balances	750,000
Schedule of Programs:	
Administration	726,000
Board	3,500
Energy and Minerals	1,719,500
Geologic Hazards	1,184,200
Geologic Information and	
Outreach	1,763,400
Geologic Mapping	1,303,100
Ground Water	1,152,900

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Utah Geological Survey line item, whose mission is "to provide timely, scientific information about Utahs geologic environment, resources, and hazards:" (1) Geologic Hazards Studies/Maps (Target = 25), (2) Public Inquires Answered (Target = 4,000), and (3) External Revenue Collected - Federal Funds and Dedicated Credits (Target = \$2 Million) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 36

To Department of Natural Resources -	
Water Resources	
From General Fund	3,863,200
From Federal Funds	508,800
From Dedicated Credits Revenue	150,000

From Water Resources Conservation	
and Development Fund	3,225,400
From Beginning Nonlapsing	
Balances	1,500,000
Schedule of Programs:	
Administration	909,900
Board	34,000
Cloudseeding	300,000
Construction	3,705,400
Interstate Streams	383,100
Planning	3,910,000
West Desert Operations	5,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Water Resources line item, whose mission is to "plan, conserve, develop and protect Utahs water resources:" (1) Water conservation and development projects funded (Target = 15), (2) Reduction of per capita M&I water use (Target = 25%), and (3) Percentage of precipitation increase due to cloud seeding efforts (Target = 7%) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 37

To Department of Natural Resources -	
Water Rights	
From General Fund	8,801,100
From Federal Funds	118,300
From Dedicated Credits Revenue	4,175,900
From Beginning Nonlapsing Balances	500,000
Schedule of Programs:	
Adjudication	3,260,800
Administration	943,300
Applications and Records	4,711,600
Canal Safety	139,600
Dam Safety	1,062,900
Field Services	1,281,400
Technical Services	2,195,700

The Legislature intends that the Division of Water Rights report on the following performance measures for the Division of Water Rights line item, whose mission is "to promote order and certainty in the beneficial use of public water:" (1) Timely Application processing (Target = 80 days for uncontested applications), (2) Use of technology to provide information (Target = 1500 unique web users per month), and (3) (complete comprehensive adjudications) (Target = 20,000 parties who's claims have been addressed for FY 2019) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 38

To Department of Natural Resources -	
Watershed	
From General Fund	1,707,600
From Dedicated Credits Revenue	500,000
From General Fund Restricted -	
Sovereign Land Management	2,002,300
From Beginning Nonlapsing	
Balances	1,000,000
Schedule of Programs:	
Watershed	5,209,900

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Watershed line item, whose mission is the “rehabilitation or restoration of priority watershed areas in order to address the needs of water quality and yield, wildlife, agriculture and human needs:” (1) Number of acres treated (Target = 100,000 acres per year), (2) Ratio of DNR funds to partner contributions (Target = 9), and (3) Miles of stream and riparian areas restored (Target = 175 miles) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 39

To Department of Natural Resources -
Wildlife Resources

From General Fund	7,470,800
From Federal Funds	26,485,300
From Dedicated Credits Revenue	106,800
From General Fund Restricted - Boating	710,000
From General Fund Restricted - Mule Deer Protection Account	504,200
From General Fund Restricted - Predator Control Account	806,700
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account	25,000
From Revenue Transfers	108,400
From General Fund Restricted - Wildlife Conservation Easement Account	15,300
From General Fund Restricted - Wildlife Habitat	2,923,500
From General Fund Restricted - Wildlife Resources	36,751,000
From Beginning Nonlapsing Balances	1,280,000
Schedule of Programs:	
Administrative Services	8,806,700
Aquatic Section	20,931,100
Conservation Outreach	5,482,600
Director’s Office	2,529,500
Habitat Council	2,923,500
Habitat Section	8,417,600
Law Enforcement	8,871,000
Wildlife Section	19,225,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Operations line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Number of people participating in hunting and fishing in Utah (Target = 700,000 anglers and 320,000 hunters), (2) Percentage of law enforcement contacts without a violation (Target = 95%), and (3) Number of participants at DWR shooting ranges (Target = 85,000) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 40

To Department of Natural Resources -
Wildlife Resources Capital Budget

From General Fund	649,400
From Federal Funds	1,350,000
From General Fund Restricted - State Fish Hatchery Maintenance	1,205,000
From Beginning Nonlapsing Balances	649,400
Schedule of Programs:	
Fisheries	3,853,800

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Capital Facilities line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Average score from annual DFCM facility audits (Target = 90%), (2) New Motor Boat Access projects (Target = 10), and (3) Number of hatcheries in operation (Target = 12) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 41

To Public Lands Policy Coordinating Office

From General Fund	1,635,400
From General Fund Restricted - Constitutional Defense	1,113,600
From Beginning Nonlapsing Balances	2,547,100
Schedule of Programs:	
Public Lands Policy Coordinating Office	5,296,100

The Legislature intends that the Public Lands Policy Coordinating Office report on the following performance measures for the PLPCO line item, whose mission is “to preserve and defend rights to access, use and benefit from public lands within the State”: (1) County Customer Service - Percentage of Utah Counties which reported PLPCOs work as “very good” (Target = 70%), (2) Percentage of State Natural Resource Agencies working with PLPCOs which reported PLPCOs work as “very good” (Target = 70%), (3) Number of Public Land disputes in Utah directly engaged by PLPCO compared to the number of disputes that go unchallenged (Target 70%), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 42

To School and Institutional Trust Lands
Administration - Land Stewardship and
Restoration

From Land Grant Management Fund	1,199,300
Schedule of Programs:	
Land Stewardship and Restoration	1,199,300

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Stewardship line item, whose mission is “Administering trust lands prudently and profitably for Utahs schoolchildren and other trust beneficiaries:” (1) Mitigation, facilitation of de-listing or preventing the listing of sensitive species such as Sage Grouse, Penstemon and the Utah Prairie Dog (Target = \$300,000), (2) Fire rehabilitation on trust parcels (Target = \$100,000), (3) Actions that need to be taken on trust parcels to reduce resource degradation and minimize environmental liability (Target = \$200,000) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 43

To School and Institutional Trust Lands Administration

From Land Grant Management

Fund 10,767,500

Schedule of Programs:

Accounting	458,200
Administration	996,900
Auditing	488,300
Board	95,800
Development - Operating	1,500,900
Director	738,100
External Relations	277,900
Grazing and Forestry	462,100
Information Technology Group	1,250,800
Legal/Contracts	900,100
Mining	740,300
Oil and Gas	884,600
Surface	1,973,500

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Operations line item, whose mission is “Administering trust lands prudently and profitably for Utahs schoolchildren and other trust beneficiaries:” (1) Oil and Gas gross revenue (Target = \$40,000,000), (2) Mining gross revenue (Target = \$8,565,000), and (3) Surface gross revenue (Target = \$12,835,000) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 44

To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital

From Land Grant Management

Fund 5,000,000

Schedule of Programs:

Capital	5,000,000
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The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Development Capital line item, whose mission is “Administering trust lands prudently and profitably for Utahs

schoolchildren and other trust beneficiaries:” (1) Expend capital for infrastructure at Mile Post 2 in the South Block in Washington County (Target = \$1,500,000), (2) Produce higher revenues than the ten year Planning and Development group average (Target => \$17,100,000), (3) Begin infrastructure expenditures at Lake Mountain -- Hidden Valley in Utah County (Target = \$1,000,000) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 45

To Department of Agriculture and Food - Salinity Offset Fund

From Revenue Transfers 144,900

From Beginning Fund Balance 2,631,400

From Closing Fund Balance (1,631,400)

Schedule of Programs:

Salinity Offset Fund	1,144,900
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The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Colorado River Basin Salinity Control Program, whose mission is to “reduce salinity in the Colorado River and its tributaries and encourage improved irrigation practices:” (1) Cost Per Ton of Salt Controlled (Target = \$60 / ton for canal improvement and \$80 / ton for on farm irrigation improvements), (2) Put available funding to reduce salinity (Target =85% of available funds put into on-the-ground projects), and (3) Process all grant documents including payments within 3 days (Target = 98% of documents processed by program manager in 3 days on average) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 46

To Department of Environmental Quality - Hazardous Substance Mitigation Fund

From Dedicated Credits Revenue 82,400

From General Fund Restricted -

Environmental Quality, One-Time 400,000

From Beginning Fund Balance 4,841,900

From Closing Fund Balance (4,350,500)

Schedule of Programs:

Hazardous Substance Mitigation

Fund	973,800
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The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Hazardous Substances Mitigation Fund line item, whose mission is “to provide special revenue funding to be used in protecting Public Health and the Environment and to help clean up contaminated sites and return properties to beneficial reuse”: (1) To provide the states portion of the cleanup costs under authority of CERCLA as appropriated by the Legislature within the required timeframe (Target = 100%), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 47

To Department of Environmental Quality -
 Waste Tire Recycling Fund
 From Dedicated Credits Revenue 3,480,700
 From Beginning Fund Balance 5,026,600
 From Closing Fund Balance (5,759,000)
 Schedule of Programs:
 Waste Tire Recycling Fund 2,748,300

The Legislature intends that the Department of Environmental Quality report on the following performance measure for the Waste Tire Recycling fund, whose funding shall be used “for partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires and payment of administrative costs of local health departments or costs of the Department of Environmental Quality in administering and enforcing this fund”: (1) Number of Waste Tires Cleaned-Up (Target - 40,000), by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF NATURAL RESOURCES

Item 48

To Department of Natural Resources -
 UGS Sample Library Fund
 From Dedicated Credits Revenue 1,000
 From Beginning Fund Balance 77,800
 From Closing Fund Balance (78,800)

The Legislature intends that the Department of Natural Resources report on the following performance measures for the UGS Sample Library Fund line item (an expendable special revenue fund, consisting of money from donations and interest, whose purpose is to support the sample library): (1) Annual Interest Earned (Target = \$500), and (2) Utah Core Research Center workshops (Target = 10) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 49

To Department of Natural Resources -
 Wildland Fire Suppression Fund
 From Interest Income, One-Time 1,000

From General Fund Restricted -
 Mineral Bonus 345,900
 From General Fund Restricted -
 Mineral Bonus, One-Time (14,000)
 Schedule of Programs:
 Wildland Fire Suppression Fund 332,900

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildland Fire Suppression Fund line item managed by the Division of Forestry, Fire, and State Lands, whose mission is “to manage, sustain, and strengthen Utah’s forests, range lands, sovereign lands and watersheds for its citizens and visitors:” (1) Non-federal wildland fire acres burned (Target = 18,253), (2) Human-caused wildfire rate (Target = 56%), and (3) Participating Entities (Target = 146 entities) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 50

To Department of Agriculture and Food -
 Agriculture Loan Programs
 From Agriculture Resource Development
 Fund 285,300
 From Utah Rural Rehabilitation Loan
 State Fund 153,700
 Schedule of Programs:
 Agriculture Loan Program 439,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Agriculture Loan Programs line item, whose mission is “To serve and deliver financial services to our agricultural clients and partners through delivery of effective customer service and efficiency with good ethics and fiscal responsibility:” (1) Default rate - To keep our default rate lower than average bank default rates of 3% in our annual fiscal year. (Target = 2% or less), (2) Loan Process Time - Reduce the loan process time from start to finish with increased communication with the borrower. (Target = 20%), and (3) Investigate and initiate acceptance and use of electronic documents - Electronic documentation has been proven to be: quicker, less expensive, of higher quality,

and easier to maintain and store (Target = 100% use) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 51

To Department of Environmental Quality - Water Development Security Fund - Drinking Water

From Federal Funds	7,000,000
From Dedicated Credits Revenue	5,477,000
From Designated Sales Tax	3,587,500
From Repayments	9,682,000
Schedule of Programs:	
Drinking Water	25,746,500

Item 52

To Department of Environmental Quality - Water Development Security Fund - Water Quality

From Federal Funds	7,200,000
From Dedicated Credits Revenue	6,282,700
From Designated Sales Tax	3,587,500
From Repayments	19,479,700
Schedule of Programs:	
Water Quality	36,549,900

DEPARTMENT OF NATURAL RESOURCES

Item 53

To Department of Natural Resources - Internal Service Fund

From Dedicated Credits Revenue	808,500
Schedule of Programs:	
ISF - DNR Warehouse	808,500
Budgeted FTE	2.0

The Legislature intends that the Department of Natural Resources report on the following performance measures for the DNR ISF line item, whose mission is "to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah." (1) To achieve \$40,000 of net income in FY2018 (Target = \$40,000), (2) To achieve and maintain \$40,000 of accumulated retained earnings (Target = \$40,000), (3) To adjust rates such that retained earnings are within plus or minus 5% of annual revenues (Target = plus or minus 5% of revenues) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 54

To Department of Natural Resources - Water Resources Revolving Construction Fund

From Water Resources Conservation and Development Fund	3,800,000
Schedule of Programs:	
Construction Fund	3,800,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Water Resources Revolving Construction Fund line item, whose mission is to "plan, conserve, develop and protect Utahs water resources:" (1) Dam Safety minimum

standards upgrade projects funded per fiscal year (Target = 2), (2) Percent of appropriated funding to be spent on Dam Safety projects (Target = 100%), and (3) Timeframe by which all state monitored high hazard dams will be brought up to minimum safety standards (Target = year 2100) by October 15, 2019 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 55

To Conversion to Alternative Fuel Grant Program Fund

From Beginning Nonlapsing Balances	110,000
From Closing Nonlapsing Balances	(90,000)
Schedule of Programs:	
Conversion to Alternative Fuel Grant Program Fund	20,000

Item 56

To General Fund Restricted - Agriculture and Wildlife Damage Prevention Account

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

Item 57

To General Fund Restricted - Constitutional Defense Restricted Account

From General Fund Restricted - Land Exchange Distribution Account	1,084,000
Schedule of Programs:	
General Fund Restricted - Constitutional Defense Restricted Account	1,084,000

Item 58

To General Fund Restricted - Invasive Species Mitigation Account

From General Fund	2,000,000
Schedule of Programs:	
General Fund Restricted - Invasive Species Mitigation Account	2,000,000

Item 59

To General Fund Restricted - Mule Deer Protection Account

From General Fund	500,000
Schedule of Programs:	
General Fund Restricted - Mule Deer Protection	500,000

Item 60

To General Fund Restricted - Rangeland Improvement Account

From General Fund	1,346,300
Schedule of Programs:	

General Fund Restricted - Rangeland Improvement Account	1,346,300
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Item 61

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

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

**CHAPTER 8
H.B. 6**

Passed February 6, 2018
Approved February 21, 2018
Effective May 8, 2018

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE BASE BUDGET**

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

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates (\$8,852,400) in operating and capital budgets for fiscal year 2018, including:

- ▶ (\$3,986,100) from the General Fund;
- ▶ (\$4,866,300) from various sources as detailed in this bill.

This bill appropriates \$891,488,200 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$666,345,000 from the General Fund;
- ▶ \$49,000 from the Education Fund;
- ▶ \$225,094,200 from various sources as detailed in this bill.

This bill appropriates \$18,552,000 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$50,139,500 in business-like activities for fiscal year 2019, including:

- ▶ \$148,600 from the General Fund;
- ▶ \$49,990,900 from various sources as detailed in this bill.

This bill appropriates \$16,437,700 in restricted fund and account transfers for fiscal year 2019, all of which is from the General Fund.

This bill appropriates \$405,700 in transfers to unrestricted funds for fiscal year 2019.

This bill appropriates \$12,800,000 in fiduciary funds for fiscal year 2019, including:

- ▶ \$12,000,000 from the General Fund;
- ▶ \$800,000 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 1

To Attorney General
From General Fund, One-Time (88,500)
Schedule of Programs:
Civil (88,500)

UTAH DEPARTMENT OF CORRECTIONS

Item 2

To Utah Department of Corrections - Programs and Operations
From General Fund, One-Time (5,500,000)
Schedule of Programs:
Adult Probation and Parole
Programs (130,000)
Department Executive Director (300)
Prison Operations Central
Utah/Gunnison (1,011,100)
Prison Operations Draper
Facility (4,358,600)

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 3

To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time (7,300)
Schedule of Programs:
District Courts (7,300)

Item 4

To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund, One-Time (60,000)
Schedule of Programs:
Guardian ad Litem (60,000)

Item 5

To Judicial Council/State Court Administrator - Jury and Witness Fees
From General Fund, One-Time 2,000,000
From Beginning Nonlapsing Balances . . . 876,300
From Closing Nonlapsing Balances . . . (2,860,900)
Schedule of Programs:
Jury, Witness, and Interpreter 15,400

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

Item 6

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

From General Fund, One-Time (204,300)
 Schedule of Programs:
 Administration (27,000)
 Early Intervention Services (177,300)

DEPARTMENT OF PUBLIC SAFETY

Item 7

To Department of Public Safety - Division of
 Homeland Security - Emergency and Disaster
 Management
 From Beginning Nonlapsing
 Balances 10,375,600
 From Closing Nonlapsing
 Balances (10,375,600)

Item 8

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted
 Account, One-Time (1,500,000)
 From Public Safety Motorcycle
 Education Fund, One-Time (224,300)
 From Uninsured Motorist Identification
 Restricted Account, One-Time (1,057,400)
 Schedule of Programs:
 Driver Services (1,500,000)
 Motorcycle Safety (224,300)
 Uninsured Motorist (1,057,400)

Item 9

To Department of Public Safety -
 Emergency Management
 From General Fund, One-Time (13,100)
 Schedule of Programs:
 Emergency Management (13,100)

Item 10

To Department of Public Safety - Highway Safety
 From Department of Public Safety Restricted
 Account, One-Time (100,000)
 Schedule of Programs:
 Highway Safety (100,000)

Item 11

To Department of Public Safety - Programs
 & Operations
 From General Fund, One-Time (112,900)
 Schedule of Programs:
 CITS State Crime Labs (112,900)

Subsection 1(b). Business-like Activities.

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

DEPARTMENT OF PUBLIC SAFETY

Item 12

To Department of Public Safety - Local
 Government Emergency Response Loan Fund
 From Beginning Fund Balance 104,100

From Closing Fund Balance (104,100)

Section 2. FY 2019 Appropriations. The
 following sums of money are appropriated for
 the fiscal year beginning July 1, 2018 and
 ending June 30, 2019.

**Subsection 2(a). Operating and Capital
 Budgets.**

Under the terms and conditions of
 Title 63J, Chapter 1, Budgetary Procedures Act,
 the Legislature appropriates the following sums
 of money from the funds or accounts indicated
 for the use and support of the government of the
 state of Utah.

ATTORNEY GENERAL

Item 13

To Attorney General
 From General Fund 24,211,900
 From Federal Funds 2,244,100
 From Dedicated Credits Revenue 8,463,700
 From Attorney General Litigation Fund . . . 8,200
 From General Fund Restricted -
 Constitutional Defense 250,000
 From Revenue Transfers 1,305,600
 From Other Financing Sources 98,000
 Schedule of Programs:
 Administration 6,656,700
 Child Protection 9,287,300
 Civil 4,000
 Criminal Prosecution 20,633,500

The Legislature intends that the Attorney
 Generals Office, whose mission is “to uphold
 the constitutions of the United States and of
 Utah, enforce the law, and protect the
 interests of Utah, its people, environment and
 resources” report on the following
 performance measures: (1) The Attorney
 Generals Office shall represent, defend and
 advise the State of Utah, its elected officials
 and nearly 200 State agencies, boards and
 committees, as well as, when appropriate, its
 systems of public- and higher- education, in
 civil, criminal, appellate and administrative
 matters; (2) The Attorney Generals Office
 shall hire and mentor attorneys,
 investigators and staff to contribute
 positively to the Office while demonstrating
 professionalism and integrity in the handling
 of complex legal issues; (3) The Attorney
 Generals Office shall adopt productivity tools
 to track performance, improve
 communication, provide additional fiscal
 detail and address other metrics to improve
 effectiveness and financial efficiency of the
 Office by October 15, 2019 to the Executive
 Offices and Criminal Justice Appropriations
 Subcommittee.

Item 14

To Attorney General - Children’s Justice Centers
 From General Fund 3,730,700
 From Federal Funds 242,100
 From Dedicated Credits Revenue 441,800
 Schedule of Programs:
 Children’s Justice Centers 4,414,600

The Legislature intends that the Attorney
 Generals Offices report on the following
 performance measures for the Children’s

Justice Centers line item, whose mission is “to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children’s Justice Center, to facilitate healing for children and caregivers, and to utilize the multidisciplinary approach to foster more collaborative and efficient case investigations”: (1) Percentage of caregivers that strongly agreed that the CJC provided them with resources to support them and their children (Target = 88.7%); (2) Percentage of caregivers that strongly agreed that if they knew anyone else who was dealing with a situation like the one their family faced, they would tell that person about the CJC (Target = 90.9%); (3) Percentage of multidisciplinary team (MDT) members that strongly believe clients benefit from the collaborative approach of the MDT (Target = 89.1%), by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 15

To Attorney General – Contract Attorneys
 From Dedicated Credits Revenue 1,500,000
 Schedule of Programs:
 Contract Attorneys 1,500,000

The Legislature intends that the Attorney Generals Office, whose mission is “to uphold the constitutions of the United States and of Utah, enforce the law, and protect the interests of Utah, its people, environment and resources” report on the following performance measure: (1) Collaborate and contract, as necessary, with subject matter experts and outside counsel to assist in the performance of its duties by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 16

To Attorney General – Prosecution Council
 From General Fund 182,800
 From Federal Funds 32,500
 From Dedicated Credits Revenue 72,400
 From General Fund Restricted -
 Public Safety Support 534,600
 From Revenue Transfers 278,000
 Schedule of Programs:
 Prosecution Council 1,100,300

The Legislature intends that the Attorney Generals Office report on the following performance measures for the Utah Prosecution Council (UPC), whose mission is “to provide training and continuing legal education and provide assistance for state and local prosecutors”: (1) UPC will hold conferences/meetings each year as funds allow, including the Spring Legislative and Case Law Update, the Utah Prosecutor Assistant’s Association (UPAA) conference, the Utah Misdemeanor Prosecutor Association (UMPA) conference, the Basic Prosecutor Course, the Fall Prosecutor Conference, the Government Civil

Conference, the County Executive Seminar, the Regional Legislative Update Training, as well as quarterly council meetings, training committee meetings, conference planning meetings, advanced trial skills training, domestic violence and child abuse training, mental health training, impaired driving training, sexual assault training and white collar crime training; (2) UPC will hold New County Attorney Training every four (4) years or as new County Attorneys take office; (3) UPC will provide services to prosecutors statewide that include maintaining UPC’s webpage to include current and future training opportunities, recent case summaries, resource prosecutor information, prosecutor offices contact information, and other prosecutor requested information as well as the Prosecutor Google Forum where prosecutors can pose questions and share information with other prosecutors by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

BOARD OF PARDONS AND PAROLE

Item 17

To Board of Pardons and Parole
 From General Fund 5,144,700
 From Dedicated Credits Revenue 2,200
 Schedule of Programs:
 Board of Pardons and Parole 5,146,900

The Legislature intends that the Board of Pardons and Parole report on the following performance measures for their line item, whose mission is “The mission of the Utah Board of Pardons and Parole is to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration.” (1) percent of decisions completed within 7 Days of the Hearing (Target 75%), (2) percent of results completed within 3 Days of decision (Target 90%), (3) percent of mandatory JRI (77-27-5.4) time cuts processed electronically (Target 90%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

UTAH DEPARTMENT OF CORRECTIONS

Item 18

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 241,681,400
 From Education Fund 49,000
 From Federal Funds 345,900
 From Dedicated Credits Revenue 4,062,000
 From G.F.R. - Interstate Compact
 for Adult Offender Supervision 29,600
 From General Fund Restricted - Prison
 Telephone Surcharge Account 1,500,000
 Schedule of Programs:
 Adult Probation and Parole
 Administration 3,431,200
 Adult Probation and Parole
 Programs 68,149,400

Department Administrative Services	25,809,900
Department Executive Director	6,945,800
Department Training	1,756,600
Prison Operations Administration ...	4,533,900
Prison Operations Central Utah/Gunnison	40,531,500
Prison Operations Draper Facility	73,578,100
Prison Operations Inmate Placement	3,525,500
Programming Administration	441,400
Programming Education	1,998,700
Programming Skill Enhancement ..	11,410,700
Programming Treatment	5,555,200

The Legislature intends that the Department of Corrections report on the following performance measures for the Programs and Operations line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) AP&P: Percentage of offender discharging supervision successfully (2) DPO: Rate of disciplinary events inside the prisons (3) IPD: Percentage of inmates in state prisons actively involved in programs or classes by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 19

To Utah Department of Corrections - Department Medical Services

From General Fund	32,290,600
From Dedicated Credits Revenue	618,500

Schedule of Programs:

Medical Services	32,909,100
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The Legislature intends that the Department of Corrections report on the following performance measures for the Medical Services line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Percentage of Health Care Requests closed out within 3 business days of submittal, (2) Percentage of Dental Requests closed out within 7 days of submittal, (3) Average number of days after intake for an inmate to be assigned a mental health level, by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 20

To Utah Department of Corrections - Jail Contracting

From General Fund	31,272,300
From Federal Funds	50,000

Schedule of Programs:

Jail Contracting	31,322,300
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The Legislature intends that the Department of Corrections report on the following performance measures for the Jail Contracting line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Rate of positive urinalysis tests in jails (for state inmates), (2) Rate of disciplinary events inside the jails (for state inmates), (3) Percentage of state inmates in county jails actively involved in programs or classes, by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 21

To Judicial Council/State Court Administrator - Administration

From General Fund	107,861,300
From Federal Funds	766,100
From Dedicated Credits Revenue	3,041,300

From General Fund Restricted - Children’s Legal Defense

468,100

From General Fund Restricted - Court Security Account

11,172,800

From General Fund Restricted - Court Trust Interest

255,200

From General Fund Restricted - Dispute Resolution Account

565,200

From General Fund Restricted - DNA Specimen Account

269,700

From General Fund Rest. - Justice Court Tech., Security & Training

1,218,900

From General Fund Restricted - Nonjudicial Adjustment Account

1,056,400

From General Fund Restricted - Online Court Assistance Account

233,700

From General Fund Restricted - State Court Complex Account

322,100

From General Fund Restricted - Substance Abuse Prevention

571,800

From General Fund Restricted - Tobacco Settlement Account

193,700

From Revenue Transfers

1,095,500

Schedule of Programs:

Administrative Office	5,450,700
Court of Appeals	4,378,200
Courts Security	11,172,800
Data Processing	8,023,200
District Courts	49,647,900
Grants Program	1,483,900
Judicial Education	724,900

Justice Courts	1,393,700
Juvenile Courts	42,456,100
Law Library	1,088,600
Supreme Court	3,271,800

The Legislature intends that the Utah State Courts report on the following performance measures for their Administration line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Target the recommended time standards in District and Juvenile Courts for all case types, as per the published Utah State Courts Performance Measures, (2) Access and Fairness Survey re satisfaction with my experience in court question, as per the published Utah State Courts Performance Measures (Target 90%), (3) Clearance rate in all courts, as per the published Utah State Courts Performance Measures (Target 100%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 22

To Judicial Council/State Court Administrator - Contracts and Leases

From General Fund	16,315,400
From Dedicated Credits Revenue	250,900
From General Fund Restricted - State Court Complex Account	4,611,500
Schedule of Programs:	
Contracts and Leases	21,177,800

The Legislature intends that the Utah State Courts report on the following performance measure for their Contract and Leases line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Execute and administer required contracts within the terms of the contracts and appropriations (Target 100%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 23

To Judicial Council/State Court Administrator - Grand Jury

From General Fund	800
Schedule of Programs:	
Grand Jury	800

The Legislature intends that the Utah State Courts report on the following performance measure for their Grand Jury line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Administer called Grand Juries (Target 100%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 24

To Judicial Council/State Court Administrator - Guardian ad Litem

From General Fund	7,628,400
From Dedicated Credits Revenue	78,900

From General Fund Restricted - Children’s Legal Defense	503,900
From General Fund Restricted - Guardian Ad Litem Services	397,500
Schedule of Programs:	
Guardian ad Litem	8,608,700

The Legislature intends that the Guardian ad Litem report on the seven performance measures for their line item found in the Utah Office of Guardian ad Litem and CASA Annual Report by October 15, 2018 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 25

To Judicial Council/State Court Administrator - Jury and Witness Fees

From General Fund	2,601,300
From Dedicated Credits Revenue	10,000
Schedule of Programs:	
Jury, Witness, and Interpreter	2,611,300

The Legislature intends that the Utah State Courts report on the following performance measure for their Jury and Witness Fees line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Timely pay all required jurors, witnesses and interpreters (Target 100%), by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

GOVERNOR’S OFFICE

Item 26

To Governor’s Office - CCJJ Factual Innocence Payments

From Beginning Nonlapsing Balances ...	273,900
From Closing Nonlapsing Balances	(228,200)
Schedule of Programs:	
Factual Innocence Payments	45,700

Item 27

To Governor’s Office - CCJJ Jail Reimbursement

From General Fund	13,967,100
Schedule of Programs:	
Jail Reimbursement	13,967,100

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures the for Jail Reimbursement, line item, whose mission is to “reimburse up to 50 percent of the average final daily incarceration rate to house an inmate in county jails for (1) felony offenders placed on probation and given jail time as a condition of probation; and (2) parolees on a 72 hour hold.”: (1) Percent of the 50 percent of the average final daily incarceration rate paid to counties (Target equal = 87 percent) by October 15, 2019 to the Executive Offices and Criminal Justice Subcommittee.

Item 28

To Governor’s Office - CCJJ Salt Lake County Jail Bed Housing

From General Fund	2,420,000
Schedule of Programs:	

Salt Lake County Jail Bed
 Housing 2,420,000

Item 29

To Governor’s Office – Character Education
 From General Fund 204,300
 From Beginning Nonlapsing Balances ... 100,000
 Schedule of Programs:
 Character Education 304,300

Item 30

To Governor’s Office – Commission on
 Criminal and Juvenile Justice
 From General Fund 2,916,800
 From Federal Funds 26,231,200
 From Dedicated Credits Revenue 104,400
 From Crime Victim Reparations
 Fund 1,887,800
 From General Fund Restricted –
 Criminal Forfeiture Restricted
 Account 2,091,500
 From General Fund Restricted –
 Law Enforcement Operations 1,527,800
 From General Fund Restricted –
 Law Enforcement Services 617,900
 From Beginning Nonlapsing
 Balances 1,091,100
 From Closing Nonlapsing Balances ... (1,091,100)
 Schedule of Programs:
 CCJJ Commission 9,068,200
 Extraditions 316,400
 Judicial Performance Evaluation
 Commission 492,400
 Law Enforcement Services Grants 617,900
 Sentencing Commission 181,100
 State Asset Forfeiture Grant
 Program 2,091,500
 State Task Force Grants 1,527,800
 Substance Use and Mental
 Health Advisory Council 160,400
 Utah Office for Victims of Crime ... 20,921,700

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures for the Commission on Criminal and Juvenile Justice, line item whose mission is to “(a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah; (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives; and (c) coordinate statewide efforts to reduce crime and victimization in Utah”: (1) Percent of victim reparations claims processed within 30 days or less (Target= 75%); (2) number of grants monitored (Target =143 or 55%); (3) Percent of offenders booked into larger county jails (Cache, Salt Lake, Utah, Washington, and Weber) that adequately meet CCJJ JRI guidelines that volunteer to receive a risk and needs screen (Target=65%) by October 15, 2019 to the Executive Offices and Criminal Justice Subcommittee.

Item 31

To Governor’s Office – Employability to Careers
 From General Fund Restricted –
 Employability to Careers Program
 Restricted Account, One-Time 9,000,000
 Schedule of Programs:
 Employability to Careers Program ... 9,000,000

The Legislature intends that the Governors Office report on the following performance measure for the Employability to Careers Program: (1) Outcomes for all measures established by the Employability to Careers Program Board (Targets will be set by the board) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 32

To Governor’s Office
 From General Fund 5,994,900
 From Dedicated Credits Revenue 1,169,600
 From Beginning Nonlapsing Balances ... 250,000
 From Closing Nonlapsing Balances ... (200,000)
 Schedule of Programs:
 Administration 3,981,900
 Governor’s Residence 333,500
 Literacy Projects 95,000
 Lt. Governor’s Office 2,541,100
 Washington Funding 263,000

The Legislature intends that the Governors Office report on the following performance measure for the Governor’s Office line item: (1) Number of registered voters and the percentage that voted during the November 2018 general election (Target = increased turnout compared to the 2014 mid-term election); (2) Number of constituent affairs responses (A baseline will be established for this new measure at the end of FY 2018) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 33

To Governor’s Office – Governor’s
 Office of Management and Budget
 From General Fund 4,352,700
 From Dedicated Credits Revenue 26,500
 From General Fund Restricted –
 School Readiness Account 201,100
 From Beginning Nonlapsing Balances ... 600,000
 From Closing Nonlapsing Balances ... (300,000)
 Schedule of Programs:
 Administration 1,485,600
 Operational Excellence 1,101,200
 Planning and Budget Analysis 1,950,600
 State and Local Planning 342,900

The Legislature intends that the Governors Office report on the following performance measure for the Governor’s Office of Management and Budget line item, whose mission is “To create more value for every tax dollar invested”: (1) Establish SUCCESS Plus programs and measures (Target = identify 25 programs and establish baseline measures for these programs) by October 15, 2019 to the

Executive Offices and Criminal Justice
Appropriations Subcommittee.

Item 34

To Governor’s Office - Indigent
Defense Commission
From General Fund Restricted - Indigent
Defense Resources 1,217,000
Schedule of Programs:
Indigent Defense Commission 1,217,000

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures for the Indigent Defense Commission, line item whose mission is “to assist the state in meeting the state’s obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and state law.”: (1) Percentage of indigent defense systems using Indigent Defense Commission grant money to improve the effective assistance of counsel by improving the organizational capacity of the system, through regionalization (Target=20%); (2) Percentage of total county indigent defense systems improving the effective assistance of counsel through the use of separate indigent defense service providers, to address distinct areas of specialization in indigent defense representation in juvenile and criminal courts. (Target 30%); and (3) Percentage of indigent defense systems operating with Indigent Defense Commission grant money to improve the quality of indigent defense representation through: independently-administered defense resources that allow defense counsel to provide the effective assistance of counsel (Target 40%).

Item 35

To Governor’s Office - School Readiness Initiative
From General Fund Restricted -
School Readiness Account 2,800,000
From Beginning Nonlapsing
Balances 6,382,400
From Closing Nonlapsing Balances ... (7,536,600)
Schedule of Programs:
School Readiness Initiative 1,645,800

The Legislature intends that the Governors Office report on the following performance measure for the School Readiness Initiative line item, whose mission is “to oversee the High Quality School Readiness Grant Program and Pay-for-Success School Readiness Program”: (1) The change in scores on the Peabody Picture Vocabulary Test (PPVT) from the start to the end of a preschool year, among four-year-old students participating in the programs (Target = mean post-test score above 85) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

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

Item 36

To Department of Human Services - Division of
Juvenile Justice Services - Programs and
Operations
From General Fund 80,571,100
From Federal Funds 4,610,700
From Dedicated Credits Revenue 1,382,800
From Revenue Transfers (613,900)
Schedule of Programs:
Administration 7,823,300
Community Programs 25,535,300
Correctional Facilities 2,489,000
Early Intervention Services 22,581,800
Rural Programs 27,136,200
Youth Parole Authority 385,100

The Legislature intends that the Department of Human Services, Division of Juvenile Justice Services report on the following performance measures for the DHS Juvenile Justice Services (KJAA) line item, whose mission is “To be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe”: (1) Percent of youth free of new charges while in diversion from detention programming (Target = 95%), (2) Percent of youth without a new felony charge within 360 days of release from community residential programs (Target = 85%), and (3) Percent of youth without a new felony charge within 360 days of release from long-term secure care (Target = 75%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

OFFICE OF THE STATE AUDITOR

Item 37

To Office of the State Auditor - State Auditor
From General Fund 3,319,800
From Dedicated Credits Revenue 1,936,500
From Beginning Nonlapsing Balances ... 663,000
Schedule of Programs:
State Auditor 5,919,300

The Legislature intends that the Office of the State Auditor report on the following performance measures for the Office of the State Auditor line item, whose mission is “to provide Utah taxpayers and government officials with an independent assessment of financial operation, statutory compliance, and performance management for state and local government.”: (1) Annual financial statement audits completed in a timely manner (w/in six months) - excluding State CAFR (Target = 65%); (2) State of Utah Comprehensive Annual Financial Report (CAFR) audit completed and released in a timely manner (w/in five months or 153 days) (Target = 153 days or less); (3) State of Utah Single Audit Report (Federal Compliance Report) completed and released in a timely manner (w/in six months or 184 days). Federal requirement is nine months. (Target

= 184 days or less); (4) Monitoring of CPA firms performing local government financial audits. (Target = 100% over an ongoing three-year period) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

DEPARTMENT OF PUBLIC SAFETY

Item 38

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

From Beginning Nonlapsing Balances 12,655,800
 From Closing Nonlapsing Balances (12,655,800)

The Legislature intends that the Department of Public Safety report on the following performance measures for their Division of Homeland Security Emergency and Disaster Management line item, (1) distribution of funds for appropriate and approved expenses (Target 100%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 39

To Department of Public Safety - Driver License
 From Federal Funds 200,000
 From Dedicated Credits Revenue 9,200
 From Department of Public Safety

Restricted Account 29,470,900
 From Public Safety Motorcycle Education Fund 334,800
 From Uninsured Motorist Identification Restricted Account 2,123,100
 From Pass-through 55,500
 From Beginning Nonlapsing Balances 3,368,300
 From Closing Nonlapsing Balances ... (2,059,200)
 Schedule of Programs:

DL Federal Grants 200,000
 Driver License Administration 3,734,900
 Driver Records 8,719,000
 Driver Services 18,579,800
 Motorcycle Safety 336,700
 Uninsured Motorist 1,932,200

The Legislature intends that the Department of Public Safety report on the following performance measures for their Driver License line item, whose mission is “to license and regulate drivers in Utah and promote public safety” (1) average customer wait time measured in 13 driver license field offices (Target=8 minutes), (2) average customer call wait time (Target=30 seconds), (3) percentage of driver license medical forms processed within 5 days divided by the operating expenses for the process (Target=25 percent improvement) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 40

To Department of Public Safety - Emergency Management

From General Fund 1,437,500
 From Federal Funds 19,915,000
 From Dedicated Credits Revenue 508,100
 Schedule of Programs:
 Emergency Management 21,860,600

The Legislature intends that the Department of Public Safety report on the following performance measures for their Emergency Management line item, whose mission is “to unite the emergency management community and to coordinate the efforts necessary to mitigate, prepare for, respond to, and recover from emergencies, disasters, and catastrophic events” (1) percentage compliance with standards and elements required to achieve and maintain National Emergency Management Program Accreditation (Target=100 percent), (2) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent), (3) percentage of 98 state agencies that have updated their Continuity of Operation Plans (Target=100 percent) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 41

To Department of Public Safety - Emergency Management - National Guard Response
 From Beginning Nonlapsing Balances ... 150,000
 From Closing Nonlapsing Balances (150,000)

The Legislature intends that the Department of Public Safety report on the following performance measures for their Emergency Management - National Guard Response line item, (1) distribution of funds as reimbursement to the National Guard of authorized and approved expenses (Target 100%) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 42

To Department of Public Safety - Highway Safety
 From General Fund 57,000
 From Federal Funds 6,348,500
 From Dedicated Credits Revenue 10,600
 From Department of Public Safety

Restricted Account 1,323,800
 From Pass-through 2,200
 Schedule of Programs:
 Highway Safety 7,742,100

The Legislature intends that the Department of Public Safety report on the following performance measures for their Highway Safety line item, whose mission is “to develop, promote and coordinate traffic safety initiatives designed to reduce traffic crashes, injuries and fatalities on Utah’s roadways” (1) percentage of persons wearing a seatbelt, as captures on the Utah Safety Belt Observational Survey (Target=greater than 85 percent), (2) number of motor vehicle crash fatalities (Target=2 percent reduction),

(3) number of pedestrian fatalities (Target=3 percent reduction) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 43

To Department of Public Safety - Peace Officers' Standards and Training
 From General Fund 131,000
 From Dedicated Credits Revenue 71,300
 From General Fund Restricted -
 Public Safety Support 4,012,500
 Schedule of Programs:
 Basic Training 1,808,900
 POST Administration 1,596,300
 Regional/Inservice Training 809,600

The Legislature intends that the Department of Public Safety report on the following performance measures for their Peace Officers Standards and Training line item, whose mission is "to provide law enforcement with leadership and innovative training while enhancing the integrity of the profession" (1) percentage of POST investigations completed within specified timeframes divided by the operating expenses for the process (Target=25 percent improvement), (2) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), (3) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 44

To Department of Public Safety - Programs & Operations
 From General Fund 77,047,900
 From Transportation Fund 5,495,500
 From Federal Funds 1,845,000
 From Dedicated Credits Revenue 19,474,900
 From General Fund Restricted -
 Canine Body Armor 25,000
 From General Fund Restricted -
 Concealed Weapons Account 3,373,500
 From Department of Public Safety
 Restricted Account 3,637,600
 From General Fund Restricted -
 DNA Specimen Account 500,000
 From General Fund Restricted -
 Fire Academy Support 4,273,900
 From General Fund Restricted -
 Firefighter Support Account 132,000
 From General Fund Restricted -
 Motor Vehicle Safety Impact Acct. ... 2,600,000
 From General Fund Restricted -
 Public Safety Honoring Heroes
 Account 100,000
 From General Fund Restricted -
 Reduced Cigarette Ignition Propensity
 & Firefighter Protection Account 77,800
 From General Fund Restricted -
 Statewide Warrant Operations 586,200
 From Revenue Transfers 1,039,700

From General Fund Restricted -
 Utah Highway Patrol Aero Bureau 211,900
 From General Fund Restricted -
 Utah Law Enforcement Memorial
 Support Restricted Account 17,500
 From Pass-through 16,600
 From Beginning Nonlapsing Balances ... 350,000
 From Closing Nonlapsing Balances (350,000)
 Schedule of Programs:
 Aero Bureau 1,006,600
 CITS Administration 530,900
 CITS Bureau of Criminal
 Identification 12,510,300
 CITS Communications 9,848,400
 CITS State Bureau of
 Investigation 3,460,900
 CITS State Crime Labs 6,729,300
 Department Commissioner's
 Office 4,456,700
 Department Fleet Management 506,100
 Department Grants 2,571,800
 Department Intelligence Center 1,115,300
 Fire Marshall - Fire Fighter
 Training 1,391,900
 Fire Marshall - Fire Operations 3,418,300
 Highway Patrol - Administration ... 1,284,800
 Highway Patrol - Commercial
 Vehicle 4,051,200
 Highway Patrol - Federal/State
 Projects 4,074,800
 Highway Patrol - Field
 Operations 49,806,300
 Highway Patrol - Protective
 Services 6,019,600
 Highway Patrol - Safety Inspections ... 520,900
 Highway Patrol - Special
 Enforcement 614,900
 Highway Patrol - Special Services ... 3,859,500
 Highway Patrol - Technology
 Services 1,410,500
 Information Management -
 Operations 1,266,000

The Legislature intends that the Department of Public Safety explore opportunities for reimbursement for state and local search and rescue services, including costs incurred by the Department of Public Safety - Aero Bureau and local governments on federal public lands and report to the Executive Offices and Criminal Justice Appropriations Subcommittee by the end of the 2018 Interim.

The Legislature intends that the Department of Public Safety report on the following performance measures for the Utah Highway Patrol in the Public Safety Programs and Operations line item, whose mission is "to provide professional police and traffic services and to protect the constitutional rights of all people in Utah" (1) percentage of DUI reports submitted for administrative action within specified timeframes divided by operating expenses for the process (Target=25 percent improvement) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

The Legislature intends that the Department of Public Safety report on the following performance measures for the Bureau of Forensic Services in the Public Safety Programs and Operations line item, whose mission is “to provide a safe and secure environment for the citizens of Utah through the application of the forensic sciences” (1) median DNA case turnaround time (Target=60 days) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

The Legislature intends that the Department of Public Safety report on the following performance measures for the Bureau of Criminal Identification in the Public Safety Programs and Operations line item, whose mission is to provide public safety agencies and the general public with technical services, expertise, training, criminal justice information, permits and related resources (1) percentage of LiveScan fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=5 working days) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

STATE TREASURER

Item 45

To State Treasurer

From General Fund	1,003,300
From Dedicated Credits Revenue	660,100
From Unclaimed Property Trust	1,984,000

Schedule of Programs:

Money Management Council	96,900
Treasury and Investment	1,573,700
Unclaimed Property	1,976,800

The Legislature intends that the State Treasurer’s Office report on the following performance measures for the State Treasurer line item, whose mission is “To serve the people of Utah by safeguarding public funds, prudently managing and investing the States financial assets, borrowing from the capital markets at the lowest prudently available cost to taxpayers, and reuniting individuals and businesses with their unclaimed property.”: (1) Spread Between PTIF Interest Rate and Benchmark Rate (Target = 0.30%) (2) Ratio of Claim Dollars Paid to Claim Dollars Collected (Target = 50%), and (3) Total Value of Unclaimed Property Claims Paid (Target = \$20 Million) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

UTAH COMMUNICATIONS AUTHORITY

Item 46

To Utah Communications Authority -
Administrative Services Division

From General Fund Restricted - Statewide Unified E-911 Emergency Account	2,990,600
From General Fund Restricted - Utah Statewide Radio System Acct.	7,000,000

Schedule of Programs:

911 Division	2,990,600
Administrative Services Division	7,000,000

The Legislature intends that the Utah Communications Authority, whose mission is to “(a) provide administrative and financial support for statewide 911 emergency services; and (b) establish and maintain a statewide public safety communications network,” report on the following performance measures: 1) the Utah Communications Authority shall maintain the statewide public safety communications network in a manner that maximizes network availability for its users; 2) promulgate best practices and other guidance for PSAPs across Utah; 3) ensure compliance with applicable laws, policies, procedures, and other internal controls to ensure adequate administration of the organization.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 47

To Attorney General - Crime and
Violence Prevention Fund

From Beginning Fund Balance	290,900
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Schedule of Programs:

Crime and Violence Prevention Fund	290,900
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Item 48

To Attorney General - Litigation Fund

From Dedicated Credits Revenue	1,100,000
From Beginning Fund Balance	1,102,700
From Closing Fund Balance	202,400

Schedule of Programs:

Litigation Fund	2,405,100
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GOVERNOR’S OFFICE

Item 49

To Governor’s Office - Crime Victim
Reparations Fund

From Federal Funds	3,006,900
From Dedicated Credits Revenue	6,810,800
From Interest Income	25,200
From Beginning Fund Balance	4,156,500
From Closing Fund Balance	(4,703,900)

Schedule of Programs:

Crime Victim Reparations Fund	9,295,500
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Item 50

To Governor’s Office - Justice Assistance Grant
Fund

From Federal Funds 1,616,000
 From Beginning Fund Balance 1,383,200
 From Closing Fund Balance (1,168,600)
 Schedule of Programs:
 Justice Assistance Grant Fund 1,830,600

Item 51

To Governor’s Office – State Elections Grant Fund
 From Federal Funds 214,400
 From Interest Income 5,500
 Schedule of Programs:
 State Elections Grant Fund 219,900

DEPARTMENT OF PUBLIC SAFETY

Item 52

To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
 From Dedicated Credits Revenue 4,200,000
 From Restricted Revenue 24,800
 From Beginning Fund Balance 3,193,900
 From Closing Fund Balance (2,908,700)
 Schedule of Programs:
 Alcoholic Beverage Control Act Enforcement Fund 4,510,000

The Legislature intends that the Department of Public Safety report on the following performance measures for their Alcoholic Beverage Control Act Enforcement Fund line item, whose mission is “to enforce the state laws and regulations governing the sale and use of alcoholic beverages in a manner that provides a safe and secure environment” (1) percentage of covert operations initiated by intelligence (Target=80 percent), (2) percentage of licensees that did not sell to minors (Target=90 percent), (3) rate of alcohol-related crash fatalities per 100 million vehicle miles traveled (Target=0.10) by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

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

ATTORNEY GENERAL

Item 53

To Attorney General – ISF – Attorney General
 From General Fund 148,600
 From Dedicated Credits Revenue 20,985,300
 Schedule of Programs:
 ISF – Attorney General 21,133,900
 Budgeted FTE 160.0

UTAH DEPARTMENT OF CORRECTIONS

Item 54

To Utah Department of Corrections – Utah Correctional Industries
 From Dedicated Credits Revenue 28,670,700
 From Beginning Fund Balance 7,626,300
 From Closing Fund Balance (7,291,400)
 Schedule of Programs:
 Utah Correctional Industries 29,005,600

The Legislature intends that the Department of Corrections report on the following performance measures for the Utah Correctional Industries line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Percentage of UCI graduates who gain employment within the first two quarters post-release (2) Percentage of work-eligible inmates employed by UCI in prison , (3) Percentage of workers leaving UCI who are successfully completing the program by October 15, 2019 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

DEPARTMENT OF PUBLIC SAFETY

Item 55

To Department of Public Safety – Local Government Emergency Response Loan Fund
 From Beginning Fund Balance 104,100
 From Closing Fund Balance (104,100)

Subsection 2(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 56

To General Fund Restricted – Fire Academy Support Account
 From General Fund 6,000,000
 Schedule of Programs:
 General Fund Restricted – Fire Academy Support Account 6,000,000

Item 57

To General Fund Restricted – Employability to Careers Program Restricted Account
 From General Fund, One-Time 9,000,000
 Schedule of Programs:
 General Fund Restricted – Employability to Careers Program Restricted Account 9,000,000

Item 58

To General Fund Restricted – DNA Specimen Account
 From General Fund 216,000

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

Item 59

To General Fund Restricted - Indigent
 Defense Resources Account
 From General Fund 1,221,700
 Schedule of Programs:
 General Fund Restricted - Indigent
 Defense Resources Account 1,221,700

Subsection 2(e). Transfers to Unrestricted

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

Item 60

To General Fund
 From Nonlapsing Balances -
 CPIP Program 13,600
 From Nonlapsing Balances -
 Governor’s Emergency Fund 100,100
 From Nonlapsing Balances -
 LeRay McAllister Program 292,000
 Schedule of Programs:
 General Fund, One-time 405,700

Subsection 2(f). Fiduciary Funds.

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

ATTORNEY GENERAL

Item 61

To Attorney General - Financial Crimes
 Trust Fund
 From Trust and Agency Funds 800,000
 From Beginning Fund Balance 452,200
 From Closing Fund Balance (452,200)
 Schedule of Programs:
 Financial Crimes Trust Fund 800,000

DEPARTMENT OF PUBLIC SAFETY

Item 62

To Department of Public Safety - Firefighters
 Retirement Trust & Agency Fund
 From General Fund 12,000,000
 Schedule of Programs:
 Firefighters Retirement Trust &
 Agency Fund 12,000,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

**CHAPTER 9
H.B. 7**

Passed February 6, 2018
Approved February 21, 2018
Effective May 8, 2018

SOCIAL SERVICES BASE BUDGET

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

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$28,593,600 in operating and capital budgets for fiscal year 2018, including:

- ▶ (\$6,576,800) from the General Fund;
- ▶ \$35,170,400 from various sources as detailed in this bill.

This bill appropriates (\$27,000,000) in expendable funds and accounts for fiscal year 2018.

This bill appropriates \$1,614,100 in restricted fund and account transfers for fiscal year 2018, all of which is from the General Fund.

This bill appropriates \$50,000 in transfers to unrestricted funds for fiscal year 2018.

This bill appropriates \$5,009,590,600 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$956,151,100 from the General Fund;
- ▶ \$4,053,439,500 from various sources as detailed in this bill.

This bill appropriates \$25,906,900 in expendable funds and accounts for fiscal year 2019, including:

- ▶ \$2,442,900 from the General Fund;
- ▶ \$23,464,000 from various sources as detailed in this bill.

This bill appropriates \$175,354,300 in business-like activities for fiscal year 2019.

This bill appropriates \$124,110,600 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$27,023,700 from the General Fund;
- ▶ \$97,086,900 from various sources as detailed in this bill.

This bill appropriates \$219,403,500 in fiduciary funds for fiscal year 2019.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Disease Control and Prevention

From General Fund, One-Time	8,500
From Federal Funds, One-Time	3,169,700
From General Fund Restricted - State Lab Drug Testing Account, One-Time	21,900
From Beginning Nonlapsing Balances	(50,000)
Schedule of Programs:	
Epidemiology	1,353,600
General Administration	6,600
Health Promotion	1,768,000
Laboratory Operations and Testing	21,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$10,000 of Item 166 of Chapter 457, Laws of Utah 2017 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to funding for the Parkinsons disease registry.

Notwithstanding the language in S.B. 7, 2017 General Session, Item 3, the beginning nonlapsing funds removed from the Disease Control and Prevention line item for the Parkinson Disease Registry and drug overdose prevention may be deposited into the General Fund.

Notwithstanding the language in S.B. 7, 2017 General Session, Item 3, the beginning nonlapsing funds removed from the Disease Control and Prevention line item for radon education may be deposited into the General Fund.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$45,000 of Item 13 of Chapter 457, Laws of Utah 2017 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to conducting an infertility study and related activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$10,000 of

Item 166 of Chapter 457, Laws of Utah 2017 for the Department of Health’s Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to funding for the Parkinsons disease registry.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,650,000 of Item 33 of Chapter 9, Laws of Utah 2017 for the Department of Health’s Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to the following six purposes: (1) \$525,000 for laboratory equipment, computer equipment, software and building improvements for the Unified State Laboratory and the Office of the Medical Examiner; (2) \$500,000 for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs; (3) \$175,000 for maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by the Bureau of Epidemiology; (4) \$25,000 for local health department expenses in responding to a local health emergency; (5) \$75,000 for use of the Traumatic Brain Injury Fund; and (6) \$350,000 for replacement, upgrading, maintenance, or purchase of laboratory or computer equipment and software for the Newborn Screening Program.

Item 2

To Department of Health - Executive

Director’s Operations

From General Fund, One-Time	(35,500)
From Federal Funds, One-Time	513,100
Schedule of Programs:	
Executive Director	(35,500)
Program Operations	513,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$550,000 of Item 31 of Chapter 9, Laws of Utah 2017 for the Department of Health’s Executive Director’s Office shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to (1) \$300,000 in programming and information technology (IT) projects, replacement of computers and other IT equipment, and a time-limited deputy to the Department of Technology Services director that helps coordinate IT projects; (2) \$200,000 ongoing development and maintenance of the vital records application portal; and (3) \$50,000 ongoing maintenance and upgrades of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and IT equipment in the Center for Health Data and Information.

Item 3

To Department of Health - Family Health and Preparedness

From General Fund, One-Time	6,300
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From Federal Funds, One-Time	4,740,100
Schedule of Programs:	
Director’s Office	6,300
Maternal and Child Health	4,740,100

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by April 8, 2018 on the status of all recommendations from Office of the Legislative Auditor General’s November 2017 A Performance Audit of the Division of Family Health and Preparedness that the Department of Health had anticipated finished implementing in its agency response to the legislative audit.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$755,000 of Item 32 of Chapter 9, Laws of Utah 2017 for the Department of Health’s Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to: (1) \$50,000 to the services of eligible clients in the Assistance for People with Bleeding Disorders Program; (2) \$250,000 to testing, certifications, background screenings, replacement of testing equipment and supplies in the Emergency Medical Services program; (3) \$210,000 to health facility plan review activities in Health Facility Licensing and Certification; and (4) \$245,000 to health facility licensure and certification activities in Health Facility Licensing and Certification.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected in the Child Care Licensing and Health Care Licensing programs of Item 32 of Chapter 9, Laws of Utah 2017 for the Department of Health’s Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to trainings for providers and staff, as well as upgrades to the Child Care Licensing database.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeitures collected in the Emergency Medical Services program of Item 32 of Chapter 9, Laws of Utah 2017 for the Department of Health’s Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the unused appropriations up to \$60,000 provided in Item 163 of Chapter 457, Laws of Utah 2017 for the Department of Health’s Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purposes outlined in Chapter 177, Laws of Utah 2017.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that funds collected

as a result of sanctions imposed under Section 1919 or Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 and of the Utah Code of Item 32 of Chapter 9, Laws of Utah 2017 for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purposes outlined in Section 1919.

Item 4

To Department of Health - Medicaid and Health Financing
 From General Fund, One-Time (330,300)
 From Federal Funds, One-Time 1,865,200
 From Dedicated Credits Revenue,
 One-Time 485,000
 From Nursing Care Facilities Provider
 Assessment Fund, One-Time 84,200
 Schedule of Programs:
 Authorization and Community
 Based Services 41,000
 Contracts 2,141,800
 Coverage and Reimbursement Policy ... 37,000
 Director's Office 57,500
 Eligibility Policy 35,000
 Financial Services 196,000
 Managed Health Care 49,000
 Medicaid Operations (453,200)

The Legislature intends that the \$500,000 in Beginning Nonlapsing provided to the Department of Health's Medicaid and Health Financing line item for State Match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to \$500,000 funds not otherwise designated as nonlapsing to the Department of Health's Medicaid Services line item or Medicaid and Health Financing line item or a combination from both line items not to exceed \$500,000 being retained as nonlapsing in Fiscal Year 2018.

Item 5

To Department of Health - Medicaid Sanctions
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that funds collected as a result of sanctions imposed under Section 1919 or Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 and of the Utah Code of Item 39 of Chapter 9, Laws of Utah 2017 for the Department of Health's Medicaid Sanctions line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purposes outlined in Section 1919.

Item 6

To Department of Health - Medicaid Services
 From General Fund, One-Time (3,124,900)
 From Federal Funds, One-Time (3,752,200)
 From Dedicated Credits Revenue,
 One-Time 15,472,000
 From Nursing Care Facilities Provider
 Assessment Fund, One-Time (84,200)
 Schedule of Programs:

Accountable Care Organizations 9,522,000
 Nursing Home 5,669,000
 Other Services (5,030,000)
 Pharmacy (1,650,300)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any actual General Fund savings greater than \$1,849,700 that are due to inclusion of psychotropic drugs on the preferred drug list and accrue to the Department of Health's Medicaid Services line item from the appropriation provided in Item 84, Chapter 476, Laws of Utah 2017 shall not lapse at the close of Fiscal Year 2018. The Department of Health shall coordinate with the Division of Finance to transfer these funds to the Medicaid Expansion Fund created in Section 26-36b-208 of the Utah Code.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$8,151,800 of Item 84 of Chapter 476, Laws of Utah 2017 for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to: (1) \$500,000 for providing application level security and redundancy for core Medicaid applications and (2) \$7,651,800 for the redesign and replacement of the Medicaid Management Information System.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$57,000 of Item 84 of Chapter 476, Laws of Utah 2017 for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to direct care staff salary increase in intermediate care facilities.

Item 7

To Department of Health - Vaccine Commodities
 From Federal Funds, One-Time 123,100
 Schedule of Programs:
 Vaccine Commodities 123,100

DEPARTMENT OF HUMAN SERVICES

Item 8

To Department of Human Services -
 Division of Aging and Adult Services
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$400,000 of appropriations provided in Item 59, Chapter 9, Laws of Utah 2017 for the Department of Human Services - Division of Aging and Adult Services not lapse at the close of the year 2018. This includes \$50,000 of appropriations for Adult Protective Services and \$350,000 of appropriations for Aging Waiver services. In Adult Protective Services, the use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; and special projects or studies. In Aging Waiver services, these nonlapsing funds are to be used for client services for the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 9

To Department of Human Services -
 Division of Child and Family Services
 From General Fund, One-Time (200,000)
 From Federal Funds, One-Time 937,300
 From General Fund Restricted -
 National Professional Men's Basketball
 Team Support of Women and
 Children Issues, One-Time 50,000
 Schedule of Programs:
 Administration - DCFS 787,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,500,000 of appropriations provided in Item 58, Chapter 9, Laws of Utah 2017 for the Department of Human Services - Division of Child and Family Services not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to facility repair, maintenance, and improvements; Adoption Assistance; Out of Home Care; Service Delivery; In-Home Services; Special Needs; SAFE Management Information System modernization consistent with the requirements found at UCA 63J-1-603(3)(b); and expenditures for S.B. 266, "Division of Child and Family Services Appeals," 2017 General Session.

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Out of Home Care to enhance Service Delivery or In-Home Services consistent with the requirements found at UCA 63J-1-603(3)(b). The purpose of this reinvestment of funds is to increase capacity to keep children safely at home and reduce the need for foster care, in accordance with Utah's Child Welfare Demonstration Project authorized under Section 1130 of the Social Security Act (Act) (42 U.S.C. 1320a-9), which grants a waiver for certain foster care funding requirements under Title IV-E of the Act. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Act.

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 10

To Department of Human Services -
 Executive Director Operations
 From Federal Funds, One-Time 503,900

Schedule of Programs:

Executive Director's Office 503,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$75,000 of appropriations provided in Item 54, Chapter 9, Laws of Utah 2017 for the Department of Human Services Executive Director Operations line item not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

Item 11

To Department of Human Services - Office of Public Guardian

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided in Item 60, Chapter 9, Laws of Utah 2017 for the Department of Human Services - Office of Public Guardian not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; and special projects or studies.

Item 12

To Department of Human Services -
 Office of Recovery Services

From General Fund, One-Time (129,000)
 From Federal Funds, One-Time 1,418,500
 Schedule of Programs:
 Child Support Services 1,289,500

Item 13

To Department of Human Services - Division of Services for People with Disabilities

From General Fund, One-Time (408,200)
 From Revenue Transfers, One-Time ... (19,200)
 Schedule of Programs:
 Administration - DSPD (400,000)
 Community Supports Waiver (27,400)

Item 14

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-Time (546,600)
 From Federal Funds, One-Time 9,976,400
 From Dedicated Credits Revenue,
 One-Time 315,600
 Schedule of Programs:
 Community Mental Health
 Services (13,500)
 State Hospital (217,500)
 State Substance Abuse Services 9,976,400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,000,000 of appropriations provided in Item 55, Chapter 9, Laws of Utah 2017 for the Division of Substance Abuse and Mental Health not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility

repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; and appropriated one-time projects.

DEPARTMENT OF WORKFORCE SERVICES

Item 15

To Department of Workforce Services - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of appropriations provided in Item 44 of Chapter 9, Laws of Utah 2017, for the Department of Workforce Services' Administration line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to equipment and software and special projects and studies.

Item 16

To Department of Workforce Services - General Assistance

From General Fund, One-Time (864,700)

Schedule of Programs:

General Assistance (864,700)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,500,000 of appropriations provided in Item 47 of Chapter 9, Laws of Utah 2017, for the Department of Workforce Services' General Assistance line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purchase of equipment and software, and one-time projects associated with client services.

Item 17

To Department of Workforce Services - Housing and Community Development

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,500,000 of appropriations provided in Item 51 of Chapter 9, Laws of Utah 2017, for the Department of Workforce Services' Housing and Community Development Division line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to use by the Housing and Community Development Division and the Homeless Coordinating Committee to award contracts related to designing, building, creating, or renovating a facility.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$5,945,500 of appropriations provided in Item 2 of Chapter 278, Laws of Utah 2016, for the Department of Workforce Services' Housing and Community Development Division line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to use by the Housing and Community Development Division and the Homeless Coordinating Committee to award contracts

related to designing, building, creating, or renovating a facility.

Item 18

To Department of Workforce Services - Office of Child Care

From Federal Funds, One-Time (600,000)

Schedule of Programs:

Intergenerational Poverty School

Readiness Scholarship (600,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$425,000 of appropriations provided in Item 4 of Chapter 336, Laws of Utah 2016, for the Department of Workforce Services' Office of Child Care line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to early childhood teacher training.

Item 19

To Department of Workforce Services - Operations and Policy

From General Fund, One-Time 2,600

Schedule of Programs:

Information Technology (952,400)

Utah Data Research Center 955,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$2,500,000 of appropriations provided in Item 86 of Chapter 476, Laws of Utah 2017, for the Department of Workforce Services' Operations and Policy line item for the Special Administrative Expense Account shall not lapse at the close of Fiscal Year 2018. The use of any non-lapsing funds is limited to employment development projects and activities or one-time projects associated with client services.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,150,000 of appropriations provided in Item 45 of Chapter 9, Laws of Utah 2017, for the Department of Workforce Services' Operation and Policy line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purchase of equipment and software, one-time studies, one-time projects associated with addressing client services due to caseload growth or refugee services, one-time early childhood services study, and implementation of VoIP.

Notwithstanding the language in S.B. 7, 2017 General Session, Item 10, up to \$952,400 of the beginning nonlapsing funds in the Operations and Policy line item for equipment and software, one-time studies, one-time projects associated with addressing client services due to caseload growth or refugee services, and implementation of VoIP may be used for any purpose.

Item 20

To Department of Workforce Services - Unemployment Insurance

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$60,000 of appropriations provided in Item 48 of Chapter 9 Laws of Utah 2017, for the

Department of Workforce Services' Unemployment Insurance line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to purchase of equipment and software, and one-time projects associated with addressing appeals or public assistance overpayment caseload growth.

Item 21

To Department of Workforce Services -
 Workforce Research and Analysis
 From General Fund, One-Time (955,000)
 Schedule of Programs:
 Utah Data Research Center (955,000)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 22

To Department of Workforce Services -
 Permanent Community Impact Fund
 From General Fund Restricted -
 Mineral Lease, One-Time (27,000,000)
 Schedule of Programs:
 Permanent Community Impact
 Fund (27,000,000)

The Legislature intends that the Department of Workforce Services transfer from the Permanent Community Impact Fund to the Impacted Communities Transportation Development Restricted Account the full amount of Mineral Lease Account deposits designated under UCA 59-21-2, an amount up to but not exceeding \$27,000,000.

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 23

To Medicaid Expansion Fund
 From General Fund, One-Time 1,614,100
 Schedule of Programs:
 Medicaid Expansion Fund 1,614,100

Subsection 1(d). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the

General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

Item 24

To General Fund
 From Nonlapsing Balances 50,000
 Schedule of Programs:
 General Fund, One-time 50,000

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF HEALTH

Item 25

To Department of Health - Children's
 Health Insurance Program
 From General Fund 5,680,300
 From General Fund, One-Time (5,680,300)
 From Federal Funds 104,695,500
 From Federal Funds, One-Time 16,393,000
 From Dedicated Credits Revenue 8,123,400
 From General Fund Restricted -
 Tobacco Settlement Account 10,452,900
 From General Fund Restricted -
 Tobacco Settlement Account,
 One-Time (10,452,900)
 From Beginning Nonlapsing Balances ... 380,900
 From Closing Nonlapsing Balances (641,100)
 Schedule of Programs:
 Children's Health Insurance
 Program 128,951,700

The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans": (1) percent of children less than 15 months old that received at least six or more well-child visits (Target = 70% or more), (2) children (3-17 years of age) who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70% or more), and (3) percent of adolescents who received one meningococcal vaccine and one TDAP (tetanus, diphtheria, and pertussis) between the members 10th and 13th birthdays (Target = 80%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 26

To Department of Health - Disease
 Control and Prevention
 From General Fund 15,272,100
 From General Fund, One-Time (13,300)

From Federal Funds	41,535,600
From Dedicated Credits Revenue	14,914,400
From General Fund Restricted - Cancer Research Account	20,000
From General Fund Restricted - Children with Cancer Support Restricted Account	10,500
From General Fund Restricted - Children with Heart Disease Support Restr Act	10,500
From General Fund Restricted - Cigarette Tax Restricted Account	3,159,700
From Department of Public Safety Restricted Account	101,800
From General Fund Restricted - Prostate Cancer Support Account	26,600
From General Fund Restricted - State Lab Drug Testing Account	713,100
From General Fund Restricted - Tobacco Settlement Account	3,847,100
From Revenue Transfers	3,581,000

Schedule of Programs:

Clinical and Environmental Laboratory Certification Programs ...	638,600
Epidemiology	30,021,900
General Administration	2,561,100
Health Promotion	31,028,400
Laboratory Operations and Testing	12,930,200
Office of the Medical Examiner	5,998,900

The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item, whose mission is to “prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease.”: (1) gonorrhea cases per 100,000 population (Target = 75.6 people or less), (2) percentage of adults who are current smokers (Target = 8.0% or less), and (3) percentage of toxicology cases completed within 20 day goal (Target = 100%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 27

To Department of Health - Executive Director’s Operations	
From General Fund	6,576,700
From Federal Funds	6,334,500
From Dedicated Credits Revenue	2,949,800
From General Fund Restricted - Children with Cancer Support Restricted Account	2,000
From General Fund Restricted - Children with Heart Disease Support Restr Act	2,000
From Revenue Transfers	794,300
Schedule of Programs:	
Adoption Records Access	55,900
Center for Health Data and Informatics	6,679,900
Executive Director	3,665,600
Office of Internal Audit	636,200
Program Operations	5,621,700

The Legislature intends that the Department of Health report on the following performance measures for the Executive Director’s Operations line item, whose mission is to “protect the public’s health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles.”: (1) percent of restricted applications/systems that have reviewed, planned for, or mitigated identified risks according to procedure (Goal 90%), (2) births occurring in a hospital are entered accurately by hospital staff into the electronic birth registration system within 10 calendar days (Target = 99%), and (3) percentage of all deaths registered certified using the electronic death registration system (Target = 75% or more) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 28

To Department of Health - Family Health and Preparedness	
From General Fund	22,410,000
From Federal Funds	77,521,600
From Dedicated Credits Revenue	14,092,200
From General Fund Restricted - Children’s Hearing Aid Pilot Program Account	124,900
From General Fund Restricted - K. Oscarson Children’s Organ Transplant	104,000
From Revenue Transfers	5,351,800
From Beginning Nonlapsing Balances ...	648,800
From Closing Nonlapsing Balances	(648,800)
Schedule of Programs:	
Child Development	27,983,200
Children with Special Health Care Needs	8,478,000
Director’s Office	2,183,600
Emergency Medical Services and Preparedness	3,919,300
Health Facility Licensing and Certification	5,884,000
Maternal and Child Health	59,583,900
Primary Care	3,588,800
Public Health and Health Care Preparedness	7,983,700

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by September 1, 2018 on options to triage criminal background review based on severity of the crimes committed and/or reduce the review time required to process information from criminal background checks.

The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item, whose mission is to “Assure care for many of Utah’s most vulnerable citizens. The division accomplishes this through programs designed to provide direct services, and to be prepared to serve all populations that may suffer the adverse health impacts of a

disaster, be it man-made or natural.”: (1) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 68% or more), (2) annually perform on-site survey inspections of health care facilities (Goal = 75%), and (3) the percent of ambulance providers receiving enough but not more than 10% of gross revenue (Goal = 90%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by October 8, 2018 on the status of all recommendations from Office of the Legislative Auditor General’s November 2017 A Performance Audit of the Division of Family Health and Preparedness that the Department of Health had anticipated finished implementing in its agency response to the legislative audit.

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by January 7, 2019 on the status of all recommendations from Office of the Legislative Auditor General’s November 2017 A Performance Audit of the Division of Family Health and Preparedness that the Department of Health had anticipated finished implementing in its agency response to the legislative audit.

Item 29

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

The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item, whose mission is to “To prevent sickness and death from infectious diseases and environmental hazards; to monitor diseases to reduce spread; and to monitor and respond to potential bioterrorism threats or events, communicable disease outbreaks, epidemics and other unusual occurrences of illness.”: (1) number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer, conducts an annual performance review for the local health officer, and reports to county commissioners on health issues (Target = 13 or 100%), (2) number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 13 or 100%), (3) number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 13 or 100%),

(4) achieve and maintain an effective coverage rate for universally recommended vaccinations among young children up to 35 months of age (Target = 90%), (5) reduce the number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years (Target = 73 or less for infants and 322 cases or less for youth), and (6) local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 30

To Department of Health - Medicaid and Health Financing
 From General Fund 4,917,200
 From Federal Funds 73,711,600
 From Federal Funds, One-Time 3,365,700
 From Dedicated Credits Revenue 10,706,700
 From Nursing Care Facilities Provider Assessment Fund 925,600
 From Revenue Transfers 27,076,100
 Schedule of Programs:
 Authorization and Community Based Services 3,158,200
 Contracts 4,591,500
 Coverage and Reimbursement Policy 2,653,400
 Department of Workforce Services’ Seeded Services 41,371,800
 Director’s Office 2,619,200
 Eligibility Policy 2,676,800
 Financial Services 15,447,900
 Managed Health Care 4,793,100
 Medicaid Operations 3,849,900
 Other Seeded Services 39,541,100

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by October 1, 2018 on the utilization and cost impact of allowing a three month supply of some Medicaid medications and explore opportunities to automate the 90 day dispensing requirement.

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) average decision time on pharmacy prior authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and CHIP clients educated on proper benefit use and plan selection (Target = 125,000 or more) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by July 8, 2018 on the status of all recommendations from Office of the Legislative Auditor General’s October 2017 A Performance Audit of Beaver

Valley Hospital's Medicaid Upper Payment Limit Program.

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement by September 30, 2018. The report should include, where applicable, the responses to any requests for proposals. The report should include an updated estimate of net ongoing impacts to the State from the new system. The Department of Health should work with other agencies to identify any impacts outside its agency.

The Legislature intends that the Inspector General of Medicaid Services pay the Attorney General's Office the full state cost of the one attorney FTE that it is using at the Department of Health.

Item 31

To Department of Health - Medicaid Sanctions

The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans," met federal requirements which constrain its use by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 32

To Department of Health - Medicaid Services

From General Fund	466,429,200
From General Fund, One-Time	(10,712,700)
From Federal Funds	1,860,752,400
From Federal Funds, One-Time	7,617,200
From Dedicated Credits Revenue	264,367,200
From Ambulance Service Provider	
Assess Exp Rev Fund	3,217,400
From Hospital Provider	
Assessment Fund	48,500,000
From Medicaid Expansion Fund	35,020,500
From Nursing Care Facilities Provider	
Assessment Fund	30,929,600
From General Fund Restricted -	
Tobacco Settlement Account,	
One-Time	10,452,900
From Revenue Transfers	110,022,400
From Pass-through	9,002,200
From Beginning Nonlapsing Balances	260,200
Schedule of Programs:	
Accountable Care	
Organizations	1,069,355,000
Dental	68,447,200
Expenditure Offsets from	
Collections	(12,505,000)
Home and Community Based	
Waivers	270,737,400
Home Health and Hospice	20,110,000
Inpatient Hospital	153,953,200
Intermediate Care Facilities for	
the Intellectually Disabled	86,144,100
Medicaid Expansion 2017	111,116,700
Medical Transportation	1,552,900
Medicare Buy-In	56,582,300

Medicare Part D Clawback	
Payments	36,208,500
Mental Health and Substance	
Abuse	241,296,000
Nursing Home	244,150,000
Other Services	191,380,300
Outpatient Hospital	59,186,200
Pharmacy	88,374,800
Physician and Osteopath	51,511,200
Provider Reimbursement Information	
System for Medicaid	14,122,600
School Based Skills Development	84,135,100

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Services line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of children 3-17 years of age who had an outpatient visit with a primary care practitioner or OB/GYN and who had evidence of BMI percentile documentation (Target = 70%), (2) the percentage of adults 18-85 years of age who had a diagnosis of hypertension and whose blood pressure was adequately controlled. (Target = 65%), and (3) annual state general funds saved through preferred drug list (Target = 16,000,000) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 33

To Department of Health - Primary Care Workforce Financial Assistance

From General Fund	800
From Beginning Nonlapsing Balances	493,600
From Closing Nonlapsing Balances	(299,100)
Schedule of Programs:	
Primary Care Workforce Financial	
Assistance	195,300

The Legislature intends that the Department of Health report on the following performance measures for the Primary Care Workforce Financial Assistance line item, whose mission is to "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations." (1) percentage of available funding awarded (Target = 100%), (2) total individuals served (Target = 20,000), (3) total uninsured individuals served (Target = 5,000), and (4) total underserved individuals served (Target = 7,000) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 34

To Department of Health - Rural Physicians Loan Repayment Assistance

From General Fund	300,300
From Beginning Nonlapsing Balances	303,100
From Closing Nonlapsing Balances	(442,800)
Schedule of Programs:	
Rural Physicians Loan Repayment	
Program	160,600

The Legislature intends that the Department of Health report on the following performance measures for the Rural Physicians Loan Repayment Assistance line item, whose mission is to “As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations.”: (1) percentage of available funding awarded (Target = 100%), (2) total individuals served (Target = 20,000), (3) total uninsured individuals served (Target = 2,500), and (4) total underserved individuals served (Target = 10,000) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 35

To Department of Health - Vaccine Commodities From Federal Funds 27,277,100
 Schedule of Programs:

Vaccine Commodities 27,277,100

The Legislature intends that the Department of Health report on the following performance measures for the Vaccine Commodities line item, “The mission of the Utah Department of Health Immunization Program is to improve the health of Utah’s citizens through vaccinations to reduce illness, disability, and death from vaccine-preventable infections. We seek to promote a healthy lifestyle that emphasizes immunizations across the lifespan by partnering with the 13 local health departments throughout the state and other community partners. From providing educational materials for the general public and healthcare providers to assessing clinic immunization records to collecting immunization data through online reporting systems, the Utah Immunization Program recognizes the importance of immunizations as part of a well-balanced healthcare approach.”: (1) Ensure that Utah children, adolescents and adults can receive vaccine in accordance with state and federal guidelines (Target = done), (2) Validate that Vaccines for Children-enrolled providers comply with Vaccines for Children program requirements as defined by Centers for Disease Control Operations Guide. (Target = 100%), and (3) Continue to improve and sustain immunization coverage levels among children, adolescents and adults (Target = done) by October 15, 2018 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 36

To Department of Human Services -
 Division of Aging and Adult Services
 From General Fund 13,643,800
 From Federal Funds 11,726,700
 From Dedicated Credits Revenue 100
 From Revenue Transfers (933,900)

Schedule of Programs:

Administration - DAAS 1,503,000
 Adult Protective Services 3,261,300
 Aging Alternatives 3,985,100
 Aging Waiver Services 931,900
 Local Government Grants -
 Formula Funds 13,312,500
 Non-Formula Funds 1,442,900

The Legislature intends that the Department of Human Services report on the following performance measures for the Aging and Adult Services line item, whose mission is “To provide leadership and advocacy in addressing issues that impact older Utahans, and serve elder and disabled adults needing protection from abuse, neglect or exploitation”: (1) Medicaid Aging Waiver: Average cost of client at 15% or less of nursing home cost (Target = 15%), (2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and (3) Meals on Wheels: Total meals served (Target = 9,200) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 37

To Department of Human Services -
 Division of Child and Family Services
 From General Fund 117,804,500
 From General Fund, One-Time (2,900,000)
 From Federal Funds 62,038,100
 From Federal Funds, One-Time 100,000
 From Dedicated Credits Revenue 2,439,500
 From General Fund Restricted -
 Children’s Account 450,000
 From General Fund Restricted -
 Choose Life Adoption Support Account ... 1,000
 From General Fund Restricted -
 Victims of Domestic Violence
 Services Account 728,300
 From General Fund Restricted -
 National Professional Men’s
 Basketball Team Support of
 Women and Children Issues 100,000
 From Revenue Transfers (9,140,000)
 Schedule of Programs:

Administration - DCFS 5,132,300
 Adoption Assistance 17,651,700
 Child Welfare Management Information
 System 5,938,700
 Children’s Account 450,000
 Domestic Violence 5,551,400
 Facility-Based Services 3,953,100
 In-Home Services 3,276,200
 Minor Grants 6,009,300
 Out-of-Home Care 37,446,900
 Selected Programs 4,113,300
 Service Delivery 79,855,200
 Special Needs 2,243,300

The Legislature intends that the Department of Human Services provide to the Office of the Legislative Fiscal Analyst no later than October 15, 2018 the following information for youth that are court-involved or at risk of court involvement, to assess the impact of juvenile justice reform efforts on the Division of Child and Family Services: 1) the number of youth placed in each type of

out-of-home setting, 2) the average length of out-of-home stay by setting, 3) the reasons for out-of-home placement, 4) the daily cost of each type of out-of-home setting, 5) the number of youth receiving services in the community, 6) the average length of community service provision, 7) a list of support services delivered in the community, including frequency of use and costs of each service, and 8) remaining barriers to implementing the reforms.

The Legislature intends that the Department of Human Services provide to the Office of the Legislative Fiscal Analyst no later than December 1, 2018 a report updating the information provided by the department in response to subcommittee action on the Budget Deep-Dive into the Foster Care System from the 2017 Interim.

The Legislature intends that the Department of Human Services report on the following performance measures for the Child and Family Services line item, whose mission is "To keep children safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families": (1) Administrative Performance: Percent satisfactory outcomes on qualitative case reviews/system performance (Target = 85%/85%), (2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and (3) Out of home services: Percent of children reunified within 12 months (Target =74.2%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 38

To Department of Human Services - Executive Director Operations

From General Fund	8,857,100
From Federal Funds	8,685,200
From Dedicated Credits Revenue	68,400
From Revenue Transfers	2,186,300
Schedule of Programs:	
Executive Director's Office	7,512,300
Fiscal Operations	3,002,200
Human Resources	30,600
Information Technology	1,731,600
Legal Affairs	856,000
Local Discretionary Pass-Through ..	1,140,700
Office of Licensing	3,251,100
Office of Services Review	1,512,600
Utah Developmental Disabilities Council	759,900

The Legislature intends that the Department of Human Services provide a report on the System of Care program to the Office of the Legislative Fiscal Analyst no later than October 1, 2018. The report shall include: 1) the geographic areas of the State where the program has been implemented; 2) the number of children and families served; 3) the total population of children and families that could be eligible; 4) a description of how the department determines which children and families to serve; 5) a measure of cost per

child and cost per family; and 6) a plan for how funding for the program will be sustained over the next five years.

The Legislature intends that the Department of Human Services report on the following performance measures for the Executive Director Operations line item, whose mission is "To strengthen lives by providing children, youth, families and adults individualized services to thrive in their homes, schools and communities": (1) Corrected department-wide reported fiscal issues -- per reporting process and June 30 quarterly report involving the Bureau of Finance and Bureau Internal Review and Audit (Target = 75%), (2) Percentage of initial foster care homes licensed within 3 months of application completion (Target = 60%), and (3) double-read (reviewed) Case Process Reviews will be accurate in the Office of Services Review (Target = 96%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 39

To Department of Human Services - Office of Public Guardian

From General Fund	478,700
From Federal Funds	40,000
From Revenue Transfers	320,000
Schedule of Programs:	
Office of Public Guardian	838,700

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Public Guardian (OPG) line item, whose mission is "To ensure quality coordinated services in the least restrictive, most community-based environment to meet the safety and treatment needs of those we serve while maximizing independence and community and family involvement": (1) Ensure all other available family or associate resources for guardianship are explored before and during involvement with OPG (Target = 10% of cases transferred to a family member or associate), (2) Obtain an annual cumulative score of at least 85% on quarterly case process reviews (Target = 85%), and (3) Eligible staff will obtain and maintain National Guardianship Certification (Target = 100%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 40

To Department of Human Services - Office of Recovery Services

From General Fund	13,713,700
From Federal Funds	25,133,100
From Dedicated Credits Revenue	7,370,600
From Revenue Transfers	2,918,900
Schedule of Programs:	
Administration - ORS	1,090,000
Attorney General Contract	4,714,500
Child Support Services	24,482,400
Children in Care Collections	698,600
Electronic Technology	12,792,900
Financial Services	2,460,900

Medical Collections 2,897,000

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services (ORS) line item, whose mission is to “To serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary”: (1) Statewide Paternity Establishment Percentage (PEP Score) (Target = 90%), (2) Child Support Services Collections (Target = \$225 million), and (3) Ratio: ORS Collections to Cost (Target = > \$6.25 to \$1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 41

To Department of Human Services - Division of Services for People with Disabilities

From General Fund	95,026,600
From Federal Funds	1,577,000
From Dedicated Credits Revenue	2,651,500
From Revenue Transfers	228,079,200
Schedule of Programs:	
Acquired Brain Injury Waiver	6,102,900
Administration - DSPD	4,810,000
Community Supports Waiver	265,071,600
Non-waiver Services	1,921,500
Physical Disabilities Waiver	2,372,600
Service Delivery	6,795,700
Utah State Developmental Center	40,260,000

The Legislature intends that for all funding provided beginning in FY 2016 for Direct Care Staff Salary Increases, the Division of Services for People with Disabilities (DSPD) shall: 1) Direct funds to increase the salaries of direct care workers; 2) Increase only those rates which include a direct care service component, including respite; 3) Monitor providers to ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits; 4) In conjunction with DSPD community providers, report to the Office of the Legislative Fiscal Analyst no later than September 1, 2018 regarding the implementation and status of increasing salaries for direct care workers.

The Legislature intends that the Department of Human Services provide to the Office of the Legislative Fiscal Analyst no later than June 1, 2018 a report containing nationwide and cross-state comparisons of the growth rate of annual “Additional Needs” related to community-based disability services.

Under Subsection 62A-5-102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2019 beginning nonlapsing funds to provide

services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family services and Juvenile Justice Services, individuals court ordered into DSPD services and to provide increases to providers for direct care staff salaries. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2019 on the use of these nonlapsing funds.

The Legislature intends that the Department of Human Services report on the following performance measures for the Services for People with Disabilities line item, whose mission is to “To promote opportunities and provide supports for persons with disabilities to lead self-determined lives”: (1) Community Supports, Brain Injury, Physical Disability Waivers, Non-Waiver Services - Percent of providers meeting fiscal requirements of contract (Target = 100%) and (2) Community Supports, Brain Injury, Physical Disability Waivers, Non-Waiver Services - Percent of providers meeting non-fiscal requirements of contracts (Target = 100%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 42

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund	119,960,400
From Federal Funds	32,472,900
From Dedicated Credits Revenue	2,714,400
From General Fund Restricted - Intoxicated Driver Rehabilitation Account	1,500,000
From General Fund Restricted - Tobacco Settlement Account	1,121,200
From Revenue Transfers	19,088,900
Schedule of Programs:	
Administration - DSAMH	3,261,200
Community Mental Health Services	15,089,500
Driving Under the Influence (DUI) Fines	1,500,000
Drug Courts	5,251,200
Drug Offender Reform Act (DORA)	2,787,500
Local Substance Abuse Services	26,291,200
Mental Health Centers	44,870,800
Residential Mental Health Services	221,900
State Hospital	65,305,200
State Substance Abuse Services	12,279,300

The Legislature intends that the Department of Human Services report on the following performance measures for the Substance Abuse and Mental Health line item, whose mission is to “To promote hope, health and healing, by reducing the impact of substance abuse and mental illness to Utah citizens, families and communities”: (1) Local Substance Abuse Services - Successful completion rate (Target = 60%), (2) Mental Health Centers - Adult Outcomes

Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 84%), and (3) Mental Health Centers - Youth Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 84%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF WORKFORCE SERVICES

Item 43

To Department of Workforce Services - Administration
 From General Fund 3,286,100
 From Federal Funds 9,054,400
 From Dedicated Credits Revenue 143,500
 From Permanent Community Impact Loan Fund 141,500
 From Revenue Transfers 1,522,400
 Schedule of Programs:
 Administrative Support 9,666,300
 Communications 1,471,100
 Executive Director's Office 897,600
 Human Resources 1,550,700
 Internal Audit 562,200

The Legislature intends that the Department of Workforce Services, together with the Office of the Legislative Fiscal Analyst, will assess the feasibility of a budget reorganization of the department with the following main goals: (1) promoting increased fiscal transparency; (2) aligning budget organization more closely with operational organization; and (3) simplifying department financial accounting and reporting processes. Workforce Services and the Office of the Legislative Fiscal Analyst will report to the Social Services Appropriations Subcommittee on proposed recommendations prior to September 15th, 2018.

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Administration line item, whose mission is to "be the best-managed State Agency in Utah": provide accurate and timely department-wide fiscal administration. Target: manage, account and reconcile all funds within State Finance close out time lines and with zero audit findings by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 44

To Department of Workforce Services - Community Development Capital Budget
 From Permanent Community Impact Loan Fund 93,060,000
 Schedule of Programs:
 Community Impact Board 93,060,000

Item 45

To Department of Workforce Services - General Assistance
 From General Fund 4,715,700

From Dedicated Credits Revenue 250,000
 Schedule of Programs:
 General Assistance 4,965,700

The Legislature intends that the Department of Workforce Service perform a time series analysis to determine whether an ongoing reduction to the General Assistance Program is feasible and report to the Office of the Legislative Fiscal Analyst by August 1, 2018.

The Legislature intends that the Department of Workforce Services report on the following performance measures for the General Assistance line item, whose mission is to "provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment": (1) positive closure rate (SSI achievement or closed with earnings) (Target = 50%), (2) General Assistance average monthly customers served (Target = 950), and (3) internal review compliance accuracy (Target = 90%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 46

To Department of Workforce Services - Housing and Community Development
 From General Fund 2,890,300
 From Federal Funds 38,789,200
 From Dedicated Credits Revenue 1,364,000
 From General Fund Restricted - Pamela Atkinson Homeless Account 1,092,000
 From General Fund Restricted - Homeless Housing Reform Restricted Account . 4,755,400
 From Permanent Community Impact Loan Fund 1,277,500
 From General Fund Restricted - Youth Character Organization 10,000
 From General Fund Restricted - Youth Development Organization 10,000
 Schedule of Programs:
 Community Development 6,064,300
 Community Development Administration 664,700
 Community Services 3,585,600
 Emergency Food Network 284,200
 HEAT 17,169,400
 Homeless Committee 3,743,700
 Homeless to Housing Reform Program 7,215,400
 Housing Development 1,718,600
 Special Housing 174,800
 Weatherization Assistance 9,567,700

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Housing and Community Development line item, whose mission is to "actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs": (1) utilities assistance for low-income

households - number of eligible households assisted with home energy costs (Target = 35,000 households), (2) Weatherization Assistance - number of low income households assisted by installing permanent energy conservation measures in their homes (Target = 530 homes), and (3) Homelessness Programs - reduce the average length of stay in Emergency Shelters (Target 10%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 47

To Department of Workforce Services -
 Nutrition Assistance - SNAP
 From General Fund 291,049,400
 Schedule of Programs:
 Nutrition Assistance - SNAP 291,049,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Nutrition Assistance line item, whose mission is to “provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families”: (1) Federal SNAP Quality Control Accuracy - Actives (Target= 97%), (2) Food Stamps - Certification Timeliness (Target = 95%), and (3) Food Stamps - Certification Days to Decision (Target = 12 days) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 48

To Department of Workforce Services -
 Office of Child Care
 From General Fund 77,300
 From Federal Funds 2,000,000
 Schedule of Programs:
 Intergenerational Poverty School
 Readiness Scholarship 1,077,300
 Student Access to High Quality
 School Readiness Grant 1,000,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Office of Child Care line item, whose mission is to “increase access to high-quality preschool programs for qualifying children, including children who are low income or experiencing intergenerational poverty”: (1) Child Development Associate Credential (CDA) (Target = 300 people successfully obtaining CDA), (2) High Quality School Readiness expansion (HQSR-E) grants (Target = 35 eligible children served through expansion grants annually), and (3) Intergenerational Poverty (IGP) scholarships (Target = (i) 10% of those who are eligible return scholarship application and (ii) 30% of those who return an application are enrolled in high-quality preschool with the scholarships) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 49

To Department of Workforce Services -
 Operations and Policy
 From General Fund 48,451,200
 From Federal Funds 246,908,800
 From Dedicated Credits Revenue 2,724,900
 From General Fund Restricted -
 Special Admin. Expense Account 500
 From Revenue Transfers 38,442,000
 Schedule of Programs:
 Child Care Assistance 80,211,000
 Eligibility Services 60,857,500
 Facilities and Pass-Through 11,300,700
 Information Technology 32,486,700
 Nutrition Assistance 96,000
 Other Assistance 1,342,100
 Refugee Assistance 7,400,000
 Temporary Assistance for Needy
 Families 72,341,300
 Trade Adjustment Act Assistance ... 1,500,000
 Utah Data Research Center 955,000
 Workforce Development 60,515,800
 Workforce Investment Act
 Assistance 4,530,000
 Workforce Research and Analysis ... 2,991,300

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Operations and Policy line item, whose mission is to “meet the needs of our customers with responsive, respectful, and accurate service”: (1) labor exchange - total job placements (Target = 30,000 placements per calendar quarter), (2) TANF recipients - positive closure rate (Target = 72% per calendar month), and (3) Eligibility Services - internal review compliance accuracy (Target = 95%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature intends to increase by one the number of vehicles assigned to the Department of Workforce Services. Approval of the increase in vehicles will allow for the purchase of an undercover vehicle that the department will use to monitor recipients who are trafficking their Supplemental Nutrition Assistance Program (SNAP or “food stamp”) benefits at retailers.

Item 50

To Department of Workforce Services -
 Special Service Districts
 From General Fund Restricted -
 Mineral Lease 3,841,400
 Schedule of Programs:
 Special Service Districts 3,841,400

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Special Service Districts line item, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: the total pass through of funds to qualifying

special service districts in counties of the 5th, 6th and 7th class (this is completed quarterly) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 51

To Department of Workforce Services - State Office of Rehabilitation

From General Fund	22,089,900
From Federal Funds	64,675,300
From Dedicated Credits Revenue	828,000
From Revenue Transfers	58,900

Schedule of Programs:

Aspire Grant	11,802,200
Blind and Visually Impaired	3,909,200
Deaf and Hard of Hearing	2,893,200
Disability Determination	15,191,100
Executive Director	2,000,000
Rehabilitation Services	51,856,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for its Utah State Office of Rehabilitation line item, whose mission is to “empower clients and provide high quality services that promote independence and self-fulfillment through its programs”: (1) Vocational Rehabilitation - Increase the percentage of clients served who are youth (age 14 to 24 years) by 3% over the 2015 rate of 25.3% (Target 28.3%), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 55%), and (3) Deaf and Hard of Hearing - Increase in the number of individuals served by DSDHH programs (Target = 7,144) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 52

To Department of Workforce Services - Unemployment Insurance

From General Fund	738,000
From Federal Funds	19,966,800
From Dedicated Credits Revenue	547,800
From General Fund Restricted - Special Admin. Expense Account	400
From Revenue Transfers	79,300

Schedule of Programs:

Adjudication	3,375,400
Unemployment Insurance Administration	17,956,900

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Insurance line item, whose mission is to “accurately assess eligibility for unemployment benefits and liability for employers in a timely manner”: (1) percentage of new employer status determinations made within 90 days of the last day in the quarter in which the business became liable (Target => 95.5%), (2) percentage of Unemployment Insurance separation determinations with quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations

(Target => 90%), and (3) percentage of Unemployment Insurance benefits payments made within 14 days after the week ending date of the first compensable week in the benefit year (Target => 95%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF HEALTH

Item 53

To Department of Health - Organ Donation Contribution Fund

From Dedicated Credits Revenue	90,400
From Interest Income	1,400
From Beginning Fund Balance	330,000
From Closing Fund Balance	(371,800)

Schedule of Programs:

Organ Donation Contribution Fund	50,000
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The Legislature intends that the Department of Health report on the following performance measures for the Organ Donation Contribution Fund, “The mission of the Division of Family Health and Preparedness is to assure care for many of Utah’s most vulnerable citizens. The division accomplishes this through programs designed to provide direct services, and to be prepared to serve all populations that may suffer the adverse health impacts of a disaster, be it man-made or natural.”: (1) increase Division of Motor Vehicles/Drivers License Division donations from a base of \$90,000 (Target = 3%), (2) increase donor registrants from a base of 1.5 million (Target = 2%), and (3) increase donor awareness education by obtaining one new audience (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 54

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund

From Dedicated Credits Revenue	170,400
From Beginning Fund Balance	196,300
From Closing Fund Balance	(124,400)

Schedule of Programs:

Spinal Cord and Brain Injury Rehabilitation Fund	242,300
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The Legislature intends that the Department of Health report on the following performance measures for the Spinal Cord and Brain Injury Rehabilitation Fund, whose mission is to “The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and

programs to prevent injuries and improve public health.”: (1) number of clients that received an intake assessment (Target = 101), (2) number of physical, speech or occupational therapy services provided (Target = 1,900), and (3) percent of clients that returned to work and/or school (Target = 50%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 55

To Department of Health - Traumatic Brain Injury Fund

From General Fund 200,000
 From Beginning Fund Balance 502,400
 From Closing Fund Balance (489,800)

Schedule of Programs:

Traumatic Brain Injury Fund 212,600

The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund, whose mission is to “The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health.”: (1) number of individuals with traumatic brain injury that received resource facilitation services through the traumatic brain injury Fund contractors (Target = 300), (2) number of Traumatic Brain Injury Fund clients referred for a neuro-psych exam or MRI (Magnetic Resonance Imaging) that receive an exam (Target = 40), and (3) number of community and professional education presentations and trainings (Target = 60) by October 15, 2018 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 56

To Department of Human Services - Out and About Homebound Transportation Assistance Fund

From Dedicated Credits Revenue 38,000
 From Interest Income 2,300
 From Beginning Fund Balance 261,500
 From Closing Fund Balance (301,800)

The Legislature intends that the Department of Human Services report on the following performance measure for the Out and About Homebound Transportation Assistance Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 57

To Department of Human Services - State Developmental Center Land Fund

From Dedicated Credits Revenue 14,100
 From Interest Income 4,500
 From Revenue Transfers 38,700
 From Beginning Fund Balance 503,400
 From Closing Fund Balance (503,400)

Schedule of Programs:

State Developmental Center

Land Fund 57,300

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Land Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 58

To Department of Human Services - State Developmental Center

Miscellaneous Donation Fund

From Dedicated Credits Revenue 220,000
 From Interest Income 6,500
 From Beginning Fund Balance 564,800
 From Closing Fund Balance (564,800)

Schedule of Programs:

State Developmental Center

Miscellaneous Donation Fund 226,500

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Miscellaneous Donation Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 59

To Department of Human Services -

State Developmental Center Workshop Fund

From Dedicated Credits Revenue 138,100
 From Beginning Fund Balance 13,200
 From Closing Fund Balance (13,200)

Schedule of Programs:

State Developmental Center Workshop

Fund 138,100

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Workshop Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 60

To Department of Human Services -

State Hospital Unit Fund

From Dedicated Credits Revenue 34,600
 From Interest Income 2,100
 From Beginning Fund Balance 196,100
 From Closing Fund Balance (196,100)

Schedule of Programs:

State Hospital Unit Fund 36,700

The Legislature intends that the Department of Human Services report on the following performance measure for the State Hospital Unit Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other

requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF WORKFORCE SERVICES

Item 61

To Department of Workforce Services - Child Care Fund
 From Dedicated Credits Revenue 100
 From Beginning Fund Balance 1,400
 Schedule of Programs:
 Child Care Fund 1,500

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Child Care Fund, whose mission is to “fund child care initiatives that will improve the quality, affordability, or accessibility of child care, including professional development as specified in Utah Code Section 35A-3-206”: report on activities or projects paid for by the fund in the prior fiscal year by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 62

To Department of Workforce Services - Individuals with Visual Impairment Fund
 From Dedicated Credits Revenue 15,600
 From Beginning Fund Balance 1,020,200
 From Closing Fund Balance (1,018,300)
 Schedule of Programs:
 Individuals with Visual Impairment Fund 17,500

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Individuals with Visual Impairment Fund, whose mission is to “assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities”: (1) the total of funds expended compiled by category of use, (2) the year end fund balance, and (3) the yearly results/profit from the investment of the fund by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 63

To Department of Workforce Services - Intermountain Weatherization Training Fund
 From Dedicated Credits Revenue 9,800
 From Beginning Fund Balance 5,200
 From Closing Fund Balance (6,900)
 Schedule of Programs:
 Intermountain Weatherization Training Fund 8,100

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Intermountain Weatherization Training Fund, whose mission is “aligned with the Housing and Community Development

Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: number of individuals trained each year (Target => 20) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 64

To Department of Workforce Services - Navajo Revitalization Fund
 From Interest Income 143,200
 From Other Financing Sources 1,253,400
 From Beginning Fund Balance 11,941,400
 From Closing Fund Balance (11,941,400)
 Schedule of Programs:
 Navajo Revitalization Fund 1,396,600

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Navajo Revitalization Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 65

To Department of Workforce Services - Olene Walker Housing Loan Fund
 From General Fund 2,242,900
 From Federal Funds 4,776,400
 From Dedicated Credits Revenue 403,600
 From Interest Income 2,225,200
 From Revenue Transfers 7,613,600
 From Beginning Fund Balance 145,939,600
 From Closing Fund Balance (151,333,300)
 Schedule of Programs:
 Olene Walker Housing Loan Fund 11,868,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Olene Walker Housing Loan Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) housing units preserved or created (Target = 800), (2) construction jobs preserved or created (Target = 1,200), and (3) leveraging of other funds in each project to Olene Walker

Housing Loan Fund monies (Target = 9:1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 66

To Department of Workforce Services -
 Permanent Community Impact Bonus Fund
 From Interest Income 7,335,300
 From General Fund Restricted - Land
 Exchange Distribution Account 100
 From General Fund Restricted -
 Mineral Bonus 2,581,700
 From Beginning Fund Balance 370,706,600
 From Closing Fund Balance (380,591,800)
 Schedule of Programs:
 Permanent Community Impact
 Bonus Fund 31,900

Item 67

To Department of Workforce Services -
 Permanent Community Impact Fund
 From Dedicated Credits Revenue 364,800
 From Interest Income 1,531,300
 From General Fund Restricted -
 Mineral Lease 33,713,000
 From General Fund Restricted - Land
 Exchange Distribution Account 22,900
 From Beginning Fund Balance 301,469,600
 From Closing Fund Balance (336,618,500)
 Schedule of Programs:
 Permanent Community Impact
 Fund 483,100

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Permanent Community Impact Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) new receipts invested in communities annually (Target = 100%), (2) support the Rural Planning Group (Target = completing 10 community plans), and (3) Provide information to board 2 weeks prior to monthly meetings (Target = at least three times per year) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 68

To Department of Workforce Services -
 Qualified Emergency Food Agencies Fund
 From Designated Sales Tax 915,200
 From Beginning Fund Balance 866,700
 From Closing Fund Balance (1,047,100)
 Schedule of Programs:
 Emergency Food Agencies Fund 734,800

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Qualified Emergency Food Agencies Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and

the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) the number of households served by QEFAP agencies (No target while a baseline is established) and (2) Percent of QEFAP program funds obligated to QEFAP agencies (Target: 100% of funds obligated) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 69

To Department of Workforce Services -
 Uintah Basin Revitalization Fund
 From Dedicated Credits Revenue 249,800
 From Other Financing Sources 3,477,000
 From Beginning Fund Balance 11,135,700
 From Closing Fund Balance (4,463,300)
 Schedule of Programs:
 Uintah Basin Revitalization
 Fund 10,399,200

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Uintah Basin Revitalization Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 70

To Department of Workforce Services -
 Utah Community Center for the Deaf Fund
 From Dedicated Credits Revenue 8,000
 From Beginning Fund Balance 29,100
 From Closing Fund Balance (34,400)
 Schedule of Programs:
 Utah Community Center for the
 Deaf Fund 2,700

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Utah Community Center for the Deaf Fund, whose mission is to “provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential”: (1) The total of funds expended compiled by category of use, (2) The year end Fund balance, and (3) The yearly results/profit from the investment of the fund by October 15, 2018 to the Social Services Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and

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

DEPARTMENT OF WORKFORCE SERVICES

Item 71

To Department of Workforce Services - Economic Revitalization and Investment Fund
From Beginning Fund Balance 2,061,000
From Closing Fund Balance (2,061,000)

Item 72

To Department of Workforce Services - State Small Business Credit Initiative Program Fund
From Beginning Fund Balance 3,832,400
From Closing Fund Balance (3,832,400)

The Legislature intends that the Department of Workforce Services report on the following performance measures for the State Small Business Credit Initiative Program Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs":
Minimize loan losses (Target <3%).

Item 73

To Department of Workforce Services - Unemployment Compensation Fund
From Federal Funds 2,500,000
From Dedicated Credits Revenue 20,143,100
From Interest Income 460,600
From Other Financing Sources 212,950,100
From Beginning Fund Balance 1,153,790,800
From Closing Fund Balance (1,214,490,300)
Schedule of Programs:
Unemployment Compensation Fund 175,354,300

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Compensation Fund, whose mission is to "monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers": (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount, (2) the average high cost multiple is the Unemployment Insurance Trust Fund balance as a percentage of total Unemployment Insurance wages divided by the average high cost rate (Target => 1), and

(3) contributory employers Unemployment Insurance contributions due paid timely (Target => 95%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 74

To Ambulance Service Provider Assessment Fund
From Dedicated Credits Revenue 3,131,700
Schedule of Programs:
Ambulance Service Provider Assessment Fund 3,131,700

The Legislature intends that the Department of Health report on the following performance measures for the Ambulance Service Provider Assessment Fund, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of providers invoiced (Target = 100%), (2) percentage of providers who have paid by the due date (Target = 80%), and (3) percentage of providers who have paid within 30 days after the due date (Target = 90%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2019 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Item 75

To Hospital Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue 48,500,000
From Beginning Nonlapsing Balances 4,877,900
From Closing Nonlapsing Balances ... (4,877,900)
Schedule of Programs:
Hospital Provider Assessment Expendable Revenue Fund 48,500,000

The Legislature intends that the Department of Health report on the following performance measures for the Hospital Provider Assessment Expendable Revenue Fund, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of hospitals invoiced (Target = 100%), (2) percentage of hospitals who have paid by the due date (Target => 85%), and (3) percentage of hospitals who have paid within 30 days after the due date (Target => 97%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature authorizes the Department of Health to spend all available

money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2019 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Item 76

To Medicaid Expansion Fund
 From General Fund 21,420,500
 From General Fund, One-Time (164,200)
 From Dedicated Credits Revenue 13,600,000
 Schedule of Programs:
 Medicaid Expansion Fund 34,856,300

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Expansion Fund, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of hospitals invoiced (Target = 100%), (2) percentage of hospitals who have paid by the due date (Target => 85%), and (3) percentage of hospitals who have paid within 30 days after the due date (Target => 97%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2019 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Item 77

To Nursing Care Facilities Provider Assessment Fund
 From Dedicated Credits Revenue 31,855,200
 Schedule of Programs:
 Nursing Care Facilities Provider Assessment Fund 31,855,200

The Legislature intends that the Department of Health report on the following performance measures for the Nursing Care Facilities Provider Assessment Fund, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of nursing facilities invoiced (Target = 100%), (2) percentage of nursing facilities who have paid by the due date (Target = 85%), and (3) percentage of nursing facilities who have paid within 30 days after the due date (Target = 97%) by October 15, 2018 to the Social Services Appropriations Subcommittee.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2019 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Item 78

To General Fund Restricted - Children's Hearing Aid Program Account
 From General Fund 100,000
 Schedule of Programs:
 General Fund Restricted - Children's Hearing Aid Account 100,000

Item 79

To General Fund Restricted - Homeless Account
 From General Fund 917,400
 Schedule of Programs:
 General Fund Restricted - Pamela Atkinson Homeless Account 917,400

Item 80

To General Fund Restricted - Homeless Housing Reform Account
 From General Fund 4,750,000
 Schedule of Programs:
 General Fund Restricted - Homeless Housing Reform Restricted Account 4,750,000

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

DEPARTMENT OF HUMAN SERVICES

Item 81

To Department of Human Services - Human Services Client Trust Fund
 From Interest Income 13,300
 From Trust and Agency Funds 4,744,800
 From Beginning Fund Balance 1,902,300
 From Closing Fund Balance (1,902,300)
 Schedule of Programs:
 Human Services Client Trust Fund 4,758,100

The Legislature intends that the Department of Human Services report on the following performance measure for the Human Services Client Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 82

To Department of Human Services - Human Services ORS Support Collections
 From Trust and Agency Funds 211,991,700
 Schedule of Programs:
 Human Services ORS Support Collections 211,991,700

The Legislature intends that the Department of Human Services report on the following performance measure for the Human Services Office of Recovery Services (ORS) Support Collections fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 83

To Department of Human Services - Maurice N. Warshaw Trust Fund
 From Interest Income 1,700
 From Beginning Fund Balance 147,400
 From Closing Fund Balance (147,400)
 Schedule of Programs:
 Maurice N. Warshaw Trust Fund 1,700

The Legislature intends that the Department of Human Services report on the following performance measure for the Maurice N. Warshaw Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 84

To Department of Human Services - State Developmental Center Patient Trust Fund

From Interest Income	2,600
From Trust and Agency Funds	1,743,900
From Beginning Fund Balance	664,400
From Closing Fund Balance	(664,400)

Schedule of Programs:

State Developmental Center Patient Trust Fund	1,746,500
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The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Patient Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Item 85

To Department of Human Services - State Hospital Patient Trust Fund

From Trust and Agency Funds	775,900
From Beginning Fund Balance	156,500
From Closing Fund Balance	(156,500)

Schedule of Programs:

State Hospital Patient Trust Fund	775,900
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The Legislature intends that the Department of Human Services report on the following performance measure for the State Hospital Patient Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 15, 2018 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF WORKFORCE SERVICES

Item 86

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund

From Other Financing Sources	139,700
From Beginning Fund Balance	70,100
From Closing Fund Balance	(80,200)

Schedule of Programs:

Individuals with Visual Disabilities Vendor Fund	129,600
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The Legislature intends that the Department of Workforce Services report on the following performance measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to "assist Blind and Visually Impaired individuals in achieving

their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities": (1) Fund will be used to assist different business locations with purchasing upgraded equipment (Target = 8), (2) Fund will be used to assist different business locations with repairing and maintaining of equipment (Target = 25), and (3) Maintain or increase total yearly contributions to the Business Enterprise Program Owner Set Aside Fund (part of the Visual Impairment Vendor fund) (Target = \$53,900 yearly contribution amount) by October 15, 2018 to the Social Services Appropriations Subcommittee.

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

CHAPTER 10**H. B. 28**

Passed February 8, 2018
 Approved February 21, 2018
 Effective February 21, 2018

RETIREMENT SYSTEMS AMENDMENTS

Chief Sponsor: Jefferson Moss
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and insurance provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies that the Utah State Retirement Investment Fund may sue and be sued in its own name;
- ▶ requires a participating employer to provide certain records to the Utah Retirement Systems or its independent auditors;
- ▶ modifies when a domestic relations order must be received by the Utah Retirement Systems to be valid for determining benefits following a member's death;
- ▶ modifies cancellation, reinstatement, and calculation provisions for a retiree's retirement allowance affected by reemployment;
- ▶ requires a participating employer to maintain a list of employee exemptions instead of filing it annually with the Utah Retirement Systems; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-11-103, as renumbered and amended by Laws of Utah 2002, Chapter 250
 49-11-301, as last amended by Laws of Utah 2016, Chapter 304
 49-11-604, as last amended by Laws of Utah 2003, Chapter 240
 49-11-612, as last amended by Laws of Utah 2015, Chapter 243
 49-11-1204, as enacted by Laws of Utah 2016, Chapter 310
 49-12-203, as last amended by Laws of Utah 2017, Chapters 20, 363 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 382
 49-13-203, as last amended by Laws of Utah 2017, Chapters 20, 363 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 382
 49-14-501, as last amended by Laws of Utah 2016, Chapter 84
 49-15-501, as last amended by Laws of Utah 2016, Chapter 84

49-22-205, as last amended by Laws of Utah 2016, Chapter 227

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

Section 1. Section 49-11-103 is amended to read:

49-11-103. Purpose -- Liberal construction.

(1) The purpose of this title is to establish:

(a) retirement systems and the Utah Governors' and Legislators' Retirement Plan for members which provide:

- (i) a uniform system of membership;
- (ii) retirement requirements;
- (iii) benefits for members;
- (iv) funding on an actuarially sound basis;
- (v) contributions; and
- (vi) economy and efficiency in public service; and

(b) a central administrative office and a board to administer the various systems, plans, and programs established by the Legislature or the board.

(2) This title shall be liberally construed to provide maximum benefits and protections consistent with sound fiduciary and actuarial [principals] principles.

Section 2. Section 49-11-301 is amended to read:

49-11-301. Creation -- Board to act as trustees of the fund -- Commingling and pooling of funds -- Interest earnings -- Funded ratio.

(1) (a) There is created a common trust fund known as the "Utah State Retirement Investment Fund" for the purpose of enlarging the investment base and simplifying investment procedures and functions.

(b) The Utah State Retirement Investment Fund may sue and be sued in its own name.

(2) (a) The board shall act as trustees of the Utah State Retirement Investment Fund and, through the executive director, may commingle and pool the funds and investments of any system, plan, or program into the Utah State Retirement Investment Fund, if the principal amounts of the participating funds do not lose their individual identity and are maintained as separate trust funds on the books of the office.

(b) (i) In combining the investments of any fund, each of the participating funds shall be credited initially with its share of the total assets transferred to the Utah State Retirement Investment Fund.

(ii) The value of the transferred assets shall be calculated in accordance with generally accepted accounting principles.

(c) Subsequent transfers of additional capital from participating funds shall be credited similarly to its respective trust account.

(d) The income or principal or equity credit belonging to one participating fund may not be transferred to another, except for the purpose of:

(i) actuarially recommended transfers in order to adjust employer contribution rates for an employer that participates in both contributory and noncontributory systems; or

(ii) transfers which reflect the value of service credit accrued in different systems during a member's career.

(3) The assets of the funds are for the exclusive benefit of the members, participants, and covered individuals and may not be diverted or appropriated for any purpose other than that permitted by this title.

(4) (a) Interest and other earnings shall be credited to each participating fund on a pro rata equity position basis.

(b) (i) A portion of the interest and other earnings of the common trust fund may be credited to a reserve account within the Utah State Retirement Investment Fund to meet adverse experiences arising from investments or other contingencies.

(ii) Each participating fund shall retain its proportionate equity in the reserve account.

(5) (a) The actuarial funded ratio of the systems may reach and be maintained at 110%, as determined by the board's actuary using assumptions adopted by the board, before the board is required to certify a decrease in contribution rates.

(b) Except as provided in Subsection (6), the board may not increase contribution rates to attain an actuarial funded ratio greater than 100%.

(6) (a) The cost of any amendment to this title shall be included in the final contribution rates adopted and certified by the board in accordance with Subsections 49-11-102(14) and 49-11-203(1)(l).

(b) If a preliminary certified contribution rate approved by the board prior to an annual general session or special session of the Legislature was maintained at a previous year's level that is higher than the contribution rate calculated by the board's actuary for that year in accordance with Subsection (5)(a), the board's final certified contribution rate shall be the sum of the actuarially determined costs from any amendment to this title during the general session or special session and the preliminary certified contribution rate.

Section 3. Section 49-11-604 is amended to read:

49-11-604. Office audits of participating employers -- Penalties for failure to comply.

(1) (a) The office may perform an on-site compliance ~~audits~~ audit of a participating

~~employers~~ employer to determine compliance with reporting, contribution, and certification requirements under this title.

(b) The office or its independent auditor may perform an on-site compliance audit of a participating employer or request records to be provided by the participating employer, including records required to complete:

(i) audited financial statements;

(ii) schedules of employer allocations and pension reporting in accordance with Governmental Accounting Standards Board statements; and

(iii) service organizational controls reports.

~~(b)~~ (c) The office may request records to be provided by the participating employer at the time of the audit.

~~(e)~~ (d) Audits shall be conducted at the sole discretion of the office after reasonable notice to the participating employer of at least five working days.

~~(d)~~ (e) The participating employer shall extract and provide records as requested by the office in an appropriate, organized, and usable format.

~~(e)~~ (f) Failure of a participating employer to allow access, provide records, or comply in any way with an office audit shall result in the participating employer being liable to the office for:

(i) any liabilities and expenses, including administrative expenses and travel expenses, resulting from the participating employer's failure to comply with the audit; and

(ii) a penalty equal to 1% of the participating employer's last month's contributions.

(2) If the audit reveals a participating employer's failure to make contributions as required under Section 49-11-601, a failure to maintain records as required under Section 49-11-602, or a failure to correctly report or certify eligibility as required under Section 49-11-603, the participating employer shall reimburse the office for the cost of the audit.

(3) If the audit reveals that an incorrect benefit has been paid by the office to a member, participant, alternate payee, or beneficiary due to a participating employer's failure to comply with the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to the liabilities contained in Subsection (2), the participating employer shall be liable to the office for the following:

(a) the actuarial cost of correcting the incorrect benefit; and

(b) administrative expenses.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

Section 4. Section 49-11-612 is amended to read:

49-11-612. Domestic relations order benefits -- Nonassignability of benefits or payments -- Exemption from legal process.

(1) As used in this section, "domestic relations order benefits" means:

- (a) an allowance;
- (b) a defined contribution account established under:
 - (i) Part 8, Defined Contribution Plans;
 - (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
 - (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act;
- (c) a continuing monthly death benefit established under:
 - (i) Chapter 14, Part 5, Death Benefit;
 - (ii) Chapter 15, Part 5, Death Benefit;
 - (iii) Chapter 16, Part 5, Death Benefit;
 - (iv) Chapter 17, Part 5, Death Benefit;
 - (v) Chapter 18, Part 5, Death Benefit; or
 - (vi) Chapter 19, Part 5, Death Benefit;
- (d) a lump sum death benefit provided under:
 - (i) Chapter 12, Part 5, Death Benefit;
 - (ii) Chapter 13, Part 5, Death Benefit;
 - (iii) Chapter 22, Part 5, Death Benefit; or
 - (iv) Chapter 23, Part 5, Death Benefit; or
- (e) a refund of member contributions upon termination.

(2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree, participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or any other retirement right accrued or accruing under this title and the assets of the funds created by this title are not subject to alienation or assignment by the member, retiree, participant, or their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or equitable process.

(3) (a) The office may, upon the request of the retiree, deduct from the retiree's allowance, insurance premiums or other dues payable on behalf of the retiree, but only to those entities that have received the deductions prior to February 1, 2002.

(b) The office may, upon the request of a retiree of a public safety or firefighter system, deduct insurance premiums from the retiree's allowance.

(4) (a) The office shall provide for the division of domestic relations order benefits with former spouses and family members under an order of a

court of competent jurisdiction with respect to domestic relations matters on file with the office.

(b) The court order shall specify the manner in which the domestic relations order benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

(c) Domestic relations order benefits split under a domestic relations order are subject to the following:

(i) the amount to be paid or the period for which payments shall be made under the original domestic relations order may not be altered if the alteration affects the actuarial calculation of the allowance;

(ii) payments to an alternate payee shall begin at the time the member or beneficiary begins receiving payments; and

(iii) the alternate payee shall receive payments in the same form as allowances received by the member or beneficiary.

(d) (i) ~~[(4)]~~ Except as provided under Subsection (4)(d)(ii), to be valid, a court order under this section must be [received by the office within 12 months of the death of the member] on file with the office before the member's date of death.

(ii) A court order under this section received by the office after the member's date of death shall be considered valid if it is received in good order before benefits relating to the member's death are paid or settled.

(e) A court order under this section may not require and may not be interpreted in any way to require the office to provide any type of benefit or any option not otherwise provided under this title.

(5) In accordance with federal law, the board may deduct the required amount from any benefit, payment, or other right accrued or accruing to any member or beneficiary of a system, plan, or program under this title to offset any amount that member or beneficiary owes to a system, plan, or program administered by the board.

(6) The board shall make rules to implement this section.

Section 5. Section 49-11-1204 is amended to read:

49-11-1204. General restrictions -- Election following one-year separation -- Amortization rate.

(1) A retiree may not for the same period of reemployment:

- (a) (i) earn additional service credit; or
- (ii) receive any retirement related contribution from a participating employer; and
- (b) receive a retirement allowance.

(2) Except as provided under Section 49-11-1205, the office shall cancel the retirement allowance of a retiree if the reemployment with a

participating employer begins within one year of the retiree's retirement date.

(3) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (2), the retiree may elect to:

(a) cancel the retiree's retirement allowance and instead earn additional service credit in accordance with this title; or

(b) continue to receive the retiree's retirement allowance, forfeit earning additional service credit, and forfeit any retirement-related contribution from the participating employer that reemployed the retiree.

(4) (a) ~~[If the office receives notice of the election of a reemployed retiree under Subsection (3)(a), the office shall immediately cancel the retiree's retirement allowance.]~~ (b) (i) ~~If the retiree under Subsection (4)(a) If a retiree's retirement allowance is cancelled and the retiree is eligible for retirement coverage in [the] a reemployed position, the office shall reinstate the retiree to active member status on the first day of the month following the date of the employee's [election] eligible reemployment.~~

~~[(ii)]~~ (b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for retirement coverage in the reemployed position, the participating employer that reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.

(c) A participating employer that reemploys a retiree in accordance with Subsection 49-11-1205(1) is not required to contribute the amortization rate to the office.

(5) (a) For a retiree under Subsection (4)~~(b)~~(a) who retires within two years from the date of retirement, the office:

(i) may not recalculate a retirement benefit for the retiree; and

(ii) shall resume the allowance that was being paid to the retiree at the time of the cancellation.

(b) Subject to Subsection (1), for a retiree who is reinstated to active membership under Subsection (4)~~(b)~~(a) and retires two or more years after the date of reinstatement to active membership, the office shall:

(i) resume the allowance that was being paid at the time of cancellation; and

(ii) calculate an additional allowance for the retiree based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

Section 6. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents, or the Board of Directors of each technical college for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective

the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) ~~file~~ maintain a list of employee exemptions ~~annually with the office~~; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 7. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents, or the Board of Directors of each technical college for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection

49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) ~~file~~ maintain a list of employee exemptions ~~annually with the office~~; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 8. Section 49-14-501 is amended to read:

49-14-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse shall

receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the deceased member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the [beneficiary] surviving spouse shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of public safety service credit at the time of death, the surviving spouse shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children of members covered under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 9. Section 49-15-501 is amended to read:

49-15-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of public safety service credit, the surviving spouse shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of public safety service credit, the member shall be considered to have retired with an allowance calculated under Section 49-15-402 and the surviving spouse shall receive the death benefit payable to a surviving spouse under Section 49-15-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the [beneficiary] surviving spouse shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years, but less than 20 years of public safety service credit at the time of death, the surviving spouse shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(iii) If the member has accrued 20 or more years of public safety service credit, the benefit shall be calculated as provided in Subsection (1)(a)(ii).

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contribution shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 10. Section 49-22-205 is amended to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an executive department head of the state;

(b) a member of the State Tax Commission;

(c) a member of the Public Service Commission;

(d) a member of a full-time or part-time board or commission;

(e) an employee of the Governor's Office of Management and Budget;

(f) an employee of the Governor's Office of Economic Development;

(g) an employee of the Commission on Criminal and Juvenile Justice;

(h) an employee of the Governor's Office;

(i) an employee of the State Auditor's Office;

- (j) an employee of the State Treasurer's Office;
- (k) any other member who is permitted to make an election under Section 49-11-406;
- (l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;
- (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and
- (n) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- (2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).
- (b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).
- (3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.
- (b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.
- (4) Each participating employer shall:
- (a) ~~file each employee exemption annually with the office~~ maintain a list of employee exemptions; and
- (b) update an employee exemption in the event of any change.
- (5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):
- (a) for a member of the Tier II defined contribution plan:
- (i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); and
- (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and
- (b) for a member of the Tier II hybrid retirement system:
- (i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that

the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

Section 11. Effective date.

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

CHAPTER 11**H. B. 113**

Passed February 16, 2018
 Approved February 21, 2018
 Effective February 21, 2018

CANDIDATE FILING AMENDMENTS

Chief Sponsor: Craig Hall
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill allows an individual, under certain conditions, to file a declaration of candidacy via a designated agent.

Highlighted Provisions:

This bill:

- ▶ allows an individual, under certain conditions, to file a declaration of candidacy via a designated agent for a state, federal, or local office; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-2a-305.1, as last amended by Laws of Utah 2017, Chapter 91
 17B-1-306, as last amended by Laws of Utah 2014, Chapters 362 and 377
 17B-1-1001, as last amended by Laws of Utah 2017, Chapters 112 and 418
 17B-1-1003, as enacted by Laws of Utah 2017, Chapter 418
 20A-9-201, as last amended by Laws of Utah 2017, Chapter 63
 20A-9-202, as last amended by Laws of Utah 2017, Chapter 63
 20A-9-203, as last amended by Laws of Utah 2017, Chapter 91
 20A-9-407, as last amended by Laws of Utah 2017, Chapter 91
 20A-9-408, as last amended by Laws of Utah 2017, Chapter 91
 20A-9-502, as last amended by Laws of Utah 2013, Chapters 253 and 317
 20A-9-503, as last amended by Laws of Utah 2013, Chapter 317
 20A-9-504, as last amended by Laws of Utah 2017, Chapter 63
 20A-9-601, as last amended by Laws of Utah 2017, Chapter 63
 20A-11-1005, as last amended by Laws of Utah 2013, Chapter 252

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

Section 1. Section 10-2a-305.1 is amended to read:

10-2a-305.1. Notice of number of council members to be elected and of district boundaries -- Declaration of candidacy for city office -- Occupation of office.

(1) (a) Within 20 days of the county legislative body's receipt of the information under Subsection 10-2a-305(2)(b), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:

(i) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or town council; and

(ii) information about the length of the initial term of each of the town officers, as determined by the petition sponsors under Subsection 10-2a-305(2)(a).

(b) The notice under Subsection (1)(a) shall be published:

(i) in a newspaper of general circulation within the future town at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future town that are most likely to give notice to the residents of the future town.

(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).

(iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

(2) Notwithstanding Subsection 20A-9-203(3)(a) and the provisions of Subsection 20A-9-203(3)(b) that require a declaration of candidacy to be filed with the city recorder or town clerk, each individual seeking to become a candidate for mayor or town council of a town incorporating under this part shall, within 45 days after the day of the incorporation election under Section 10-2a-304, file a declaration of candidacy with the clerk of the county in which the future town is located.

Section 2. Section 17B-1-306 is amended to read:**17B-1-306. Local district board -- Election procedures.**

(1) Except as provided in Subsection (11), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (4)(~~f~~)(h) and (~~g~~) (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(i) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) The notice required under Subsection (3)(a) shall be:

(i) posted in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) (A) published in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy; and

(B) published, in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy.

(4) (a) (~~f~~) Except as provided in Subsection (4)(c), to become a candidate for an elective local district board position, [~~the prospective candidate~~] an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (4)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic

device that allows the individual and official to see and hear each other.

(~~e~~) (d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the [~~prospective candidate~~] individual the constitutional and statutory qualification requirements for the office that the [~~candidate~~] individual is seeking; and

(B) require the [~~candidate~~] individual to state whether [~~or not~~] the [~~candidate~~] individual meets those requirements.

(ii) If the [~~prospective candidate~~] individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the [~~prospective candidate~~] individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(~~d~~) (e) The declaration of candidacy shall be in substantially [~~empty with~~] the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election[.]; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

Subscribed and sworn to (or affirmed) before me by _____ on this ____ day of _____,

(Signed) _____

(Clerk or Notary Public)"

(f) An agent designated under Subsection (4)(c) may not sign the form described in Subsection (4)(e).

(~~e~~) (g) Each [~~person~~] individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(~~f~~) (h) If at least one [~~person~~] individual does not file a declaration of candidacy as required by this section, [~~a person~~] an individual shall be appointed to fill that board position [~~by following the procedures and requirements for appointment established~~] in accordance with the appointment provisions of Section 20A-1-512.

(~~g~~) (i) If only one candidate files a declaration of candidacy and there is no write-in candidate who

complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(5) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(6) (a) Except as provided in Subsection (6)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (6)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(7) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(8) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(9) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(11) This section does not apply to an improvement district that provides electric or gas service.

(12) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

(13) (a) As used in this Subsection (13), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (13)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (13)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (13).

Section 3. Section 17B-1-1001 is amended to read:

17B-1-1001. Provisions applicable to property tax levy.

(1) Each local district that levies and collects property taxes shall levy and collect them according to the provisions of Title 59, Chapter 2, Property Tax Act.

(2) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a local district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(4)(~~f~~)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(b) "Elected board of trustees" means a board of trustees of a local district that consists entirely of members who are elected to the board of trustees in accordance with Subsection (4), Section 17B-1-306, or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(3) (a) For a taxable year beginning on or after January 1, 2018, a local district may not levy or collect property tax revenue that exceeds the certified tax rate unless:

(i) to the extent that the revenue from the property tax was pledged before January 1, 2018, the local district pledges the property tax revenue to pay for bonds or other obligations of the local district; or

(ii) the proposed tax or increase in the property tax rate has been approved by:

(A) an elected board of trustees;

(B) subject to Subsection (3)(b), an appointed board of trustees;

(C) a majority of the registered voters within the local district who vote in an election held for that purpose on a date specified in Section 20A-1-204;

(D) the legislative body of the appointing authority; or

(E) the legislative body of:

(I) a majority of the municipalities partially or completely included within the boundary of the specified local district; or

(II) the county in which the specified local district is located, if the county has some or all of its unincorporated area included within the boundary of the specified local district.

(b) For a local district with an appointed board of trustees, each appointed member of the board of trustees shall comply with the trustee reporting requirements described in Section 17B-1-1003 before the local district may impose a property tax levy that exceeds the certified tax rate.

(4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts, and subject to Subsection (4)(b), members of the board of trustees of a local district shall be elected, if:

(i) two-thirds of all members of the board of trustees of the local district vote in favor of changing to an elected board of trustees; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board of trustees.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) Subsections (2), (3), and (4) do not apply to:

(a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or

(c) a local district in which:

(i) the board of trustees consists solely of:

(A) land owners or the land owners' agents; or

(B) as described in Subsection 17B-1-302(3), land owners or the land owners' agents or officers; and

(ii) there are no residents within the local district at the time a property tax is levied.

Section 4. Section 17B-1-1003 is amended to read:

17B-1-1003. Trustee reporting requirement.

(1) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a local district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(4)(~~f~~)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(b) "Legislative entity" means:

(i) the member's appointing authority, if the appointing authority is a legislative body; or

(ii) the member's nominating entity, if the appointing authority is not a legislative body.

(c) (i) "Member" means an individual who is appointed to a board of trustees for a local district in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(4)(~~f~~)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(ii) "Member" includes a member of the board of trustees who holds an elected position with a municipality, county, or another local district that is partially or completely included within the boundaries of the local district.

(d) "Nominating entity" means the legislative body that submits nominees for appointment to the board of trustees to an appointing authority.

(e) "Property tax increase" means a property tax levy that exceeds the certified tax rate for the taxable year.

(2) (a) If a local district board of trustees adopts a tentative budget that includes a property tax increase, each member shall report to the member's legislative entity on the property tax increase.

(b) (i) The local district shall request that each of the legislative entities that appoint or nominate a member to the local district's board of trustees hear the report required by Subsection (2)(a) at a public meeting of each legislative entity.

(ii) The request to make a report may be made by:

(A) the member appointed or nominated by the legislative entity; or

(B) another member of the board of trustees.

(c) The member appointed or nominated by the legislative entity shall make the report required by Subsection (2)(a) at a public meeting that:

(i) complies with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) includes the report as a separate agenda item; and

(iii) is held within 40 days after the day on which the legislative entity receives a request to hear the report.

(d) (i) If the legislative entity does not have a scheduled meeting within 40 days after the day on which the legislative entity receives a request to hear the report required by Subsection (2)(a), the legislative entity shall schedule a meeting for that purpose.

(ii) If the legislative entity fails to hear the report at a public meeting that meets the criteria described in Subsection (2)(c), the trustee reporting requirements under this section shall be considered satisfied.

(3) (a) A report on a property tax increase at a legislative entity's public meeting shall include:

(i) a statement that the local district intends to levy a property tax at a rate that exceeds the certified tax rate for the taxable year;

(ii) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate;

(iii) the approximate percentage increase in ad valorem tax revenue for the local district based on the proposed property tax increase; and

(iv) any other information requested by the legislative entity.

(b) The legislative entity shall allow time during the meeting for comment from the legislative entity and members of the public on the property tax increase.

(4) (a) If more than one member is appointed to the board of trustees by the same legislative entity, a majority of the members appointed or nominated by the legislative entity shall be present to provide the report required by Subsection (2) and described in Subsection (3).

(b) The chair of the board of trustees shall appoint another member of the board of trustees to provide the report described in Subsection (3) to the legislative entity if:

(i) the member appointed or nominated by the legislative entity is unable or unwilling to provide the report at a public meeting that meets the requirements of Subsection (3)(a); and

(ii) the absence of the member appointed or nominated by the legislative entity results in:

(A) no member who was appointed or nominated by the legislative entity being present to provide the report; or

(B) an inability to comply with Subsection (4)(a).

(5) A local district board of trustees may approve a property tax increase only after the conditions of this section have been satisfied or considered satisfied for each member of the board of trustees.

Section 5. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, ~~a person~~ an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the ~~person~~ individual is a member; or

(ii) that the ~~person~~ individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) ~~[A person]~~ An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the ~~[person]~~ individual resigns the ~~[person's]~~ individual's candidacy for the other office after the ~~[person]~~ individual is officially nominated for president or vice president of the United States.

(ii) ~~[A person]~~ An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) ~~[A person]~~ An individual may file a declaration of candidacy for lieutenant governor even if the ~~[person]~~ individual filed a declaration of candidacy for another office in the same election year if the ~~[person]~~ individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) ~~(i)~~ Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

~~(A)~~ (i) read to the ~~[prospective candidate]~~ individual the constitutional and statutory qualification requirements for the office that the ~~[candidate]~~ individual is seeking; and

~~(B)~~ (ii) require the ~~[candidate]~~ individual to state whether the ~~[candidate]~~ individual meets those requirements.

~~(iii)~~ (b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the ~~[person]~~ individual filing that declaration of candidacy is:

~~(A)~~ (i) a United States citizen;

~~(B)~~ (ii) an attorney licensed to practice law in ~~[Utah]~~ the state who is an active member in good standing of the ~~Utah~~ Utah State Bar;

~~(C)~~ (iii) a registered voter in the county in which the ~~[person]~~ individual is seeking office; and

~~(D)~~ (iv) a current resident of the county in which the ~~[person]~~ individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

~~(iii)~~ (c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the

election, the ~~[person]~~ individual filing that declaration of candidacy is:

~~(A)~~ (i) a United States citizen;

~~(B)~~ (ii) an attorney licensed to practice law in ~~[Utah]~~ the state who is an active member in good standing of the ~~Utah~~ Utah State Bar;

~~(C)~~ (iii) a registered voter in the prosecution district in which the ~~[person]~~ individual is seeking office; and

~~(D)~~ (iv) a current resident of the prosecution district in which the ~~[person]~~ individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

~~(iv)~~ (d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the ~~[person]~~ individual filing the declaration ~~[of candidacy]~~:

~~(A)~~ ~~as of the date of filing;~~

~~(i)~~ (i) is a United States citizen;

~~(ii)~~ (ii) is a registered voter in the county in which the ~~[person]~~ individual seeks office;

~~(iii)~~ ~~(A)~~ (iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

~~(B)~~ (B) has met the waiver requirements in Section 53-6-206; ~~and~~

~~(iv)~~ (iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

~~(v)~~ (v) as of the date of the election, ~~[shall]~~ will have been a resident of the county in which the ~~[person]~~ individual seeks office for at least one year.

~~(v)~~ (e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

~~(i)~~ (i) that the ~~[person]~~ individual filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

~~(ii)~~ (ii) if the filing officer is not the lieutenant governor, that the individual provides the financial disclosure ~~[is provided]~~ to the lieutenant governor ~~[according to the procedures and requirements of]~~ in accordance with Section 20A-11-1603.

~~(b)~~ ~~If the prospective candidate states that~~

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office ~~[are not met]~~ the individual is seeking, the filing officer may not accept the ~~[prospective candidate's]~~ individual's declaration of candidacy.

~~[(c)] If the candidate~~

~~(5) If an individual who files a declaration of candidacy meets the requirements [of Subsection (3)(a) and states that the requirements of candidacy are met] described in Subsection (3), the filing officer shall:~~

~~[(4)] (a) inform the [candidate] individual that:~~

~~[(A)] (i) the [candidate's] individual's name will appear on the ballot as the [candidate's] individual's name is written on the individual's declaration of candidacy;~~

~~[(B)] (ii) the [candidate] individual may be required to comply with state or local campaign finance disclosure laws; and~~

~~[(C)] (iii) the [candidate] individual is required to file a financial statement before the [candidate's] individual's political convention under:~~

~~[(4)] (A) Section 20A-11-204 for a candidate for constitutional office;~~

~~[(4)] (B) Section 20A-11-303 for a candidate for the Legislature; or~~

~~[(4)] (C) local campaign finance disclosure laws, if applicable;~~

~~[(4)] (b) except for a presidential candidate, provide the [candidate] individual with a copy of the current campaign financial disclosure laws for the office the [candidate] individual is seeking and inform the [candidate] individual that failure to comply will result in disqualification as a candidate and removal of the [candidate's] individual's name from the ballot;~~

~~[(4)] (c) provide the [candidate] individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the [candidate] individual of the submission deadline under Subsection 20A-7-801(4)(a);~~

~~[(4)] (d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:~~

~~[(A)] (i) signing the pledge is voluntary; and~~

~~[(B)] (ii) signed pledges shall be filed with the filing officer;~~

~~[(4)] (e) accept the [candidate's] individual's declaration of candidacy; and~~

~~[(4)] (f) if the [candidate] individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the [candidate] individual is a member.~~

~~[(4)] (6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:~~

~~[(4)] (a) accept the candidate's pledge; and~~

~~[(4)] (b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.~~

~~[(4)] (7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:~~

~~(i) be substantially as follows:~~

~~"State of Utah, County of _____~~

~~I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.~~

~~Subscribed and sworn before me this _____(month \ day \ year).~~

~~Notary Public (or other officer qualified to administer oath)."; and~~

~~(ii) require the candidate to state, in the sworn statement described in Subsection [(4)] (7)(a)(i):~~

~~(A) the registered political party of which the candidate is a member; or~~

~~(B) that the candidate is not a member of a registered political party.~~

~~(b) An agent designated under Subsection 20A-9-202(1)(b) to file a declaration of candidacy [under Section 20A-9-202] may not sign the form described in Subsection [(4)] (7)(a) or Section 20A-9-408.5.~~

~~[(5)] (8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:~~

~~(i) \$50 for candidates for the local school district board; and~~

~~(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.~~

~~(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:~~

~~(i) who is disqualified; or~~

~~(ii) who the filing officer determines has filed improperly.~~

~~(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.~~

~~(ii) The lieutenant governor shall:~~

~~(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and~~

~~(B) ensure that each county receives that proportion of the total amount paid to the~~

lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection [(5)] (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____
Address _____
Phone Number _____
I, _____ (name), do solemnly
[swear] [affirm], under penalty of law for false
statements, that, owing to my poverty, I am unable
to pay the filing fee required by law.

Date _____ Signature _____
Affiant _____
Subscribed and sworn to before me on _____
(month \ day \ year)

(signature)

Name and Title of Officer Authorized to
Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

”Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection [(5)] (8)(d) file a financial statement on a form prepared by the election official.

[(6)] (9) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States

Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party’s presidential primary election; and

(iv) pay the filing fee of \$500.

(b) ~~[An agent designated to file a declaration of candidacy]~~ A designated agent described in Subsection (9)(a)(i) may not sign the form described in Subsection [(6)] (9)(a)(i)(A).

[(7) Any person]

(10) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

[(8)] (11) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 6. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections.

(1) (a) ~~[Each person]~~ An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(b), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the ~~[candidate]~~ individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

~~[(b)]~~ (c) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one ~~[working]~~ business day after ~~[it is filed]~~ the candidate files the declaration of candidacy.

~~[(e)]~~ (d) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed ~~[in their office]~~ a declaration of candidacy with the county clerk.

~~[(d)]~~ (e) Each ~~[person]~~ individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each ~~[person]~~ individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the ~~[candidate]~~ individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) On or before 5 p.m. on the first Monday after the third Saturday in April, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) (i) ~~[Any]~~ A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate ~~[shall]~~ may file to replace the disqualified candidate.

(4) On or before August 31, each registered political party shall:

(a) certify the names of ~~[its]~~ the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

~~[(7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement in this section to file a declaration of candidacy in person, a person may designate an agent to file the form described in Subsection 20A-9-201(4) in person with the filing officer if:]~~

~~[(a) the person is located outside the state during the filing period because:]~~

~~[(i) of employment with the state or the United States; or]~~

~~[(ii) the person is a member of:]~~

~~[(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;]~~

~~[(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or]~~

~~[(C) the National Guard on activated status;]~~

~~[(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other; and]~~

~~[(c) the person provides the filing officer with an email address to which the filing officer may send the copies described in Subsection 20A-9-201(3).]~~

~~[(8)] (7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, on or before August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:~~

~~(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:~~

~~(A) contains the individual's name, address, and telephone number;~~

~~(B) states that the individual meets the qualifications for the office of vice president of the United States;~~

~~(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;~~

~~(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection ~~[(8)] (7)(a)(i)(C); and~~~~

~~(E) contains any other necessary information identified by the lieutenant governor;~~

~~(i) pay the filing fee, if applicable; and~~

~~(iii) submit a letter from the presidential candidate described in Subsection ~~[(8)] (7)(a)(i)(C)~~ that names the individual as a joint-ticket running mate as a vice presidential candidate.~~

~~(b) A designated agent described in Subsection ~~[(8)] (7)(a)(i)~~ may not sign the declaration of candidacy.~~

~~(c) A vice presidential candidate who fails to meet the requirements described in this Subsection ~~[(8)] (7)~~ may not appear on the general election ballot.~~

Section 7. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was

incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, any mentally incompetent person, any person convicted of a felony, or any person convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

~~[(b)] (c) Any resident of a municipality may nominate a candidate for a municipal office by:~~

(i) filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(ii) require the candidate or individual filing the petition to state whether the candidate meets those requirements.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

~~[(5) Notwithstanding the requirement in Subsection (3)(a)(i) to file a declaration of candidacy in person, an individual may designate an agent to file the form described in Subsection (6) in person with the city recorder or town clerk if:]~~

~~[(a) the individual is located outside the state during the filing period because:]~~

~~[(i) of employment with the state or the United States; or]~~

~~[(ii) the individual is a member of:]~~

~~[(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;]~~

~~[(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or]~~

~~[(C) the National Guard on activated status;]~~

~~[(b) the individual makes the declaration of candidacy described in Subsection (6) to an individual qualified to administer an oath;]~~

~~[(c) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and the city recorder or town clerk to see and hear each other; and]~~

~~[(d) the individual provides the city recorder or town clerk with an email address to which the filing officer may send the copies described in Subsection (4).]~~

~~[(6)] (5) (a) The declaration of candidacy shall be in substantially [comply with] the following form:~~

~~"I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____, County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.
(Signed) _____"~~

~~Subscribed and sworn to (or affirmed) before me by _____ on this _____ (month \ day \ year).~~

~~(Signed) _____ (Clerk or other officer qualified to administer oath)".~~

~~(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy [under Subsection (5)] may not sign the form described in Subsection ~~[(6)] (5)(a).~~~~

~~[(7) (a) A registered voter may be nominated for municipal office by submitting a petition signed, with a holographic signature, by:]~~

~~[(i) 25 residents of the municipality who are at least 18 years old; or]~~

~~[(ii) 20% of the residents of the municipality who are at least 18 years old.]~~

~~[(b) (i) The petition shall substantially conform to the following form:]~~

~~["NOMINATION PETITION"]~~

~~["The undersigned residents of (name of municipality) being 18 years old or older nominate (name of nominee) to the office of _____ for the (two or four-year term, whichever is applicable)."]~~

~~[(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and the individuals' addresses and telephone numbers.]~~

~~[(8) (6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term,~~

the clerk shall consider the nomination to be for the four-year term.

[49] (7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

[40] (8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) cause the names of the candidates as they will appear on the ballot to be published:

(i) in at least two successive publications of a newspaper with general circulation in the municipality; and

(ii) as required in Section 45-1-101; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

[41] (9) A declaration of candidacy or nomination petition filed under this section may not be amended after the expiration of the period for filing a declaration of candidacy.

[42] (10) (a) A declaration of candidacy or nomination petition filed under this section is valid unless a written objection is filed with the clerk within five days after the last day for filing.

(b) If an objection is made, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may correct the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

[43] (11) An individual who files a declaration of candidacy and is nominated, and an individual who is nominated by a nomination petition, may, any time up to 23 days before the election, withdraw the nomination by filing a written affidavit with the clerk.

Section 8. Section 20A-9-407 is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201[4](7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before 5 p.m. on the first Monday after the fourth Saturday in April.

(b) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1)

also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 9. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201~~(4)~~(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the

nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by

the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 10. Section 20A-9-502 is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty.

(1) The candidate shall:

(a) prepare a certificate of nomination in substantially the following form:

"State of Utah, County of _____

I, _____, declare my intention of becoming an unaffiliated candidate for the political group designated as _____ for the office of _____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at _____ Street, in the city of _____, county of _____, state of _____, zip code _____, phone _____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; that, if filing via a designated agent for an office other than

president of the United States, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot.

Subscribed and sworn to before me this _____ (month \ day \ year).

Notary Public (or other officer qualified to administer oaths);

(b) bind signature sheets to the certificate that:

(i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection (1)(b)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";

(vi) contain the following statement directly under the statement described in Subsection (1)(b)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

My street address is written correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in Subsection (1)(b)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(F) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records."; and

(c) bind a final page to one or more signature sheets that are bound together that contains, except as provided by Subsection (3), the following printed statement:

"Verification

State of Utah, County of _____

I, _____, of _____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

(Signature) (Residence Address) (Date)".

(2) An agent designated to file a certificate of nomination under Subsection 20A-9-503[4](1)(b) may not sign the form described in Subsection (1)(a).

(3) (a) The candidate shall circulate the nomination petition and ensure that the person in whose presence each signature sheet is signed:

(i) is at least 18 years old;

(ii) except as provided by Subsection (3)(b), meets the residency requirements of Section 20A-2-105; and

(iii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(b) A person who is not a resident may sign the verification on a petition for an unaffiliated candidate for the office of president of the United States.

(c) A person may not sign the verification if the person signed a signature sheet bound to the verification.

(4) (a) It is unlawful for any person to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with any name other than the person's own name;

(B) more than once for the same candidate; or

(C) if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the person:

(A) except as provided by Subsection (3)(b), does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(C) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) Any person violating this Subsection (4) is guilty of a class A misdemeanor.

(5) (a) The candidate shall submit the petition and signature sheets to the county clerk for certification when the petition has been completed by:

(i) at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state; or

(ii) at least 300 registered voters residing within a political division or at least 5% of the registered voters residing within a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state.

(b) In reviewing the petition, the county clerk shall count and certify only those persons who signed the petition with a holographic signature who:

(i) are registered voters within the political division that the candidate seeks to represent; and

(ii) did not sign any other certificate of nomination for that office.

(c) The candidate may supplement or amend the certificate of nomination at any time on or before the filing deadline.

Section 11. Section 20A-9-503 is amended to read:

20A-9-503. Certificate of nomination -- Filing -- Fees.

(1) ~~After~~ (a) Except as provided in Subsection (1)(b), after the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the candidate shall:

~~(a)~~ (i) between the second Friday in March and the close of normal office hours on the third Thursday in March of the year in which the regular general election will be held, ~~file the petition in person with~~:

~~(i)~~ (A) file the petition in person with the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office; ~~or~~ ~~(ii)~~, or the county clerk, if the office the candidate seeks is a county office; and

~~(iii)~~ (B) pay the filing fee; or

~~(b)~~ (ii) not later than the close of normal office hours on June 15 of any odd-numbered year, ~~file the petition in person with~~:

~~(i)~~ (A) file the petition in person with the municipal clerk, if the candidate seeks an office in a city or town, ~~(ii)~~, or the local district clerk, if the candidate seeks an office in a local district; and

~~(iii)~~ (B) pay the filing fee.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsections (3)(c) and 20A-9-502(2), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) At the time of filing, and before accepting the petition, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that he does not meet the requirements, the filing officer may not accept the petition.

(3) (a) Persons filing a certificate of nomination for president of the United States under this section shall pay a filing fee of \$500.

(b) Notwithstanding Subsection (1), a person filing a certificate of nomination for president or vice president of the United States:

(i) may file the certificate of nomination between the second Friday in March and the close of normal office hours on August 15 of the year in which the regular general election will be held; and

(ii) may use a designated agent to file the certificate of nomination.

(c) An agent designated ~~to file the certificate of nomination~~ under Subsection (1)(b)(ii) or described in Subsection (3)(b)(ii) may not sign the certificate of nomination form.

~~(4) Notwithstanding the requirement in Subsection (1) to file a certificate of nomination in~~

~~person, a person may designate an agent to file the certificate of nomination in person with the filing officer if:]~~

~~[(a) the person is located outside the state during the filing period because:]~~

~~[(i) of employment with the state or the United States; or]~~

~~[(ii) the person is a member of:]~~

~~[(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;]~~

~~[(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or]~~

~~[(C) the National Guard on activated status; and]~~

~~[(b) the person communicates with the filing officer using an electronic device that allows the person and the filing officer to see and hear each other.]~~

Section 12. Section 20A-9-504 is amended to read:

20A-9-504. Unaffiliated candidates -- Governor and president of the United States.

(1) (a) Each unaffiliated candidate for governor shall, before July 1 of the regular general election year, select a running mate to file as an unaffiliated candidate for the office of lieutenant governor.

(b) The unaffiliated lieutenant governor candidate shall, by July 1 of the regular general election year, file as an unaffiliated candidate by following the procedures and requirements of this part.

(2) (a) Each unaffiliated candidate for president of the United States shall, before 5 p.m. on August 15 of a regular general election year, select a running mate to file as an unaffiliated candidate for the office of vice president of the United States.

(b) Before 5 p.m. on August 15 of a regular general election year, the unaffiliated candidate for vice president of the United States described in Subsection (2)(a) shall comply with the requirements of Subsection 20A-9-202[(8)](7).

Section 13. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) ~~[Each person wishing]~~ Except as provided in Subsection (1)(b), an individual who wishes to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer not later than 60 days before the regular general election or a municipal

general election in which the [person] individual intends to be a write-in candidate.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsection (2)(d), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

~~[(b)-(i)]~~ (2) (a) The form of the declaration of candidacy for all offices, except president or vice president of the United States, is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ for the _____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \day \year).

Notary Public (or other officer qualified to administer oath).”

~~[(ii)]~~ (b) The form of the declaration of candidacy for president of the United States is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____.

I designate _____ as my vice presidential candidate.

Subscribed and sworn before me this _____ (month \day \year).

Notary Public (or other officer qualified to administer oath.)”

~~[(iii)]~~ (c) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202~~[(8)]~~(7).

~~[(iv)]~~ (d) An agent ~~[designated to file a declaration of candidacy under Subsection (2)]~~ described in Subsection (1)(a) or (b) may not sign the form described in Subsection ~~[(1)(b)(i) or (ii)]~~ (2)(a) or (b).

~~[(e)-(i)]~~ (3) (a) The filing officer shall:

~~[(A)]~~ (i) read to the candidate the constitutional and statutory requirements for the office; and

~~[(B)]~~ (ii) ask the candidate whether or not the candidate meets the requirements.

~~[(ii)]~~ (b) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate’s declaration of candidacy.

~~[(2) — Notwithstanding the requirement in Subsection (1) to file a declaration of candidacy in person, a person may designate an agent to file the declaration of candidacy in person with the filing officer if:]~~

~~[(a) the person is located outside the state during the filing period because:]~~

~~[(i) of employment with the state or the United States; or]~~

~~[(ii) the person is a member of:]~~

~~[(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;]~~

~~[(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or]~~

~~[(C) the National Guard on activated status; and]~~

~~[(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other.]~~

~~[(3)]~~ (4) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

Section 14. Section 20A-11-1005 is amended to read:

20A-11-1005. Fines for failing to file a financial statement.

(1) Except as provided in Subsections 20A-11-512(1)(b) and (4), the chief election officer

shall fine a filing entity \$100 for failing to file a financial statement by the filing deadline.

(2) If a filing entity is unable to pay the fine or files an affidavit of impecuniosity in a manner similar to Subsection 20A-9-201~~[(5)]~~(8)(d), the chief election officer shall impose the fine against the candidate or treasurer, as appropriate.

(3) The chief election officer shall deposit fines collected under this chapter in the General Fund.

Section 15. Effective date.

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

CHAPTER 12**H. B. 150**

Passed February 15, 2018
 Approved February 21, 2018
 Effective February 21, 2018

**SINGLE SIGN-ON
 DATABASE AMENDMENTS**

Chief Sponsor: Bruce R. Cutler
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions relating to the single sign-on database.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Commerce to include in its fees a single sign-on fee;
- ▶ creates the Single Sign-On Expendable Special Revenue Fund into which all single sign-on fees are to be deposited;
- ▶ authorizes the use of money in the Single Sign-On Expendable Special Revenue Fund to pay for the design, creation, operation, and maintenance of the single sign-on web portal;
- ▶ modifies reporting requirements applicable to the Department of Technology Services;
- ▶ requires the Department of Commerce to report on Single Sign-On Expendable Special Revenue Fund revenues and expenditures to the Public Utilities, Energy, and Technology Interim Committee; and
- ▶ requires the Public Utilities, Energy, and Technology Interim Committee to review the single sign-on fee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

13-1-2, as last amended by Laws of Utah 2017, Chapter 139
 63F-3-103, as enacted by Laws of Utah 2016, Chapter 259
 63F-3-104, as enacted by Laws of Utah 2016, Chapter 259

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

Section 1. Section 13-1-2 is amended to read:

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

(1) (a) There is created the Department of Commerce.

(b) The department shall execute and administer state laws regulating business activities and occupations affecting the public interest.

(2) Within the department the following divisions are created:

- (a) the Division of Occupational and Professional Licensing;
- (b) the Division of Real Estate;
- (c) the Division of Securities;
- (d) the Division of Public Utilities;
- (e) the Division of Consumer Protection; and
- (f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for its approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed \$1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at \$1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

(4) (a) As used in this Subsection (4):

(i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).

(iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of its status with the Division of Corporations and Commercial Code.

(iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on web portal.

(v) "Single sign-on web portal" means the web portal described in Subsection 63F-3-103(2).

(b) (i) The schedule of fees adopted by the department under Subsection (3) shall include a

single sign-on fee, not to exceed \$5, as part of a renewal fee.

(ii) The department shall deposit all single sign-on fee revenue into the fund.

(c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

(ii) The fund consists of:

(A) money that the department collects from the single sign-on fee; and

(B) money that the Legislature appropriates to the fund.

(d) The department shall use the money in the fund to pay for costs:

(i) to design, create, operate, and maintain the single sign-on web portal; and

(ii) incurred by:

(A) the Department of Technology Services, created in Section 63F-1-103; or

(B) a third-party vendor working under a contract with the Department of Technology Services.

(e) The department shall report:

(i) on fund revenues and expenditures;

(ii) to the Public Utilities, Energy, and Technology Interim Committee of the Legislature; and

(iii) annually and at any other time requested by the committee.

Section 2. Section 63F-3-103 is amended to read:

63F-3-103. Single sign-on database -- Creation.

(1) The department shall, in consultation with the entities described in Subsection (4), design and create a prototype of a single database, and associated data entry screens, that stores business data agreed upon by the entities described in Subsection (4) that is:

- (a) secure;
- (b) centralized; and
- (c) interconnected.

(2) The department shall create a web portal that allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

- (a) business registration;
- (b) workers' compensation;
- (c) tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop the business database and the single sign-on web portal:

(a) using an open platform that:

(i) facilitates participation in the database and web portal by a state entity; and

(ii) allows for optional participation by a political subdivision of the state; and

(b) in a manner that anticipates expanding the database and web portal to include:

(i) a database for data collected by the state on an individual; and

(ii) a web portal for an individual to access all relevant data collected by the state on the individual.

(4) In developing the business database and the single sign-on web portal, the department shall consult with:

(a) the Department of Commerce;

(b) the State Tax Commission;

(c) the Labor Commission;

(d) the Department of Workforce Services;

(e) the Governor's Office of Management and Budget;

(f) the Utah League of Cities and Towns;

(g) the Utah Association of Counties; and

(h) the business community that is likely to use the business database and single sign-on web portal.

(5) The department shall ensure that the single sign-on web portal is fully operational no later than May 1, 2021.

Section 3. Section 63F-3-104 is amended to read:

63F-3-104. Report.

(1) The department shall report to the Public Utilities, Energy, and Technology Interim Committee:

~~[(1)]~~ (a) no later than November 30, 2016, with an initial design and prototype of the business database and the single sign-on web portal, together with a minimum two-year plan, including projected cost, for the initial implementation phase of the project; and

~~[(2)]~~ (b) before November 30 of each year beginning in 2017 ~~[until the development of the business database and the single sign-on web portal is complete,];~~

(i) regarding the progress the department has made in developing the business database and the single sign-on web portal~~[-]~~ and, once that development is complete, regarding the operation of the single sign-on web portal; and

(ii) whether the department recommends any change to the single sign-on fee being charged under Section 13-1-2.

(2) The Public Utilities, Energy, and Technology Interim Committee shall annually:

(a) review the single sign-on fee being charged under Section 13-1-2;

(b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and

(c) make any recommendation to the Legislature that the committee considers appropriate concerning the single sign-on fee.

Section 4. Effective date.

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

CHAPTER 13**H. B. 253**

Passed February 16, 2018
 Approved February 21, 2018
 Effective February 21, 2018

TRUST LANDS AMENDMENTS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill deals with school and institutional trusts lands.

Highlighted Provisions:

This bill:

- ▶ provides that the School and Institutional Trust Lands Administration is exempt from a portion of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- ▶ states that the director of the School and Institutional Trust Lands Administration may make determinations regarding the management, protection, and conservation of plant species proposed for designation as endangered or threatened under the Endangered Species Act of 1973;
- ▶ modifies the procedure for the sale of trust lands; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53C-1-201, as last amended by Laws of Utah 2016, Chapter 193
 53C-2-202, as enacted by Laws of Utah 1994, Chapter 294
 53C-4-102, as last amended by Laws of Utah 2011, Chapter 247

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

Section 1. Section 53C-1-201 is amended to read:**53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.**

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6), and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

(g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 2. Section 53C-2-202 is amended to read:

53C-2-202. Endangered and threatened plant species.

The director may make determinations concerning the management, protection, and conservation of plant species officially designated as endangered or threatened, or proposed for designation as endangered or threatened, under the federal Endangered Species Act of 1973, as amended, on trust lands.

Section 3. Section 53C-4-102 is amended to read:

53C-4-102. Sale of trust lands -- Fair market value -- Determination of sale -- Advertising proposed sales -- Sale procedures -- Defaults.

(1) Trust lands may not be sold for less than the fair market value.

(2) (a) The director shall determine whether disposal or retention of all or a portion of a property interest in trust lands is in the best interest of the trust.

(b) When it is determined that the disposal of an interest in trust lands is in the best interest of the applicable trust, the transaction shall be accomplished in an orderly and timely manner.

(3) The director shall advertise any proposed sale, lease, or exchange of an interest in trust lands in a reasonable manner consistent with the director's fiduciary responsibilities.

(4) (a) Any tract of trust land may be subdivided and sold, leased, or exchanged in accordance with a plan, contract, or other action designating the land to be subdivided that is approved by the director.

(b) The director may survey the tract and direct its subdivision.

(c) A plat of the survey shall be filed with the county recorder of the county in which the land is located and with the administration.

(5) Sale conditions, including qualification of prospective purchasers, shall be in accordance with accepted mortgage lending and real estate practices.

(6) Upon the sale of land, the director shall issue to the purchaser a certificate of sale which describes the land purchased and states the amount paid, the amount due, and the time when the principal and interest will become due.

(7) Upon payment in full of principal and interest ~~[and the surrender of the original certificate of sale for any tract of land sold]~~, payment in full of any amounts required to be paid for the partial release of property, or acceptance of appropriate conveyance documents in satisfaction of a land exchange, the governor, or the governor's designee, shall issue a patent to the purchaser, heir, assignee, successor in interest, or other grantee as determined by the director.

(8) (a) If a purchaser of trust lands defaults in the payment of any installment of principal or interest due under the terms of the contract of sale, the director shall notify the purchaser that if the default is not corrected within 30 days after issuance of the notice the director shall proceed with any remedy which the administration may pursue under law or the contract of sale.

(b) The notice shall be sent by registered or certified mail to the purchaser at the latest address as shown by the records of the administration.

(c) If the default is not corrected by compliance with the requirements of the notice of default within the time provided by the notice, the director may pursue any available remedy under the contract of sale, including forfeiture.

(d) If forfeited lands are sold again to the same purchaser, the sale may be made by a new and independent contract without regard to the forfeited agreement.

Section 4. Effective date.

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

**CHAPTER 14
S.B. 1**

Passed February 6, 2018
Approved February 21, 2018
Effective May 8, 2018

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Evan J. Vickers
House Sponsor: Keith Grover

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education agencies and institutions;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates (\$277,500) in operating and capital budgets for fiscal year 2018, all of which is from the Education Fund.

This bill appropriates \$1,852,390,900 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$338,031,400 from the General Fund;
- ▶ \$669,446,900 from the Education Fund;
- ▶ \$844,912,600 from various sources as detailed in this bill.

This bill appropriates \$11,500,000 in restricted fund and account transfers for fiscal year 2019, all of which is from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

UTAH STATE UNIVERSITY

Item 1

To Utah State University – Education and General
From Education Fund, One-Time 93,700
Schedule of Programs:
Operations and Maintenance 93,700

SNOW COLLEGE

Item 2

To Snow College – Education and General
From Education Fund, One-Time (24,700)
Schedule of Programs:
Operations and Maintenance (24,700)

SALT LAKE COMMUNITY COLLEGE

Item 3

To Salt Lake Community College – Education and General
From Education Fund, One-Time (308,000)
Schedule of Programs:
Operations and Maintenance (308,000)

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 4

To Utah System of Technical Colleges –
Ogden-Weber Technical College
From Education Fund, One-Time (38,500)
Schedule of Programs:
Ogden-Weber Technical College (38,500)

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 5

To University of Utah – Education and General
From General Fund 21,745,800
From Education Fund 222,536,700
From Education Fund, One-Time (562,500)
From Dedicated Credits Revenue . . . 286,502,100
From Beginning Nonlapsing
Balances 24,202,800
From Closing Nonlapsing
Balances (24,202,800)
Schedule of Programs:
Education and General 524,658,000
Operations and Maintenance 5,564,100

The Legislature intends that the University of Utah report on the following performance measures for the Education and General line item, whose mission is: “To serve the people of Utah and the world through the discovery, creation and application of

knowledge; through the dissemination of knowledge by teaching, publication, artistic presentation and technology transfer; and through community engagement”: (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 6

To University of Utah -

Educationally Disadvantaged

From General Fund	612,100
From Education Fund	96,100
From Revenue Transfers	34,500
From Beginning Nonlapsing Balances . . .	320,600
From Closing Nonlapsing Balances	(320,600)
Schedule of Programs:	

Educationally Disadvantaged 742,700

The Legislature intends that the University of Utah report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “The Center for Disability & Access is dedicated to students with disabilities by providing the opportunity for success and equal access at the University of Utah. We are committed to providing reasonable accommodations as outlined by Federal and State law. We also strive to create an inclusive, safe and respectful environment. By promoting awareness, knowledge and equity, we aspire to impact positive change within individuals and the campus community”: (1) Students with disabilities registered and receiving services (Target = 2%-5% of total university enrollment), (2) Provision of alternative format services, including Braille and Video Captioning (Target = provide accessible materials in a timely manner - prior to materials being needed/utilized in coursework), and (3) Provide Interpreting Services for Deaf and Hard of Hearing students (Target = Maintain a highly qualified and 100% certified interpreting staff. Achieve 100% delivery of properly requested interpreting needs) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 7

To University of Utah - School of Medicine

From General Fund	906,100
From Education Fund	33,563,400
From Dedicated Credits Revenue	25,520,000
From General Fund Restricted -	
Cigarette Tax Restricted Account	2,800,000
From Beginning Nonlapsing	
Balances	11,069,900
From Closing Nonlapsing	
Balances	(11,069,900)
Schedule of Programs:	
School of Medicine	62,789,500

The Legislature intends that the University of Utah report on the following performance measures for the School of Medicine line item, whose mission is: “The

University of Utah School of Medicine serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research. Each is vital to our mission and each makes the others stronger”: (1) Number of medical school applications (Target = Exceed number of applications as an average of the prior three years), (2) Number of student enrolled in medical school (Target = Maintain full cohort based on enrollment levels), (3) Number of applicants to matriculates (Target = Maintain healthy ratio to insure a class of strong academic quality), (4) Number of miners served (Target = Maintain or exceed historical number served), and (5) Number of miners enrolled (Target = Maintain or exceed historical number enrolled) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 8

To University of Utah - Cancer Research and Treatment

From General Fund	8,002,100
From General Fund Restricted -	
Cigarette Tax Restricted Account	2,000,000
From Beginning Nonlapsing Balances	55,500
From Closing Nonlapsing Balances	(55,500)
Schedule of Programs:	

Cancer Research and Treatment . . . 10,002,100

The Legislature intends that the University of Utah report on the following performance measures for the Cancer Research and Treatment line item, whose mission is: “To understand cancer from its beginnings, to use that knowledge in the creation and improvement of cancer treatments, to relieve the suffering of cancer patients, and to provide education about cancer risk, prevention, and care”: (1) Extramural cancer research funding help by HCI investigators (Target = Increase the funding by between 3-6% from 2015 level \$55.9M), (2) Cancer clinical trials available to HCI patients. (Target = Enrollment at or above 12 percent of new HCI cancer patients, and (3) Expand cancer research programs (Target = Launch a new research initiative in Health Outcomes and Population Equity (HOPE), and continue the HCI PathMaker program) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 9

To University of Utah - University Hospital

From General Fund	3,866,400
From Education Fund	1,248,200
From Dedicated Credits Revenue	455,800
From Beginning Nonlapsing Balances	40,300
From Closing Nonlapsing Balances	(40,300)
Schedule of Programs:	

University Hospital 4,991,200
Miners’ Hospital 579,200

The Legislature intends that the University of Utah report on the following performance measures for the University

Hospital line item, whose mission is: “The University of Utah Health Sciences Center serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research; each is vital to our mission and each makes the others stronger”: (1) Number of annual residents in training (Target = 578), (2) Number of annual resident training hours (Target = 2,080,800), and (3) Percentage of total resident training costs appropriated by the legislature (Target = 20.7%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 10

To University of Utah - School of Dentistry
 From General Fund 481,000
 From Education Fund 182,200
 From Dedicated Credits Revenue 3,800,000
 From Beginning Nonlapsing Balances 11,700
 From Closing Nonlapsing Balances (11,700)
 Schedule of Programs:
 School of Dentistry 4,463,200

The Legislature intends that the University of Utah report on the following performance measures for the School of Dentistry line item, whose mission is: “To improve the oral and overall health of the community through education, research, and service”: (1) Number of RDEP Beneficiaries Practicing in Utah (Target = 40% of RDEP beneficiaries), (2) Number of RDEP Beneficiaries Admitted to Advanced Practice Residency (Target = 20% of RDEP beneficiaries), and (3) Number of total RDEP Beneficiaries admitted to Program (Target = 10 beneficiaries) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 11

To University of Utah - Public Service
 From General Fund 155,800
 From Education Fund 2,039,300
 From Beginning Nonlapsing Balances 440,500
 From Closing Nonlapsing Balances (440,500)
 Schedule of Programs:
 Seismograph Stations 744,300
 Natural History Museum of Utah 1,327,100
 State Arboretum 123,700

The Legislature intends that the University of Utah report on the following performance measures for the Seismograph Stations Program, whose mission is: “Reducing the risk from earthquakes in Utah through research, education, and public service”: (1) Timeliness of response to earthquakes in the Utah region. (Target = For 100% of earthquakes with magnitude 3.5 or greater that occur in the Utah region UUSS will transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes), (2) Publications and presentations related to

earthquakes. (Target = Each year UUSS researchers will publish at least five papers in peer-reviewed journals. Make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders), and (3) External funds raised to support UUSS mission (Target = Each year UUSS will generate external funds that equal or exceed the amount provided by the State of Utah by October 15, 2019 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the University of Utah report on the following performance measures for the Natural History Museum of Utah Program, whose mission is: “The Natural History Museum of Utah illuminates the natural world and the place of humans within it”: (1) Total on-site attendance (Target = Meet or exceed 282,000 for FY 2017), (2) Total off-site attendance (Target = Meet or exceed 200,000 for FY 2017), and (3) Number of school interactions (Target = Meet or exceed 1,250 for FY 2017) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the University of Utah report on the following performance measures for the State Arboretum Program, whose mission is: “To connect people with plants and the beauty of living landscapes”: (1) Number of memberships (Target = Increase number of memberships by 3% annually from June 30, 2016 to June 30, 2019), (2) Number of admissions (Target: = Increase number of admission by 3% annually from June 30, 2016 to June 30, 2019), and (3) Number of school children participating in on-site field classes (Target = Maintain present level of participation until Education Center is build that will permit expansion beyond what current facilities permit) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 12

To University of Utah -
 Statewide TV Administration
 From General Fund 2,095,300
 From Education Fund 516,000
 From Beginning Nonlapsing Balances 53,300
 From Closing Nonlapsing Balances (53,300)
 Schedule of Programs:
 Public Broadcasting 2,611,300

The Legislature intends that the University of Utah report on the following performance measures for the Statewide TV Administration Program, whose mission is: “KUED entertains, informs, and enriches our viewers with exceptional content and is a valued community resource. Our mission is to be a community resource that is trusted, valued, and essential”: (1) Determine number of television households that tune in to KUED (Target = Measurement during Nielsen “sweeps” greater than or equal to the prior three year percentages), (2) Number of

visitors to KUEDs informational page and KUEDs video page (Target = Measure Google Analytics to meet or exceed prior three year percentages), and (3) Number of people participating in KUED Community Outreach Events (Target = Equal or greater to the number of viewers in the past three years) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 13

To University of Utah - Poison Control Center
 From General Fund 2,251,600
 From Beginning Nonlapsing Balances ... 380,400
 From Closing Nonlapsing Balances (380,400)
 Schedule of Programs:
 Poison Control Center 2,251,600

The Legislature intends that the University of Utah report on the following performance measures for the Poison Control Center line item, whose mission is: "To prevent and minimize adverse health effects from a poison exposure through education, service, and research": (1) Poison Center Utilization (Target = exceed Nationwide Average), (2) Health care costs averted per dollar invested (Target = \$10.00 savings for every dollar invested in the center), and (3) Service level - speed to answer (Target = answer 85% of cases within 20 seconds) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 14

To University of Utah - Center on Aging
 From General Fund 109,000
 From Beginning Nonlapsing Balances 2,100
 From Closing Nonlapsing Balances (2,100)
 Schedule of Programs:
 Center on Aging 109,000

The Legislature intends that the University of Utah report on the following performance measures for the Center on Aging line item, whose mission is: "To provide educational and research programs in gerontology at the University of Utah": (1) Increased penetration of UCOA influence by measuring how many stakeholders including UCOA members, community guests, engaged in meetings, events, consults directly as a result of UCOA efforts and facilitation (Target = Annual increase of 25% of qualified UCOA engagements with aging stakeholders), (2) Access to the ADRC - Cover to Cover Program (Target = To provide services to 100% of the people of Utah over age 65), and (3) Increased penetration of iPods placed through facilities and service organizations throughout the state of Utah (Target = Annual increase of 15% of aggregated placements of iPods through the Music & Memory program) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 15

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health

From General Fund Restricted -
 Workplace Safety Account 165,000
 From Beginning Nonlapsing Balances ... (8,500)
 From Closing Nonlapsing Balances 8,500
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 165,000

The Legislature intends that the University of Utah report on the following performance measures for the Rocky Mountain Center for Occupational and Environmental Health line item, whose mission is: "To maintain with our customers an impeccable reputation for professionalism, objectivity, promptness, and evenhandedness. To promote, create and maintain a safe and healthful campus environment": (1) Number of Students in the degree programs (Target = Greater than or equal to 45 students), (2) Number of students trained (Target = Greater than or equal to 600), and (3) Number of businesses represented in continuing education courses (Target = Greater than or equal to 1,000) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

UTAH STATE UNIVERSITY

Item 16

To Utah State University - Education and General
 From General Fund 99,181,900
 From Education Fund 39,208,700
 From Education Fund, One-Time (366,400)
 From Dedicated Credits Revenue ... 117,722,600
 From Revenue Transfers (1,090,400)
 From Beginning Nonlapsing
 Balances 20,963,800
 From Closing Nonlapsing
 Balances (20,963,800)
 Schedule of Programs:
 Education and General 245,562,700
 USU - School of Veterinary
 Medicine 5,048,200
 Operations and Maintenance 4,045,500

The Legislature intends that Utah State University report on the following performance measures for the Education and General line item, whose mission is: "to be one of the nations premier student-centered land-grant and space-grant universities by fostering the principle that academics come first, by cultivating diversity of thought and culture and by serving the public through learning, discovery and engagement": (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 17

To Utah State University - USU -
 Eastern Education and General
 From General Fund 41,000
 From Education Fund 11,965,800
 From Dedicated Credits Revenue 2,937,000
 From Revenue Transfers (19,900)

From Beginning Nonlapsing Balances . . . 847,800
 From Closing Nonlapsing Balances (847,800)
 Schedule of Programs:
 USU - Eastern Education and
 General 14,923,900

The Legislature intends that Utah State University report on the following performance measures for the USU Eastern Education and General line item, whose mission is: “with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region”: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 950), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 18

To Utah State University -
 Educationally Disadvantaged
 From General Fund 100,000
 Schedule of Programs:
 Educationally Disadvantaged 100,000

The Legislature intends that Utah State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “to provide services to educationally disadvantaged students”: (1) Students served (Target = 20), (2) Average aid per student (Target = \$4,000), and (3) Transfer and retention rate (Target = 80%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 19

To Utah State University - USU -
 Eastern Educationally Disadvantaged
 From General Fund 103,100
 From Education Fund 1,900
 From Beginning Nonlapsing Balances 7,400
 From Closing Nonlapsing Balances (7,400)
 Schedule of Programs:
 USU - Eastern Educationally
 Disadvantaged 105,000

The Legislature intends that Utah State University report on the following performance measures for the Eastern Educationally Disadvantaged line item, whose mission is: “to provide services to educationally disadvantaged students”: (1) Students served (Target = 275), (2) Average aid per student (Target = \$500), and (3) Transfer and retention rate (Target = 50%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 20

To Utah State University - USU - Eastern
 Career and Technical Education
 From General Fund 170,100
 From Education Fund 1,242,400
 From Beginning Nonlapsing Balances 92,600
 From Closing Nonlapsing Balances (92,600)
 Schedule of Programs:
 USU - Eastern Career and Technical
 Education 1,412,500

The Legislature intends that Utah State University report on the following performance measures for the Eastern Career and Technical Education line item, whose mission is: ”to provide open-entry, open-exit competency-based career and technical education programs, and emphasize short-term job training and retraining for southeastern Utah”: (1) CTE licenses and certifications (Target = 100), (2) CTE Graduate placements (Target = 45), and (3) CTE Completions (Target = 50) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 21

To Utah State University - Uintah
 Basin Regional Campus
 From General Fund 2,264,900
 From Education Fund 1,910,200
 From Dedicated Credits Revenue 2,282,000
 From General Fund Restricted -
 Infrastructure and Economic
 Diversification Investment Account 250,000
 From Revenue Transfers (14,900)
 From Beginning Nonlapsing Balances 288,900
 From Closing Nonlapsing Balances (288,900)
 Schedule of Programs:
 Uintah Basin Regional Campus 6,692,200

The Legislature intends that Utah State University report on the following performance measures for the Uintah Basin Regional Campus line item, whose mission is: “to provide education opportunities to citizens in the Uintah Basin”: (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 22

To Utah State University -
 Southeastern Continuing Education Center
 From General Fund 577,700
 From Education Fund 287,100
 From Dedicated Credits Revenue 1,597,000
 From Revenue Transfers (10,400)
 From Beginning Nonlapsing Balances 217,000
 From Closing Nonlapsing Balances (217,000)

Schedule of Programs:

Southeastern Continuing Education

Center 2,451,400

The Legislature intends that Utah State University report on the following performance measures for the Southeastern Continuing Education Center line item, whose mission is: “To provide education opportunities to citizens in the southeastern Utah”: (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target 185), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 23

To Utah State University - Brigham

City Regional Campus

From General Fund 987,600
 From Education Fund 4,070,600
 From Dedicated Credits Revenue 12,499,000
 From Revenue Transfers 1,189,500
 From Beginning Nonlapsing Balances ... 729,500
 From Closing Nonlapsing Balances (729,500)
 Schedule of Programs:

Brigham City Regional Campus 18,746,700

The Legislature intends that Utah State University report on the following performance measures for the Brigham City Regional Campus line item, whose mission is: “To provide education opportunities to citizens in Brigham City and surrounding communities”: (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 650), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. for Associates) (Target = 49% with a 0.5% increase per annum) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 24

To Utah State University -

Tooele Regional Campus

From General Fund 649,800
 From Education Fund 2,571,600
 From Dedicated Credits Revenue 9,659,000
 From Revenue Transfers (64,200)
 From Beginning Nonlapsing Balances ... 350,500
 From Closing Nonlapsing Balances (350,500)
 Schedule of Programs:

Tooele Regional Campus 12,816,200

The Legislature intends that Utah State University report on the following

performance measures for the Tooele Regional Campus line item, whose mission is: “To provide education opportunities to citizens in Tooele and along the Wasatch Front”: (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 1,200), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. for Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 25

To Utah State University -

Water Research Laboratory

From General Fund 1,323,900
 From Education Fund 775,600
 From General Fund Restricted -
 Mineral Lease 1,745,800
 From General Fund Restricted - Land
 Exchange Distribution Account 66,400
 From Revenue Transfers (20,300)
 From Beginning Nonlapsing
 Balances 2,970,300
 From Closing Nonlapsing Balances ... (2,970,300)
 Schedule of Programs:

Water Research Laboratory 3,891,400

The Legislature intends that Utah State University report on the following performance measures for the Water Research Laboratory line item, whose mission is: “to work with academic departments at USU to generate, transmit, apply, and preserve knowledge in ways that are consistent with the land-grant mission of the University”: (1) Peer-reviewed journal articles published (Target = 10), (2) Number of students supported (Target = 150), and (3) Research projects and training activities (Target = 200) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 26

To Utah State University - Agriculture

Experiment Station

From General Fund 958,200
 From Education Fund 12,091,400
 From Federal Funds 1,813,800
 From Revenue Transfers 25,600
 From Beginning Nonlapsing
 Balances 4,373,600
 From Closing Nonlapsing Balances ... (4,373,600)
 Schedule of Programs:

Agriculture Experiment Station 14,889,000

The Legislature intends that Utah State University report on the following performance measures for the Agriculture Experiment Station line item, whose mission is: “to facilitate research that promotes agriculture and human nutrition, and enhance the quality of rural life: (1) Number of students mentored (Target = 300), (2)

Journal articles published (Target = 300), and (3) Lab accessions (Target = 100,000) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 27

To Utah State University - Cooperative Extension
 From General Fund 1,010,000
 From Education Fund 13,967,900
 From Federal Funds 2,088,500
 From Revenue Transfers 13,100
 From Beginning Nonlapsing Balances 6,570,400
 From Closing Nonlapsing Balances ... (6,570,400)
 Schedule of Programs:
 Cooperative Extension 17,079,500

The Legislature intends that Utah State University report on the following performance measures for the Cooperative Extension line item, whose mission is: "To deliver research-based education and information throughout the State in cooperation with federal, state, and county partnerships": (1) Direct contacts (Adult and Youth) (Target = 722,000 - 3 year rolling average), (2) Faculty-delivered activities and events (Target = 2,000 - 3 year rolling average), and (3) Faculty publications (Target = 300 - 3 year rolling average) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 28

To Utah State University - Prehistoric Museum
 From General Fund 145,100
 From Education Fund 312,000
 From Beginning Nonlapsing Balances ... 28,500
 From Closing Nonlapsing Balances (28,500)
 Schedule of Programs:
 Prehistoric Museum 457,100

The Legislature intends that Utah State University report on the following performance measures for the Prehistoric Museum line item, whose mission is: "The Prehistoric Museum creates understanding and appreciation of natural and cultural processes that formed the geologic, fossil and prehistoric human records found in eastern Utah. We do this through educational and interpretive programs based upon our academic research, preservation programs, authentic exhibits, and the creative efforts of our staff and community": (1) Museum admissions (Target = 18,000), (2) Number of offsite outreach contacts (Target = 1,000), and (3) Number of scientific specimens added (Target = 800) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 29

To Utah State University - Blanding Campus
 From General Fund 1,635,700
 From Education Fund 1,292,000
 From Dedicated Credits Revenue 1,255,000
 From Revenue Transfers (8,100)
 From Beginning Nonlapsing Balances ... 241,700
 From Closing Nonlapsing Balances (241,700)

Schedule of Programs:

Blanding Campus 4,174,600

The Legislature intends that Utah State University report on the following performance measures for the Blanding Campus line item, whose mission is: "with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region": (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

WEBER STATE UNIVERSITY

Item 30

To Weber State University -
 Education and General
 From General Fund 62,518,700
 From Education Fund 19,561,100
 From Education Fund, One-Time (20,100)
 From Dedicated Credits Revenue 73,619,100
 From Revenue Transfers 1,553,400
 From Beginning Nonlapsing Balances 5,593,100
 From Closing Nonlapsing Balances ... (5,593,100)
 Schedule of Programs:
 Education and General 155,354,200
 Operations and Maintenance 1,878,000

The Legislature intends that Weber State University report on the following performance measures for the Education and General line item, whose mission is: "To ensure quality academic experiences for students to be successful and graduate with an associate, bachelor, or master degree from programs that are responsive to community needs": (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 31

To Weber State University -
 Educationally Disadvantaged
 From General Fund 296,700
 From Education Fund 83,500
 From Beginning Nonlapsing Balances ... 129,900
 From Closing Nonlapsing Balances (129,900)
 Schedule of Programs:
 Educationally Disadvantaged 380,200

The Legislature intends that Weber State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "To enhance the college experiences of students from traditionally

underrepresented backgrounds”: (1) Awarding degrees to underrepresented students (Target = Increase to average of 6% of all degrees awarded), (2) Bachelors degrees within six years (Target = Average 5 year graduation rate of 25%), and (3) First year to second year enrollment (Target = 50%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

SOUTHERN UTAH UNIVERSITY

Item 32

To Southern Utah University -
Education and General

From General Fund	11,353,000
From Education Fund	26,056,100
From Education Fund, One-Time	(16,300)
From Dedicated Credits Revenue	42,843,000
From Revenue Transfers	319,800
From Beginning Nonlapsing Balances	5,412,600
From Closing Nonlapsing Balances	(5,412,600)
Schedule of Programs:	
Education and General	79,889,500
Operations and Maintenance	666,100

The Legislature intends that Southern Utah University report on the following performance measures for the Education and General line item, whose mission is: “Southern Utah University leads students to successful educational outcomes”: (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 33

To Southern Utah University -
Educationally Disadvantaged

From General Fund	81,400
From Education Fund	13,300
From Beginning Nonlapsing Balances	800
From Closing Nonlapsing Balances	(800)
Schedule of Programs:	
Educationally Disadvantaged	94,700

The Legislature intends that Southern Utah University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Southern Utah University leads educationally disadvantaged students to successful educational outcomes”: (1) Graduation rate for educationally disadvantaged students (Target = Increase ED students equivalent to SUU overall rate), (2) Retention rate for educationally disadvantaged students (Target = Increase ED students equivalent to SUU overall rate), and (3) Minimum 33% of ED scholarships offered to minority students (Target = 33% Min.) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 34

To Southern Utah University -
Shakespeare Festival

From General Fund	9,100
From Education Fund	12,500
Schedule of Programs:	
Shakespeare Festival	21,600

The Legislature intends that Southern Utah University report on the following performance measures for the Shakespeare Festival line item, whose mission is: “The Utah Shakespeare Festival through its Education department cultivates creative communities and human development through Shakespeare and instructional play for individuals, schools and communities with emphasis on at-risk and low income populations”: (1) Professional outreach program in the schools instructional hours (Target = 25% increase in 5 years), (2) Education seminars & orientation attendees (Target = 25% increase in 5 years), and (3) USF annual fundraising (Target = 50% increase in 5 years) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 35

To Southern Utah University - Rural Development

From General Fund	82,700
From Education Fund	22,200
From Beginning Nonlapsing Balances	26,600
From Closing Nonlapsing Balances	(26,600)
Schedule of Programs:	
Rural Development	104,900

The Legislature intends that Southern Utah University report on the following performance measures for the Rural Development line item, whose mission is: “Southern Utah University through the Office of Regional Services assists our rural Utah communities with economic and business development”: (1) Rural businesses assisted (Target = 25% increase in 5 years), (2) Business training events (Target = 10% increase in 5 years), and (3) Individuals trained (Target = 10% increase in 5 years) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

UTAH VALLEY UNIVERSITY

Item 36

To Utah Valley University - Education and General

From General Fund	57,893,800
From Education Fund	48,189,400
From Education Fund, One-Time	(486,400)
From Dedicated Credits Revenue	128,329,300
From Beginning Nonlapsing Balances	19,582,900
From Closing Nonlapsing Balances	(19,582,900)
Schedule of Programs:	
Education and General	229,886,900
Operations and Maintenance	4,039,200

The Legislature intends that Utah Valley University report on the following performance measures for the Education and General line item, whose mission is: “A teaching institution which provides opportunity, promotes student success, and

meets regional educational needs. UVU builds on a foundation of substantive scholarly and creative work to foster engaged learning”: (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 37

To Utah Valley University -
 Educationally Disadvantaged
 From General Fund 138,900
 From Education Fund 36,000
 From Beginning Nonlapsing Balances 3,000
 From Closing Nonlapsing Balances (3,000)
 Schedule of Programs:
 Educationally Disadvantaged 174,900

The Legislature intends that Utah Valley University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Accessible and equitable educational opportunities for all students and support students achievement of academic success at the University”: (1) Portion of degree-seeking undergraduate students receiving need-based financial aid (Target = 45%), (2) Number of students served in mental health counseling (Target = 4,000), and (3) Number of tutoring hours provided to students (Target = 22,000) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

SNOW COLLEGE

Item 38

To Snow College - Education and General
 From General Fund 1,611,400
 From Education Fund 20,615,800
 From Dedicated Credits Revenue 11,583,200
 From Revenue Transfers 180,900
 From Beginning Nonlapsing
 Balances 1,806,400
 From Closing Nonlapsing Balances ... (1,806,400)
 Schedule of Programs:
 Education and General 33,197,200
 Operations and Maintenance 794,100

The Legislature intends that Snow College report on the following performance measures for the Education and General line item, whose mission is: “Snow College centralizes its mission around a tradition of excellence, a culture of innovation, and an atmosphere of engagement to advance students in the achievement of their educational goals”: (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 39

To Snow College - Educationally Disadvantaged
 From General Fund 32,000
 Schedule of Programs:
 Educationally Disadvantaged 32,000

The Legislature intends that Snow College report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Snow College supports the academic preparation of students least likely to attend college”: (1) Number educationally disadvantaged awards to students (Target = 75), (2) Average amount of aid awarded (Target = \$500), and (3) Percentage of remedial students completing a college-level course in the same subject within two academic years of entry (Target = 75%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 40

To Snow College - Career and Technical Education
 From General Fund 1,256,200
 From Education Fund 124,100
 Schedule of Programs:
 Career and Technical Education 1,380,300

The Legislature intends that Snow College report on the following performance measures for the Career and Technical Education line item, whose mission is: “Provide relevant technical education and training that supports local and statewide industry and business development”: (1) Headcount enrollment of post-secondary students in CTE programs (Target 1,200), (2) Number of degree, certificate, and/or licensure programs offered in industry-relevant areas of study (Target = 4 new programs/certificates/degrees), and (3) Number of degrees, certificates, awards, and/or licensures (Target = 100) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

DIXIE STATE UNIVERSITY

Item 41

To Dixie State University - Education and General
 From General Fund 2,323,100
 From Education Fund 32,595,400
 From Education Fund, One-Time (595,000)
 From Dedicated Credits Revenue 29,860,000
 From Revenue Transfers 150,000
 From Beginning Nonlapsing
 Balances 3,013,700
 From Closing Nonlapsing Balances ... (3,013,700)
 Schedule of Programs:
 Education and General 63,606,600
 Operations and Maintenance 726,900

The Legislature intends that Dixie State University report on the following performance measures for the Education and General line item, whose mission is: “Dixie State University is a public comprehensive university dedicated to rigorous learning and the enrichment of the professional and personal lives of its students and community by providing opportunities that engage the unique Southern Utah environment and resources”: (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total postsecondary costs per degree

by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 42

To Dixie State University -
 Educationally Disadvantaged
 From General Fund 25,500
 Schedule of Programs:
 Educationally Disadvantaged 25,500

The Legislature intends that Dixie State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “To support the academic success of culturally diverse students”: (1) Number of students served (Target = 20), (2) Number of minority students served (Target = 15), and (3) Expenditures per student (Target = \$1,000) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 43

To Dixie State University -
 Zion Park Amphitheater
 From General Fund 47,000
 From Education Fund 9,200
 From Dedicated Credits Revenue 33,900
 From Beginning Nonlapsing Balances 1,400
 From Closing Nonlapsing Balances (1,400)
 Schedule of Programs:
 Zion Park Amphitheater 90,100

The Legislature intends that Dixie State University report on the following performance measures for the Zion Park Amphitheater line item, whose mission is: “to provide a world-class outdoor venue combining learning and the arts in Southern Utah”: (1) Number of performances (Target = 15), (2) Ticket sales revenue (Target = \$35,000), and (3) Performances featuring Utah artists (Target = 10) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

SALT LAKE COMMUNITY COLLEGE

Item 44

To Salt Lake Community College -
 Education and General
 From General Fund 10,362,800
 From Education Fund 78,785,500
 From Dedicated Credits Revenue 59,875,500
 From Beginning Nonlapsing
 Balances 3,981,700
 From Closing Nonlapsing Balances ... (3,981,700)
 Schedule of Programs:
 Education and General 147,339,900
 Operations and Maintenance 1,683,900

The Legislature intends that Salt Lake Community College report on the following performance measures for the Education and General line item, whose mission is: “Salt Lake Community College is your community college. We engage and support students in educational pathways leading to successful transfer and meaningful employment”: (1) Postsecondary student retention rate, (2) Postsecondary completion, and (3) Total

postsecondary costs per degree by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 45

To Salt Lake Community College -
 Educationally Disadvantaged
 From General Fund 178,400
 From Beginning Nonlapsing Balances ... (7,700)
 From Closing Nonlapsing Balances 7,700
 Schedule of Programs:
 Educationally Disadvantaged 178,400

The Legislature intends that Salt Lake Community College report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Benefitting disadvantaged students, including minority students, and to be used for scholarships, tutoring, counseling, and related support services for educationally disadvantaged students”: (1) Number of Needs-based scholarships awarded (Target = 200), (2) Percentage of needs-based recipients returning (Target = 50%), and (3) Graduation rate of needs based scholarship recipients (Target = 50%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 46

To Salt Lake Community College -
 School of Applied Technology
 From General Fund 4,140,200
 From Education Fund 2,498,100
 From Dedicated Credits Revenue 1,028,600
 From Beginning Nonlapsing Balances ... 338,100
 From Closing Nonlapsing Balances (338,100)
 Schedule of Programs:
 School of Applied Technology 7,666,900

The Legislature intends that Salt Lake Community College report on the following performance measures for the School of Applied Technology line item, whose mission is: “Developing innovative, short-term, competency-based education to create a skilled workforce for Salt Lake County and the State of Utah”: (1) Membership hours (Target = 350,000), (2) Certificates awarded (Target = 200), and (3) Pass rate for certificate or licensure exams (Target 85%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

STATE BOARD OF REGENTS

Item 47

To State Board of Regents - Administration
 From General Fund 2,970,300
 From Education Fund 791,400
 From Federal Funds 303,100
 From Beginning Nonlapsing
 Balances 1,485,600
 From Closing Nonlapsing Balances ... (1,485,600)
 Schedule of Programs:
 Administration 3,761,700
 Federal Programs 303,100

The Legislature intends that the State Board of Regents report on the following

performance metrics for the Administration line item, whose mission includes: “Support the Board of Regents in all responsibilities” (1) Percent of Utah High School Graduates who enroll in a USHE institution within five years of graduation, (2) For every dollar invested by the state in state tax funds, the corresponding increase in new tax revenue generated, and (3) the total cost per degree and certificates at the system level by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 48

To State Board of Regents – Student Assistance

From General Fund	7,579,400
From Education Fund	13,835,200
From Beginning Nonlapsing Balances	93,300
From Closing Nonlapsing Balances	(93,300)

Schedule of Programs:

Regents’ Scholarship	12,644,800
Student Financial Aid	3,236,500
Minority Scholarships	36,000
New Century Scholarships	1,474,000
Success Stipend	1,384,200
Western Interstate Commission for Higher Education	835,500
T.H. Bell Teaching Incentive Loans Program	1,470,300
Veterans Tuition Gap Program	124,400
Public Safety Officer Career Advancement Reimbursement	199,000
Student Prosperity Savings Program	9,900

The Legislature intends that the State Board of Regents report on the following performance measures for the Student Assistance line item, whose mission is: “To process, award, and appropriate student scholarships and financial assistance; including Regents Scholarship, New Century Scholarship, Student Financial Aid, Minority Scholarship, Veterans Tuition Gap Program, Success Stipend, and WICHE”: (1) Regents Scholarship (Target = Allocate all appropriations to qualified students, less overhead), (2) New Century (Target = Allocate all appropriations to qualified students, less overhead); (3) WICHE (Target = Allocate all appropriations to qualified students, less overhead) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 49

To State Board of Regents – Student Support

From General Fund	723,900
From Education Fund	859,300
From Revenue Transfers	11,200
From Beginning Nonlapsing Balances	71,900
From Closing Nonlapsing Balances	(71,900)

Schedule of Programs:

Services for Hearing Impaired Students	792,300
Concurrent Enrollment	462,500
Articulation Support	297,000
Campus Compact	42,600

The Legislature intends that the State Board of Regents report on the following performance measures for the Student Support line item, whose mission is: “Programmatic support for students with special needs, concurrent enrollment, transfer students, and Campus Compact initiatives”: (1) Hearing Impaired (Target = Allocate all appropriations to institutions), (2) Concurrent Enrollment (Target = Increase total student credit hours by 1%) and (3) Campus Compact – Hours of Service completed by Utah college students (Target = 1.3M) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 50

To State Board of Regents – Technology

From General Fund	3,997,200
From Education Fund	3,078,500
From Beginning Nonlapsing Balances	300
From Closing Nonlapsing Balances	(300)

Schedule of Programs:

Higher Education Technology Initiative	4,550,600
Utah Academic Library Consortium	2,525,100

The Legislature intends that the State Board of Regents report on the following performance measures for the Technology line item, whose mission is: “Support System-wide information technology and library needs”: (1) HETI Group purchases (Target = \$3.7M savings), (2) UALC Database searches (Target = 33.1M searches), and (3) UALC Text articles downloaded (Target = 5.1M downloads) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 51

To State Board of Regents – Economic Development

From General Fund	352,100
From Education Fund	3,997,600
From Beginning Nonlapsing Balances	273,300
From Closing Nonlapsing Balances	(273,300)

Schedule of Programs:

Engineering Initiative	3,980,000
Engineering Loan Repayment	38,200
Economic Development Initiatives	331,500

The Legislature intends that the State Board of Regents report on the following performance measures for the Economic Development line item, whose mission is: “Support Engineering Initiative, Engineering Loan Repayment program, and promote economic development initiatives within the state”: (1) Engineering Initiative degrees (Target = 6% annual increase), and (2) Engineering Scholarship (Target = Contingent on funding, allocate appropriations to student scholarships, less overhead) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 52

To State Board of Regents – Education Excellence

From Education Fund	2,366,400
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From Education Fund Restricted – Performance Funding Rest. Acct. 14,850,000

From Education Fund Restricted – Performance Funding Rest. Acct., One-Time (4,500,000)

From Revenue Transfers 22,200

From Beginning Nonlapsing Balances 1,143,000

From Closing Nonlapsing Balances (1,143,000)

Schedule of Programs:

Education Excellence 2,388,600

Performance Funding 10,350,000

The Legislature intends that the State Board of Regents report on the following performance measures for the Education Excellence line item, whose mission is: “Support the Governors Education Excellence Commission goal of having 66 percent of Utah adult citizens (25–34) having earned a postsecondary degree or certificate by the year 2020”: (1) Cumulative awards (Target = 262,700 for 2017–18), (2) Completions (Target = Increase 5 year rolling average by 1%), and (3) 150% Graduation rate (Target = Increase 5 year rolling average by 1%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 53

To State Board of Regents - Math Competency Initiative

From Education Fund 1,915,600

From Beginning Nonlapsing Balances 1,160,100

From Closing Nonlapsing Balances (1,160,100)

Schedule of Programs:

Math Competency Initiative 1,915,600

The Legislature intends that the State Board of Regents report on the following performance measures for the Math Competency line item, whose mission is: “Increase the number of high school students taking QL mathematics”: (1) Increase the number of high school math teachers qualified to teach concurrent enrollment math classes (Target = Year 1 of 72, Year 2 of 127), (2) Develop web-based tools to oversee CE program (Target = All tools in place by July 1, 2017), and (3) Increase the number of QL students taking math through concurrent enrollment (Target = Increase 5%) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 54

To State Board of Regents - Medical Education Council

From General Fund 1,798,000

From Dedicated Credits Revenue 500,000

From Revenue Transfers 147,600

From Beginning Nonlapsing Balances 511,200

From Closing Nonlapsing Balances (511,200)

Schedule of Programs:

Medical Education Council 2,445,600

The Legislature intends that the State Board of Regents report on the following performance measures for the Medical Education Council line item, whose mission

is: “Retaining the Utah trained healthcare workforce, facilitating rural training opportunities, and strengthening public-private partnerships”: (1) Graduate medical education growth (Target = 2.2% growth), (2) Retention for residency and fellowship programs (Target = 52%, 35%), and (3) Utah health provider to 100,000 population ratio (Target = 258) by October 15, 2019 to the Higher Education Appropriations Subcommittee.

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 55

To Utah System of Technical Colleges – Bridgerland Technical College

From General Fund 4,215,100

From Education Fund 8,914,300

From Dedicated Credits Revenue 1,370,000

From Beginning Nonlapsing Balances 7,200

From Closing Nonlapsing Balances (7,200)

Schedule of Programs:

Bridgerland Tech Equipment 354,500

Bridgerland Technical College 14,144,900

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Bridgerland Technical College line item, the mission of which is, “To meet the needs of Utah’s employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students”: (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 56

To Utah System of Technical Colleges – Davis Technical College

From General Fund 4,256,900

From Education Fund 10,726,200

From Dedicated Credits Revenue 1,850,000

From Beginning Nonlapsing Balances 249,200

From Closing Nonlapsing Balances (33,400)

Schedule of Programs:

Davis Tech Equipment 415,400

Davis Technical College 16,633,500

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Davis Technical College line item, the mission of which is, “To meet the needs of Utah’s employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students”: (1) Certificates awarded per 100

certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 57

To Utah System of Technical Colleges -
 Dixie Technical College
 From General Fund 84,200
 From Education Fund 6,846,200
 From Dedicated Credits Revenue 351,000
 Schedule of Programs:
 Dixie Tech Equipment 164,400
 Dixie Technical College 7,117,000

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Dixie Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 58

To Utah System of Technical Colleges -
 Mountainland Technical College
 From Education Fund 11,288,600
 From Dedicated Credits Revenue 1,140,000
 Schedule of Programs:
 Mountainland Tech Equipment 281,800
 Mountainland Technical College ... 12,146,800

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Mountainland Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years

after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 59

To Utah System of Technical Colleges -
 Ogden-Weber Technical College
 From General Fund 5,149,800
 From Education Fund 9,853,100
 From Dedicated Credits Revenue 1,694,900
 From Beginning Nonlapsing Balances 16,500
 Schedule of Programs:
 Ogden-Weber Tech Equipment 387,500
 Ogden-Weber Technical College 16,326,800

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Ogden-Weber Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 60

To Utah System of Technical Colleges -
 Southwest Technical College
 From General Fund 164,300
 From Education Fund 4,738,800
 From Dedicated Credits Revenue 547,900
 Schedule of Programs:
 Southwest Tech Equipment 147,700
 Southwest Technical College 5,303,300

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Southwest Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 61

To Utah System of Technical Colleges -
 Tooele Technical College

From General Fund	861,300
From Education Fund	3,116,100
From Dedicated Credits Revenue	248,200

Schedule of Programs:

Tooele Tech Equipment	152,200
Tooele Technical College	4,073,400

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Tooele Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 62

To Utah System of Technical Colleges -
 Uintah Basin Technical College

From General Fund	1,302,900
From Education Fund	6,474,600
From Education Fund, One-Time	(53,800)
From Dedicated Credits Revenue	434,000
From Beginning Nonlapsing Balances	(10,000)

Schedule of Programs:

Uintah Basin Tech Equipment	239,900
Uintah Basin Technical College	7,907,800

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Uintah Basin Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Certificates awarded per 100 certificate-seeking full-time equivalent students; (2) Estimated cost per certificate, considering instructional resources derived from state funds and dedicated to certificate-seeking students; and (3) Employment and wages 1 year and 5 years after completion of an accredited postsecondary certificate, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Item 63

To Utah System of Technical Colleges -
 USTC Administration

From General Fund	2,850,900
From Education Fund	4,264,200
From Education Fund Restricted - Performance Funding Rest. Acct.	1,650,000
From Education Fund Restricted - Performance Funding Rest. Acct., One-Time	(500,000)

Schedule of Programs:

Administration	3,197,900
Custom Fit	3,899,800
Equipment	17,400
Performance Funding	1,150,000

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Administration line item, the mission of which is, "To support career and technical education throughout the State of Utah": (1) Percentage of enrolled high school students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation (target = 33% and 50%, respectively, to be attained by FY 2028); (2) System-wide placement rates for certificate-seeking students (target = 10% to 20% above minimum accreditation standards); and (3) Graduation rates for all programs and for those identified as leading to high-wage/high-demand careers (target = 80% for programs of less than 600 hours in length, 70% for programs of 600 hours or greater but less than 900 hours, and 60% for programs of 900 hours or more, to be attained by FY 2028), by October 15, 2019 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Custom Fit line item, the mission of which is, "To support economic and workforce development through training partnerships between Utah companies and the Utah System of Technical Colleges (USTC)": (1) Companies served by Custom Fit training; (2) Trainees served by Custom Fit training; and (3) Hours of instruction provided by Custom Fit, by October 15, 2019 to the Higher Education Appropriations Subcommittee.

Subsection 2(b). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 64

To Performance Funding Restricted Account

From Education Fund	16,500,000
From Education Fund, One-Time	(5,000,000)

Schedule of Programs:

Performance Funding Restricted
Account 11,500,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

CHAPTER 15

S.B. 4

Passed February 6, 2018
Approved February 21, 2018
Effective May 8, 2018

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET

Chief Sponsor: Daniel Hemmert
House Sponsor: R. Curt Webb

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$2,266,500 in operating and capital budgets for fiscal year 2018, including:

- \$779,000 from the General Fund;
\$1,487,500 from various sources as detailed in this bill.

This bill appropriates \$966,900 in expendable funds and accounts for fiscal year 2018.

This bill appropriates \$966,900 in restricted fund and account transfers for fiscal year 2018.

This bill appropriates \$337,153,800 in operating and capital budgets for fiscal year 2019, including:

- \$102,073,000 from the General Fund;
\$21,690,200 from the Education Fund;
\$213,390,600 from various sources as detailed in this bill.

This bill appropriates \$22,638,900 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$265,000 in business-like activities for fiscal year 2019.

This bill appropriates \$29,178,900 in restricted fund and account transfers for fiscal year 2019, including:

- \$25,538,900 from the General Fund;
\$3,640,000 from various sources as detailed in this bill.

This bill appropriates \$19,082,100 in fiduciary funds for fiscal year 2019.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 1

To Department of Alcoholic Beverage Control - DABC Operations

From Liquor Control Fund,

One-Time 1,000,000

Schedule of Programs:

Stores and Agencies 1,000,000

DEPARTMENT OF COMMERCE

Item 2

To Department of Commerce - Building Inspector Training

To Department of Commerce - Building Inspector Training Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes Education Funds received by the Division of Occupational and Professional Licensing under the authority of Section 15A-1-209-5 of the Utah Code Chapter 2 Item 29 of Laws of Utah 2017 (From HB004 2017 GS), shall not lapse at the close of Fiscal Year 2018.

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 3

To Governor's Office of Economic Development - Administration

From General Fund, One-Time 450,900

Schedule of Programs:

Administration 450,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Administration in Laws of Utah 2017, Chapter 2, Item 10 shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to: \$1,225,900 for: System Management Enhancements, \$350,000; Operations and Contractual Obligations, \$525,900; and Business Marketing, \$350,000

Item 4

To Governor's Office of Economic Development - Business Development

From General Fund, One-Time (900,000)

Schedule of Programs:

Corporate Recruitment and Business Services	614,800
Outreach and International Trade	(1,514,800)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Business Development in Laws of Utah 2017, Chapter 2, Item 13 shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to: Business Resource Centers \$175,000; Technology Commercialization and Innovation Program \$3,000,000; Business Cluster Support \$200,000; Procurement and Technical Assistance Center Contracts \$175,000; System Development \$350,000, Corporate Recruitment, Diplomacy and Compliance Contracts \$500,000; Rural Development Contracts and Support \$100,000.

Item 5

To Governor’s Office of Economic Development - Office of Tourism	
From General Fund, One-Time	378,100
Schedule of Programs:	
Film Commission	378,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Office of Tourism in Laws of Utah 2017, Chapter 2, Item 12 shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to Contractual Obligations and Support General Fund, \$600,000; Motion Picture Incentive Fund Cash Incentives and/or General Fund, \$1,675,000; Tourism Marketing Performance Fund, \$5,500,000.

Item 6

To Governor’s Office of Economic Development - Pass-Through	
From General Fund, One-Time	850,000
Schedule of Programs:	
Pass-Through	850,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Pass Through in Laws of Utah 2017, Chapter 2, Item 16 shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to contractual obligations and support: \$1,000,000.

Item 7

To Governor’s Office of Economic Development - Pete Suazo Utah Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Pete Suazo Utah Athletic Commission in Laws of Utah 2017, Chapter 2, Item 14 shall not lapse at the close of Fiscal

Year 2018. The use of any nonlapsing funds is limited to the Pete Suazo Utah Athletic Program: \$150,000 for: Continued development and implementation of an electronic system and to train Pete Suazo staff on best practices.

Item 8

To Governor’s Office of Economic Development - STEM Action Center

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-STEM Action Center in Laws of Utah 2017, Chapter 2, Item 11 shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to contractual obligations and support: \$4,600,000.

Item 9

To Governor’s Office of Economic Development - Utah Office of Outdoor Recreation

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Office of Outdoor Recreation in House Bill 52 of the 2016 General Session shall not lapse at the close of Fiscal Year 2018. Also funds provided to the Governors Office of Economic Development-Office of Outdoor Recreation in Laws of Utah 2017, Chapter 166, section 16 shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing appropriated funds is limited to contractual obligations and support: \$1,000,000 and expendable special revenue funds all available.

DEPARTMENT OF HERITAGE AND ARTS

Item 10

To Department of Heritage and Arts - Administration

Under section 63J-1-603, Legislature intends that up to \$537,800 of the General Fund provided by Item 1, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2018. These funds are to be used for digitization and IT projects and maintenance.

Under section 63J-1-603, Legislature intends that up to \$268,300 of the General Fund provided by Item 1, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2018.

Under section 63J-1-603, Legislature intends that up to \$350,000 of the General Fund provided by Item 1, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2018. These funds are to be used for building maintenance, renovation, security, and planning efforts for a new collections center.

Item 11

To Department of Heritage and Arts -
 Division of Arts and Museums
 From Dedicated Credits Revenue,
 One-Time 400,000
 From General Fund Restricted -
 National Professional Men's
 Soccer Team Support of Building
 Communities, One-Time (12,500)
 Schedule of Programs:
 Grants to Non-profits 387,500

Under section 63J-1-603, Legislature intends that up to \$260,000 of the General Fund provided by Item 4, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2018. These funds are to be used for cultural outreach and community programming.

Item 12

To Department of Heritage and Arts -
 Historical Society

Under section 63J-1-603, Legislature intends that up to \$140,000 of the General Fund provided by Item 2, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - History Society Division not lapse at the close of Fiscal Year 2018. These funds are to be used for publishing and promotion of the Historical Quarterly magazine.

Item 13

To Department of Heritage and Arts -
 Indian Affairs

Under section 63J-1-603, Legislature intends that up to \$35,000 of the General Fund and \$25,000 Dedicated Credits provided by Item 7, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - Indian Affairs Division not lapse at the close of Fiscal Year 2018.

Item 14

To Department of Heritage and Arts -
 Pass-Through
 From General Fund Restricted -
 National Professional Men's
 Soccer Team Support of Building
 Communities, One-Time 100,000
 Schedule of Programs:
 Pass-Through 100,000

Item 15

To Department of Heritage and Arts - State History

Under section 63J-1-603, Legislature intends that up to \$60,000 of the General Fund provided by Item 3, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - State History Division not lapse at the close of Fiscal Year 2018. These funds are to be used for operations, application maintenance, and community outreach.

Item 16

To Department of Heritage and Arts - State Library

Under section 63J-1-603, Legislature intends that up to \$230,000 of the General

Fund provided by Item 6, Chapter 2, Laws of Utah 2017 for the Department of Heritage and Arts - State Library Division not lapse at the close of Fiscal Year 2018. These funds are to be used for CLEF (Community Library Enhancement Fund) grants in Fiscal Year 2019.

INSURANCE DEPARTMENT

Item 17

To Insurance Department - Insurance
 Department Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$100,000 of the ongoing Insurance Department Restricted Account appropriation provided for the Utah Insurance Department in Item 33, Chapter 2, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018 funding should be targeted towards training and related costs for examiners and auditors.

LABOR COMMISSION

Item 18

To Labor Commission

Under section 63J-1-603 of the Utah Code, the Legislature intends that the one-time appropriation provided to the Labor Commission from the Industrial Accident Restricted Account in 2016 General Session HB2 Item 52 shall not lapse at the close of Fiscal Year 2018. Such nonlapsing funds shall be used for the electronic data interchange project.

PUBLIC SERVICE COMMISSION

Item 19

To Public Service Commission

Under the terms of the 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Service Commission not lapse at the close of Fiscal Year 2018. The use of non-lapsing funds is limited to maintenance, upgrades, and licensing for the Public Service Commission's document management system; computer equipment and software upgrades; employee training and incentives; and special projects/studies that might require consultants or temporary employees.

UTAH STATE TAX COMMISSION

Item 20

To Utah State Tax Commission - License
 Plates Production

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Tax Commission - License Plates Production in Item 18, Chapter 2, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. Ending balances from funds provided to the Tax Commission for the purchase and distribution of license

plates and decals are nonlapsing under 63J-1-602.2.

Item 21

To Utah State Tax Commission - Tax Administration

Schedule of Programs:

Administration Division	357,500
Multi-State Tax Compact	20,000
Tax Processing Division	(377,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to \$1 million in appropriations provided for the Tax Commission in Item 17, Chapter 2, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. These funds are to be used to protect and enhance the State's tax and motor vehicle systems and processes; to continue to protect the State's revenues from tax fraud, identity theft, and security intrusions; and for litigation and related costs.

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INSURANCE DEPARTMENT

Item 22

To Insurance Department - Insurance Fraud Victim Restitution Fund

From Closing Fund Balance	966,900
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Schedule of Programs:

Insurance Fraud Victim Restitution Fund	966,900
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PUBLIC SERVICE COMMISSION

Item 23

To Public Service Commission - Universal Public Telecom Service

Under the terms of the 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Service Commission not lapse at the close of Fiscal Year 2018. Non-lapsing funds are needed to fund the Universal Public Telecommunications Service Support and the Deaf, Hard of Hearing and Speech Impaired Programs.

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

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

which the money is transferred must be authorized by an appropriation.

Item 24

To General Fund Restricted - Insurance Fraud Investigation Account

From Insurance Fraud Victim

Restitution Fund, One-Time	966,900
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Schedule of Programs:

General Fund Restricted -

Insurance Fraud Investigation	966,900
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Section 2. FY 2019 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 25

To Department of Alcoholic Beverage Control - DABC Operations

From Liquor Control Fund	50,454,500
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Schedule of Programs:

Administration	883,000
Executive Director	2,566,100
Operations	2,831,400
Stores and Agencies	39,176,000
Warehouse and Distribution	4,998,000

The legislature intends that the Department of Alcoholic Beverage Control report on the following performance measures for the Department of Alcoholic Beverage Control, whose mission is to "Conduct, license, and regulated the sale of alcoholic products in a manner and at prices that: Reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products." 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

Item 26

To Department of Alcoholic Beverage Control - Parents Empowered

From General Fund Restricted -

Underage Drinking Prevention

Media and Education Campaign

Restricted Account	2,565,600
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Schedule of Programs:

Parents Empowered	2,565,600
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The legislature intends that the Department of Alcoholic Beverage Control report on the following performance measures for the Parents Empowered line item, whose mission is to "pursue a leadership role in the prevention of underage alcohol

consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement, business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well-being, for the benefit of every one in our communities.” 1) Ad awareness of the dangers of underage drinking and prevention tips (Target =82%); 2) Ad awareness of “Parents Empowered”(Target =70%); 3) Percentage of students who used alcohol during their lifetime (Target = 17%).

DEPARTMENT OF COMMERCE

Item 27

To Department of Commerce - Building Inspector Training
 From Dedicated Credits Revenue 502,200
 From Beginning Nonlapsing Balances ... 595,300
 From Closing Nonlapsing Balances (177,600)
 Schedule of Programs:
 Building Inspector Training 919,900

The legislature intends that the Utah Dept. of Commerce report on the following performance measures for the Uniform Building Code line item whose mission is “to protect the public and to enhance commerce through licensing and regulation”: 1) facilitate and approve vendors to provide building code education to building inspectors and construction trade licensees, with a goal focused on improving (Target = 50% ratio of courses approved for contractors vs. building inspectors); 2) Provide an average of at least one hour of CE annually to construction trade licensees through course approvals (Target= 34,000 hours); and 3) Ensure that program administrative expenses for employees are minimized by focusing on disbursements of fund revenue for qualified courses with minimal staff (Target = maximum of 20% of expenses will be employee related).

Item 28

To Department of Commerce - Commerce General Regulation
 From General Fund 68,400
 From Federal Funds 407,700
 From Dedicated Credits Revenue 1,876,700
 From General Fund Restricted -
 Commerce Service Account 22,794,400
 From General Fund Restricted -
 Factory Built Housing Fees 101,800
 From General Fund Restricted -
 Geologist Education and Enforcement .. 20,000
 From General Fund Restricted - Nurse
 Education & Enforcement Account 15,000
 From General Fund Restricted -
 Pawnbroker Operations 135,700

From General Fund Restricted -
 Public Utility Restricted Account 5,186,300
 From General Fund Restricted -
 Utah Housing Opportunity Restricted .. 20,400
 From Pass-through 51,200
 From Beginning Nonlapsing Balances ... 400,000
 From Closing Nonlapsing Balances (200,000)
 Schedule of Programs:
 Administration 4,254,300
 Building Operations and
 Maintenance 272,600
 Consumer Protection 2,099,000
 Corporations and Commercial
 Code 2,590,200
 Occupational and Professional
 Licensing 11,215,900
 Office of Consumer Services 1,104,800
 Public Utilities 4,619,400
 Real Estate 2,394,600
 Securities 2,326,800

The legislature intends that the Utah Dept. of Commerce report on the following performance measures for the Commerce General Regulation Line Item, whose mission is to “to protect the public and to enhance commerce through licensing and regulation” : 1) Increase the percentage of all available licensing renewals to be performed online by licensees in the Division of Occupational and Professional Licensing. (Target = Ratio of potential online renewal licensees who actually complete their license renewal online instead of in person on paper to be greater than 94%) 2) Increase the utility of and overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach. (Target = 5% increase in the number of controlled substance database searches by providers and enforcement through increased outreach) 3) Achieve and maintain corporation annual business online filings vs. paper filings above to or above (Target = 97% of the total filings managed to mitigate costs to the division and filer in submitting filing information).

Item 29

To Department of Commerce - Office of Consumer Services Professional and Technical Services
 From General Fund Restricted - Public
 Utility Restricted Account 503,100
 From Beginning Nonlapsing
 Balances 1,200,000
 From Closing Nonlapsing Balances (800,000)
 Schedule of Programs:
 Professional and Technical Services ... 903,100

The legislature intends that the Utah Dept. of Commerce report on the following performance measures for the Division of Public Utilities Professional and Technical line item, whose mission is to “retain professional and technical consultants to augment division staff expertise in energy rate cases”; 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and

analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise needed on staff to complete the consultant work target of 40% average savings.)

Item 30

To Department of Commerce - Public Utilities Professional and Technical Services
 From General Fund Restricted - Public
 Utility Restricted Account 150,000
 From Beginning Nonlapsing
 Balances 1,200,000
 From Closing Nonlapsing Balances (800,000)
 Schedule of Programs:
 Professional and Technical Services ... 550,000

The legislature intends that the Utah Dept. of Commerce report on the following performance measures for the Division of Public Utilities Professional and Technical line item, whose mission is to “retain professional and technical consultants to augment division staff expertise in energy rate cases”; 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise needed on staff to complete the consultant work target of 40% average savings.)

**GOVERNOR’S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 31

To Governor’s Office of Economic Development - Administration
 From General Fund 2,562,500
 From Dedicated Credits Revenue 853,400
 From Beginning Nonlapsing Balances ... 675,000
 From Closing Nonlapsing Balances (675,000)
 Schedule of Programs:
 Administration 3,415,900

The Legislature intends that the Governors Office of Economic Development report on the following performance measures for the Administrative line item, whose mission is to “Enhance quality of life by increasing and diversifying Utahs revenue base and improving employment opportunities”. 1) Finance processing: invoices and reimbursements will be processed and remitted for payment within five days (Target = 90%), 2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 3) Public and Community Relations - Increase development, dissemination, facilitation and support of media releases, media advisories, interviews, cultivated articles and executive presentations. (Target = 10%)

Item 32

To Governor’s Office of Economic Development - Business Development
 From General Fund 9,001,000
 From General Fund, One-Time (250,000)
 From Federal Funds 483,200
 From Dedicated Credits Revenue 378,700
 From General Fund Restricted - Industrial Assistance Account 252,900
 From Beginning Nonlapsing
 Balances 2,332,400
 From Closing Nonlapsing Balances ... (2,332,400)
 Schedule of Programs:
 Corporate Recruitment and
 Business Services 6,883,000
 Outreach and International Trade ... 2,982,800

The Legislature intends that Governors Office of Economic Development report on the following performance measures for the line item CMAA - Corporate Recruitment & Business Services whose mission is to “grow the economy by identifying, nurturing, and closing proactive corporate recruitment opportunities and by providing robust business services to organizations throughout the state.”: 1) Workforce Initiatives/Impacts: increase program reach by 5% per year; 2) Business services: increase the total number of businesses served by 4% per year; and 3) Compliance: perform assessments on 60% of active contracts with follow up to each.

Item 33

To Governor’s Office of Economic Development - Office of Tourism
 From General Fund 4,241,500
 From Transportation Fund 118,000
 From Dedicated Credits Revenue 332,400
 From General Fund Restricted - Motion Picture Incentive Account ... 1,300,000
 From General Fund Restricted - Tourism Marketing Performance ... 24,000,000
 From Beginning Nonlapsing
 Balances 4,965,200
 From Closing Nonlapsing Balances ... (4,965,200)
 Schedule of Programs:
 Administration 1,197,000
 Film Commission 2,112,300
 Marketing and Advertising 24,000,000
 Operations and Fulfillment 2,682,600

The Legislature intends that the Utah Office of Tourism, Film and Global Branding report on the following performance measures for the line item CLAA - Tourism and Film, whose mission is to “promote Utah as a vacation destination to out-of-state travelers, generating state and local tax revenues to strengthen Utahs economy and to market the entire State Of Utah for film, television and commercial production by promoting the use of local professional cast & crew, support services, locations and the Motion Picture Incentive Program.” 1) Tourism Marketing Performance Account - Increase state sales tax revenues in weighted travel-related NAICS categories as outlined in Utah Code 63N-7-301 (Target = Revenue

Growth over 3% or Consumer Price Index – whichever baseline is higher). 2) Tourism SUCCESS Metric – increase number of engaged visitors to VisitUtah.com website (engaged website visitors are those who meet specific thresholds for time on site and page views) (Target = 20% increase annually). 3) Film Commission Metric – Increase film production spending in Utah (Target = 5% annually)

Item 34

To Governor’s Office of Economic Development – Pass-Through
 From General Fund 4,903,800
 Schedule of Programs:
 Pass-Through 4,903,800

The legislature intends that the Governors Office of Economic Development report on the following performance measures for the Pass-through line item, whose mission is to “Enhance quality of life by increasing and diversifying Utahs revenue base and improving employment opportunities”. 1) Contract processing efficiency: all contracts will be drafted within 14 days following proper legislative intent and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 2) Assessment: Completed contracts will be assessed against scope of work, budget, and contract, (Target = 100%) 3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 35

To Governor’s Office of Economic Development – Pete Suazo Utah Athletics Commission
 From General Fund 167,800
 From Dedicated Credits Revenue 66,700
 From Beginning Nonlapsing Balances ... 125,700
 From Closing Nonlapsing Balances (125,700)
 Schedule of Programs:
 Pete Suazo Utah Athletics
 Commission 234,500

The Legislature intends that the Pete Suazo Utah Athletic Commission report on the following performance measures for the Pete Suazo Athletic Commission line item, whose mission is “Maintaining the health, safety, and welfare of the participants and the public as they are involved in the professional unarmed combat sports. Promoters, managers, contestants, seconds, referees and judges will be held to the highest standard which will ensure economic growth and the development of athletics in the State of Utah”: 1) High Profile Events - The Pete Suazo Utah Athletic Commission (PSUAC) averages 37 “Combat Sports” events and one “high profile event” per year. PSUAC will target one additional “high profile event” next year. 2) Licensure Efficiency -The PSUAC has averaged 991 licenses issued annually over the last 3 years, with less than 5% of those licenses issued in advance of the events.

Implementation of an online registration will improve efficiency (Target = 90%). 3) Increase revenue – Annual average revenue of nearly \$30,000 over the last 3 years. (Target = 12%)

Item 36

To Governor’s Office of Economic Development – STEM Action Center
 From General Fund 10,792,200
 From Dedicated Credits Revenue 1,505,800
 From Beginning Nonlapsing
 Balances 4,435,200
 From Closing Nonlapsing Balances ... (4,435,200)
 Schedule of Programs:
 STEM Action Center 3,043,000
 STEM Action Center – Grades 6-8 .. 4,255,000
 STEM College Ready Math 5,000,000

The Legislature intends that the Utah STEM Action Center report on the following performance measures for the STEM Action Center line item, whose mission is “to promote science, technology, engineering and math through best practices in education to ensure connection with industry and Utahs long-term economic prosperity.”: (1) Complete reimbursements for classroom grants by end of fiscal year June 30 (Target = 90%), (2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 60%), and (3) collect all end of year impact reports for sponsorships by fiscal end, June 30 (Target = 90%).

Item 37

To Governor’s Office of Economic Development – Utah Broadband Outreach Center
 From General Fund 358,400
 From Beginning Nonlapsing Balances 27,100
 From Closing Nonlapsing Balances (27,100)
 Schedule of Programs:
 Utah Broadband Outreach Center 358,400

FINANCIAL INSTITUTIONS

Item 38

To Financial Institutions – Financial Institutions Administration
 From General Fund Restricted –
 Financial Institutions 7,631,900
 Schedule of Programs:
 Administration 7,385,900
 Building Operations and
 Maintenance 246,000

The Legislature intends that the Department of Financial Institutions continues to report on the following performance measures for the Financial Institutions Administration line item, whose mission is “to charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah”: (1) Depository Institutions not on the Departments “Watched Institutions” list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target = Equal to

the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = \$3.8 billion), to the Business, Economic Development, and Labor Appropriations Subcommittee.

DEPARTMENT OF HERITAGE AND ARTS

Item 39

To Department of Heritage and Arts - Administration

From General Fund	3,797,800
From Dedicated Credits Revenue	147,400
From General Fund Restricted - Humanitarian Service Rest. Acct	2,000
From General Fund Restricted - Martin Luther King Jr Civil Rights Support Restricted Account	7,500
From Beginning Nonlapsing Balances	961,100
From Closing Nonlapsing Balances	(565,400)
Schedule of Programs:	
Administrative Services	1,964,800
Executive Director's Office	608,700
Information Technology	1,387,200
Utah Multicultural Affairs Office	389,700

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Administrative line item, whose mission is to "Increase value to customers through leveraged collaboration between divisions and foster a culture of continuous improvement to find operational efficiencies." 1) The division measures the percentage of division programs that are engaged in at least one collaborative projects annually (Target = 66% annually); 2) Number of internal performance audits in division programs or evaluations of department process or systems completed annually (Target = 6 annually); 3) Number of students attending events annually and number of schools sending students to division events annually (Target = 1000 students and 53 schools)

Item 40

To Department of Heritage and Arts - Division of Arts and Museums

From General Fund	2,887,600
From Federal Funds	731,600
From Dedicated Credits Revenue	95,700
From Pass-through	1,600,000
From Beginning Nonlapsing Balances	3,385,400
From Closing Nonlapsing Balances	(3,485,400)
Schedule of Programs:	
Administration	625,200
Community Arts Outreach	1,918,100
Grants to Non-profits	1,371,600
One Percent for Arts	1,300,000

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Arts and Museums line item, whose mission is to "connect people and communities through arts and museums." 1) The Division

measures the percent of counties served by the Traveling Exhibits program annually (Target = 69% of counties annually); 2) The percent of school districts served by the Arts Education workshops annually (Target = 73% of school districts annually); 3) Ratio of dollars requested to dollars granted (Target = 60%).

Item 41

To Department of Heritage and Arts - Division of Arts and Museums - Office of Museum Services

From General Fund	263,300
From Dedicated Credits Revenue	2,000
Schedule of Programs:	
Office of Museum Services	265,300

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Museum Services line item, whose mission is to "advance the value of museums in Utah and to enable the broadest access to museums." 1) Ratio of dollars requested to dollars granted (Target = 76%); 2) The number of museums provided in-person consultation annually (Target = 30 museums annually); 3) The number of museum professionals workshops offered and attendance at each. (Target = 12 workshops and 200 professionals).

Item 42

To Department of Heritage and Arts - Commission on Service and Volunteerism

From General Fund	238,700
From Federal Funds	4,650,000
From Dedicated Credits Revenue	7,700
Schedule of Programs:	
Commission on Service and Volunteerism	4,896,400

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Commission on Service and Volunteerism line item, 1) Percentage of organizations trained implementing effective volunteer management practices. (Target = 85%); 2) Percentage of AmeriCorps programs showing improved program management and compliance through training and technical assistance. (Target = 90%); 3) Number of Utahs served through AmeriCorps programs. This service includes: youth tutoring and mentorship, after-school programs, healthcare resources and insurance, bolstering mental healthcare resources, environmental and conservation projects, assisting the homeless, disaster preparation, and more. (Target = 70,000).

Item 43

To Department of Heritage and Arts - Historical Society

From Dedicated Credits Revenue	124,900
From Beginning Nonlapsing Balances	133,800
From Closing Nonlapsing Balances	(133,800)
Schedule of Programs:	
State Historical Society	124,900

Item 44

To Department of Heritage and Arts - Indian Affairs

From General Fund	254,700
From Dedicated Credits Revenue	53,100
From General Fund Restricted - Native American Repatriation Restricted	60,000
Schedule of Programs:	
Indian Affairs	367,800

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of Indian Affairs line item, whose mission is: “to address the socio-cultural challenges of the eight federally-recognized Tribes residing in Utah.” 1) Attendees to the Governors Native American Summit, Utah Indigenous Day and American Indian Caucus Day (Target = 1,000 attendees annually); 2) Percentage of mandated state agencies with designated liaisons actively participating to respond to Tribal concerns (Target = 70%); 3) Percentage of ancient human remains repatriated to federally-recognized Tribes annually (Target = 20% successful repatriated annually).

Item 45

To Department of Heritage and Arts - Pass-Through

From General Fund	689,500
From General Fund Restricted - National Professional Men’s Soccer Team Support of Building Communities	100,000
Schedule of Programs:	
Pass-Through	789,500

Item 46

To Department of Heritage and Arts - State History

From General Fund	2,240,400
From Federal Funds	1,237,000
From Dedicated Credits Revenue	84,700
From Beginning Nonlapsing Balances	60,000
From Closing Nonlapsing Balances	(60,000)
Schedule of Programs:	
Administration	384,700
Historic Preservation and Antiquities	2,020,700
History Projects and Grants	25,000
Library and Collections	548,400
Public History, Communication and Information	583,300

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of State History line item, whose mission is: “to preserve and share the past for a better present and future.” 1) The Division of State History measures the percent of Section 106 reviews completed within 20 days annually (Target = 90%); 2) The percent of Certified Local Governments actively involved in historic preservation by applying for a grant at least once within a four-year period and successfully completing the grant-funded project (Target = 60% active CLGs); 3) The Percentage of collection

digitized and available online, both photo and artifact. (Target = 35%).

Item 47

To Department of Heritage and Arts - State Library

From General Fund	4,535,600
From Federal Funds	1,850,000
From Dedicated Credits Revenue	2,206,100
From Beginning Nonlapsing Balances	230,000
From Closing Nonlapsing Balances	(230,000)
Schedule of Programs:	
Administration	1,575,300
Blind and Disabled	1,895,700
Library Development	2,420,300
Library Resources	2,700,400

The legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of State Library line item, whose mission is: “to develop, advance, promote library services and equal access to resources.” 1) The Division measures the number of online and in-person training hours provided annually and ratio of trainings provided in collaboration with other divisions (Target = 11,700 training hours annually); 2) The total Bookmobile circulation annually. (Target = 413,000 items annually); 3) The total Blind and Disabled circulation annually (Target = 328,900 items annually); 4) Digital downloads from Utahs Online Library annually (Target = 1.3 million items annually).

The Legislature intends that the State Library be allowed to replace up to three bookmobiles with funding from existing appropriations.

INSURANCE DEPARTMENT

Item 48

To Insurance Department - Bail Bond Program

From General Fund Restricted - Bail Bond Surety Administration	34,900
Schedule of Programs:	
Bail Bond Program	34,900

The Legislature intends that the Insurance Department report on the following performance measures for the Insurance Bail Bond Program line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 49

To Insurance Department - Health Insurance Actuary

From General Fund Restricted - Health Insurance Actuarial Review	200,000
From Beginning Nonlapsing Balances	116,000
From Closing Nonlapsing Balances	(51,700)
Schedule of Programs:	
Health Insurance Actuary	264,300

The Legislature intends that the Insurance Department report on the following

performance measures for the Health Insurance Actuary (Risk Adjuster) line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: timeliness of processing rate filings (Target = 95% within 45 days).

Item 50

To Insurance Department - Insurance Department Administration

From Federal Funds	1,301,600
From Dedicated Credits Revenue	8,700
From General Fund Restricted - Captive Insurance	1,043,300
From General Fund Restricted - Criminal Background Check	165,000
From General Fund Restricted - Guaranteed Asset Protection Waiver ..	129,100
From General Fund Restricted - Insurance Department Account	8,297,000
From General Fund Restricted - Insurance Fraud Investigation Acct	2,380,800
From General Fund Restricted - Relative Value Study Account	119,000
From General Fund Restricted - Technology Development	628,900
From Beginning Nonlapsing Balances	3,101,000
From Closing Nonlapsing Balances ...	(3,272,100)

Schedule of Programs:

Administration	9,494,300
Captive Insurers	1,113,700
Criminal Background Checks	165,000
Electronic Commerce Fee	636,500
GAP Waiver Program	99,100
Insurance Fraud Program	2,329,700
Relative Value Study	64,000

The Legislature intends that the Insurance Department report on the following performance measures for the Insurance Administration line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services.”: 1) timeliness of processing work product (Target = 95% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 51

To Insurance Department - Title Insurance Program

From General Fund	4,400
From General Fund Restricted - Title Licensee Enforcement Account	122,300
From Beginning Nonlapsing Balances	79,600
From Closing Nonlapsing Balances	(79,000)

Schedule of Programs:

Title Insurance Program	127,300
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The Legislature intends that the Insurance Department report on the following performance measures for the Title Insurance Program line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

LABOR COMMISSION

Item 52

To Labor Commission

From General Fund	6,429,100
From Federal Funds	2,799,000
From Dedicated Credits Revenue	102,700
From Employers’ Reinsurance Fund	78,900
From General Fund Restricted - Industrial Accident Rest. Account ...	3,334,100
From General Fund Restricted - Workplace Safety Account	1,640,200
From Beginning Nonlapsing Balances ...	127,600

Schedule of Programs:

Adjudication	1,436,800
Administration	1,982,900
Antidiscrimination and Labor	2,241,100
Boiler, Elevator and Coal Mine Safety Division	1,600,900
Building Operations and Maintenance	160,000
Industrial Accidents	2,083,600
Utah Occupational Safety and Health	3,788,100
Workplace Safety	1,218,200

The Legislature intends that the Utah Labor Commission report by October 15, 2018, on the following performance measures for the Labor Commission line item, whose mission is to achieve safety in Utahs workplaces and fairness in employment and housing: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

PUBLIC SERVICE COMMISSION

Item 53

To Public Service Commission

From Dedicated Credits Revenue	600
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From General Fund Restricted - Public
 Utility Restricted Account 2,519,500
 From Revenue Transfers 9,500
 From Beginning Nonlapsing Balances ... 570,900
 From Closing Nonlapsing Balances (466,500)
 Schedule of Programs:
 Administration 2,605,300
 Building Operations and
 Maintenance 28,700

The Legislature intends that the Public Service Commission report by October 15, 2019 on the following performance measures for the Public Service Commission line item, whose mission is to provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service: (1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utah public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0); to the Business, Economic Development, and Labor Appropriations Subcommittee.

UTAH STATE TAX COMMISSION

Item 54

To Utah State Tax Commission -
 License Plates Production
 From Dedicated Credits Revenue 3,521,400
 From Beginning Nonlapsing Balances 63,200
 From Closing Nonlapsing Balances (18,000)
 Schedule of Programs:
 License Plates Production 3,566,600

Item 55

To Utah State Tax Commission -
 Liquor Profit Distribution
 From General Fund Restricted -
 Alcoholic Beverage Enforcement
 and Treatment Account 5,856,100
 Schedule of Programs:
 Liquor Profit Distribution 5,856,100

Item 56

To Utah State Tax Commission - Rural
 Health Care Facilities Distribution
 From General Fund Restricted -
 Rural Healthcare Facilities Account ... 218,900
 Schedule of Programs:
 Rural Health Care Facilities
 Distribution 218,900

Item 57

To Utah State Tax Commission -
 Tax Administration
 From General Fund 28,140,700
 From Education Fund 21,690,200
 From Transportation Fund 5,857,400
 From Federal Funds 581,200
 From Dedicated Credits Revenue 7,109,900
 From General Fund Restricted -
 Electronic Payment Fee Rest. Acct .. 7,109,700

From General Fund Restricted -
 Motor Vehicle Enforcement Division
 Temporary Permit Account 4,070,700
 From General Fund Restricted - Sales
 and Use Tax Admin Fees 10,933,000
 From General Fund Restricted -
 Tobacco Settlement Account 18,500
 From Revenue Transfers 163,700
 From Uninsured Motorist Identification
 Restricted Account 136,400
 From Beginning Nonlapsing
 Balances 1,000,000
 Schedule of Programs:

 Administration Division 10,698,400
 Auditing Division 12,283,400
 Motor Vehicle Enforcement
 Division 4,258,800
 Motor Vehicles 24,018,500
 Multi-State Tax Compact 282,200
 Property Tax Division 5,307,700
 Seasonal Employees 161,800
 Tax Payer Services 11,620,300
 Tax Processing Division 6,826,000
 Technology Management 11,354,300

The Legislature intends that the Utah State Tax Commission report by October 15th, 2019 on the following performance measures for the Tax Administration line item, whose mission is to collect revenues for the state and local governments and to equitably administer tax and assigned motor vehicle laws: (1) Tax returns processed electronically (Target = 81%), (2) Closed Delinquent Accounts from assigned inventory (Target 5% improvement), (3) Motor Vehicle Large Office Wait Times (Target: 94% served in 20 minutes or less) to the Business, Labor, and Economic Development Appropriations Subcommittee.

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 58

To Utah Science Technology and Research
 Governing Authority - Grant Programs
 From General Fund 9,220,000
 Schedule of Programs:
 Energy Research Triangle 380,000
 Industry Partnership Program 2,375,000
 Science and Technology Initiation
 Grants 190,000
 Technology Acceleration Program ... 4,275,000
 University Technology Acceleration
 Grant 2,000,000

The Legislature intends that The Utah Science Technology Research (USTAR) initiative report on the following performance measures for the USTAR Grant Programs, whose mission is to serve as a resource for technology entrepreneurs to connect with resources for developing their technology, gaining access to public and private funding and growing their businesses.: (1) number of "High-Quality" jobs created (Target = 50), (2) percentage of grant recipients client companies receiving follow-on investment (50%), and (3) percentage of grant recipients

that introduce new products (Target = 20%) by October 15, 2019 to the Business, Economic Development, and Labor (BEDL) Appropriations Subcommittee.

The Legislature intends that Utah Science Technology and Research (USTAR) will report to the Business, Economic Development, and Labor Appropriations Subcommittee before October 31, 2018 any savings in the Research Capacity Building line item associated with a reduction in payment of subsidized salaries ahead of the current schedule. The subcommittee shall at that point consider the savings for transfer to the USTAR Grants line item via supplemental appropriation.

Item 59

To Utah Science Technology and Research
Governing Authority - Research Capacity Building

From General Fund	6,519,000
From Beginning Nonlapsing Balances	4,850,000
Schedule of Programs:	
U of U Legacy Salary	4,200,000
U of U Legacy Support	120,000
U of U Start Up, Carry Over, Commercialization	1,369,000
USU Legacy Salary	775,000
USU Legacy Support	305,000
USU Start Up, Carry Over, Commercialization	4,600,000

The Legislature intends that The Utah Science Technology Research (USTAR) initiative report on the following performance measures for the USTAR Research Capacity Building line item, whose mission is help research universities honor commitments to USTAR principal researchers : (1) percent of USTAR principal researchers receiving grants from non-State entities (Target = 100%); (2) increase in amount of research and development (R&D) funds from USTAR Principle Researchers compared to prior year (Target = 10% increase) and (3) increase in the technology disclosures compared to the prior year (Target = 10% increase) by October 15, 2019 to the Business, Economic Development, and Labor (BEDL) Appropriations Subcommittee.

Item 60

To Utah Science Technology and Research
Governing Authority - Support Programs

From General Fund	3,280,300
From Dedicated Credits Revenue	15,800
Schedule of Programs:	
Incubation Programs	2,178,500
Regional Outreach	783,700
SBIR/STTR Assistance Center	333,900

The Legislature intends that The Utah Science Technology Research (USTAR) initiative report on the following performance measures for the USTAR Support Programs, whose mission is to serve as a resource for technology entrepreneurs to connect with

resources for developing their technology, gaining access to public and private funding and growing their businesses: (1) USTAR assisted companies portion of total Utah SBIR-STTR Grant Obligations (Target = 5%), (2) number of "High-Quality" jobs created (Target = 20), (3) number of USTAR client companies assisted (Target = 150), and (4) percentage of USTAR client companies receiving follow-on investment (Target = 30%), by October 15, 2019 to the Business, Economic Development, and Labor (BEDL) Appropriations Subcommittee.

Item 61

To Utah Science Technology and Research
Governing Authority - USTAR Administration

From General Fund	1,726,300
From Dedicated Credits Revenue	431,100
From Beginning Nonlapsing Balances	50,000
Schedule of Programs:	
Administration	566,100
Project Management & Compliance	1,641,300

The Legislature intends that The Utah Science Technology Research (USTAR) initiative report on the following performance measures for the USTAR Administration line item, whose mission is to accelerate the commercialization of science and technology ideas generated from the private sector, entrepreneurial and university researchers in order to positively elevate tax revenue, employment and corporate retention in the State of Utah: (1) percent of USTAR appropriation used for administration expenditures (Target =4%), (2) number of unique visitors to website (Target = 4,000), (3) staff professional development participation (Target = 100%), and (4) Confluence (USTAR annual meeting) attendance (Target=150) by October 15, 2019 to the Business, Economic Development, and Labor (BEDL) Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 62

To Department of Commerce -
Architecture Education and Enforcement Fund

From Licenses/Fees	2,400
From Beginning Fund Balance	31,300
From Closing Fund Balance	(23,700)
Schedule of Programs:	
Architecture Education and Enforcement Fund	10,000

Item 63

To Department of Commerce -
 Consumer Protection Education
 and Training Fund
 From Licenses/Fees 160,000
 From Beginning Fund Balance 500,000
 From Closing Fund Balance (500,000)
 Schedule of Programs:
 Consumer Protection Education
 and Training Fund 160,000

Item 64

To Department of Commerce -
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund
 From Licenses/Fees 50,000
 From Interest Income 1,000
 From Beginning Fund Balance 79,900
 From Closing Fund Balance (58,700)
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund 72,200

Item 65

To Department of Commerce -
 Land Surveyor/Engineer Education
 and Enforcement Fund
 From Licenses/Fees 71,500
 From Beginning Fund Balance 100,000
 From Closing Fund Balance (100,000)
 Schedule of Programs:
 Land Surveyor/Engineer Education
 and Enforcement Fund 71,500

Item 66

To Department of Commerce -
 Landscapes Architects Education
 and Enforcement Fund
 From Beginning Fund Balance 8,400
 From Closing Fund Balance (7,800)
 Schedule of Programs:
 Landscapes Architects Education
 and Enforcement Fund 600

Item 67

To Department of Commerce -
 Physicians Education Fund
 From Licenses/Fees 22,000
 From Interest Income 900
 From Beginning Fund Balance 100,000
 From Closing Fund Balance (100,000)
 Schedule of Programs:
 Physicians Education Fund 22,900

Item 68

To Department of Commerce - Real
 Estate Education, Research, and
 Recovery Fund
 From Licenses/Fees 106,200
 From Beginning Fund Balance 710,000
 From Closing Fund Balance (596,200)
 Schedule of Programs:
 Real Estate Education, Research,
 and Recovery Fund 220,000

Item 69

To Department of Commerce - Residence
 Lien Recovery Fund
 From Licenses/Fees 238,000
 From Beginning Fund Balance 1,750,700

From Closing Fund Balance (1,693,700)
 Schedule of Programs:
 Residence Lien Recovery Fund 295,000

Item 70

To Department of Commerce -
 Residential Mortgage Loan Education,
 Research, and Recovery Fund
 From Licenses/Fees 150,000
 From Interest Income 6,000
 From Beginning Fund Balance 575,000
 From Closing Fund Balance (613,000)
 Schedule of Programs:
 RMLERR Fund 118,000

Item 71

To Department of Commerce - Securities
 Investor Education/Training/Enforcement Fund
 From Licenses/Fees 150,000
 From Beginning Fund Balance 215,700
 From Closing Fund Balance (225,700)
 Schedule of Programs:
 Securities Investor Education/
 Training/Enforcement Fund 140,000

**GOVERNOR'S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 72

To Governor's Office of Economic Development -
 Outdoor Recreation Infrastructure Account
 From Dedicated Credits Revenue 4,958,100
 From Beginning Fund Balance 1,500,000
 From Closing Fund Balance (1,500,000)
 Schedule of Programs:
 Outdoor Recreation Infrastructure
 Account 4,958,100

Item 73

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

Item 74

To Governor's Office of Economic Development -
 Transient Room Tax Fund
 From Revenue Transfers 1,384,900
 Schedule of Programs:
 Transient Room Tax Fund 1,384,900

DEPARTMENT OF HERITAGE AND ARTS

Item 75

To Department of Heritage and Arts -
 History Donation Fund
 From Beginning Fund Balance 314,300
 From Closing Fund Balance (314,300)

Item 76

To Department of Heritage and Arts -
 State Arts Endowment Fund
 From Dedicated Credits Revenue 10,500
 From Interest Income 1,500
 From Beginning Fund Balance 360,300
 From Closing Fund Balance (372,300)

Item 77

To Department of Heritage and Arts - State
 Library Donation Fund
 From Dedicated Credits Revenue 10,400

From Beginning Fund Balance 1,134,900
 From Closing Fund Balance (1,134,900)
 Schedule of Programs:
 State Library Donation Fund 10,400

INSURANCE DEPARTMENT

Item 78

To Insurance Department - Insurance
 Fraud Victim Restitution Fund
 From Licenses/Fees 450,000
 From Beginning Fund Balance 203,700
 From Closing Fund Balance (253,700)
 Schedule of Programs:
 Insurance Fraud Victim Restitution
 Fund 400,000

Item 79

To Insurance Department - Title Insurance
 Recovery Education and Research Fund
 From Dedicated Credits Revenue 48,000
 From Beginning Fund Balance 533,300
 From Closing Fund Balance (538,800)
 Schedule of Programs:
 Title Insurance Recovery Education
 and Research Fund 42,500

PUBLIC SERVICE COMMISSION

Item 80

To Public Service Commission - Universal
 Public Telecom Service
 From Dedicated Credits Revenue 15,320,500
 From Beginning Fund Balance 6,873,000
 From Closing Fund Balance (7,460,700)
 Schedule of Programs:
 Universal Public Telecommunications
 Service Support 14,732,800

The Legislature intends that the Public Service Commission report by October 15, 2019 on the following performance measures for the Universal Telecommunications Support Fund line item, whose mission is to provide balanced operation of the fund that is nondiscriminatory and competitively and technologically neutral, neither providing a competitive advantage for, nor imposing a competitive disadvantage upon, any telecommunications provider operating in Utah: (1) Number of months within a fiscal year during which the Fund did not maintain a balance equal to at least three months of fund payments (Target = 0); (2) Number of times a change to the fund surcharge occurred more than once every three fiscal years (Target = 0); (3) Total adoption and usage of Telecommunications Relay Service and Caption Telephone Service within a fiscal year (Target = 50,000); to the Business, Economic Development, and Labor Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

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

indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INSURANCE DEPARTMENT

Item 81

To Insurance Department - Individual & Small
 Employer Risk Adjustment Enterprise Fund
 From Licenses/Fees 265,000
 Schedule of Programs:
 Individual & Small Employer
 Risk Adjustment Enterprise 265,000

Subsection 2(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 82

To General Fund Restricted - Industrial
 Assistance Account
 From Interest Income 250,000
 From Revenue Transfers (252,900)
 From Beginning Nonlapsing
 Balances 17,597,000
 From Closing Nonlapsing
 Balances (14,094,100)
 Schedule of Programs:
 General Fund Restricted - Industrial
 Assistance Account 3,500,000

“The Legislature finds and declares that the fostering and development of industry in Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its economy, and adequate employment for its citizens.” Funds within the IAF are used for corporate recruitment, including workforce training, economic opportunities, and rural development. 1) Cap ex, ratio of private funding to public funding, should exceed 2:1 for all programs; and 2) Jobs numbers will be audited for sustainability seeking 90% retention after 5 years; and 3) Total businesses served by the Industrial Assistance Fund is targeted to increase by 5% annually.

Item 83

To General Fund Restricted - Native
 American Repatriation Restricted Account
 From General Fund 20,000
 From Beginning Nonlapsing Balances 40,000
 Schedule of Programs:
 General Fund Restricted -
 Native American Repatriation
 Restricted Account 60,000

Item 84

To General Fund Restricted - Motion
 Picture Incentive Fund
 From General Fund 1,300,000
 Schedule of Programs:

General Fund Restricted - Motion
Picture Incentive Fund 1,300,000

signature, or in the case of a veto, the date of
override. Section 2 of this bill takes effect on
July 1, 2018.

Item 85

To General Fund Restricted -
National Professional Men's
Soccer Team Support of Building
Communities
From Dedicated Credits Revenue 100,000
Schedule of Programs:
General Fund Restricted - National
Professional Men's Soccer Team
Support of Building Communities ... 100,000

Item 86

To General Fund Restricted - Rural Health
Care Facilities Fund
From General Fund 218,900
Schedule of Programs:
General Fund Restricted - Rural
Health Care Facilities Fund 218,900

Item 87

To General Fund Restricted - Tourism
Marketing Performance Fund
From General Fund 24,000,000
Schedule of Programs:
General Fund Restricted - Tourism
Marketing Performance 24,000,000

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

LABOR COMMISSION

Item 88

To Labor Commission - Employers
Reinsurance Fund
From Dedicated Credits Revenue 4,652,200
From Premium Tax Collections 17,247,000
From Beginning Fund Balance 11,078,900
From Closing Fund Balance (19,998,800)
Schedule of Programs:
Employers Reinsurance Fund 12,979,300

Item 89

To Labor Commission - Uninsured
Employers Fund
From Dedicated Credits Revenue 1,075,000
From Other Financing Sources 4,564,000
From Beginning Fund Balance 11,840,800
From Closing Fund Balance (11,827,000)
Schedule of Programs:
Uninsured Employers Fund 5,652,800

Item 90

To Labor Commission - Wage Claim Agency Fund
From Beginning Fund Balance 16,505,200
From Closing Fund Balance (16,055,200)
Schedule of Programs:
Wage Claim Agency Fund 450,000

Section 3. Effective Date.

If approved by two-thirds of all the
members elected to each house, Section 1 of
this bill takes effect upon approval by the
Governor, or the day following the
constitutional time limit of Utah Constitution
Article VII, Section 8 without the Governor's

CHAPTER 16

S. B. 5

Passed February 6, 2018
 Approved February 21, 2018
 Effective May 8, 2018

RETIREMENT AND INDEPENDENT ENTITIES BASE BUDGET

Chief Sponsor: Brian Zehnder
 House Sponsor: LaVar Christensen

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$8,601,100 in operating and capital budgets for fiscal year 2018, including:

- ▶ (\$750,000) from the Education Fund;
- ▶ \$9,351,100 from various sources as detailed in this bill.

This bill appropriates \$49,993,500 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$1,096,000 from the General Fund;
- ▶ \$23,776,700 from the Education Fund;
- ▶ \$25,120,800 from various sources as detailed in this bill.

This bill appropriates \$14,203,900 in business-like activities for fiscal year 2019.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
 Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums

of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAREER SERVICE REVIEW OFFICE

Item 1

To Career Service Review Office
 From Closing Nonlapsing Balances (30,000)
 Schedule of Programs:
 Career Service Review Office (30,000)

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$30,000 of appropriations provided for the Career Service Review Office in Laws of Utah 2017, Chapter 3, Item 4 shall not lapse at the close of fiscal year 2018. The use of any nonlapsing funds is limited to grievance resolution.

The Legislature intends that the Career Service Review Office report on the following performance measure: (1) days to issue a jurisdictional decision (Target=15 or less), (2) days to conduct an evidentiary hearing (Target=150 or less), and (3) working days to issue the evidentiary hearing written decision (Target=20 or less) by October 31, 2018 to the Retirement and Independent Entities Appropriations Subcommittee.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 2

To Department of Human Resource Management - Human Resource Management
 From Dedicated Credits Revenue,
 One-Time 40,000
 From Closing Nonlapsing Balances (41,300)
 Schedule of Programs:
 ALJ Compliance (17,500)
 Statewide Management Liability
 Training 16,200

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$70,000 of appropriations provided for the Department of Human Resource Management in Laws of Utah 2017, Chapter 3, Item 3 shall not lapse at the close of fiscal year 2018. The use of any nonlapsing funds is limited to \$50,000 for statewide management training and \$20,000 for administrative law judge compliance.

The Legislature intends that the Department of Human Resource Management report on the following performance measures for the Human Resource Management line item: (1) percent of administrative law judge evaluations completed on time (Target=100%), (2) number of graduates from the Certified Public Manager course (Target=70), and (3) number of participant hours in leadership classes (Target=2,500) by October 31, 2018 to the Retirement and Independent Entities Appropriations Subcommittee.

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 3

To Utah Education and Telehealth Network - Digital Teaching and Learning Program From Beginning Nonlapsing Balances 3,006,600 From Closing Nonlapsing Balances ... (1,035,100) Schedule of Programs: Digital Teaching and Learning Program 1,971,500

Item 4

To Utah Education and Telehealth Network From Education Fund, One-Time (750,000) From Dedicated Credits Revenue, One-Time (1,073,300) From Other Financing Sources, One-Time (113,000) From Beginning Nonlapsing Balances 10,342,800 From Closing Nonlapsing Balances ... (1,745,600) Schedule of Programs: Administration 1,805,900 Course Management Systems (205,000) Instructional Support 2,199,100 KUEN Broadcast (142,600) Operations and Maintenance 1,700 Public Information 23,200 Technical Services 2,833,400 Utah Telehealth Network 145,200

The Legislature intends that the Utah Education and Telehealth Network report on the following performance measures: (1) Circuit connections to institutions, with a FY 2018 target of 97%; (2) Number of interactive video conferences (IVC) occurring over the Utah Education Network IVC systems, with a FY 2018 target of 40,000 classes delivered over the UEN System; and (3) The percentage of customers using the shared-cost Utah Education Network course management system, with a FY 2018 target of 25% for K-12 customers by October 31, 2018 to the Retirement and Independent Entities Appropriations Subcommittee.

Subsection 1(b). Business-like Activities.

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

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 5

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

The Legislature intends that the Department of Human Resource Management report on the following performance measures for the DHRM Internal Service Fund line item: (1) days of operating expenses held in retained earnings (Target=60 or less), (2) ratio of HR staff to customer agency staff (Target=30% or more below industry average), and (3) customer agency satisfaction rate (Target=85%) by October 31, 2018 to the Retirement and Independent Entities Appropriations Subcommittee.

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAREER SERVICE REVIEW OFFICE

Item 6

To Career Service Review Office From General Fund 279,100 From Beginning Nonlapsing Balances ... 30,000 From Closing Nonlapsing Balances (30,000) Schedule of Programs: Career Service Review Office 279,100

Item 7

To Career Service Review Office From General Fund (5,000) From General Fund, One-Time 2,000 Schedule of Programs: Career Service Review Office (3,000)

To implement the provisions of Career Service Review Office Amendments (House Bill 183, 2018 General Session).

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 8

To Department of Human Resource Management - Human Resource Management From General Fund 20,000 From Dedicated Credits Revenue 240,000 From Beginning Nonlapsing Balances ... 41,300 From Closing Nonlapsing Balances (15,000) Schedule of Programs: ALJ Compliance 22,500 Statewide Management Liability Training 263,800

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 9

To Utah Education and Telehealth Network - Digital Teaching and Learning Program From Education Fund 160,000 From Beginning Nonlapsing Balances 1,035,100

Schedule of Programs:
 Digital Teaching and Learning
 Program 1,195,100

Item 10

To Utah Education and Telehealth Network
 From General Fund 799,900
 From Education Fund 23,616,700
 From Federal Funds 4,054,000
 From Dedicated Credits Revenue 16,635,600
 From Beginning Nonlapsing
 Balances 3,881,000
 From Closing Nonlapsing Balances (751,200)

Schedule of Programs:
 Administration 5,889,000
 Course Management Systems 881,100
 Instructional Support 3,391,900
 KUEN Broadcast 521,100
 Operations and Maintenance 407,200
 Public Information 296,800
 Technical Services 35,154,600
 Utah Telehealth Network 1,694,300

Subsection 2(b). Business-like Activities.

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

**DEPARTMENT OF HUMAN
 RESOURCE MANAGEMENT**

Item 11

To Department of Human Resource Management -
 Human Resources Internal Service Fund
 From Dedicated Credits Revenue 14,203,900

Schedule of Programs:
 Administration 727,500
 Information Technology 989,700
 ISF - Core HR Services 240,500
 ISF - Field Services 11,082,600
 ISF - Payroll Field Services 678,600
 Policy 485,000
 Budgeted FTE 145.0
 Authorized Capital Outlay 1,500,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

CHAPTER 17

S.B. 6

Passed February 6, 2018
 Approved February 21, 2018
 Effective May 8, 2018

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

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

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates (\$16,877,800) in operating and capital budgets for fiscal year 2018, including:

- ▶ \$47,000 from the General Fund;
- ▶ (\$16,924,800) from various sources as detailed in this bill.

This bill appropriates \$27,000,000 in restricted fund and account transfers for fiscal year 2018.

This bill appropriates \$2,345,049,300 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$201,530,800 from the General Fund;
- ▶ \$108,915,800 from the Education Fund;
- ▶ \$2,034,602,700 from various sources as detailed in this bill.

This bill appropriates \$3,254,900 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$280,343,000 in business-like activities for fiscal year 2019.

This bill appropriates \$85,304,500 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$73,313,200 from the General Fund;
- ▶ \$11,991,300 from the Education Fund.

This bill appropriates \$14,975,700 in transfers to unrestricted funds for fiscal year 2019.

This bill appropriates \$2,478,600 in fiduciary funds for fiscal year 2019.

This bill appropriates \$1,249,182,800 in capital project funds for fiscal year 2019.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
 Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 1

To Department of Administrative Services -
 Administrative Rules
 From Beginning Nonlapsing Balances . . . 300,000
 From Closing Nonlapsing Balances (300,000)

Item 2

To Department of Administrative Services -
 Finance - Mandated - Ethics Commission
 From General Fund, One-Time 47,000
 From Beginning Nonlapsing Balances 17,500
 From Closing Nonlapsing Balances (17,500)
 Schedule of Programs:

Political Subdivisions Ethics
 Commission 47,000

Item 3

To Department of Administrative Services -
 Finance Administration
 From Dedicated Credits Revenue,
 One-Time (49,300)
 From State Debt Collection Fund,
 One-Time (100,000)
 Schedule of Programs:
 Finance Director's Office (100,000)
 Financial Reporting (49,300)

CAPITAL BUDGET

Item 4

To Capital Budget - Pass-Through
 The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, and/or Soldier Hollow Nordic Center.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 5

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From Transportation Investment Fund
 of 2005, One-Time 3,139,300
 From County of First Class Highway
 Projects Fund, One-Time 1,701,100
 From Closing Nonlapsing Balances 6,934,300
 Schedule of Programs:
 G.O. Bonds - Transportation 11,774,700

DEPARTMENT OF TECHNOLOGY SERVICES

Item 6

To Department of Technology Services -
 Integrated Technology Division
 From Federal Funds, One-Time 1,132,300
 Schedule of Programs:
 Automated Geographic Reference
 Center 1,132,300

TRANSPORTATION

Item 7

To Transportation - Construction Management
 From Designated Sales Tax,
 One-Time (46,682,500)
 Schedule of Programs:
 Federal Construction - New (46,682,500)

Item 8

To Transportation - Engineering Services
 From Federal Funds, One-Time 15,500,000
 Schedule of Programs:
 Program Development 14,000,000
 Research 1,500,000

Item 9

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund, One-Time .. 238,000
 Schedule of Programs:
 Region 4 238,000

Item 10

To Transportation - Region Management
 From Transportation Fund,
 One-Time (238,000)
 Schedule of Programs:
 Cedar City (120,100)
 Region 4 (117,900)

Item 11

To Transportation - Support Services
 From Federal Funds, One-Time 1,500,000
 Schedule of Programs:
 Ports of Entry 1,500,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 12

To Department of Administrative Services -
 State Debt Collection Fund
 From Beginning Fund Balance (317,500)
 From Closing Fund Balance 317,500

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to

transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 13

To Impacted Communities Transportation
 Development Restricted Account
 From General Fund Restricted -
 Mineral Lease, One-Time 27,000,000
 Schedule of Programs:
 Impacted Communities
 Transportation Development
 Restricted Account 27,000,000

The Legislature intends that the Department of Workforce Services transfer from the Permanent Community Impact Fund to the Impacted Communities Transportation Development Restricted Account the full amount of Mineral Lease Account deposits designated under UCA 59-21-2, an amount up to but not exceeding \$27,000,000.

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 14

To Department of Administrative Services -
 Administrative Rules
 From General Fund 436,200
 From Beginning Nonlapsing Balances ... 171,900
 From Closing Nonlapsing Balances (52,100)
 Schedule of Programs:
 DAR Administration 556,000

The Legislature intends that the Department of Administrative Services report on the following performance measures for the Office of Administrative Rules line item, whose mission is to enable citizen participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act. (1) Timely publication of Utah State Bulletin. (Baseline: 1st and 15th; Target: 1 day prior to rule deadline requirement), (2) Average number of business days to review rule filings (Baseline: 9 days; Target: 6 days). (3) Average number of days to update the Utah Administrative Code on the Internet (Baseline: 21 days; Target: 10 days),

Item 15

To Department of Administrative Services -
 Building Board Program

From Capital Projects Fund 1,286,200
 From Beginning Nonlapsing Balances 30,100
 From Closing Nonlapsing Balances (30,100)
 Schedule of Programs:
 Building Board Program 1,286,200

Item 16

To Department of Administrative Services -
 DFCM Administration
 From General Fund 2,981,500
 From Dedicated Credits Revenue 879,800
 From Capital Projects Fund 2,227,100
 From Beginning Nonlapsing Balances . . . 159,800
 From Closing Nonlapsing Balances (30,000)
 Schedule of Programs:
 DFCM Administration 5,546,300
 Energy Program 519,800
 Governor's Residence 152,100

The Legislature intends that the Department of Administrative Services report on the following performance measures for the DFCM Administration line item, whose mission is to provide professional services to assist State entities in meeting their facility needs for the benefit of the public. (1) Capital Improvement Projects completed in the fiscal year they are funded (Baseline: 84%; Target: 86% or above), (2) Space utilization evaluations complete. (Baseline: 0 square feet; Target: 800,000 square feet).

Item 17

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

Item 18

To Department of Administrative Services -
 Executive Director
 From General Fund 1,121,900
 From Beginning Nonlapsing Balances . . . 272,500
 From Closing Nonlapsing Balances (208,300)
 Schedule of Programs:
 Executive Director 1,186,100

The Legislature intends that the Department of Administrative Services report on the following performance measures for the Executive Directors Office line item, whose mission is to deliver support services of the highest quality and best value to government agencies and the public. (1) Independent evaluation/audit of divisions/key programs. (Baseline: 2 annually; Target: 4) (2) Increase in number of energy conscious/air quality improvement activities across state agencies; (Baseline 12; Target: 24); (See Section 63A-1-116).

Item 19

To Department of Administrative Services -
 Finance - Mandated
 From General Fund 4,500,000

From General Fund Restricted - Economic Incentive Restricted Account 3,255,000
 From General Fund Restricted - Land Exchange Distribution Account . . 611,200
 Schedule of Programs:
 Development Zone Partial Rebates . . 3,255,000
 Land Exchange Distribution 611,200
 State Employee Benefits 4,500,000

Item 20

To Department of Administrative Services -
 Finance - Mandated - Ethics Commission
 From General Fund 9,000
 From Beginning Nonlapsing Balances . . . 20,600
 From Closing Nonlapsing Balances (7,700)
 Schedule of Programs:
 Executive Branch Ethics Commission . . 15,900
 Political Subdivisions Ethics Commission 6,000

Item 21

To Department of Administrative Services -
 Finance - Mandated - Parental Defense
 From General Fund 95,200
 From Dedicated Credits Revenue 45,000
 From Revenue Transfers 9,000
 From Beginning Nonlapsing Balances . . . 12,700
 From Closing Nonlapsing Balances (16,900)
 Schedule of Programs:
 Parental Defense 145,000

Item 22

To Department of Administrative Services -
 Finance Administration
 From General Fund 6,968,300
 From Transportation Fund 451,200
 From Dedicated Credits Revenue 1,728,600
 From General Fund Restricted - Internal Service Fund Overhead 1,303,200
 From Beginning Nonlapsing Balances 1,324,600
 Schedule of Programs:
 Finance Director's Office 645,900
 Financial Information Systems 3,736,000
 Financial Reporting 1,992,400
 Payables/Disbursing 1,979,300
 Payroll 1,865,700
 Technical Services 1,556,600

The Legislature intends that the Department of Administrative Services report on the following performance measures for the Finance Administration line item, whose mission is to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information. (1) Increase the percentage of participating entities posting information to the transparency website (Baseline: 92% of participating entities; Target: 100% of participating entities).

Item 23

To Department of Administrative Services -
 Inspector General of Medicaid Services
 From General Fund 1,189,200
 From Revenue Transfers 2,331,100
 From Beginning Nonlapsing Balances . . . 185,700
 From Closing Nonlapsing Balances (152,700)
 Schedule of Programs:

Inspector General of Medicaid
 Services 3,553,300

Item 24

To Department of Administrative Services -
 Judicial Conduct Commission
 From General Fund 262,200
 From Beginning Nonlapsing Balances 35,400
 From Closing Nonlapsing Balances (26,500)
 Schedule of Programs:
 Judicial Conduct Commission 271,100

Item 25

To Department of Administrative Services -
 Post Conviction Indigent Defense
 From General Fund 33,900
 From Beginning Nonlapsing Balances ... 187,500
 From Closing Nonlapsing Balances (187,500)
 Schedule of Programs:
 Post Conviction Indigent
 Defense Fund 33,900

Item 26

To Department of Administrative Services -
 Purchasing
 From General Fund 684,600
 From Lapsing Balance (25,400)
 Schedule of Programs:
 Purchasing and General Services 659,200

The Legislature intends that the Department of Administrative Services report on the following performance measures for the Division of Purchasing Administrative line item, whose mission is to provide our customers best value goods and services. (1) Increase the number of attendees at the Division of Purchasings quarterly training on the Utah Procurement Code for public procurement professionals; (Baseline: 155.5 quarterly; Target: 162); (2) Increase the number of State of Utah Best Value Cooperative Contracts for public entities use (Baseline: 875; Target: 940); (3) Increase the amount of contract spend on State of Utah Best Value Cooperative contracts; (Baseline: \$1,942,295,060; Target: 2B).

Item 27

To Department of Administrative Services -
 State Archives
 From General Fund 3,063,000
 From Federal Funds 40,000
 From Dedicated Credits Revenue 52,500
 From Beginning Nonlapsing Balances ... 231,400
 From Closing Nonlapsing Balances (275,500)
 Schedule of Programs:
 Archives Administration 926,700
 Open Records 751,000
 Patron Services 542,000
 Preservation Services 309,700
 Records Analysis 265,000
 Records Services 317,000

The Legislature intends that the Department of Administrative Services report on the following performance measures for the State Archives line item, whose mission is to assist Utah government agencies in the efficient management of their

records, to preserve those records of enduring value, and to provide quality access to public information: (1) Historic records, images and metadata, posted online and free to the public, through mass digitization, volume increased per patron research reporting period (Baseline: 16%; Target: 10% increase); (2) Government employees trained and certified in records management and GRAMA responsibilities per fiscal year (Baseline: 3.7%; Target: 10% increase).

CAPITAL BUDGET

Item 28

To Capital Budget - Capital Development -
 Higher Education
 From Capital Projects Fund,
 One-Time 77,940,000
 Schedule of Programs:
 Dixie State Human Performance
 Center 17,000,000
 U of U Rehabilitation Hospital 45,000,000
 Weber State Social Sciences
 Building 15,940,000

Item 29

To Capital Budget - Capital Development Fund
 From General Fund 40,000,000
 From General Fund, One-Time (9,000,000)
 From Education Fund 47,000,000
 Schedule of Programs:
 Capital Development Fund 78,000,000

Item 30

To Capital Budget - Capital Improvements
 From General Fund 57,153,000
 From Education Fund 61,915,800
 Schedule of Programs:
 Capital Improvements 119,068,800

Item 31

To Capital Budget - Pass-Through
 From General Fund 500,000
 Schedule of Programs:
 Olympic Park Improvement 500,000
 The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, and/or Soldier Hollow Nordic Center.

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

Item 32

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund 71,757,600
 From General Fund, One-Time 14,245,700
 From Transportation Investment
 Fund of 2005 288,711,200
 From Federal Funds 15,812,700
 From Dedicated Credits Revenue 17,356,900
 From County of First Class Highway
 Projects Fund 13,541,500
 From Revenue Transfers (14,245,700)
 From Beginning Nonlapsing Balances ... 931,500
 From Closing Nonlapsing Balances ... (1,179,900)
 Schedule of Programs:

G.O. Bonds - State Govt	71,534,600
G.O. Bonds - Transportation	316,498,400
Revenue Bonds Debt Service	18,898,500

DEPARTMENT OF TECHNOLOGY SERVICES

Item 33

To Department of Technology Services - Chief Information Officer

From General Fund	635,400
From Beginning Nonlapsing Balances	(850,000)
From Closing Nonlapsing Balances	850,000

Schedule of Programs:

Chief Information Officer	635,400
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The Legislature intends that the Department of Technology Services report by October 30, 2018 on the following performance measures for the Chief Information Officer line item, whose mission is to enable our partner agencies to securely leverage technology to better serve the residents of the State of Utah: (1) Data Security - ongoing systematic prioritization of high-risk areas across the state (Target = score below 5,000), (2) Application Development - collect satisfaction score on application development projects from agencies via scorecard (Target = average scorecard result 83%), and (3) Procurement and Deployment - ensure state employees receive computers in a timely manner (Target = 75%) to the Infrastructure and General Government Appropriations Subcommittee.

Item 34

To Department of Technology Services - Integrated Technology Division

From General Fund	1,006,500
From Federal Funds	240,000
From Dedicated Credits Revenue	974,300

From General Fund Restricted - Statewide Unified E-911 Emergency Account 334,700

Schedule of Programs:

Automated Geographic Reference Center	2,555,500
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The Legislature intends that the Department of Technology Services report by October 30, 2018 on the following performance measures for the Automated Geographic Reference Center (AGRC) line item, whose mission is to encourage and facilitate beneficial uses of geospatial information and technology for Utah: (1) Uptime for AGRC's portfolio of streaming geographic data web services and State Geographic Information Database connection services (Target 99.5% uptime), (2) The road centerline and addressing map data layer, required for Next Generation 911 services is published monthly to the State Geographic Information Database for use by 911, UDOT, the Blue Stakes underground utility notification center, other state and local agencies, and the US Census Bureau (Target: 120 county-sourced updates,

including 50 updates from Utah's class I and II counties), and (3) Uptime for AGRC's TURN GPS real-time, high precision geo-positioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (Target = 99.5% systemwide uptime) to the Infrastructure and General Government Appropriations Subcommittee.

TRANSPORTATION

Item 35

To Transportation - Aeronautics

From Dedicated Credits Revenue	390,300
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From Aeronautics Restricted Account 7,063,900

Schedule of Programs:

Administration	558,300
Aid to Local Airports	2,240,000
Airplane Operations	1,039,800
Airport Construction	3,536,100
Civil Air Patrol	80,000

Item 36

To Transportation - B and C Roads

From Transportation Fund	181,658,400
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Schedule of Programs:

B and C Roads	181,658,400
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Item 37

To Transportation - Construction Management

From Transportation Fund	168,499,700
From Federal Funds	283,527,700

From Dedicated Credits Revenue 1,550,000

Schedule of Programs:

Federal Construction - New	379,852,100
Rehabilitation/Preservation	73,725,300

Item 38

To Transportation - Cooperative Agreements

From Federal Funds	50,323,800
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From Dedicated Credits Revenue 19,897,100

Schedule of Programs:

Cooperative Agreements	70,220,900
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Item 39

To Transportation - Engineering Services

From Transportation Fund	23,155,100
From Federal Funds	32,787,400

From Dedicated Credits Revenue 1,179,300

Schedule of Programs:

Civil Rights	258,200
Construction Management	1,666,800
Engineer Development Pool	2,062,100
Engineering Services	2,842,500
Environmental	1,982,600
Highway Project Management Team	355,100
Materials Lab	5,171,000
Preconstruction Admin	1,827,800
Program Development	30,672,500
Research	4,339,800
Right-of-Way	2,527,300
Structures	3,416,100

Item 40

To Transportation - Mineral Lease

From General Fund Restricted - Mineral Lease	32,756,400
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Schedule of Programs:

Mineral Lease Payments	29,504,500
Payment in Lieu	3,251,900

Item 41

To Transportation - Operations/
Maintenance Management

From Transportation Fund	153,811,000
From Transportation Investment Fund of 2005	6,901,400
From Federal Funds	8,887,500
From Dedicated Credits Revenue	1,314,700

Schedule of Programs:

Equipment Purchases	7,598,700
Field Crews	13,338,200
Lands and Buildings	2,992,000
Maintenance Administration	13,735,100
Maintenance Planning	1,675,100
Region 1	21,643,300
Region 2	31,078,000
Region 3	20,657,300
Region 4	43,402,500
Seasonal Pools	1,222,800
Shops	72,300
Traffic Operations Center	10,190,100
Traffic Safety/Tramway	3,309,200

Item 42

To Transportation - Region Management

From Transportation Fund	25,255,900
From Federal Funds	2,995,800
From Dedicated Credits Revenue	1,180,900

Schedule of Programs:

Cedar City	443,800
Price	333,300
Region 1	6,132,800
Region 2	10,465,800
Region 3	5,316,200
Region 4	6,659,900
Richfield	80,800

Item 43

To Transportation - Safe Sidewalk Construction

From Transportation Fund	500,000
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Schedule of Programs:

Sidewalk Construction	500,000
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Item 44

To Transportation - Share the Road

From General Fund Restricted - Share the Road Bicycle Support	25,000
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Schedule of Programs:

Share the Road	25,000
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Item 45

To Transportation - Support Services

From General Fund	2,500,000
From Transportation Fund	33,107,100
From Federal Funds	3,576,300

Schedule of Programs:

Administrative Services	5,141,700
Building and Grounds	987,500
Community Relations	865,500
Comptroller	2,788,500
Data Processing	11,715,000
Human Resources Management	2,517,200
Internal Auditor	1,136,900
Ports of Entry	9,633,500
Procurement	1,190,200

Risk Management	3,207,400
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The Legislature intends that the Department of Transportation report by October 31, 2018 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of reducing crashes, injuries, and fatalities: (1) traffic fatalities (target: 2% reduction from 3-year rolling average); (2) traffic serious injuries (target: 2% reduction from 3-year rolling average); (3) traffic crashes (2% reduction from 3-year rolling average); (4) internal fatalities (target: zero); (5) internal injuries (target: injury rate below 6.5%); and (6) internal equipment damage (target: equipment damage rate below 7.5%). The department will use the strategies contained in the 2017 UDOT Strategic Direction Document to accomplish these targets including implementing safety infrastructure improvements, partnering with law enforcement and emergency services, improving employee safety, and public outreach and education.

The Legislature intends that the Department of Transportation report by October 31, 2018 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of preserving infrastructure: (1) pavement performance (target: 50% of pavements in good condition and less than 10% of pavements in poor condition); (2) maintain the health of structures (target: 80% in fair or good condition); (3) maintain the health of Automated Transportation Management Systems (ATMS) (target: 90% in good condition); and (4) maintain the health of signals (target: 90% in good condition). The department will use the strategies contained in the 2017 UDOT Strategic Direction Document to accomplish these targets including pavement management, bridge management, and ATMS/Signal system management.

The Legislature intends that the Department of Transportation report by October 31, 2018 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of optimizing mobility: (1) delay along I-15 (target: overall composite annual score above 90); (2) maintain a reliable fast condition on I-15 along the Wasatch Front (target: 85% of segments); (3) achieve optimal use of snow and ice equipment and materials (target: greater than 92% effectiveness); and (4) support increase of trips by public transit (target: 10%). The department will use the strategies contained in the 2017 UDOT Strategic Direction Document to accomplish these targets including; strategic capacity improvements, efficient operations, and facilitating travel choices.

Item 46

To Transportation – Transportation
 Investment Fund Capacity Program
 From Transportation Investment
 Fund of 2005 578,001,400
 Schedule of Programs:
 Transportation Investment
 Fund Capacity Program 578,001,400

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 47

To Department of Administrative Services –
 Child Welfare Parental Defense Fund
 From Beginning Fund Balance 32,500
 From Closing Fund Balance (20,600)
 Schedule of Programs:
 Child Welfare Parental Defense Fund ... 11,900

Item 48

To Department of Administrative Services –
 State Archives Fund
 From Beginning Fund Balance 2,600
 From Closing Fund Balance (2,600)

Item 49

To Department of Administrative Services –
 State Debt Collection Fund
 From Dedicated Credits Revenue 3,073,200
 From Trust and Agency Funds 1,600
 From Other Financing Sources 9,400
 From Beginning Fund Balance 157,700
 Schedule of Programs:
 State Debt Collection Fund 3,241,900

Item 50

To Department of Administrative Services –
 Wire Estate Memorial Fund
 From Dedicated Credits Revenue 1,700
 From Beginning Fund Balance 163,100
 From Closing Fund Balance (163,700)
 Schedule of Programs:
 Wire Estate Memorial Fund 1,100

Subsection 2(c). Business-like Activities.

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

amounts between funds and accounts as indicated.

**DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUND
 INTERNAL SERVICE FUNDS**

Item 51

To Department of Administrative Services Internal Service Fund Internal Service Funds – Division of Facilities Construction and Management – Facilities Management
 From Dedicated Credits Revenue 34,759,300
 From Beginning Fund Balance 2,291,000
 From Closing Fund Balance (3,386,100)
 Schedule of Programs:
 ISF – Facilities Management 33,664,200
 Budgeted FTE 160.0
 Authorized Capital Outlay 141,100

The Legislature intends that the Department of Administrative Services report on the following performance measures for the DFCM Facilities Management ISF line item, whose mission is “to provide professional building maintenance services to State facilities, agency customers, and the general public”. Average maintenance cost per square foot compared to the private sector. (Baseline: 25%; Target 18%).

Item 52

To Department of Administrative Services Internal Service Fund Internal Service Funds – Division of Finance
 From Dedicated Credits Revenue 2,112,400
 From Beginning Fund Balance (12,000)
 From Closing Fund Balance (71,000)
 Schedule of Programs:
 ISF – Consolidated Budget and
 Accounting 1,744,000
 ISF – Purchasing Card 285,400
 Budgeted FTE 20.0

Item 53

To Department of Administrative Services Internal Service Fund Internal Service Funds – Division of Fleet Operations
 From Dedicated Credits Revenue 55,094,300
 From Other Financing Sources 503,900
 From Beginning Fund Balance 13,577,600
 From Closing Fund Balance (15,577,500)
 Schedule of Programs:
 ISF – Fuel Network 25,121,800
 ISF – Motor Pool 27,957,300
 ISF – Travel Office 519,200
 Budgeted FTE 26.0
 Authorized Capital Outlay 19,300,000

The Legislature intends that the Department of Administrative Services report on the following performance measures for the Division of Fleet Operations line item, whose mission is emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options (1) Fleet administration costs as a percentage of division costs; (Baseline 1%; Target: <1%);(2)Reduce motor pool debt to the General Fund; (Baseline: 12.02% reduction;

Target: Additional 10%); (3) Provide access to an increasing number of fleet management reports and data through online Fleet Focus and COGNOS; (Baseline: 39 reports; Target: 45 reports).

Item 54

To Department of Administrative Services Internal Service Fund Internal Service Funds - Division of Purchasing and General Services

From Dedicated Credits Revenue	19,476,900
From Other Financing Sources	27,900
From Beginning Fund Balance	3,338,700
From Closing Fund Balance	(2,933,800)
Schedule of Programs:	
ISF - Central Mailing	12,423,700
ISF - Cooperative Contracting	4,025,900
ISF - Federal Surplus Property	78,800
ISF - Print Services	2,804,700
ISF - State Surplus Property	576,600
Budgeted FTE	93.0
Authorized Capital Outlay	4,070,000

Item 55

To Department of Administrative Services Internal Service Fund Internal Service Funds - Risk Management

From Dedicated Credits Revenue	27,500
From Premiums	40,495,500
From Interest Income	1,085,300
From Risk Management - Workers	
Compensation Fund	7,607,400
From Beginning Fund Balance	(6,598,300)
From Closing Fund Balance	8,211,100
Schedule of Programs:	
ISF - Risk Management	
Administration	203,000
ISF - Workers' Compensation	8,050,900
Risk Management - Auto	2,501,800
Risk Management - Liability	21,782,900
Risk Management - Property	18,289,900
Budgeted FTE	32.0
Authorized Capital Outlay	230,000

The Legislature intends that the Department of Administrative Services report on the following performance measures for the Division of Risk Management line item, whose mission is to protect State assets, to promote safety, and to control against property, liability, and auto losses. (1) Follow up on life safety findings on onsite inspections; (Baseline: 100%; Target: 100%); (2) Annual Independent Claims Management Audit; (Baseline: 95%; Target: 96%).

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUND
INTERNAL SERVICE FUNDS**

Item 56

To Department of Technology Services Internal Service Fund Internal Service Funds - Enterprise Technology Division

From Dedicated Credits Revenue	120,312,900
Schedule of Programs:	
ISF - Enterprise Technology	
Division	120,312,900

Budgeted FTE	733.0
Authorized Capital Outlay	6,000,000

The Legislature intends that the Department of Technology Services report by October 30, 2018 on the following performance measures for the Internal Service Fund line item, whose mission is to enable our partner agencies to securely leverage technology to better serve the residents of the State of Utah: (1) Customer Satisfaction Survey - measure the customers experience and satisfaction with IT services (Target =4.5 out of 5), (2) Application Availability - monitor DTS performance and availability of key agency business applications/systems (Target = 99%), and (3) Competitive Rates - ensure all DTS rates are market competitive or better (Target = 100%) to the Infrastructure and General Government Appropriations Subcommittee.

TRANSPORTATION

Item 57

To Transportation - Transportation

Infrastructure Loan Fund	
From Interest Income	522,200
From Beginning Fund Balance	25,663,000
From Closing Fund Balance	(26,185,200)

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 58

To Education Budget Reserve Account

From Education Fund, One-Time	11,991,300
Schedule of Programs:	
Education Budget Reserve	
Account	11,991,300

Item 59

To General Fund Budget Reserve Account

From General Fund, One-Time	73,313,200
Schedule of Programs:	
General Fund Budget Reserve	
Account	73,313,200

Subsection 2(e). Transfers to Unrestricted Funds.

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

Item 60

To General Fund

From Capital Projects Fund,	
One-Time	730,000
From Nonlapsing Balances -	
Debt Service	14,245,700
Schedule of Programs:	

General Fund, One-time 14,975,700

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

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 61

To Department of Administrative Services - Utah Navajo Royalties Holding Fund
From Trust and Agency Funds 4,208,600
From Beginning Fund Balance 74,047,200
From Closing Fund Balance (75,777,200)
Schedule of Programs:
Navajo Trust Fund 2,478,600

Subsection 2(g). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 62

To Capital Budget - DFCM Capital Projects Fund
From Revenue Transfers 185,568,800
From Beginning Fund Balance 104,065,000
From Closing Fund Balance (104,065,000)
Schedule of Programs:
DFCM Capital Projects Fund 185,568,800

Item 63

To Capital Budget - DFCM Prison Project Fund
From Other Financing Sources,
One-Time 201,515,000
From Beginning Fund Balance 126,992,900
From Closing Fund Balance (173,507,900)
Schedule of Programs:
DFCM Prison Project Fund 155,000,000

Item 64

To Capital Budget - SBOA Capital Projects Fund
From Other Financing Sources 10,903,600
From Beginning Fund Balance 27,211,400
From Closing Fund Balance (3,115,000)
Schedule of Programs:
SBOA Capital Projects Fund 35,000,000

TRANSPORTATION

Item 65

To Transportation - Transportation Investment Fund of 2005
From Transportation Fund 31,097,500
From Licenses/Fees 85,314,800
From Interest Income 596,700
From County of First Class Highway Projects Fund 4,379,200
From Designated Sales Tax 585,896,400
From Beginning Fund Balance 226,271,000
From Closing Fund Balance (59,941,600)
Schedule of Programs:
Transportation Investment Fund 873,614,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of

this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

**CHAPTER 18
S.B. 7**

Passed February 6, 2018
Approved February 21, 2018
Effective May 8, 2018

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

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$353,000 in operating and capital budgets for fiscal year 2018, including:

- ▶ (\$47,000) from the General Fund;
- ▶ \$400,000 from various sources as detailed in this bill.

This bill appropriates \$110,112,100 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$41,886,000 from the General Fund;
- ▶ \$68,226,100 from various sources as detailed in this bill.

This bill appropriates \$23,675,800 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$9,500 in restricted fund and account transfers for fiscal year 2019, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

LEGISLATURE

Item 1

To Legislature - Legislative Support
From General Fund, One-Time (47,000)
Schedule of Programs:
Administration (47,000)

UTAH NATIONAL GUARD

Item 2

To Utah National Guard
From Federal Funds, One-Time 400,000
Schedule of Programs:
Operations and Maintenance 400,000

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAPITOL PRESERVATION BOARD

Item 3

To Capitol Preservation Board
From General Fund 4,362,000
Schedule of Programs:
Capitol Preservation Board 4,362,000

The Legislature intends that the Capitol Preservation Board report by October 16, 2018 to the Executive Appropriations Committee on the following performance measures for the Capitol Preservation Board line item: (1) Stewardship plan for a safe, sustainable environment through maintenance, facility operations, and improvements (Target = 100 year life); (2) Provision of high quality tours, information, and education to the public (Target = 50,000 students and 200,000 visitors annually); (3) Provision of event and scheduling program for all government meetings, free speech activities, and public events (Target = 4,000 annually); and (4) Provision of exhibit and curatorial services on Capitol Hill to maintain the collections of artifacts for use and enjoyment of the general public (Target = 9,000 items).

LEGISLATURE

Item 4

To Legislature - Senate
From General Fund 2,964,600
From Beginning Nonlapsing
Balances 2,221,600
From Closing Nonlapsing Balances . . . (2,221,600)
Schedule of Programs:

Administration 2,964,600

Item 5

To Legislature - House of Representatives
From General Fund 5,031,400
From Beginning Nonlapsing
Balances 3,223,500
From Closing Nonlapsing Balances ... (3,223,500)
Schedule of Programs:
Administration 5,031,400

Item 6

To Legislature - Legislative Printing
From General Fund 597,200
From Dedicated Credits Revenue 256,000
From Beginning Nonlapsing Balances ... 526,200
From Closing Nonlapsing Balances (526,200)
Schedule of Programs:
Administration 853,200

Item 7

To Legislature - Office of Legislative Research
and General Counsel
From General Fund 10,370,700
From Beginning Nonlapsing
Balances 1,709,300
From Closing Nonlapsing Balances ... (1,709,300)
Schedule of Programs:
Administration 10,370,700

The Legislature intends that the Office of Legislative Research and General Counsel report by October 16, 2018 to the Subcommittee on Oversight on performance measures used to gauge accomplishment of office goals, missions, and outcomes.

Item 8

To Legislature - Office of the Legislative
Fiscal Analyst
From General Fund 3,451,600
From Beginning Nonlapsing
Balances 1,614,000
From Closing Nonlapsing Balances ... (1,614,000)
Schedule of Programs:
Administration and Research 3,451,600

The Legislature intends that the Legislative Fiscal Analyst report by October 16, 2018 to the Subcommittee on Oversight on the following performance measures for the Legislative Fiscal Analyst line item: (1) On-target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); (2) Correct appropriations bills (Target = 99%); (3) Unrevised fiscal notes (Target = 99.5%); (4) Timely fiscal notes (Target = 95%); and (5) Timely performance notes (Target = 85%).

Item 9

To Legislature - Legislative Support
From General Fund 1,104,700
From General Fund, One-Time (50,000)
From Beginning Nonlapsing
Balances 1,575,500
From Closing Nonlapsing Balances ... (1,575,500)
Schedule of Programs:
Administration 1,054,700

Item 10

To Legislature - Legislative Services
From General Fund 200,000
From General Fund, One-Time 50,000
Schedule of Programs:
Human Resources 250,000

Item 11

To Legislature - Office of the Legislative
Auditor General
From General Fund 4,268,400
From Beginning Nonlapsing Balances ... 990,500
From Closing Nonlapsing Balances (990,500)
Schedule of Programs:
Administration 4,268,400

The Legislature intends that the Legislative Auditor General report by October 16, 2018 to the Subcommittee on Oversight on the following performance measures for the Legislative Auditor General line item: (1) Total audits completed each year (Target = 18); (2) Agency recommendations implemented (Target = 98%); and (3) Legislative recommendations implemented (Target = 100%).

UTAH NATIONAL GUARD**Item 12**

To Utah National Guard
From General Fund 6,701,900
From General Fund, One-Time (290,000)
From Federal Funds 67,151,700
From Dedicated Credits Revenue 45,200
Schedule of Programs:
Administration 875,800
Operations and Maintenance 71,858,000
Tuition Assistance 875,000

The Legislature intends that the Utah National Guard report by October 16, 2018 to the Executive Appropriations Committee on the following performance measures for the National Guard line item: (1) Personnel readiness (Target = 100% assigned strength); (2) Individual training readiness (Target = 90% Military Occupational Specialty qualification); (3) Collective unit training readiness (Target = 100% fulfillment of every mission assigned by the Commander in Chief and, for units in training years 3 and 4 of the Sustainment Readiness Model, 80% attendance at unit annual training); and (4) Installation readiness (Target = Installation Status Report of category 2 or higher for each facility).

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS****Item 13**

To Department of Veterans' and Military Affairs -
Veterans' and Military Affairs
From General Fund 3,322,500
From General Fund, One-Time (199,000)
From Federal Funds 470,400
From Dedicated Credits Revenue 302,800
Schedule of Programs:
Administration 627,600
Cemetery 650,000

Military Affairs	797,400
Outreach Services	1,658,900
State Approving Agency	162,800

The Legislature intends that the Department of Veterans' and Military Affairs report by October 16, 2018 to the Executive Appropriations Committee on the following performance measures for the Veterans' and Military Affairs line item: (1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans' Administration (Target = 5% annual growth); (2) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans' unemployment rate no greater than the statewide unemployment rate); (3) Increase the number of current conflict veterans that are connected to appropriate services (Target = 10% annual increase); (4) Provide veterans with a full range of burial services and related benefits that reflect dignity, compassion, and respect (Target = 95% satisfaction); and (5) Identify, plan, and advise on military mission workload opportunities through engagement with federal and state parties and decision makers (Target = 95%).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 14

To Capitol Preservation Board - State
 Capitol Restricted Special Revenue Fund

From Dedicated Credits Revenue	479,200
From Beginning Fund Balance	676,300
From Closing Fund Balance	(514,600)

Schedule of Programs:
 State Capitol Fund

640,900

UTAH NATIONAL GUARD

Item 15

To Utah National Guard - National
 Guard MWR Fund

From Dedicated Credits Revenue	1,500,000
From Beginning Fund Balance	117,900
From Closing Fund Balance	(117,900)

Schedule of Programs:
 National Guard MWR Fund

1,500,000

The Legislature intends that the Utah National Guard report by October 16, 2018 to the Executive Appropriations Committee on the following performance measures for the Morale, Welfare, and Recreation Fund line item: (1) Sustainability (Target = Income equal to or greater than expenses); and (2)

Enhanced morale (Target = 70% positive feedback).

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 16

To Department of Veterans' and Military Affairs -
 Utah Veterans' Nursing Home Fund

From Federal Funds	21,423,400
From Dedicated Credits Revenue	80,500
From Interest Income	31,000
From Beginning Fund Balance	4,789,700
From Closing Fund Balance	(4,789,700)

Schedule of Programs:
 Veterans' Nursing Home Fund

21,534,900

The Legislature intends that the Department of Veterans' and Military Affairs report by October 16, 2018 to the Executive Appropriations Committee on the following performance measures for the Veterans' Nursing Home Fund line item: (1) Occupancy rate (Target = 95% average); (2) Compliance with all state and federal regulations for operations, licensing, and payments (Target = 95%); (3) Best in class rating in all national customer satisfaction surveys (Target = 80%); and (4) Deviations in operations, safety, or payments are addressed within specified times (Target = 95%).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 17

To General Fund Restricted - National
 Guard Death Benefits Account

From General Fund	9,500
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Schedule of Programs:
 General Fund Restricted - National
 Guard Death Benefits Account

9,500

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2018.

CHAPTER 19**H. B. 20**

Passed February 20, 2018

Approved March 1, 2018

Effective March 1, 2018

POLITICAL ACTIVITIES AND ELECTIONS

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions relating to the regulation of candidates, officeholders, and lobbyists.

Highlighted Provisions:

This bill:

- ▶ clarifies penalty provisions of the Election Code;
- ▶ modifies provisions addressing the notification provided by the Department of Corrections to the lieutenant governor regarding convicted felons;
- ▶ defines the term “filing officer” for different portions of the Election Code;
- ▶ clarifies the information that the lieutenant governor includes in a ballot certification;
- ▶ modifies provisions relating to filling a State Board of Education candidate vacancy and a State Board of Education office vacancy;
- ▶ addresses the handling of, and access to, a financial disclosure form filed by a candidate;
- ▶ shortens the deadline for a filing officer to forward a financial disclosure form to the lieutenant governor;
- ▶ clarifies the definition of an “expenditure” under the Lobbyist Disclosure and Regulation Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 20A-1-504, as last amended by Laws of Utah 2016, Chapter 28
- 20A-1-601, as last amended by Laws of Utah 2008, Chapter 276
- 20A-1-602, as last amended by Laws of Utah 2008, Chapter 276
- 20A-1-603, as last amended by Laws of Utah 2008, Chapter 276
- 20A-1-604, as last amended by Laws of Utah 2016, Chapter 303
- 20A-1-605, as enacted by Laws of Utah 1993, Chapter 1
- 20A-1-606, as last amended by Laws of Utah 2008, Chapter 276
- 20A-1-609, as last amended by Laws of Utah 2016, Chapter 365
- 20A-1-610, as enacted by Laws of Utah 1993, Chapter 1
- 20A-2-109, as last amended by Laws of Utah 2011, Chapter 333
- 20A-9-101, as last amended by Laws of Utah 2016, Chapter 16

20A-9-407, as last amended by Laws of Utah 2017, Chapter 91

20A-11-1305, as last amended by Laws of Utah 2016, Chapter 28

20A-11-1602, as last amended by Laws of Utah 2014, Chapter 18

20A-11-1603, as last amended by Laws of Utah 2014, Chapter 18

20A-14-103, as last amended by Laws of Utah 2016, Chapters 28, 144, and 271

36-11-102, as last amended by Laws of Utah 2015, Chapters 32, 188, and 264

REPEALS:

20A-1-507, as enacted by Laws of Utah 1993, Chapter 1

20A-14-106, as enacted by Laws of Utah 1995, Chapter 1

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

Section 1. Section 20A-1-504 is amended to read:**20A-1-504. Midterm vacancies in the offices of attorney general, state treasurer, state auditor, State Board of Education member, and lieutenant governor.**

(1) (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, state auditor, or State Board of Education member, the vacancy shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by:

(i) appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder[.]; or

(ii) for a State Board of Education vacancy, if the individual who is being replaced:

(A) was elected at a nonpartisan State Board of Education election, by appointing, with the consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103;

(B) was elected at a partisan State Board of Education election, but is not a member of a political party, by appointing, with the consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103; or

(C) was elected at a partisan State Board of Education election, and is a member of a political party, by appointing an individual who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder.

(2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the consent of the Senate, appoint a person to hold the office until the next regular general election at which the governor stands for election.

~~(3) For a State Board of Education member vacancy, if the individual who is being replaced is~~

~~not a member of a political party, or if the member was elected at or before the 2016 regular general election, the governor shall fill the vacancy, with the consent of the Senate, by selecting an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103.]~~

Section 2. Section 20A-1-601 is amended to read:

20A-1-601. Bribery in elections -- Paying for votes -- Penalties.

(1) A person may not, directly or indirectly, by himself or through any other person:

(a) pay, loan, or contribute, or offer or promise to pay, loan, or contribute any money or other valuable consideration to or for any voter or to or for any other person:

(i) to induce the voter to vote or refrain from voting at any election provided by law;

(ii) to induce any voter to vote or refrain from voting at an election for any particular person or measure;

(iii) to induce a voter to go to the polls or remain away from the polls at any election;

(iv) because a voter voted or refrained from voting for any particular person, or went to the polls or remained away from the polls; or

(v) to obtain the political support or aid of any person at an election;

(b) give, offer, or promise any office, place, or employment, or to promise or procure, or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any other person, in order to:

(i) induce a voter to vote or refrain from voting at any election;

(ii) induce any voter to vote or refrain from voting at an election for any particular person or measure; or

(iii) obtain the political support or aid of any person;

(c) advance or pay, or cause to be paid, any money or other valuable thing to, or for the use of, any other person with the intent that the money or other valuable thing be used in bribery at any election provided by law; or

(d) knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money expended wholly or in part in bribery at any election.

(2) In addition to the penalties established in [Section 20A-1-609] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

Section 3. Section 20A-1-602 is amended to read:

20A-1-602. Receiving bribe -- Receiving payments for votes -- Penalties.

(1) A person may not, for himself or for any other person, directly or indirectly, by himself or through any person, before, during, or after any election:

(a) receive, agree to receive, or contract for any money, gift, loan, or other valuable consideration, office, place, or employment for:

(i) voting or agreeing to vote;

(ii) going or agreeing to go to the polls;

(iii) remaining or agreeing to remain away from the polls; or

(iv) refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting, for any particular person or measure at any election provided by law; or

(b) receive any money or other valuable thing because the person induced any other person to:

(i) vote or refrain from voting; or

(ii) vote or refrain from voting for any particular person or measure at any election provided by law.

(2) In addition to the penalties established in [Section 20A-1-609] Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

Section 4. Section 20A-1-603 is amended to read:

20A-1-603. Fraud, interference, disturbance -- Tampering with ballots or records -- Penalties.

(1) (a) A person may not fraudulently vote on behalf of himself or another, by:

(i) voting more than once at any one election;

(ii) knowingly handing in two or more ballots folded together;

(iii) changing any ballot after it has been cast or deposited in the ballot box;

(iv) adding or attempting to add any ballot or vote to those legally polled at any election by fraudulently introducing the ballot or vote into the ballot box or vote tally, either before or after the ballots have been counted;

(v) adding to or mixing or attempting to add or mix, other ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at any other time; or

(vi) voting in a voting district or precinct when the person knew or should have known that the person was not eligible for voter registration in that district or precinct, unless the person is legally entitled to vote the ballot under Section 20A-4-107 or another provision of this title.

(b) A person may not fraudulently interfere with an election by:

(i) willfully detaining, mutilating, or destroying any election returns;

(ii) in any manner, interfering with the officers holding an election or conducting a canvass, or with

the voters lawfully exercising their rights of voting at an election, so as to prevent the election or canvass from being fairly held or lawfully conducted;

(iii) engaging in riotous conduct at any election, or interfering in any manner with any election official in the discharge of the election official's duties;

(iv) inducing any election officer, or officer whose duty it is to ascertain, announce, or declare the result of any election or to give or make any certificate, document, or evidence in relation to any election, to violate or refuse to comply with the election officer's duty or any law regulating the election officer's duty;

(v) taking, carrying away, concealing, removing, or destroying any ballot, pollbook, or other thing from a polling place, or from the possession of the person authorized by law to have the custody of that thing; or

(vi) aiding, counseling, providing, procuring, advising, or assisting any person to do any of the acts specified in this section.

(2) In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a class A misdemeanor.

Section 5. Section 20A-1-604 is amended to read:

20A-1-604. Destroying instruction cards, sample ballots, or election paraphernalia -- Penalties.

(1) A person may not:

(a) willfully deface or destroy any list of candidates posted in accordance with the provisions of this title;

(b) willfully deface, tear down, remove or destroy any card of instruction or sample ballot, printed or posted for the instruction of voters during an election;

(c) willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot during an election; or

(d) willfully hinder the voting of others.

(2) In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of an infraction.

Section 6. Section 20A-1-605 is amended to read:

20A-1-605. Mutilating certificate of nomination -- Forging declination or resignation -- Tampering with ballots.

(1) It is unlawful for any person to:

(a) falsely mark or willfully deface or destroy:

(i) any certificate of nomination or any part of a certificate of nomination; or

(ii) any letter of declination or resignation;

(b) file any certificate of nomination or letter of declination or resignation knowing it, or any part of it, to be falsely made;

(c) suppress any certificate of nomination, or letter of declination or resignation, or any part of a certificate of nomination or letter of declination or resignation that has been legally filed;

(d) forge any letter of declination or resignation;

(e) falsely make the official endorsement on any ballot;

(f) willfully destroy or deface any ballot;

(g) willfully delay the delivery of any ballots;

(h) examine any ballot offered or cast at the polls or found in any ballot box for any purpose other than to determine which candidate was elected; and

(i) make or place any mark or device on any ballot in order to determine the name of any person for whom the elector has voted.

(2) In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), any person convicted of any of the offenses established by this section is guilty of a class A misdemeanor.

Section 7. Section 20A-1-606 is amended to read:

20A-1-606. Wagering on elections forbidden.

(1) (a) A candidate may not, before or during any primary or election campaign:

(i) make any bet or wager anything of pecuniary value on the result of the primary or election, or on any event or contingency relating to any pending primary or election;

(ii) become a party to any bet or wager on the result of a primary or election or on any event or contingency relating to any pending primary or election; and

(iii) provide money or any other valuable thing to be used by any other person in betting or wagering upon the results of any impending primary or election.

(b) In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a third degree felony.

(2) (a) A person who is not a candidate may not make any bet or wager anything of pecuniary value on the result of any primary or election, or on any event or contingency relating to any primary or election.

(b) In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (2)(a) is guilty of a class B misdemeanor.

(3) (a) A person may not directly or indirectly make a bet or wager with any voter that is dependent upon the outcome of any primary or election with the intent to subject that voter to the possibility of challenge at a primary or election or to prevent the voter from voting at a primary or election.

(b) In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (3)(a) is guilty of a class B misdemeanor.

Section 8. Section 20A-1-609 is amended to read:

20A-1-609. Omnibus penalties.

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to ~~[(i)]~~ a provision of this title for which another penalty is expressly stated ~~[; or]~~.

~~[(ii)]~~ (c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection 20A-7-203(2)(e), 20A-7-303(2)(h), 20A-7-503(2)(e), or 20A-7-603(2)(h).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, ~~[a person]~~ an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which ~~[he]~~ the individual was elected; and

(c) receive the emoluments of the office to which ~~[he]~~ the individual was elected.

(3) (a) Any ~~[person]~~ individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section 20A-3-202.

Section 9. Section 20A-1-610 is amended to read:

20A-1-610. Abetting violation of chapter -- Penalty.

In addition to the penalties established in ~~[Section 20A-1-609]~~ Subsections 20A-1-609(2) and (3), any person who aids, abets, or advises a violation of any provision of this title is guilty of a class B misdemeanor, unless another penalty is specifically provided.

Section 10. Section 20A-2-109 is amended to read:

20A-2-109. Statewide voter registration database -- Lieutenant governor to create

-- Counties to participate -- Maintenance of database -- Cooperation with governmental entities -- Record security -- List of incarcerated felons.

(1) (a) (i) The lieutenant governor shall develop a statewide voter registration database.

(ii) (A) The lieutenant governor may compare the information in the statewide voter registration database with information submitted by a registered voter to a state agency to identify a change in a registered voter's principal place of residence or name.

(B) The lieutenant governor shall establish matching criteria and security measures for identifying a change described in Subsection (1)(a)(ii)(A) to ensure the accuracy of a voter registration record.

(C) The lieutenant governor shall notify the county clerk of the county in which the voter's principal place of residence is located of the change in the registered voter's principal place of residence or name.

(b) Each county clerk shall utilize the statewide voter registration database when recording or modifying voter registration records.

(2) (a) The lieutenant governor shall establish and implement a procedure to maintain the accuracy of the statewide voter registration database by using information available from:

(i) a voter;

(ii) a governmental entity, as defined by Section 63G-2-103; or

(iii) another state.

(b) Subject to Subsection (2)(c), the lieutenant governor may cooperate or enter into an agreement with a governmental entity or another state to share information to implement the procedure established under Subsection (2)(a).

(c) For a record shared under Subsection (2)(b), the lieutenant governor shall ensure:

(i) that the record is only used to maintain the accuracy of a voter registration database;

(ii) compliance with Section 63G-2-206; and

(iii) that the record is secure from unauthorized use by employing data encryption or another similar technology security system.

(3) (a) The lieutenant governor shall maintain a current list of all incarcerated felons in Utah.

(b) (i) The Department of Corrections shall provide the lieutenant governor's office with a list of the name and last-known address of each person who:

(A) was convicted of a felony in a Utah state court; and

(B) is currently incarcerated for commission of a felony.

(ii) The lieutenant governor shall establish the frequency of receipt of the information and the

method of transmitting the information after consultation with the Department of Corrections.

(c) (i) The Department of Corrections shall provide the lieutenant governor's office with a list ~~[of] containing the name of each convicted felon who [is no longer subject to the jurisdiction of the department because the person]~~ has been released from incarceration.

(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.

Section 11. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices~~[-and];~~

~~(c)~~ the county clerk in the filer's county of residence, for multicounty offices;

~~[(e)]~~ ~~(d)~~ the city or town clerk, for municipal offices; and

~~[(d)]~~ ~~(e)~~ the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; and

(vi) any municipal or local district offices.

(10) "Municipal office" means an elective office in a municipality.

(11) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section 12. Section 20A-9-407 is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor

candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before 5 p.m. on the first Monday after the fourth Saturday in April.

(b) The lieutenant governor shall ~~ensure that the certification described in Subsection 20A-9-701(1) also includes~~ include, in the primary ballot certification or, for a race where a primary is not held because the candidate is unopposed, in the general election ballot certification, the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 13. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.

(1) ~~[(a)]~~ A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

~~[(b) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the chief election officer shall, after making a reasonable attempt to discover if the report was timely filed, inform the county clerk and other appropriate election officials who:]~~

~~[(i) (A) shall, if practicable, remove the name of the candidate from the ballots before the ballots are delivered to voters; or]~~

(2) If a school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv), the lieutenant governor may send an electronic notice to the school board office candidate and the political party of which the school board office candidate is a member, if any, that states:

(a) that the school board office candidate failed to timely file the report; and

(b) that, if the school board office candidate fails to file the report within 24 hours after the deadline for filing the report, the school board office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a school board office candidate and inform the county

clerk and other appropriate election officials that the school board office candidate is disqualified if the school board office candidate fails to file an interim report described in Subsections 20A-11-1303(1)(c)(i) through (iv) within 24 hours after the deadline for filing the report.

(b) The political party of a school board office candidate who is disqualified under Subsection (3)(a) may not replace the school board office candidate.

(4) (a) If a school board office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the school board office candidate's name from the ballot; or

~~[(B)] (ii) [shall,] if removing the school board office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the school board office candidate has been disqualified and that votes cast for the school board office candidate will not be counted[; and].~~

~~[(ii) may not count any votes for that candidate.]~~

~~[(c) Any school board office candidate who fails to file timely a financial statement required by Subsection 20A-11-1303(1)(c)(ii), (iii), or (iv) is disqualified.]~~

~~[(d) Notwithstanding Subsections (1)(b) and (1)(c), a school board office candidate is not disqualified and the chief election officer may not impose a fine if:]~~

(b) An election officer may fulfill the requirement described in Subsection (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A school board office candidate is not disqualified if:

~~[(i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;]~~

(a) the school board office candidate files the reports described in Subsections 20A-11-1303(1)(c)(i) through (iv) no later than 24 hours after the applicable deadlines for filing the reports;

~~[(ii) (b) [those] the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and~~

~~[(iii) (c) [those] the omissions, errors, or inaccuracies described in Subsection [(4)(d)(ii)] (5)(b) are corrected in[;] an amended report or the next scheduled report.~~

~~[(A) an amended report; or]~~

~~[(B) the next scheduled report.]~~

~~[(2)] (6) (a) Within 30 days after a deadline for the filing of a summary report [by a school board office candidate], the lieutenant governor shall review each filed summary report to ensure that:~~

~~(i) each school board office candidate who is required to file a summary report has filed [one] the report; and~~

~~(ii) each summary report contains the information required by this part.~~

(b) If it appears that a school board office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the school board office candidate of the violation or written complaint and direct the school board office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board office candidate to fail to file or amend a summary report within seven days after receiving the notice described in Subsection (6)(b) from the lieutenant governor [under this section].

(ii) Each school board office candidate who violates Subsection ~~[(2)] (6)(c)(i)~~ is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection ~~[(2)] (6)(c)(i)~~ to the attorney general.

(iv) In addition to the criminal penalty described in Subsection ~~[(2)] (6)(c)(ii)~~, the lieutenant governor shall impose a civil fine of \$100 against a school board office candidate who violates Subsection ~~[(2)] (6)(c)(i)~~.

Section 14. Section 20A-11-1602 is amended to read:

20A-11-1602. Definitions.

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(3) "Filing officer" means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the county clerk in the county of the candidate's residence, for a state legislative office.

~~[(3)]~~ (4) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

~~[(4)]~~ (5) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

~~[(5)]~~ (6) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

- (i) a member of a board of directors or other governing body of an entity; or
- (ii) a partner in any type of partnership.

~~[(6)]~~ (7) "Preceding year" means the year immediately preceding the day on which the regulated officeholder files a financial disclosure form.

~~[(7)]~~ (8) "Regulated officeholder" means an individual who is required to file a financial disclosure form under the provisions of this part.

~~[(8)]~~ (9) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

Section 15. Section 20A-11-1603 is amended to read:

20A-11-1603. Financial disclosure form -- Required when filing for candidacy -- Public availability.

(1) Candidates seeking the following offices shall file a financial disclosure with the filing officer at the time of filing a declaration of candidacy:

- (a) state constitutional officer;
- (b) state legislator; or
- (c) State Board of Education member.

(2) A filing officer may not accept a declaration of candidacy for an office listed in Subsection (1)

unless the declaration of candidacy is accompanied by the financial disclosure required by this section.

(3) The financial disclosure form shall contain the same requirements and shall be in the same format as the financial disclosure form described in Section 20A-11-1604.

~~[(4) The financial disclosure form shall:]~~

~~[(a) be made available for public inspection at the filing officer's place of business;]~~

~~[(b) if the filing officer is an individual other than the lieutenant governor, be provided to the lieutenant governor within five business days of the date of filing and be made publicly available at the Office of the Lieutenant Governor; and]~~

~~[(c) be made publicly available on the Statewide Electronic Voter Information Website administered by the lieutenant governor.]~~

(4) The filing officer shall:

(a) make each financial disclosure form that the filing officer receives available for public inspection at the filing officer's place of business; and

(b) if the filing officer is not the lieutenant governor, provide each financial disclosure form to the lieutenant governor within one business day after the day on which the candidate files the financial disclosure form.

(5) The lieutenant governor shall make each financial disclosure form that the lieutenant governor receives available to the public:

- (a) at the Office of the Lieutenant Governor; and
- (b) on the Statewide Electronic Voter Information Website administered by the lieutenant governor.

Section 16. Section 20A-14-103 is amended to read:

20A-14-103. State Board of Education members -- Term -- Requirements.

(1) Unless otherwise provided by law, each State Board of Education member elected from a State Board of Education [~~District~~] district at [~~or before the 2016 general~~] a nonpartisan election shall serve out the term of office for which that member was elected.

(2) (a) A person seeking election to the State Board of Education shall have been a resident of the State Board of Education district in which the person is seeking election for at least one year as of the date of the election.

(b) A person who has resided within the State Board of Education district, as the boundaries of the district exist on the date of the election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A State Board of Education member shall:

(a) be and remain a registered voter in the State Board of Education district from which the member was elected or appointed; and

(b) maintain the member's primary residence within the State Board of Education district from which the member was elected or appointed during the member's term of office.

(4) A State Board of Education member may not, during the member's term of office, also serve as an employee of the State Board of Education.

Section 17. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means a tour or a meeting:

(a) (i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(7) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

- (v) any item listed in Subsection (8)(a) if:
- (A) given by a relative;
- (B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;
- (C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or
- (D) the item is not food or beverage, has a value of less than \$10, and the aggregate daily expenditures do not exceed \$10;
- (vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:
- (A) all members of the Legislature;
- (B) all members of a standing or interim committee;
- (C) all members of an official legislative task force;
- (D) all members of a party caucus; or
- (E) all members of a group described in Subsections (8)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;
- (vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:
- (A) giving a speech at the event, tour, or meeting;
- (B) participating in a panel discussion at the event, tour, or meeting; or
- (C) presenting or receiving an award at the event, tour, or meeting;
- (viii) a plaque, commendation, or award that:
- (A) is presented in public;
- (B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;
- (ix) a publication having a cash value not exceeding \$30;
- (x) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:
- (A) to solicit contributions reportable under:
- (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- (II) 2 U.S.C. Sec. 434; or
- (B) charitable solicitation, as defined in Section 13-22-2;
- (xi) travel to, lodging at, food or beverage served at, and admission to an approved activity;
- (xii) sponsorship of an event that is an approved activity;
- (xiii) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:
- (A) that is sponsored by a governmental entity; or
- (B) that is widely attended and related to a governmental duty of a public official; or
- (xiv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state.
- (9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.
- (10) (a) "Government officer" means:
- (i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or
- (ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.
- (b) "Government officer" does not mean a member of the legislative branch of state government.
- (11) "Immediate family" means:
- (a) a spouse;
- (b) a child residing in the household; or
- (c) an individual claimed as a dependent for tax purposes.
- (12) "Legislative action" means:
- (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and
- (b) the action of the governor in approving or vetoing legislation.
- (13) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.
- (14) (a) "Lobbyist" means:
- (i) an individual who is employed by a principal; or
- (ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.
- (b) "Lobbyist" does not include:
- (i) a government officer;
- (ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action;

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(15) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(16) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(18) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(19) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection (19)(a).

(20) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(b) an immediate family member of a person described in Subsection (19)(a).

(21) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(22) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

(24) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 18. Repealer.

This bill repeals:

Section 20A-1-507, Midterm vacancies in the State Board of Education.

Section 20A-14-106, Vacancies on the State Board of Education.

Section 19. Effective date.

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

CHAPTER 20**S. B. 80**

Passed February 15, 2018

Approved March 1, 2018

Effective March 1, 2018

(Exception clause in Section 6)

**EXEMPT AND APPORTIONED
LICENSE PLATE AMENDMENTS**Chief Sponsor: Don L. Ipson
House Sponsor: Kay J. Christofferson**LONG TITLE****General Description:**

This bill amends provisions related to annual registration requirements for vehicles with exempt and apportioned license plates.

Highlighted Provisions:

This bill:

- ▶ removes the requirement for a vehicle with an "EX" or "UHP" license plate to annually renew registration;
- ▶ allows certain exempt plates to remain valid as long as the vehicle is registered and in service by the owning entity;
- ▶ amends provisions requiring certain decals for exempt and apportioned license plates; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-216, as last amended by Laws of Utah 2012, Chapter 397
- 41-1a-221, as last amended by Laws of Utah 2015, Chapter 412
- 41-1a-301, as last amended by Laws of Utah 2017, Chapter 24
- 41-1a-402, as last amended by Laws of Utah 2016, Chapter 102
- 41-1a-407, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 41-1a-216 is amended to read:**41-1a-216. Renewal of registration.**

(1) The division may receive applications for registration renewal and issue new registration cards at any time prior to the expiration of the registration, subject to the availability of renewal materials.

(2) (a) Except as provided in Subsections (2)(c) and (3), the new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(b) Except as provided in Subsection (2)(c), the year of registration expiration shall be changed to reflect the renewed registration period.

(c) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the new registration shall be for a six-month registration period that begins with the first day of the calendar month following the last day of the expiration month of the previous registration period as recorded on the original registration even if the registration has expired.

(3) Subsection (2) does not apply if the owner can verify to the satisfaction of the division that the vehicle registration was not renewed prior to its expiration due to the fact that the vehicle was in storage, inoperable, or otherwise out of service.

(4) If the registration renewal application is an application generated by the division through its automated system, the owner need not surrender the last registration card or duplicate.

(5) A vehicle with an "EX" or "UHP" license plate, owned by an entity described in Section 41-1a-407, is exempt from registration renewal requirements.

Section 2. Section 41-1a-221 is amended to read:**41-1a-221. Registration of vehicles of political subdivisions or state -- Expiration of registration -- Certification of information -- Failure to comply.**

(1) (a) An entity referred to in Subsection 41-1a-407(1) shall register ~~[by June 30 of each year]~~ each vehicle that it owns, operates, or leases.

(b) This section does not apply to unmarked vehicles referred to in Section 41-1a-407~~[, which shall be registered by the expiration date on the registration card].~~

~~[(2) (a) The entity shall apply to the division to renew registration pursuant to Section 41-1a-217.]~~

~~[(b) The division shall renew registration pursuant to Section 41-1a-216.]~~

~~[(3) (2) A registration card and license plate issued to an entity under this section or Subsection 41-1a-407(1) are in full force and effect until^[:] the vehicle is no longer owned or operated by that entity.~~

~~[(a) the registration expires;]~~

~~[(b) the vehicle is no longer owned or operated by that entity; or]~~

~~[(c) the division takes action as provided in Subsection (6).]~~

~~[(4) (3) (a) If the owner of a vehicle subject to the provisions of this section transfers or assigns title or interest in the vehicle, the registration of that vehicle expires.~~

(b) The transferor shall remove the license plates and within 20 days from the date of transfer:

(i) destroy the license plates; or

(ii) forward ~~[them]~~ the license plates to the division to be destroyed.

~~[(5) Each entity shall:]~~

~~[(a) account to the division annually for all "EX" license plates issued to it; and]~~

~~[(b) certify to the division that the information is correct;]~~

~~[(6) If an entity fails to comply with this section, the division may:]~~

~~[(a) refuse to renew the registration of its vehicles;]~~

~~[(b) refuse to issue it additional license plates;]~~

~~[(c) suspend all its vehicle registrations; and]~~

~~[(d) recall license plates issued to an entity refusing to comply with this section.]~~

~~[(7)] (4) A violation of this section is an infraction.~~

Section 3. Section 41-1a-301 is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) For purposes of this section, "registrant" means an owner or operator of one or more commercial vehicles operating in two or more jurisdictions applying for apportioned registration and licensing of a commercial vehicle.

(2) (a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information pertinent to the registration of apportioned vehicles.

(c) The division may not grant apportioned registration for vehicles operated exclusively in this state.

(3) (a) If no operations were conducted during the preceding year, in computing fees due:

(i) the application shall contain a statement of the proposed operations; and

(ii) the division shall determine fees based on average per vehicle distance requirements under the International Registration Plan.

(b) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(4) The division shall determine the registration fee for apportioned vehicles as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206; and

(c) multiply the sum obtained under Subsection (4)(b) by the quotient obtained under Subsection (4)(a).

(5) The registrant may list trailers or semitrailers of apportioned fleets separately as "trailer fleets" on the application, with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(6) (a) (i) When the registrant has paid the proper fees and cleared the property tax or in lieu fee under Section 41-1a-206 or 41-1a-207, the division shall issue a registration card[, annual decal, and where necessary,] and license plate[,], for each unit listed on the application.

(ii) The owner or operator shall carry an original registration in each vehicle at all times.

(b) The owner or operator may carry original registration cards for trailers or semitrailers in the power unit.

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued:

(A) neither the registrant nor the division may cancel the registration process; and

(B) the division shall complete registration and the registrant shall pay the fees and any property tax or in lieu fee due for the vehicle for which the permit was issued.

(iii) The division may not issue temporary permits for renewals.

(d) (i) The division shall issue one distinctive license plate for apportioned vehicles.

(ii) The owner or operator shall display the plate on the front of an apportioned truck tractor or power unit or on the rear of any other apportioned vehicle.

(iii) (A) The division shall issue distinctive decals or a distinctive license plate displaying the word "apportioned" [and the month and year of expiration] or the abbreviation "APP" for each apportioned vehicle.

(B) A registrant of an apportioned vehicle is not required to display month or year decals.

(iv) At the request of a registrant of an apportioned vehicle, the division may issue a second license plate, for a total of two, to display on both the front and rear of the apportioned vehicle.

(e) The division shall charge a nonrefundable administrative fee, determined by the commission pursuant to Section 63J-1-504, for each temporary permit, registration, or both.

(7) Vehicles that are apportionally registered are fully registered for intrastate and interstate movements, providing the registrant has secured proper interstate and intrastate authority.

(8) (a) The division shall register vehicles added to an apportioned fleet after the beginning of the registration year by applying the quotient under Subsection (4)(a) for the original application to the fees due for the remainder of the registration year.

(b) (i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c) (i) An owner-operator, who is a lessor, may register the vehicle in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The division shall allocate the fees according to the operational records of the owner-operator.

(d) (i) At the option of the lessor, the lessee may register a leased vehicle.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall appear on the registration.

(iii) The division shall allocate the fees according to the records of the carrier.

(9) (a) When the division has accepted an application for apportioned registration, the registrant shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) Upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits, the registrant shall provide the records to the division.

(c) The division may not make an assessment for deficiency or claim for credit for any period for which records are no longer required.

(d) The division may assess interest in the amount prescribed by Section 59-1-402 from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(10) (a) Except as provided in Subsection (10)(b), the division shall deposit all state fees collected under this section in the Transportation Fund.

(b) The commission may use the following fees as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303:

(i) \$5 of each temporary registration permit fee paid under Subsection (13)(a)(i) for a single unit; and

(ii) \$10 of each temporary registration permit fee paid under Subsection (13)(a)(ii) for multiple units.

(11) If registration is for less than a full year, the division shall assess fees for apportioned registration according to Section 41-1a-1207.

(a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant shall file a supplemental application.

(ii) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is heavier than the replaced vehicle, the division shall assess additional registration fees.

(iii) If the registrant is replacing a vehicle for one withdrawn from the fleet, the division shall issue a new registration card.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(12) (a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class by the equivalent tax figure from the following tables:

Vehicle or Combination Registered Weight	Age of Vehicle	Equivalent Tax
12,000 pounds or less	12 or more years	\$10
12,000 pounds or less	9 or more years but less than 12 years	\$50
12,000 pounds or less	6 or more years but less than 9 years	\$80
12,000 pounds or less	3 or more years but less than 6 years	\$110
12,000 pounds or less	Less than 3 years	\$150

Vehicle or Combination Registered Weight	Equivalent Tax
12,001 - 18,000 pounds	\$150
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (12)(a)(i) by the fraction computed under Subsection (4) for the apportioned fleet for the registration year.

(b) For registration described in Subsection (12)(a), the division shall assess fees as provided in Section 41-1a-1207.

(13) (a) Commercial vehicles meeting the registration requirements of another jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of:

- (i) \$25 for a single unit; and
- (ii) \$50 for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

(14) The division may not register a park model recreational vehicle under this section.

(15) A violation of this section is an infraction.

Section 4. Section 41-1a-402 is amended to read:

41-1a-402. Required colors, numerals, and letters -- Expiration.

(1) Each license plate shall have displayed on it:

(a) the registration number assigned to the vehicle for which it is issued;

(b) the name of the state; and

(c) unless exempted by Section 41-1a-301 or 41-1a-407, a registration decal showing the date of expiration displayed in accordance with Subsection (6).

(2) If registration is extended by affixing a registration decal to the license plate, the expiration date of the decal governs the expiration date of the license plate.

(3) Except as provided in Subsection (4), each original license plate that is not one of the special group license plates issued under Section 41-1a-418 shall be:

(a) a statehood centennial license plate with the same color, design, and slogan as the plates issued in conjunction with the statehood centennial;

(b) a Ski Utah license plate; or

(c) an In God We Trust license plate.

(4) Beginning on the date that the division determines the existing inventories of statehood centennial license plates and Ski Utah license plates are exhausted, each license plate that is not one of the special group license plates issued under Section 41-1a-418 shall:

(a) (i) display the "Life Elevated" slogan; and

(ii) have a color and design approved by the 57th Legislature in the 2007 General Session that features:

(A) a skier with the "Greatest Snow on Earth" slogan; or

(B) Delicate Arch; [øø]

(b) be an In God We Trust license plate[-]; or

(c) beginning on the date that the division determines the existing inventories of decals for an apportioned vehicle described in Section 41-1a-301 are exhausted, be a distinctive license plate displaying the word "apportioned" or the abbreviation "APP."

(5) (a) Except as provided under Subsection 41-1a-215(2) and Section 41-1a-216, license plates shall be renewed annually.

(b) (i) The division shall issue the vehicle owner a month decal and a year decal upon the vehicle's first registration with the division.

(ii) The division shall issue the vehicle owner only a year decal upon subsequent renewals of registration to validate registration renewal.

(6) The decals issued in accordance with Subsection (5) shall be applied as follows:

(a) for license plates issued beginning in 1974 through 1985, decals displayed on license plates with black lettering on a white background shall be applied to the lower left-hand corner of the rear of the license plate vehicles;

(b) decals displayed on statehood centennial license plates and on Ski Utah license plates issued in accordance with Subsection (3) shall be applied to the upper left-hand corner of the rear license plate;

(c) decals displayed on special group license plates issued in accordance with Section 41-1a-418 shall be applied to the upper right-hand corner of the license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

(d) decals displayed on license plates with the "Life Elevated" slogan issued in accordance with Subsection (4) shall be applied in the upper left-hand corner for the month decal and the upper right-hand corner for the year decal;

(e) decals displayed on license plates with the "In God We Trust" slogan issued in accordance with Subsection (4)(b) shall be applied in the upper right-hand corner of the rear license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

~~[(f)] decals issued for truck tractors shall be applied to the front license plate in the position described in Subsection (6)(a), (b), or (d);]~~

~~[(g)]~~ (f) decals issued for motorcycles shall be applied to the upper corner of the license plate opposite the word "Utah"; and

~~[(h)]~~ (g) decals displayed on license plates issued under Section 41-1a-416 shall be applied as appropriate for the year of the plate.

(7) (a) The month decal issued in accordance with Subsection (5) shall be displayed on the license plate in the left position.

(b) The year decal issued in accordance with Subsection (5) shall be displayed on the license plate in the right position.

(8) The current year decal issued in accordance with Subsection (5) shall be placed over the previous year decal.

(9) If a license plate, month decal, or year decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(10) A violation of this section is an infraction.

Section 5. Section 41-1a-407 is amended to read:

41-1a-407. Plates issued to political subdivisions or state -- Use of "EX" letters -- Confidential information.

(1) Except as provided in Subsection (2), each municipality, board of education, school district, state institution of learning, county, other governmental division, subdivision, or district, and the state shall:

(a) place a license plate displaying the letters, "EX" on every vehicle owned and operated by it or leased for its exclusive use; and

(b) display an identification mark designating the vehicle as the property of the entity in a conspicuous place on both sides of the vehicle.

(2) The entity need not display the "EX" license plate or the identification mark required by Subsection (1) if:

(a) the vehicle is in the direct service of the governor, lieutenant governor, attorney general, state auditor, or state treasurer of Utah;

(b) the vehicle is used in official investigative work where secrecy is essential;

(c) the vehicle is used in an organized Utah Highway Patrol operation that is:

(i) conducted within a county of the first or second class as defined under Section 17-50-501, unless no more than one unmarked vehicle is used for the operation;

(ii) approved by the Commissioner of Public Safety;

(iii) of a duration of 14 consecutive days or less; and

(iv) targeted toward careless driving, aggressive driving, and accidents involving:

(A) violations of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(B) speeding violations for exceeding the posted speed limit by 21 or more miles per hour;

(C) speeding violations in a reduced speed school zone under Section 41-6a-604;

(D) violations of Section 41-6a-1002 related to pedestrian crosswalks; or

(E) violations of Section 41-6a-702 related to lane restrictions;

(d) the vehicle is provided to an official of the entity as part of a compensation package allowing unlimited personal use of that vehicle;

(e) the personal security of the occupants of the vehicle would be jeopardized if the "EX" license plate were in place; or

(f) the vehicle is used in routine enforcement on a state highway with four or more lanes involving:

(i) violations of Section 41-6a-701 related to operating a vehicle on the right side of a roadway;

(ii) violations of Section 41-6a-702 related to left lane restrictions;

(iii) violations of Section 41-6a-704 related to overtaking and passing vehicles proceeding in the same direction;

(iv) violations of Section 41-6a-711 related to following a vehicle at a safe distance; and

(v) violations of Section 41-6a-804 related to turning and changing lanes.

(3) Plates issued to Utah Highway Patrol vehicles may bear the capital letters "UHP," a beehive logo, and the call number of the trooper to whom the vehicle is issued.

(4) (a) The commission shall issue "EX" and "UHP" plates.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the procedure for application for and distribution of the plates.

(5) For a vehicle that qualifies for "EX" or "UHP" license plates, the entity is not required to display ~~[an annual registration decal]~~ the month or year registration decals described in Section 41-1a-402.

(6) (a) Information shall be confidential for vehicles that are not required to display the "EX" license plate or the identification mark under Subsections (2)(a), (b), (d), and (e).

(b) (i) If a law enforcement officer's identity must be kept secret, the law enforcement officer's agency head may request in writing that the division remove the license plate information of the officer's personal vehicles from all public access files and place it in a confidential file until the assignment is completed.

(ii) The agency head shall notify the division when the assignment is completed.

(7) A peace officer engaged in an organized operation under Subsection (2)(c) shall be in a uniform clearly identifying the law enforcement agency the peace officer is representing during the operation.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution,

Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override, except that the changes to Section 41-1a-301 in this bill take effect on January 1, 2019.

CHAPTER 21**H. B. 44**

Passed February 6, 2018
Approved March 13, 2018
Effective May 8, 2018

**CHILD SUPPORT
GUIDELINES AMENDMENTS**

Chief Sponsor: Michael K. McKell
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions related to child support guidelines.

Highlighted Provisions:

This bill:

- ▶ makes the Child Support Guidelines Advisory Committee an ongoing advisory committee;
- ▶ addresses procedures of the advisory committee; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-12-401, as last amended by Laws of Utah 2017, Chapter 161

78B-12-402, as last amended by Laws of Utah 2015, Chapter 359

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

Section 1. Section 78B-12-401 is amended to read:

78B-12-401. Advisory committee created.

(1) (a) ~~[On or before May 1, 2018, and then on or before May 1 of every fourth year subsequently, the~~ There is created the advisory committee known as the "Child Support Guidelines Advisory Committee."

(b) As used in this part, "advisory committee" means the Child Support Guidelines Advisory Committee.

(c) The governor shall appoint ~~[a child support guidelines advisory committee consisting of]~~ the 11 members of the advisory committee as follows:

- (i) one representative recommended by the Office of Recovery Services;
- (ii) one representative recommended by the Judicial Council;
- (iii) two representatives recommended by the Utah State Bar Association;
- (iv) two representatives of noncustodial parents;
- (v) two representatives of custodial parents;

(vi) one representative with expertise in economics; and

(vii) ~~[subject to Subsection (1)(b),]~~ two representatives from diverse interests related to child support issues and who are not members of the Utah State Bar Association, as the governor may consider appropriate.

~~[(b) None of the individuals appointed under Subsection (1)(a)(vii) may be members of the Utah State Bar Association.]~~

~~[(2) The term of the committee members expires one month after the report of the committee is submitted to the Legislature under Section 78B-12-402.]~~

(2) (a) The term of a member of the advisory committee is four years.

~~[(3) (b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed]~~ governor shall appoint a replacement for the unexpired term of the member.

~~[(4) The committee ceases to exist no later than November 1, 2017, and then on or before November 1 of every fourth year subsequently.]~~

(c) The governor may appoint a member of the advisory committee to more than one term.

(3) Six members of the advisory committee constitute a quorum. The vote of a majority of a quorum present is an action of the advisory committee.

(4) The advisory committee shall elect two members to serve as cochairs of the advisory committee for a term of one year.

(5) The advisory committee shall meet at the time and place designated by the cochairs.

Section 2. Section 78B-12-402 is amended to read:

78B-12-402. Duties -- Report -- Staff.

(1) The advisory committee shall review the child support guidelines to ensure ~~[their]~~ the application of the guidelines results in the determination of appropriate child support award amounts.

(2) The advisory committee shall submit, in accordance with Section 63-3-14, a written report to the ~~[Legislative]~~ legislative Judiciary Interim Committee on or before October 1, ~~[2017]~~ 2021, and then on or before October 1 of every fourth year subsequently.

(3) The advisory committee's report shall include recommendations of the majority of the advisory committee, as well as specific recommendations of individual members of the advisory committee.

(4) Staff for the advisory committee shall be provided from the existing budget of the Department of Human Services.

CHAPTER 22**H. B. 46**

Passed February 20, 2018

Approved March 13, 2018

Effective May 8, 2018

EDUCATOR LICENSING MODIFICATIONS

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies the public education code regarding educator licensing.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Board of Education to implement an educator licensing system;
- ▶ repeals sections of code regarding educator licensing that are obsolete under the new educator licensing system;
- ▶ modifies provisions of existing code sections that are related to the previous educator licensing system, including endorsements and letters of authorization;
- ▶ repeals the requirement that a district superintendent hold a license;
- ▶ modifies provisions related to youth suicide prevention training for employees;
- ▶ repeals the Compact for Interstate Qualification of Educational Personnel; and
- ▶ makes technical corrections and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53E-3-505, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-6-102, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-6-201, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-6-302, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-6-702, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-6-902, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-10-301, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53F-2-310, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-405, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-203, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-205, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53G-4-301, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-407, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-704, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-11-501, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-11-503, as renumbered and amended by Laws of Utah 2018, Chapter 3

63G-7-102, as last amended by Laws of Utah 2017, Chapter 300

REPEALS:

53A-6-105 (Repealed 07/01/18), as last amended by Laws of Utah 2017, Chapter 372 and repealed by Laws of Utah 2017, Chapter 472

53E-6-202 (Superseded 07/01/18), as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-202 (Effective 07/01/18), as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-203, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-304, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-305, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-306, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-903, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1001, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1002, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1003, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1004, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1005, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1006, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1007, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1008, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1009, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1010, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-6-1011, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-305, as renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-3-505 is amended to read:**53E-3-505. Financial and economic literacy education.**

(1) As used in this section:

- (a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) “Financial and economic literacy concepts” include concepts related to the following topics:

- (i) basic budgeting;
- (ii) saving and financial investments;
- (iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;
- (iv) career management, including earning an income;
- (v) rights and responsibilities of renting or buying a home;
- (vi) retirement planning;
- (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
- (viii) insurance;
- (ix) federal, state, and local taxes;
- (x) charitable giving;
- (xi) online commerce;
- (xii) identity fraud and theft;
- (xiii) negative financial consequences of gambling;
- (xiv) bankruptcy;
- (xv) free markets and prices;
- (xvi) supply and demand;
- (xvii) monetary and fiscal policy;
- (xviii) effective business plan creation, including using economic analysis in creating a plan;
- (xix) scarcity and choices;
- (xx) opportunity cost and tradeoffs;
- (xxi) productivity;
- (xxii) entrepreneurship; and
- (xxiii) economic reasoning.

(c) “Financial and economic literacy passport” means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.

(d) “General financial literacy course” means the course of instruction described in Section 53E-4-204.

(2) The State Board of Education shall:

(a) in cooperation with interested private and nonprofit entities:

(i) develop a financial and economic literacy passport that students may elect to complete;

(ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and

(iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:

(A) a financial and economic literacy endorsement on the student’s diploma of graduation;

(B) a specific designation on the student’s official transcript; and

(C) any incentives offered by community partners;

(b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(c) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses;

(e) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school; and

(f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education[; and].

~~[(g) implement a teacher endorsement in general financial literacy that includes course work in financial planning, credit and investing, consumer economics, personal budgeting, and family economics.]~~

(3) (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the State Board of Education;

(ii) school districts and charter schools;

(iii) the State Board of Regents; and

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

~~[(c) In 2013, the task force shall:]~~

~~[(i) review and recommend modifications to the course standards and objectives of the general financial literacy course described in Section 53E-4-204 to ensure the course standards and objectives reflect current and relevant content consistent with the financial and economic literacy concepts listed in Subsection (1)(b);]~~

~~[(ii) study the development of an online assessment of students' competency in financial and economic literacy that may be used to:]~~

~~[(A) measure student learning growth and proficiency in financial and economic literacy; and]~~

~~[(B) assess the effectiveness of instruction in financial and economic literacy;]~~

~~[(iii) consider the development of a rigorous, online only, course to fulfill the general financial literacy curriculum and graduation requirements specified in Section 53E-4-204;]~~

~~[(iv) identify opportunities for teaching financial and economic literacy through an integrated school curriculum and in the regular course of school work;]~~

~~[(v) study and make recommendations for educator license endorsements for teachers of financial and economic literacy;]~~

~~[(vi) identify efficient and cost-effective methods of delivering professional development in financial and economic literacy content and instructional methods; and]~~

~~[(vii) study how financial and economic literacy education may be enhanced through community partnerships.]~~

~~[(d)] (c) The task force shall reconvene every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.~~

~~[(e) The State Board of Education shall make a report to the Education Interim Committee no later than the committee's November 2013 meeting summarizing the findings and recommendations of the task force and actions taken by the board in response to the task force's findings and recommendations.]~~

Section 2. Section 53E-6-102 is amended to read:

53E-6-102. Definitions.

As used in this chapter:

~~[(1) "Accredited institution" means an institution meeting the requirements of Section 53E-6-302.]~~

~~[(2) (a) "Alternative preparation program" means preparation for licensure in accordance with applicable law and rule through other than an approved preparation program.]~~

~~[(b) "Alternative preparation program" includes the competency-based licensing program described in Section 53E-6-306.]~~

~~[(3) "Ancillary requirement" means a requirement established by law or rule in addition to completion of an approved preparation program or alternative education program or establishment of eligibility under the NASDTEC Interstate Contract, and may include any of the following:]~~

~~[(a) minimum grade-point average;]~~

~~[(b) standardized testing or assessment;]~~

~~[(c) mentoring;]~~

~~[(d) recency of professional preparation or experience;]~~

~~[(e) graduation from an accredited institution; or]~~

~~[(f) evidence relating to moral, ethical, physical, or mental fitness.]~~

~~[(4) “Approved preparation program” means a program for preparation of educational personnel offered through an accredited institution in Utah or in a state which is a party to a contract with Utah under the NASDTEC Interstate Contract and which, at the time the program was completed by the applicant:]~~

~~[(a) was approved by the governmental agency responsible for licensure of educators in the state in which the program was provided;]~~

~~[(b) satisfied requirements for licensure in the state in which the program was provided;]~~

~~[(c) required completion of a baccalaureate; and]~~

~~[(d) included a supervised field experience.]~~

~~[(5) “Board” means the State Board of Education.]~~

~~(1) “Board” means the State Board of Education.~~

~~[(6) (2) “Certificate” means a license issued by a governmental jurisdiction outside the state.~~

~~[(7) “Core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.]~~

~~[(8) (3) “Educator” means:~~

~~(a) a person who holds a license;~~

~~(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the board, to hold a license; or~~

~~(c) a person who is the subject of an allegation which has been received by the board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.~~

~~[(9) (a) “Endorsement” means a stipulation appended to a license setting forth the areas of practice to which the license applies.]~~

~~[(b) An endorsement shall be issued upon completion of a competency-based teacher preparation program from a regionally accredited university that meets state content standards.]~~

~~[(10) “License” means an authorization issued by the board which permits the holder to serve in a professional capacity in the public schools. The five levels of licensure are:]~~

~~[(a) “letter of authorization,” which is:]~~

~~[(i) a temporary license issued to a person who has not completed requirements for a competency-based, or level 1, 2, or 3 license, such as:]~~

~~[(A) a student teacher; or]~~

~~[(B) a person participating in an alternative preparation program; or]~~

~~[(ii) a license issued, pursuant to board rules, to a person who has achieved eminence, or has outstanding qualifications, in a field taught in public schools;]~~

~~[(b) “competency-based license” which is issued to a teacher based on the teacher’s demonstrated teaching skills and abilities;]~~

~~[(c) “level 1 license,” which is a license issued upon completion of:]~~

~~[(i) a competency-based teacher preparation program from a regionally accredited university; or]~~

~~[(ii) an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule;]~~

~~[(d) “level 2 license,” which is a license issued after satisfaction of all requirements for a level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience; and]~~

~~[(e) “level 3 license,” which is a license issued to an educator who holds a current Utah level 2 license and has also received, in the educator’s field of practice, National Board certification or a doctorate from an accredited institution.]~~

~~[(11) “NASDTEC” means the National Association of State Directors of Teacher Education and Certification.]~~

~~[(12) “NASDTEC Interstate Contract” means the contract implementing Part 10, Compact for Interstate Qualification of Educational Personnel, which is administered through NASDTEC.]~~

~~(4) “License” means an authorization issued by the board that permits the holder to serve in a professional capacity in the public schools.~~

~~[(13) (5) “National Board certification” means a current certificate issued by the National Board for Professional Teaching Standards.~~

~~[(14) (6) “Rule” means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~[(15) (7) “School” means a public or private entity [which] that provides educational services to a minor child.~~

~~[(16) (8) “UPPAC” means the Utah Professional Practices Advisory Commission.~~

Section 3. Section 53E-6-201 is amended to read:

53E-6-201. Board licensure.

~~[(1) (a) The board may issue licenses for educators.]~~

~~[(b) A person employed in a position that requires licensure by the board shall hold the appropriate license.]~~

~~(1) To be fully implemented by July 1, 2020, and, if technology and funds are available, the board shall~~

establish in rule a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in board rule; and

(c) an LEA-specific educator license issued by the board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools.

(2) An individual employed in a position that requires licensure by the board shall hold the license that is appropriate to the position.

~~(2)~~ (3) (a) The board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining ~~and~~, retaining, and reinstating licenses.

~~(b) (i) The board shall make rules requiring participation in professional development activities or compliance with a school district professional development plan as provided in Subsection (4) in order for educators to retain their licenses.]~~

~~(ii) (b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the [professional development requirements of Subsection (2)(b)(i)] board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:~~

~~(A) (i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and~~

~~(B) (ii) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.~~

~~(3) Except as provided in Subsection (4), unless suspended or revoked by the board, or surrendered by the educator:]~~

~~(a) a letter of authorization is valid for one year, or a shorter period as specified by the board, subject to renewal by the board in accordance with board rules;]~~

~~(b) a competency-based license remains valid;]~~

~~(c) a level 1 license is valid for three years, subject to renewal by the board in accordance with board rules;]~~

~~(d) a level 2 license is valid for five years, subject to renewal by the board in accordance with board rules; and]~~

~~(e) a level 3 license is valid for seven years, subject to renewal by the board in accordance with board rules.]~~

~~(4) Unless suspended or revoked by the board, or surrendered by the educator, a level 1, level 2, level 3, or competency-based license shall remain valid if:]~~

~~(a) the license holder is employed by a school district that has a comprehensive program to maintain and improve educators' skills in which performance standards, educator evaluation, and professional development are integrated; and]~~

~~(b) the license holder complies with school or school district professional development requirements.]~~

Section 4. Section 53E-6-302 is amended to read:

53E-6-302. Teacher preparation programs.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish standards for approval of a preparation program ~~[or an alternative preparation program].~~

(2) The board shall ensure that standards adopted under Subsection (1) meet or exceed generally recognized national standards for preparation of educators~~], such as those developed by the:]~~.

~~(a) Interstate New Teacher Assessment and Support Consortium;]~~

~~(b) National Board for Professional Teaching Standards; or]~~

~~(c) Council for the Accreditation of Educator Preparation.]~~

(3) The board shall designate an employee of the board's staff to:

(a) work with education deans of state institutions of higher education to coordinate on-site monitoring of teacher preparation programs that may include:

(i) monitoring courses for teacher preparation programs;

(ii) working with course instructors for teacher preparation programs; and

(iii) interviewing students admitted to teacher preparation programs;

(b) act as a liaison between:

(i) the board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the board; and

(ii) education deans of state institutions of higher education.

(4) The board shall:

(a) in good faith, consider the findings and recommendations described in Subsection (3)(c); and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the board determines is necessary, to implement recommendations described in Subsection (3)(c).

Section 5. Section 53E-6-702 is amended to read:

53E-6-702. Reimbursement of legal fees and costs to educators.

(1) As used in this section:

(a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:

(i) the entity who licenses the educator; and

(ii) the [school district] LEA that employs the educator or employed the educator at the time of the alleged act or omission.

(b) "Educator" means an individual who holds or is required to hold a license [under this chapter] as defined by the board and is employed by [a school district] an LEA located within the state.

(c) [~~"School district" includes the~~] "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind [~~and the state's applied technology centers~~].

(2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:

(a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and

(b) it is dismissed or results in findings favorable to the educator.

(3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Section 6. Section 53E-6-902 is amended to read:

53E-6-902. Teacher leaders.

(1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.

(2) There is created the role of a teacher leader to:

(a) work with a student teacher and a teacher who supervises a student teacher;

(b) assist with the training of a recently hired teacher; and

(c) support school-based professional learning.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board[~~-(a)~~] shall make rules that:

[~~(i)~~] (a) define the role of a teacher leader, including the functions described in Subsection (2); and

[~~(ii)~~] (b) establish the minimum criteria for a teacher to qualify as a teacher leader[~~;-and~~].

[~~(b) may make rules that create an endorsement for a teacher leader.~~]

[~~(4) A school district or charter school may assign a teacher to a teacher leader position without a teacher leader endorsement.~~]

[~~(5) —(a)~~] (4) The board shall solicit recommendations from school districts and educators regarding:

[~~(i)~~] (a) appropriate resources to provide a teacher leader; and

[~~(ii)~~] (b) appropriate ways to compensate a teacher leader.

[~~(b) The board shall report the board's findings and recommendations described in Subsection (5) (4)(a) to the Education Interim Committee on or before the committee's November 2016 interim meeting.~~]

Section 7. Section 53E-10-301 is amended to read:

53E-10-301. Definitions.

(1) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(2) "Educator" means the same as that term is defined in Section 53E-6-102.

(3) "Eligible instructor" means an instructor who is:

(a) employed as faculty by an institution of higher education; or

(b) (i) employed by an LEA;

(ii) licensed by the State Board of Education under Chapter 6, Education Professional Licensure;

(iii) (A) approved as adjunct faculty by an institution of higher education; or

(B) a mathematics educator who has an upper level mathematics [endorsement] credential issued by the State Board of Education; and

(iv) supervised by an institution of higher education.

(4) “Eligible student” means a student who:

(a) is enrolled in, and counted in average daily membership in, a high school within the state;

(b) has a plan for college and career readiness, as described in Section 53E-2-304, on file at a high school within the state; and

(c) (i) is a grade 11 or grade 12 student; or

(ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section 53E-10-302.

~~[(5) “Endorsement” means a stipulation, authorized by the State Board of Education and appended to a license, that specifies an area of practice to which the license applies.]~~

~~[(6)] (5) “Institution of higher education” means the same as that term is defined in Section 53B-3-102.~~

~~[(7)] (6) “License” means the same as that term is defined in Section 53E-6-102.~~

~~[(8)] (7) “Local education agency” or “LEA” means a school district or charter school.~~

~~[(9)] (8) “Participating eligible student” means an eligible student enrolled in a concurrent enrollment course.~~

~~[(10) “Upper level mathematics endorsement” means an endorsement required by the State Board of Education for an educator to teach calculus.]~~

~~[(11)] (9) “Value of the weighted pupil unit” means the same as that term is defined in Section 53F-4-301.~~

Section 8. Section 53F-2-310 is amended to read:

53F-2-310. Stipends for special educators for additional days of work.

(1) As used in this section:

(a) “IEP” means an individualized education program developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended.

(b) “Special education teacher” means a teacher whose primary assignment is the instruction of students with disabilities who are eligible for special education services.

(c) “Special educator” means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(i) a license issued ~~[under Title 53E, Chapter 6, Education Professional Licensure]~~ by the State Board of Education; and

(ii) a position as a:

(A) special education teacher; ~~[or]~~

(B) speech-language pathologist~~[-];~~ or

~~(C) teacher of the deaf or hard of hearing;~~

(2) The Legislature shall annually appropriate money for stipends to special educators for additional days of work:

(a) in recognition of the added duties and responsibilities assumed by special educators to comply with federal law regulating the education of students with disabilities and the need to attract and retain qualified special educators; and

(b) subject to future budget constraints.

(3) (a) The State Board of Education shall distribute money appropriated under this section to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends for special educators in the amount of \$200 per day for up to 10 additional working days.

(b) Money distributed under this section shall include, in addition to the \$200 per day stipend, money for the following employer-paid benefits:

(i) retirement;

(ii) workers’ compensation;

(iii) Social Security; and

(iv) Medicare.

(4) A special educator receiving a stipend shall:

(a) work an additional day beyond the number of days contracted with the special educator’s school district or school for each daily stipend;

(b) schedule the additional days of work before or after the school year; and

(c) use the additional days of work to perform duties related to the IEP process, including:

(i) administering student assessments;

(ii) conducting IEP meetings;

(iii) writing IEPs;

(iv) conferring with parents; and

(v) maintaining records and preparing reports.

(5) A special educator may:

(a) elect to receive a stipend for one to 10 days of additional work; or

(b) elect to not receive a stipend.

(6) A person who does not hold a full-time position as a special educator is eligible for a partial stipend equal to the percentage of a full-time special educator position the person assumes.

Section 9. Section 53F-2-405 is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, “educator” means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license issued ~~[under Title 53E, Chapter 6, Education Professional Licensure; and]~~ by the State Board of Education; and

- (b) a position as a:
 - (i) classroom teacher;
 - (ii) speech pathologist;
 - (iii) librarian or media specialist;
 - (iv) preschool teacher;
 - (v) mentor teacher;
 - (vi) teacher specialist or teacher leader;
 - (vii) guidance counselor;
 - (viii) audiologist;
 - (ix) psychologist; or
 - (x) social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the State Board of Education for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator's most recent evaluation.

(5) The State Board of Education may make rules as necessary to administer this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

- (i) maintain educator salary adjustments provided in prior years; and
- (ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) worker's compensation;
- (iii) social security; and
- (iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the State Board of Education, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 10. Section 53F-5-203 is amended to read:

53F-5-203. Interventions for Reading Difficulties Pilot Program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Dyslexia" means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.

~~[(c) "Endorsement" means the same as that term is defined in Section 53E-6-102.]~~

~~[(d)] (c) "Local education agency" or "LEA" means:~~

- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

~~[(e)] (d) "Multi-Tier System of Supports" or "MTSS" means a framework integrating assessment and intervention that:~~

(i) provides increasingly intensive interventions for students at risk for or experiencing reading difficulties, including:

(A) tier II interventions that, in addition to standard classroom reading, provide supplemental

and targeted small group instruction in reading using evidence-based curricula; and

(B) tier III interventions that address the specific needs of students who are the most at risk or who have not responded to tier II interventions by providing frequent, intensive, and targeted small group instruction using evidence-based curricula; and

(ii) is developed to:

- (A) maximize student achievement;
- (B) reduce behavior problems; and
- (C) increase long-term success.

~~[(f)]~~ (e) “Program” means the Interventions for Reading Difficulties Pilot Program.

~~[(g)]~~ (f) “Reading difficulty” means an impairment, including dyslexia, that negatively affects a student’s ability to learn to read.

(2) There is created the Interventions for Reading Difficulties Pilot Program to provide:

(a) specific evidence-based literacy interventions using an MTSS for students in kindergarten through grade 5 who are at risk for or experiencing a reading difficulty, including dyslexia; and

(b) professional development to educators who provide the literacy interventions described in Subsection (2)(a).

(3) (a) An LEA may submit a proposal to the board to participate in the program.

(b) An LEA proposal described in Subsection (3)(a) shall:

(i) specify:

(A) a range of current benchmark assessment in reading scores described in Section 53E-4-307 that the LEA will use to determine whether a student is at risk for a reading difficulty; and

(B) other reading difficulty risk factors that the LEA will use to determine whether a student is at risk for a reading difficulty;

(ii) describe the LEA’s existing reading program;

(iii) describe the LEA’s MTSS approach; and

(iv) include any other information requested by the board.

(c) The board may:

- (i) specify the format for an LEA proposal; and
- (ii) set a deadline for an LEA to submit a proposal.

(4) The board shall:

(a) define criteria for selecting an LEA to participate in the program;

(b) during fiscal year 2016, select five LEAs to participate in the program:

(i) on a competitive basis; and

(ii) using criteria described in Subsection (4)(a); and

(c) provide each LEA, selected as described in Subsection (4)(b), up to \$30,000 per school within the LEA.

(5) During fiscal years 2017, 2018, and 2019, if funding allows, the board may select additional LEAs to participate in the program.

(6) An LEA that participates in the program:

(a) shall, beginning with the 2016-17 school year, provide the interventions described in Subsection (7)(c) from the time the LEA is selected until the end of the 2018-19 school year; and

(b) may provide the professional development described in Subsections (8)(a) and (b) beginning in fiscal year 2016.

(7) An LEA that participates in the program shall:

(a) select at least one school in the LEA to participate in the program;

(b) identify students in kindergarten through grade 5 for participation in the program by:

(i) using current benchmark assessment in reading scores as described in Section 53E-4-307; and

(ii) considering other reading difficulty risk factors identified by the LEA;

(c) provide interventions for each student participating in the program using an MTSS implemented by an educator trained in evidence-based interventions;

(d) include the LEA’s proposal submitted under Subsection (3)(b) in the reading achievement plan described in Section 53E-4-306 for each school in the LEA that participates in the program; and

(e) report annually to the board on:

(i) individual student outcomes in changes in reading ability;

(ii) school level outcomes; and

(iii) any other information requested by the board.

(8) Subject to funding for the program, an LEA may use the funds described in Subsection (4)(c) for the following purposes:

(a) to provide for ongoing professional development in evidence-based literacy interventions;

(b) to support educators in earning a reading interventionist ~~[endorsement]~~ credential that prepares teachers to provide a student who is at risk for or experiencing reading difficulty, including dyslexia, with reading intervention that is:

(i) explicit;

(ii) systematic; and

(iii) targeted to a student’s specific reading difficulty; and

(c) to implement the program.

(9) The board shall contract with an independent evaluator to evaluate the program on:

(a) whether the program improves reading outcomes for a student who receives the interventions described in Subsection (7)(c);

(b) whether the program may reduce future special education costs; and

(c) any other student or school achievement outcomes requested by the board.

(10) (a) The board shall make a final report on the program to the Education Interim Committee on or before November 1, 2018.

(b) In the final report described in Subsection (10)(a), the board shall include the results of the evaluation described in Subsection (9).

Section 11. Section 53F-5-205 is amended to read:

53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math teacher training programs.

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section, "paraeducator" means a school employee who:

(i) delivers instruction under the direct supervision of a teacher; and

(ii) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

(2) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

(3) The State Board of Education shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate's degree or bachelor's degree program to become a licensed teacher.

(4) A paraeducator is eligible to receive a scholarship if:

(a) the paraeducator is employed by a school district or charter school;

(b) is admitted to, or has made an application to, an associate's degree program or bachelor's degree program that will prepare the paraeducator for teacher licensure; and

(c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.

(5) (a) The State Board of Education shall establish a committee to select scholarship

recipients from nominations submitted by school principals.

(b) The committee shall include representatives of the State Board of Education, State Board of Regents, and the general public, excluding school district and charter school employees.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(d) The committee shall select scholarship recipients based on the following criteria:

(i) test scores, grades, or other evidence demonstrating the applicant's ability to successfully complete a teacher education program; and

(ii) the applicant's record of success as a paraeducator.

(6) The maximum scholarship amount is \$5,000.

(7) Scholarship money may only be used to pay for tuition costs:

(a) of:

(i) an associate's degree program that fulfills credit requirements for the first two years of a bachelor's degree program leading to teacher licensure; or

(ii) the first two years of a bachelor's degree program leading to teacher licensure; and

(b) at a higher education institution:

(i) located in Utah; and

(ii) accredited by the Northwest Commission on Colleges and Universities.

(8) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.

(9) The State Board of Education shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:

(a) scholarship application procedures;

(b) the number of, and qualifications for, committee members who select scholarship recipients; and

(c) procedures for distributing scholarship money.

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

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

- (i) is not a teacher in a public or private school;
- (ii) does not have a teaching license;
- (iii) has a bachelor's degree or higher; and
- (iv) demonstrates a high level of mathematics competency by:

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

(B) passing a mathematics content exam; or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and leadership skills to assist the teacher in becoming a teacher leader.

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

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

Section 12. Section 53G-4-301 is amended to read:

53G-4-301. Local superintendent of schools -- Appointment -- Qualifications -- Term -- Compensation.

(1) Subject to Subsection ~~[(8)]~~ (7), a local school board shall appoint a district superintendent of schools who serves as the local school board's chief executive officer.

(2) A local school board shall appoint the superintendent on the basis of outstanding professional qualifications.

(3) (a) A superintendent's term of office is for two years and until, subject to Subsection ~~[(8)]~~ (7), a successor is appointed and qualified.

(b) A local school board that appoints a superintendent in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the superintendent.

(4) Unless a vacancy occurs during an interim vacancy period subject to Subsection ~~[(8)]~~ (7), if it becomes necessary to appoint an interim superintendent due to a vacancy in the office of superintendent, the local school board shall make an appointment during a public meeting for an indefinite term not to exceed one year, which term shall end upon the appointment and qualification of a new superintendent.

~~[(5) (a) The superintendent shall hold an administrative/supervisory license issued by the State Board of Education, except as otherwise provided in Subsection (5)(b).]~~

~~[(b) At the request of a local school board, the State Board of Education shall grant a letter of authorization permitting a person with outstanding professional qualifications to serve as superintendent without holding an administrative/supervisory license.]~~

~~[(6)]~~ (5) A local school board shall set the superintendent's compensation for services.

~~[(7)]~~ (6) A superintendent qualifies for office by taking the constitutional oath of office.

~~[(8)]~~ (7) (a) As used in this Subsection ~~[(8)]~~ (7), "interim vacancy period" means the period of time that:

(i) begins on the day on which a general election described in Section 20A-1-202 is held to elect a member of a local school board; and

(ii) ends on the day on which the member-elect begins the member's term.

(b) (i) The local school board may not appoint a superintendent during an interim vacancy period.

(ii) Notwithstanding Subsection ~~[(8)]~~ (7)(b)(i):

(A) the local school board may appoint an interim superintendent during an interim vacancy period; and

(B) the interim superintendent's term shall expire once a new superintendent is appointed by the new local school board after the interim vacancy period has ended.

(c) Subsection ~~[(8)]~~ (7)(b) does not apply if all the local school board members who held office on the day of the general election whose term of office was vacant for the election are re-elected to the local school board for the following term.

Section 13. Section 53G-5-407 is amended to read:

53G-5-407. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The school's governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this chapter and other related provisions.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter 11, Part 5, School District and ~~[Utah Schools for the Deaf and the Blind]~~ USDB Employee Requirements; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who ~~[(4)]~~ are licensed ~~[-or-]~~.

~~[(ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.]~~

(b) The school's governing board shall disclose the qualifications of its teachers to the parents of its students.

(5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.

(7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(b) An election under this Subsection (7):

(i) shall be documented by a resolution adopted by the governing board of the charter school; and

(ii) applies to the charter school as the employer and to all employees of the charter school.

(c) The governing board of a charter school may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(8) A charter school may not revoke an election to participate made under Subsection (7).

(9) The governing board of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging that the employee:

(a) has received:

(i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or

(ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and

(b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Section 14. Section 53G-9-704 is amended to read:

53G-9-704. Youth suicide prevention training for employees.

(1) A school district or charter school shall require a licensed employee to complete a minimum of two hours of professional development training on youth suicide prevention [~~within the employee's license cycle described in Section 53E-6-201~~] every three years.

(2) The board shall:

(a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and

(b) in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, incorporate the training described in Subsection (1) into professional development training described in Section 53E-6-201.

Section 15. Section 53G-11-501 is amended to read:

53G-11-501. Definitions.

As used in this part:

(1) "Administrator" means an individual who~~:]~~ supervises educators and holds an appropriate license issued by the State Board of Education.

~~[(a) serves in a position that requires:]~~

~~[(i) an educator license with an administrative area of concentration; or]~~

~~[(ii) a letter of authorization described in Section 53G-4-301 or 53E-6-304; and]~~

~~[(b) supervises school administrators or teachers.]~~

(2) "Career educator" means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.

(3) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53G-11-503 and an agreement with the employee or the employee's association, district practice, or policy.

(4) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

(5) "Dismissal" or "termination" means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same

category employed by the school district during the employee's contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

(6) "Educator" means an individual employed by a school district who is required to hold a professional license issued by the State Board of Education, except:

(a) a superintendent; or

(b) an individual who works less than three hours per day or is hired for less than half of a school year.

(7) (a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (7)(b).

(b) Excluding Section 53G-11-518, for purposes of this part, "employee" does not include:

(i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;

(ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or

(iii) a temporary employee.

(8) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.

(9) "Probationary educator" means an educator employed by a school district who, under local school board policy, has been advised by the school district that the educator's performance is inadequate.

(10) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.

(11) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.

(12) "School board" or "board" means a district school board or, for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(13) "School district" or "district" means:

(a) a public school district; or

(b) the Utah Schools for the Deaf and the Blind.

(14) "Summative evaluation" means the annual evaluation that summarizes an educator's performance during a school year and that is used to make decisions related to the educator's employment.

(15) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the local board of education. If

the class of employees in question is represented by an employee organization recognized by the local board, the board shall adopt the board's policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

(16) (a) "Unsatisfactory performance" means a deficiency in performing work tasks that may be:

(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and

(ii) remediated through training, study, mentoring, or practice.

(b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53G-11-512 or a reason for license discipline by the State Board of Education or Utah Professional Practices Advisory Commission:

(i) a violation of work rules;

(ii) a violation of local school board policies, State Board of Education rules, or law;

(iii) a violation of standards of ethical, moral, or professional conduct; or

(iv) insubordination.

Section 16. Section 53G-11-503 is amended to read:

53G-11-503. Career employee status for provisional employees -- Career status in the event of change of position -- Continuation of probationary status when position changes -- Temporary status for extra duty assignments.

(1) (a) A provisional employee must work for a school district on at least a half-time basis for three consecutive years to obtain career employee status.

(b) A school district may extend the provisional status of an employee up to an additional two consecutive years in accordance with a written policy adopted by the district's school board that specifies the circumstances under which an employee's provisional status may be extended.

(2) Policies of an employing school district shall determine the status of a career employee in the event of the following:

(a) the employee accepts a position which is substantially different from the position in which career status was achieved; or

(b) the employee accepts employment in another school district.

(3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district, the order shall stand until its provisions are satisfied.

(4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those

extra duty assignments and may not acquire career status beyond the primary assignment.

~~[(5) A person is an at-will employee and is not eligible for career employee status if the person:]~~

~~[(a) is a teacher who holds a competency-based license pursuant to Section 53E-6-306 and does not hold a level 1, 2, or 3 license as defined in Section 53E-6-102; or]~~

~~[(b) holds an administrative/supervisory letter of authorization pursuant to Section 53E-6-304.]~~

Section 17. Section 63G-7-102 is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) “Arises out of or in connection with, or results from,” when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) “Claim” means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee’s personal capacity.

(3) (a) “Employee” includes:

(i) a governmental entity’s officers, employees, servants, trustees, or commissioners;

(ii) members of a governing body;

(iii) members of a government entity board;

(iv) members of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children’s Justice Center created in accordance with Section 67-5b-102;

(vi) student teachers holding a ~~[letter of authorization in accordance with Sections 53E-6-102 and 53E-6-201]~~ license issued by the State Board of Education;

(vii) educational aides;

(viii) students engaged in providing services to members of the public in the course of an approved medical, nursing, or other professional health care clinical training program;

(ix) volunteers as defined by Subsection 67-20-2(3); and

(x) tutors.

(b) “Employee” includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) “Employee” does not include an independent contractor.

(4) “Governmental entity” means the state and its political subdivisions as both are defined in this section.

(5) (a) “Governmental function” means each activity, undertaking, or operation of a governmental entity.

(b) “Governmental function” includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) “Governmental function” includes a governmental entity’s failure to act.

(6) “Injury” means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person’s agent.

(7) “Personal injury” means an injury of any kind other than property damage.

(8) “Political subdivision” means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) “Property damage” means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) “State” means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children’s Justice Center, or other instrumentality of the state.

(11) “Willful misconduct” means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor’s conduct will probably result in injury.

Section 18. Repealer.

This bill repeals:

**Section 53A-6-105 (Repealed 07/01/18),
Licensing fees -- Credit to subfund --
Payment of expenses.**

**Section 53E-6-202 (Superseded 07/01/18),
Reinstatement of a license.**

**Section 53E-6-202 (Effective 07/01/18),
Reinstatement of a license.**

Section 53E-6-203, Teacher classifications.

**Section 53E-6-304,
Administrative/supervisory letters of
authorization.**

**Section 53E-6-305, Alternative preparation
program -- Work experience requirement.**

Section 53E-6-306, Licensing by competency.

Section 53E-6-903, JROTC instructors.

Section 53E-6-1001, Enactment of compact.

**Section 53E-6-1002, Purpose and intent of
compact -- Findings.**

Section 53E-6-1003, Definitions.

**Section 53E-6-1004, Contracts for
acceptance of educational personnel.**

**Section 53E-6-1005, Effect of compact on
other state laws and regulations.**

**Section 53E-6-1006, Agreement by party
states.**

Section 53E-6-1007, Evaluation of compact.

Section 53E-6-1008, Scope of compact.

**Section 53E-6-1009, Effective date --
Withdrawal from compact -- Continuing
obligations.**

**Section 53E-6-1010, Construction of
compact.**

**Section 53E-6-1011, Superintendent of
public instruction as designated state
official.**

Section 53E-7-305, Licensing of teachers.

CHAPTER 23**H. B. 49**

Passed February 9, 2018
Approved March 13, 2018
Effective May 8, 2018

**REPEAL OF HEALTH
RELATED PILOT PROGRAM**

Chief Sponsor: Michael K. McKell
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill repeals a provision addressing a pilot program of the Department of Health.

Highlighted Provisions:

This bill:

- ▶ repeals duty to establish pilot program for monitoring quality in health care.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

26-1-30.5, as last amended by Laws of Utah 2010,
Chapter 344

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

Section 1. Repealer.

This bill repeals:

Section 26-1-30.5, Duty to establish pilot program for monitoring quality in health care.

CHAPTER 24**H. B. 50**

Passed February 7, 2018
 Approved March 13, 2018
 Effective May 8, 2018

**OBSCENITY AND PORNOGRAPHY
 COMPLAINTS OMBUDSMAN**

Chief Sponsor: Michael K. McKell
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses provisions related to the obscenity and pornography complaints ombudsman.

Highlighted Provisions:

This bill:

- ▶ repeals the provision creating the obscenity and pornography complaints ombudsman; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-928, as last amended by Laws of Utah 2011, Chapter 75
 17-18a-601, as enacted by Laws of Utah 2013, Chapter 237
 67-5-1.5, as last amended by Laws of Utah 2016, Chapter 133

REPEALS:

67-5-18, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 10-3-928 is amended to read:

10-3-928. Attorney duties -- Deputy public prosecutor.

In cities with a city attorney, the city attorney:

- (1) may prosecute violations of city ordinances;
- (2) may prosecute, under state law, infractions and misdemeanors occurring within the boundaries of the municipality;
- (3) has the same powers in respect to violations as are exercised by a county attorney or district attorney, except that a city attorney's authority to grant immunity shall be limited to:
 - (a) granting transactional immunity for violations of city ordinances; and
 - (b) granting transactional immunity under state law for infractions and misdemeanors occurring within the boundaries of the municipality;
- (4) shall represent the interests of the state or the municipality in the appeal of any matter prosecuted in any trial court by the city attorney;

(5) may cooperate with the Office of the Attorney General during investigations~~[, including those described in Subsection 67-5-18(3)(f)];~~ and

(6) may designate a city attorney from another municipality or a public prosecutor to prosecute a matter, in the court having jurisdiction over the matter, if the city attorney has a conflict of interest regarding the matter being prosecuted.

Section 2. Section 17-18a-601 is amended to read:

17-18a-601. Assistance to the attorney general.

(1) (a) The attorney shall appear and assist the attorney general in criminal and civil legal matters involving the state if:

- (i) except as provided in Subsection (1)(b), the attorney general requests assistance; or
- (ii) the attorney is required by law to provide assistance.

(b) The attorney is not required to provide, if requested, the attorney general assistance if the attorney's assistance would:

- (i) interfere with the attorney's duties and responsibilities to the county; or
- (ii) create a conflict of interest.

(c) The attorney shall cooperate with the attorney general in an investigation~~[, including an investigation described in Section 67-5-18].~~

(2) The attorney general shall assist the attorney with a criminal prosecution if a court:

- (a) finds that the attorney is unable to satisfactorily and adequately perform the duties of prosecuting a criminal case; and
- (b) recommends that the attorney seek additional legal assistance.

Section 3. Section 67-5-1.5 is amended to read:

67-5-1.5. Special duties -- Employment of staff.

(1) The attorney general may undertake special duties and projects as follows:

(a) employment of child protection services investigators under Section 67-5-16;

~~[(b) employment of an Obscenity and Pornography Complaints Ombudsman under Section 67-5-18;]~~

~~[(e)]~~ (b) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;

~~[(d)]~~ (c) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;

~~[(e)]~~ (d) administration of the Identity Theft Reporting Information System (IRIS) Program under Section 67-5-22;

~~[(f)]~~ (e) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24; and

~~(g)~~ (f) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.

(2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Section 4. Repealer.

This bill repeals:

**Section 67-5-18, Obscenity and Pornography
Complaints Ombudsman -- Powers.**

CHAPTER 25**H. B. 51**

Passed February 13, 2018

Approved March 13, 2018

Effective May 8, 2018

**ADMINISTRATIVE OFFICE
OF THE COURTS AMENDMENTS**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions relating to the Administrative Office of the Courts.

Highlighted Provisions:

This bill:

- ▶ removes the Office of the Court Administrator from the Legislative Oversight and Sunset Act;
- ▶ provides for consistent use of the terms “Administrative Office of the Courts” and “state court administrator”;
- ▶ clarifies that the state court administrator serves at the pleasure of the Judicial Council and the Supreme Court; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-1-506, as last amended by Laws of Utah 2017, Chapter 115
- 36-21-1, as enacted by Laws of Utah 1995, Chapter 44
- 41-6a-2002, as last amended by Laws of Utah 2014, Chapter 276
- 59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 63A-3-110, as enacted by Laws of Utah 2017, Chapter 354
- 63B-5-201, as last amended by Laws of Utah 2016, Chapter 144
- 63G-2-103, as last amended by Laws of Utah 2017, Chapters 196 and 441
- 63I-1-278, as last amended by Laws of Utah 2016, Chapters 325 and 398
- 63I-5-201, as last amended by Laws of Utah 2016, Chapters 144 and 195
- 67-8-5, as last amended by Laws of Utah 2015, Chapter 289
- 76-8-309, as last amended by Laws of Utah 2004, Chapter 274
- 77-10a-2, as last amended by Laws of Utah 2010, Chapters 34 and 96
- 78A-2-103, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-104, as last amended by Laws of Utah 2009, Chapter 32
- 78A-2-105, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-107, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-2-108, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-2-109, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-2-301, as last amended by Laws of Utah 2015, Chapters 99 and 313

78A-11-106, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-1-117, as last amended by Laws of Utah 2014, Chapter 233

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

Section 1. Section 20A-1-506 is amended to read:**20A-1-506. Vacancy in the office of justice court judge.**

(1) As used in this section:

(a) “Appointing authority” means:

(i) for a county:

(A) the chair of the county commission in a county having the county commission or expanded county commission form of county government; and

(B) the county executive in a county having the county executive-council form of government; and

(ii) for a city or town, the mayor of the city or town.

(b) “Local legislative body” means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) (a) If a vacancy occurs in the office of a municipal justice court judge before the completion of the judge’s term of office, the appointing authority:

(i) shall fill the vacancy by following the procedures and requirements for appointments in Section 78A-7-202; and

(ii) may contract with a justice court judge of the county, an adjacent county, or another municipality within those counties for judicial services until the vacancy is filled.

(b) The appointing authority shall notify the ~~Office of the State Court Administrator~~ Administrative Office of the Courts in writing of an appointment of a municipal justice court judge under this section within 30 days after the appointment is made.

(3) (a) If a vacancy occurs in the office of a county justice court judge before the completion of the judge’s term of office, the appointing authority shall fill the vacancy by following the procedures and requirements for appointments in Section 78A-7-202.

(b) The appointing authority shall notify the ~~Office of the State Court Administrator~~ Administrative Office of the Courts in writing of an appointment of a county justice court judge under

this section within 30 days after the appointment is made.

(4) (a) When a vacancy occurs in the office of a justice court judge, the appointing authority shall:

(i) advertise the vacancy and solicit applications for the vacancy;

(ii) appoint the best qualified candidate to office based solely upon fitness for office;

(iii) comply with the procedures and requirements of Title 52, Chapter 3, Prohibiting Employment of Relatives, in making appointments to fill the vacancy; and

(iv) submit the name of the appointee to the local legislative body.

(b) If the local legislative body does not confirm the appointment within 30 days of submission, the appointing authority may either appoint another of the applicants or reopen the vacancy by advertisement and solicitations of applications.

Section 2. Section 36-21-1 is amended to read:

36-21-1. Definition -- Deadline for state governmental entities filing legislation -- Waiver.

(1) "Governmental entity" means:

(a) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, committees, and elected officials;

(b) the judicial branch of the state, including the courts, the Judicial Council, the ~~[Office of the Court Administrator]~~ Administrative Office of the Courts, and similar administrative units in the judicial branch;

(c) the State Board of Education, the State Board of Regents, and any state-funded institution of higher education or public education;

(d) the National Guard;

(e) all quasi independent entities created by statute; and

(f) any political subdivision of the state, including any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district.

(2) Legislation requested by a governmental entity may not be considered by the Legislature during the annual general session unless:

(a) at the time the request for legislation is made it has a legislative sponsor;

(b) the request for legislation is filed with the Office of Legislative Research and General Counsel by December 1st of the year immediately before the Legislature's annual general session; and

(c) at the time the request for legislation is filed, it includes the purpose of the measure and all necessary drafting information.

(3) The Legislature, by motion and with the approval of a majority vote in one house, may waive this requirement.

(4) It is the intent of the Legislature that these agency requests will not be given higher priority than individual legislative requests filed at a later date.

Section 3. Section 41-6a-2002 is amended to read:

41-6a-2002. Definitions.

As used in this section:

(1) "Automatic license plate reader system" means a system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

(2) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate reader system.

(3) (a) "Governmental entity" means:

(i) executive department agencies of the state;

(ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney general, and the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the State Board of Regents;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(xv) courts, the Judicial Council, the ~~[Office of the Court Administrator]~~ Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) any state-funded institution of higher education or public education; or

(xvii) any political subdivision of the state.

(b) "Governmental entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsections (3)(a)(i) through (xvii)

that is funded or established by the government to carry out the public's business; or

(ii) a person acting as an agent of a governmental entity or acting on behalf of a governmental entity.

(4) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is only obtainable through specific access-control points.

Section 4. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218; or

(x) Section 59-12-2219.

(7) "Aircraft" means the same as that term is defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or
- (ii) other organic matter that is available on a renewable basis, including:
 - (A) slash and brush from forests and woodlands;
 - (B) animal waste;
 - (C) waste vegetable oil;
 - (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
 - (E) aquatic plants; and
 - (F) agricultural products.

(b) “Biomass energy” does not include:

- (i) black liquor; or
- (ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

- (i) distinct and identifiable; and
 - (ii) sold for one nonitemized price.
- (b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

- (ii) the sale of real property;
- (iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

- (A) the tangible personal property:
 - (I) is essential to the use of the service; and
 - (II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

- (v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this

chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

- (I) food and food ingredients;
- (II) a drug;
- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not

include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(34) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(35) "Digital audio-visual work" means a series of related images which, when shown in succession,

imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(39) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(44) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) “Employee” means the same as that term is defined in Section 59-10-401.

(47) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(50) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (91)(b)(iii).

(c) “Food and food ingredients” does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) “Fundraising sales” means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the [Office of the Court Administrator] Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define “commercial mobile radio service provider.”

(70) (a) Except as provided in Subsection (70)(c), “mobility enhancing equipment” means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) “Mobility enhancing equipment” includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) “Mobility enhancing equipment” does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) “Model 1 seller” means a seller registered under the agreement that has selected a certified service provider as the seller’s agent to perform all of the seller’s sales and use tax functions for agreement sales and use taxes other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

(72) “Model 2 seller” means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller’s sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), “model 3 seller” means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

(74) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) “Modular home” means a modular unit as defined in Section 15A-1-302.

(76) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

(77) “Oil sands” means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) “Other fuels” means products that burn independently to produce heat or energy.

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) “Pawnbroker” means the same as that term is defined in Section 13-32a-102.

(83) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.

(84) (a) “Permanently attached to real property” means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver,

syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(92) “Prescription” means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), “prewritten computer software” means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) “Prewritten computer software” includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) “Prewritten computer software” does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) “Private communications service” means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(96) (a) “Prosthetic device” means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) “Prosthetic device” does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(97) (a) “Protective equipment” means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

- (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute “protective equipment”; and
- (ii) that are consistent with the list of items that constitute “protective equipment” under the agreement.
- (98) (a) For purposes of Subsection 59-12-104(41), “publication” means any written or printed matter, other than a photocopy:
- (i) regardless of:
- (A) characteristics;
- (B) copyright;
- (C) form;
- (D) format;
- (E) method of reproduction; or
- (F) source; and
- (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “photocopy.”
- (99) (a) “Purchase price” and “sales price” mean the total amount of consideration:
- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or services are:
- (A) sold;
- (B) leased; or
- (C) rented.
- (b) “Purchase price” and “sales price” include:
- (i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;
- (ii) expenses of the seller, including:
- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;
- (iii) a charge by the seller for any service necessary to complete the sale; or
- (iv) consideration a seller receives from a person other than the purchaser if:
- (A) (I) the seller actually receives consideration from a person other than the purchaser; and
- (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
- (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
- (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
- (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
- (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
- (III) the price reduction or discount is identified as a third party price reduction or discount on the:
- (Aa) invoice the purchaser receives; or
- (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) “Purchase price” and “sales price” do not include:
- (i) a discount:
- (A) in a form including:
- (I) cash;
- (II) term; or
- (III) coupon;
- (B) that is allowed by a seller;
- (C) taken by a purchaser on a sale; and
- (D) that is not reimbursed by a third party; or
- (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
- (A) the following from credit extended on the sale of tangible personal property or services:
- (I) a carrying charge;

- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) "Rental" means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

(110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" means the same as that term is defined in Subsection (109).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" means the same as that term is defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

- (I) textbooks;
- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

- (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to

organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

(115) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) “Seller” means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

<p>(xx) a shower cap;</p> <p>(xxi) a snack item;</p> <p>(xxii) soap;</p> <p>(xxiii) toilet paper;</p> <p>(xxiv) a toothbrush;</p> <p>(xxv) toothpaste; or</p> <p>(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.</p> <p>(c) “Short-term lodging consumable” does not include:</p> <p>(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or</p> <p>(ii) a product transferred electronically.</p> <p>(120) “Simplified electronic return” means the electronic return:</p> <p>(a) described in Section 318(C) of the agreement; and</p> <p>(b) approved by the governing board of the agreement.</p> <p>(121) “Solar energy” means the sun used as the sole source of energy for producing electricity.</p> <p>(122) (a) “Sports or recreational equipment” means an item:</p> <p>(i) designed for human use; and</p> <p>(ii) that is:</p> <p>(A) worn in conjunction with:</p> <p>(I) an athletic activity; or</p> <p>(II) a recreational activity; and</p> <p>(B) not suitable for general use.</p> <p>(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:</p> <p>(i) listing the items that constitute “sports or recreational equipment”; and</p> <p>(ii) that are consistent with the list of items that constitute “sports or recreational equipment” under the agreement.</p> <p>(123) “State” means the state of Utah, its departments, and agencies.</p> <p>(124) “Storage” means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.</p> <p>(125) (a) Except as provided in Subsection (125)(d) or (e), “tangible personal property” means personal property that:</p> <p>(i) may be:</p>	<p>(A) seen;</p> <p>(B) weighed;</p> <p>(C) measured;</p> <p>(D) felt; or</p> <p>(E) touched; or</p> <p>(ii) is in any manner perceptible to the senses.</p> <p>(b) “Tangible personal property” includes:</p> <p>(i) electricity;</p> <p>(ii) water;</p> <p>(iii) gas;</p> <p>(iv) steam; or</p> <p>(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.</p> <p>(c) “Tangible personal property” includes the following regardless of whether the item is attached to real property:</p> <p>(i) a dishwasher;</p> <p>(ii) a dryer;</p> <p>(iii) a freezer;</p> <p>(iv) a microwave;</p> <p>(v) a refrigerator;</p> <p>(vi) a stove;</p> <p>(vii) a washer; or</p> <p>(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.</p> <p>(d) “Tangible personal property” does not include a product that is transferred electronically.</p> <p>(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:</p> <p>(i) a hot water heater;</p> <p>(ii) a water filtration system; or</p> <p>(iii) a water softener system.</p> <p>(126) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:</p> <p>(i) telecommunications switching or routing equipment, machinery, or software; or</p> <p>(ii) telecommunications transmission equipment, machinery, or software.</p> <p>(b) The following apply to Subsection (126)(a):</p>
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- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

(129) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

- (b) "Telecommunications service" includes:
 - (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
 - (A) on the code, form, or protocol of the content;
 - (B) for the purpose of electronic conveyance, routing, or transmission; and
 - (C) regardless of whether the service:
 - (I) is referred to as voice over Internet protocol service; or
 - (II) is classified by the Federal Communications Commission as enhanced or value added;
 - (ii) an 800 service;

- (iii) a 900 service;
- (iv) a fixed wireless service;
- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.
- (c) "Telecommunications service" does not include:
 - (i) advertising, including directory advertising;
 - (ii) an ancillary service;
 - (iii) a billing and collection service provided to a third party;
 - (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
 - (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
 - (v) installation or maintenance of the following on a customer's premises:
 - (A) equipment; or
 - (B) wiring;
 - (vi) Internet access service;
 - (vii) a paging service;
 - (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;
 - (ix) a radio and television audio and video programming service:
 - (A) regardless of the medium; and
 - (B) including:
 - (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (138)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 5. Section 63A-3-110 is amended to read:

63A-3-110. Personal use expenditures for state officers and employees.

(1) As used in this section:

(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.

(b) "Governmental entity" means:

(i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the State Board of Regents;

(ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;

(iii) courts, the Judicial Council, the ~~Office of the Court Administrator~~ Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) independent state entities created under Title 63H, Independent State Entities; or

(v) the Utah Science Technology and Research Governing Authority created under Section 63M-2-301.

(c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(d) (i) "Personal use expenditure" means an expenditure made without the authority of law that:

(A) is not directly related to the performance of an activity as a state officer or employee;

(B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and

(C) would constitute taxable income under federal law.

(ii) "Personal use expenditure" does not include:

(A) a de minimis or incidental expenditure; or

(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the state.

(e) "Public funds" means the same as that term is defined in Section 51-7-3.

(2) A state officer or employee may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.

(3) If the Division of Finance or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use

expenditure in violation of Subsection (2), the governmental entity shall:

(a) require the state officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and

(c) deposit the money received under Subsection (3)(b) into the General Fund.

(4) (a) Any state officer or employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.

(5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).

(6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.

(7) A state officer or employee who has been convicted of misusing public money under Section 76-8-402 may not disburse public funds or access public accounts.

Section 6. Section 63B-5-201 is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division

of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of Parks and Recreation, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Control to seek out the most cost

effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$3,470,200 for the construction of the Student Services Center, at Utah State University Eastern, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with Utah State University Eastern to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue Bonds, which prohibits the issuance of revenue bonds

payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed \$6,000,000 together with additional amounts necessary to:

- (A) pay cost of issuance;
- (B) pay capitalized interest; and
- (C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the ~~[Office of the Court Administrator]~~ Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the ~~[Office of the Court Administrator]~~ Administrative Office of the

Courts to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the State Board of Education and the Governor's Office of Economic Development to seek out the most cost effective and prudent lease purchase plan available.

Section 7. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

- (b) “Computer program” does not mean:
- (i) the original data, including numbers, text, voice, graphics, and images;
 - (ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or
 - (iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.
- (5) (a) “Contractor” means:
- (i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or
 - (ii) any private, nonprofit organization that receives funds from a governmental entity.
- (b) “Contractor” does not mean a private provider.
- (6) “Controlled record” means a record containing data on individuals that is controlled as provided by Section 63G-2-304.
- (7) “Designation,” “designate,” and their derivative forms mean indicating, based on a governmental entity’s familiarity with a record series or based on a governmental entity’s review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.
- (8) “Elected official” means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.
- (9) “Explosive” means a chemical compound, device, or mixture:
- (a) commonly used or intended for the purpose of producing an explosion; and
 - (b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:
 - (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and
 - (ii) the resultant gaseous pressures are capable of:
 - (A) producing destructive effects on contiguous objects; or
 - (B) causing death or serious bodily injury.
- (10) “Government audit agency” means any governmental entity that conducts an audit.
- (11) (a) “Governmental entity” means:

- (i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;
 - (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;
 - (iii) courts, the Judicial Council, the ~~Office of the Court Administrator~~ Administrative Office of the Courts, and similar administrative units in the judicial branch;
 - (iv) any state-funded institution of higher education or public education; or
 - (v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.
- (b) “Governmental entity” also means:
- (i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public’s business;
 - (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;
 - (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and
 - (iv) an association as defined in Section 53A-1-1601.
- (c) “Governmental entity” does not include the Utah Educational Savings Plan created in Section 53B-8a-103.
- (12) “Gross compensation” means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual’s employer.
- (13) “Individual” means a human being.
- (14) (a) “Initial contact report” means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:
- (i) the date, time, location, and nature of the complaint, the incident, or offense;
 - (ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53A-1-1601, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a

health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; or

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children’s Justice Center established under Section 67-5b-102.

(23) “Record series” means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) “Records committee” means the State Records Committee created in Section 63G-2-501.

(25) “Records officer” means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) “Schedule,” “scheduling,” and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) “Sponsored research” means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

- (a) conducted:
 - (i) by an institution within the state system of higher education defined in Section 53B-1-102; and
 - (ii) through an office responsible for sponsored projects or programs; and
- (b) funded or otherwise supported by an external:
 - (i) person that is not created or controlled by the institution within the state system of higher education; or
 - (ii) federal, state, or local governmental entity.

(28) “State archives” means the Division of Archives and Records Service created in Section 63A-12-101.

(29) “State archivist” means the director of the state archives.

(30) “Summary data” means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 8. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

~~[(1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed July 1, 2018.]~~

~~[(2) (1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2019.~~

~~[(3) (2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.~~

~~[(4) (3) Section 78B-6-802.7 is repealed on July 1, 2018.~~

Section 9. Section 63I-5-201 is amended to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Heritage and Arts, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) ~~The [Office of the Court Administrator]~~ Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Board of Regents.

(b) The State Board of Regents may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 10. Section 67-8-5 is amended to read:

67-8-5. Duties of commission -- Salary recommendations.

(1) The commission shall recommend to the Legislature:

(a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer;

(b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record; and

(c) compensation for members of the State Board of Education.

(2) The commission shall:

(a) in making recommendations on salaries described in Subsections (1)(a) and (b):

(i) make studies and formulate recommendations concerning the wage and salary classification plan based upon factors such as educational requirements, experience, responsibility, accountability for funds and staff, comparisons with wages paid in other comparable public and private employment within this state, and other states similarly situated, and any other factors generally used in similar comprehensive wage and salary classification plans so that the plan and its administration reflect current conditions at all times; and

(ii) consult and advise with, and make recommendation to, the Department of Human Resource Management regarding the plan, its administration, and the position of any elected official and judge covered by the plan;

(b) in making recommendations on compensation described in Subsection (1)(c), make studies and formulate recommendations concerning compensation of members of state boards of education in other states and other factors the commission determines to be relevant so that the compensation reflects current conditions at all times;

(c) submit to the Executive Appropriations Committee not later than 60 days before commencement of each annual general session:

(i) a report briefly summarizing its activities during the calendar year immediately preceding the session;

(ii) recommendations concerning revisions, modifications, or changes, if any, that should be made in the plan, its administration, the classification of any elected official or judge under the plan, or the compensation of members of the State Board of Education; and

(iii) specific recommendations regarding the office of governor, lieutenant governor, attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be made in the salary or other emoluments of office so that all elected and judicial officials receive equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or by the Department of Human Resource Management; and

(d) conduct a comprehensive review of judicial salary levels and make recommendations for judicial salaries in a report to the president of the Senate, the speaker of the House of Representatives, and the governor by November 1, prior to the convening of the general session of the Legislature in each odd-numbered year.

(3) (a) The recommendation under Subsection (2)(d) shall be based upon consultation with the Judicial Council and upon consideration for the career status of judges. It shall be based upon comparisons with salaries paid in other states and in comparable public and private employment within this state.

(b) In even-numbered years, the commission shall update its prior report, based upon the Consumer Price Index and other relevant factors, and shall forward its updated recommendations as prescribed in this section.

(4) The Judicial Council shall cooperate with the commission in providing information on the judicial branch of government and on the individual levels of court as requested. The director of personnel from the ~~[Office of the Court Administrator]~~ Administrative Office of the Courts shall provide the salary comparison data referred to in this section to the legislative fiscal analyst and shall provide other staff assistance and support as requested by the legislative fiscal analyst.

Section 11. Section 76-8-309 is amended to read:

76-8-309. Escape and aggravated escape -- Consecutive sentences -- Definitions.

(1) (a) (i) A prisoner is guilty of escape if ~~he~~ the prisoner leaves official custody without lawful authorization.

(ii) If a prisoner obtains authorization to leave official custody by means of deceit, fraud, or other artifice, the prisoner has not received lawful authorization.

(b) Escape under this Subsection (1) is a third degree felony except as provided under Subsection (1)(c).

(c) Escape under this Subsection (1) is a second degree felony if:

(i) the actor escapes from a state prison; or

(ii) (A) the actor is convicted as a party to the offense, as defined in Section 76-2-202; and

(B) the actor is an employee at or a volunteer of a law enforcement agency, the Department of Corrections, a county or district attorney's office, the office of the state attorney general, the Board of Pardons and Parole, or the courts, the Judicial Council, the ~~[Office of the Court Administrator]~~ Administrative Office of the Courts, or similar administrative units in the judicial branch of government.

(2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape ~~he~~ the prisoner uses a dangerous weapon, as defined in Section 76-1-601, or causes serious bodily injury to another.

(b) Aggravated escape is a first degree felony.

(3) Any prison term imposed upon a prisoner for escape under this section shall run consecutively with any other sentence.

(4) For the purposes of this section:

(a) "Confinement" means the prisoner is:

(i) housed in a state prison or any other facility pursuant to a contract with the Utah Department of Corrections after being sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole;

(ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county jail after sentencing and commitment and the sentence has not been terminated or voided or the prisoner is not on parole; or

(iii) lawfully detained following arrest.

(b) "Escape" is considered to be a continuing activity commencing with the conception of the design to escape and continuing until the escaping prisoner is returned to official custody or the prisoner's attempt to escape is thwarted or abandoned.

(c) "Official custody" means arrest, whether with or without warrant, or confinement in a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement pursuant to an order of the court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole. A person is considered confined in the state prison if ~~he~~ the person:

(i) without authority fails to return to ~~his~~ the person's place of confinement from work release or home visit by the time designated for return;

(ii) is in prehearing custody after arrest for parole violation;

(iii) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or

(iv) is being transported as a prisoner in the state prison by correctional officers.

(d) "Prisoner" means any person who is in official custody and includes persons under trusty status.

(e) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

Section 12. Section 77-10a-2 is amended to read:

77-10a-2. Panel of judges -- Appointment -- Membership -- Ordering of grand jury.

(1) (a) The presiding officer of the Judicial Council shall appoint a panel of five judges from the district courts of the state to hear in secret all persons claiming to have information that would justify the calling of a grand jury. The presiding officer may

appoint senior status district court judges to the panel. The presiding officer shall designate one member of the panel as supervising judge to serve at the pleasure of the presiding officer. The panel has the authority of the district court.

(b) To ensure geographical diversity on the panel one judge shall be appointed from the first or second district for a five-year term, one judge shall be appointed from the third district for a four-year term, one judge shall be appointed from the fourth district for a three-year term, one judge shall be appointed from the fifth, sixth, seventh, or eighth districts for a two-year term, and one judge shall be appointed from the third district for a one-year term. Following the first term, all terms on the panel are for five years.

(c) The panel shall schedule hearings in each judicial district at least once every three years and may meet at any location within the state. Three members of the panel constitute a quorum for the transaction of panel business. The panel shall act by the concurrence of a majority of members present and may act through the supervising judge or managing judge. The schedule for the hearings shall be set by the panel and published by the ~~Office of the Court Administrator~~ Administrative Office of the Courts. Persons who desire to appear before the panel shall schedule an appointment with the ~~Office of the Court Administrator~~ Administrative Office of the Courts at least 10 days in advance. If no appointments are scheduled, the hearing may be canceled. Persons appearing before the panel shall be placed under oath and examined by the judges conducting the hearings. Hearsay evidence may be presented at the hearings only under the same provisions and limitations that apply to preliminary hearings.

(2) (a) If the panel finds good cause to believe a grand jury is necessary, the panel shall make its findings in writing and may order a grand jury to be summoned.

(b) The panel may refer a matter to the attorney general, county attorney, district attorney, or city attorney for investigation and prosecution. The referral shall contain as much of the information presented to the panel as the panel determines relevant. The attorney general, county attorney, district attorney, or city attorney shall report to the panel the results of any investigation and whether the matter will be prosecuted by a prosecutor's information. The report shall be filed with the panel within 120 days after the referral unless the panel provides for a different amount of time. If the panel is not satisfied with the action of the attorney general, county attorney, district attorney, or city attorney, the panel may order a grand jury to be summoned.

(3) When the attorney general, a county attorney, a district attorney, municipal attorney, or a special prosecutor appointed under Section 77-10a-12 certifies in writing to the supervising judge that in his judgment a grand jury is necessary because of criminal activity in the state, the panel shall order a grand jury to be summoned if the panel finds good cause exists.

(4) In determining whether good cause exists under Subsection (3), the panel shall consider, among other factors, whether a grand jury is needed to help maintain public confidence in the impartiality of the criminal justice process.

(5) A written certification under Subsection (3) shall contain a statement that in the prosecutor's judgment a grand jury is necessary, but the certification need not contain any information which if disclosed may create a risk of:

- (a) destruction or tainting of evidence;
- (b) flight or other conduct by the subject of the investigation to avoid prosecution;
- (c) damage to a person's reputation or privacy;
- (d) harm to any person; or
- (e) a serious impediment to the investigation.

(6) A written certification under Subsection (3) shall be accompanied by a statement of facts in support of the need for a grand jury.

(7) The supervising judge shall seal any written statement of facts submitted under Subsection (6).

(8) The supervising judge may at the time the grand jury is summoned:

(a) order that it be drawn from the state at large as provided in this chapter or from any district within the state; and

(b) retain authority to supervise the grand jury or delegate the supervision of the grand jury to any judge of any district court within the state.

(9) If after the certification under Subsection (3) the panel does not order the summoning of a grand jury or the grand jury does not return an indictment regarding the subject matter of the certification, the prosecuting attorney may release to the public a copy of the written certification if in the prosecutor's judgment the release does not create a risk as described in Subsection (5).

Section 13. Section 78A-2-103 is amended to read:

78A-2-103. Definitions.

As used in this chapter:

~~[(1)] "Administrator" means the administrator of the courts appointed under Section 78A-2-105.]~~

~~[(2)]~~ (1) "Conference" means the annual statewide judicial conference established by Section 78A-2-111.

~~[(3)]~~ (2) "Council" means the Judicial Council established by Article VIII, Sec. 12, Utah Constitution.

~~[(4)]~~ (3) "Courts" mean all courts of this state, including all courts of record and not of record.

Section 14. Section 78A-2-104 is amended to read:

78A-2-104. Judicial Council -- Creation -- Members -- Terms and election --

Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.

(1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:

- (a) the chief justice of the Supreme Court;
- (b) one member elected by the justices of the Supreme Court;
- (c) one member elected by the judges of the Court of Appeals;
- (d) five members elected by the judges of the district courts;
- (e) two members elected by the judges of the juvenile courts;
- (f) three members elected by the justice court judges; and
- (g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.

(2) The Judicial Council shall have a seal.

(3) (a) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.

(b) All members of the council shall serve for three-year terms.

(i) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

(ii) In courts having more than one member, the members shall be elected to staggered terms.

(iii) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.

(c) Elections shall be held under rules made by the Judicial Council.

(4) The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the state court administrator. The council has authority and responsibility to:

(a) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and

(b) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

(5) The council shall establish standards for the operation of the courts of the state including, but not limited to, facilities, court security, support services, and staff levels for judicial and support personnel.

(6) The council shall by rule establish the time and manner for destroying court records, including computer records, and shall establish retention periods for these records.

(7) (a) Consistent with the requirements of judicial office and security policies, the council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.

(b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may be assigned for unlimited use, within the state only.

(8) (a) The council shall advise judicial officers and employees concerning ethical issues and shall establish procedures for issuing informal and formal advisory opinions on these issues.

(b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

(c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

(9) (a) The council shall establish written procedures authorizing the presiding officer of the council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level. The appointment shall be for a specific period and shall be reported to the council.

(b) These procedures shall be developed in accordance with Subsection 78A-2-107(10) regarding temporary appointment of judges.

(10) The Judicial Council may by rule designate municipalities in addition to those designated by statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial court of record may hold court in any municipality designated as a location of a court of record.

(11) The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the ~~[administrative office of the courts]~~ Administrative Office of the Courts or whether the ~~[administrative office of the courts]~~ Administrative Office of the Courts should contract with local government for court support services.

(12) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

(13) (a) The Judicial Council shall:

(i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, Chapter 6, Part 9, Guardian Ad Litem; and

(ii) establish and supervise a Guardian Ad Litem Oversight Committee.

(b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

(14) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Section 15. Section 78A-2-105 is amended to read:

78A-2-105. State court administrator -- Appointment -- Qualifications -- Salary.

The Supreme Court shall appoint a chief administrative officer of the council who shall have the title of the state court administrator ~~[of the courts]~~ and shall serve at the pleasure of the council ~~[and/or]~~, the Supreme Court, or both. The state court administrator shall be selected on the basis of professional ability and experience in the field of public administration and shall possess an understanding of court procedures as well as of the nature and significance of other court services. ~~[He]~~ The state court administrator shall devote [his] the state court administrator's full time and attention to the duties of [his] the state court administrator's office, and shall receive a salary equal to that of a district court judge.

Section 16. Section 78A-2-107 is amended to read:

78A-2-107. State court administrator -- Powers, duties, and responsibilities.

Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the council, the state court administrator shall:

(1) organize and administer all of the nonjudicial activities of the courts;

(2) assign, supervise, and direct the work of the nonjudicial officers of the courts;

(3) implement the standards, policies, and rules established by the council;

(4) formulate and administer a system of personnel administration, including in-service training programs;

(5) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices' courts in their budgetary, fiscal, and accounting procedures;

(6) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;

(7) develop uniform procedures for the management of court business, including the management of court calendars;

(8) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;

(9) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;

(10) establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services;

(11) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;

(12) organize and administer a program of continuing education for judges and support staff, including training for justice court judges;

(13) provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and

(14) perform other duties as assigned by the presiding officer of the council.

Section 17. Section 78A-2-108 is amended to read:

78A-2-108. Assistants for state court administrator -- Appointment of trial court executives.

(1) The state court administrator [~~of the courts~~], with the approval of the presiding officer of the council, is responsible for the establishment of positions and salaries of assistants as necessary to enable him the state court administrator to perform the powers and duties vested in him the state court administrator by this chapter, including the positions of appellate court administrator, district court administrator, juvenile court administrator, and justices' court administrator, whose appointments shall be made by the state court administrator [~~of the courts~~] with the concurrence of the respective boards as established by the council.

(2) The district court administrator, with the concurrence of the presiding judge of a district or the district court judge in single judge districts, may appoint in each district a trial court executive. The trial court executive may appoint, subject to budget limitations, necessary support personnel including clerks, research clerks, secretaries, and other persons required to carry out the work of the court. The trial court executive shall supervise the work of all nonjudicial court staff and serve as administrative officer of the district.

(3) Administrators and assistants appointed under this section shall be known collectively as the Administrative Office of the Courts.

Section 18. Section 78A-2-109 is amended to read:

78A-2-109. Courts to provide information and statistical data to state court administrator.

The judges, clerks of the courts, and all other officers, state and local, shall comply with all requests made by the state court administrator or his the state court administrator's assistants for information and statistical data bearing on the state of the dockets of the courts and such other information as may reflect the business transacted by them and the expenditure of public money for the maintenance and operation of the judicial system.

Section 19. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) \$35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by

the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator ~~[of the courts]~~ shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator ~~[of the courts]~~ shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator ~~[of the courts]~~ shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator ~~[of the courts]~~ or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator ~~[of the courts]~~ for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 20. Section 78A-11-106 is amended to read:

78A-11-106. Criminal investigation of a judge -- Administrative leave.

(1) (a) (i) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by a judge other than the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to the chief justice of the Supreme Court.

(ii) (A) Unless the allegation is plainly frivolous, the commission shall also immediately refer the allegation of criminal misconduct and any information relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction to investigate and prosecute the crime.

(B) If the local prosecuting attorney receiving the allegation of criminal misconduct of a judge practices before that judge on a regular basis, or has a conflict of interest in investigating the crime, the local prosecuting attorney shall refer the allegation of criminal misconduct to another local or state prosecutor who would not have the same disability or conflict.

(C) The commission may concurrently proceed with its investigation of the complaint without waiting for the resolution of the criminal investigation by the prosecuting attorney.

(b) The chief justice of the Supreme Court may place a justice of the Supreme Court, an appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore on administrative leave with or without pay if the chief justice has a reasonable basis to believe that the alleged crime occurred, that the justice of the Supreme Court, appellate court judge, district court judge, active senior judge, juvenile court judge, justice court judge, active senior justice court judge, or judge pro tempore committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(2) (a) If the commission, during the course of its investigation into an allegation of judicial misconduct, receives information upon which a reasonable person might conclude that a misdemeanor or felony under state or federal law has been committed by the chief justice of the Supreme Court, the commission shall immediately refer the allegation and any information relevant to the potential criminal violation to two justices of the Supreme Court and the local prosecuting attorney in accordance with Subsection (1)(a)(ii).

(b) Two justices of the Supreme Court may place the chief justice of the Supreme Court on administrative leave with or without pay if the two justices have a reasonable basis to believe that the

alleged crime occurred, that the chief justice committed the crime, and that the crime was either a felony or a misdemeanor which conduct may be prejudicial to the administration of justice or which brings a judicial office into disrepute.

(3) (a) If a judge is or has been criminally charged or indicted for a class A misdemeanor or any felony under state or federal law and if the Supreme Court has not already acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as provided in Subsection (1) or (2), shall place the judge on administrative leave with or without pay pending the outcome of the criminal proceeding.

(b) The state court administrator [~~of the courts~~] shall, for the duration of the administrative leave, withhold all employer and employee contributions required under Sections 49-17-301 and 49-18-301.

(c) If the judge is not convicted of the criminal charge, and if after an investigation and final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or compensation for the period of administrative leave, and all contributions withheld under Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.

(4) The chief justice of the Supreme Court or two justices of the Supreme Court who ordered the judge on administrative leave shall order the reinstatement of the judge:

(a) if the prosecutor to whom the allegations are referred by the commission determines no charge or indictment should be filed; or

(b) after final disposition of the criminal case, if the judge is not convicted of a criminal charge and if the commission has not ordered the removal of the judge.

Section 21. Section 78B-1-117 is amended to read:

78B-1-117. Jurors and witnesses -- State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.

(1) The state is responsible for payment of all fees and expenses authorized by law for prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in criminal actions in the courts of record and actions in the juvenile court. The state is responsible for payment of all fees and expenses authorized by law for jurors in the courts of record. For these payments, the Judicial Council shall receive an annual appropriation contained in a separate line item appropriation.

(2) If expenses, for the purposes of this section, exceed the line item appropriation, the state court administrator [~~of the courts~~] shall submit a claim against the state to the Board of Examiners and request the board to recommend and submit a

supplemental appropriation request to the Legislature for the deficit incurred.

(3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by the county if the action is prosecuted by the county attorney or district attorney.

(4) Beginning July 1, 2014, the state court administrator ~~[of the courts]~~ shall provide a report during each interim to the Executive Offices and Criminal Justice Appropriations Subcommittee detailing expenses, trends, and efforts made to minimize expenses and maximize performance of the costs under this section.

(5) The funding of additional full-time equivalent employees shall be authorized by the Legislature through specific intent language.

CHAPTER 26**H. B. 94**

Passed February 23, 2018

Approved March 13, 2018

Effective May 8, 2018

**UNIFORM REAL PROPERTY
TRANSFER ON DEATH ACT**Chief Sponsor: V. Lowry Snow
Senate Sponsor: Lyle W. Hillyard**LONG TITLE****General Description:**

This bill enacts the Uniform Real Property Transfer on Death Act.

Highlighted Provisions:

This bill:

- ▶ creates a new part in the Utah Uniform Probate Code entitled the Uniform Real Property Transfer on Death Act;
- ▶ defines terms;
- ▶ specifically applies only to deeds created by a person who dies on or after May 8, 2018;
- ▶ provides that the act is nonexclusive and does not affect any other method of transferring real property allowed under Utah law;
- ▶ makes clear that the transfer of property only occurs upon the transferor's death;
- ▶ provides that a transfer on death deed is revocable and nontestamentary; and
- ▶ requires that the transferor have the same capacity as that required to make a will at the time the deed is made.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

75-6-401, Utah Code Annotated 1953
 75-6-402, Utah Code Annotated 1953
 75-6-403, Utah Code Annotated 1953
 75-6-404, Utah Code Annotated 1953
 75-6-405, Utah Code Annotated 1953
 75-6-406, Utah Code Annotated 1953
 75-6-407, Utah Code Annotated 1953
 75-6-408, Utah Code Annotated 1953
 75-6-409, Utah Code Annotated 1953
 75-6-410, Utah Code Annotated 1953
 75-6-411, Utah Code Annotated 1953
 75-6-412, Utah Code Annotated 1953
 75-6-413, Utah Code Annotated 1953
 75-6-414, Utah Code Annotated 1953
 75-6-415, Utah Code Annotated 1953
 75-6-416, Utah Code Annotated 1953
 75-6-417, Utah Code Annotated 1953
 75-6-418, Utah Code Annotated 1953
 75-6-419, Utah Code Annotated 1953

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

Section 1. Section 75-6-401 is enacted to read:

**CHAPTER 6. UNIFORM REAL PROPERTY
TRANSFER ON DEATH ACT****75-6-401. Title.**

This chapter is known as the "Uniform Real Property Transfer on Death Act."

Section 2. Section 75-6-402 is enacted to read:

75-6-402. Definitions.

As used in this chapter:

(1) "Beneficiary" means a person who receives property under a transfer on death deed.

(2) "Class gift" means a transfer to a group of persons who are classified by their relationship to one another or the transferor, and who are not individually named in the transferring document.

(3) "Designated beneficiary" means a person designated to receive property in a transfer on death deed.

(4) "Individual" means a natural person.

(5) (a) "Joint owner" means an individual who owns property concurrently with one or more other individuals with a right of survivorship.

(b) "Joint owner" includes a joint tenant, owner of community property with a right of survivorship, and tenant by the entirety.

(c) "Joint owner" does not include a tenant in common or owner of community property without a right of survivorship.

(6) "Natural person" means a human being.

(7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) "Property" means an interest in real property located in this state that is transferable on the death of the owner.

(9) "Transfer on death deed" means a deed authorized under this chapter.

(10) "Transferor" means an individual, in their individual capacity, who makes a transfer on death deed.

Section 3. Section 75-6-403 is enacted to read:

75-6-403. Applicability.

This chapter applies to a transfer on death deed made before, on, or after May 8, 2018, by a transferor dying on or after May 8, 2018.

Section 4. Section 75-6-404 is enacted to read:

75-6-404. Nonexclusivity.

This chapter does not affect any method of transferring property otherwise permitted under the law of this state.

Section 5. Section 75-6-405 is enacted to read:

75-6-405. Transfer on death deed authorized.

(1) An individual may transfer property to one or more named beneficiaries effective at the transferor's death by a transfer on death deed.

(2) A class gift may not be made by a transfer on death deed.

Section 6. Section 75-6-406 is enacted to read:

75-6-406. Transfer on death deed revocable.

A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.

Section 7. Section 75-6-407 is enacted to read:

75-6-407. Transfer on death deed nontestamentary.

A transfer on death deed is nontestamentary.

Section 8. Section 75-6-408 is enacted to read:

75-6-408. Capacity of transferor.

The capacity required to make or revoke a transfer on death deed is the same as that required to make a will.

Section 9. Section 75-6-409 is enacted to read:

75-6-409. Requirements.

A transfer on death deed shall:

(1) contain the essential elements and formalities of a properly recordable inter vivos deed;

(2) state that the transfer to the designated beneficiary is to occur at the transferor's death; and

(3) be recorded before the transferor's death in the public records in the county recorder's office of the county where the property is located.

Section 10. Section 75-6-410 is enacted to read:

75-6-410. Notice, delivery, acceptance, consideration not required.

A transfer on death deed is effective without:

(1) notice or delivery to or acceptance by the designated beneficiary during the transferor's life; or

(2) consideration.

Section 11. Section 75-6-411 is enacted to read:

75-6-411. Revocation by instrument authorized -- Revocation by act not permitted.

(1) Subject to Subsection (2), an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(a) is one of the following:

(i) a transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(ii) an instrument of revocation that expressly revokes the deed or part of the deed; or

(iii) an inter vivos deed that revokes the transfer on death deed or part of the deed expressly or by inconsistency; and

(b) is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded in the public records in the office of the county recorder where the deed is recorded before the transferor's death.

(2) If a transfer on death deed is made by more than one transferor:

(a) revocation by a transferor does not affect the deed as to the interest of another transferor; and

(b) a deed of joint owners is revoked only if it is revoked by all of the living joint owners.

(3) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.

(4) This section does not limit the effect of an inter vivos transfer of the property.

(5) Property subject to a revocation of a transfer on death deed shall adeem and nonademption statutes shall be inapplicable to the deed.

Section 12. Section 75-6-412 is enacted to read:

75-6-412. Effect of transfer on death deed during transferor's life.

During a transferor's life, a transfer on death deed does not:

(1) affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;

(2) affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed;

(3) affect an interest or right of the transferor's secured or unsecured creditors or future creditors, even if they have actual or constructive notice of the deed;

(4) affect the transferor's or designated beneficiary's eligibility for any form of public assistance;

(5) create a legal or equitable interest in favor of the designated beneficiary; or

(6) subject the property to claims or process of the designated beneficiary's creditors.

Section 13. Section 75-6-413 is enacted to read:

75-6-413. Effect of transfer on death deed at transferor's death.

(1) Except as otherwise provided in the transfer on death deed, Sections 75-2-205, 75-2-702, 75-2-803, and 75-2-804 on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death.

(a) Subject to Subsection (1)(b), the interests in the property are transferred to the designated beneficiaries in accordance with the deed.

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. Notwithstanding Section 75-2-706, the interest of a designated beneficiary that fails to survive the transferor lapses.

(c) Subject to Subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship, unless otherwise specified in the transfer on death deed.

(d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(2) Subject to Title 57, Chapter 3, Recording of Documents, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this Subsection (2) and Title 57, Chapter 3, Recording of Documents, the recording of the transfer on death deed is considered to have occurred at the transferor's death.

(3) If a transferor is a joint owner and is:

(a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(b) the last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(5) Following the death of the transferor, an affidavit in substantially the form found in Section 57-1-5.1 shall be recorded in the office of the recorder of the county in which the affected property is located. Each affidavit shall:

(a) contain a legal description of the real property that is affected;

(b) reference the entry number and the book and page of the previously recorded transfer on death deed; and

(c) have attached as an exhibit, a copy of the death certificate or other document issued by a governmental agency as described in Section 75-1-107 certifying the transferor's death.

Section 14. Section 75-6-414 is enacted to read:

75-6-414. Disclaimer.

A beneficiary may disclaim all or part of the beneficiary's interest.

Section 15. Section 75-6-415 is enacted to read:

75-6-415. Liability for creditor claims and statutory allowances.

(1) To the extent the transferor's probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, only the estate may enforce the liability against property transferred at the transferor's death by a transfer on death deed.

(2) If more than one property is transferred by one or more transfer on death deeds, the liability under Subsection (1) is apportioned among the properties in proportion to their net values at the transferor's death.

(3) A probate proceeding to enforce the liability under this section shall be commenced not later than 12 months after the transferor's death.

(4) The estate may expressly waive the estate's claim against the property.

Section 16. Section 75-6-416 is enacted to read:

75-6-416. Form of transfer on death deed.

The following form may be used to create a transfer on death deed. The other sections of this chapter govern the effect of this or any other instrument used to create a transfer on death deed:

(front of form)

**REVOCABLE TRANSFER
ON DEATH DEED FORM**

NOTICE TO OWNER

You should carefully read all information on the other side of this form. You May Want to Consult a Lawyer Before Using This Form.

This form must be recorded before your death, or it will not be effective. The beneficiary must be a named person.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

_____ Printed name _____ Mailing address

_____ Printed name _____ Mailing address

_____ Legal description of the property:

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me:

Printed name Mailing address, if available

ALTERNATE BENEFICIARY Optional

If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me:

Printed name Mailing address, if available

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

 [(SEAL)]

Date

Signature

 [(SEAL)]

Date

SignatureACKNOWLEDGMENT

(insert acknowledgment for deed here)
 (back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

Q. What does the Transfer on Death (TOD) deed do?

A. When you die, this deed transfers the described property, subject to any liens or mortgages (or other encumbrances) on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.

Q. How do I make a TOD deed?

A. Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.

Q. Is the "legal description" of the property necessary?

A. Yes.

Q. How do I find the "legal description" of the property?

A. This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Q. Can I change my mind before I record the TOD deed?

A. Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.

Q. How do I "record" the TOD deed?

A. Take the completed and acknowledged form to the office of the county recorder of the county where the property is located. Follow the instructions given by the county recorder to make the form part of the official property records. If the property is in more than one county, you should record the deed in each county.

Q. Can I later revoke the TOD deed if I change my mind?

A. Yes. The TOD deed is revocable. No one, including the beneficiaries, can prevent you from revoking the deed.

Q. How do I revoke the TOD deed after it is recorded?

A. There are three ways to revoke a recorded TOD deed: (1) Complete and acknowledge a revocation form, and record it in each county where the property is located. (2) Complete and acknowledge a new TOD deed that disposes of the same property, and record it in each county where the property is located. (3) Transfer the property to someone else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.

Q. I am being pressured to complete this form. What should I do?

A. Do not complete this form under pressure. Seek help from a trusted family member, a friend, or a lawyer.

Q. Do I need to tell the beneficiaries about the TOD deed?

A. No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.

Q. If I sign a TOD deed and designate my two children as beneficiaries, and one of them dies before me, does the interest of my child that dies before me pass to his or her children?

A. No. Everything will go to your surviving child unless you record a new transfer on death deed to state otherwise. If you have questions regarding how to word a new transfer on death deed, you are encouraged to consult a lawyer.

Q. I have other questions about this form. What should I do?

A. This form is designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer.

Section 17. Section 75-6-417 is enacted to read:

75-6-417. Optional form of revocation.

The following form may be used to create an instrument of revocation under this chapter. The other sections of this chapter govern the effect of this or any other instrument used to revoke a transfer on death deed.

(front of form)
**FULL REVOCATION OF
TRANSFER ON DEATH DEED**

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

_____ Mailing address
Printed name

_____ Mailing address
Printed name

Legal description of the property:

REVOCATION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

_____ [(SEAL)]

_____ Date
Signature

_____ [(SEAL)]

_____ Date
Signature

ACKNOWLEDGMENT

(insert acknowledgment here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

Q. How do I use this form to revoke a Transfer on Death (TOD) deed?

A. Complete this form. Have it acknowledged before a notary public or other individual

authorized to take acknowledgments. Record the form in the public records in the office of the county recorder of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.

Q. How do I find the "legal description" of the property?

A. This information may be on the TOD deed. It may also be available in the office of the county recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Q. How do I "record" the form?

A. Take the completed and acknowledged form to the office of the county recorder of the county where the property is located. Follow the instructions given by the county recorder to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties.

Q. I am being pressured to complete this form. What should I do?

A. Do not complete this form under pressure. Seek help from a trusted family member, a friend, or a lawyer.

Q. Can this form be used for a partial revocation of a previously filed TOD deed?

A. No. This form is to be used for full revocation of a deed. In the case of a partial revocation, a new TOD deed must be filed.

Q. I have other questions about this form. What should I do?

A. This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.

Section 18. Section 75-6-418 is enacted to read:

75-6-418. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Section 19. Section 75-6-419 is enacted to read:

75-6-419. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

CHAPTER 27**H. B. 95**

Passed February 7, 2018
 Approved March 13, 2018
 Effective May 8, 2018

**UNIFORM FIDUCIARY
 ACCESS TO DIGITAL ASSETS ACT**

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions related to a fiduciary's access to digital assets.

Highlighted Provisions:

This bill:

- ▶ addresses hearing requirements related to disclosure of digital assets to a conservator or guardian; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

75-11-114, as enacted by Laws of Utah 2017,
 Chapter 16

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

Section 1. Section 75-11-114 is amended to read:

75-11-114. Disclosure of digital assets to conservator or guardian of protected person.

(1) After an opportunity for a hearing under Chapter ~~5b, Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act~~ 5, Protection of Persons Under Disability and Their Property, the court may grant a conservator or guardian access to the digital assets of a protected person.

(2) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator or guardian the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator or guardian gives the custodian:

(a) a written request for disclosure in physical or electronic form;

(b) a certified copy of the court order that gives the conservator or guardian authority over the digital assets of the protected person; and

(c) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the

custodian to identify the account of the protected person; or

(ii) evidence linking the account to the protected person.

(3) A conservator or guardian with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the conservator or guardian authority over the protected person's property.

CHAPTER 28**S. B. 22**

Passed February 14, 2018

Approved March 13, 2018

Effective July 1, 2018

**MINERAL LEASE
DISTRIBUTION AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill modifies provisions related to the distribution of mineral lease funds.

Highlighted Provisions:

This bill:

- ▶ provides that each year the Division of Finance shall distribute an amount of federal mineral lease money to certain local government entities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-21-1, as last amended by Laws of Utah 2012, Chapter 212

59-21-2, as last amended by Laws of Utah 2016, Chapters 183 and 184

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

Section 1. Section 59-21-1 is amended to read:

59-21-1. Disposition of federal mineral lease money -- Priority to political subdivisions impacted by mineral development -- Disposition of mineral bonus payments -- Appropriation of money attributable to royalties from extraction of minerals on federal land located within boundaries of Grand Staircase-Escalante National Monument.

(1) Except as provided in Subsections (2) through (4), all money received from the United States under the provisions of the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., shall:

(a) be deposited in the Mineral Lease Account of the General Fund; and

(b) be appropriated by the Legislature giving priority to those subdivisions of the state socially or economically impacted by development of minerals leased under the Mineral Lands Leasing Act, for:

- (i) planning;
- (ii) construction and maintenance of public facilities; and
- (iii) provision of public services.

(2) Seventy percent of money received from federal mineral lease bonus payments shall be deposited into the Permanent Community Impact Fund and shall be used as provided in Title 35A, Chapter 8, Part 3, Community Impact Alleviation.

(3) Thirty percent of money received from federal mineral lease bonus payments shall be deposited in the Mineral Bonus Account created by Subsection 59-21-2(1) and appropriated as provided in that subsection.

(4) (a) For purposes of this Subsection (4):

(i) the “boundaries of the Grand Staircase-Escalante National Monument” means the boundaries:

(A) established by Presidential Proclamation No. 6920, 61 Fed. Reg. 50,223 (1996); and

(B) modified by:

(I) Pub. L. No. 105-335, 112 Stat. 3139; and

(II) Pub. L. No. 105-355, 112 Stat. 3247; and

(ii) a special service district, school district, or federal land is considered to be located within the boundaries of the Grand Staircase-Escalante National Monument if a portion of the special service district, school district, or federal land is located within the boundaries described in Subsection (4)(a)(i).

(b) Beginning on July 1, 1999, the Legislature shall appropriate, as provided in Subsections (4)(c) through (g), money received from the United States that is attributable to royalties from the extraction of minerals on federal land that, on September 18, 1996, was located within the boundaries of the Grand Staircase-Escalante National Monument.

(c) The Legislature shall annually appropriate 40% of the money described in Subsection (4)(b) to the [~~Department of Transportation~~] Division of Finance to be distributed by the [~~Department of Transportation~~] Division of Finance to special service districts that are:

(i) established by counties under Title 17D, Chapter 1, Special Service District Act;

(ii) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(iii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(d) The [~~Department of Transportation~~] Division of Finance shall distribute the money described in Subsection (4)(c) in amounts proportionate to the amount of federal mineral lease money generated by the county in which a special service district is located.

(e) The Legislature shall annually appropriate 40% of the money described in Subsection (4)(b) to the State Board of Education to be distributed equally to school districts that are:

(i) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(ii) located within the boundaries of the Grand Staircase–Escalante National Monument.

(f) The Legislature shall annually appropriate 2.25% of the money described in Subsection (4)(b) to the Utah Geological Survey to facilitate the development of energy and mineral resources in counties that are:

(i) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(ii) located within the boundaries of the Grand Staircase–Escalante National Monument.

(g) Seventeen and three-fourths percent of the money described in Subsection (4)(b) shall be deposited annually into the State School Fund established by Utah Constitution Article X, Section 5.

Section 2. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the “Mineral Bonus Account.”

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to \$2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

(2) (a) There is created a restricted account within the General Fund known as the “Mineral Lease Account.”

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate \$26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(iii) For fiscal year 2017-18 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate \$27,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the ~~Department of Transportation~~ Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The ~~[Department of Transportation]~~ Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number

of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) \$1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the

Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section 3. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 29**S. B. 44**

Passed February 7, 2018
 Approved March 13, 2018
 Effective May 8, 2018

**IMPOUNDMENT OF MOTOR
 VEHICLE AMENDMENTS**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Norman K. Thurston

LONG TITLE**General Description:**

This bill clarifies situations where a peace officer may use discretion whether to impound a motor vehicle.

Highlighted Provisions:

This bill:

- ▶ clarifies that a peace officer may use discretion whether to impound a motor vehicle in situations where public safety may be jeopardized.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-1101, as last amended by Laws of Utah 2017, Chapter 416

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

Section 1. Section 41-1a-1101 is amended to read:

41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.

(1) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

(a) that the division or the peace officer has reason to believe has been stolen;

(b) on which any identification number has been defaced, altered, or obliterated;

(c) that has been abandoned in accordance with Section 41-6a-1408;

(d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

(e) that is placed on the water with improper registration;

(f) that is being operated on a highway:

(i) with registration that has been expired for more than three months;

(ii) having never been properly registered by the current owner; or

(iii) with registration that is suspended or revoked; or

(g) (i) that the division or the peace officer has reason to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

(ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7.

(2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer, without a warrant:

(i) shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 and the vehicle was involved in an accident; or

(ii) may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 [if] after the division or any peace officer makes a reasonable determination [that] whether the vehicle would:

(A) [the seizure of the vehicle would] present a public safety concern to the operator or any of the occupants in the vehicle; or

(B) [the impoundment of the vehicle would] prevent the division or the peace officer from addressing other public safety considerations.

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection (2)(a):

(i) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803; or

(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

(3) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

(4) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

(6) (a) Except as provided under Subsection (6)(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection (6)(a).

(7) A person who violates the provisions of Subsection (6) is guilty of a class C misdemeanor.

(8) The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

(a) the vehicle is equipped with an odometer; and

(b) the odometer reading is accessible to the division or the peace officer.

CHAPTER 30**S. B. 79**

Passed February 9, 2018
 Approved March 14, 2018
 Effective May 8, 2018

JUDICIARY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ addresses the interest on judgment a court enters under certain circumstances;
- ▶ provides for how proof of security may be submitted to the clerk of the court;
- ▶ addresses length of a plea in abeyance;
- ▶ repeals certain requirements for an indictment to be valid;
- ▶ addresses which days a court is closed;
- ▶ addresses dissolution of a justice court created by interlocal agreement;
- ▶ modifies a provision related to an unsworn declaration;
- ▶ addresses which documents are sealed related to adoption;
- ▶ addresses court authorizing service by publication or mail under certain circumstances; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 15-1-4, as last amended by Laws of Utah 2017, Chapter 379
 41-12a-303.2, as last amended by Laws of Utah 2017, Chapter 416
 77-2a-2, as enacted by Laws of Utah 1993, Chapter 82
 77-10a-14, as enacted by Laws of Utah 1990, Chapter 318
 78A-2-212, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78A-7-102, as last amended by Laws of Utah 2012, Chapter 205
 78B-5-705, as renumbered and amended by Laws of Utah 2008, Chapter 119
 78B-6-141, as last amended by Laws of Utah 2017, Chapter 417
 78B-6-807, as last amended by Laws of Utah 2016, Chapter 33

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

Section 1. Section 15-1-4 is amended to read:**15-1-4. Interest on judgments.**

(1) As used in this section, "federal postjudgment interest rate" means the interest rate established for the federal court system under 28 U.S.C. Sec. 1961, as amended.

(2) (a) Except as provided in Subsection (2)(b), a judgment rendered on a lawful contract shall conform to the contract and shall bear the interest agreed upon by the parties, which shall be specified in the judgment.

(b) A judgment rendered on a deferred deposit loan subject to Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, shall bear interest at the rate imposed under Subsection (3)(a) on an amount not exceeding the sum of:

- (i) the total of the principal balance of the deferred deposit loan;
- (ii) interest at the rate imposed by the deferred deposit loan agreement for a period not exceeding 10 weeks as provided in Subsection 7-23-401(4);
- (iii) costs;
- (iv) attorney fees; and
- (v) other amounts allowed by law and ordered by the court.

(3) (a) Except as otherwise provided by law, or as governed by Subsection (4), all other final civil and criminal judgments of the district court and justice court shall bear interest at the federal postjudgment interest rate as of January 1 of each year, plus 2%.

(b) The postjudgment interest rate in effect at the time of the judgment shall remain the interest rate for the duration of the judgment.

(c) The interest on criminal judgments shall be calculated on the total amount of the judgment.

(d) Interest paid on state revenue shall be deposited in accordance with Section 63A-3-505.

(e) Interest paid on revenue to a county or municipality shall be paid to the general fund of the county or municipality.

(4) A judgment under \$10,000 in an action regarding the purchase of goods and services shall bear interest from the date on which the district court or justice court enters the [judgement] judgment at 10% plus the federal postjudgment interest rate in effect on January 1 of the year in which the judgment is entered.

Section 2. Section 41-12a-303.2 is amended to read:**41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.**

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all

registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(iii) A person operating a vehicle that is owned by a rental company, as defined in Section 31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 31A-22-311.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d) (i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e) (i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge or in an administrative action under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) The following are considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804:

(i) evidence defined in Subsection (2)(b);

(ii) a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified; or

(iii) a written statement from an insurance producer or company, or provision in an insurance policy, indicating that the policy provides coverage for a newly purchased car and the coverage extended to the date specified.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be ~~faxed~~ electronically submitted or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

(5) A violation of this section is an infraction, and the fine shall be not less than:

(a) \$400 for a first offense; and

(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 3. Section 77-2a-2 is amended to read:

77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.

(1) At any time after acceptance of a plea of guilty or no contest but ~~[prior to]~~ before entry of judgment of conviction and imposition of sentence, the court may, upon motion of both the prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of conviction against the defendant nor impose sentence upon the defendant within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

(2) ~~[The]~~ A defendant shall be represented by counsel during negotiations for a plea in abeyance and at the time of acknowledgment and affirmation of any plea in abeyance agreement unless the defendant ~~[shall have]~~ knowingly and intelligently ~~[waived his]~~ waives the defendant's right to counsel.

(3) ~~[The]~~ A defendant has the right to be represented by counsel at any court hearing relating to a plea in abeyance agreement.

(4) (a) Any plea in abeyance agreement entered into between the prosecution and the defendant and approved by the court shall include a full, detailed recitation of the requirements and conditions agreed to by the defendant and the reason for requesting the court to hold the plea in abeyance.

(b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be

in writing and shall, ~~[prior to]~~ before acceptance by the court, be executed by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

(5) A plea ~~[shall]~~ may not be held in abeyance for a period longer than 18 months if the plea was to any class of misdemeanor or longer than three years if the plea was to any degree of felony or to any combination of misdemeanors and felonies.

(6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

~~[(6)]~~ (7) A plea in abeyance agreement ~~[shall]~~ may not be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.

Section 4. Section 77-10a-14 is amended to read:

77-10a-14. Concurrence for indictment -- Proof -- Validity -- Disclosure.

(1) An indictment may be found only upon the concurrence of at least three-fourths, or the next highest whole number, of the grand jurors.

(2) An indictment may not be found unless the grand jurors who vote in favor of the indictment find there is clear and convincing evidence to believe the crime to be charged was committed and the person to be indicted committed ~~[it]~~ the crime. An indictment may not be returned solely on the basis of incompetent hearsay.

~~[(3) To be valid, the indictment shall be signed by the foreman and the attorney for the state or special prosecutor and returned to the managing judge in open court. The clerk of the managing court shall file the indictment upon receipt.]~~

~~[(4)]~~ (3) To be valid, the indictment shall be signed by the foreman and then returned to the managing judge in open court. The clerk of the managing court shall file the indictment upon receipt.

~~[(5)]~~ (4) (a) The managing judge who takes the return of the indictment may direct that the indictment be kept secret until the defendant is in custody or has been released pending trial.

(b) The clerk shall then seal the indictment and, except for transferring the indictment to the appropriate court for trial as provided by this chapter, may not permit any person to disclose the return of the indictment except when necessary for the issuance and execution of a warrant or summons.

Section 5. Section 78A-2-212 is amended to read:

78A-2-212. Days on which court closed -- Exceptions.

Judicial business on Sunday, on any day on which a regular general election is held, or on any legal holiday, is limited to the following purposes:

(1) to give, upon their request, instructions to a jury when deliberating on ~~their~~ the jury's verdict;

(2) to receive a verdict or discharge a jury;

(3) for the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; and

(4) judicial business not involving a trial or hearing unless the judge finds it necessary for the fair administration of justice.

Section 6. Section 78A-7-102 is amended to read:

78A-7-102. Establishment of justice courts.

(1) (a) ~~For the purposes of~~ As used in this section, to "create a justice court" means to:

(i) establish a justice court; or

(ii) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) For the purposes of this section, if more than one municipality or county is collectively proposing to create a justice court, the class of the justice court shall be determined by the total citations or cases filed within the territorial jurisdiction of the proposed justice court.

(2) ~~[Municipalities or counties]~~ A municipality or county of the first or second class may create a justice court by filing a written declaration with the Judicial Council on or before July 1 at least two years ~~prior to~~ before the effective date of the election. Upon demonstration of compliance with operating standards as established by statute and the Judicial Council, the Judicial Council shall certify the creation of the justice court ~~pursuant to~~ under Section 78A-7-103.

(3) (a) ~~[Municipalities or counties]~~ A municipality or county of the third, fourth, or fifth class may create a justice court by demonstrating the need for the justice court and filing a written declaration with the Judicial Council on or before July 1 at least one year ~~prior to~~ before the effective date of the election.

(b) A municipality or county ~~establishing~~ creating a justice court shall demonstrate to the Judicial Council that a justice court is needed. In evaluating the need for a justice court, the Judicial Council shall consider factors of population, case filings, public convenience, availability of law enforcement agencies and court support services, proximity to other courts, and any special circumstances.

(c) The Judicial Council shall certify the ~~establishment of a~~ creation of the justice court ~~pursuant to~~ under Section 78A-7-103, if the ~~council~~ Judicial Council determines:

(i) a need exists;

(ii) the municipality or county has filed a timely application; and

(iii) the proposed justice court will be in compliance with all of the operating standards established by statute and the Judicial Council.

(4) (a) A municipality that has ~~an established~~ a justice court may expand the territorial jurisdiction of ~~its~~ the justice court by entering into an agreement ~~pursuant to~~ under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more other municipalities, or the county in which the municipality exists.

(b) A justice court enlarged under this ~~section~~ Subsection (4) may not be considered as ~~establishing~~ creating a new justice court. An expanded justice court shall demonstrate that it will be in compliance with all of the requirements of the operating standards as established by statute and the Judicial Council before the justice court expands.

(c) A municipality or county seeking to expand the territorial jurisdiction of a justice court shall notify the Judicial Council:

(i) no later than the notice period required in Section 78A-7-123, when the expanded justice court is a result of the dissolution of one or more justice courts; or

(ii) no later than 180 days before the expanded court seeks to begin operation when the expanded justice court is a result of other circumstances.

(d) The Judicial Council shall certify the expansion of a justice court if it determines that the expanded justice court is in compliance with the operating standards established by statute and the Judicial Council.

(e) (i) A municipality or county that has a justice court at the time of executing an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, to become part of an expanded court shall resume operation of the justice court upon termination of the interlocal agreement in accordance with this Subsection (4)(e) or dissolve its justice courts in accordance with Subsection (4)(e)(iii).

(ii) The municipality or county shall notify the Judicial Council at least 90 days before resuming operations. The municipality or county shall demonstrate that the municipality's or county's justice court will be in compliance with the operating standards.

(iii) If the Judicial Council determines that a justice court will not be in compliance with the operating standards, the Judicial Council shall direct the expanded justice court to continue operation until the Judicial Council is satisfied the municipality's or county's justice court will meet the operating standards or until the municipality or county dissolves the municipality's or county's justice court in accordance with Section 78A-7-123.

(iv) If the interlocal agreement includes a municipality or county that did not have a justice court at the time the interlocal agreement was executed, the municipality or county shall notify

the Judicial Council at least 180 days before termination of the interlocal agreement. In the notification, the municipality or county shall set forth its intentions in regard to adjudicating offenses committed within the municipality's or county's territorial boundaries. The Judicial Council may require the expanded justice court to continue operation until the Judicial Council is satisfied that the municipality's or county's caseload will be adequately subsumed by another justice court.

(5) Upon request from a municipality or county seeking to create a justice court, the Judicial Council may shorten the time required between the [city's] municipality's or county's written declaration or election to create a justice court and the effective date of the election.

(6) The Judicial Council may by rule provide resources and procedures adequate for the timely disposition of all matters brought before the courts. The [administrative office of the courts] Administrative Office of the Courts and local governments shall cooperate in allocating resources to operate the courts in the most efficient and effective manner based on the allocation of responsibility between courts of record and not of record.

Section 7. Section 78B-5-705 is amended to read:

78B-5-705. Unsworn declaration in lieu of affidavit.

(1) If the [~~Utah Rules of Criminal Procedure, Civil Procedure, or Evidence~~] Utah Supreme Court rules of procedure or evidence require or permit a written declaration upon oath, an individual may, with like force and effect, provide an unsworn written declaration, subscribed and dated under penalty of this section, in substantially the following form:

"I declare (or certify, verify, or state) under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on (date).

(Signature)".

(2) A person who knowingly makes a false written statement [~~as provided~~] under Subsection (1) is guilty of a class B misdemeanor.

Section 8. Section 78B-6-141 is amended to read:

78B-6-141. Court hearings may be closed -- Petition and documents sealed -- Exceptions.

(1) Notwithstanding Section 78A-6-114, court hearings in adoption cases may be closed to the public upon request of a party to the adoption petition and upon court approval. In a closed hearing, only the following individuals may be admitted:

- (a) a party to the proceeding;
- (b) the adoptee;

(c) a representative of an agency having custody of the adoptee;

(d) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(e) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(f) in a hearing on a petition to intervene, the proposed intervenor;

(g) in a hearing to finalize an adoption, invitees of the petitioner; and

(h) other individuals for good cause, upon order of the court.

(2) An adoption document[~~, the written report described in Section 78B-6-135,~~] and any other documents filed in connection with a petition for adoption are sealed.

(3) The documents described in Subsection (2) may only be open to inspection and copying:

(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or

(h) to an adult adoptee, to the extent permitted under Subsection (4).

(4) (a) For an adoption finalized on or after January 1, 2016, a birth parent may elect, on a written consent form provided by the office, to permit identifying information about the birth parent to be made available for inspection by an adult adoptee.

(b) A birth parent may, at any time, file a written document with the office to:

(i) change the election described in Subsection (4)(a); or

(ii) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.

(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).

(5) (a) An individual who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(b) An order described in Subsection (3)(b) shall:

(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.

Section 9. Section 78B-6-807 is amended to read:

78B-6-807. Allegations permitted in complaint -- Time for appearance -- Service of summons.

(1) The plaintiff, in ~~his~~ the plaintiff's complaint:

(a) shall set forth the facts on which ~~he~~ the plaintiff seeks to recover;

(b) may set forth any circumstances of fraud, force, or violence which may have accompanied the alleged forcible entry, or forcible or unlawful detainer; and

(c) may claim damages or compensation for the occupation of the premises, or both.

(2) If the unlawful detainer charged is after default in the payment of rent, the complaint shall state the amount of rent due.

(3) The summons shall include the number of days within which the defendant is required to appear and defend the action, which shall be three business days from the date of service, unless the defendant objects to the number of days, and the court determines that the facts of the case should allow more time.

(4) The court may authorize service by publication or mail ~~for cause shown~~ in accordance with the Utah Rules of Civil Procedure.

(5) Service by publication is complete one week after publication.

(6) Service by mail is complete three days after mailing.

(7) The summons shall be changed in form to conform to the time of service as ordered, and shall be served as in other cases.

CHAPTER 31**H. B. 27**

Passed February 6, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**UNDERGROUND STORAGE
 TANK ACT AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Underground Storage Tank Act.

Highlighted Provisions:

This bill:

- ▶ modifies Petroleum Storage Tank Trust Fund loan provisions by:
 - requiring a person who applies for a loan to upgrade or replace an underground storage tank to participate in the Environmental Assurance Program; and
 - increasing the maximum amount that may be loaned from the fund; and
- ▶ extends the repeal date for Title 19, Chapter 6, Part 4, Underground Storage Tank Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-409, as last amended by Laws of Utah 2014, Chapter 227
 63I-1-219, as last amended by Laws of Utah 2017, Chapter 35

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

Section 1. Section 19-6-409 is amended to read:

19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.

(1) (a) There is created a private-purpose trust fund entitled the "Petroleum Storage Tank Trust Fund."

(b) The sole sources of revenues for the fund are:

- (i) petroleum storage tank fees paid under Section 19-6-411;
- (ii) underground storage tank installation company permit fees paid under Section 19-6-411;
- (iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;
- (iv) appropriations to the fund;
- (v) principal and interest received from the repayment of loans made by the director under Subsection (5); and

(vi) interest accrued on revenues listed in this Subsection (1)(b).

(c) Interest earned on fund money is deposited into the fund.

(2) The director may expend money from the fund to pay costs:

- (a) covered by the fund under Section 19-6-419;
 - (b) of administering the:
 - (i) fund; and
 - (ii) environmental assurance program and fee under Section 19-6-410.5;
 - (c) incurred by the state for a legal service or claim adjusting service provided in connection with a claim, judgment, award, or settlement for bodily injury or property damage to a third party;
 - (d) incurred by the executive director in determining the actuarial soundness of the fund;
 - (e) incurred by a third party claiming injury or damages from a release reported on or after May 11, 2010, for hiring a certified underground storage tank consultant:
 - (i) to review an investigation or corrective action by a responsible party; and
 - (ii) in accordance with Subsection (4);
 - (f) incurred by the department to implement the study described in Subsection 19-6-410.5(8), including a one-time cost of up to \$200,000 for the actuarial study described in Subsection 19-6-410.5(8)(a)(ii); and
 - (g) allowed under this part that are not listed under this Subsection (2).
- (3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.
- (4) The director shall:
- (a) in paying costs under Subsection (2)(e):
 - (i) determine a reasonable limit on costs paid based on the:
 - (A) extent of the release;
 - (B) impact of the release; and
 - (C) services provided by the certified underground storage tank consultant;
 - (ii) pay, per release, costs for one certified underground storage tank consultant agreed to by all third parties claiming damages or injury;
 - (iii) include costs paid in the coverage limits allowed under Section 19-6-419; and
 - (iv) not pay legal costs of third parties;
 - (b) review and give careful consideration to reports and recommendations provided by a certified underground storage tank consultant hired by a third party; and
 - (c) make reports and recommendations provided under Subsection (4)(b) available on the Division of

Environmental Response and Remediation's website.

(5) The director may loan, in accordance with this section, money available in the fund to a person to be used for:

- (a) upgrading an underground storage tank;
- (b) replacing an underground storage tank; or
- (c) permanently closing an underground storage tank.

(6) (a) A person may apply to the director for a loan under Subsection (5)(c) if all tanks owned or operated by that person are in substantial compliance with all state and federal requirements or will be brought into substantial compliance using money from the fund.

(b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:

(i) the requirements of Subsection (6)(a) are met; and

(ii) the person participates in the Environmental Assurance Program under Section 19-6-410.5.

(7) The director shall consider loan applications under Subsection (6) to meet the following objectives:

- (a) support availability of gasoline in rural parts of the state;
- (b) support small businesses; and
- (c) reduce the threat of a petroleum release endangering the environment.

(8) (a) A loan made under this section may not be for more than:

(i) [~~\$150,000~~] \$300,000 for all tanks at any one facility;

(ii) [~~\$50,000~~] \$100,000 per tank; and

(iii) 80% of the total cost of:

- (A) upgrading an underground storage tank;
- (B) replacing an underground storage tank; or
- (C) permanently closing an underground storage tank.

(b) A loan made under this section shall:

(i) have a fixed annual interest rate of 0%;

(ii) have a term no longer than 10 years;

(iii) be made on the condition the loan applicant obtains adequate security for the loan as established by board rule under Subsection (9); and

(iv) comply with rules made by the board under Subsection (9).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(a) form, content, and procedure for a loan application;

(b) criteria and procedures for prioritizing a loan application;

(c) requirements and procedures for securing a loan;

(d) procedures for making a loan;

(e) procedures for administering and ensuring repayment of a loan, including late payment penalties;

(f) procedures for recovering on a defaulted loan; and

(g) the maximum amount of the fund that may be used for loans.

(10) A decision by the director to loan money from the fund and otherwise administer the fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(11) The Legislature shall appropriate money from the fund to the department for the administration costs associated with making loans under this section.

(12) The director may enter into an agreement with a public entity or private organization to perform a task associated with administration of loans made under this section.

Section 2. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates, Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, [~~2018~~] 2028.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 32**H. B. 31**

Passed February 23, 2018

Approved March 15, 2018

Effective May 8, 2018

**TELECOMMUNICATIONS
NETWORK REVIEW AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies a provision relating to the telecommunications network review.

Highlighted Provisions:

This bill:

- ▶ eliminates language that prohibits the Public Service Commission from holding public hearings or proceedings in the preparation of the telecommunications network review required report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

69-4-1, as last amended by Laws of Utah 2016, Chapter 13

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

Section 1. Section 69-4-1 is amended to read:**69-4-1. Telecommunication network review.**

(1) Before the creation, expansion, or upgrade of a state-owned or state-funded telecommunication network, whether voice, data, or video transmission, the agency or entity proposing any change shall submit a plan to the governor detailing the proposed changes.

(2) If, after consultation with the agency or entity it is the opinion of the governor that implementation of the plan would result in significant impact on telephone ratepayers, the governor shall direct the Public Service Commission to prepare an advisory report detailing how implementing the plan will affect telephone ratepayers where the plan would be in effect.

(3) ~~[(a)]~~ The Public Service Commission shall complete and provide the advisory report to the governor, the agency or entity involved, and the Public Utilities, Energy, and Technology Interim Committee within 60 days after receiving the governor's request.

~~[(b) The Public Service Commission may not conduct any public hearings or proceedings in the preparation of the report.]~~

CHAPTER 33**H. B. 33**

Passed February 15, 2018

Approved March 15, 2018

Effective May 8, 2018

**ENERGY PRODUCER STATES'
AGREEMENT AMENDMENTS**Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill modifies provisions relating to the development of an agreement between energy producer states.

Highlighted Provisions:

This bill:

- ▶ modifies a reporting requirement for legislators appointed to work with legislators from other states to develop an energy producer states' agreement; and
- ▶ extends the repeal date applicable to a provision relating to the development of an agreement between energy producer states.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-20, as last amended by Laws of Utah 2014, Chapter 387

63I-1-236, as last amended by Laws of Utah 2017, Chapter 192

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

Section 1. Section 36-12-20 is amended to read:**36-12-20. Development of proposed energy producer states' agreement -- Membership selection -- Agreements -- Goals -- Meetings -- Reports.**

(1) The speaker of the House shall appoint two members of the House and the president of the Senate shall appoint two members of the Senate, of which no more than three of the four members shall be from the same political party, to study and work with legislative members of other energy producing states for the purpose of developing a proposed energy producer states' agreement.

(2) The proposed energy producer states' agreement shall have the following goals:

(a) to encourage domestic development of energy in the United States;

(b) to ensure the continued development of each state's domestic natural resources;

(c) to deliver a unified message to the federal government from energy producing states by:

(i) participating in the development of proposed federal legislation and regulations; and

(ii) making recommendations regarding existing federal law and regulations including the following:

(A) the Environmental Protection Act;

(B) the Endangered Species Act; and

(C) federal land access issues that affect the production of energy;

(d) to eliminate or reduce overly broad federal legislation; and

(e) to identify and address consequences of delays and cancellations of economically viable energy projects.

(3) Appointed members shall:

(a) produce a report with recommendations regarding an energy producer states' agreement; and

(b) present the report to the Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and Technology Interim Committee on or before November 30 of each year.

(4) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(5) The Office of Legislative Research and General Counsel shall provide staff assistance as requested.

Section 2. Section 63I-1-236 is amended to read:**63I-1-236. Repeal dates, Title 36.**

(1) Section 36-12-20 is repealed June 30, ~~2018~~ 2023.

(2) Sections 36-26-101 through 36-26-104 are repealed December 31, 2027.

CHAPTER 34**H. B. 34**

Passed February 2, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**STATE EMPLOYEE LEAVE
 POLICY AMENDMENTS**

Chief Sponsor: Norman K. Thurston
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill broadens the scope of paid leave that is available to state employees for certain disaster relief services.

Highlighted Provisions:

This bill:

- ▶ allows certain state employees to take paid leave to provide certain volunteer disaster relief services in connection with any disaster relief organization.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-43-103, as enacted by Laws of Utah 1998,
 Chapter 186

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

Section 1. Section 34-43-103 is amended to read:

34-43-103. Leave of absence -- Request for leave -- Approval by agency.

(1) An employee of a state agency who is a certified disaster service volunteer may be granted leave from work with pay for an aggregate of up to 15 work days, consecutively or nonconsecutively, in any 12-month period to participate in disaster relief services for [the American Red Cross] a disaster relief organization in connection with any disaster, upon the [request of the American Red Cross for such] disaster relief organization's request for the employee's services.

(2) An employee of a state agency requesting leave under this chapter shall file a written request with the employing state agency which includes:

(a) the anticipated duration of the leave of absence;

(b) the type of service the employee is to provide on behalf of the [American Red Cross] disaster relief organization described in Subsection (1);

(c) the nature and location of the disaster where the employee's services will be provided; and

(d) a copy of the written request for the employee's services from an official of the [American Red Cross] disaster relief organization.

(3) Nothing contained in this chapter shall be construed to require any state agency to grant a public employee's request for voluntary disaster service leave if the employing state agency determines that the grant of leave would pose a hardship on the employing state agency.

CHAPTER 35**H. B. 43**

Passed February 8, 2018

Approved March 15, 2018

Effective May 8, 2018

BLOOD TESTING AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses provisions related to testing for law enforcement purposes.

Highlighted Provisions:

This bill:

- ▶ outlines the circumstances under which a peace officer may obtain a blood draw; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-1-30, as last amended by Laws of Utah 2015, Chapter 73

41-6a-520, as last amended by Laws of Utah 2017, Chapter 181

41-6a-522, as enacted by Laws of Utah 2005, Chapter 2

53-3-418, as last amended by Laws of Utah 2009, Chapter 40

58-67-305, as last amended by Laws of Utah 2013, Chapter 262

58-68-305, as last amended by Laws of Utah 2013, Chapter 262

58-71-305, as last amended by Laws of Utah 2012, Chapter 267

72-10-502, as last amended by Laws of Utah 2017, Chapter 326

ENACTS:

77-23-213, Utah Code Annotated 1953

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

Section 1. Section 26-1-30 is amended to read:**26-1-30. Powers and duties of department.**

The department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

(1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to

prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(3) promote and protect the health and wellness of the people within the state;

(4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

(10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(14) establish laboratory services necessary to support public health programs and medical services in the state;

(15) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(16) cooperate with the Labor Commission to conduct studies of occupational health hazards and

occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(17) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(18) investigate the causes of maternal and infant mortality;

(19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (20);

(21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), [06] 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

- (a) orphanages;
- (b) boarding homes;
- (c) summer camps for children;
- (d) lodging houses;
- (e) hotels;
- (f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;
- (g) tourist and trailer camps;
- (h) service stations;
- (i) public conveyances and stations;
- (j) public and private schools;
- (k) factories;
- (l) private sanatoria;

- (m) barber shops;
- (n) beauty shops;
- (o) physician offices;
- (p) dentist offices;
- (q) workshops;
- (r) industrial, labor, or construction camps;
- (s) recreational resorts and camps;
- (t) swimming pools, public baths, and bathing beaches;
- (u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and
- (v) any other facilities in public buildings or on public grounds;

(24) conduct health planning for the state;

(25) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(27) license the provision of child care;

(28) accept contributions to and administer the funds contained in the Organ Donation Contribution Fund created in Section 26-18b-101;

(29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;

(30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve; and

(31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia.

Section 2. Section 41-6a-520 is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of

determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall:

(A) take the Utah license certificate or permit, if any, of the operator;

(B) issue a temporary license certificate effective for only 29 days from the date of arrest; and

(C) supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) A citation issued by a peace officer may, if provided in a manner specified by the Driver License Division, also serve as the temporary license certificate.

(d) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

Section 3. Section 41-6a-522 is amended to read:

41-6a-522. Person incapable of refusal.

~~Any~~ Subject to Section 77-23-213 for blood tests, a person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection 41-6a-520(1), and the test or tests may be administered whether the person has been arrested or not.

Section 4. Section 53-3-418 is amended to read:

53-3-418. Prohibited alcohol level for drivers -- Procedures, including hearing.

(1) A person who holds or is required to hold a CDL may not drive a commercial motor vehicle in this state if the person:

(a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .04 grams or greater at the time of the test after the alleged driving of the commercial motor vehicle;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to degree that renders the person incapable of safely driving a commercial motor vehicle; or

(c) has a blood or breath alcohol concentration of .04 grams or greater at the time of driving the commercial motor vehicle.

(2) A person who holds or is required to hold a CDL and who drives a commercial motor vehicle in this state is considered to have given the person's consent to a test or tests of the person's blood, breath, or urine to determine the concentration of alcohol or the presence of other drugs in the person's physical system.

(3) If a peace officer or port-of-entry agent has reasonable cause to believe that a person may be violating this section, the peace officer or port-of-entry agent may request the person to submit to a chemical test to be administered in compliance with Section 41-6a-515.

(4) When a peace officer or port-of-entry agent requests a person to submit to a test under this section, the peace officer or port-of-entry agent shall advise the person that test results indicating [~~.04 grams or greater alcohol concentration~~] a violation of Subsection (1) or refusal to submit to any test requested will result in the person's disqualification under Section 53-3-414 from driving a commercial motor vehicle.

(5) If test results under this section indicate [~~.04 grams or greater of alcohol concentration~~] a violation of Subsection (1) or the person refuses to submit to any test requested under this section, a peace officer or port-of-entry agent shall, on behalf of the division and within 24 hours of the arrest, give the person notice of the division's intention to disqualify the person's privilege to drive a commercial motor vehicle.

(6) When a peace officer or port-of-entry agent gives notice under Subsection (5), the peace officer or port-of-entry agent shall:

(a) take any Utah license certificate or permit held by the driver;

(b) issue to the driver a temporary license certificate effective for 29 days from the date of arrest;

(c) provide the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division; and

(d) issue a 24-hour out-of-service order.

(7) A notice of disqualification issued under Subsection (6) may serve also as the temporary license certificate under ~~[that—subsection]~~ Subsection (6), if provided in a manner specified by the division.

(8) As a matter of procedure, a peace officer or port-of-entry agent shall, within 10 calendar days after the day on which notice is provided, send to the division the person's license certificate, a copy of the notice, and a report signed by the peace officer or port-of-entry agent that indicates the results of any chemical test administered or that the person refused a test.

(9) (a) A person disqualified under this section has the right to a hearing regarding the disqualification.

(b) The request for the hearing shall be submitted to the division in a manner specified by the division and shall be made within 10 calendar days of the date the notice was issued. If requested, the hearing shall be conducted within 29 days after the date of arrest.

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), a hearing held under this section shall be held before the division and in:

(A) the county where the notice was issued; or

(B) a county that is adjacent to the county where the notice was issued.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(b) The hearing shall be documented and shall determine:

(i) whether the peace officer or port-of-entry agent had reasonable grounds to believe the person had been driving a motor vehicle in violation of this section;

(ii) whether the person refused to submit to any requested test; and

(iii) any test results obtained.

(c) In connection with a hearing the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and documents.

(d) One or more members of the division may conduct the hearing.

(e) A decision made after a hearing before any number of members of the division is as valid as if the hearing were held before the full membership of the division.

(f) After a hearing under this section the division shall indicate by order if the person's CDL is disqualified.

(g) If the person for whom the hearing is held fails to appear before the division as required in the

notice, the division shall indicate by order if the person's CDL is disqualified.

(11) (a) If the division disqualifies a person under this section following an administrative hearing, the person may petition for a hearing under Section 53-3-224.

(b) The petition shall be filed within 30 days after the division issues the disqualification.

(12) (a) A person who violates this section shall be punished in accordance with Section 53-3-414.

(b) (i) In accordance with Section 53-3-414, the first disqualification under this section shall be for one year, and a second disqualification shall be for life.

(ii) A disqualification under Section 53-3-414 begins on the 30th day after the date of arrest.

(13) (a) In addition to the fees imposed under Section 53-3-205 for reinstatement of a CDL, a fee under Section 53-3-105 to cover administrative costs shall be paid before the driving privilege is reinstated.

(b) The fees under Sections 53-3-105 and 53-3-205 shall be canceled if an unappealed hearing at the division or court level determines the disqualification was not proper.

(14) Notwithstanding the provisions of this section, a blood test taken under this section is subject to Section 77-23-213.

Section 5. Section 58-67-305 is amended to read:

58-67-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) (a) (i) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) an individual authorized by the Department of Health under Section 26-1-30, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), [ø] 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(6) a medical assistant while working under the indirect supervision of a licensed physician and surgeon, to the extent the medical assistant:

(a) is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of medicine;

(b) does not perform surgical procedures;

(c) does not prescribe prescription medications;

(d) does not administer anesthesia, anesthesia does not mean a local anesthetic for minor procedural use; and

(e) does not engage in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of medicine when:

(a) the individual is licensed in good standing as a physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 6. Section 58-68-305 is amended to read:

58-68-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) (a) (i) a person engaged in the lawful sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) permit a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief without the use of prescription drugs;

(5) an individual authorized by the Department of Health under Section 26-1-30, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), [en] 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(6) a medical assistant while working under the indirect supervision of a licensed osteopathic physician, to the extent the medical assistant:

(a) is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of medicine;

(b) does not perform surgical procedures;

(c) does not prescribe prescription medications;

(d) does not administer anesthesia, anesthesia does not mean a local anesthetic for minor procedural use; and

(e) does not engage in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of osteopathic medicine when:

(a) the individual is licensed in good standing as an osteopathic physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division in collaboration with the board to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 7. Section 58-71-305 is amended to read:

58-71-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited under state or federal law, but this subsection does not:

(a) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(b) prohibit providing truthful and nonmisleading information regarding any of the products under this subsection;

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) a person acting in good faith for religious reasons as a matter of conscience or based on a personal belief when obtaining or providing information regarding health care and the use of any product under Subsection (3);

(6) an individual authorized by the Department of Health under Section 26-1-30, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), ~~or~~ 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(7) a naturopathic medical assistant while working under the direct and immediate supervision of a licensed naturopathic physician to the extent the medical assistant is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of naturopathic medicine; and

(8) an individual who has completed all requirements for licensure under this chapter except the clinical experience required under Section 58-71-302, for a period of one year while that individual is completing that clinical experience requirement and who is working under the provisions of a temporary license issued by the division.

Section 8. Section 72-10-502 is amended to read:

72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give test -- Evidence -- Immunity from liability.

(1) (a) A person operating an aircraft in this state consents to a chemical test or tests of the person's breath, blood, urine, or oral fluids:

(i) for the purpose of determining whether the person was operating or in actual physical control of an aircraft while having a blood or breath alcohol content statutorily prohibited under Section 72-10-501, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 72-10-501, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of an aircraft in violation of Section 72-10-501; or

(ii) if the person operating the aircraft is involved in an accident that results in death, serious injury, or substantial aircraft damage.

(b) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) The peace officer may order any or all tests of the person's breath, blood, urine, or oral fluids.

(iii) If an officer requests more than one test, refusal by a person to take one or more requested

tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(c) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8).

(b) Following this warning, unless the person immediately requests that the chemical test offered by a peace officer be administered, a test may not be given.

(3) ~~Any~~ A person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to that person.

(5) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a registered nurse;

(iii) a licensed practical nurse;

(iv) a paramedic;

(v) as provided in Subsection (5)(b), emergency medical service personnel other than paramedics; or

(vi) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (5)(a)(v), based on the type of license under Section 26-8a-302.

(c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(d) The following are immune from civil or criminal liability arising from drawing a blood

sample from a person who a peace officer has reason to believe is flying in violation of this chapter if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (5)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

(6) (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of an aircraft while under the influence of alcohol, any drug, or combination of alcohol and any drug.

(9) The results of any test taken under this section or the refusal to be tested shall be reported to the Federal Aviation Administration by the peace officer requesting the test.

(10) Notwithstanding the provisions of this section, a blood test taken under this section is subject to Section 77-23-213.

Section 9. Section 77-23-213 is enacted to read:

77-23-213. Blood testing.

(1) As used in this section:

(a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.

(b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classification.

(2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:

(a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;

(b) the peace officer obtains a warrant to administer the blood test; or

(c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.

(3) (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:

(i) a physician;

(ii) a registered nurse;

(iii) a licensed practical nurse;

(iv) a paramedic;

(v) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; or

(vi) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (3)(a)(v), based on the type of license under Section 26-8a-302.

(c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (3)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

CHAPTER 36**H. B. 45**

Passed March 2, 2018
 Approved March 15, 2018
 Effective May 8, 2018

CONSUMER REPORTING AGENCY FEES

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies and enacts provisions of the Consumer Credit Protection Act.

Highlighted Provisions:

This bill:

- ▶ modifies the manner in which a consumer requests a placement or removal of a security freeze;
- ▶ addresses a consumer reporting agency's duties related to placing a security freeze;
- ▶ prohibits a consumer reporting agency from charging a fee in connection with placing or removing a security freeze; and
- ▶ prohibits a consumer reporting agency from charging a fee to download or install a mobile application through which a person places or removes a security freeze.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-45-201, as last amended by Laws of Utah 2015, Chapter 191
 13-45-202, as last amended by Laws of Utah 2015, Chapter 191
 13-45-204, as enacted by Laws of Utah 2006, Chapter 344

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

Section 1. Section 13-45-201 is amended to read:**13-45-201. Security freeze.**

(1) As used in this part[, "security]:

(a) "Security freeze" means a prohibition, consistent with the provisions of this section, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit.

(b) "Unique personal identifier" means a personal identification number, password, or other secure form of identity verification accepted by a consumer reporting agency and intended for use by a consumer to place, remove, or temporarily remove a security freeze in accordance with this chapter.

~~[(2) A consumer may place a security freeze on the consumer's credit report by:]~~

~~[(a) making a request to a consumer reporting agency in writing by certified mail;]~~

~~[(b) providing proper identification; and]~~

~~[(c) paying the fee required by the consumer reporting agency in accordance with Section 13-45-204.]~~

(2) (a) A consumer may request a security freeze on a consumer's credit report by:

(i) submitting a request for a security freeze to the consumer reporting agency by:

(A) certified mail to the postal address identified by the consumer reporting agency in accordance with Subsection (5); or

(B) electronic means developed by the consumer reporting agency in accordance with Subsection (5); and

(ii) providing proper identification to the consumer reporting agency.

(b) Upon receipt of a request described in Subsection (2)(a), the consumer reporting agency shall:

(i) place a security freeze on the consumer's credit report:

(A) if the consumer submits the request by certified mail, as soon as practicable but no later than five business days after the business day on which the consumer reporting agency receives the request and the consumer's proper identification;

(B) if the consumer submits the request by a contact method described in Subsection (5)(a)(ii) or (iii) that is not a mobile application, as soon as practicable but no later than 24 hours after the consumer reporting agency receives the request and the consumer's proper identification; or

(C) if the consumer submits the request by mobile application, within 15 minutes after the consumer reporting agency receives the request and the consumer's proper identification;

(ii) provide the consumer a unique personal identifier, unless the consumer reporting agency previously provided the consumer a unique personal identifier; and

(iii) within five business days after the business day on which the consumer reporting agency places the security freeze, provide the consumer confirmation that the consumer reporting agency placed the security freeze.

(3) If a security freeze is in place, a consumer reporting agency may not release a consumer's credit report, or information from the credit report, to a third party that intends to use the information to determine a consumer's eligibility for credit without prior authorization from the consumer.

(4) (a) Notwithstanding Subsection (3), a consumer reporting agency may communicate to a third party requesting a consumer's credit report that a security freeze is in effect on the consumer's credit report.

(b) If a third party requesting a consumer's credit report in connection with the consumer's application for credit is notified of the existence of a security freeze under Subsection (4)(a), the third party may treat the consumer's application as incomplete.

~~[(5) Upon receiving a request from a consumer under Subsection (2), the consumer reporting agency shall:]~~

~~[(a) place a security freeze on the consumer's credit report within five business days after receiving the consumer's request;]~~

~~[(b) send a written confirmation of the security freeze to the consumer within 10 business days after placing the security freeze; and]~~

~~[(c) provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorizations for removal or temporary removal of the security freeze under Section 13-45-202.]~~

~~[(6) A consumer reporting agency shall require proper identification of the consumer requesting to place, remove, or temporarily remove a security freeze.]~~

~~[(7) (5) (a) A consumer reporting agency shall develop a contact method to receive and process a consumer's request to place, remove, or temporarily remove a security freeze.~~

~~(b) A contact method under Subsection [(7) (5)(a)] shall include:~~

~~(i) a postal address;~~

~~(ii) an electronic contact method chosen by the consumer reporting agency, which may include the use of fax, Internet, or other electronic means; and~~

~~(iii) the use of telephone in a manner that is consistent with any federal requirements placed on the consumer reporting agency.~~

~~[(8) (6) A security freeze placed under this section may be removed only in accordance with Section 13-45-202.~~

~~(7) (a) The time requirement described in Subsection (2)(b)(i)(B) or (C), as applicable, does not apply if the consumer reporting agency's ability to place the security freeze is prevented by:~~

~~(i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena;~~

~~(ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence;~~

~~(iii) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption;~~

~~(iv) governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives;~~

~~(v) regularly scheduled maintenance, during other than normal business hours, of, or updates to, the consumer reporting agency's systems; or~~

~~(vi) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.~~

~~(b) In the event of a circumstance described in Subsection (7)(a), the consumer reporting agency shall place the security freeze as soon as practicable.~~

Section 2. Section 13-45-202 is amended to read:

13-45-202. Removal of security freeze -- Requirements and timing.

(1) A consumer reporting agency [may] shall remove a security freeze from a consumer's credit report only if:

(a) (i) the consumer reporting agency receives the consumer's request through [a] the contact method established and required in accordance with Subsection 13-45-201[(7)](5); and

(ii) the consumer reporting agency receives the consumer's proper identification [and:] or unique personal identifier; or

~~[(A) other information sufficient to identify the consumer; or]~~

~~[(B) the consumer provides the consumer's personal identification number or password; or]~~

(b) the consumer makes a material misrepresentation of fact in connection with the placement of the security freeze and the consumer reporting agency notifies the consumer in writing before removing the security freeze.

(2) [(a)] A consumer reporting agency shall temporarily remove a security freeze upon receipt of:

~~[(4)] (a) the consumer's request through the contact method established by the consumer reporting agency in accordance with Subsection 13-45-201[(7)](5);~~

~~[(4)] (b) the consumer's proper identification [and:] or unique personal identifier; and~~

~~[(A) other information sufficient to identify the consumer; or]~~

~~[(B) personal identification number or password;]~~

~~[(4)] (c) a specific designation of the period of time for which the security freeze is to be removed[; and].~~

~~[(4)] (d) the consumer reporting agency receives the payment of any fee required under Section 13-45-204.]~~

~~[(b)] (3) A consumer reporting agency shall remove or temporarily remove a security freeze from a consumer's credit report within:~~

~~[(4)] (a) three business days after the business day on which the consumer's written request to remove the security freeze is received by the consumer reporting agency at the postal address chosen by the consumer reporting agency in accordance with Subsection 13-45-201~~[(7)]~~(5)(b)(i); or~~

~~[(4)] (b) 15 minutes after the consumer's request is received by the consumer reporting agency through ~~[the electronic]~~ a contact method ~~[chosen by the consumer reporting agency in accordance with]~~ described in Subsection 13-45-201~~[(7)]~~, or the use of telephone, during normal business hours~~](5)(b)(ii) or (iii), and includes the consumer's [proper identification and correct personal identification number or password] unique personal identifier.~~~~

~~[(3) A consumer reporting agency need not remove a security freeze within the time provided in Subsection (2)(b)(ii) if:]~~

~~[(a) the consumer fails to meet the requirements of Subsection 13-45-202(1); or]~~

~~[(b) the consumer reporting agency's ability to remove the security freeze within 15 minutes is prevented by:]~~

~~(4) (a) The time requirement described in Subsection (3)(b) does not apply if the consumer reporting agency's ability to remove the security freeze is prevented by:~~

~~(i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena;~~

~~(ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence;~~

~~(iii) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption;~~

~~(iv) governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives;~~

~~(v) regularly scheduled maintenance, during other than normal business hours, of, or updates to, the consumer reporting agency's systems; or~~

~~(vi) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled~~[-or].~~~~

~~(b) In the event of a circumstance described in Subsection (4)(a), the consumer reporting agency shall remove the security freeze as soon as practicable.~~

~~[(vii) receipt of a removal request outside of normal business hours.]~~

~~[(1) Except as provided in Subsection (2), a consumer reporting agency may charge a reasonable fee to a consumer for placing and temporarily removing a security freeze.]~~

~~[(2)] (1) A consumer reporting agency may not charge a fee for placing, removing, or temporarily removing a security freeze ~~[if].~~~~

~~[(a) the consumer is a victim of identity fraud under Section 76-6-1102; and]~~

~~[(b) the consumer provides the consumer reporting agency with a valid copy of a police report or police case number documenting the identity fraud.]~~

~~(2) A consumer reporting agency may not charge a fee to download or install a mobile application through which a person places or removes a security freeze.~~

Section 3. Section 13-45-204 is amended to read:

13-45-204. Fees for security freeze.

CHAPTER 37**H. B. 48**

Passed February 7, 2018
 Approved March 15, 2018
 Effective May 8, 2018

PARENTING PLAN AMENDMENTS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions related to parenting plans.

Highlighted Provisions:

This bill:

- ▶ lists decisions related to an education plan;
- ▶ addresses who makes the education plan; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-10.9, as last amended by Laws of Utah 2017, Chapter 224

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

Section 1. Section 30-3-10.9 is amended to read:**30-3-10.9. Parenting plan -- Objectives -- Required provisions -- Dispute resolution -- Education plan.**

- (1) The objectives of a parenting plan are to:
- (a) provide for the child's physical care;
 - (b) maintain the child's emotional stability;
 - (c) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the parenting plan;
 - (d) set forth the authority and responsibilities of each parent with respect to the child consistent with the definitions outlined in this chapter;
 - (e) minimize the child's exposure to harmful parental conflict;
 - (f) encourage the parents, where appropriate, to meet the responsibilities to their minor children through agreements in the parenting plan rather than relying on judicial intervention; and
 - (g) protect the best interests of the child.
- (2) The parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child, and provisions addressing notice and parent-time responsibilities in the event of the relocation of

either party. It may contain other provisions comparable to those in Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.

(3) A process for resolving disputes shall be provided unless precluded or limited by statute. A dispute resolution process may include:

- (a) counseling;
- (b) mediation or arbitration by a specified individual or agency; or
- (c) court action.

(4) In the dispute resolution process:

- (a) preference shall be given to the provisions in the parenting plan;
- (b) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;
- (c) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;
- (d) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;

(e) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award [attorney's] attorney fees and financial sanctions to the prevailing parent;

(f) the district court [shall have] has the right of review from the dispute resolution process; and

(g) the provisions of this Subsection (4) shall be set forth in any final decree or order.

(5) (a) [The] Subject to the other provisions of this Subsection (5), the parenting plan shall allocate decision-making authority to one or both parties regarding the [children's] child's education, [health care] healthcare, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the [children] child in these specified areas or in other areas into [their] the plan, consistent with the criteria outlined in Subsection 30-3-10.7(2) and Subsection (1). Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) A child's education plan shall designate the following:

(i) the home residence for purposes of identifying the appropriate school or another specific plan that provides for where the child will attend school;

(ii) which parent has authority to make education decisions for the child if the parents cannot agree; and

(iii) whether one or both parents have access to the child during school and authority to check the child out of school.

(c) If no education provision is included in the parent plan:

(i) a parent with sole physical custody shall make the decisions listed in Subsection (5)(b);

(ii) in the event of joint physical custody when one parent has custody a majority of the time, pursuant to Subsection 30-3-10.3(4):

(A) the parent having the child the majority of the time shall make the decisions listed in Subsections (5)(b)(i) and (ii); and

(B) both parents with joint physical custody shall have access to the child during school and authority to check the child out of school; or

(iii) in the event of joint physical custody when the parents have custody an equal amount of time:

(A) the court shall determine how the decisions listed in Subsections (5)(b)(i) and (ii) are made; and

(B) both parents with joint physical custody shall have access to the child during school and authority to check the child out of school.

(6) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(7) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

(8) The plan shall include a residential schedule [which] that designates in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.

(9) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

(10) (a) When one or both parents are servicemembers, the parenting plan shall contain provisions that address the foreseeable parenting and custodial issues likely to arise in the event of notification of deployment or other contingency, including long-term deployments, short-term deployments, death, incapacity, and noncombatant evacuation operations.

(b) The provisions in the parenting plan described in Subsection (10)(a) shall comport substantially with the requirements of an agreement made pursuant to Section 78B-20-201.

CHAPTER 38**H. B. 52**

Passed February 9, 2018
 Approved March 15, 2018
 Effective May 8, 2018

HEALTH AND HUMAN SERVICES REPORTS

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill addresses statutorily required reports related to health and human services topics.

Highlighted Provisions:

This bill:

- ▶ repeals reporting requirements for certain reports to the Health and Human Services Interim Committee, the Social Services Appropriations Subcommittee, or both committees;
- ▶ extends a reporting deadline;
- ▶ creates future repeal dates for certain other reports to the Health and Human Services Interim Committee, the Social Services Appropriations Subcommittee, or both committees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-55-108, as enacted by Laws of Utah 2017, Chapter 228
 62A-4a-1008, as last amended by Laws of Utah 2017, Chapter 231
 62A-15-1101, as last amended by Laws of Utah 2017, Chapters 296 and 346
 63I-2-226, as last amended by Laws of Utah 2017, Chapters 126, 155, 413, and 419
 63I-2-249, as enacted by Laws of Utah 2015, Chapter 455
 63I-2-258, as last amended by Laws of Utah 2015, Chapters 258 and 266
 63I-2-262, as last amended by Laws of Utah 2017, Chapter 330
 63I-2-263, as last amended by Laws of Utah 2017, First Special Session, Chapter 1
 63I-2-276, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63I-2-278, as last amended by Laws of Utah 2015, Chapter 217

ENACTS:

63I-2-251, Utah Code Annotated 1953

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

Section 1. Section 26-55-108 is amended to read:**26-55-108. Coprescription guidelines.**

(1) As used in this section:

- (a) "Controlled substance prescriber" means the same as that term is defined in Section 58-37-6.5.
- (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a prescription for an opiate.

(2) The department shall, in consultation with the Physicians Licensing Board created in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, and the Department of Occupational and Professional Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient.

~~[(3) The department shall report to the Health and Human Services Interim Committee before October 30, 2017, regarding the guidelines established under Subsection (2).]~~

~~[(4) The report described in Subsection (3) shall include:]~~

~~[(a) established rules regarding the coprescription of an opiate antagonist to a patient; and]~~

~~[(b) an analysis of:]~~

~~[(i) the application of the rules; and]~~

~~[(ii) the impact of the rules.]~~

Section 2. Section 62A-4a-1008 is amended to read:**62A-4a-1008. Time frames for deletion or expungement of specified information or reports.**

(1) The division shall delete any reference in the Management Information System or Licensing Information System to:

(a) a report that is determined by the division to be without merit, if no subsequent report involving the same alleged perpetrator has occurred within one year; or

(b) a report that is determined by a court of competent jurisdiction to be unsubstantiated or without merit, if no subsequent report involving the same alleged perpetrator has occurred within five years.

(2) The division shall maintain a separation of reports as follows:

(a) those that are supported;

(b) those that are unsupported;

(c) those that are without merit;

(d) those that are unsubstantiated under the law in effect before May 6, 2002;

(e) those that are substantiated under the law in effect before May 6, 2002; and

(f) those that are consented-to supported findings under Subsection 62A-4a-1005(3)(a)(iii).

(3) On or before May 1, 2018, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expungement of supported reports or unsupported reports in the Management Information System and the Licensing Information System.

~~[(4) On or before November 1, 2017, the division director shall report to the Health and Human Services Interim Committee on the progress that the division is making toward the development and adoption of the administrative rules required under this section.]~~

~~[(5)]~~ (4) The rules described in Subsection (3) shall:

(a) in relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that:

(i) the division shall expunge within five years after the last date on which the individual's name was placed in the information system, without requiring the subject of the report to request expungement;

(ii) the division shall expunge within 10 years after the last date on which the individual's name was placed in the information system, without requiring the subject of the report to request expungement;

(iii) the division may expunge following an individual's request for expungement; and

(iv) the division may not expunge due to the serious nature of the specified types of child abuse or neglect;

(b) establish an administrative process and a standard of review for the subject of a report to make an expungement request; and

(c) define the term "expunge" or "expungement" to clarify the administrative process for removing a record from the information system.

~~[(6)]~~ (5) If an individual's name is in the information system for a type of child abuse or neglect report identified under Subsection ~~[(5)]~~ (4)(a)(iii), the individual may request to have the report expunged 10 years after the last date on which the individual's name was placed in the information system for a supported or unsupported report.

~~[(7)]~~ (6) If an individual's expungement request is denied, the individual shall wait at least one year after the issuance of the denial before the individual may again request to have the individual's report expunged.

~~[(8)]~~ (7) Only persons with statutory authority may access the information contained in any of the reports identified in Subsection (2).

Section 3. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) As used in the section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Division" means the Division of Substance Abuse and Mental Health.

(c) "Intervention" means an effort to prevent a person from attempting suicide.

(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training; and

(h) postvention training.

(4) The state suicide prevention coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53A-15-1301;

(c) the Department of Health;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

(5) The state suicide prevention coordinator shall provide a written report to the Health and Human Services Interim Committee, by the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (2) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The state suicide prevention coordinator shall report to the Legislature's ~~[(a) Education Interim Committee, by the October 2015 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the public education suicide prevention coordinator as described in Section 53A-15-1301; and (b)] Health and Human Services Interim Committee, by the October [2017] 2018 meeting, statistics on the number of annual suicides in Utah, including how many suicides were committed with a gun, and if so:~~

~~[(i)]~~ (a) where the victim procured the gun and if the gun was legally possessed by the victim;

~~[(ii)]~~ (b) if the victim purchased the gun legally and whether a background check was performed before the victim purchased the gun;

~~[(iii)]~~ (c) whether the victim had a history of mental illness or was under the treatment of a mental health professional;

~~[(iv)]~~ (d) whether any medication or illegal drugs or alcohol were also involved in the suicide; and

~~[(v)]~~ (e) if the suicide incident also involved the injury or death of another individual, whether the shooter had a history of domestic violence.

(7) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18), Section 53-10-202.1, and the Suicide Prevention Education Program described in Section 53-10-202.3.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall include:

(i) attendance at a suicide prevention education course; and

(ii) display of posters and distribution of the firearm safety brochures or packets created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

~~[(9) The state suicide prevention coordinator shall present to the Health and Human Services Interim Committee, no later than November 2017, a 10-year statewide suicide prevention plan.]~~

~~[(10)]~~ (9) As funding by the Legislature allows, the state suicide prevention coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice Services.

Section 4. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Title 26.

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

(2) Subsection 26-7-9(5) is repealed January 1, 2019.

~~[(4)]~~ (3) Section 26-8a-107 is repealed July 1, 2019.

(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

~~[(2)]~~ (5) Subsections 26-10-12(2) and (4) are repealed July 1, 2017.

(6) Subsection 26-18-2.3(5) is repealed January 1, 2020.

(7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

(8) Subsection 26-18-408(6) is repealed January 2, 2019.

(9) Subsection 26-18-410(5) is repealed January 1, 2026.

(10) Subsection 26-18-411(5) is repealed January 1, 2023.

(11) Subsection 26-18-604(2) is repealed January 1, 2020.

(12) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

(13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

(14) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.

~~[(3)]~~ (15) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(16) Subsection 26-50-202(7)(b) is repealed January 1, 2020.

(17) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.

(18) Subsection 26-55-107(8) is repealed January 1, 2021.

(19) Subsection 26-56-103(9)(d) is repealed January 1, 2020.

[(4)] (20) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.

(21) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

(22) Subsection 26-61-202(5) is repealed January 1, 2022.

Section 5. Section 63I-2-249 is amended to read:

63I-2-249. Repeal dates -- Title 49.

(1) Section 49-20-106 is repealed January 1, 2021.

(2) Section 49-20-412 is repealed January 1, 2016.

(3) Subsection 49-20-417(5)(b) is repealed January 1, 2020.

Section 6. Section 63I-2-251 is enacted to read:

63I-2-251. Repeal dates -- Title 51.

Subsection 51-9-203(3) is repealed January 1, 2023.

Section 7. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates -- Title 58.

Subsection 58-37f-303(7) is repealed January 1, 2019.

Section 8. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates, Title 62A.

(1) Section 62A-1-111.5 is repealed July 1, 2018.

(2) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

(3) Subsection 62A-15-1101(6) is repealed January 1, 2019.

(4) Section 62A-15-1102 is repealed January 1, 2019.

Section 9. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Section 63A-5-227 is repealed on January 1, 2018.

(2) Section 63H-7a-303 is repealed on July 1, 2022.

(3) On July 1, 2019:

(a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in Subsection (3)(c)(ii)" is repealed; and

(b) Subsection 63J-1-206(3)(c)(ii) is repealed.

(4) Section 63J-4-708 is repealed January 1, 2023.

[(4)] (5) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

[(5)] (6) Section 63N-3-110 is repealed July 1, 2020.

Section 10. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates -- Title 76.

Section 76-7-305.7 is repealed January 1, 2023.

Section 11. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates, Title 78A and Title 78B.

(1) Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.

(2) Subsection 78B-6-144(5) is repealed January 1, 2019.

CHAPTER 39**H. B. 55**

Passed February 8, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**VETERANS AND MILITARY
 AFFAIRS AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill clarifies that terms for certain members of the commission begin on July 1 of the year of appointment and makes technical corrections.

Highlighted Provisions:

This bill:

- ▶ makes July 1 the appointment date for pro tempore members of the commission;
- ▶ clarifies that when a vacancy occurs, the appointment to fill the spot begins on July 1;
- ▶ specifies that if the time between appointment and July 1 is less than six months, the term starts anew on July 1; and
- ▶ makes technical corrections by removing the apostrophe from the word veterans throughout the code and other coordinating changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-19-14, as last amended by Laws of Utah 2011, Chapters 297 and 366
 26-35a-103, as last amended by Laws of Utah 2011, Chapter 366
 30-3-35, as last amended by Laws of Utah 2017, Chapter 120
 35A-1-206, as last amended by Laws of Utah 2017, Chapters 181, 223, and 382
 36-28-101, as enacted by Laws of Utah 2014, Chapter 150
 36-28-102, as last amended by Laws of Utah 2017, Chapter 90
 41-1a-418, as last amended by Laws of Utah 2017, Chapters 107, 181, and 194
 41-1a-421, as last amended by Laws of Utah 2016, Chapter 68
 41-1a-422, as last amended by Laws of Utah 2017, Chapters 107, 194, and 383
 53-3-205, as last amended by Laws of Utah 2016, Chapter 175
 53-3-804, as last amended by Laws of Utah 2014, Chapters 85 and 252
 53-3-805, as last amended by Laws of Utah 2014, Chapters 85 and 252
 53B-8-107, as last amended by Laws of Utah 2016, Chapter 230
 53B-8e-103, as last amended by Laws of Utah 2013, Chapter 214
 53B-16-107, as last amended by Laws of Utah 2017, Chapter 382

53E-3-920, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53G-7-214, as renumbered and amended by Laws of Utah 2018, Chapter 3
 58-17b-622, as last amended by Laws of Utah 2013, Chapters 166 and 262
 58-24b-304, as enacted by Laws of Utah 2009, Chapter 220
 59-2-1104 (Superseded 01/01/19), as last amended by Laws of Utah 2015, Chapter 261
 59-2-1104 (Effective 01/01/19), as last amended by Laws of Utah 2017, Chapter 189
 63B-18-301, as last amended by Laws of Utah 2013, Chapter 214
 63G-1-301, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63G-1-401, as last amended by Laws of Utah 2017, Chapters 15, 40, and 117
 63G-1-703, as enacted by Laws of Utah 2013, Chapter 90
 63J-1-219, as last amended by Laws of Utah 2016, Chapter 144
 67-19-6.7, as last amended by Laws of Utah 2017, Chapter 463
 67-19-15, as last amended by Laws of Utah 2017, Chapter 463
 67-22-2, as last amended by Laws of Utah 2015, Chapter 470
 71-3-1, as last amended by Laws of Utah 2002, Chapter 162
 71-7-2, as enacted by Laws of Utah 1961, Chapter 21
 71-7-3, as last amended by Laws of Utah 2015, Chapter 141
 71-7-4, as last amended by Laws of Utah 2016, Chapter 252
 71-7-5, as enacted by Laws of Utah 2013, Chapter 422
 71-8-1, as last amended by Laws of Utah 2015, Chapter 141
 71-8-2, as last amended by Laws of Utah 2016, Chapters 68, 230, and 252
 71-8-3, as last amended by Laws of Utah 2014, Chapter 91
 71-8-4, as last amended by Laws of Utah 2016, Chapter 230
 71-8-5, as last amended by Laws of Utah 2016, Chapter 230
 71-8-6, as enacted by Laws of Utah 2013, Chapter 308
 71-8-7, as enacted by Laws of Utah 2013, Chapter 308
 71-9-1, as last amended by Laws of Utah 2013, Chapter 214
 71-9-2, as last amended by Laws of Utah 2013, Chapter 214
 71-10-2, as last amended by Laws of Utah 2011, Chapter 366
 71-11-1, as last amended by Laws of Utah 2000, Chapter 134
 71-11-2, as last amended by Laws of Utah 2016, Chapter 230
 71-11-3, as last amended by Laws of Utah 2007, Chapter 173
 71-11-4, as last amended by Laws of Utah 2007, Chapter 173

71-11-5, as last amended by Laws of Utah 2008, Chapter 382
 71-11-7, as last amended by Laws of Utah 2016, Chapter 252
 71-11-8, as last amended by Laws of Utah 2013, Chapter 400
 71-12-101, as enacted by Laws of Utah 2014, Chapter 91
 71-12-102, as last amended by Laws of Utah 2015, Chapter 141
 71-12-103, as enacted by Laws of Utah 2014, Chapter 91
 71-13-102, as enacted by Laws of Utah 2015, Chapter 123
 71-13-105, as enacted by Laws of Utah 2015, Chapter 123
 72-4-201, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-4-203, as renumbered and amended by Laws of Utah 1998, Chapter 270
 78B-6-2003, as enacted by Laws of Utah 2016, Chapter 385

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

Section 1. Section 23-19-14 is amended to read:

23-19-14. Persons residing in certain institutions authorized to fish without license.

(1) The Division of Wildlife Resources shall permit a person to fish without a license if:

- (a) (i) the person resides in:
 - (A) the Utah State Developmental Center in American Fork;
 - (B) the state hospital;
 - (C) a ~~veteran's~~ veterans hospital;
 - (D) a ~~veteran's~~ veterans nursing home;
 - (E) a mental health center;
 - (F) an intermediate care facility for people with an intellectual disability;
 - (G) a group home licensed by the Department of Human Services and operated under contract with the Division of Services for People with Disabilities;
 - (H) a group home or other community-based placement licensed by the Department of Human Services and operated under contract with the Division of Juvenile Justice Services;
 - (I) a private residential facility for at-risk youth licensed by the Department of Human Services; or
 - (J) another similar institution approved by the division; or
- (ii) the person is a youth who participates in a work camp operated by the Division of Juvenile Justice Services;
- (b) the person is properly supervised by a representative of the institution; and

(c) the institution obtains from the division a certificate of registration that specifies:

- (i) the date and place where the person will fish; and
- (ii) the name of the institution's representative who will supervise the person fishing.

(2) The institution shall apply for the certificate of registration at least 10 days before the fishing outing.

(3) (a) An institution that receives a certificate of registration authorizing at-risk youth to fish shall provide instruction to the youth on fishing laws and regulations.

(b) The division shall provide educational materials to the institution to assist it in complying with Subsection (3)(a).

Section 2. Section 26-35a-103 is amended to read:

26-35a-103. Definitions.

As used in this chapter:

- (1) (a) "Nursing care facility" means:
 - (i) a nursing care facility described in Subsection 26-21-2(17);
 - (ii) beginning January 1, 2006, a designated swing bed in:
 - (A) a general acute hospital as defined in Subsection 26-21-2(11); and
 - (B) a critical access hospital which meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998); and
 - (iii) an intermediate care facility for people with an intellectual disability that is licensed under Section 26-21-13.5.
 - (b) "Nursing care facility" does not include:
 - (i) the Utah State Developmental Center;
 - (ii) the Utah State Hospital;
 - (iii) a general acute hospital, specialty hospital, or small health care facility as defined in Section 26-21-2; or
 - (iv) a Utah State ~~Veterans'~~ Veterans Home.

(2) "Patient day" means each calendar day in which an individual patient is admitted to the nursing care facility during a calendar month, even if on a temporary leave of absence from the facility.

Section 3. Section 30-3-35 is amended to read:

30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.

(1) The parent-time schedule in this section applies to children 5 to 18 years of age.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled.

(a) (i) (A) One weekday evening to be specified by the noncustodial parent or the court, or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

(B) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i); or

(C) at the election of the noncustodial parent, if school is not in session, one weekday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30 p.m. if the noncustodial parent is available to be with the child, unless the court directs the application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

(ii) Once the election of the weekday for the weekday evening parent-time is made, it may not be changed except by mutual written agreement or court order.

(b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

(B) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of Subsection (2)(b)(i)(A); or

(C) at the election of the noncustodial parent, if school is not in session, on Friday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 7 p.m. on Sunday, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

(ii) A step-parent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iii) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(iv) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and which are contiguous to the weekend period.

(c) Holidays include any "snow" days, teacher development days after the children begin the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over the weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule, however:

(i) birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day; and

(ii) birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.

(d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(ii) (A) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend; or

(B) at the election of the noncustodial parent, if school is not in session, parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(e)(ii)(A).

(iii) A step-parent, grandparent, or other responsible individual designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iv) An election should be made by the noncustodial parent at the time of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(f) In years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until 9 p.m., at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) subject to Subsection (2)(i), spring break beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the evening before school resumes;

(iv) July 4 beginning 6 p.m. the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Labor Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vii) ~~Veteran's~~ Veterans Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and

(viii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b) including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday period is equally divided.

(g) In years ending in an even number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m., at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) President's Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;

(vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

(viii) the second portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for the holiday period, so long as the entire Christmas holiday period is equally divided.

(h) The custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years.

(i) If there is more than one child and the children's school schedules vary for purpose of a holiday, it is presumed that the children will remain together for the holiday period beginning the first evening all children's schools are let out for the holiday and ending the evening before any child returns to school.

(j) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday.

(k) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday.

(l) Extended parent-time with the noncustodial parent may be:

(i) up to four consecutive weeks when school is not in session at the option of the noncustodial parent, including weekends normally exercised by the noncustodial parent, but not holidays;

(ii) two weeks shall be uninterrupted time for the noncustodial parent; and

(iii) the remaining two weeks shall be subject to parent-time for the custodial parent for weekday parent-time but not weekends, except for a holiday to be exercised by the other parent.

(m) The custodial parent shall have an identical two-week period of uninterrupted time when school is not in session for purposes of vacation.

(n) Both parents shall provide notification of extended parent-time or vacation weeks with the child at least 30 days before the end of the child's school year to the other parent and if notification is not provided timely the complying parent may determine the schedule for extended parent-time for the noncomplying parent.

(o) Telephone contact shall be at reasonable hours and for a reasonable duration.

(p) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(3) An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).

Section 4. Section 35A-1-206 is amended to read:

35A-1-206. State Workforce Development Board -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created within the department the State Workforce Development Board in accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq.

(2) The board shall consist of the following 39 members:

(a) the governor or the governor's designee;

(b) one member of the Senate, appointed by the president of the Senate;

(c) one representative of the House of Representatives, appointed by the speaker of the House of Representatives;

(d) the executive director or the executive director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the director of the Utah State Office of Rehabilitation or the director's designee;

(g) the state superintendent of public instruction or the superintendent's designee;

(h) the commissioner of higher education or the commissioner's designee;

(i) the Utah System of Technical Colleges commissioner of technical education or the commissioner of technical education's designee;

(j) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(k) the executive director of the Department of [Veterans] Veterans and Military Affairs or the executive director's designee; and

(l) the following members appointed by the governor:

(i) 20 representatives of business in the state, selected among the following:

(A) owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with policymaking or hiring authority;

(B) representatives of businesses, including small businesses, that provide employment opportunities that include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the state; and

(C) representatives of businesses appointed from among individuals nominated by state business organizations or business trade associations;

(ii) six representatives of the workforce within the state, which:

(A) shall include at least two representatives of labor organizations who have been nominated by state labor federations;

(B) shall include at least one representative from a registered apprentice program;

(C) may include one or more representatives from a community-based organization that has demonstrated experience and expertise in addressing the employment, training, or educational needs of individuals with barriers to employment; and

(D) may include one or more representatives from an organization that has demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including organizations that serve out of school youth; and

(iii) two elected officials that represent a city or a county.

(3) (a) The governor shall appoint one of the appointed business representatives as chair of the board.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) The governor shall ensure that members appointed to the board represent diverse geographic areas of the state, including urban, suburban, and rural areas.

(b) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(c) A member shall continue to serve until the member's successor has been appointed and qualified.

(d) Except as provided in Subsection (4)(e), as terms of board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(e) Notwithstanding the requirements of Subsection (4)(d), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately one half of the board is appointed every two years.

(f) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(g) The executive director shall terminate the term of any governor-appointed member of the board if the member leaves the position that qualified the member for the appointment.

(5) A majority of members constitutes a quorum for the transaction of business.

(6) (a) A member of the board who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the board at the direction of the executive director.

(8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec. 3111, including:

(a) identifying opportunities to align initiatives in education, training, workforce development, and economic development;

(b) developing and implementing the state workforce services plan described in Section 35A-1-207;

(c) utilizing strategic partners to ensure the needs of industry are met, including the development of expanded strategies for partnerships for in-demand occupations and understanding and adapting to economic changes;

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

(f) performing other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 5. Section 36-28-101 is amended to read:

36-28-101. Title.

This chapter is known as the “[~~Veterans~~] Veterans and Military Affairs Commission.”

Section 6. Section 36-28-102 is amended to read:

36-28-102. Veterans and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) There is created the [~~Veterans~~] Veterans and Military Affairs Commission.

(2) The commission membership is composed of 19 permanent members, but may not exceed 24 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) the executive director of the Department of [~~Veterans~~] Veterans and Military Affairs or the director’s designee;

(c) the chair of the Utah [~~Veterans~~] Veterans Advisory Council;

(d) the executive director of the Department of Workforce Services or the director’s designee;

(e) the executive director of the Department of Health or the director’s designee;

(f) the executive director of the Department of Human Services or the director’s designee;

(g) the adjutant general of the Utah National Guard or the adjutant general’s designee;

(h) the Guard and Reserve Transition Assistance Advisor;

(i) a member of the Board of Regents or that member’s designee;

(j) three representatives of veteran service organizations recommended by the Veterans Advisory Council and confirmed by the commission;

(k) one member of the Executive Committee of the Utah Defense Alliance;

(l) one military affairs representative from a chamber of commerce member, appointed by the Utah State Chamber of Commerce; and

(m) a representative from the Veterans Health Administration.

(3) The commission may appoint by majority vote of the entire commission up to five pro tempore members, representing:

(a) state or local government agencies;

(b) interest groups concerned with veterans issues; or

(c) the general public.

(4) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority of a quorum constitutes the action of the commission.

(6) The term for each pro tempore member appointed in accordance with Subsection (3) shall be two years from ~~the date~~ July 1 of the year of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under ~~[this section does not serve]~~ Subsection (6) serves the remaining unexpired term of the member being replaced ~~[but begins serving a new term]~~. If the remaining unexpired term is less than six months, the newly appointed member shall be reappointed on July 1. The time served until July 1 is not counted in the restriction set forth in Subsection (6).

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of [Veterans] Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team; or

(viii) a current honorary consulate designated by the United States Department of State; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of [Veterans] Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness;

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxiii) programs that strengthen youth soccer, build communities, and promote environmental

sustainability through an organization affiliated with a professional men's soccer organization;

(xxiv) programs that support children with heart disease;

(xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxvi) programs that provide assistance to children with cancer; or

(xxvii) programs that promote leadership and career development through agricultural education.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 8. Section 41-1a-421 is amended to read:

41-1a-421. Honor special group license plates -- Personal identity requirements.

(1) (a) The requirements of this Subsection (1) apply to a vehicle displaying a:

(i) survivor of the Japanese attack on Pearl Harbor license plate;

(ii) former prisoner of war license plate;

(iii) Purple Heart license plate;

(iv) disabled veteran license plate; or

(v) campaign or combat theater award license plate.

(b) The vehicle shall be titled in the name of the veteran or the veteran and spouse.

(c) Upon the death of the veteran, the surviving spouse may, upon application to the division, retain the special group license plate decal so long as the surviving spouse remains unmarried.

(d) The division shall require the surviving spouse to make a sworn statement that the surviving spouse is unmarried before renewing the registration under this section.

(2) Proper evidence of a Purple Heart is either:

(a) a membership card in the Military Order of the Purple Heart; or

(b) an original or certificate in lieu of the applicant's military discharge form, DD-214, issued by the National Personnel Records Center.

(3) The Purple Heart license plates shall bear:

(a) the words "Purple Heart" at the bottom of the plate;

(b) a logo substantially depicting a Purple Heart award; and

(c) the letter and number combinations assigned by the division.

(4) Proper evidence that a person is a disabled veteran is a written document issued by a military entity certifying that the person is disabled as a result of service in a branch of the United States Military.

(5) A disabled veteran seeking a disabled veteran license plate shall request the Department of [Veterans'] Veterans and Military Affairs to provide the verification required under Subsection (4).

(6) (a) An applicant for a gold star license plate shall submit written documentation that the applicant is a recipient of a gold star award issued by the United States Secretary of Defense.

(b) Written documentation under Subsection (6)(a) may include any of the following:

(i) a death certificate;

(ii) documentation showing classification of death as listed by the United States Secretary of Defense;

(iii) a casualty report;

(iv) a telegram from the United States Secretary of Defense or one of the branches of the United States armed forces; or

(v) other documentation that verifies the applicant meets the requirements of Subsection (6)(a).

(7) An applicant for a campaign or combat theater award special group license plate shall:

(a) be a contributor in accordance with Subsections 41-1a-422(1)(a)(i)(B) and (1)(a)(ii)(A); and

(b) submit a form to the division obtained from the Department of [Veterans'] Veterans and Military Affairs which verifies that the applicant qualifies for the campaign or combat theater award special group license plate requested.

(8) Each campaign or combat theater award special group license plate authorized by the Department of [Veterans'] Veterans and Military Affairs shall be considered a new special group license plate and require the payment of the fees associated with newly authorized special group license plates.

Section 9. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of [Veterans'] Veterans and Military Affairs for [veterans'] veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102; or

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges.

(ii) (A) For a [veterans²] veterans special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission

shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) [Veterans'] Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 10. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(20)(b).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in

the state or jurisdiction in which the person has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license

certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the [state] Department of [Veterans] Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of [Veterans] Veterans and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 11. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, the applicant shall:

- (a) be a Utah resident;
- (b) have a Utah residence address; and
- (c) appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) Social Security number; or

(ii) written proof that the applicant is ineligible to receive a Social Security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United

States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of [Veterans] Veterans and Military Affairs.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) A person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (5), the division shall cancel the Utah identification card on December 1, 2014.

(6) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (6), the division shall cancel the Utah identification card on December 1, 2017.

Section 12. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) a photograph of the person;

(v) a photograph or other facsimile of the person's signature;

(vi) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the person states that the person is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the person received an honorable or general discharge from the United States Armed Forces, an indication that the person is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the person's Social Security number or place of birth.

(2) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(4) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(5) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of [Veterans'] Veterans and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(6) The division and its employees are not liable, as a result of false or inaccurate information

provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(7) (a) The division may issue a temporary regular identification card to a person while the person obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection (7) shall be recognized and grant the person the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection (7) is invalid:

(i) when the person's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

Section 13. Section 53B-8-107 is amended to read:

53B-8-107. Military member surviving dependents -- Tuition waiver.

(1) As used in this section:

(a) "Federal active duty" means serving under orders in accordance with United States Code, Title 10 or Title 32, at any time on or after September 11, 2001.

(b) "Qualifying deceased military member" means a person who:

(i) was killed while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; or

(ii) dies of wounds or injuries received while serving on state or federal active duty, under orders of competent authority and not as a result of the member's own misconduct; and

(iii) was a member of the armed forces of the United States and a Utah resident;

(iv) was a member of the reserve component of the armed forces on or after September 11, 2001, and a Utah resident; or

(v) was a member of the Utah National Guard on or after September 11, 2001.

(c) "State active duty" means serving in the Utah National Guard in any duty status authorized by the governor under Title 39, Militias and Armories.

(2) This section shall be known as the Scott B. Lundell Military Survivors' tuition waiver.

(3) A state institution of higher education shall waive undergraduate tuition for a dependent of a

qualifying deceased military member under the following conditions:

(a) the dependent has been accepted by the institution in accordance with the institution's admissions guidelines;

(b) except as provided in Subsection (4), the dependent is a resident student as determined under Section 53B-8-102;

(c) the dependent may not have already completed a course of studies leading to an undergraduate degree;

(d) the dependent may only utilize the waiver for courses that are applicable toward the degree or certificate requirements of the program in which the dependent is enrolled; and

(e) the dependent may not be excluded from the waiver if the dependent has previously taken courses at or has been awarded credit by a state institution of higher education.

(4) Notwithstanding Subsection (3)(b), a dependent of a qualifying deceased military member that was a member of the Utah National Guard is not required to be a resident student as determined under Section 53B-8-102.

(5) The tuition waiver in this section is applicable for undergraduate study only.

(6) The Department of [Veterans] Veterans and Military Affairs, after consultation with the adjutant general if necessary, shall certify to the institution that the dependent is a surviving dependent eligible for the tuition waiver in accordance with this section.

(7) The waiver in this section does not apply to fees, books, or housing expenses.

(8) The State Board of Regents may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

Section 14. Section 53B-8e-103 is amended to read:

53B-8e-103. Tuition waivers for Purple Heart recipients -- Qualifications -- Limitations.

(1) Beginning in the 2004-05 academic year, a state institution of higher education shall waive undergraduate tuition for each Purple Heart recipient who:

(a) is admitted as a full-time, part-time, or summer school student in an undergraduate program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53B-8-102; and

(c) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(2) (a) Beginning in the 2008-09 academic year, a state institution of higher education shall waive

graduate tuition as provided in this Subsection (2) for each Purple Heart recipient who:

(i) is admitted as a full-time, part-time, or summer school student in a graduate program of study leading to a degree;

(ii) is a resident student of the state as determined under Section 53B-8-102; and

(iii) submits verification as provided in Subsection (3) that the student is a Purple Heart recipient.

(b) To qualify for a graduate tuition waiver, a Purple Heart recipient shall apply for a graduate program no later than 10 years from the day on which the Purple Heart recipient completes an undergraduate degree.

(c) The total amount of all graduate tuition waived for a Purple Heart recipient may not exceed \$10,000.

(d) A Purple Heart recipient may receive a graduate tuition waiver for a period of time that does not exceed the lesser of:

(i) the time it takes for the Purple Heart recipient to complete a graduate degree; or

(ii) five years after the day on which the Purple Heart recipient is accepted to a graduate program.

(3) A Purple Heart recipient seeking a tuition waiver shall request the Department of [Veterans] Veterans and Military Affairs to provide the verification required by Subsection (1)(c). The Department of [Veterans] Veterans and Military Affairs shall provide the verification upon obtaining evidence satisfactory to the division that the student is a Purple Heart recipient.

(4) The State Board of Regents may request reimbursement from the Legislature for costs incurred in providing the tuition waiver under this section.

Section 15. Section 53B-16-107 is amended to read:

53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by a technical college.

(2) An institution of higher education listed in Section 53B-2-101 shall provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the board or the Utah System of Technical Colleges Board of Trustees if:

(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section 53B-2-101 at which the student intends to enroll to

discuss applicability of credit to program requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution of higher education for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution of higher education shall evaluate the credit to be transferred pursuant to Subsection (2).

(4) The board and the Utah System of Technical Colleges Board of Trustees shall annually report the number of credits awarded under this section by each institution of higher education to the [Utah] Department of [Veterans] Veterans and Military Affairs.

Section 16. Section 53E-3-920 is amended to read:

53E-3-920. Creation of State Council on Military Children.

(1) There is established a State Council on Military Children, as required in Section 53E-3-909.

(2) The members of the State Council on Military Children shall include:

- (a) the state superintendent of public instruction;
- (b) a superintendent of a school district with a high concentration of military children appointed by the governor;
- (c) a representative from a military installation, appointed by the governor;
- (d) one member of the House of Representatives, appointed by the speaker of the House;
- (e) one member of the Senate, appointed by the president of the Senate;
- (f) a representative from the Department of [Veterans] Veterans and Military Affairs, appointed by the governor;
- (g) a military family education liaison, appointed by the members listed in Subsections (2)(a) through (f);

(h) the compact commissioner, appointed in accordance with Section 53E-3-921; and

(i) other members as determined by the governor.

(3) The State Council on Military Children shall carry out the duties established in Section 53E-3-909.

(4) (a) A member who is not a legislator may not receive compensation or per diem.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 17. Section 53G-7-214 is amended to read:

53G-7-214. Honorary high school diploma for certain veterans.

(1) A board of education of a school district may award an honorary high school diploma to a veteran, if the veteran:

- (a) left high school before graduating in order to serve in the armed forces of the United States;
- (b) served in the armed forces of the United States during the period of World War II, the Korean War, or the Vietnam War;
- (c) (i) was honorably discharged; or
 - (ii) was released from active duty because of a service-related disability; and
- (d) (i) resides within the school district; or
 - (ii) resided within the school district at the time of leaving high school to serve in the armed forces of the United States.

(2) To receive an honorary high school diploma, a veteran or immediate family member or guardian of a veteran shall submit to a local school board:

- (a) a request for an honorary high school diploma; and
- (b) information required by the local school board to verify the veteran's eligibility for an honorary high school diploma under Subsection (1).

(3) At the request of a veteran, a veteran's immediate family member or guardian, or a local school board, the Department of [Veterans] Veterans and Military Affairs shall certify whether the veteran meets the requirements of Subsections (1)(b) and (c).

Section 18. Section 58-17b-622 is amended to read:

58-17b-622. Pharmacy benefit management services -- Auditing of pharmacy records -- Appeals.

(1) For purposes of this section:

(a) "Audit" means a review of the records of a pharmacy by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products.

(b) "Entity" includes:

- (i) a pharmacy benefits manager or coordinator;
- (ii) a health benefit plan;
- (iii) a third party administrator as defined in Section 31A-1-301;
- (iv) a state agency; or

(v) a company, group, or agent that represents, or is engaged by, one of the entities described in Subsections (1)(b)(i) through (iv).

(c) "Fraud" means an intentional act of deception, misrepresentation, or concealment in order to gain something of value.

- (d) "Health benefit plan" means:
- (i) a health benefit plan as defined in Section 31A-1-301; or
 - (ii) a health, dental, medical, Medicare supplement, or conversion program offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.
- (2) (a) Except as provided in Subsection (2)(b), this section applies to:
- (i) a contract for the audit of a pharmacy entered into, amended, or renewed on or after July 1, 2012; and
 - (ii) an entity that conducts an audit of the pharmacy records of a pharmacy licensed under this chapter.
- (b) This section does not apply to an audit of pharmacy records:
- (i) for a federally funded prescription drug program, including:
 - (A) the state Medicaid program;
 - (B) the Medicare Part D program;
 - (C) a Department of Defense prescription drug program;
 - (D) a [Veteran's] Veterans Affairs prescription drug program; or
 - (ii) when fraud or other intentional and willful misrepresentation is alleged and the pharmacy audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation.
- (3) (a) An audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist who is employed by or working with the auditing entity and who is licensed in the state or another state.
- (b) If an audit is conducted on site at a pharmacy, the entity conducting the audit:
- (i) shall give the pharmacy 10 days advanced written notice of:
 - (A) the audit; and
 - (B) the range of prescription numbers or a date range included in the audit; and
 - (ii) may not audit a pharmacy during the first five business days of the month, unless the pharmacy agrees to the timing of the audit.
- (c) An entity may not audit claims:
- (i) submitted more than 18 months prior to the audit, unless:
 - (A) required by federal law; or
 - (B) the originating prescription is dated in the preceding six months; or
 - (ii) that exceed 200 selected prescription claims.

- (4) (a) An entity may not:
- (i) include dispensing fees in the calculations of overpayments unless the prescription is considered a misfill;
 - (ii) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors on a required document or record unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation;
 - (iii) recoup funds for refills dispensed in accordance with Section 58-17b-608.1, unless the health benefit plan does not cover the prescription drug dispensed by the pharmacy; or
 - (iv) collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation.
- (b) Auditors shall only have access to previous audit reports on a particular pharmacy if the previous audit was conducted by the same entity except as required for compliance with state or federal law.
- (5) A pharmacy subject to an audit may use the following records to validate a claim for a prescription, refill, or change in a prescription:
- (a) electronic or physical copies of records of a health care facility, or a health care provider with prescribing authority; and
 - (b) any prescription that complies with state law.
- (6) (a) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report, delivered to the pharmacy or its corporate office of record within 60 days after completion of the audit.
- (b) A pharmacy has 30 days following receipt of the preliminary audit report to respond to questions, provide additional documentation, and comment on and clarify findings of the audit. Receipt of the report shall be based on the postmark date or the date of a computer transmission if transferred electronically.
- (7) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow the pharmacy to resubmit a claim using any commercially reasonable method, including fax, mail, or electronic claims submission provided that the period of time when a claim may be resubmitted has not expired under the rules of the plan sponsor.
- (8) (a) Within 120 days after the completion of the appeals process under Subsection (9), a final audit report shall be delivered to the pharmacy or its corporate office of record.
- (b) The final audit report shall include a disclosure of any money recovered by the entity that conducted the audit.

(9) An entity that audits a pharmacy shall establish a written appeals process for appealing a preliminary audit report and a final audit report, and shall provide the pharmacy with notice of the written appeals process. If the pharmacy benefit manager's contract or provider manual contains the information required by this Subsection (9), the requirement for notice is met.

Section 19. Section 58-24b-304 is amended to read:

58-24b-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure described in Section 58-1-307, as modified by Subsection 58-24b-302(5), a person may engage in acts that constitute the practice of physical therapy without a license issued under this chapter if:

(a) the person is licensed under another law of the state to engage in acts that constitute the practice of physical therapy if that person does not:

- (i) claim to be a physical therapist;
- (ii) claim to be a provider of any type of physical therapy that is outside of the scope of practice of the license that is issued to the person; or
- (iii) engage in any acts that constitute the practice of physical therapy that are outside of the scope of practice of the license that is issued to the person;

(b) the person practices physical therapy, under federal law, in:

- (i) the United States armed services;
- (ii) the United States Public Health Service; or
- (iii) the [Veteran's] Veterans Administration;
- (c) the person is:
 - (i) licensed as a physical therapist in:

(A) a state, district, or territory of the United States, other than Utah; or

(B) a country other than the United States; and

(ii) (A) teaching, demonstrating, or providing physical therapy in connection with an educational seminar, if the person engages in this conduct in Utah no more than 60 days per calendar year;

(B) practicing physical therapy directly related to the person's employment with, or contract with, an established athletic team, athletic organization, or performing arts company that plays, practices, competes, or performs in Utah no more than 60 days per calendar year; or

(C) providing consultation by telecommunication to a physical therapist;

(d) the person:

(i) (A) is licensed as a physical therapist assistant under federal law; and

(B) practices within the scope of practice authorized by federal law for a physical therapist assistant; or

(ii) (A) is licensed as a physical therapist assistant in:

(I) a state, district, or territory of the United States, other than Utah; or

(II) a country other than the United States; and

(B) (I) practices within the scope of practice authorized for a physical therapist assistant by the jurisdiction described in Subsection (1)(d)(ii)(A); and

(II) within the limitations for the practice of physical therapy described in Subsection (1)(c)(ii); or

(e) the person:

(i) is a physician, licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) is a physician, licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iii) is a chiropractic physician, licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(2) A person who is exempted from licensure under Subsection (1)(b) may practice animal physical therapy without a license under this section if the person:

(a) is authorized to practice animal physical therapy under federal law; and

(b) practices animal physical therapy within the scope of practice authorized by federal law.

(3) A person who is exempted from licensure under Subsection (1)(c) may practice animal physical therapy without a license under this section if the person:

(a) is authorized to practice animal physical therapy in:

(i) a state, district, or territory of the United States, other than Utah; or

(ii) a country other than the United States; and

(b) practices animal physical therapy:

(i) within the scope of practice for the jurisdiction described in Subsection (3)(a) where the person is authorized to practice animal physical therapy; and

(ii) within the limitations for the practice of physical therapy described in Subsection (1)(c)(ii).

Section 20. Section 59-2-1104 (Superseded 01/01/19) is amended to read:

59-2-1104 (Superseded 01/01/19).

Definitions -- Armed forces exemption -- Amount of armed forces exemption.

(1) As used in this section and Section 59-2-1105:

(a) "Active component of the United States Armed Forces" is as defined in Section 59-10-1027.

(b) "Adjusted taxable value limit" means:

(i) for the calendar year that begins on January 1, 2015, \$252,126; and

(ii) for each calendar year after the calendar year described in Subsection (1)(b)(i), the amount of the adjusted taxable value limit for the previous year, plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(c) "Claimant" means:

(i) a veteran with a disability who files an application under Section 59-2-1105 for an exemption under this section;

(ii) the unmarried surviving spouse:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for an exemption under this section;

(iii) a minor orphan:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for an exemption under this section; or

(iv) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(e) "Deceased veteran with a disability" means a deceased person who was a veteran with a disability at the time the person died.

(f) "Military entity" means:

(i) the [federal] United States Department of Veterans Affairs;

(ii) an active component of the United States Armed Forces; or

(iii) a reserve component of the United States Armed Forces.

(g) "Property taxes due" means the taxes due on a claimant's property:

(i) with respect to which a county grants an exemption under this section; and

(ii) for the calendar year for which the county grants an exemption under this section.

(h) "Property taxes paid" is an amount equal to the sum of:

(i) the amount of the property taxes the claimant paid for the calendar year for which the claimant is applying for an exemption under this section; and

(ii) the exemption the county grants for the calendar year described in Subsection (1)(h)(i).

(i) "Qualifying active duty military service" means:

(i) at least 200 days in a calendar year, regardless of whether consecutive, of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; or

(ii) the completion of at least 200 consecutive days of active duty military service outside the state:

(A) in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; and

(B) that began in the prior year, if those days of active duty military service outside the state in the prior year were not counted as qualifying active duty military service for purposes of this section or Section 59-2-1105 in the prior year.

(j) "Reserve component of the United States Armed Forces" is as defined in Section 59-10-1027.

(k) "Residence" is as defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence.

(l) "Veteran who was killed in action or died in the line of duty" means a person who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that person had a disability at the time that person was killed in action or died in the line of duty.

(m) "Veteran with a disability" means a person with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

(2) (a) Subject to Subsection (2)(c), the amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (3) through (6) if the property described in Subsection (2)(b) is owned by:

(i) a veteran with a disability;

(ii) the unmarried surviving spouse or a minor orphan of a:

(A) deceased veteran with a disability; or

(B) veteran who was killed in action or died in the line of duty; or

(iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(b) Subsection (2)(a) applies to the following property:

(i) the claimant's primary residence;

(ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property that:

- (A) is held exclusively for personal use; and
- (B) is not used in a trade or business; or

(iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

(c) For purposes of this section, property is considered to be the primary residence of a person described in Subsection (2)(a)(i) or (iii) who does not reside in the residence if the person:

(i) does not reside in the residence because the person is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(ii) otherwise meets the requirements of this section and Section 59-2-1105 to receive an exemption under this section.

(3) Except as provided in Subsection (4) or (5), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

(a) as described in Subsection (6), if the property is owned by:

- (i) a veteran with a disability;
- (ii) the unmarried surviving spouse of a deceased veteran with a disability; or
- (iii) a minor orphan of a deceased veteran with a disability; or

(b) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

- (i) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;
- (ii) a minor orphan of a veteran who was killed in action or died in the line of duty; or
- (iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(4) (a) Subject to Subsections (4)(b) and (c), an exemption may not be allowed under this section if the percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a) is less than 10%.

(b) Subsection (4)(a) does not apply to a claimant described in Subsection (2)(a)(iii).

(c) A veteran with a disability is considered to have a 100% disability, regardless of the percentage of disability listed on a statement described in Subsection 59-2-1105(3)(a), if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployment.

(5) A claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability may claim an exemption for the total value of the property described in Subsection (2)(b) if:

(a) the deceased veteran with a disability served in the military service of the United States or the state prior to January 1, 1921; and

(b) the percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

(6) (a) Except as provided in Subsection (6)(b), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (3)(a) is equal to the percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

(b) The amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (3)(a) may not be greater than the taxable value of the property described in Subsection (2)(b).

(7) For purposes of this section and Section 59-2-1105, a person who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

(a) is presumed to be a citizen of the United States; and

(b) may not be required to provide additional proof of citizenship to establish that the person is a citizen of the United States.

(8) The Department of [Veterans] Veterans and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning a veteran's status as a veteran with a disability.

Section 21. Section 59-2-1104 (Effective 01/01/19) is amended to read:

59-2-1104 (Effective 01/01/19). Definitions -- Armed forces exemption -- Amount of armed forces exemption.

(1) As used in this section and Section 59-2-1105:

(a) "Active component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(b) "Adjusted taxable value limit" means:

(i) for the calendar year that begins on January 1, 2015, \$252,126; and

(ii) for each calendar year after the calendar year described in Subsection (1)(b)(i), the amount of the adjusted taxable value limit for the previous year, plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the

previous year by the actual percent change in the consumer price index during the previous calendar year.

(c) "Claimant" means:

(i) a veteran with a disability who files an application under Section 59-2-1105 for an exemption under this section;

(ii) the unmarried surviving spouse:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for an exemption under this section;

(iii) a minor orphan:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for an exemption under this section; or

(iv) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(e) "Deceased veteran with a disability" means a deceased individual who was a veteran with a disability at the time the individual died.

(f) "Military entity" means:

(i) the ~~federal~~ United States Department of Veterans Affairs;

(ii) an active component of the United States Armed Forces; or

(iii) a reserve component of the United States Armed Forces.

(g) "Property taxes due" means the taxes due on a claimant's property:

(i) with respect to which a county grants an exemption under this section; and

(ii) for the calendar year for which the county grants an exemption under this section.

(h) "Property taxes paid" is an amount equal to the sum of:

(i) the amount of the property taxes the claimant paid for the calendar year for which the claimant is applying for an exemption under this section; and

(ii) the exemption the county grants for the calendar year described in Subsection (1)(h)(i).

(i) "Qualifying active duty military service" means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces if the days of active duty military service:

(i) were completed in the year before an individual applies for exemption under this section in accordance with Section 59-2-1105; and

(ii) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption under this section or applying for the exemption under Section 59-2-1105.

(j) "Reserve component of the United States Armed Forces" means the same as that term is defined in Section 59-10-1027.

(k) "Residence" means the same as that term is defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence.

(l) "Veteran who was killed in action or died in the line of duty" means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(m) "Veteran with a disability" means an individual with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

(2) (a) Subject to Subsection (2)(c), the amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (3) through (6) if the property described in Subsection (2)(b) is owned by:

(i) a veteran with a disability;

(ii) the unmarried surviving spouse or a minor orphan of a:

(A) deceased veteran with a disability; or

(B) veteran who was killed in action or died in the line of duty; or

(iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(b) Subsection (2)(a) applies to the following property:

(i) the claimant's primary residence;

(ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property that:

(A) is held exclusively for personal use; and

(B) is not used in a trade or business; or

(iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

(c) For purposes of this section, property is considered to be the primary residence of an individual described in Subsection (2)(a)(i) or (iii) who does not reside in the residence if the individual:

(i) does not reside in the residence because the individual is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(ii) otherwise meets the requirements of this section and Section 59-2-1105 to receive an exemption under this section.

(3) Except as provided in Subsection (4) or (5), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

(a) as described in Subsection (6), if the property is owned by:

(i) a veteran with a disability;

(ii) the unmarried surviving spouse of a deceased veteran with a disability; or

(iii) a minor orphan of a deceased veteran with a disability; or

(b) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

(i) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(ii) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(4) (a) Subject to Subsections (4)(b) and (c), an exemption may not be allowed under this section if the percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a) is less than 10%.

(b) Subsection (4)(a) does not apply to a claimant described in Subsection (2)(a)(iii).

(c) A veteran with a disability is considered to have a 100% disability, regardless of the percentage of disability listed on a statement described in Subsection 59-2-1105(3)(a), if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployment.

(5) A claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability may claim an exemption for the total value of the property described in Subsection (2)(b) if:

(a) the deceased veteran with a disability served in the military service of the United States or the state prior to January 1, 1921; and

(b) the percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

(6) (a) Except as provided in Subsection (6)(b), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (3)(a) is equal to the percentage of disability listed on the statement described in Subsection 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

(b) The amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (3)(a) may not be greater than the taxable value of the property described in Subsection (2)(b).

(7) For purposes of this section and Section 59-2-1105, an individual who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

(a) is presumed to be a citizen of the United States; and

(b) may not be required to provide additional proof of citizenship to establish that the individual is a citizen of the United States.

(8) The Department of [Veterans] Veterans and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning a veteran's status as a veteran with a disability.

Section 22. Section 63B-18-301 is amended to read:

63B-18-301. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use institutional funds to plan and design an ambulatory care complex;

(b) this authorization and the existence of plans and designs do not guarantee nor improve the chances for legislative approval of the remainder of the building in any subsequent year; and

(c) no state funds be used for any portion of this planning and design.

(2) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$64,445,000 in donations to

plan, design, and construct a replacement and expansion of the Eccles School of Business Building, with 135,000 new square feet;

(b) no state funds be used for any portion of this project unless expressly appropriated for this purpose or approved in a general obligation bond bill; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$8,689,000 in donations to plan, design, and construct a renovation of the Kennecott Building, with 19,400 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$30,737,000 in donations to plan, design, and construct a Sorenson Arts and Education Complex, with 85,400 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(5) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$4,477,500 in donations to plan, design, and construct a Meldrum Civil Engineering Building, with 11,800 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(6) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, negotiate with a private developer to develop the Universe Project on land west of the university football stadium;

(b) before entering into a contract with the developer, the university shall:

(i) present the final contract terms to the Legislature's Executive Appropriations Committee;

(ii) obtain the approval of the State Building Board; and

(iii) the State Building Board may approve the agreement only if the university demonstrates that the contract terms will be a benefit to the state;

(c) no state funds be used for any portion of this project; and

(d) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(7) The Legislature intends that:

(a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$2,650,000 in grants and institutional funds to plan, design, and construct a Business Resource Center, with 12,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(8) The Legislature intends that:

(a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$1,200,000 in donations and institutional funds to plan, design, and construct a track and field facility;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(9) The Legislature intends that:

(a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5, State

Building Board – Division of Facilities Construction and Management, use \$600,000 in institutional funds to plan, design, and construct intramural playing fields;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operation and maintenance costs and capital improvements to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(10) The Legislature intends that:

(a) Southern Utah University may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$2,000,000 in donations to plan, design, and construct a baseball and soccer complex upgrade;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(11) The Legislature intends that:

(a) the Department of Natural Resources may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$3,000,000 in federal grants to plan, design, and construct an interagency fire dispatch center, with 10,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(12) The Legislature intends that:

(a) the Department of Natural Resources may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$7,500,000 in federal grants to plan, design, and construct a curation facility in Vernal, with 21,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(13) The Legislature intends that:

(a) the Department of Natural Resources may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$650,000 in federal grants to plan, design, and construct an expansion to the seed warehouse at the Great Basin Research Center, with 9,000 new square feet;

(b) no state funds be used for any portion of this project unless expressly appropriated for this purpose; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

(14) The Legislature intends that:

(a) the Department of [Veterans'] Veterans and Military Affairs may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use \$3,500,000 in federal grants to plan, design, and construct improvements at the [Veterans'] Veterans Cemetery, with 15,000 new square feet;

(b) no state funds be used for any portion of this project unless expressly appropriated for this purpose; and

(c) the department may not request state funds for operation and maintenance costs or capital improvements.

Section 23. Section 63G-1-301 is amended to read:

63G-1-301. Legal holidays -- Personal preference day -- Governor authorized to declare additional days.

(1) (a) The following-named days are legal holidays in this state:

(i) every Sunday;

(ii) January 1, called New Year's Day;

(iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;

(iv) the third Monday of February, called Washington and Lincoln Day;

(v) the last Monday of May, called Memorial Day;

(vi) July 4, called Independence Day;

(vii) July 24, called Pioneer Day;

(viii) the first Monday of September, called Labor Day;

(ix) the second Monday of October, called Columbus Day;

(x) November 11, called [Veterans'] Veterans Day;

(xi) the fourth Thursday of November, called Thanksgiving Day;

(xii) December 25, called Christmas; and

(xiii) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely Sunday, falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the Department of Human Resource Management.

(2) (a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

Section 24. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) The following days shall be commemorated annually:

(a) Bill of Rights Day, on December 15;

(b) Constitution Day, on September 17;

(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(d) POW/MIA Recognition Day, on the third Friday in September;

(e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;

(f) Utah State Flag Day, on March 9;

(g) Vietnam Veterans Recognition Day, on March 29;

(h) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; and

(i) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

(j) Arthrogryposis Multiplex Congenita Awareness Day, on June 30; and

(k) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited.

(2) The Department of [Veterans] Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated annually as Italian-American Heritage Month.

(4) The month of November shall be commemorated annually as American Indian Heritage Month.

(5) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

Section 25. Section 63G-1-703 is amended to read:

63G-1-703. Display of POW/MIA flag.

(1) In any place at the capitol hill complex where the United States flag is displayed out of doors, the entity responsible for the display of the United States flag shall display the POW/MIA flag, in the manner described in Subsection (2), from sunrise to sunset on the following days:

- (a) Armed Forces Day, the third Saturday in May;
- (b) Memorial Day, the last Monday in May;
- (c) Flag Day, June 14;
- (d) Independence Day, July 4;
- (e) [Veteran's] Veterans Day, November 11; and
- (f) National POW/MIA Recognition Day, the third Friday in September.

(2) When displaying the POW/MIA flag under Subsection (1), the entity responsible to display the flag shall fly or hang the POW/MIA flag as follows:

(a) if the United States flag and the POW/MIA flag are attached to the same flag pole, by placing the POW/MIA flag directly under the United States flag; or

(b) if the United States flag and the POW/MIA flag are displayed near each other, but not on the same flag pole, by placing the top of the POW/MIA flag below the top of the United States flag.

Section 26. Section 63J-1-219 is amended to read:

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Technology Services, the Department of Transportation, the Department of [Veterans] Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the State Board of Regents, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Board of Regents prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive

Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 27. Section 67-19-6.7 is amended to read:

67-19-6.7. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of Administrative Services, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Technology Services, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Heritage and Arts, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Department of Human Resource Management, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of [Veterans] Veterans

and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the Department of Human Resource Management applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the Department of Human Resource Management.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If the department pays a nonexempt employee for overtime, the department shall charge that payment to the department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The executive director of the Department of Human Resource Management may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if the department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the executive director of the Department of Human Resource Management, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by the Department of Human Resource Management rule lapses; and

(ii) unless authorized by the executive director of the Department of Human Resource Management under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If the department pays an exempt employee for overtime under authorization from the executive director of the Department of Human Resource Management, the department shall charge that payment to the department's budget in the pay period earned.

(5) The Department of Human Resource Management shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the Department of Human Resource Management as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) In coordination with the procedures for recording overtime worked established in rule by the Department of Human Resource Management, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the Department of Human Resource Management as required by this section may appeal that determination to the executive director of the Department of Human Resource Management by following the procedures and requirements established in Department of Human Resource Management rule.

(b) Upon receipt of an appeal under this section, the executive director shall notify the executive director of the employee's department that the appeal has been filed.

(c) If the employee is aggrieved by the decision of the executive director of the Department of Human Resource Management, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 28. Section 67-19-15 is amended to read:

67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Utah Science Technology and Research Initiative (USTAR);

(iii) the Public Lands Policy Coordinating Council;

(iv) the Office of the State Auditor; and

(v) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section 53A-25b-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

- (ii) whose agency is not subject to this chapter; or
- (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;
- (n) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;
- (o) schedule AU includes patients and inmates employed in state institutions;
- (p) employees of the Department of Workforce Services, designated as schedule AW:
- (i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or
- (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and
- (q) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.
- (2) The civil service shall consist of two schedules as follows:
- (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).
- (ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
- (b) Schedule B is the competitive career service schedule, consisting of:
- (i) all positions filled through competitive selection procedures as defined by the executive director; or
- (ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, [Veteran's] Veterans Preference.
- (3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.
- (b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.
- (c) Unless the executive director's decision is reversed by the governor, when the executive

director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Section 29. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Control;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Heritage and Arts;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Management and Budget;

(xiv) executive director, Department of Administrative Services;

(xv) executive director, Department of Human Resource Management;

(xvi) executive director, Department of Environmental Quality;

(xvii) director, Governor's Office of Economic Development;

(xviii) executive director, Utah Science Technology and Research Governing Authority;

(xix) executive director, Department of Workforce Services;

(xx) executive director, Department of Health, Nonphysician;

(xxi) executive director, Department of Human Services;

(xxii) executive director, Department of Transportation;

(xxiii) executive director, Department of Technology Services; and

(xxiv) executive director, Department of Veterans Veterans and Military Affairs.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.

(2) (a) The executive director of the Department of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Department of Human Resource Management.

(b) (i) The Department of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum

salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Department of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Department of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 67-19-15.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

- (iii) dental insurance;
 - (iv) basic life insurance;
 - (v) unemployment compensation;
 - (vi) workers' compensation;
 - (vii) required employer contribution to Social Security;
 - (viii) long-term disability income insurance;
 - (ix) the same additional state-paid life insurance available to other noncareer service employees;
 - (x) the same severance pay available to other noncareer service employees;
 - (xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:
 - (A) sick leave;
 - (B) converted sick leave if accrued prior to January 1, 2014;
 - (C) educational allowances;
 - (D) holidays; and
 - (E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;
 - (xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;
 - (xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and
 - (xiv) professional memberships if being a member of the professional organization is a requirement of the position.
- (b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.
- (6) The Legislature fixes the following additional benefits:
- (a) for the executive director of the State Tax Commission a vehicle for official and personal use;
 - (b) for the executive director of the Department of Transportation a vehicle for official and personal use;
 - (c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;
 - (d) for the commissioner of Public Safety:
 - (i) an accidental death insurance policy if POST certified; and
 - (ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 30. Section 71-3-1 is amended to read:

71-3-1. Use of armories by veterans organizations permitted.

Any federally chartered [~~veterans~~] veterans organization shall have the right to the free use of armories owned or leased by the state; provided that the use does not interfere with the use of the armories by the national guard or organized militia of this state.

Section 31. Section 71-7-2 is amended to read:

71-7-2. Political subdivisions may provide proper burial sites.

For the purpose of giving effect to this act, cities, towns, counties or other political subdivisions of the state of Utah may grant burial sites to chartered [~~veterans~~] veterans organizations without financial consideration therefor, or may provide a proper site for the burial of any persons covered by this act without financial consideration.

Section 32. Section 71-7-3 is amended to read:

71-7-3. Development, operation, and maintenance of Utah Veterans Cemetery and Memorial Park -- Responsibilities of Department of Veterans and Military Affairs -- Costs -- Definition.

(1) The Department of [~~Veterans~~] Veterans and Military Affairs, in consultation with the [~~Veterans~~] Veterans Memorial Park Board, shall develop, operate, and maintain a [~~veterans~~] veterans cemetery and memorial park.

(2) To help pay the costs of developing, constructing, operating, and maintaining a [~~veterans~~] veterans cemetery and memorial park, the Department of [~~Veterans~~] Veterans and Military Affairs may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive federal funds, and may receive state funds, contributions from [~~veterans~~] veterans organizations, and other private donations; and

(b) charge fees for at least the cost of the burial of [~~veterans~~ spouses] a veteran's spouse and any other persons, whom the department and the [~~Veterans~~] Veterans Memorial Park Board determines are eligible to be buried in a [~~veterans~~] veterans cemetery established by the state.

(3) "Veteran" has the same meaning as defined in Section 68-3-12.5.

Section 33. Section 71-7-4 is amended to read:

71-7-4. Veterans Memorial Park Board -- Members -- Appointment -- Meetings -- Per diem and travel expenses.

(1) There is created a [Veterans²] Veterans Memorial Park Board to serve as an advisory body to the Department of [Veterans²] Veterans and Military Affairs on matters relating to the establishment and operation of a [veterans²] veterans cemetery and memorial park.

(2) The board shall consist of the following five members:

(a) one representative recommended by the state commander of the Veterans of Foreign Wars;

(b) one representative recommended by the state commander of the American Legion;

(c) one representative recommended by the state commander of the Disabled American Veterans;

(d) the executive director of the Department of [Veterans²] Veterans and Military Affairs; and

(e) one person not affiliated with any of the organizations referred to in this Subsection (2).

(3) (a) Except as required by Subsection (3)(b), the executive director shall appoint members in Subsections (2)(a), (b), (c), and (e) above for four-year terms. The executive director shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) All members shall serve until their successors are appointed.

(d) Members may not serve more than two consecutive terms.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(5) (a) The board shall select a chair annually from among its members at its first meeting after July 1.

(b) Three members of the board constitute a quorum to transact business.

(c) The board shall meet at least quarterly on a regular date fixed by the board.

(d) The chair or three members of the board may call additional meetings.

(6) The board shall provide copies of all minutes to the Department of [Veterans²] Veterans and Military Affairs within 14 days of approval.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 34. Section 71-7-5 is amended to read:

71-7-5. Veterans Remains Organization -- Funeral service establishments -- Liability -- State agency -- Responsibilities.

(1) As used in this section:

(a) "Remains facility" means the same as a funeral service establishment defined in Section 58-9-102.

(b) "Status information" means a veteran or a veteran's dependent's name, date of birth, place of birth, date of death, Social Security number, military service number, branch of service, and military rank on date of death.

(c) "Veterans Remains Organization" means an entity recognized and authorized by the United States Veterans Administration and the National Personnel Records Center to verify and inter the unclaimed cremated remains of United States military veterans or [veterans²] a veteran's dependents.

(2) A veterans remains organization may contact a remains facility for the purpose of identifying any unclaimed cremated remains of a military veteran or a veteran's dependent.

(a) Upon contact with the remains facility, the organization shall:

(i) provide identifying documentation to the remains facility; and

(ii) with the permission of the remains facility, inventory any unclaimed cremated remains in order to identify any remains of a veteran or a veteran's dependent.

(b) The organization shall contact the National Personnel Records Center to determine if any of the unclaimed cremated remains are:

(i) a veteran's or a veteran's dependent's remains; and

(ii) eligible for interment benefits.

(c) The organization shall claim any unclaimed cremated remains from a remains facility upon providing the facility with proof that the remains are those of a veteran or a veteran's dependent and are eligible for interment benefits.

(d) The organization shall make arrangements to inter the remains.

(3) A remains facility:

(a) may allow a veterans remains organization, upon presentation of identification, to inventory unclaimed cremated remains;

(b) shall provide all status information in the remains facility's possession to a veterans remains organization;

(c) shall release any unclaimed cremated remains to a veterans remains organization upon presentation of documentation that the remains are of a veteran or a veteran's dependent who is eligible for burial in a state or national cemetery; and

(d) is not subject to civil liability for release of status information or release of the unclaimed cremated remains following the presentation of documentation indicating the remains are those of a veteran or a veteran's dependent and eligible for interment benefits.

(4) The [Utah] Department of [Veteran's] Veterans and Military Affairs shall, upon presentation of documentation that certain cremated remains in the possession of a veterans remains organization are those of a veteran or a veteran's dependent and eligible for interment benefits:

(a) authorize the interment of the cremated remains in a state [veterans'] veterans cemetery; and

(b) provide assistance to the veterans remains organization in the interment process.

Section 35. Section 71-8-1 is amended to read:

71-8-1. Definitions -- Veterans Affairs.

As used in this title:

(1) "Contractor" means a person who is or may be awarded a government entity contract.

(2) "Council" means the [Veterans'] Veterans Advisory Council.

(3) "Department" means the Department of [Veterans'] Veterans and Military Affairs.

(4) "Executive director" means the executive director of the Department of [Veterans'] Veterans and Military Affairs.

(5) "Government entity" means the state and any county, municipality, local district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(6) "Specialist" means a full-time employee of a government entity who is tasked with responding to, and assisting, veterans who are employed by the entity or come to the entity for assistance.

(7) "Veteran" has the same meaning as defined in Section 68-3-12.5.

Section 36. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans and Military Affairs created -- Appointment of

executive director -- Department responsibilities.

(1) There is created the Department of [Veterans'] Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the [Veterans'] Veterans Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or [veteran's] veterans group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies; and

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title.

(4) Nothing in this chapter shall be construed as altering or preempting the provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.

Section 37. Section 71-8-3 is amended to read:

71-8-3. Duties of executive director -- Services to veterans.

The executive director shall:

(1) be responsible for the administration and the operation or support of the following veteran-related operations:

(a) Utah State [Veterans'] Veterans Nursing Homes and Programs;

(b) Utah State [Veterans'] Veterans Cemetery and Memorial Park;

(c) Title 71, Chapter 10, [Veteran's] Veterans Preference;

(d) any locally or federally funded programs for homeless veterans within the state; and

(e) any federally funded education services for veterans within the state;

(2) maintain liaison with local, state, and federal [~~veterans~~] veterans agencies and with Utah [~~veterans~~] veterans organizations;

(3) provide current information so that veterans, their surviving spouses and family members, and Utah [~~veterans~~] veterans organizations will be aware of benefits to which they are, or may become, entitled;

(4) reach out and assist veterans and their families in applying for benefits and services;

(5) develop and maintain a system for determining how many veterans are employed by the various government entities within the state and keeping track of them;

(6) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;

(7) create and administer a [~~veterans~~] veterans assistance registry, with recommendations from the council, that will provide contact information to the qualified donors of materials and labor for certain qualified recipients;

(8) prepare an annual report for presentation not later than November 30 of each year to the Government Operations Interim Committee, which includes:

(a) all services provided to veterans;

(b) all services provided by third parties through the [~~Veterans~~] Veterans Assistance Registry; and

(c) the coordination of [~~veterans~~] veterans services by government entities with the department;

(9) advise the governor on matters pertaining to military affairs throughout Utah, including active duty servicemembers, reserve duty servicemembers, and veterans;

(10) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;

(11) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard;

(12) develop, coordinate, and maintain relationships with Utah's congressional delegation and military staffers;

(13) develop and maintain relationships with military-related organizations in Utah;

(14) conduct forums and meetings with stakeholders to identify military issues and challenges and to develop solutions to them; and

(15) perform other related duties as requested by the governor.

Section 38. Section 71-8-4 is amended to read:

71-8-4. Veterans Advisory Council -- Membership -- Duties and responsibilities -- Per diem and travel expenses.

(1) There is created a [~~Veterans~~] Veterans Advisory Council whose purpose is to advise the executive director of the Department of [~~Veterans~~] Veterans and Military Affairs on issues relating to veterans.

(2) The council shall consist of the following 14 members:

(a) 11 voting members to serve four-year terms:

(i) seven veterans at large appointed by the governor;

(ii) the commander or the commander's designee, whose terms shall last for as long as they hold that office, from each of the following organizations:

(A) Veterans of Foreign Wars;

(B) American Legion; and

(C) Disabled American Veterans; and

(iii) a representative from the Office of the Governor; and

(b) three nonvoting members:

(i) the executive director of the Department of [~~Veterans~~] Veterans and Military Affairs;

(ii) the director of the VA Health Care System or his designee; and

(iii) the director of the VA Benefits Administration Regional Office in Salt Lake City, or his designee.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new or reappointed member to a four-year term commencing on July 1.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members appointed by the governor are appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term within 60 days of receiving notice.

(5) Members appointed by the governor may not serve more than three consecutive terms.

(6) (a) Any [~~veterans~~] veterans group or veteran may provide the executive director with a list of recommendations for members on the council.

(b) The executive director shall provide the governor with the list of recommendations for members to be appointed to the council.

(c) The governor shall make final appointments to the council by June 30 of any year in which appointments are to be made under this chapter.

(7) The council shall elect a chair and vice chair from among the council members every two years. The chair and vice chair shall each be an individual who:

(a) has served on active duty in the armed forces for more than 180 consecutive days;

(b) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(c) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(d) was separated or retired under honorable conditions.

(8) (a) The council shall meet at least once every quarter.

(b) The executive director of the Department of [Veterans] Veterans and Military Affairs may convene additional meetings, as necessary.

(9) The department shall provide staff to the council.

(10) Six voting members are a quorum for the transaction of business.

(11) The council shall:

(a) solicit input concerning veterans issues from veterans' groups throughout the state;

(b) report issues received to the executive director of the Department of [Veterans] Veterans and Military Affairs and make recommendations concerning them;

(c) keep abreast of federal developments that affect veterans locally and advise the executive director of them;

(d) approve, by a majority vote, the use of money generated from [veterans] veterans license plates under Section 41-1a-422 for [veterans] veterans programs; and

(e) assist the director in developing guidelines and qualifications for:

(i) participation by donors and recipients in the [Veterans] Veterans Assistance Registry created in Section 71-12-101; and

(ii) developing a process for providing contact information between qualified donors and recipients.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 39. Section 71-8-5 is amended to read:

71-8-5. Veterans services coordinator qualifications -- Duties.

(1) The [veterans] veterans services coordinator shall:

(a) be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions;

(b) have the education and experience in the use of computer technology, including databases, to collect, manage, and store information; and

(c) have some education and experience in public relations.

(2) The [veterans] veterans services coordinator shall be responsible to:

(a) identify all government entities that provide services for veterans;

(b) develop a process for coordination of [veterans] veterans services across all government entities; and

(c) develop and provide training for [veterans] veterans affairs specialists on the coordination of [veterans] veterans services with the department.

Section 40. Section 71-8-6 is amended to read:

71-8-6. Government entity participation.

(1) This section applies to:

(a) the Department of Human Services;

(b) the institutions of higher education listed in Section 53B-1-102;

(c) the Division of Professional and Occupational Licensing;

(d) the Department of Public Safety;

(e) the Department of Workforce Services; and

(f) the Department of Health.

(2) Each entity in Subsection (1) shall:

(a) assign a full-time employee, who preferably shall be a veteran, as a [veterans] veterans services specialist as part of their duties to coordinate the provision of veterans' services with the department; and

(b) provide the department with nonprotected or nonprivate information about services provided to veterans.

(3) Each entity shall post on the entity's website:

(a) all services available for veterans from the entity and the contact information for the [veterans'] veterans services specialist; and

(b) a link to the department with the contact information for the [veterans'] veterans services coordinator.

Section 41. Section 71-8-7 is amended to read:

71-8-7. Government entity veterans affairs specialist -- Duties -- Training.

(1) Each government entity listed in Section 71-8-6 shall appoint or designate a full-time employee as a [veterans'] veterans affairs specialist.

(2) The [veterans'] veterans affairs specialist shall:

(a) coordinate the provision of [veterans'] veterans services by the government entity with the department; and

(b) attend annual training by the department on coordination processes including providing nonprotected or nonprivate information to the department.

Section 42. Section 71-9-1 is amended to read:

71-9-1. Contract to provide assistance to veterans and their widows and children.

The Department of [Veterans'] Veterans and Military Affairs is authorized to contract with the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars of the United States, as organized in this state, to provide, especially in the outlying areas of the state, assistance to veterans, their widows, and children as follows:

(1) to disseminate information regarding all laws applicable to veterans, their widows, and children in the preparation, presentation, and prosecution of claims against the United States arising by reason of service in the military, naval, or air services;

(2) to assist veterans, their widows, and children in the establishment of all rights and the procurement of all benefits which may accrue to them under the laws of this state or of the United States;

(3) to cooperate with any and all agencies and instrumentalities of this state or of the United States having to do with the employment or reemployment of veterans;

(4) to cooperate with any and all agencies and instrumentalities of this state or of the United States and make a representative and information available on a rotating basis in the outlying areas of the state;

(5) to assist veterans in obtaining such preference for employment as may be authorized by the laws of this state or of the United States; and

(6) to assist veterans, their widows, and children in obtaining emergency relief, and to that end cooperate with such agencies and instrumentalities of this state or of the United States as have been or may be established for the purpose of extending emergency relief.

Section 43. Section 71-9-2 is amended to read:

71-9-2. Contracts subject to appropriation of funds.

Any contract entered into under Section 71-9-1 shall expressly state that it is subject to the appropriation of sufficient funds by the Legislature to carry out its terms and that the decision of the executive director of the Department of [Veterans'] Veterans and Military Affairs as to whether an appropriation is sufficient to carry out the terms of the contract is conclusive.

Section 44. Section 71-10-2 is amended to read:

71-10-2. Veterans preference.

(1) Each government entity shall grant a [veteran's] veterans preference upon initial hiring to each preference eligible veteran or preference eligible spouse according to the procedures and requirements of this chapter.

(2) The personnel officer of any government entity shall add to the score of a preference eligible who receives a passing score on an examination, or any rating or ranking mechanism used in selecting an individual for any career service position with the government entity:

(a) 5% of the total possible score, if the preference eligible is a veteran;

(b) 10% of the total possible score, if the preference eligible is a veteran with a disability or a purple heart recipient; or

(c) in the case of a preference eligible spouse, widow, or widower, the same percentage the qualifying veteran is, or would have been, entitled to.

(3) A preference eligible who applies for a position that does not require an examination, or where examination results are other than a numeric score, shall be given preference in interviewing and hiring for the position.

Section 45. Section 71-11-1 is amended to read:

71-11-1. Title.

This chapter [~~shall be~~] is known as the "Utah [Veterans'] Veterans Nursing Home Act."

Section 46. Section 71-11-2 is amended to read:

71-11-2. Definitions -- Utah Veterans Nursing Home Act.

As used in this chapter:

(1) "Administrator" means a [Veterans'] Veterans Nursing Home Administrator selected in accordance with Section 71-11-5.

(2) "Board" means any [Veterans'] Veterans Nursing Home Advisory Board.

(3) "Department" means the Department of [Veterans'] Veterans and Military Affairs created in Section 71-8-2.

(4) "Executive director" means the executive director of the Department of [Veterans'] Veterans and Military Affairs.

(5) "Home" means any Utah [Veterans'] Veterans Nursing Home.

(6) "Veteran" means the same as that term is defined in Section 68-3-12.5.

Section 47. Section 71-11-3 is amended to read:

71-11-3. Establishment and construction -- Compliance with federal requirements.

(1) The department shall administer [veterans'] veterans nursing homes established by the Legislature.

(2) Each home shall:

(a) have at least an 80-bed capacity;

(b) be designed and constructed consistent with the requirements for federal funding under 38 U.S.C. Sec. 8131 et seq.; and

(c) be operated consistent with the requirements for per diem payments from the United States Department of Veterans Affairs under 38 U.S.C. Sec. 1741 et seq.

Section 48. Section 71-11-4 is amended to read:

71-11-4. Administration by department.

The department shall supervise and operate each [veterans'] veterans nursing home.

Section 49. Section 71-11-5 is amended to read:

71-11-5. Operation of homes -- Rulemaking authority -- Selection of administrator.

(1) The department shall, subject to the approval of the executive director:

(a) establish appropriate criteria for the admission and discharge of residents for each home, subject to the requirements in Section 71-11-6 and criteria set by the United States Department of [Veterans'] Veterans Affairs;

(b) establish a schedule of charges for each home in cases where residents have available resources;

(c) establish standards for the operation of the homes not inconsistent with standards set by the United States Department of Veterans Affairs;

(d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) ensure that the homes are licensed in accordance with Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).

(2) The department shall, after reviewing recommendations of the board, appoint an administrator for each home.

Section 50. Section 71-11-7 is amended to read:

71-11-7. Veterans nursing home advisory boards.

(1) Each home shall have a nursing home advisory board to act as a liaison between the residents, members of the public, and the administration of the home.

(2) Each board shall consist of at least seven, but no more than 11, members appointed as follows by the executive director:

(a) one appointee of the Resident Council of the specific [veterans'] veterans nursing home;

(b) three veterans from the geographic area in which the [veterans'] veterans nursing home is located;

(c) one medical professional experienced in veteran nursing home quality of care issues;

(d) three at-large members with an interest in the success of [veterans'] veterans nursing homes; and

(e) one member each from:

(i) the American Legion;

(ii) Disabled American Veterans; and

(iii) the Veterans of Foreign Wars.

(3) (a) (i) Members shall serve for four-year terms.

(ii) Except as required by Subsection (3)(b), as terms of current board members expire, the executive director shall appoint each new or reappointed member to a four-year term beginning on July 1.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The executive director shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.

(4) Vacancies not including the Resident Council representative shall be filled by the executive director within 60 days of receiving notice of a vacancy, but only for the unexpired term of the vacated member.

(5) Members may not serve more than two consecutive terms.

(6) Each board shall elect a chair annually from among its members at its first meeting after July 1.

(7) Each board shall meet at least quarterly.

(8) A majority of the members of the board present constitute a quorum for the transaction of business.

(9) Each board shall provide copies of all minutes of each meeting to the Department of ~~[Veterans]~~ Veterans and Military Affairs within 14 days of approval.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 51. Section 71-11-8 is amended to read:

71-11-8. Utah Veterans Nursing Home Fund.

(1) There is created an expendable special revenue fund entitled the "Utah ~~[Veterans]~~ Veterans Nursing Home Fund" to be administered by the department for the benefit of each home and its residents.

(2) All cash donations, gifts, or bequests shall be deposited in the fund and used according to the wishes of the donor.

(3) All funds received by the homes from federal or state agencies, individual insurance reimbursement, or cash payments shall be deposited in the fund.

(4) Funds received that are designated for a specific home shall be accounted for separately within the fund.

Section 52. Section 71-12-101 is amended to read:

71-12-101. Title.

This chapter is known as the "~~[Veterans]~~ Veterans Assistance Registry."

Section 53. Section 71-12-102 is amended to read:

71-12-102. Definitions -- Veterans Assistance Registry.

As used in this chapter:

(1) "Council" means the ~~[Veterans]~~ Veterans Advisory Council as created in Section 71-8-4.

(2) "Department" means the Department of ~~[Veterans]~~ Veterans and Military Affairs as created in Section 71-8-2.

(3) "Donor" means an individual or entity that provides material goods, services, or labor without charge to veterans in accordance with this chapter.

(4) "Recipient" means a veteran as defined in Section 68-3-12.5, or a veteran's dependent spouse and children.

Section 54. Section 71-12-103 is amended to read:

71-12-103. Veterans Assistance Registry.

(1) There is created within the department a ~~[Veterans]~~ Veterans Assistance Registry.

(2) The intent of the registry is to provide contact information to qualified donors of material goods, services, and labor for qualified recipients in need of specific goods, services, or labor.

(3) The department shall, in consultation with the council:

(a) create a database of donors and recipients;

(b) develop an electronic link on the department's website to the database of donors and recipients;

(c) insure that information provided by donors and recipients is only used for the intended purpose as specified in Subsection (2) and not made public;

(d) provide instructions online for donors and recipients to use in registering for the registry;

(e) publicize through both local and nationwide ~~[veterans]~~ veterans service organizations and the United States ~~[Veterans' Administration]~~ Department of Veterans Affairs the availability of the registry; and

(f) track usage of and report annually on the registry program in accordance with Section 71-8-3.

Section 55. Section 71-13-102 is amended to read:

71-13-102. Definitions -- Veterans Benefits Assistance Act.

As used in this chapter:

(1) "Accredited" means a service organization representative, agent, or attorney to whom authority has been granted by the VA to provide assistance to claimants in the preparation, presentation, and prosecution of claims for VA benefits.

(2) "Assistance" means an accredited individual providing claimant-specific recommendations or preparing or submitting an application for VA benefits on behalf of a claimant.

(3) "Certify" means to submit in writing to a veteran or the veteran's dependents certain disclosure forms provided by the department.

(4) "Claimant" means a person who has filed or has expressed to a service organization representative, agent, or attorney an intention to file a written application for determination of entitlement to benefits provided under United States Code, Title 38, and implementing directives.

(5) "Department" means the [Utah] Department of [Veterans] Veterans and Military Affairs.

(6) "Executive director" means the executive director of the [Utah] Department of [Veterans] Veterans and Military Affairs.

(7) "Non-compliant referral" means referring a veteran's or a veteran's dependent's original claim for veteran benefits for assistance to an individual who is in violation of the provisions of this chapter.

(8) "Referring entity" means an individual, business, or organization licensed in this state who refers or assists a veteran or a veteran's dependents for assistance with an original claim for veteran benefits.

(9) "VA" means the United States Department of Veterans Affairs.

(10) "VA benefits" means any payment, service, commodity, function, or status entitlement which is determined under laws administered by the VA pertaining to veterans, dependents, and survivors as well as other potential beneficiaries under United States Code, Title 38.

(11) "Veteran" includes all eligible dependents.

Section 56. Section 71-13-105 is amended to read:

71-13-105. Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.

(1) The [Utah] Department of [Veterans] Veterans and Military Affairs shall notify in writing each veteran for whom the department has contact information that any individual or business offering to assist veterans in applying for benefits shall disclose in writing to the veteran the following:

(a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing assistance be accredited by the VA;

(b) federal law restricts charging a veteran a fee for assisting in the initial application for VA benefits; and

(c) the department's website has a list with contact information of VA accredited claim representatives.

(2) Beginning July 1, 2015, and every three years after the department shall:

(a) notify the Insurance Department regarding the federal law governing assistance for VA benefits, and the Insurance Department shall notify all individual producers and consultants licensed by the Insurance Department at the time of initial licensing and upon license renewal of those same federal laws governing assistance for VA benefits;

(b) contact the Utah State Bar regarding federal law governing legal assistance for claimants applying for benefits and request that the association provide continuing legal education on federal laws governing assistance; and

(c) notify the Department of Health regarding federal law governing the assistance for claimants applying for benefits, and the Department of Health shall notify all assisted living and nursing care facilities of those federal laws.

(3) The executive director may establish procedures for processing complaints related to assistance regarding a claim for VA benefits.

(4) For violations by accredited or non-accredited individuals who offer assistance with VA benefits, the executive director may audit selected assisting individuals and referring entities for compliance with this chapter and federal laws which govern the provision of assistance to claimants.

Section 57. Section 72-4-201 is amended to read:

72-4-201. I-15 designated as Veterans Memorial Highway.

(1) There is established the [Veterans] Veterans Memorial Highway composed of the existing Interstate Highway 15 from the Utah-Idaho border to the Utah-Arizona border.

(2) The department shall designate Interstate 15 as the "[Veterans] Veterans Memorial Highway" on all future state highway maps.

Section 58. Section 72-4-203 is amended to read:

72-4-203. Utah National Parks Highway.

(1) There is established the Utah National Parks Highway comprising the existing highway from Route 89 at the Utah-Arizona border near Big Water westerly on Route 89 to Route 9 near Mount Carmel Junction then westerly on Route 9 to Route 17 near La Verkin then northerly on Route 17 to Interstate Highway 15 then northerly on Interstate Highway 15 frontage roads, the [Veterans] Veterans Memorial Highway, to Route 14 near Cedar City then southeasterly on Route 14 to Route 148 near Cedar Breaks National Monument then northerly on Route 148 to Route 143 near the north end of Cedar Breaks National Monument then northeasterly on Route 143 to Route 89 near Panguitch then southerly on Route 89 to Route 12 near Red Canyon then northeasterly on Route 12, the Clem Church Memorial Highway, to Route 24 near Torrey then easterly on Route 24 to Route 95 near Hanksville then southeasterly on Route 95, the Bicentennial Highway, to Route 191 near Blanding then northerly on Route 191 to the junction with Interstate Highway 70 near Crescent Junction.

(2) In addition to other official designations, the Department of Transportation shall designate and highlight the portions of the highways identified in Subsection (1) as the Utah National Parks Highway on all future state highway maps.

Section 59. Section 78B-6-2003 is amended to read:

78B-6-2003. Definitions.

As used in this part:

(1) "Asbestos" means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite

asbestos, actinolite asbestos, asbestiform winchite, asbestiform richterite, asbestiform amphibole minerals, and any of these minerals that have been chemically treated or altered, including all minerals defined as asbestos in 29 C.F.R. Sec. 1910 at the time the asbestos action is filed.

(2) (a) “Asbestos action” means a claim for damages or other civil or equitable relief presented in a civil action resulting from, based on, or related to:

(i) the health effects of exposure to asbestos, including:

- (A) loss of consortium;
- (B) wrongful death;
- (C) mental or emotional injury;
- (D) risk or fear of disease or other injury; and

(E) costs of medical monitoring or surveillance; and

(ii) any other derivative claim made by or on behalf of a person exposed to asbestos or a representative, spouse, parent, child, or other relative of that person.

(b) “Asbestos action” does not include a claim for workers’ compensation or ~~veterans’~~ veterans benefits.

(3) “Asbestos trust” means a:

(a) government-approved or court-approved trust that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(b) qualified settlement fund that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(c) compensation fund or claims facility created as a result of an administrative or legal action that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products;

(d) court-approved bankruptcy that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products; or

(e) plan of reorganization or trust pursuant to 11 U.S.C. Sec. 524(g) or 11 U.S.C. Sec. 1121(a) or other applicable provision of law that is intended to provide compensation to claimants arising out of, based on, or related to the health effects of exposure to asbestos or asbestos-containing products.

(4) “Plaintiff” means:

(a) the person bringing the asbestos action, including a personal representative if the asbestos action is brought by an estate; or

(b) a conservator or next friend if the asbestos action is brought on behalf of a minor or legally incapacitated individual.

(5) “Trust claims materials” means a final executed proof of claim and all other documents and information related to a claim against an asbestos trust, including:

- (a) claims forms and supplementary materials;
- (b) affidavits;
- (c) depositions and trial testimony;
- (d) work history;
- (e) medical and health records;
- (f) documents reflecting the status of a claim against an asbestos trust; and
- (g) all documents relating to the settlement of the trust claim if the trust claim has settled.

(6) “Trust governance documents” means all documents that relate to eligibility and payment levels, including:

- (a) claims payment matrices; and
- (b) trust distribution procedures or plans for reorganization for an asbestos trust.

(7) “[~~Veterans’~~] Veterans benefits” means a program for benefits in connection with military service administered by the United States Department of Veterans [Administration] Affairs under United States Code, Title 38, Veterans Benefits.

(8) (a) “Workers’ compensation” means a program administered by the United States or a state to provide benefits, funded by a responsible employer or the employer’s insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries.

(b) “Workers’ compensation” includes the Longshore and Harbor Workers’ Compensation Act, 33 U.S.C. Sec. 901 et seq., and Federal Employees’ Compensation Act, 5 U.S.C. Sec. 8101 et seq.

(c) “Workers’ compensation” does not include the Federal Employers’ Liability Act, 45 U.S.C. Sec. 51 et seq.

CHAPTER 40**H. B. 59**

Passed February 20, 2018

Approved March 15, 2018

Effective May 8, 2018

UNMANNED AIRCRAFT REVISIONS

Chief Sponsor: Dixon M. Pitcher

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill prohibits certain operations of an unmanned aircraft system related to correctional facilities.

Highlighted Provisions:

This bill:

- ▶ defines “correctional facility”;
- ▶ prohibits the operation of an unmanned aircraft system:
 - to deliver any item to or inside the property of a correctional facility; or
 - in a manner that interferes with the operations or security of a correctional facility;
- ▶ exempts an unmanned aircraft system that is operating in the course and scope of an operation of a mosquito abatement district; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-14-102, as renumbered and amended by Laws of Utah 2017, Chapter 364

ENACTS:

72-14-304, Utah Code Annotated 1953

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

Section 1. Section 72-14-102 is amended to read:**72-14-102. Definitions.**

As used in this chapter:

(1) “Airport” means the same as that term is defined in Section 72-10-102.

(2) “Airport operator” means the same as that term is defined in Section 72-10-102.

(3) “Correctional facility” means the same as that term is defined in Section 77-16b-102.

~~[(3)]~~ (4) “Unmanned aircraft” means an aircraft that is:

- (a) capable of sustaining flight; and
- (b) operated with no possible direct human intervention from on or within the aircraft.

~~[(4)]~~ (5) “Unmanned aircraft system” means the entire system used to operate an unmanned aircraft, including:

- (a) the unmanned aircraft, including payload;
- (b) communications equipment;
- (c) navigation equipment;
- (d) controllers;
- (e) support equipment; and
- (f) autopilot functionality.

Section 2. Section 72-14-304 is enacted to read:**72-14-304. Unlawful operation of unmanned aircraft near prison facilities -- Penalties.**

(1) An individual may not operate an unmanned aircraft system:

(a) to carry or drop any item to or inside the property of a correctional facility; or

(b) in a manner that interferes with the operations or security of a correctional facility.

(2) (a) A violation of Subsection (1)(a) is a third degree felony.

(b) A violation of Subsection (1)(b) is a class B misdemeanor.

(3) An operator of an unmanned aircraft system does not violate Subsection (1) if the operator is:

(a) an employee or contractor working on behalf of a mosquito abatement district created pursuant to Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(b) acting in the course and scope of the operator’s employment.

CHAPTER 41**H. B. 65**

Passed March 2, 2018

Approved March 15, 2018

Effective May 8, 2018

IGNITION INTERLOCK AMENDMENTS

Chief Sponsor: John R. Westwood

Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill removes from the definition of "interlock restricted driver" a driver convicted of driving under the influence if the conviction does not involve alcohol.

Highlighted Provisions:

This bill:

- ▶ removes from the definition of "interlock restricted driver" a driver convicted of driving under the influence if the conviction does not involve alcohol; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-518, as last amended by Laws of Utah 2016, Chapter 149

41-6a-518.2, as last amended by Laws of Utah 2016, Chapter 149

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

Section 1. Section 41-6a-518 is amended to read:**41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impenuniosity -- Fee.**

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Employer verification" means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.

(c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation [~~involves drugs other than~~] does not involve alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds a specified level;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance

with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 2. Section 41-6a-518.2 is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a driving under the influence violation under Section 41-6a-502 that was committed on or after July 1, 2009;

(C) (I) within the last three years has been convicted of an offense that occurred after May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-517[;] and [~~B~~] whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-517[;]; or

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol.

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

CHAPTER 42**H. B. 69**

Passed February 27, 2018

Approved March 15, 2018

Effective May 8, 2018

**NATIONAL CRIME PREVENTION
AND PRIVACY COMPACT**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill ratifies the National Crime Prevention and Privacy Compact.

Highlighted Provisions:

This bill:

- ▶ allows Utah to join the National Crime Prevention and Privacy Compact; and
- ▶ permits Utah to share information with other states and the federal government relating to background checks and criminal histories.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-10-115, Utah Code Annotated 1953

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

Section 1. Section 53-10-115 is enacted to read:**53-10-115. National Crime Prevention and Privacy Compact ratification and implementation.**

(1) To facilitate the interstate exchange of criminal history information for noncriminal justice purposes, including background checks for licensing and screening of employees and volunteers, the National Crime Prevention and Privacy Compact, 42 U.S.C. 14616, is ratified and incorporated by reference as law in this state.

(2) The division is the central repository of criminal history records for purposes of the compact and shall do all things necessary or incidental to carrying out the compact.

(3) The director, or director's designee, is the state's compact officer and shall administer the compact within the state.

(4) The division may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and establish procedures for the cooperative exchange of criminal history records between the state, other state governments, and with the federal government for use in noncriminal justice background checks.

(5) The compact and this section do not affect the duties and responsibilities of the division under

other provisions of this chapter regarding the dissemination of criminal history records within the state.

CHAPTER 43**H. B. 71**

Passed February 16, 2018

Approved March 15, 2018

Effective May 8, 2018

ADOPTION AMENDMENTS

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies language related to adoptions.

Highlighted Provisions:

This bill:

- ▶ clarifies language regarding when an adult may adopt a child if the adult has been convicted of, pleaded guilty to, or pleaded no contest to certain felonies;
- ▶ addresses adoption and child support obligations; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-117, as last amended by Laws of Utah 2017, Chapter 400 and further amended by Revisor Instructions, Laws of Utah 2017, Chapter 400

78B-6-138, as last amended by Laws of Utah 2017, Chapter 417

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

Section 1. Section 78B-6-117 is amended to read:**78B-6-117. Who may adopt -- Adoption of minor.**

(1) A minor child may be adopted by an adult person, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to Subsection (4), a single adult, except as provided in Subsection (3).

(3) A child may not be adopted by a person who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a man and a woman who are married to each other, unless:

(a) there are no qualified married couples who:

- (i) have applied to adopt a child;
 - (ii) are willing to adopt the child; and
 - (iii) are an appropriate placement for the child;
- (b) the child is placed with a relative of the child;

(c) the child is placed with a person who has already developed a substantial relationship with the child;

(d) the child is placed with a person who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the person with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the person with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single person.

(5) ~~[Notwithstanding]~~ Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; or

(k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).

(6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from

considering a person for adoption of a child except as provided in this Subsection (6).

(b) A person described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the person is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the person files a petition with the court seeking adoption, the person has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iii) the person can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 78A-6-105, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years of age or older;

(F) any available assessments, including custody evaluations, homes studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the person can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the person who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption;

(B) subject to Subsection (6)(d), a relative of the child as defined in Section 78A-6-307 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The person with the disqualifying offense bears the burden of proof regarding why adoption

with that person is in the best interest of the child over another responsible relative or equally situated person who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the person who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017 for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 2. Section 78B-6-138 is amended to read:

78B-6-138. Pre-existing parent's rights and duties dissolved.

(1) A pre-existing parent of an adopted child is released from all parental rights and duties toward and all responsibilities for the adopted child, including residual parental rights and duties as defined in Section 78A-6-105, and has no further parental rights or duties with regard to that adopted child at the earlier of:

(a) the time the pre-existing parent's parental rights are terminated; or

(b) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.

(2) The parental rights and duties of a pre-existing parent who, at the time the child is adopted, is lawfully married to the person adopting the child are not released under Subsection (1)(b).

(3) The parental rights and duties of a pre-existing parent who, at the time the child is adopted, is not lawfully married to the person adopting the child are released under Subsection (1)(b).

(4) (a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt a child without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b), if:

(i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the child's life;

(ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the child, or is unable to consent because the pre-existing parent is deceased or incapacitated;

(iii) notice of the adoption proceeding is provided in accordance with Section 78B-6-110;

(iv) consent to the adoption is provided in accordance with Section 78B-6-120; and

(v) the court finds that it is in the best interest of the child to grant the adoption without releasing the pre-existing parent from parental rights and duties.

(b) This Subsection (4) does not permit a child to have more than two natural parents, as that term is defined in Section 78A-6-105.

(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

CHAPTER 44**H. B. 72**

Passed February 16, 2018

Approved March 15, 2018

Effective May 8, 2018

**COMMUNICATIONS OF GOVERNMENTAL
ENTITY EMPLOYEES AND OFFICERS**

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill addresses a provision relating to what constitutes a record under the Government Records Access and Management Act.

Highlighted Provisions:

This bill:

- ▶ provides that an email, otherwise excluded from the definition of "record," is a "record" if it meets certain criteria.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-1205, as last amended by Laws of Utah 2017, Chapter 68

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

Section 1. Section 20A-11-1205 is amended to read:**20A-11-1205. Use of public email for a political purpose.**

(1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity:

- (a) for a political purpose;
 - (b) to advocate for or against a ballot proposition;
- or

(c) to solicit a campaign contribution.

(2) The applicable election officer shall impose a civil fine against a person who violates Subsection (1) as follows:

(a) up to \$250 for a first violation; and

(b) except as provided in Subsection (3), for each subsequent violation committed after any applicable election officer imposes a fine against the person for a first violation, \$1,000 multiplied by the number of violations committed by the person.

(3) The applicable election officer shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.

(4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.

(5) A person does not violate this section if the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent by the person described in Subsection (1), using the email of a public entity.

(6) A violation of this section does not invalidate an otherwise valid election.

(7) An email sent in violation of Subsection (1), as determined by the records officer, constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any applicability of Subsection 63G-2-103(22)(b)(i).

CHAPTER 45**H. B. 75**

Passed March 1, 2018
 Approved March 15, 2018
 Effective May 8, 2018

CHILD SEXUAL ABUSE AMENDMENTS

Chief Sponsor: Merrill F. Nelson
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies provisions related to sexual abuse.

Highlighted Provisions:

This bill:

- ▶ amends the definition of related children for purposes of child protection; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-105, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401

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

Section 1. Section 78A-6-105 is amended to read:**78A-6-105. Definitions.**

As used in this chapter:

- (1) (a) "Abuse" means:
 - (i) (A) nonaccidental harm of a child;
 - (B) threatened harm of a child;
 - (C) sexual exploitation;
 - (D) sexual abuse; or
 - (E) human trafficking of a child in violation of Section 76-5-308.5; or
 - (ii) that a child's natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b) "Abuse" does not include:
 - (i) reasonable discipline or management of a child, including withholding privileges;
 - (ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

- (A) in self-defense;
- (B) in defense of others;
- (C) to protect the child; or
- (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.

(4) "Adult" means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means a person under 18 years of age.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(14) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(15) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(16) “Detention risk assessment tool” means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor’s risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(17) “Division” means the Division of Child and Family Services.

(18) “Evidence-based” means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(19) “Formal probation” means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(20) “Formal referral” means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court’s jurisdiction and that a case must be reviewed.

(21) “Group rehabilitation therapy” means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(22) “Guardianship of the person” includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another person, agency, or institution.

(23) “Habitual truant” means the same as that term is defined in Section 53A-11-101.

(24) “Harm” means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child’s growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(25) (a) “Incest” means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator’s ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (25)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(26) “Intake probation” means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(27) “Intellectual disability” means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person’s effectiveness in meeting the standards expected for the person’s age by the person’s cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(28) “Legal custody” means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(29) “Material loss” means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss;

(c) lost wages; or

(d) medical expenses.

(30) “Mental disorder” means a serious emotional and mental disturbance that severely limits a minor’s development and welfare over a significant period of time.

(31) “Minor” means:

(a) a child; or

(b) a person who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

(32) “Mobile crisis outreach team” means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(33) “Molestation” means that a person, with the intent to arouse or gratify the sexual desire of any person:

(a) touches the anus or any part of the genitals of a child;

(b) takes indecent liberties with a child; or

(c) causes a child to take indecent liberties with the perpetrator or another.

(34) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

(35) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child’s health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused; or

(v) abandonment of a child through an unregulated custody transfer.

(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by the child’s parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from

pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(36) “Neglected child” means a child who has been subjected to neglect.

(37) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

(38) “Not competent to proceed” means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(39) “Physical abuse” means abuse that results in physical injury or damage to a child.

(40) “Probation” means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor’s home under prescribed conditions.

(41) “Protective supervision” means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor’s home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(42) “Related condition” means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(43) (a) “Residual parental rights and duties” means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child’s religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” also include the right to consent to:

- (i) marriage;
- (ii) enlistment; and
- (iii) major medical, surgical, or psychiatric treatment.

(44) “Secure facility” means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

(45) “Severe abuse” means abuse that causes or threatens to cause serious harm to a child.

(46) “Severe neglect” means neglect that causes or threatens to cause serious harm to a child.

(47) “Sexual abuse” means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (25), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children; or

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7.

(48) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(49) “Shelter” means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(50) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(51) “Substance abuse” means the misuse or excessive use of alcohol or other drugs or substances.

(52) “Substantiated” means the same as that term is defined in Section 62A-4a-101.

(53) “Supported” means the same as that term is defined in Section 62A-4a-101.

(54) “Termination of parental rights” means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(55) “Therapist” means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(56) “Unregulated custody transfer” means the placement of a child:

(a) with a person who is not the child’s parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child’s federally recognized tribe;

(b) with the intent of severing the child’s existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the person taking custody of the child.

(57) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

(58) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

(59) “Without merit” means the same as that term is defined in Section 62A-4a-101.

CHAPTER 46**H. B. 80**

Passed March 7, 2018

Approved March 15, 2018

Effective May 8, 2018

CHILD PLACEMENT AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill enacts provisions in the Juvenile Court Act related to a child in the custody, protective custody, or temporary custody of the Division of Child and Family Services.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ requires the Division of Child and Family Services to determine whether a parent or guardian has an outstanding felony arrest warrant before recommending the return of the child to the custody of that parent or guardian;
- ▶ allows the juvenile court to deny the return of a child to the custody of a parent or guardian who has an outstanding felony arrest warrant; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-301, as last amended by Laws of Utah 2017, Chapter 323

ENACTS:

78A-6-308.5, Utah Code Annotated 1953

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

Section 1. Section 78A-6-301 is amended to read:**78A-6-301. Definitions.**

As used in this part:

(1) "Custody" means ~~[the custody of a minor in the Division of Child and Family Services as of the date of disposition]~~ the same as that term is defined in Section 62A-4a-101.

(2) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

~~[(2)]~~ (3) "Protective custody" means the shelter of a child by the ~~[Division of Child and Family Services]~~ division from the time the child is removed from home until the earlier of:

- (a) the shelter hearing; or
- (b) the child's return home.

~~[(3)]~~ (4) "Sibling" means the same as that term is defined in Section 62A-4a-101.

~~[(4)]~~ (5) "Sibling visitation" means the same as that term is defined in Section 62A-4a-101.

~~[(5)]~~ (6) "Temporary custody" means the custody of a child in the ~~[Division of Child and Family Services]~~ division from the date of the shelter hearing until disposition.

Section 2. Section 78A-6-308.5 is enacted to read:**78A-6-308.5. Outstanding arrest warrant check before return of custody.**

(1) Before the division may recommend that a child who is in the custody, protective custody, or temporary custody of the division be returned to the custody of a parent or guardian of the child, the division shall determine whether the parent or guardian has an outstanding felony arrest warrant in any state where the parent or guardian has resided or in any state where an immediate family member of the parent or guardian resides.

(2) The division shall file the results of the felony arrest warrant check with the court.

(3) If the parent or guardian of a child who is in the custody, protective custody, or temporary custody of the division has an outstanding arrest warrant in any state, the court may deny the return of the child to the custody of that parent or guardian. The court shall consider the best interest of the child when making the determination.

CHAPTER 47**H. B. 89**

Passed February 15, 2018

Approved March 15, 2018

Effective May 8, 2018

**HEALTH FACILITY
LICENSING AMENDMENTS**Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Daniel Hemmert**LONG TITLE****General Description:**

This bill amends the Health Care Facility Licensing and Inspection Act.

Highlighted Provisions:

This bill:

- ▶ permits the Department of Health to collect fingerprints from individuals under 18 years of age who are seeking a clearance for direct patient access at certain healthcare facilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-21-204, as enacted by Laws of Utah 2012, Chapter 328

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

Section 1. Section 26-21-204 is amended to read:**26-21-204. Clearance.**

(1) The department shall determine whether to grant clearance for each applicant for whom it receives:

(a) the personal identification information specified by the department under Subsection 26-21-204(4)(b); and

(b) any fees established by the department under Subsection 26-21-204(9).

(2) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(e) child abuse or neglect findings described in Section 78A-6-323;

(f) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if the individual is over 28 years of age and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years of age; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for clearance, including:

(i) the applicant's Social Security number; and

(ii) ~~except for applicants under 18 years of age,~~ fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching

crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Department of Human Services, the Division of Occupational and Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26-21-209; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

CHAPTER 48**H. B. 91**

Passed February 15, 2018

Approved March 15, 2018

Effective May 8, 2018

**UTAH ANATOMICAL
GIFT ACT AMENDMENTS**Chief Sponsor: Gage Froerer
Senate Sponsor: Luz Escamilla**LONG TITLE****General Description:**

This bill amends provisions of the Revised Uniform Anatomical Gift Act.

Highlighted Provisions:

This bill:

- ▶ expands the list of persons who may make an anatomical gift of a decedent's body or part; and
- ▶ changes provisions providing limited immunity to a person who acts in accordance with the Revised Uniform Anatomical Gift Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-28-109, as enacted by Laws of Utah 2007, Chapter 60

26-28-118, as enacted by Laws of Utah 2007, Chapter 60

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

Section 1. Section 26-28-109 is amended to read:**26-28-109. Who may make anatomical gift of decedent's body or part.**

(1) Subject to Subsections (2) and (3) and unless barred by Section 26-28-107 or 26-28-108, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) an agent of the decedent at the time of death who could have made an anatomical gift under Subsection 26-28-104(2) immediately before the decedent's death;

(b) the spouse of the decedent;

(c) adult children of the decedent;

(d) parents of the decedent;

(e) adult siblings of the decedent;

(f) adult grandchildren of the decedent;

(g) grandparents of the decedent;

(h) the persons who were acting as the guardians of the person of the decedent at the time of death; ~~and~~

(i) an adult who exhibited special care and concern for the decedent; and

~~(i)]~~ (j) any other person having the authority to dispose of the decedent's body.

(2) If there is more than one member of a class listed in Subsection (1)(a), (c), (d), (e), (f), (g), or ~~(i)]~~ (j) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 26-28-111 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

Section 2. Section 26-28-118 is amended to read:**26-28-118. Immunity.**

(1) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in Subsection 26-28-109(1)(b), (c), (d), (e), (f), (g), ~~(h), (i), or (j)~~ (h), (i), or (j) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

CHAPTER 49**H. B. 92**

Passed February 8, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**UTAH VITAL STATISTICS
 ACT AMENDMENT**

Chief Sponsor: Craig Hall
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions of the Utah Vital Statistics Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “licensed funeral establishment” to include funeral establishments outside of Utah that are licensed by another United States jurisdiction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-2-2, as last amended by Laws of Utah 2015, Chapters 137 and 184

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

Section 1. Section 26-2-2 is amended to read:

26-2-2. Definitions.

As used in this chapter:

(1) “Adoption document” means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(2) “Advanced practice registered nurse” means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(3) “Custodial funeral service director” means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

(4) “Dead body” or “decedent” means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

(5) “Dead fetus” means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks’ gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

(6) “Declarant father” means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child’s paternity.

(7) “Dispositioner” means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection (7)(a); or

(B) the person described in Subsection (7)(a) is unable or unwilling to exercise the right and duty described in Subsection (7)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

(8) “File” means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

(9) “Funeral service director” means the same as that term is defined in Section 58-9-102.

(10) “Health care facility” means the same as that term is defined in Section 26-21-2.

(11) “Health care professional” means a physician or nurse practitioner.

(12) “Licensed funeral establishment” means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act[-]; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

(13) “Live birth” means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

(14) “Local registrar” means a person appointed under Subsection 26-2-3(3)(b).

(15) “Nurse practitioner” means an advanced practice registered nurse specializing as a nurse practitioner who has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(16) “Office” means the Office of Vital Records and Statistics within the Department of Health,

operating under Title 26, Chapter 2, Utah Vital Statistics Act.

(17) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(18) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

(19) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

(20) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(2)(e).

(21) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection (21)(a);

(c) an adoption document; and

(d) other similar documents.

(22) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

CHAPTER 50**H. B. 93**

Passed February 15, 2018

Approved March 15, 2018

Effective May 8, 2018

**AGRICULTURE COMMODITY
ZONE AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill establishes and modifies Utah Grazing Agricultural Commodity Zones.

Highlighted Provisions:

This bill:

- ▶ establishes and modifies Utah Grazing Agricultural Commodity Zones in Garfield County; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-8-105.8, as last amended by Laws of Utah 2016, Chapter 121

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

Section 1. Section 63J-8-105.8 is amended to read:**63J-8-105.8. Utah Grazing Agricultural Commodity Zones established -- Findings -- Management and land use priorities.**

(1) There are established Utah Grazing Agricultural Commodity Zones in the counties of Beaver, Emery, Garfield, Kane, Piute, Iron, Sanpete, San Juan, Sevier, Washington, and Wayne for the purpose of:

(a) preserving and protecting the agricultural livestock industry from ongoing threats;

(b) preserving and protecting the history, culture, custom, and economic value of the agricultural livestock industry from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife practices and affected natural, historical, and cultural activities.

(2) The titles, land area, and boundaries of the zones are as follows:

(a) "Escalante Region Grazing Zone," consisting of certain BLM, National Park Service, and Forest Service lands in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield County and Kane County Geographic Information Systems

departments entitled "Escalante Region Grazing Zone":

(i) in Garfield County, Township 32S Range 6E, Township 32S Range 7E, Township 33S Range 4E, Township 33S Range 5E, Township 33S Range 6E, Township 33S Range 7E, Township 33S Range 8E, Township 34S Range 2E, Township 34S Range 3E, Township 34S Range 4E, Township 34S Range 5E, Township 34S Range 6E, Township 34S Range 7E, Township 34S Range 8E, Township 35S Range 1E, Township 35S Range 2E, Township 35S Range 3E, Township 35S Range 4E, Township 35S Range 5E, Township 35S Range 6E, Township 35S Range 7E, Township 35S Range 8E, Township 36S Range 1W, Township 36S Range 2W, Township 36S Range 3W, Township 36S Range 1E, Township 36S Range 2E, Township 36S Range 3E, Township 36S Range 4E, Township 36S Range 5E, Township 36S Range 6E, Township 36S Range 7E, Township 36S Range 8E, Township 36S Range 9E, Township 37S Range 1W, Township 37S Range 2W, Township 37S Range 3W, Township 37S Range 4W, Township 37S Range 1E, Township 37S Range 2E, Township 37S Range 3E, Township 37S Range 4E, Township 37S Range 5E, Township 37S Range 6E, Township 37S Range 7E, Township 37S Range 8E, and Township 37S Range 9E; and

(ii) in Kane County, Township 38S Range 1W, Township 38S Range 2W, Township 38S Range 3W, Township 38S Range 4W, Township 38S Range 1E, Township 38S Range 2E, Township 38S Range 3E, Township 38S Range 4E, Township 38S Range 5E, Township 38S Range 6E, Township 38S Range 7E, Township 38S Range 8E, Township 38S Range 9E, Township 39S Range 1W, Township 39S Range 2W, Township 39S Range 3W, Township 39S Range 4W, Township 39S Range 1E, Township 39S Range 2E, Township 39S Range 3E, Township 39S Range 4E, Township 39S Range 5E, Township 39S Range 6E, Township 39S Range 7E, Township 39S Range 8E, Township 39S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 40.5S Range 9E, Township 41S Range 1W, Township 41S Range 2W, Township 41S Range 3W, Township 41S Range 4W, Township 41S Range 1E, Township 41S Range 2E, Township 41S Range 3E, Township 41S Range 4E, Township 41S Range 5E, Township 41S Range 6E, Township 41S Range 7E, Township 41S Range 8E, Township 41S Range 9E, Township 42S Range 1W, Township 42S Range 2W, Township 42S Range 3W, Township 42S Range 4W, Township 42S Range 1E, Township 42S Range 2E, Township 42S Range 3E, Township 42S Range 4E, Township 42S Range 5E, Township 42S Range 6E, Township 42S Range 7E, Township 42S Range 8E, Township 42S Range 9E, Township 42.5S Range 6.5E, Township 42.5S Range 7E, Township 43S Range 1W, Township 43S Range 2W,

Township 43S Range 3W, Township 43S Range 4W, Township 43S Range 4.5W, Township 43S Range 5W, Township 43S Range 1E, Township 43S Range 2E, Township 43S Range 3E, Township 43S Range 4E, Township 43S Range 5E, Township 43S Range 6E, Township 44S Range 1W, Township 44S Range 2W, Township 44S Range 3W, Township 44S Range 4W, Township 44S Range 4.5W, Township 44S Range 5W, Township 44S Range 1E, Township 44S Range 2E, Township 44S Range 3E, Township 44S Range 4E, and Township 44S Range 5E;

(b) “Beaver County Southwest Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Departments entitled “Beaver County Southeast Desert Grazing Zone”: Township 26S Range 11W, Township 27S Range 11W, Township 28S Range 11W, Township 29S Range 11W, Township 30S Range 11W, Township 26S Range 12W, Township 27S Range 12W, Township 28S Range 12W, Township 29S Range 12W, Township 30S Range 12W, Township 26S Range 13W, Township 27S Range 13W, Township 28S Range 13W, Township 29S Range 13W, Township 30S Range 13W, Township 26S Range 14W, Township 27S Range 14W, Township 28S Range 14W, Township 29S Range 14W, Township 30S Range 14W, Township 26S Range 15W, Township 27S Range 15W, Township 28S Range 15W, Township 29S Range 15W, Township 30S Range 15W, Township 26S Range 16W, Township 27S Range 16W, Township 28S Range 16W, Township 29S Range 16W, Township 30S Range 16W, Township 26S Range 17W, Township 27S Range 17W, Township 28S Range 17W, Township 29S Range 17W, Township 30S Range 17W, Township 26S Range 18W, Township 27S Range 18W, Township 28S Range 18W, Township 29S Range 18W, Township 30S Range 18W, Township 26S Range 19W, Township 27S Range 19W, Township 28S Range 19W, Township 29S Range 19W, Township 30S Range 19W, Township 26S Range 20W, Township 27S Range 20W, Township 28S Range 20W, Township 29S Range 20W, and Township 30S Range 20W;

(c) “Beaver County Central Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Department entitled “Beaver County Central Grazing Zone”: Township 26S Range 7W, Township 26S Range 8W, Township 26S Range 9W, Township 26S Range 10W, Township 27S Range 7W, Township 27S Range 8W, Township 27S Range 9W, Township 27S Range 10W, Township 28S Range 7W, Township 28S Range 8W, Township 28S Range 9W, Township 28S Range 10W, Township 29S Range 7W, Township 29S Range 8W, Township 29S Range 9W, Township 29S Range 10W, Township 30S Range 7W, Township 30S Range 8W, Township 30S Range 9W, and Township 30S Range 10W;

(d) “Tushar Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Beaver, Garfield, and

Piute counties, as more fully illustrated in the map jointly prepared by the Beaver, Garfield, and Piute counties GIS departments in February 2014, entitled “Tushar Mountain Region Grazing Zone”:

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W;

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4W, Township 27S Range 4W, Township 28S Range 4W, Township 29S Range 4W, and Township 30S Range 4W; and

(iii) in Garfield County, [~~Township 32S Range 5 1/2 W,~~] Township 31S Range 5W, [~~Township 32S Range 5W, Township 33S Range 5W, Township 32S Range 4 1/2W, Township 33S Range 4 1/2W, Township 31S Range 4W, and Township 31S Range 3W~~];

(e) “Last Chance Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Sevier County, as more fully illustrated in the map prepared by the Sevier County GIS department in February 2014, entitled “Last Chance Region Grazing Zone”: Township 23S Range 5E, Township 24S Range 4E, Township 24S Range 5E, Township 25S Range 5E, and Township 26S Range 5E;

(f) “Muddy Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Muddy Creek Region Grazing Zone”: Township 22S Range 7E, Township 23S Range 7E, Township 24S Range 7E, Township 25S Range 7E, Township 22S Range 8E, Township 23S Range 8E, Township 24S Range 8E, Township 25S Range 8E, Township 23S Range 9E, and Township 24S Range 9E;

(g) “McKay Flat Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “McKay Flat Region Grazing Zone”: Township 25S Range 9E, Township 26S Range 9E, Township 23S Range 10E, Township 24S Range 10E, Township 25S Range 10E, Township 24S Range 11E, and Township 25S Range 11E;

(h) “Sinbad Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Sinbad Region Grazing Zone”: Township 20S Range 11E, Township 21S Range 11E, Township 21S Range 12E, Township 22S Range 12E, Township 23S Range 12E, Township 21S Range 13E, Township 22S Range 13E, and Township 23S Range 13E;

(i) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Robbers Roost Region Grazing Zone”: Township 25S Range 13E, Township 26S Range 13E, Township 25S Range 14E, Township 26S Range 14E, Township 25S Range 15E, and Township 26S Range 15E;

(j) “Western Iron County Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map prepared by the Iron County GIS department in February 2014, entitled “Western Iron County Region Grazing Zone”: Township 31S Range 7W, Township 31S Range 8W, Township 31S Range 9W, Township 31S Range 10W, Township 31S Range 11W, Township 31S Range 12W, Township 31S Range 13W, Township 31S Range 14W, Township 31S Range 15W, Township 31S Range 16W, Township 31S Range 17W, Township 31S Range 18W, Township 31S Range 19W, Township 31S Range 20W, Township 32S Range 8W, Township 32S Range 9W, Township 32S Range 10W, Township 32S Range 11W, Township 32S Range 12W, Township 32S Range 13W, Township 32S Range 14W, Township 32S Range 15W, Township 32S Range 16W, Township 32S Range 17W, Township 32S Range 18W, Township 32S Range 19W, Township 32S Range 20W, Township 33S Range 8W, Township 33S Range 9W, Township 33S Range 10W, Township 33S Range 11W, Township 33S Range 12W, Township 33S Range 13W, Township 33S Range 14W, Township 33S Range 15W, Township 33S Range 16W, Township 33S Range 17W, Township 33S Range 18W, Township 33S Range 19W, Township 33S Range 20W, Township 34S Range 9W, Township 34S Range 10W, Township 34S Range 11W, Township 34S Range 12W, Township 34S Range 13W, Township 34S Range 14W, Township 34S Range 15W, Township 34S Range 17W, Township 34S Range 18W, Township 34S Range 19W, Township 34S Range 20W, Township 35S Range 10W, Township 35S Range 12W, Township 35S Range 13W, Township 35S Range 14W, Township 35S Range 15W, Township 35S Range 17W, Township 35S Range 18W, Township 35S Range 19W, Township 35S Range 20W, Township 36S Range 11W, Township 36S Range 12W, Township 36S Range 13W, Township 36S Range 14W, Township 36S Range 15W, Township 36S Range 17W, Township 36S Range 18W, Township 36S Range 19W, Township 36S Range 20W, Township 37S Range 12W, Township 37S Range 13W, Township 37S Range 14W, and Township 38S Range 12W;

(k) “Eastern Iron County Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map prepared by the Iron County GIS department in February 2014, entitled “Eastern Iron County Region Grazing Zone”: Township 31S Range 6W, Township 31S Range 7W, Township 32S Range 6W, Township 32S Range 7W,

Township 33S Range 6W, Township 33S Range 7W, Township 33S Range 8W, Township 34S Range 7W, Township 34S Range 8W, Township 34S Range 9W, Township 35S Range 8W, Township 35S Range 9W, Township 35S Range 10W, Township 36S Range 8W, Township 36S Range 9W, Township 36S Range 10W, Township 36S Range 11W, Township 37S Range 8W, Township 37S Range 9W, Township 37S Range 11W, Township 37S Range 12W, Township 38S Range 11W, Township 38S Range 12W, Township 38S Range 10W, Township 38S Range 11W, and Township 38S Range 12W, excluding Zion National Park;

(l) “Panguitch Lake Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “Panguitch Lake Region Grazing Zone,” and the map prepared by the Garfield County GIS department in February 2017 entitled “Panguitch Lake Region Grazing Zone”:

(i) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, and Township 39S Range 7W; and

(ii) in Garfield County, Township 35S Range 7W, Township 36S Range 7W, Township 37S Range 7W, Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, and Township 37S Range 6W, ~~Township 34S Range 5W, Township 35S Range 5W, Township 36S Range 5W, and Township 37S Range 5W~~;

(m) “East Fork Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map jointly prepared by the Kane and Garfield counties GIS departments in February ~~2014~~ 2017, entitled “East Fork Region Grazing Zone”:

(i) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W; and

(ii) in Garfield County, ~~Township 36S Range 5W, Township 37S Range 5W, Township 32S Range 4.5W, Township 33S Range 4.5W, Township 34S Range [4-1/2W] 4.5W, Township 35S Range [4-1/2W] 4.5W, Township 36S Range [4-1/2W] 4.5W, Township 37S Range [4-1/2W] 4.5W, Township 31S Range 4W, Township 32S Range 4W, Township 33S Range 4W, Township 34S Range 4W, Township 35S Range 4W, Township 36S Range 4W, Township 37S Range 4W, Township 31S Range 3W, Township 32S Range 3W, Township 33S Range 3W, Township 34S Range 3W, Township 35S Range 3W, Township 36S Range 3W, Township 37S Range 3W, Township 31S Range 2.5W, Township 32S Range 2W, Township 33S Range 2W, Township 34S Range 2W, and Township 35S Range 2W~~;

(n) “Sevier River Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute GIS department in February 2014, entitled “Sevier

River Region Grazing Zone”: Township 27S Range 3W, Township 28S Range 3W, and Township 29S Range 3W;

(o) “Kingston Canyon Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute and Garfield counties, as more fully illustrated in the map jointly prepared by the Piute and Garfield counties GIS departments in February [2014] 2017, entitled “Kingston Canyon Region Grazing Zone”:

(i) in Piute County, Township 30S Range 3W, Township 30S Range 2.5W, and Township 30S Range 2W; and

(ii) in Garfield County, ~~Township 32S Range 4W, Township 31S Range 3W, Township 32S Range 3W, Township 31S Range 2 1/2W,~~ Township 31S Range 2W, Township 32S Range 2W, Township 31S Range 1W, and Township 32S Range 1W;

(p) “Monroe Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled “Monroe Mountain Region Grazing Zone”: Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 27S Range 1W;

(q) “Parker Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Parker Mountain Region Grazing Zone”: Township 26S Range 2E, Township 27S Range 2E, Township 28S Range 2E, Township 29S Range 2E, and Township 30S Range 2E;

(r) “Boulder Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February [2014] 2017, entitled “Boulder Mountain Region Grazing Zone”:

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 35S Range 3W, Township 36S Range 3W, Township 33S Range 2W, Township 34S Range 2W, Township 35S Range 2W, Township 36S Range 2W, Township 31S Range 1W, Township 32S Range 1W, Township 33S Range 1W, Township 34S Range 1W, Township 35S Range 1W, Township 36S Range 1W, Township 31S Range 1E, Township 32S Range 1E, Township 33S Range 1E, Township 34S Range 1E, Township 35S Range 1E, Township 36S Range 1E, Township 37S Range 1E, Township 31S Range 2E, Township 32S Range 2E, Township 33S Range 2E, Township 34S Range 2E, Township 31S Range 3E, Township 32S Range 3E, Township 33S Range 3E, Township 34S Range 3E,

Township 31S Range 4E, Township 32S Range 4E, Township 33S Range 4E, Township [30 1/2S] 30.5S Range 5E, Township 31S Range 5E, Township 32S Range 5E, ~~and~~ Township 33S Range 5E, Township 31S Range 6E, and Township 32S Range 6E;

(s) “Thousand Lake Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Thousand Lake Region Grazing Zone”: Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

(t) “Hartnet-Middle Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Hartnet-Middle Desert Region Grazing Zone”: Township 28S Range 7E, Township 27S Range 8E, and Township 28S Range 8E;

(u) “Sandy No. 1 Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Sandy No. 1 Region Grazing Zone”: Township 29S Range 8E and Township 30S Range 8E;

(v) “Blue Benches Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Blue Benches Region Grazing Zone”: Township 29S Range 9E, Township 29S Range 10E, and Township 30S Range 10E;

(w) “Wild Horse Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Wild Horse Region Grazing Zone”: Township 27S Range 10E and Township 27S Range 11E;

(x) “Hanksville Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Hanksville Region Grazing Zone”: Township 29S Range 11E, Township 30S Range 11E, Township 28S Range 12E, Township 29S Range 12E, Township 30S Range 12E, and Township 30S Range 13E;

(y) “Jeffery Wells Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “Jeffery Wells Region Grazing Zone”: Township 27S Range 14E and Township 27S Range 15E;

(z) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled

“Robbers Roost Region Grazing Zone”: Township 29S Range 14E;

(aa) “French Springs Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled “French Springs Region Grazing Zone”: Township 30S Range 16E;

(bb) “12 Mile C&H Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled “12 Mile C&H Region Grazing Zone”: Township 19S Range 3E and Township 20S Range 3E;

(cc) “Horseshoe Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled “Horseshoe Region Grazing Zone”: Township 14S Range 5E, Township 14S Range 6E, Township 15S Range 5E, and Township 15S Range 6E;

(dd) “Nokai Dome Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Nokai Dome Region Grazing Zone”: Township 38S Range 11E, Township 38S Range 12E, Township 39S Range 11E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 14E, Township 39S Range 15E, Township 40S Range 10E, Township 40S Range 11E, Township 40S Range 12E, Township 40S Range 13E, Township 40S Range 14E, Township 41S Range 9E, Township 41S Range 10E, Township 41S Range 11E, and Township 41S Range 12E;

(ee) “Grand Gulch Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Grand Gulch Region Grazing Zone”: Township 37S Range 17E, Township 37S Range 18E, Township 38S Range 16E, Township 38S Range 17E, Township 38S Range 18E, Township 39S Range 14E, Township 39S Range 15E, Township 39S Range 16E, Township 39S Range 17E, Township 39S Range 18E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 17E, and Township 40S Range 18E;

(ff) “Cedar Mesa East Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Cedar Mesa East Region Grazing Zone”: Township 36S Range 20E, Township 37S Range 18E, Township 37S Range 19E, Township 37S Range 20E, Township 37S

Range 21E, Township 38S Range 18E, Township 38S Range 19E, Township 38S Range 20E, Township 38S Range 21E, Township 39S Range 18E, Township 39S Range 19E, Township 39S Range 20E, Township 39S Range 21E, Township 40S Range 18E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, and Township 41S Range 21E;

(gg) “Mancos Mesa Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Mancos Mesa Region Grazing Zone”: Township 35S Range 13E, Township 36S Range 12E, Township 36S Range 13E, Township 36S Range 14E, Township 37S Range 12E, Township 37S Range 13E, Township 37S Range 14E, Township 37S Range 15E, Township 38S Range 11E, Township 38S Range 12E, Township 38S Range 13E, Township 38S Range 14E, Township 38S Range 15E, Township 38S Range 18E, Township 39S Range 13E, Township 39S Range 14E, and Township 39S Range 15E;

(hh) “Red Canyon Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Red Canyon Region Grazing Zone”: Township 33S Range 14E, Township 34S Range 13E, Township 34S Range 14E, Township 34S Range 15E, Township 35S Range 13E, Township 35S Range 14E, Township 35S Range 15E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 38S Range 15E, and Township 38S Range 16E;

(ii) “White Canyon Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “White Canyon Region Grazing Zone”: Township 33S Range 14E, Township 33S Range 15E, Township 33S Range 16E, Township 34S Range 14E, Township 34S Range 15E, Township 34S Range 16E, Township 34S Range 17E, Township 35S Range 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 37S Range 17E, and Township 37S Range 18E;

(jj) “Dark Canyon/Hammond Canyon Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department

in February 2014, entitled “Dark Canyon/Hammond Canyon Region Grazing Zone”: Township 34S Range 17E, Township 34S Range 18E, Township 34S Range 19E, Township 34S Range 20E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 20E, and Township 37S Range 19E;

(kk) “Chippewan/Indian Creek Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled “Chippewan/Indian Creek Region Grazing Zone”: Township 32S Range 21E, Township 32S Range 22E, Township 33S Range 21E, Township 33S Range 22E, Township 34S Range 20E, Township 34S Range 21E, Township 34S Range 22E, Township 35S Range 20E, Township 35S Range 21E, and Township 35S Range 22E;

(ll) “Henry Mountain Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February [2014] 2017, entitled “Henry Mountain Region Grazing Zone”: Township 31S Range 7E, Township 32S Range 7E, Township 31S Range 8E, Township 32S Range 8E, Township 33S Range 8E, Township 34S Range 8E, Township 31S Range 9E, Township 32S Range 9E, Township 33S Range 9E, Township 34S Range 9E, Township 35S Range 9E, Township 31S Range 10E, Township 32S Range 10E, Township 33S Range 10E, Township 34S Range 10E, Township 35S Range 10E, Township 31S Range 11E, Township 32S Range 11E, Township 33S Range 11E, Township 34S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, and Township 34S Range 12E;

(mm) “Glen Canyon Region Grazing Zone,” consisting of certain BLM and National Park Service lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February [2014] 2017, entitled “Glen Canyon Region Grazing Zone”: Township 36S Range 9E, Township 37S Range 9E, Township 36S Range 10E, Township 37S Range 10E, Township 35S Range 11E, Township 36S Range 11E, Township 37S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, Township 34S Range 12E, Township 35S Range 12E, Township [35-1/2S] 35.5S Range 12E, Township 36S Range 12E, Township 37S Range 12E, Township 31S Range 13E, Township 32S Range 13E, Township 33S Range 13E, Township 34S Range 13E, Township 35S Range 13E, Township [35-1/2S] 35.5S Range 13E, Township 36S Range 13E, Township 31S Range 14E, Township 32S Range 14E, Township [32-1/2S] 32.5S Range 14E, Township 33S Range 14E, Township 31S Range 15E, Township 32S Range 15E, Township [32-1/2S] 32.5S Range 15E, Township 33S Range

15E, Township [30-1/2S] 30.5S Range 16E, Township 31S Range 16E, Township 32S Range 16E, Township [30-1/2S] 30.5S Range 17E, Township 31S Range 17E, Township 32S Range 17E, Township [30-1/2S] 30.5S Range 18E, and Township 31S Range 18E;

(nn) “Glendale Bench Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “Glendale Bench Region Grazing Zone”: Township 39S Range 6W, Township 39S Range 5W, Township 39S Range 4.5W, Township 40S Range 7W, Township 40S Range 6W, Township 41S Range 7W, and Township 41S Range 6W;

(oo) “John R. Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “John R. Region Grazing Zone”: Township 41S Range 7W, Township 41S Range 6W, Township 42S Range 7W, Township 42S Range 6W, Township 43S Range 6W, and Township 44S Range 6W;

(pp) “Beaver Dam Scope Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 17 West, Township 43 South Range 18 West, Township 43 South Range 19 West, Township 43 South Range 20 West, Township 42 South Range 18 West, Township 42 South Range 19 West, Township 42 South Range 20 West, Township 41 South Range 17 West, Township 41 South Range 18 West, Township 41 South Range 19 West, Township 41 South Range 20 West, Township 40 South Range 18 West, Township 40 South Range 19 West, and Township 40 South Range 20 West;

(qq) “Square Top Daggett Flat Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 40 South Range 17 West, Township 40 South Range 18 West, Township 40 South Range 19 West, Township 40 South Range 20 West, Township 39 South Range 16 West, Township 39 South Range 17 West, Township 39 South Range 18 West, Township 39 South Range 19 West, Township 39 South Range 20 West, Township 38 South Range 18 West, Township 38 South Range 19 West, and Township 38 South Range 20 West;

(rr) “Enterprise Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 17 West and Township 37 South Range 18 West;

(ss) “Apex Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS

department: Township 42 South Range 16 West, Township 42 South Range 17 West, Township 43 South Range 16 West, and Township 43 South Range 17 West;

(tt) “Veyo/Gunlock Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 16 West, Township 39 South Range 17 West, Township 40 South Range 16 West, Township 40 South Range 17 West, Township 41 South Range 16 West, Township 41 South Range 17 West, and Township 41 South Range 18 West;

(uu) “Pine Valley Dixie National Forest Grazing Zone,” consisting of certain Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 15 West, Township 37 South Range 16 West, Township 37 South Range 17 West, Township 37 South Range 18 West, Township 37 South Range 19 West, Township 37 South Range 20 West, Township 38 South Range 13 West, Township 38 South Range 14 West, Township 38 South Range 15 West, Township 38 South Range 16 West, Township 38 South Range 17 West, Township 38 South Range 18 West, Township 38 South Range 19 West, Township 39 South Range 13 West, Township 39 South Range 14 West, Township 39 South Range 15 West, Township 39 South Range 16 West, Township 39 South Range 17 West, and Township 39 South Range 18 West;

(vv) “New Harmony Region Grazing Zone,” consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 13 West;

(ww) “Kanarra Region Grazing Zone,” consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 11 West;

(xx) “Kolob Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 10 West and Township 39 South Range 10 West;

(yy) “La Verkin Creek/Dry Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 11 West, Township 39 South Range 12 West, Township 39 South Range 13 West, Township 40 South Range 11 West, Township 40 South Range 12 West, Township 40 South Range 13 West, Township 41 South Range 11 West, Township 41 South Range 12 West, and Township 41 South Range 13 West;

(zz) “Grafton Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County: Township 41 South Range 11 West, Township 41 South Range 12 West, Township 41 South Range 13 West, Township 42 South Range 11 West, Township 42 South Range 12 West, and Township 42 South Range 13 West;

(aaa) “Hurricane Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 13 West, Township 42 South Range 14 West, Township 42 South Range 15 West, Township 43 South Range 13 West, Township 43 South Range 14 West, and Township 43 South Range 15 West;

(bbb) “Little Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 11 West, Township 42 South Range 12 West, Township 42 South Range 13 West, Township 43 South Range 11 West, Township 43 South Range 12 West, and Township 43 South Range 13 West; and

(ccc) “Canaan Mountain Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 9.5 West, Township 42 South Range 10 West, Township 42 South Range 11 West, Township 43 South Range 9.5 West, Township 43 South Range 10 West, and Township 43 South Range 11 West; and

(ddd) “Panguitch Valley Regional Grazing Zone,” consisting of certain BLM lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2017, entitled “Panguitch Valley Region Grazing Zone”: Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, Township 37S Range 6W, Township 32S Range 5.5W, Township 31S Range 5W, Township 32S Range 5W, Township 33S Range 5W, Township 34S Range 5W, Township 35S Range 5W, Township 36S Range 5W, Township 37S Range 5W, Township 32S Range 4.5W, Township 33S Range 4.5W, Township 34S Range 4.5W, Township 35S Range 4.5W, Township 36S Range 4.5W, Township 31S Range 4W, and Township 31S Range 3W.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the grazing zones described in Subsection (2) that:

(a) agricultural livestock industry on the lands comprising these zones has provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for more than 100 years;

(b) the potential for abundant natural and vegetative resources exists within these zones if

managed properly, that will support and expand continued, responsible agricultural livestock activities and wildlife habitat;

(c) agricultural livestock activities in these zones and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is the preservation, restoration, and enhancement of watershed and rangeland health to sustain and expand forage production for both livestock grazing and wildlife habitat, and the restoration and development of historic, existing, and future livestock grazing and wildlife habitat resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these grazing zones is compatible with the management priorities of Subsection (4)(d)(i) in these grazing zones.

(5) The state finds with respect to the zones described in Subsection (2) that the historic levels of livestock grazing activity and other values identified in Subsection (4) in each zone have greatly diminished, or are under other serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas and non-WSAs;

(ii) ignoring the chiefly valuable for grazing designation of the Secretary of the Interior applicable to each of these zones; and

(iii) the arbitrary administrative reductions in animal unit months of permitted forage;

(b) inflexible federal grazing practices that disallow grazing at different times each year proven

to be most effective for maintaining and enhancing rangeland conditions;

(c) mismanagement of wild horses and burros resulting in competition for forage by excess and mismanaged populations of wild horses and burros in Beaver and Emery counties;

(d) improper management of vegetation resulting in the overgrowth of pinion, invasive species, and juniper, and other woody vegetation that:

(i) compromise watershed and rangeland health;

(ii) crowd out grazing forage;

(iii) degrade habitat and limit wildlife populations;

(iv) reduce water yield; and

(v) heighten the risk of catastrophic wildfire; and

(e) other practices that degrade overall rangeland health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and sustained policies, programs, and practices directed at preserving, restoring, and enhancing watershed and rangeland health to maximize:

(i) all permitted forage production for livestock grazing and other compatible uses, including flexible grazing on and off dates adaptive to yearly climate and range conditions; and

(ii) forage for fish and wildlife;

(b) a cooperative management approach by federal agencies, the state, and local government agencies to achieve broadly supported management plans for the full development of:

(i) forage resources for grazing livestock and wildlife; and

(ii) other uses compatible with livestock grazing and wildlife utilization;

(c) effective and responsible management of wild horses and burros to eliminate excess populations; and

(d) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each grazing zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each grazing zone is situated to develop, amend, and implement land and resource management plans, and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of grazing permits, range improvements, and applications to enhance and

otherwise develop all existing and permitted grazing resources located within each grazing zone, including renewable vegetative resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each grazing zone as stated in this section;

(e) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section; and

(f) refrain from implementing utilization standards less than 50%, unless:

(i) implementing a standard of less than 50% utilization on a temporary basis is necessary to resolve site-specific concerns; and

(ii) the federal agency consults, coordinates, and cooperates fully with local governments.

(8) (a) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk adversely affects the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that adverse effect:

(i) Subsections 11-51-103(1)(a) and (b) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(1)(b) shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(b) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk constitutes an imminent threat to the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that imminent threat:

(i) Subsections 11-51-103(2) and (3) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(3) and Section 11-51-104 shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(9) (a) The state recognizes the importance of all grazing districts on Utah BLM and Forest Service lands but establishes the grazing zones described in Subsection (2) to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the state to designate additional grazing agricultural commodity zones in future years, if circumstances warrant special protection and preservation for new zones.

(10) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in zones described in Subsection (2) in order to achieve the goals, purposes, and policies described in this section.

(11) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies and plans on land within the zones described in Subsection (2) shall be governed by Sections 63J-4-401 and 63J-8-104.

CHAPTER 51**H. B. 97**

Passed February 23, 2018

Approved March 15, 2018

Effective May 8, 2018

**LOCAL FOOD ADVISORY
COUNCIL AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Gene Davis

LONG TITLE**General Description:**

This bill codifies language related to the Local Food Advisory Council.

Highlighted Provisions:

This bill:

- ▶ codifies previously uncodified language related to the Local Food Advisory Council; and
- ▶ modifies the membership of the Local Food Advisory Council.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-204, as last amended by Laws of Utah 2012, Chapter 369

ENACTS:

4-2-601, Utah Code Annotated 1953

4-2-602, Utah Code Annotated 1953

4-2-603, Utah Code Annotated 1953

4-2-604, Utah Code Annotated 1953

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

Section 1. Section 4-2-601 is enacted to read:**Part 6. Local Food Advisory Council****4-2-601. Title.**

This part is known as "Local Food Advisory Council."

Section 2. Section 4-2-602 is enacted to read:**4-2-602. Local Food Advisory Council Created.**

(1) There is created the Local Food Advisory Council consisting of up to the following 13 members:

(a) one member of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives, each from a different political party;

(c) the commissioner of the Department of Agriculture and Food, or the commissioner's designee;

(d) the executive director of the Department of Health, or the executive director's designee;

(e) two crop direct-to-consumer food producers, appointed by the governor;

(f) two animal direct-to-consumer food producers, appointed by the governor; and

(g) the following potential members, appointed by the governor as needed:

(i) a direct-to-consumer food producer;

(ii) a member of a local agriculture organization;

(iii) a food retailer;

(iv) a licensed dietician;

(v) a county health department representative;

(vi) an urban farming representative;

(vii) a representative of a business engaged in the processing, packaging, or distribution of food;

(viii) an anti-hunger advocate; and

(ix) an academic with expertise in agriculture.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the commission.

(c) The cochairs may, with the consent of a majority of the council, appoint additional nonvoting members to the council who shall serve in a voluntary capacity.

(3) In appointing members to the council under Subsections (1)(e) through (g), the governor shall strive to take into account the geographical makeup of the council.

(4) A vacancy on the council resulting from the council shall be filled in the same manner in which the original appointment was made.

(5) Compensation for a member of the council who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) Council members who are employees of the state shall receive no additional compensation.

(7) The Department of Agriculture and Food shall provide staff support for the council.

Section 3. Section 4-2-603 is enacted to read:**4-2-603. Duties.**

(1) The council shall study and make recommendations on:

(a) how to best promote vibrant, locally owned farms;

(b) how to best promote resilient ecosystems;

(c) how to best promote strong communities and healthy eating;

(d) how to best enhance thriving local food economies;

(e) how best to assess impacts of population growth and urbanization and the decline in productive ranch and farmland;

(f) assessment of laws and regulations that deter or hinder the direct sales of locally grown and produced food; and

(g) necessary steps to develop and implement a robust, integrated local food system.

(2) It is the purpose of the Local Food Advisory Council to contribute to:

(a) building a local food economy;

(b) benefitting the state by creating jobs;

(c) stimulating statewide economic development;

(d) circulating money from local food sales within local communities;

(e) preserving open space;

(f) fostering the viability of family-owned farms;

(g) preserving and protecting the natural environment;

(h) increasing consumer access to fresh and nutritious food; and

(i) providing greater food security for state residents.

Section 4. Section 4-2-604 is enacted to read:

4-2-604. Duties -- Interim report.

(1) The council shall:

(a) convene at least four times each year; and

(b) review and make recommendations regarding the policy issues listed in Section 4-2-603.

(2) The council shall prepare an annual report and present the report before November 30, 2017, and every November thereafter to:

(a) the Natural Resources, Agriculture, and Environment Interim Committee;

(b) the Department of Agriculture and Food; and

(c) the Food Advisory Board.

Section 5. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates -- Title 4.

Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2022.

CHAPTER 52**H. B. 98**

Passed March 5, 2018

Approved March 15, 2018

Effective December 30, 2018

**DRIVING UNDER THE
INFLUENCE REVISIONS**

Chief Sponsor: Norman K. Thurston

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends the definitions of “novice licensed driver” and “alcohol restricted driver.”

Highlighted Provisions:

This bill:

- ▶ removes the definition of “novice licensed driver”; and
- ▶ removes a novice licensed driver from the definition of “alcohol restricted driver.”

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-6a-501 (Effective 12/30/18), as last amended by Laws of Utah 2017, Chapter 283

41-6a-529 (Effective 12/30/18), as last amended by Laws of Utah 2017, Chapter 283

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

Section 1. Section 41-6a-501 (Effective 12/30/18) is amended to read:**41-6a-501 (Effective 12/30/18). Definitions.**

(1) As used in this part:

(a) “Assessment” means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(a)(i)(A) and (B); and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(b) “Driving under the influence court” means a court that is approved as a driving under the influence court by the Utah Judicial Council according to standards established by the Judicial Council.

(c) “Drug” or “drugs” means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) any substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(d) “Educational series” means an educational series obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(e) “Negligence” means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(f) “Novice learner driver” means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

~~[(g) “Novice licensed driver” means an individual who:]~~

~~[(i) has completed the requirements for issuance of a Utah driver license;]~~

~~[(ii) was issued a Utah driver license within the last two years; and]~~

~~[(iii) has not previously held a driver license in this state or another state.]~~

~~[(h)]~~ (g) “Screening” means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

~~[(i)]~~ (h) “Serious bodily injury” means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

~~[(i)]~~ (i) “Substance abuse treatment” means treatment obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

~~[(k)]~~ (j) “Substance abuse treatment program” means a state licensed substance abuse program.

~~[(l)]~~ (k) (i) “Vehicle” or “motor vehicle” means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) “Vehicle” or “motor vehicle” includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Section 41-6a-503:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under:

(I) Section 41-6a-512; and

(II) Section 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) automobile homicide under Section 76-5-207;

(vi) Subsection 58-37-8(2)(g);

(vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of conviction is reduced under Section 76-3-402; or

(viii) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (viii) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under:

(A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(B) automobile homicide under Section 76-5-207; and

(ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

Section 2. Section 41-6a-529 (Effective 12/30/18) is amended to read:

41-6a-529 (Effective 12/30/18). Definitions -- Alcohol restricted drivers.

(1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a person who:

(a) within the last two years:

(i) has been convicted of:

(A) a misdemeanor violation of Section 41-6a-502;

(B) alcohol, any drug, or a combination of both-related reckless driving under Section 41-6a-512;

(C) impaired driving under Section 41-6a-502.5;

(D) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving adopted in compliance with Section 41-6a-510;

(E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of conviction is reduced under Section 76-3-402; or

(F) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815; or

(ii) has had the person's driving privilege suspended under Section 53-3-223 for an alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

(b) within the last three years has been convicted of a violation of this section or Section 41-6a-518.2;

(c) within the last five years:

(i) has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred on or after July 1, 2005; or

(ii) has been convicted of a class A misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008;

(d) within the last 10 years:

(i) has been convicted of an offense described in Subsection (1)(a)(i) which offense was committed within 10 years of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was convicted; or

(ii) has had the person's driving privilege revoked for refusal to submit to a chemical test and the refusal is within 10 years after:

(A) a prior refusal to submit to a chemical test under Section 41-6a-520; or

(B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not based on the same arrest as the refusal;

(e) at any time has been convicted of:

(i) automobile homicide under Section 76-5-207 for an offense that occurred on or after July 1, 2005; or

(ii) a felony violation of Section 41-6a-502 for an offense that occurred on or after July 1, 2005;

(f) at the time of operation of a vehicle is under 21 years of age; or

(g) is a novice learner driver [~~or a novice licensed driver~~].

(2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 3. Effective date.

This bill takes effect on December 30, 2018.

CHAPTER 53**H. B. 104**

Passed February 9, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**CHILD WELFARE
 SERVICES AMENDMENTS**

Chief Sponsor: Kay J. Christofferson
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill expands available funding sources for the provision of post-adoption services.

Highlighted Provisions:

This bill:

- ▶ allows the division to use division-designated post-adopt funds to provide services to a child who is adopted from the custody of the division, without requiring that a parent terminate parental rights, or that a parent or legal guardian of the child transfer or surrender custodial rights, in order to receive the services; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-106, as last amended by Laws of Utah 2016, Chapter 219

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

Section 1. Section 62A-4a-106 is amended to read:

62A-4a-106. Services provided by division.

(1) The division may provide, directly or through contract, services that include the following:

- (a) adoptions;
- (b) day care for children;
- (c) out-of-home placements for minors;
- (d) health-related services;
- (e) homemaking services;
- (f) home management services;
- (g) protective services for minors;
- (h) transportation services; and
- (i) domestic violence services.

(2) ~~[Services]~~ The division shall monitor services provided directly by the division or through contract ~~[shall be monitored by the division to insure]~~ to ensure compliance with applicable~~[:]~~ law and rule.

~~[(a) state law; and]~~

~~[(b) standards and rules of the division.]~~

(3) When the division provides a service through a private contract, not including a foster parent placement, the division shall post the name of the service provider on the division's website.

(4) Unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, the division may not, solely on the basis that the parent or guardian contacts the division regarding services or requests services from the division:

(a) remove or facilitate the removal of a child from the child's home;

(b) file a petition for removal of a child from the child's home;

(c) file a petition for a child protective order;

(d) make a supported finding;

(e) seek a substantiated finding;

(f) file a petition alleging that a child is abused, neglected, dependent, or abandoned; or

(g) file a petition for termination of parental rights.

(5) (a) The division shall, to the extent that sufficient funds are available, use out-of-home funds or division-designated post-adopt funds to provide services to a child who is adopted from the custody of the division, without requiring that a parent terminate parental rights, or that a parent or legal guardian of the child transfer or surrender custodial rights, in order to receive the services.

(b) The division may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive services, using out-of-home funds, for a child who is adopted from the custody of the division.

(6) (a) As used in this Subsection (6), "vendor services" means services that a person provides under contract with the division.

(b) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or guardian to a provider of vendor services, at the parent's or guardian's expense, if:

(i) (A) the parent, guardian, or child is not eligible to receive the vendor services from the division; or

(B) the division does not have sufficient funds to provide the services to the parent, guardian, or child;

(ii) the parent, guardian, or child does not have insurance or other funds available to receive the services without the referral; and

(iii) the parent or guardian desires the referral.

(c) If the division awards, extends, or renews a contract with a vendor for vendor services, the division shall include in the contract a requirement that a vendor to whom the division makes a referral under Subsection (6)(b):

(i) provide services to the parent, guardian, or child at a rate that does not exceed the rate that the vendor charges the division for the services; and

(ii) may not charge the parent, guardian, or child any fee that the vendor does not charge the division.

CHAPTER 54**H. B. 106**

Passed March 7, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**EDUCATION GRANT PROGRAM FOR
 INDIVIDUALS IN THE JUSTICE SYSTEM**

Chief Sponsor: Val K. Potter
 Senate Sponsor: Lyle W. Hillyard
 Cosponsors: Carl R. Albrecht
 Patrice M. Arent
 Walt Brooks
 Rebecca Chavez-Houck
 Susan Duckworth
 Steve Eliason
 Gage Froerer
 Stephen G. Handy
 Sandra Hollins
 Eric K. Hutchings
 Karen Kwan
 Bradley G. Last
 Carol Spackman Moss
 Jefferson Moss
 Derrin R. Owens
 Lee B. Perry
 Jeremy A. Peterson
 Marie H. Poulson
 Susan Pulsipher
 Tim Quinn
 Edward H. Redd
 Angela Romero
 Mike Schultz
 Raymond P. Ward
 Christine F. Watkins
 R. Curt Webb
 Elizabeth Weight
 John R. Westwood
 Mark A. Wheatley
 Logan Wilde
 Mike Winder

LONG TITLE**General Description:**

This bill creates a pilot grant program for education programs for individuals in the justice system.

Highlighted Provisions:

This bill:

- ▶ addresses the duties of the State Commission on Criminal and Juvenile Justice;
- ▶ provides for a pilot grant program to facilitate participation in a qualifying education program by certain individuals in the justice system; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-7-204, as last amended by Laws of Utah 2017,
 Chapter 330

ENACTS:

63M-7-209, Utah Code Annotated 1953

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

Section 1. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants funded from money from the Law Enforcement Operations Account created in Section 51-9-411 for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms; ~~and~~

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633[-]; and

(t) allocate and administer grants, from money made available, for pilot qualifying education programs.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups

across all parts of the juvenile justice system, including county representation.

Section 2. Section 63M-7-209 is enacted to read:

63M-7-209. Pilot program of competency-based career and technical education grants.

(1) As used in this section:

(a) “Certificate program provider” means a technical college that provides competency-based career and technical education.

(b) “Commission” means the State Commission on Criminal and Juvenile Justice.

(c) (i) “Competency-based career and technical education” means career and technical education that will result in appropriate licensing, certification, or other evidence of completion of training and qualification for specific employment.

(ii) “Competency-based career and technical education” includes services provided under Section 53B-2a-106.

(d) “Qualifying education program” means a program overseen by a city or county prosecutor office to provide for an individual obtaining:

(i) a high school diploma or a Utah high school completion diploma as defined by rule made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) competency-based career and technical education.

(e) “Service area” means the area listed in Section 53B-2a-105 for a technical college.

(f) “Technical college” means the same as that term is defined in Section 53B-1-101.5.

(2) In accordance with this section, the commission shall establish a pilot grant program for fiscal year 2019 that funds the costs of two employees who:

(a) are located in different prosecutor offices that operate in areas that have proximity to a technical college; and

(b) oversee a program that provides for participation in a qualifying education program by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or third degree felony:

(i) as an alternative to incarceration;

(ii) for a reduction of fines or court fees;

(iii) for a two-step conviction reduction under Section 76-3-402; or

(iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).

(3) As a condition of participating in a qualifying education program under this section, an individual shall:

(a) comply with the requirements of the plea agreement entered into by the individual, the prosecutor, and the court; and

(b) work with a financial aid officer for a qualifying education program and pay the tuition for the competency-based career and technical education charged by the certificate program provider.

(4) The commission will structure and administer the grant pilot program consistent with other grant program requirements that the commission administers.

(5) The commission shall compile a report regarding this grant pilot program based on performance measures and provide the report by no later than November 30, 2020, to the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittee.

CHAPTER 55**H. B. 108**

Passed February 15, 2018

Approved March 15, 2018

Effective May 8, 2018

SAFE ACT EXEMPTIONS

Chief Sponsor: Brad M. Daw
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill amends the Utah Residential Mortgage Practices and Licensing Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts certain nonprofit corporations from licensing requirements under the Utah Residential Mortgage Practices and Licensing Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

61-2c-102, as last amended by Laws of Utah 2017, Chapter 182

61-2c-105, as last amended by Laws of Utah 2017, Chapter 182

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

Section 1. Section 61-2c-102 is amended to read:**61-2c-102. Definitions.**

- (1) As used in this chapter:
- (a) "Affiliation" means that a mortgage loan originator is associated with a principal lending manager in accordance with Section 61-2c-209.
- (b) "Applicant" means a person applying for a license under this chapter.
- (c) "Approved examination provider" means a person approved by the nationwide database or by the division as an approved test provider.
- (d) "Associate lending manager" means an individual who:
- (i) qualifies under this chapter as a principal lending manager; and
 - (ii) works by or on behalf of another principal lending manager in transacting the business of residential mortgage loans.
- (e) "Balloon payment" means a required payment in a mortgage transaction that:
- (i) results in a greater reduction in the principle of the mortgage than a regular installment payment; and

(ii) is made during or at the end of the term of the loan.

~~(e)~~ (f) "Branch lending manager" means an individual who is:

(i) licensed as a lending manager; and

(ii) designated in the nationwide database by the individual's sponsoring entity as being responsible to work from a branch office and to supervise the business of residential mortgage loans that is conducted at the branch office.

~~(f)~~ (g) "Branch office" means a licensed entity's office:

(i) for the transaction of the business of residential mortgage loans regulated under this chapter;

(ii) other than the main office of the licensed entity; and

(iii) that operates under:

(A) the same business name as the licensed entity; or

(B) another trade name that is registered with the division under the entity license.

~~(g)~~ (h) "Business day" means a day other than:

(i) a Saturday;

(ii) a Sunday; or

(iii) a federal or state holiday.

~~(h)~~ (i) (i) "Business of residential mortgage loans" means for compensation or in the expectation of compensation to:

(A) engage in an act that makes an individual a mortgage loan originator;

(B) make or originate a residential mortgage loan;

(C) directly or indirectly solicit a residential mortgage loan for another;

(D) unless exempt under Section 61-2c-105 or excluded under Subsection (1)~~(h)~~(i)(ii), render services related to the origination of a residential mortgage loan including:

(I) preparing a loan package;

(II) communicating with the borrower or lender;

(III) advising on a loan term;

(IV) receiving, collecting, or distributing information common for the processing or underwriting of a loan in the mortgage industry; or

(V) communicating with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan; or

(E) engage in loan modification assistance.

(ii) "Business of residential mortgage loans" does not include:

(A) ownership of an entity that engages in the business of residential mortgage loans if the owner

does not personally perform the acts listed in Subsection (1)(~~(h)~~)(i)(i);

(B) acting in one or more of the following capacities:

- (I) a loan wholesaler;
- (II) an account executive for a loan wholesaler;
- (III) a loan closer; or
- (IV) funding a loan; or

(C) if employed by a person who owns or services an existing residential mortgage loan, the direct negotiation with the borrower for the purpose of loan modification.

(~~(h)~~) (j) “Certified education provider” means a person who is certified under Section 61-2c-204.1 to provide one or more of the following:

- (i) Utah-specific prelicensing education; or
- (ii) Utah-specific continuing education.

(~~(h)~~) (k) “Closed-end” means a loan:

- (i) with a fixed amount borrowed; and
- (ii) that does not permit additional borrowing secured by the same collateral.

(~~(h)~~) (l) “Commission” means the Residential Mortgage Regulatory Commission created in Section 61-2c-104.

(~~(h)~~) (m) “Community development financial institution” means the same as that term is defined in 12 U.S.C. Sec. 4702.

(~~(h)~~) (n) “Compensation” means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

- (i) services;
- (ii) personal or real property; or
- (iii) another thing of value.

(~~(h)~~) (o) “Concurrence” means that entities given a concurring role must jointly agree for the action to be taken.

(~~(h)~~) (p) “Continuing education” means education taken by an individual licensed under this chapter in order to meet the education requirements imposed by Sections 61-2c-204.1 and 61-2c-205 to renew a license under this chapter.

(~~(h)~~) (q) “Control,” as used in Subsection 61-2c-105(2)(f), means the power to directly or indirectly:

- (i) direct or exercise a controlling interest over:
 - (A) the management or policies of an entity; or
 - (B) the election of a majority of the directors, officers, managers, or managing partners of an entity;

(ii) vote 20% or more of a class of voting securities of an entity by an individual; or

(iii) vote more than 5% of a class of voting securities of an entity by another entity.

(~~(h)~~) (r) (i) “Control person” means an individual identified by an entity registered with the nationwide database as being an individual directing the management or policies of the entity.

(ii) “Control person” may include one of the following who is identified as provided in Subsection (1)(~~(q)~~)(r)(i):

- (A) a manager;
- (B) a managing partner;
- (C) a director;
- (D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(~~(q)~~)(r)(ii).

(~~(h)~~) (s) “Depository institution” means the same as that term is defined in Section 7-1-103.

(~~(h)~~) (t) “Director” means the director of the division.

(~~(h)~~) (u) “Division” means the Division of Real Estate.

(~~(h)~~) (v) “Dwelling” means a residential structure attached to real property that contains one to four family units including any of the following if used as a residence:

- (i) a condominium unit;
- (ii) a cooperative unit;
- (iii) a manufactured home; or
- (iv) a house.

(~~(h)~~) (w) “Employee”:

- (i) means an individual:
 - (A) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and
 - (B) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person; and

(ii) does not include an independent contractor who performs duties other than at the direction of, and subject to the supervision and instruction of, another person.

(~~(h)~~) (x) “Entity” means:

- (i) a corporation;
- (ii) a limited liability company;
- (iii) a partnership;
- (iv) a company;
- (v) an association;
- (vi) a joint venture;
- (vii) a business trust;
- (viii) a trust; or

(ix) another organization.

~~[(x)]~~ (y) “Executive director” means the executive director of the Department of Commerce.

~~[(y)]~~ (z) “Federal licensing requirements” means Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

~~[(z)]~~ (aa) “Foreclosure rescue” means, for compensation or with the expectation of receiving valuable consideration, to:

(i) engage, or offer to engage, in an act that:

(A) the person represents will assist a borrower in preventing a foreclosure; and

(B) relates to a transaction involving the transfer of title to residential real property; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)~~[(z)]~~~~[(aa)]~~(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)~~[(z)]~~~~[(aa)]~~(i).

~~[(aa)]~~ (bb) “Inactive status” means a dormant status into which an unexpired license is placed when the holder of the license is not currently engaging in the business of residential mortgage loans.

~~[(bb)]~~ (cc) “Lending manager” means an individual licensed as a lending manager under Section 61-2c-206 to transact the business of residential mortgage loans.

~~[(cc)]~~ (dd) “Licensee” means a person licensed with the division under this chapter.

~~[(dd)]~~ (ee) “Licensing examination” means the examination required by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

~~[(ee)]~~ (ff) “Loan modification assistance” means, for compensation or with the expectation of receiving valuable consideration, to:

(i) act, or offer to act, on behalf of a person to:

(A) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(I) an increase or decrease in an interest rate;

(II) a change to the type of interest rate;

(III) an increase or decrease in the principal amount of the residential mortgage loan;

(IV) a change in the number of required period payments;

(V) an addition of collateral;

(VI) a change to, or addition of, a prepayment penalty;

(VII) an addition of a cosigner; or

(VIII) a change in persons obligated under the existing residential mortgage loan; or

(B) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)~~[(ee)]~~~~[(ff)]~~(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)~~[(ee)]~~~~[(ff)]~~(i).

~~[(ff)]~~ (gg) (i) “Mortgage loan originator” means an individual who, for compensation or in expectation of compensation:

(A) (I) takes a residential mortgage loan application;

(II) offers or negotiates terms of a residential mortgage loan for the purpose of:

(Aa) a purchase;

(Bb) a refinance;

(Cc) a loan modification assistance; or

(Dd) a foreclosure rescue; or

(III) directly or indirectly solicits a residential mortgage loan for another person; and

(B) is licensed as a mortgage loan originator in accordance with this chapter.

(ii) “Mortgage loan originator” does not include a person who:

(A) is described in Subsection (1)~~[(ff)]~~~~[(gg)]~~(i), but who performs exclusively administrative or clerical tasks as described in Subsection (1)~~[(h)]~~~~[(i)]~~(ii)(A);

(B) (I) is licensed under Chapter 2f, Real Estate Licensing and Practices Act;

(II) performs only real estate brokerage activities; and

(III) receives no compensation from:

(Aa) a lender;

(Bb) a lending manager; or

(Cc) an agent of a lender or lending manager; or

(C) is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D).

~~[(gg)]~~ (hh) “Nationwide database” means the Nationwide Mortgage Licensing System and Registry, authorized under federal licensing requirements.

~~[(hh)]~~ (ii) “Nontraditional mortgage product” means a mortgage product other than a 30-year fixed rate mortgage.

~~[(ii)]~~ (ij) “Person” means an individual or entity.

~~[(ij)]~~ (kk) “Prelicensing education” means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section

61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

~~(kk)~~ (ll) “Principal lending manager” means an individual:

(i) licensed as a lending manager under Section 61-2c-206; and

(ii) identified in the nationwide database by the individual’s sponsoring entity as the entity’s principal lending manager.

~~(ll)~~ (mm) “Prospective borrower” means a person applying for a mortgage from a person who is required to be licensed under this chapter.

~~(mm)~~ (nn) “Record” means information that is:

(i) prepared, owned, received, or retained by a person; and

(ii) (A) inscribed on a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) in a perceivable and reproducible form.

~~(nn)~~ (oo) “Referral fee”:

(i) means any fee, kickback, other compensation, or thing of value tendered for a referral of business or a service incident to or part of a residential mortgage loan transaction; and

(ii) does not include:

(A) a payment made by a licensed entity to an individual employed by the entity under a contractual incentive program according to rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) a payment made for reasonable promotional and educational activities that is not conditioned on the referral of business and is not used to pay expenses that a person in a position to refer settlement services or business related to the settlement services would otherwise incur.

~~(oo)~~ (pp) “Residential mortgage loan” means an extension of credit, if:

(i) the loan or extension of credit is secured by a:

(A) mortgage;

(B) deed of trust; or

(C) consensual security interest; and

(ii) the mortgage, deed of trust, or consensual security interest described in Subsection (1)~~(oo)~~(pp)(i):

(A) is on a dwelling located in the state; and

(B) is created with the consent of the owner of the residential real property.

~~(pp)~~ (qq) “Settlement” means the time at which each of the following is complete:

(i) the borrower and, if applicable, the seller sign and deliver to each other or to the escrow or closing office each document required by:

(A) the real estate purchase contract;

(B) the lender;

(C) the title insurance company;

(D) the escrow or closing office;

(E) the written escrow instructions; or

(F) applicable law;

(ii) the borrower delivers to the seller, if applicable, or to the escrow or closing office any money, except for the proceeds of any new loan, that the borrower is required to pay; and

(iii) if applicable, the seller delivers to the buyer or to the escrow or closing office any money that the seller is required to pay.

~~(qq)~~ (rr) “Settlement services” means a service provided in connection with a real estate settlement, including a title search, a title examination, the provision of a title certificate, services related to title insurance, services rendered by an attorney, preparing documents, a property survey, rendering a credit report or appraisal, a pest or fungus inspection, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan, and the processing of a federally related mortgage.

~~(rr)~~ (ss) “Sponsorship” means an association in accordance with Section 61-2c-209 between an individual licensed under this chapter and an entity licensed under this chapter.

~~(ss)~~ (tt) “State” means:

(i) a state, territory, or possession of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

~~(tt)~~ (uu) “Uniform state test” means the uniform state content section of the qualified written test developed by the nationwide database.

~~(uu)~~ (vv) “Unique identifier” means the same as that term is defined in 12 U.S.C. Sec. 5102.

~~(vv)~~ (ww) “Utah-specific” means an educational requirement under this chapter that relates specifically to Utah.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 2. Section 61-2c-105 is amended to read:

61-2c-105. Scope of chapter -- Exemptions.

(1) (a) Except as to an individual who will engage in an activity as a mortgage loan originator, this

chapter applies to a closed-end residential mortgage loan secured by a first lien or equivalent security interest on a dwelling.

(b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer Credit Code.

(2) The following are exempt from this chapter:

(a) the federal government;

(b) a state;

(c) a political subdivision of a state;

(d) an agency of or entity created by a governmental entity described in Subsections (2)(a) through (c) including:

(i) the Utah Housing Corporation created in Section 63H-8-201;

(ii) the Federal National Mortgage Corporation;

(iii) the Federal Home Loan Mortgage Corporation;

(iv) the Federal Deposit Insurance Corporation;

(v) the Resolution Trust Corporation;

(vi) the Government National Mortgage Association;

(vii) the Federal Housing Administration;

(viii) the National Credit Union Administration;

(ix) the Farmers Home Administration; and

(x) the United States Department of Veterans Affairs;

(e) a depository institution;

(f) an entity that controls, is controlled by, or is under common control with a depository institution;

(g) an employee or agent of an entity described in Subsections (2)(a) through (f):

(i) when that person acts on behalf of the entity described in Subsections (2)(a) through (f); and

(ii) including an employee of:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(I) owned and controlled by the depository institution; and

(II) regulated by a federal banking agency, as defined in 12 U.S.C. Sec. 5102; or

(C) an institution regulated by the Farm Credit Administration;

(h) except as provided in Subsection (3), a person who:

(i) makes a loan:

(A) secured by an interest in real property;

(B) with the person's own money; and

(C) for the person's own investment; and

(ii) that does not engage in the business of making loans secured by an interest in real property;

(i) except as provided in Subsection (3), a person who receives a mortgage, deed of trust, or consensual security interest on real property if the individual or entity:

(i) is the seller of real property; and

(ii) receives the mortgage, deed of trust, or consensual security interest on real property as security for a separate money obligation;

(j) a person who receives a mortgage, deed of trust, or consensual security interest on real property if:

(i) the person receives the mortgage, deed of trust, or consensual security interest as security for an obligation payable on an installment or deferred payment basis;

(ii) the obligation described in Subsection (2)(j)(i) arises from a person providing materials or services used in the improvement of the real property that is the subject of the mortgage, deed of trust, or consensual security interest; and

(iii) the mortgage, deed of trust, or consensual security interest is created without the consent of the owner of the real property that is the subject of the mortgage, deed of trust, or consensual security interest;

(k) a nonprofit corporation that:

(i) (A) is exempt from paying federal income taxes;

(B) is certified by the United States Small Business Administration as a small business investment company;

(C) is organized to promote economic development in this state; and

(D) has as its the nonprofit corporation's primary activity providing financing for business expansion; ~~or~~

(ii) is a community development financial institution; or

(iii) (A) is exempt from paying federal income taxes;

(B) has as the nonprofit corporation's primary purpose serving the public by helping low-income individuals and families build, repair, or purchase housing;

(C) does not require, under the terms of a mortgage, a balloon payment; and

(D) to perform loan originator activities, uses only unpaid volunteers or employees whose compensation is not based on the number or size of the mortgage transactions that the employees originate;

(l) an employee or volunteer for a nonprofit corporation described in Subsection (1)(k)(ii) or (iii),

working within the scope of the nonprofit corporation's business;

[4] (m) except as provided in Subsection (3), a court appointed fiduciary; or

[~~m~~] (n) an attorney admitted to practice law in this state:

(i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans when considering the attorney's ordinary practice as a whole for all the attorney's clients; and

(ii) when the attorney engages in loan modification assistance in the course of the attorney's practice as an attorney.

(3) An individual who will engage in an activity as a mortgage loan originator is exempt from this chapter only if the individual is an employee or agent exempt under Subsection (2)(g).

(4) (a) A loan processor or loan underwriter who is not a mortgage loan originator is not required to obtain a license under this chapter when the loan processor or loan underwriter is:

(i) employed by, and acting on behalf of, a person or entity licensed under this chapter; and

(ii) under the direction of and subject to the supervision of a person licensed under this chapter.

(b) A loan processor or loan underwriter who is an independent contractor is not exempt under Subsection (4)(a).

(5) (a) Notwithstanding Subsection (2)(m), an attorney exempt from this chapter may not engage in conduct described in Section 61-2c-301 when transacting business of residential mortgage loans.

(b) If an attorney exempt from this chapter violates Subsection (5)(a), the attorney:

(i) is not subject to enforcement by the division under Part 4, Enforcement; and

(ii) may be subject to disciplinary action generally applicable to an attorney admitted to practice law in this state.

(c) If the division receives a complaint alleging an attorney exempt from this chapter is in violation of Subsection (5)(a) or that an attorney subject to this chapter has violated this chapter, the division shall forward the complaint to the Utah State Bar for disciplinary action.

(6) (a) An individual who is exempt under Subsection (2), (3), or (4) may voluntarily obtain a license under this chapter by complying with Part 2, Licensure.

(b) An individual who voluntarily obtains a license under this Subsection (6) shall comply with all the provisions of this chapter.

CHAPTER 56**H. B. 112**

Passed March 1, 2018
Approved March 15, 2018
Effective May 8, 2018

**PAYMENTS FOR STATE
CARE OF CHILDREN**

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends provisions relating to child support obligations for a child in state custody.

Highlighted Provisions:

This bill:

- ▶ waives a child support obligation for a low-income individual who is receiving certain government assistance and whose child is in state custody; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-1106, as last amended by Laws of Utah 2013, Chapter 416

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

Section 1. Section 78A-6-1106 is amended to read:

78A-6-1106. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

- (a) "Office" means the Office of Recovery Services.
- (b) "State custody" means that a child is in the custody of a state department, division, or agency, including a secure youth corrections facility.

(2) Under this section, a court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

~~[(4)] (3) Except as provided in Subsection (11), when [legal custody of a child is vested by the court in a secure youth corrections facility or any other state department, division, or agency other than the child's parents,] a court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the court [shall]:~~

(a) shall order the parents, a parent, or ~~[any] other obligated [person] individual to pay child support for each month the child is in [custody. In the same proceeding the court shall]~~ state custody or cared for under a grant of guardianship; and

(b) shall inform the parents, a parent, or ~~[any] other obligated [person] individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act[.]; and~~

(c) may refer the establishment of a child support order to the office.

~~[(2) If legal custody of a child is vested by the court in a secure youth corrections facility, or any other state department, division, or agency, the court may refer the establishment of a child support order to the Office of Recovery Services. The referral shall be sent to the Office of Recovery Services within three working days of the hearing. Support obligation amounts shall be set by the Office of Recovery Services in accordance with Title 78B, Chapter 12, Utah Child Support Act.]~~

~~[(3) If referred to the Office of Recovery Services pursuant to Subsection (2), the court shall also inform the parties that they are required to contact the Office of Recovery Services within 30 days of the date of the hearing to establish a child support order and the penalty in Subsection (5) for failing to do so. If there is no existing child support order for the child, the liability for support shall accrue beginning on the 61st day following the hearing that occurs the first time the court vests custody of the child in a secure youth corrections facility, or any other state department, division, or agency other than the child's parents.]~~

~~[(4) If a child is returned home and legal custody is subsequently vested by the court in a secure youth corrections facility or any other state department, division, or agency other than the child's parents, the liability for support shall accrue from the date the child is subsequently removed from the home, including time spent in detention or sheltered care.]~~

(4) When a court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the court shall:

(a) make the referral within three working days after the day on which the court holds the hearing described in Subsection (2)(a); and

(b) inform the parents, a parent, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the court

holds the hearing described in Subsection (2)(a), if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

[~~(5)~~] (6) (a) If the parents, a parent, or other obligated ~~[person meets with the Office of Recovery Services]~~ individual contacts the office within 30 days ~~[of the date of the hearing]~~ after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding ~~[Subsection—(5)(a)]~~ Subsections (5) and (6)(a), the court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection ~~[(4)]~~ (3) if:

~~[(i) the parents, parent, or any other person obligated fails to meet with the Office of Recovery Services within 30 days after being informed orally and in writing by the court of that requirement; and]~~

(i) the court informs the parents, a parent, or other obligated individual, as described in Subsection (4)(b), and the parents, a parent, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the ~~[Office of Recovery Services]~~ office took reasonable steps under the circumstances to contact the parents, parent, or other ~~[person obligated within the subsequent 30-day period]~~ obligated individual within 30 days after the last day on which the parents, a parent, or other obligated individual was required to contact the office to facilitate the establishment of ~~[the]~~ a child support order.

(c) For purposes of Subsection ~~[(5)]~~ (6)(b)(ii), the ~~[Office of Recovery Services shall be]~~ office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the parents, a parent, or other obligated ~~[person]~~ individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the parents, parent, or other obligated ~~[person]~~ individual regarding the requirement that a child support order be established.

~~[(6)]~~ (7) In collecting arrears, the ~~[Office of Recovery Services]~~ office shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

~~[(7)]~~ (8) Unless ~~[otherwise ordered]~~ a court orders otherwise, the parents, a parent, or other ~~[person]~~ obligated individual shall pay the child support to the ~~[Office of Recovery Services]~~ office. The clerk of the court, the ~~[Office of Recovery Services]~~ office, or the Department of Human Services and its divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as Social Security payments or railroad retirement payments made in the name of or for the benefit of the child.

~~[(8) No court order under this section against a parent or other person shall be entered, unless notice of hearing has been served within the state, a voluntary appearance is made, or a waiver of service given. The notice shall specify that a hearing with respect to the financial support of the child will be held.]~~

(9) An existing child support order payable to a parent or other ~~[obligated person]~~ individual shall be assigned to the Department of Human Services as provided in Section 62A-1-117.

(10) (a) Subsections ~~[(3)]~~ (4) through (9) ~~[shall]~~ do not apply if legal custody of a child is vested by the court in an individual.

(b) If legal custody of a child is vested by the court in an individual, the court may order the parents, a parent, or ~~[any]~~ other obligated ~~[person]~~ individual to pay child support to the individual in whom custody is vested. In the same proceeding, the court shall inform the parents, a parent, or ~~[any]~~ other obligated ~~[person]~~ individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

(11) ~~[(a)]~~ The court may not order ~~[the parent or any other obligated person]~~ an individual to pay child support for a child in state custody if:

~~[(i)]~~ (a) the ~~[parent or other obligated person's]~~ individual's only form of income is a government-issued disability benefit; ~~[and]~~

~~[(ii)]~~ (b) the benefit described in Subsection (11)(a)~~[(4)]~~ is issued because of the ~~[parent or other person's]~~ individual's disability, and not the child's disability~~[-]~~; and

~~[(b) If a person seeks to be excused from providing support under Subsection (11)(a), the person shall provide the court and the Office of Recovery Services with evidence that the person meets the requirements of Subsection (11)(a).]~~

(c) the individual provides the court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) After the court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the court if:

(a) the individual's child support obligation is established under Subsection 78B-12-205(6) or Section 78B-12-302; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

CHAPTER 57**H. B. 119**

Passed February 22, 2018

Approved March 15, 2018

Effective May 8, 2018

**SEXUAL ASSAULT KIT
PROCESSING ACT AMENDMENTS**

Chief Sponsor: Angela Romero

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill makes changes to the Sexual Assault Kit Processing Act regarding restricted kits.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of restricted kit;
- ▶ clarifies that only medical personnel who collect kit information may classify a kit as restricted; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-602, as enacted by Laws of Utah 2017, Chapter 249

76-5-603, as enacted by Laws of Utah 2017, Chapter 249

76-5-604, as enacted by Laws of Utah 2017, Chapter 249

76-5-608, as enacted by Laws of Utah 2017, Chapter 249

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

Section 1. Section 76-5-602 is amended to read:**76-5-602. Definitions.**

For purposes of this part:

(1) "Collecting facility" means a hospital, health care facility, or other facility that performs sexual assault examinations.

(2) "Department" means the Department of Public Safety.

[~~(4)~~] (3) "Restricted kit" means a sexual assault kit:

(a) that is collected by a collecting facility; and

(b) for which a victim who is 18 years of age or older [~~chooses not to provide a personal statement about the sexual assault to law enforcement, as provided in Subsection 76-5-606(1)(d).~~] at the time of the sexual assault kit evidence collection declines:

(i) to have his or her sexual assault kit processed; and

(ii) to have the sexual assault examination form shared with any entity outside of the collection facility.

[~~(5)~~] (4) "Sexual assault kit" means a package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of sexual assault.

[~~(3)~~] (5) "[~~Evidence-based, trauma-informed~~] Trauma-informed, victim-centered" means policies, procedures, programs, and practices that:

(a) have demonstrated an ability to minimize retraumatization associated with the criminal justice process by recognizing the presence of trauma symptoms and acknowledging the role that trauma has played in the life of a victim of sexual assault or sexual abuse; and

(b) encourage law enforcement officers to interact with victims of sexual assault or sexual abuse with compassion and sensitivity in a nonjudgmental manner.

Section 2. Section 76-5-603 is amended to read:**76-5-603. All sexual assault kits to be submitted.**

(1) Except as provided in Subsection 76-5-604[~~(4)~~](5), beginning July 1, 2018, all sexual assault kits received by law enforcement agencies shall be submitted to the Utah Bureau of Forensic Services in accordance with the provisions of this part.

(2) The Utah Bureau of Forensic Services shall test all sexual assault kits that the bureau receives with the goal of developing autosomal DNA profiles that are eligible for entry into the Combined DNA Index System.

(3) (a) The testing of all sexual assault kits shall be completed within a specified amount of time, as determined by administrative rule consistent with the provisions of this part.

(b) The ability of the Utah Bureau of Forensic Services to meet the established time frames may be dependent upon the following factors:

(i) the number of sexual assault kits that the Utah Bureau of Forensic Services receives;

(ii) the technology available and improved testing methods;

(iii) fully trained and dedicated staff to meet the full workload needs of the Utah Bureau of Forensic Services; and

(iv) the number of lab requests received relating to other crime categories.

Section 3. Section 76-5-604 is amended to read:**76-5-604. Sexual assault kit processing -- Restricted kits.**

(1) [~~The~~] Unless the health care provider designates a sexual assault kit as a restricted kit, the collecting facility shall enter the required victim

information into the statewide sexual assault kit tracking system, defined in Section 76-5-607, within 24 hours of performing a sexual assault examination.

(2) A restricted kit may only be designated as a restricted kit:

- (a) by a health care provider; and
- (b) at the time of collection.

~~[(2)]~~ (3) Each sexual assault kit collected by medical personnel shall be taken into custody by a law enforcement agency as soon as possible and within one business day of notice from the collecting facility.

~~[(3)]~~ (4) The law enforcement agency that receives a sexual assault kit shall enter the required information into the statewide sexual assault kit tracking system, provided in Section 76-5-607, within five business days of receiving a sexual assault kit from a collecting facility.

~~[(4)]~~ (5) Each sexual assault kit received by a law enforcement agency from a collecting facility that relates to an incident that occurred outside of the jurisdiction of the law enforcement agency shall be transferred to the law enforcement agency with jurisdiction over the incident within 10 days of learning that another law enforcement agency has jurisdiction.

~~[(5)]~~ (6) (a) Except for restricted kits, each sexual assault kit shall be submitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after receipt by a law enforcement agency.

(b) Restricted kits may not be submitted to the Utah Bureau of Forensic Services.

(c) Restricted kits shall be maintained by the law enforcement agency with jurisdiction, in accordance with the provisions of this part.

(d) [If] A restricted kit may be changed to an unrestricted kit if the victim informs the designated law enforcement agency that he or she wants to have the sexual assault kit processed and agrees to release of the sexual assault examination form with the sexual assault kit. Once a victim [chooses to provide a personal statement about the sexual assault or sexual abuse to law enforcement at any time after declining to provide a statement] indicates that he or she wants the sexual assault kit processed:

(i) the ~~[restricted]~~ kit ~~[shall]~~ may no longer be classified as restricted; and

(ii) the ~~[sexual assault]~~ kit shall be transmitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after the victim chooses to ~~[provide a statement to law enforcement]~~ unrestrict his or her kit with law enforcement.

~~[(6)]~~ (7) If available, a suspect standard or a consensual partner elimination standard shall be submitted to the Utah Bureau of Forensic Services:

(a) with the sexual assault kit, if available, at the time the sexual assault kit is submitted; or

(b) as soon as possible, but no later than 30 days from the date the kit was obtained by the law enforcement agency, if not obtained until after the sexual assault kit is submitted.

~~[(7)]~~ (8) Failure to meet a deadline established in this part or as part of any rules established by the department is not a basis for dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

Section 4. Section 76-5-608 is amended to read:

76-5-608. Law enforcement -- Training -- Sexual assault and sexual abuse.

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:

- (a) recognizing the symptoms of trauma;
- (b) understanding the impact of trauma on a victim;
- (c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;
- (d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;
- (e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and
- (f) techniques of writing reports in accordance with Subsection (5).

(2) (a) The department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state of Utah by July 1, 2018.

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, beginning July 1, 2018.

(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course by July 1, 2018, for officers who investigate cases of sexual assault or sexual abuse.

(b) The advanced training course shall include:

- (i) all criteria listed in Subsection (1); and
- (ii) interviewing techniques in accordance with the curriculum standards in Subsection (5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including

[evidence-based] curriculum standards for report writing and response to sexual assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

CHAPTER 58**H. B. 123**

Passed February 12, 2018

Approved March 15, 2018

Effective May 8, 2018

CHILD CARE LICENSING AMENDMENTS

Chief Sponsor: Karen Kwan
Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill amends provisions related to child care licensing.

Highlighted Provisions:

This bill:

- ▶ modifies the department's licensing authority related to child care; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

26-10-10, as enacted by Laws of Utah 2013, Chapter 45

26-39-301, as last amended by Laws of Utah 2016, Chapter 74

26-39-404, as last amended by Laws of Utah 2017, Chapter 366

Utah Code Sections Affected by Coordination Clause:

26-10-10, as enacted by Laws of Utah 2013, Chapter 45

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

Section 1. Section 26-10-10 is amended to read:**26-10-10. Cytomegalovirus (CMV) public education and testing.**

(1) As used in this section "CMV" means cytomegalovirus.

(2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:

- (a) the incidence of CMV;
- (b) the transmission of CMV to pregnant women and women who may become pregnant;
- (c) birth defects caused by congenital CMV;
- (d) methods of diagnosing congenital CMV; and
- (e) available preventative measures.

(3) The department shall provide the information described in Subsection (2) to:

(a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing Act, and their employees;

(b) a person described in Subsection 26-39-403(1)(c)[, (f), (g), (h), (j), or (k)] and Subsections 26-39-403(2)(a), (b), (c), (e), and (f);

(c) a person serving as a school nurse under Section 53A-11-204;

(d) a person offering health education in a school district;

(e) health care providers offering care to pregnant women and infants; and

(f) religious, ecclesiastical, or denominational organizations offering children's programs as a part of worship services.

(4) If a newborn infant fails the newborn hearing screening test(s) under Subsection 26-10-6(1), a medical practitioner shall:

(a) test the newborn infant for CMV before the newborn is 21 days of age, unless a parent of the newborn infant objects; and

(b) provide to the parents of the newborn infant information regarding:

- (i) birth defects caused by congenital CMV; and
- (ii) available methods of treatment.

(5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection 26-10-6(1).

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Section 2. Section 26-39-301 is amended to read:**26-39-301. Duties of the department -- Enforcement of chapter -- Licensing committee requirements.**

(1) With regard to residential child care licensed or certified under this chapter, the department may:

(a) make and enforce rules to implement this chapter and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

- (i) adequate facilities and equipment; and
- (ii) competent caregivers, considering the age of the children and the type of program offered by the licensee; and

(b) make and enforce rules necessary to carry out the purposes of this chapter, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees[~~;~~and].

~~[(e) set and collect licensing and other fees in accordance with Section 26-1-6.]~~

(2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.

(3) Rules made under this chapter by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

(5) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

(6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

(a) a licensed residential child care provider; or

(b) an owner or employee of a licensed child care center.

(7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

(a) by qualifying children;

(b) for the care of qualifying children; or

(c) to store classroom materials.

(8) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection (7)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

(9) The licensing committee, with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

(10) The department shall set and collect licensing and other fees in accordance with Section 26-1-6.

~~[(40)]~~ (11) Nothing in this chapter may be interpreted to grant a municipality or county the authority to license or certify a child care program.

Section 3. Section 26-39-404 is amended to read:

26-39-404. Disqualified individuals -- Criminal history checks -- Payment of costs.

(1) (a) Each exempt provider and each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

(i) owners;

(ii) directors;

(iii) members of the governing body;

(iv) employees;

(v) providers of care;

(vi) volunteers, except parents of children enrolled in the programs; and

(vii) all adults residing in a residence where child care is provided.

~~[(b) A person seeking renewal of a residential certificate or license under this section is not required to submit fingerprints of an individual referred to in Subsections (1)(a)(i) through (vi), if:]~~

~~[(i) the individual has resided in Utah for the last five years and applied for a certificate or license before July 1, 2013;]~~

~~[(ii) the individual has:]~~

~~[(A) previously submitted fingerprints under this section for a national criminal history record check; and]~~

~~[(B) resided in Utah continuously since that time; or]~~

~~[(iii) as of May 3, 1999, the individual had one of the relationships under Subsection (1)(a) with a child care provider having a residential certificate or licensed under this section and the individual has resided in Utah continuously since that time.]~~

~~[(e)]~~ (b) (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)~~[(e)]~~(b).

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in Subsections (4) and (5), a licensee under this chapter or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

(a) provide child care;

(b) provide volunteer services for a child care program or an exempt provider;

(c) reside at the premises where child care is provided; or

(d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

(i) specific misdemeanors; and

(ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases ~~[involving misdemeanors,]~~ not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

(a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or

(b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

Section 4. Coordinating H.B. 123 with S.B. 116 -- Technical amendments.

If this H.B. 123 and S.B. 116, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 26-10-10(3)(b) in this bill supersede the amendments to Subsection 26-10-10(3)(b) in S.B. 116 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 59

H. B. 134

Passed February 16, 2018

Approved March 15, 2018

Effective May 8, 2018

**CONFLICT OF INTEREST
DISCLOSURE REQUIREMENTS**Chief Sponsor: Val K. Potter
Senate Sponsor: Jacob L. Anderegg**LONG TITLE****General Description:**

This bill addresses conflict of interest disclosures that certain public officers are required to file.

Highlighted Provisions:

This bill:

- ▶ exempts certain public officers from filing certain disclosures regarding the public officer's business interests if the public officers file a conflict of interest disclosure under the Election Code; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-16-7, as last amended by Laws of Utah 1989, Chapter 147

67-16-8, as last amended by Laws of Utah 1990, Chapter 93

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

Section 1. Section 67-16-7 is amended to read:**67-16-7. Disclosure of substantial interest in regulated business -- Exceptions.**

(1) ~~Every~~ Except as provided in Subsection (5), a public officer or public employee who is an officer, director, agent, employee, or ~~the~~ owner of a substantial interest in any business entity ~~which~~ that is subject to the regulation of the agency by which the public officer or public employee is employed~~,~~ shall disclose any ~~such~~ position held in the entity and the precise nature and value of the public officer's or public employee's interest in the entity:

(a) upon first becoming a public officer or public employee~~, and again~~;

(b) whenever the public officer's or public employee's position in the business entity changes significantly ~~or~~; and

(c) if the value of ~~this~~ the public officer's or public employee's interest in the entity ~~is significantly increased~~ increases significantly.

(2) The disclosure required under Subsection (1) shall be made in a sworn statement filed with:

(a) ~~the state attorney general in the case of public officers and public employees of the state~~ for a public officer or a public employee of the state, the attorney general;

(b) for a public officer or a public employee of a political subdivision, the chief governing body of the political subdivision ~~in the case of public officers and public employees of a political subdivision~~;

(c) the head of the agency with which the public officer or public employee is affiliated; and

(d) ~~in the case of~~ for a public employee, ~~with~~ the public employee's immediate supervisor ~~of the public employee~~.

(3) (a) This section does not apply to instances where the total value of the substantial interest does not exceed \$2,000.

(b) ~~Life insurance policies and annuities shall not~~ A life insurance policy or an annuity is not required to be considered in determining the value of ~~any such interest~~ a substantial interest under this section.

(4) ~~Disclosures~~ A disclosure made under this section ~~are public information and shall be available for examination by the public.~~ is a public record and a person with whom a disclosure is filed under Subsection (2) shall make the disclosure available for public inspection.

(5) A public officer is not required to file a disclosure under this section if the public officer files a disclosure under Section 20A-11-1604.

Section 2. Section 67-16-8 is amended to read:**67-16-8. Participation in transaction involving business as to which public officer or employee has interest -- Exceptions.**

(1) ~~No~~ A public officer or public employee ~~shall participate in his~~ may not, in the public officer's or public employee's official capacity, participate in, or receive compensation ~~in respect to any~~ as a result of, a transaction between the state or ~~any of its agencies and any~~ a state agency and a business entity ~~as to which such~~ of which the public officer or public employee is ~~also~~ an officer, director, ~~or~~ agent, employee, or ~~owns~~ owner of a substantial interest, unless ~~disclosure has been made as provided under Section 67-16-7~~ the public officer or public employee has disclosed the public officer's or public employee's relationship to the business entity in accordance with Section 67-16-7 or 20A-11-1604.

(2) A concession contract between an agency, political subdivision, or the state and a certified professional golf association member who is a public employee or officer does not violate the provisions of Subsection (1) or Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act.

CHAPTER 60**H. B. 137**

Passed February 22, 2018

Approved March 15, 2018

Effective May 8, 2018

**LONG-TERM CARE
OMBUDSMAN AMENDMENTS**Chief Sponsor: Brad M. Daw
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill amends provisions related to the Long-Term Care Ombudsman Program within the Division of Aging and Adult Services, within the Department of Human Services.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ eliminates references to “elderly” in provisions governing the Long-Term Care Ombudsman Program;
- ▶ makes other amendments related to the Long-Term Care Ombudsman Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-3-201, as enacted by Laws of Utah 1988, Chapter 1
- 62A-3-202, as last amended by Laws of Utah 1998, Chapter 192
- 62A-3-203, as last amended by Laws of Utah 2006, Chapter 31
- 62A-3-204, as last amended by Laws of Utah 2009, Chapter 75
- 62A-3-205, as last amended by Laws of Utah 2008, Chapter 382
- 62A-3-206, as last amended by Laws of Utah 2010, Chapter 324
- 62A-3-207, as last amended by Laws of Utah 1993, Chapter 176
- 62A-3-208, as enacted by Laws of Utah 1988, Chapter 1

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

Section 1. Section 62A-3-201 is amended to read:**62A-3-201. Legislative findings -- Purpose -- Ombudsman.**

(1) The Legislature finds and declares that the [aging] citizens of this state should be assisted in asserting their civil and human rights as patients, residents, and clients of long-term care facilities created to serve their specialized needs and problems; and that for the health, safety, and welfare of these citizens, the state should take appropriate action through an adequate legal framework to address their difficulties.

(2) The purpose of this part is to establish within the division the [long-term care ombudsman program] Long-Term Care Ombudsman Program for the [aging] citizens of this state and identify duties and responsibilities of that program and of the ombudsman, in order to address problems relating to long-term care [for aging citizens,] and to fulfill federal requirements.

Section 2. Section 62A-3-202 is amended to read:**62A-3-202. Definitions.**

As used in this part:

(1) “Elderly resident” means an adult 60 years of age or older who because of physical, economic, social, or emotional problems cannot function normally on an independent basis, and who resides in a long-term care facility.]

(1) “Assisted living facility” means the same as that term is defined in Section 26-21-2.

(2) “Auxiliary aids and services” means items, equipment, or services that assist in effective communication between an individual who has a mental, hearing, vision, or speech disability and another individual.

[2] (3) “Government agency” means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the state, or to which the state is a party, or created by any county or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities.

[3] “Long-term care facility” means any skilled nursing facility, intermediate care facility, nursing home, assisted living facility, adult foster care home, or any living arrangement in the community through which room and personal care services are provided for elderly residents.]

(4) “Intermediate care facility” means the same as that term is defined in Section 58-15-2.

(5) (a) “Long-term care facility” means:

- (i) a skilled nursing facility;
- (ii) except as provided in Subsection (5)(b), an intermediate care facility;
- (iii) a nursing home;
- (iv) a small health care facility;
- (v) a small health care facility type N; or
- (vi) an assisted living facility.

(b) “Long-term care facility” does not mean an intermediate care facility for people with an intellectual disability, as defined in Section 58-15-2.

[4] (6) “Ombudsman” means the administrator of the long-term care ombudsman program, created pursuant to Section 62A-3-203.

(7) “Ombudsman program” means the Long-Term Care Ombudsman Program.

(8) “Resident” means an individual who resides in a long-term care facility.

(9) “Skilled nursing facility” means the same as that term is defined in Section 58-15-2.

(10) “Small health care facility” means the same as that term is defined in Section 26-21-2.

(11) “Small health care facility type N” means a residence in which a licensed nurse resides and provides protected living arrangements, nursing care, and other services on a daily basis for two to three individuals who are also residing in the residence and are unrelated to the licensee.

Section 3. Section 62A-3-203 is amended to read:

62A-3-203. Long-Term Care Ombudsman Program -- Responsibilities.

(1) (a) There is created within the division the ~~[Long-Term Care Ombudsman Program]~~ ombudsman program for the purpose of promoting, advocating, and ensuring the adequacy of care received~~[,]~~ and the quality of life experienced by ~~[elderly]~~ residents of long-term care facilities within the state.

(b) Subject to the rules made under Section 62A-3-106.5, the ombudsman is responsible for:

(i) receiving and resolving complaints relating to ~~[elderly]~~ residents of long-term care facilities;

(ii) conducting investigations of any act, practice, policy, or procedure of ~~[any]~~ a long-term care facility or government agency ~~[which it]~~ that the ombudsman has reason to believe affects or may affect the health, safety, welfare, or civil and human rights of ~~[any-elderly]~~ a resident of a long-term care facility;

(iii) coordinating the department’s services for ~~[elderly]~~ residents of long-term care facilities to ensure that those services are made available to eligible ~~[elderly]~~ citizens of the state; and

(iv) providing training regarding the delivery and regulation of long-term care to public agencies, local ombudsman program volunteers, and operators and employees of long-term care facilities.

(2) (a) A long-term care facility shall display an ombudsman program information poster in a location that is readily visible to all residents, visitors, and staff members.

(b) The division is responsible for providing the posters, which shall include ~~[the names and]~~ phone numbers for local ombudsman programs.

Section 4. Section 62A-3-204 is amended to read:

62A-3-204. Powers and responsibilities of ombudsman.

The long-term care ombudsman shall:

(1) comply with Title VII of the federal Older Americans Act, 42 U.S.C. 3058 et seq.;

(2) establish procedures for and engage in receiving complaints, conducting investigations, reporting findings, issuing findings and recommendations, promoting community contact and involvement with ~~[elderly]~~ residents of long-term care facilities through the use of volunteers, and publicizing its functions and activities;

(3) investigate an administrative act or omission of ~~[any]~~ a long-term care facility or governmental agency if the act or omission relates to the purposes of the ombudsman. The ombudsman may exercise its authority under this subsection without regard to the finality of the administrative act or omission, and it may make findings in order to resolve the subject matter of its investigation;

(4) recommend to the division rules that it considers necessary to carry out the purposes of the ombudsman;

(5) cooperate and coordinate with governmental entities and voluntary assistance organizations in exercising its powers and responsibilities;

(6) request and receive cooperation, assistance, services, and data from any governmental agency, to enable it to properly exercise its powers and responsibilities;

(7) establish local ombudsman programs to assist in carrying out the purposes of this part, which shall meet the standards developed by the division, and possess all of the authority and power granted to the ~~[long-term care]~~ ombudsman program under this part; and

(8) exercise other powers and responsibilities as reasonably required to carry out the purposes of this part.

Section 5. Section 62A-3-205 is amended to read:

62A-3-205. Procedures -- Adjudicative proceedings.

The ~~[long-term care]~~ ombudsman shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in ~~[its]~~ the ombudsman’s adjudicative proceedings.

Section 6. Section 62A-3-206 is amended to read:

62A-3-206. Investigation of complaints -- Procedures.

(1) ~~[(a)]~~ The ombudsman shall investigate each complaint ~~[he]~~ the ombudsman receives. An investigation may consist of a referral to another public agency, the collecting of facts and information over the telephone, or an inspection of the long-term care facility that is named in the complaint.

~~[(b)]~~ The ombudsman shall notify any complainant of its decision to not pursue investigation of a complaint after the initial investigation and the reasons for the decision.

(2) In making ~~[any]~~ an investigation, the ombudsman may engage in actions ~~[it deems]~~ the

ombudsman considers appropriate, including, ~~but not limited to~~:

- (a) making inquiries and obtaining information;
- (b) holding investigatory hearings;

(c) entering ~~upon~~ and inspecting any premises, without notice to the facility, provided the investigator ~~identifies himself~~ presents, upon entering the premises ~~as a person~~, identification as an individual authorized by this part to inspect the premises; and

(d) inspecting or obtaining ~~any~~ a book, file, medical record, or other record required by law to be retained by the long-term care facility or governmental agency, pertaining to ~~elderly~~ residents, subject to Subsection (3).

(3) (a) Before reviewing a resident's records, the ombudsman shall seek to obtain ~~written~~ from the resident, or the resident's legal representative, permission in writing, orally, or through the use of auxiliary aids and services to review the records ~~from the institutionalized elderly person or his legal representative~~.

(b) The effort to obtain permission under Subsection (3)(a) shall include personal contact with the ~~elderly~~ resident or ~~his~~ the resident's legal representative. If the resident or the resident's legal representative refuses to ~~sign a release allowing access to records~~ give permission, the ombudsman shall record and abide by this decision.

(c) If the ombudsman's attempt to obtain ~~a signed release~~ permission fails for ~~any other~~ a reason other than the refusal of the resident or the resident's legal representative to give permission, the ombudsman may review the records.

~~(4) Following any investigation, the ombudsman shall report its findings and recommendations to the complainant, elderly residents of long-term care facilities affected by the complaint, and to the long-term care facility or governmental agency involved.~~

(d) If the ombudsman has reasonable cause to believe that the resident is incompetent to give permission and that the resident's legal representative is not acting in the best interest of the resident, the ombudsman shall determine whether review of the resident's records is in the best interest of the resident. If the ombudsman determines that review of the resident's records is in the best interest of the resident, the ombudsman shall review the records.

Section 7. Section 62A-3-207 is amended to read:

62A-3-207. Confidentiality of materials relating to complaints or investigations -- Immunity from liability -- Discriminatory, disciplinary, or retaliatory actions prohibited.

(1) The ombudsman shall establish procedures to ~~assure~~ ensure that all files maintained by the

~~long-term care~~ ombudsman program are disclosed only at the discretion of and under the authority of the ombudsman. The identity of a complainant or ~~elderly~~ resident of a long-term care facility may not be disclosed by the ombudsman unless:

(a) the complainant or ~~elderly~~ resident, or the legal representative of either, consents in writing, orally, or through the use of auxiliary aids and services to the disclosure;

(b) disclosure is ordered by the court; or

~~(c) the disclosure is made to a local area agency on aging, the state adult protective services agency, the Department of Health, the Department of Public Safety, the local law enforcement agency, or the county attorney as part of the investigation of a complaint.~~

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the resident, to an agency that:

(i) has statutory responsibility for the resident;

(ii) has statutory responsibility over the action alleged in the complaint;

(iii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iv) is able to provide expertise that would benefit the resident.

(2) Neither the ombudsman nor ~~its agents or designees~~ the ombudsman's agent or designee may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce ~~the provisions of~~ this part.

(3) Any person who makes a complaint to the ombudsman pursuant to this part is immune from any civil or criminal liability unless the complaint was made maliciously or without good faith.

(4) (a) Discriminatory, disciplinary, or retaliatory action may not be taken against ~~any~~ a volunteer or employee of a long-term care facility or governmental agency, or against ~~any elderly~~ a resident of a long-term care facility, for any communication made or information given or disclosed to aid the ombudsman or other appropriate public agency in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith.

(b) This subsection does not infringe on the rights of an employer to supervise, discipline, or terminate an employee for any other reason.

Section 8. Section 62A-3-208 is amended to read:

62A-3-208. Prohibited acts -- Penalty.

(1) No person may:

(a) give or cause to be given advance notice to a long-term care facility or agency that an investigation or inspection under the direction of the ombudsman is pending or under consideration, except as provided by law;

(b) disclose confidential information submitted to the ombudsman pursuant to this part, except as provided by law;

(c) willfully interfere with the lawful actions of the ombudsman;

(d) willfully refuse to comply with lawful demands of the ombudsman, including the demand for immediate entry into or inspection of the premises of any long-term care facility or agency or for immediate access to ~~[any elderly]~~ a resident of a long-term care facility; or

(e) offer or accept any compensation, gratuity, or promise thereof in an effort to affect the outcome of a matter being investigated or of a matter ~~[which]~~ that is before the ombudsman for determination of whether an investigation should be conducted.

(2) Violation of any provision of this part constitutes a class B misdemeanor.

CHAPTER 61**H. B. 147**

Passed February 23, 2018

Approved March 15, 2018

Effective July 1, 2018

**RETIREMENT FORFEITURE FOR
EMPLOYMENT RELATED OFFENSES**

Chief Sponsor: Craig Hall

Senate Sponsor: Brian Zehnder

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to the forfeiture of retirement benefits.

Highlighted Provisions:

This bill:

- ▶ authorizes a district attorney, a county attorney, the attorney general's office, or the state auditor to notify the Utah State Retirement Office and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense;
- ▶ requires the participating employer who received the notification to make certain reports to the entity that provided the notification; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

49-11-1401, as enacted by Laws of Utah 2016, Chapter 413

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

Section 1. Section 49-11-1401 is amended to read:**49-11-1401. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.**

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) "Employment related offense" means a felony committed during employment or the term of an elected or appointed office with a participating employer that is:

(i) during the performance of the employee's duties;

(ii) within the scope of the employee's employment; or

(iii) under color of the employee's authority.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not include the employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5), immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under Subsection (4)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the attorney general's office, or the state auditor may notify the office and

the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section.

(b) If the employee's participating employer receives a notification under Subsection (6)(a), the participating employer shall immediately report to the entity that provided the notification under Subsection (6)(a):

(i) if the employee is acquitted of the offense;

(ii) if the employee is convicted of an offense that may be an employment related offense; and

(iii) when the participating employer has concluded its duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

(c) The notifying entity under Subsection (6)(a) may assist the employee's participating employer with the investigation and determination described under Subsection (4)(b).

~~[(6)]~~ (7) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

~~[(7)]~~ (8) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

~~[(8)]~~ (9) The board may make rules to implement this section.

~~[(9)]~~ (10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 2. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 62**H. B. 152**

Passed February 23, 2018

Approved March 15, 2018

Effective May 8, 2018

GOOD SAMARITAN LAW AMENDMENTS

Chief Sponsor: Tim Quinn
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Good Samaritan Law.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses civil immunity for persons who use force to remove a confined child from a motor vehicle; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-4-501, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-4-501 is amended to read:**78B-4-501. Good Samaritan Law.**

(1) As used in this section:

(a) "Child" means an individual of such an age that a reasonable person would perceive the individual as unable to open the door of a locked motor vehicle, but in any case younger than 18 years of age.

(b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal or disposal of hazardous materials, and other accidents or events of a similar nature.

(c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.

(d) "First responder" means a state or local:

(i) law enforcement officer, as defined in Section 53-13-103;

(ii) firefighter, as defined in Section 34A-3-113; or

(iii) emergency medical service provider, as defined in Section 26-8a-102.

(e) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

~~[(4)] (2)~~ A person who renders emergency care at or near the scene of, or during, an emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency. ~~[As used in this section, "emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal, or disposal of hazardous materials, and other accidents or events of a similar nature. "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.]~~

~~[(2)] (3)~~ (a) A person who gratuitously, and in good faith, assists a governmental ~~[ageneies]~~ agency or political ~~[subdivisions in the activities]~~ subdivision in an activity described in Subsections ~~[(2)] (3)(a)(i)~~ through ~~[(e)] (iii)~~ is not liable for any civil damages or penalties as a result of any act or omission, unless the person rendering assistance is grossly negligent in:

~~[(a)] (i)~~ implementing measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health, or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

~~[(b)] (ii)~~ investigating and controlling suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

~~[(e)] (iii)~~ responding to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the ~~[President]~~ president of the United States or other federal official requesting public health-related activities.

~~[(3)] (b)~~ The immunity in this Subsection ~~[(2)] (3)~~ is in addition to any immunity or protection in state or federal law that may apply.

(4) (a) A person who uses reasonable force to enter a locked and unattended motor vehicle to remove a confined child is not liable for damages in a civil action if all of the following apply:

(i) the person has a good faith belief that the confined child is in imminent danger of suffering physical injury or death unless the confined child is removed from the motor vehicle;

(ii) the person determines that the motor vehicle is locked and there is no reasonable manner in which the person can remove the confined child from the motor vehicle;

(iii) before entering the motor vehicle, the person notifies a first responder of the confined child;

(iv) the person does not use more force than is necessary under the circumstances to enter the motor vehicle and remove the confined child from the vehicle; and

(v) the person remains with the child until a first responder arrives at the motor vehicle.

(b) A person is not immune from civil liability under this Subsection (4) if the person fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or malicious damage to the motor vehicle.

CHAPTER 63**H. B. 166**

Passed March 6, 2018
Approved March 15, 2018
Effective May 8, 2018

**DIVISION OF STATE
HISTORY AMENDMENTS**

Chief Sponsor: Mike Winder
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies the duties of the Division of State History.

Highlighted Provisions:

This bill:

- ▶ provides that the Division of State History may provide matching grants to help maintain, repair, and landscape cemeteries, grave sites, and tombstones.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

9-8-203, as last amended by Laws of Utah 2017, Chapter 48

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

Section 1. Section 9-8-203 is amended to read:**9-8-203. Division duties.**

- (1) The division shall:
- (a) stimulate research, study, and activity in the field of Utah history and related history;
 - (b) maintain a specialized history library;
 - (c) mark and preserve historic sites, areas, and remains;
 - (d) collect, preserve, and administer historical records relating to the history of Utah;
 - (e) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;
 - (f) edit and publish historical records;
 - (g) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;
 - (h) promote, coordinate, and administer:
 - (i) Utah History Day at the Capitol designated under Section 63G-1-401; and

(ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;

(i) provide grants and technical assistance as necessary and appropriate; and

(j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in adjudicative proceedings.

(2) The division may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.

(3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the division shall:

(a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;

(ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;

(v) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and monuments; and

(vi) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others;

(b) (i) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) encourage cemetery owners to create and maintain geographic information systems to record burial sites and encourage volunteers to do so for inactive and small historic cemeteries;

(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and

(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and

(c) (i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;

(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) and help maintain, repair, and landscape cemeteries, grave sites, and tombstones as described in Subsection (3)(b)(vi) by providing matching grants, upon approval by the board, to:

(A) municipal cemeteries;

(B) cemetery maintenance districts;

(C) endowment care cemeteries;

(D) private nonprofit cemeteries;

(E) genealogical associations; and

(F) other nonprofit groups with an interest in cemeteries; and

(iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ensure that:

(A) professional standards are met; and

(B) projects are cost effective.

(4) This chapter may not be construed to authorize the division to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

CHAPTER 64**H. B. 178**

Passed March 2, 2018

Approved March 15, 2018

Effective May 8, 2018

POWER OF ATTORNEY AMENDMENTS

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies provisions related to delegation of powers of parent or guardian.

Highlighted Provisions:

This bill:

- ▶ provides for a local school district to determine that a child lives within the district if certain conditions are met related to a power of attorney;
- ▶ clarifies that the parent or guardian powers that can be delegated include decisions related to school; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-6-302, as renumbered and amended by Laws of Utah 2018, Chapter 3

75-5-103, as enacted by Laws of Utah 1975, Chapter 150

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

Section 1. Section 53G-6-302 is amended to read:**53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.**

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(2) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

(a) the school district in which the custodial parent or legal guardian resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the State Board of Education;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the State Board of Education; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303; ~~or~~

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought~~[-];~~ or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent or guardian moves from the state;

(ii) the child's parent or guardian executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), ~~(3)(c)~~, or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 2. Section 75-5-103 is amended to read:

75-5-103. Delegation of powers by parent or guardian.

A parent or a guardian of a minor or incapacitated person, by a properly-executed power of attorney, may delegate to another person, for a period not exceeding six months, any of ~~his~~ the parent's or guardian's powers regarding care, custody, or property of the minor child or ward~~s~~:

(1) except ~~his~~ the power to consent to:

(a) marriage; or

(b) adoption of a minor ward~~[-]~~; and

(2) subject to Section 53G-6-302, including making decisions related to schooling.

CHAPTER 65**H. B. 180**

Passed February 12, 2018

Approved March 15, 2018

Effective May 8, 2018

**ART COLLECTION
COMMITTEE AMENDMENTS**

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill modifies provisions related to the Utah State Alice Art Collection.

Highlighted Provisions:

This bill:

- ▶ modifies the name of the Utah State Alice Art Collection; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

9-6-305, as last amended by Laws of Utah 2012, Chapter 212

9-6-306, as renumbered and amended by Laws of Utah 1992, Chapter 241

63C-9-601, as last amended by Laws of Utah 2006, Chapter 24

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

Section 1. Section 9-6-305 is amended to read:**9-6-305. Art collection committee.**

(1) (a) The board shall appoint a committee of artists or judges of art to take charge of all works of art acquired under this chapter.

(b) This collection shall be known as the [~~Utah State Alice~~] State of Utah Alice Merrill Horne Art Collection.

(2) (a) Except as required by Subsection (2)(b), as terms of current committee members expire, the board shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the board shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the board is appointed every two years.

(3) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 9-6-306 is amended to read:**9-6-306. Collection.**

(1) All works of art acquired under this part shall become part of the [~~Utah State Alice~~] State of Utah Alice Merrill Horne Art Collection.

(2) The art collection shall be held as the property of the state, under control of the division, and may be loaned in whole or in part for exhibition purposes to different parts of the state according to rules prescribed by the board.

(3) The division shall take every precaution to avoid damage or destruction to the property of the institute and the art works submitted by exhibitors and shall procure ample insurance on them.

(4) All art works shipped to and from the place of exhibition shall be packed by an expert packer.

Section 3. Section 63C-9-601 is amended to read:**63C-9-601. Responsibility for items.**

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, the State Library Division, the Division of Archives and Records Service, the Division of State History, the Office of Museum Services, the Utah Arts Council, the Division of Arts and Museums, the State of Utah Alice Merrill Horne Art Collection Committee, or any other state agency.

CHAPTER 66**H. B. 200**

Passed February 16, 2018

Approved March 15, 2018

Effective May 8, 2018

DENTIST LICENSING AMENDMENTS

Chief Sponsor: Marie H. Poulson
Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends the Dentist and Dental Hygienist Practice Act.

Highlighted Provisions:

This bill:

- ▶ changes provisions related to an examination required for licensure as a dentist under the Dentist and Dental Hygienist Practice Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-69-302, as last amended by Laws of Utah 2017, Chapter 337

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

Section 1. Section 58-69-302 is amended to read:**58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental hygienist.**

(1) An applicant for licensure as a dentist, except as provided in Subsection (2), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a dentist as evidenced by having received an earned doctor's degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

(e) pass the National Board Dental Examinations as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

~~[(f) pass any one of the regional dental clinical licensure examinations unless the division, in collaboration with the board, determines that:]~~

~~[(i) the examination is clearly inferior to the Western Regional Examination Board; and]~~

~~[(ii) reliance upon the examination poses an unjustifiable threat to public health and safety;]~~

(f) pass any regional dental clinical licensure examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) pass any other examinations regarding applicable law, rules, or ethics as established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

(i) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(2) An applicant for licensure as a dentist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in good standing with an unrestricted license in another jurisdiction described in Section 58-1-302;

(b) document having met all requirements for licensure under Subsection (1) except Subsection (1)(d); and

(c) document having been successfully engaged in clinical practice as a dentist for not less than 6,000 hours in the five years immediately preceding the date of application for licensure.

(3) An applicant for licensure as a dental hygienist, except as set forth in Subsection (4), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

(c) be of good moral character;

(d) be a graduate holding a certificate or degree in dental hygiene from a school accredited by the Commission on Dental Accreditation of the American Dental Association;

(e) pass the National Board Dental Hygiene Examination as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

(f) pass an examination consisting of practical demonstrations in the practice of dental hygiene and written or oral examination in the theory and practice of dental hygiene as established by division rule made in collaboration with the board;

(g) pass any other examinations regarding applicable law, rules, and ethics as established by rule by division rule made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

(i) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(4) An applicant for licensure as a dental hygienist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (3) except, an applicant having received licensure in another state or jurisdiction prior to 1962, the year when the National Board Dental Hygiene Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

(ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and

(c) document having been successfully engaged in practice as a dental hygienist for not less than 2,000 hours in the two years immediately preceding the date of application for licensure.

CHAPTER 67**H. B. 206**

Passed March 2, 2018
 Approved March 15, 2018
 Effective May 8, 2018

GIFTS TO THE STATE AMENDMENTS

Chief Sponsor: Karen Kwan
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill addresses a public official's acceptance of a gift on behalf of the state.

Highlighted Provisions:

This bill:

- ▶ under certain conditions, exempts from the expenditure provisions of the Lobbyist Disclosure and Regulation Act a gift received by a public official on behalf of the state; and
- ▶ establishes provisions for the retention or disposal of a gift that a public official accepts on behalf of the state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-11-102, as last amended by Laws of Utah 2015, Chapters 32, 188, and 264

ENACTS:

63G-22-101, Utah Code Annotated 1953
 63G-22-102, Utah Code Annotated 1953
 63G-22-103, Utah Code Annotated 1953

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

Section 1. Section 36-11-102 is amended to read:**36-11-102. Definitions.**

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means a tour or a meeting:

(a) (i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(7) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

- (i) a purchase, payment, or distribution;
- (ii) a loan, gift, or advance;
- (iii) a deposit, subscription, or forbearance;
- (iv) services or goods;
- (v) money;
- (vi) real property;
- (vii) a ticket or admission to an event; or
- (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

- (i) a commercially reasonable loan made in the ordinary course of business;
- (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- (iii) printed informational material that is related to the performance of the recipient's official duties;
- (iv) a devise or inheritance;
- (v) any item listed in Subsection (8)(a) if:
 - (A) given by a relative;
 - (B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;
 - (C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or
 - (D) the item is not food or beverage, has a value of less than \$10, and the aggregate daily expenditures do not exceed \$10;
 - (vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:
 - (A) all members of the Legislature;
 - (B) all members of a standing or interim committee;
 - (C) all members of an official legislative task force;
 - (D) all members of a party caucus; or
 - (E) all members of a group described in Subsections (8)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

- (A) giving a speech at the event;
- (B) participating in a panel discussion at the event; or
- (C) presenting or receiving an award at the event;
- (viii) a plaque, commendation, or award that:
 - (A) is presented in public;
 - (B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;
 - (ix) a gift that:
 - (A) is an item that is not consumable and not perishable;
 - (B) a public official accepts on behalf of the state;
 - (C) the public official promptly remits to the state;
 - (D) a property administrator does not reject under Section 63G-22-103;
 - (E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and
 - (F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;
 - (~~(ix)~~) (x) a publication having a cash value not exceeding \$30;
 - (~~(x)~~) (xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:
 - (A) to solicit contributions reportable under:
 - (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
 - (II) 2 U.S.C. Sec. 434; or
 - (B) charitable solicitation, as defined in Section 13-22-2;
 - (~~(xi)~~) (xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;
 - (~~(xii)~~) (xiii) sponsorship of an event that is an approved activity;
 - (~~(xiii)~~) (xiv) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:
 - (A) that is sponsored by a governmental entity; or
 - (B) that is widely attended and related to a governmental duty of a public official; or
 - (~~(xiv)~~) (xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state.

(9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(10) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or

(ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(11) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(12) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(13) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

(14) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(15) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(16) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(18) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(19) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

- (B) drafts legislation or makes rules;
- (C) determines rates or fees; or
- (D) makes adjudicative decisions; or
- (b) an immediate family member of a person described in Subsection (19)(a).

(20) “Public official type” means a notation to identify whether a public official is:

- (a) (i) a member of the Legislature;
- (ii) an individual elected to a position in the executive branch of state government;
- (iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or
- (iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(b) an immediate family member of a person described in Subsection (19)(a).

(21) “Quarterly reporting period” means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(22) “Related person” means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) “Relative” means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

(24) “Tour” means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

- (a) viewing a facility;
- (b) viewing the sight of a natural disaster; or
- (c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official’s duties.

Section 2. Section 63G-22-101 is enacted to read:

CHAPTER 22. PROPERTY DONATED TO STATE BY PUBLIC OFFICIAL

63G-22-101. Title.

This chapter is known as “Property Donated to State by Public Official.”

Section 3. Section 63G-22-102 is enacted to read:

63G-22-102. Definitions.

As used in this chapter:

(1) “Public official” means the same as that term is defined in Section 36-11-102.

(2) “Public official” includes a judge or justice of:

- (a) the Utah Supreme Court;
- (b) the Utah Court of Appeals; or
- (c) a district court.

Section 4. Section 63G-22-103 is enacted to read:

63G-22-103. Gifts to the state.

(1) A public official may accept a gift on behalf of the state if the public official, after accepting the gift, promptly:

(a) notifies the property administrator appointed under Subsection (2) for the branch of state government with which the public official is affiliated of the public official’s acceptance of the gift; and

(b) remits the gift to the branch of state government with which the public official is affiliated.

(2) The following persons shall select a property administrator for the person’s branch of state government:

(a) for the executive branch, the governor or the governor’s designee;

(b) for the legislative branch, the Legislative Management Committee or the Legislative Management Committee’s designee; and

(c) for the judicial branch, the chief justice of the Supreme Court or the chief justice’s designee.

(3) A property administrator appointed under Subsection (2):

(a) shall manage the retention or disposal of a gift that a public official remits to the state under Subsection (1); and

(b) may reject a gift that a public official accepts on behalf of the state.

(4) If a property administrator rejects a gift under Subsection (3)(b), the public official who accepted the gift shall promptly:

(a) return the gift; or

(b) dispose of the gift in a manner authorized by law.

CHAPTER 68**H. B. 224**

Passed March 8, 2018
 Approved March 15, 2018
 Effective March 15, 2018

**COUNTY GOVERNMENT CHANGE
 ELECTION AMENDMENTS**

Chief Sponsor: Gage Froerer
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to the process to change a county's form of government.

Highlighted Provisions:

This bill:

- ▶ reorganizes and recodifies Title 17, Chapter 52, Changing Forms of County Government;
- ▶ combines sections with similar subject matter;
- ▶ defines terms;
- ▶ amends provisions related to the appointment of an appointment council;
- ▶ prohibits a person from initiating a process to change a county's form of government when a process to change the county's form of government is pending;
- ▶ allows certain counties to adopt an optional plan without creating a study committee;
- ▶ requires that registered voters who wish to initiate the process to change a county's form of government file a notice of intent to gather signatures;
- ▶ establishes a deadline by which the sponsors of a petition to create a study committee are required to file the petition;
- ▶ requires only certain counties to comply with a provision that requires an optional plan to be approved by the county legislative body or subjected to a petition before the optional plan is submitted to the voters;
- ▶ requires a county clerk to post an optional plan on the county's website for a specified period of time before an election on the optional plan;
- ▶ provides that an optional plan is adopted if approved by a majority of voters that vote on the optional plan;
- ▶ provides for the appointment of a chair of a study committee;
- ▶ requires a study committee to submit a report to the county clerk;
- ▶ provides that if a study committee recommends that the form of a county's government not change, the process to change the county's form of government is concluded;
- ▶ establishes a deadline after which an optional plan may not be repealed without initiating a new process to change the county's form of government;
- ▶ provides a grandfather provision for counties that have initiated the process to change the county's form of government as of the effective date of this bill;
- ▶ requires a county that operates under a form of government that is not authorized by statute to change the county's form of government;

- ▶ establishes repeal dates for provisions that will become obsolete;
- ▶ removes obsolete and superfluous provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 17-15-27, as last amended by Laws of Utah 2006, Chapter 171
- 17-16-6, as last amended by Laws of Utah 2014, Chapter 16
- 17-19a-203, as enacted by Laws of Utah 2012, Chapter 17
- 17-31-8, as last amended by Laws of Utah 2017, Chapter 70
- 17-43-201, as last amended by Laws of Utah 2016, Chapter 113
- 17-43-301, as last amended by Laws of Utah 2016, Chapter 113
- 17-53-101, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 17B-2a-1106, as last amended by Laws of Utah 2016, Chapter 176
- 17C-1-203, as last amended by Laws of Utah 2016, Chapter 350
- 17D-2-203, as enacted by Laws of Utah 2008, Chapter 360
- 20A-1-203, as last amended by Laws of Utah 2015, Chapters 111 and 352
- 20A-1-508, as last amended by Laws of Utah 2017, Chapter 54
- 20A-9-409, as last amended by Laws of Utah 2017, Chapters 54 and 91
- 26A-1-102, as last amended by Laws of Utah 2016, Chapter 113
- 59-2-919, as last amended by Laws of Utah 2016, Chapters 341 and 367
- 63I-2-217, as last amended by Laws of Utah 2017, Chapters 84 and further amended by Revisor Instructions, Laws of Utah 2017, Chapter 448, and 448
- 68-3-12.5, as last amended by Laws of Utah 2015, Chapters 141 and 152

ENACTS:

- 17-52a-101, Utah Code Annotated 1953
- 17-52a-104, Utah Code Annotated 1953
- 17-52a-305, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 17-52a-102, (Renumbered from 17-52-101, as last amended by Laws of Utah 2012, Chapter 17)
- 17-52a-103, (Renumbered from 17-52-102, as last amended by Laws of Utah 2001, Chapter 241)
- 17-52a-201, (Renumbered from 17-52-501, as last amended by Laws of Utah 2017, Chapter 54)
- 17-52a-202, (Renumbered from 17-52-502, as last amended by Laws of Utah 2017, Chapter 54)

- 17-52a-203, (Renumbered from 17-52-504, as renumbered and amended by Laws of Utah 2000, Chapter 133)
- 17-52a-204, (Renumbered from 17-52-505, as last amended by Laws of Utah 2011, Chapter 209)
- 17-52a-301, (Renumbered from 17-52-201, as last amended by Laws of Utah 2008, Chapter 250)
- 17-52a-302, (Renumbered from 17-52-202, as last amended by Laws of Utah 2004, Chapter 371)
- 17-52a-303, (Renumbered from 17-52-203, as last amended by Laws of Utah 2013, Chapters 37 and 134)
- 17-52a-304, (Renumbered from 17-52-203.5, as last amended by Laws of Utah 2004, Chapter 371)
- 17-52a-401, (Renumbered from 17-52-301, as last amended by Laws of Utah 2001, Chapter 241)
- 17-52a-402, (Renumbered from 17-52-302, as last amended by Laws of Utah 2001, Chapter 241)
- 17-52a-403, (Renumbered from 17-52-303, as last amended by Laws of Utah 2001, Chapter 241)
- 17-52a-404, (Renumbered from 17-52-401, as last amended by Laws of Utah 2017, Chapter 54)
- 17-52a-405, (Renumbered from 17-52-402, as last amended by Laws of Utah 2015, Chapter 216)
- 17-52a-406, (Renumbered from 17-52-204, as last amended by Laws of Utah 2001, Chapter 241)
- 17-52a-501, (Renumbered from 17-52-206, as last amended by Laws of Utah 2013, Chapter 37)
- 17-52a-502, (Renumbered from 17-52-205, as last amended by Laws of Utah 2001, Chapter 241)
- 17-52a-503, (Renumbered from 17-52-403, as last amended by Laws of Utah 2012, Chapter 17)
- 17-52a-504, (Renumbered from 17-52-404, as renumbered and amended by Laws of Utah 2000, Chapter 133)
- 17-52a-505, (Renumbered from 17-52-405, as enacted by Laws of Utah 2013, Chapter 134)

REPEALS:

- 17-52-207, as last amended by Laws of Utah 2001, Chapter 241 Utah Code Sections Affected by Revisor Instructions:
17-52a-104, Utah Code Annotated 1953

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

Section 1. Section 17-15-27 is amended to read:**17-15-27. Appointment of legal counsel by county executive and county legislative body.**

(1) (a) An elected county executive in a county that has adopted a county executive-council form of

county government under Chapter 52a, Changing Forms of County Government, may appoint an attorney to advise and represent the county executive.

(b) An attorney appointed under Subsection (1)(a):

(i) serves at the pleasure of the county executive; and

(ii) may not perform any of the functions of a county attorney or district attorney under this title, except as provided in this section.

(c) An attorney appointed under this Subsection (1) may represent the county executive in cases and controversies before courts and administrative agencies and tribunals when a conflict exists that precludes the county or district attorney from representing the county executive.

(2) (a) The legislative body of a county that has adopted a county executive-council form of county government under Chapter 52a, Changing Forms of County Government, may appoint an attorney to advise and represent the county legislative body.

(b) An attorney appointed under Subsection (2)(a):

(i) serves at the pleasure of the county legislative body; and

(ii) may not perform any of the functions of a county attorney or district attorney under this title, except as provided in this section.

(c) An attorney appointed under this Subsection (2) may represent the county legislative body in cases and controversies before courts and administrative agencies and tribunals when a conflict exists that precludes the county or district attorney from representing the county legislative body.

Section 2. Section 17-16-6 is amended to read:**17-16-6. County officers -- Time of holding elections -- County commissioners -- Terms of office.**

(1) Except as otherwise provided in an optional plan adopted under Chapter 52a, Changing Forms of County Government:

(a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;

(b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section [~~17-52-504~~] 17-52a-201; and

(c) an elected officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section 17-16-1.

(2) (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

(b) Except as provided in Subsection (2)(c), in the 2014 general election:

(i) the following county officers shall be elected to one six-year term and thereafter elected to a four-year term:

- (A) county treasurer;
- (B) county recorder;
- (C) county surveyor; and
- (D) county assessor; and

(ii) all other county officers shall be elected to a four-year term.

(c) If a county legislative body consolidates two or more county offices in accordance with Section 17-16-3, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance that sets the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

Section 3. Section 17-19a-203 is amended to read:

17-19a-203. Budget officer.

The budget officer of a county is designated by:

(1) in a county commission form of government described in Section ~~[17-52-501]~~ 17-52a-201 or an expanded county commission form of government described in Section ~~[17-52-502]~~ 17-52a-202, the county commission;

(2) in the county executive-council form of government described in Section ~~[17-52-504]~~ 17-52a-203, the county executive; or

(3) in the council-manager form of government described in Section ~~[17-52-505]~~ 17-52a-204, the county council.

Section 4. Section 17-31-8 is amended to read:

17-31-8. Tourism tax advisory boards.

(1) (a) Except as provided in Subsection (1)(b), any county that collects the following taxes shall operate a tourism tax advisory board:

- (i) the tax allowed under Section 59-12-301; or
- (ii) the tax allowed under Section 59-12-603.

(b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the county has an existing board, council, committee, convention visitor's bureau, or body that substantially conforms with Subsections (2), (3), and (4).

(2) A tourism tax advisory board created under Subsection (1) shall consist of at least five members.

(3) A tourism tax advisory board shall be composed of the following members that are residents of the county:

(a) a majority of the members shall be current employees of entities in the county that are subject

to the taxes referred to in Section 59-12-301 or 59-12-603; and

(b) the balance of the board's membership shall be employees of recreational facilities, convention facilities, museums, cultural attractions, or other tourism related industries located within the county.

(4) (a) Each tourism tax advisory board shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-301 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(b) Each tourism tax advisory board in a county operating under the county commission form of government under Section ~~[17-52-501]~~ 17-52a-201 or the expanded county commission form under Section ~~[17-52-502]~~ 17-52a-202 shall advise the county legislative body on the best use of revenues collected from the tax allowed under Section 59-12-603 by providing the legislative body with a priority listing for proposed expenditures based on projected available tax revenues supplied to the board by the county legislative body on an annual basis.

(5) A member of any county tourism tax advisory board:

- (a) may not receive compensation or benefits for the member's services; and
- (b) may receive per diem and travel expenses incurred in the performance of the member's official duties, in accordance with Section 11-55-103.

Section 5. Section 17-43-201 is amended to read:

17-43-201. Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section ~~[17-52-504]~~ 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section ~~[17-52-505]~~ 17-52a-204, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

- (i) develop substance abuse prevention and treatment services plans;
- (ii) provide substance abuse services to residents of the county; and

(iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance abuse prevention and treatment services; or

(ii) create a united local health department that provides substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance abuse services.

(c) Each agreement for joint substance abuse services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by

the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance abuse services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for substance abuse services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance abuse prevention and treatment needs and services, including substance abuse needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

- (i) a screening;
- (ii) an assessment;
- (iii) an educational series; and
- (iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

- (i) the division;
- (ii) the local substance abuse authority director;
- (iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance abuse services under an agreement

under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance abuse treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance abuse treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance

abuse authority shall contact the Division of Substance Abuse and Mental Health for assistance in providing services to the pregnant woman or pregnant minor.

Section 6. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section [17-52-504] 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section [17-52-505] 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to persons within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the

treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(3) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(4) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and

federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(5) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for persons incarcerated in a county jail or other county correctional facility;

(ii) as provided in Subsection (5)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection (5)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(6) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-303.

(b) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

Section 7. Section 17-52a-101 is enacted to read:

CHAPTER 52a. CHANGING FORMS OF COUNTY GOVERNMENT

Part 1. General Provisions

17-52a-101. Title.

This chapter is known as “Changing Forms of County Government.”

Section 8. Section 17-52a-102, which is renumbered from Section 17-52-101 is renumbered and amended to read:

[17-52-101]. 17-52a-102. Definitions.

As used in this chapter:

(1) “Appointment council” means [a group of persons consisting of:] a commission-initiated appointment council or a petition-initiated appointment council.

(2) “Commission-initiated appointment council” means, for a process to change a county’s form of government that is initiated by the county legislative body under Section 17-52a-302, a group of five individuals consisting of:

(a) a resident of the county in which the optional plan is proposed, designated by a majority of all state senators and representatives whose districts include any part of the county in which the optional plan is proposed;

(b) a resident of the county in which the optional plan is proposed, designated by the county legislative body; and

(c) (i) if registered voters qualify to select a member of an appointment council under Subsection 17-52a-303(6):

[~~(e)~~] (A) a resident of the county in which the optional plan is proposed, designated by the petition sponsors; and

[~~(d)~~] (B) two other residents of the county in which the optional plan is proposed, designated by majority vote of the three other members of the appointment council[.]; or

(ii) if registered voters do not qualify to select a member of an appointment council under Subsection 17-52a-303(6), three other residents of the county in which the optional plan is proposed, designated individually by:

(A) a unanimous vote of the commission-initiated appointment council members described in Subsections (2)(a) and (b); or

(B) if the commission-initiated appointment council members described in Subsections (2)(a) and (b) cannot reach a unanimous vote to fill an

appointment council member position, the legislators described in Subsection (2)(a), who shall, by a majority vote, designate an individual to fill the appointment council member position.

[~~(2)~~] (3) “Optional plan” means a plan establishing an alternate form of government for a county as provided in Section [~~17-52-401~~] 17-52a-404.

[~~(3)~~] “Reasonable notice” means, at a minimum:]

[~~(a) publication;~~]

[~~(i)~~] (A) in a newspaper of general circulation within the county at least once a week for at least two consecutive weeks ending no more than 10 and no fewer than three days before the event that is the subject of the notice; or]

[~~(B)~~] if there is no newspaper of general circulation within the county, posting at least one notice per 1,000 population within the county, for at least a week ending no more than three days before the event that is the subject of the notice, at locations throughout the county that are most likely to give actual notice to county residents; and]

[~~(ii)~~] in accordance with Section 45-1-101 for two weeks before the event that is the subject of the notice; and]

[~~(b)~~] if the county has an Internet home page, posting an electronic notice on the Internet for at least seven days immediately before the event that is the subject of the notice.]

(4) “Petition-initiated appointment council” means, for a process to change a county’s form of government that registered voters initiate under Section 17-52a-303, the five sponsors described in Subsection 17-52a-303(1)(b)(i).

[~~(4)~~] (5) “Study committee” means [a group of persons] the committee that has seven members:

(a) appointed under Section [~~17-52-301~~] 17-52a-401; and

(b) charged with the duties provided in Section [~~17-52-303~~] 17-52a-403.

Section 9. Section 17-52a-103, which is renumbered from Section 17-52-102 is renumbered and amended to read:

[17-52-102]. 17-52a-103. Forms of county government -- County commission form required unless another is adopted -- Restrictions on form of county government.

(1) [~~Each~~] Subject to Subsection (2), each county shall operate under one of the following forms of county government:

(a) the county commission form under Section [~~17-52-501~~] 17-52a-201;

(b) the expanded county commission form under Section [~~17-52-502~~] 17-52a-202;

(c) the county executive and council form under Section [~~17-52-504~~] 17-52a-203; or

(d) the council-manager form under Section [~~17-52-505~~] 17-52a-204.

(2) Unless [it] a county adopts another form of government as provided in this chapter, [each] the county shall operate under the county commission form of government under Section [17-52-501] 17-52a-201.

(3) (a) In a county that operates under a form of government that is not described in Subsection (2):

(i) the county's legislative body shall, before July 1, 2018, initiate the process under Section 17-52a-302 of changing the county's form of government;

(ii) the county shall hold a special election described in Section 17-52a-304 on November 6, 2018;

(iii) if the voters approve the appointment of a study committee at the special election described in Subsection (3)(a)(ii):

(A) the study committee may not recommend under Section 17-52a-403 that the county retain the county's current form of government; and

(B) the county shall hold an election described in Section 17-52a-501 before December 31, 2020, on an optional plan that the study committee creates; and

(iv) the registered voters of the county may not repeal an optional plan under Section 17-52a-505 that is adopted at an election described in Subsection (3)(a)(iii)(B).

(b) If the voters of a county described in Subsection (3)(a) do not approve a change in the county's form of government at an election described in Subsection (3)(a)(iii)(B) before December 31, 2020:

(i) the county shall operate under the county commission form of government under Section 17-52a-201 in the same manner that a county is required under Subsection 17-52a-102(2) to operate under that form of government if the county does not adopt another form of government; and

(ii) the county shall transition to the form of government described in Subsection (3)(b)(i) in the same manner as if the voters of the county had approved the change in the form of government described in Subsection (3)(b)(i) in the applicable election described in Subsection (3)(b).

Section 10. Section 17-52a-104 is enacted to read:

17-52a-104. Applicability of former provisions to pending process.

(1) If, on the effective date of this bill, a county is under a pending process described in Subsection (2) to change the county's form of government:

(a) except as provided in this section, the provisions of this bill do not apply to that pending process; and

(b) that pending process is governed by:

(i) the provisions of law that were in effect on the day immediately before the day on which this bill takes effect;

(ii) Subsection 17-52a-301(3);

(iii) Subsections 17-52a-501(1)(a) and (3)(a); and

(iv) Subsection (3).

(2) A process of changing a county's form of government is pending under Subsection (1) if, as of the effective date of this bill:

(a) (i) the county legislative body had adopted a resolution in accordance with the provisions of law that were in effect on the day immediately before the day on which this bill takes effect to change the county's form of government; or

(ii) registered voters had begun collecting signatures in accordance with the provisions of law that were in effect on the day immediately before the day on which this bill takes effect for a petition to change the county's form of government; and

(b) the process of changing the county's form of government initiated under Subsection (2)(a) has not concluded.

(3) (a) To continue a pending process described in Subsection (2)(a)(ii), registered voters that initiated the process shall submit a sufficient number of valid signatures to the county clerk within 180 days after the effective date of this bill.

(b) If the registered voters fail to comply with Subsection (3)(a), the pending process is concluded under Subsection 17-52a-301(3)(a)(vi)(A).

Section 11. Section 17-52a-201, which is renumbered from Section 17-52-501 is renumbered and amended to read:
Part 2. Forms of County Government

[17-52-501]. 17-52a-201. County commission form of government -- Commission member elections.

(1) As used in this section:

(a) "Midterm vacancy" means a county commission position that is being filled at an election for less than the position's full term as established in:

(i) Subsection (4)(a); or

(ii) a county's optional plan under Subsection [17-52-401] 17-52a-404(5)(b).

(b) "Open position" means a county commission position that is being filled at a regular general election for the position's full term as established in:

(i) Subsection (4)(a); or

(ii) a county's optional plan under Subsection [17-52-401] 17-52a-404(5)(b).

(c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).

(2) [Each] A county commission consisting of three members shall govern each county operating

under the county commission form of government [~~shall be governed by a county commission consisting of three members~~].

(3) A county commission under a county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

(4) Except as otherwise provided in an optional plan adopted under this chapter:

(a) the term of office of each county commission member is four years;

(b) the terms of county commission members shall be staggered so that two members are elected at a regular general election date that alternates with the regular general election date of the other member; and

(c) each county commission member shall be elected:

(i) at large, unless otherwise required by court order; and

(ii) subject to the provisions of this section, in accordance with Title 20A, Election Code.

(5) Except as provided in Subsection (6):

(a) if two county commission positions are vacant for an election, the positions shall be designated "county commission seat A" and "county commission seat B";

(b) each candidate who files a declaration of candidacy when two positions are vacant shall designate on the declaration of candidacy form whether the candidate is a candidate for seat A or seat B; and

(c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

(6) (a) A county of the first or second class may, through an ~~[alternate]~~ optional plan as described in Subsection ~~[17-52-401]~~ 17-52a-404(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).

(b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk of an opt-in county shall, if there is at least one open position and at least one midterm vacancy, designate:

(i) each open position as "open position"; and

(ii) each midterm vacancy as "midterm vacancy."

(c) An individual who files a declaration of candidacy for the office of county commissioner in an opt-in county:

(i) if there is more than one open position, is not required to indicate which open position the individual is running for;

(ii) if there is at least one open position and at least one midterm vacancy, shall designate on the declaration of candidacy whether the individual is filing for an open position or a midterm vacancy; and

(iii) may not file a declaration of candidacy for an open position and a midterm vacancy in the same election.

(d) If there is an open position and a midterm vacancy being voted upon in the same election in an opt-in county, the county clerk shall indicate on the ballot for the election which positions are open positions and which positions are midterm vacancies.

(e) In an opt-in county:

(i) the candidates for open positions, in a number equal to the number of open positions, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the open positions; and

(B) for the purposes of a regular general election, elected to fill the open positions; and

(ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the midterm vacancies; and

(B) for the purposes of a regular general election, elected to fill the midterm vacancies.

Section 12. Section 17-52a-202, which is renumbered from Section 17-52-502 is renumbered and amended to read:

[17-52-502]. 17-52a-202. Expanded county commission form of government -- Commission member elections.

(1) As used in this section:

(a) "Midterm vacancy" means the same as that term is defined in Section ~~[17-52-501]~~ 17-52a-201.

(b) "Open position" means the same as that term is defined in Section ~~[17-52-501]~~ 17-52a-201.

(c) "Opt-in county" means a county that has, in accordance with Subsection (6)(a), chosen to conduct county commissioner elections in accordance with Subsection (6).

(2) ~~[Each]~~ A county commission consisting of five or seven members shall govern each county operating under an expanded county commission form of government [~~shall be governed by a county commission consisting of five or seven members~~].

(3) A county commission under the expanded county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body, and the powers, duties,

and functions of a county executive under Chapter 53, Part 3, County Executive.

(4) Except as otherwise provided in an optional plan adopted under this chapter:

(a) the term of office of each county commission member is four years;

(b) the terms of county commission members shall be staggered so that approximately half the members are elected at alternating regular general election dates; and

(c) each county commission member shall be elected:

(i) at large, unless otherwise required by court order; and

(ii) subject to the provisions of this section, in accordance with Title 20A, Election Code.

(5) Except as provided in Subsection (6):

(a) if multiple at-large county commission positions are vacant for an election, the positions shall be designated "county commission seat A," "county commission seat B," and so on as necessary for the number of vacant positions;

(b) each candidate who files a declaration of candidacy when multiple positions are vacant shall designate the letter of the county commission seat for which the candidate is a candidate; and

(c) no person may file a declaration of candidacy for, be a candidate for, or be elected to two county commission positions in the same election.

(6) (a) A county of the first or second class may, through an ~~alternate~~ optional plan as described in Subsection ~~[17-52-401]~~ 17-52a-404(5) or by ordinance, choose to conduct county commissioner elections in accordance with this Subsection (6).

(b) When issuing the notice of election required by Subsection 20A-5-101(2), the clerk of an opt-in county shall, if there is at least one open position and at least one midterm vacancy, designate:

(i) each open position as "open position"; and

(ii) each midterm vacancy as "midterm vacancy."

(c) An individual who files a declaration of candidacy for the office of county commissioner in an opt-in county:

(i) if there is more than one open position, is not required to indicate which open position the individual is running for;

(ii) if there is at least one open position and at least one midterm vacancy, shall designate on the declaration of candidacy whether the individual is filing for an open position or a midterm vacancy; and

(iii) may not file a declaration of candidacy for an open position and a midterm vacancy in the same election.

(d) If there is an open position and a midterm vacancy being voted upon in the same election in an

opt-in county, the county clerk shall indicate on the ballot for the election which positions are open positions and which positions are midterm vacancies.

(e) In an opt-in county:

(i) the candidates for open positions, in a number equal to the number of open positions, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the open positions; and

(B) for the purposes of a regular general election, elected to fill the open positions; and

(ii) the candidates for midterm vacancies, in a number equal to the number of midterm vacancies, who receive the highest number of votes are:

(A) for the purposes of a regular primary election, nominated by the candidates' party for the midterm vacancies; and

(B) for the purposes of a regular general election, elected to fill the midterm vacancies.

Section 13. Section 17-52a-203, which is renumbered from Section 17-52-504 is renumbered and amended to read:

[17-52-504]. 17-52a-203. County executive-council form of county government.

(1) (a) ~~[A]~~ The following shall govern a county operating under the form of government known as the "county executive-council" form ~~[shall be governed by]:~~

(i) an elected county council~~;~~;

(ii) an elected county executive~~;~~; and ~~[such]~~

(iii) other officers and employees ~~[as are]~~ authorized by law.

(b) The optional plan shall provide for the qualifications, time, and manner of election, term of office and compensation of the county executive.

(2) The county executive ~~[shall be]~~ is the chief executive officer or body of the county.

(3) In the county executive-council form of county government:

(a) the county council is the county legislative body and ~~[shall have]~~ has the powers, duties, and functions of a county legislative body under Chapter 53, Part 2, County Legislative Body; and

(b) the county executive ~~[shall have]~~ has the powers, duties, and functions of a county executive under Chapter 53, Part 3, County Executive.

(4) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

Section 14. Section 17-52a-204, which is renumbered from Section 17-52-505 is renumbered and amended to read:

[17-52-505]. 17-52a-204. Council-manager form of county government.

(1) (a) [A] The following shall govern a county operating under the form of government known as the “council-manager” form [shall be governed by]:

- (i) an elected county council[;];
- (ii) a county manager appointed by the council[;]; and [such]
- (iii) other officers and employees [as are] authorized by law.

(b) The optional plan shall provide for the qualifications, time and manner of appointment subject to Subsections (6) and (7), term of office, compensation, and removal of the county manager.

(2) The county manager [shall be] is the administrative head of the county government and [shall have] has the powers, functions, and duties of a county executive, except:

(a) as the county legislative body otherwise provides by ordinance; and

(b) that the county manager may not veto any ordinances enacted by the council.

(3) (a) [Nø] A member of the council [shall] may not directly or indirectly, by suggestion or otherwise[;];

(i) attempt to influence or coerce the manager in [the]:

- (A) making [of] any appointment [or removal of];
- (B) removing any officer or employee [or in the purchase of]; or
- (C) purchasing supplies[;];

(ii) attempt to exact any promise relative to any appointment from any candidate for manager[;]; or

(iii) discuss directly or indirectly with [him] the manager the matter of specific appointments to any county office or employment.

(b) (i) A person who violates the provisions of this Subsection (3) shall forfeit the office of the offending member of the council.

(ii) Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county.

(iii) Neither manager nor any person in the employ of the county shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a county office.

(iv) The optional plan may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government[;];

(a) the legislative powers of the county [shall be] are vested in the county council[;]; and

(b) the executive powers of the county [shall be] are vested in the county manager.

(5) A reference in statute or state rule to the “governing body” or the “board of county commissioners” of the county, in the council-manager form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county manager, with respect to executive functions, duties, and powers.

(6) (a) As used in this Subsection (6), “interim vacancy period” means the period of time that:

(i) begins on the day on which a general election described in Section 17-16-6 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member’s term.

(b) (i) The county council may not appoint a county manager during an interim vacancy period.

(ii) Notwithstanding Subsection (6)(b)(i):

(A) the county council may appoint an interim county manager during an interim vacancy period; and

(B) the interim county manager’s term shall expire once a new county manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection (6)(b) does not apply if all the county council members who held office on the day of the county general election whose term of office was vacant for the election are re-elected to the council for the following term.

(7) A county council that appoints a county manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the county manager.

Section 15. Section 17-52a-301, which is renumbered from Section 17-52-201 is renumbered and amended to read:

Part 3. Procedure for Initiating Adoption of Optional Plan

[17-52-201]. 17-52a-301. Procedure for initiating adoption of optional plan -- Limitations -- Pending proceedings.

(1) An optional plan proposing an alternate form of government for a county may be adopted as provided in this chapter.

(2) The process to adopt an optional plan establishing an alternate form of county government may be initiated by:

(a) the county legislative body as provided in Section [17-52-202] 17-52a-302; or

(b) registered voters of the county as provided in Section ~~[17-52-203]~~ 17-52a-303.

(3) (a) If the process to adopt an optional plan ~~[has been]~~ is initiated under Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section ~~[17-52-202 or 17-52-203]~~ 17-52a-302 or 17-52a-303, or under a provision described in Subsection 17-52a-104(2), the county legislative body may not initiate the process again under Section ~~[17-52-202 unless the earlier proceeding]~~ 17-52a-302, and registered voters may not initiate the process again under Section 17-52a-303, until:

~~[(i) has been concluded by an affirmative or negative vote of registered voters; or]~~

(i) the first initiated process concludes with an election under Section 17-52a-501;

(ii) the first initiated process concludes under Subsection 17-52a-403(7) because the study committee recommended that the county's form of government not change;

~~[(ii)]~~ (iii) the first initiated process has not [been] concluded but has been pending for at least two years[-] after the day on which the voters approved the appointment of a study committee in an election described in Section 17-52a-304;

(iv) notwithstanding Subsection (3)(a)(iii), if an election on an optional plan under the first initiated process is scheduled under Section 17-52a-501, the conclusion of that election;

(v) the first initiated process concludes because registered voters fail to submit a sufficient number of valid signatures for a petition before the deadline described in Subsection 17-52a-303(2)(c); or

(vi) for a process governed by Section 17-52a-104, the first initiated process concludes:

(A) because registered voters fail to submit a sufficient number of valid signatures for a petition before the deadline described in Subsection 17-52a-104(3); or

(B) under a provision described in Subsection 17-52a-104(1)(b).

(b) A county legislative body may not initiate the process to adopt an optional plan under Section ~~[17-52-202]~~ 17-52a-302 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by the county legislative body.

(c) Registered voters of a county may not initiate the process to adopt an optional plan under Section ~~[17-52-203]~~ 17-52a-303 within four years of an election at which voters approved or rejected an optional plan proposed as a result of a process initiated by registered voters.

Section 16. Section 17-52a-302, which is renumbered from Section 17-52-202 is renumbered and amended to read:

[17-52-202]. 17-52a-302. County legislative body initiation of adoption of optional plan -- Procedure.

(1) A county legislative body may initiate the process of adopting an optional plan by adopting a resolution to submit to the voters the question of:

(a) whether a study committee should be established as provided in Section ~~[17-52-301-]~~ 17-52a-401; or

(b) in a county with a population of 500,000 or more that operates under the county commission form of government under Section 17-52a-201, whether the county should adopt an optional plan that:

(i) the legislative body creates before adopting the resolution described in this Subsection (1); and

(ii) complies with the requirements described in Sections 17-52a-404 and 17-52a-405.

(2) ~~[Each]~~ The county legislative body shall ensure that a resolution adopted under Subsection (1) ~~[shall require]:~~

(a) requires the question described in Subsection (1)(a) to be submitted to the registered voters of the county at the next special election scheduled ~~[pursuant to]~~ under Section 20A-1-204 after adoption of the resolution under Subsection (1) ~~[-]~~; or

(b) requires the question described in Subsection (1)(b) to be submitted to the registered voters of the county at the next election described in Section 17-52a-501.

(3) Within 10 days after the day on which the county legislative body adopts a resolution proposing an optional plan under Subsection (1)(b), the legislative body shall send a copy of the optional plan that the legislative body recommends to:

(a) the county clerk; and

(b) the county attorney or, if the county does not have a county attorney, to the district attorney, for review in accordance with Section 17-52a-406.

Section 17. Section 17-52a-303, which is renumbered from Section 17-52-203 is renumbered and amended to read:

[17-52-203]. 17-52a-303. Registered voter initiation of adoption of optional plan -- Procedure.

(1) (a) Registered voters of a county may initiate the process of adopting an optional plan by filing with the county clerk a notice of intent to gather signatures for a petition:

(i) for the establishment of a study committee ~~[as provided in]~~ described in Section [17-52-301-] 17-52a-401; or

(ii) in a county with a population of 500,000 or more that operates under the county commission form of government under Section 17-52a-201, to adopt an optional plan that:

(A) accompanies the petition described in this Subsection (1)(a)(ii) during the signature gathering process and accompanies the petition in the submission to the county clerk under Subsection (2)(b); and

(B) complies with the requirements described in Sections 17-52a-404 and 17-52a-405.

~~[(2) Each petition under Subsection (1) shall:]~~

~~(b) A notice of intent described in Subsection (1)(a) shall:~~

~~(i) designate five sponsors for the petition;~~

~~(ii) designate a contact sponsor to serve as the primary contact for the petition sponsors;~~

~~(iii) list the mailing address and telephone number of each of the sponsors; and~~

~~(iv) be signed by each of the petition sponsors.~~

~~(c) Registered voters of a county may not file a notice of intent to gather signatures in bad faith.~~

~~(2) (a) The sponsors of a petition may circulate the petition after filing a notice of intent to gather signatures under Subsection (1).~~

~~[(a)-be] (b) To be considered valid, the petition is required to be signed by registered voters residing in the county equal in number to at least [10%] 5% of the total number of votes cast in the county for all candidates for president of the United States at the most recent election [for] at which a president of the United States[;] was elected.~~

~~[(b) designate up to five of the petition signers as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each; and]~~

~~[(c) be filed in the office of the clerk of the county in which the petition signers reside.]~~

~~(c) Except as provided in Subsection (4)(b)(ii), the sponsors of the petition shall submit the completed petition and any amended or supplemental petition described in Subsection (4) with the county clerk not more than 180 days after the day on which the sponsors file the notice described in Subsection (1).~~

~~(3) [(a)] Within 30 days [of the filing of a] after the day on which the sponsors submit a petition under Subsection [(4)] (2)(c) or an amended or supplemental petition under Subsection [(3)(b)] (4), the county clerk shall:~~

~~[(i)] (a) determine whether the petition or amended or supplemental petition has been signed by the required number of registered voters; and]~~

~~[(ii) (A) if so;]~~

~~(b) (i) if the petition was signed by a sufficient number of registered voters:~~

~~(A) certify the petition [or amended or supplemental petition and];~~

~~(B) deliver [it] the petition to the county legislative body; and~~

~~(C) notify [in writing] the contact sponsor in writing of the certification; or~~

~~[(B) if not;] (ii) if the petition was not signed by a sufficient number of registered voters:~~

~~(A) reject the petition [or the amended or supplemental petition]; and~~

~~(B) notify [in writing] the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection[-]; and~~

~~[(b) If a county clerk rejects a petition or an amended or supplemental petition under Subsection (3)(a)(ii)(B), the petition may be amended or supplemented or an amended or supplemental petition may be further amended or supplemented with additional signatures and refiled within 20 days of the date of rejection.]~~

~~(c) For a petition described in Subsection (1)(a)(ii), within 10 days after the day on which the county clerk certifies the petition under Subsection (3)(b)(i), the county clerk shall send a copy of the optional plan that accompanied the petition to the county attorney or, if the county does not have a county attorney, to the district attorney, for review in accordance with Section 17-52a-406.~~

~~(4) The sponsors of a petition circulated under this section may submit supplemental signatures for the petition:~~

~~(a) if the county clerk rejects the petition under Subsection (3)(b)(i); and~~

~~(b) before the earlier of:~~

~~(i) the deadline described in Subsection (2)(c); or~~

~~(ii) 20 days after the day on which the county clerk rejects the petition under Subsection (3)(b)(ii).~~

~~[(4)] (5) With the unanimous approval of petition sponsors, a petition filed under [Subsection (4)] this section may be withdrawn at any time within 90 days after [petition certification but] the day on which the county clerk certifies the petition under Subsection (3)(b)(i) and no later than 45 days before an election under Section [17-52-206] 17-52a-501 if:~~

~~(a) the petition [notified signers] included a notification to petition signers, in conspicuous language and in a conspicuous location, that the petition sponsors are authorized to withdraw the petition; and~~

~~(b) [there are at least three sponsors of] the petition has at least three sponsors.~~

~~(6) (a) Notwithstanding Subsection 17-52a-301(3), registered voters of a county may circulate a petition under this section after a county legislative body initiates the process to adopt an optional plan under Subsection 17-52a-302(1)(a) in order to qualify to select a member of an appointment committee that is formed as a result of the process initiated by the county legislative body.~~

~~(b) Notwithstanding Subsection (2)(c), registered voters who circulate a petition described in Subsection (6)(a) may not submit the completed petition less than 30 days before the day of the election described in Section 17-52a-304.~~

~~(c) Notwithstanding Subsection (4), registered voters who circulate a petition described in Subsection (6)(a) may not amend or submit supplemental signatures for the petition unless:~~

(i) the county clerk makes the determination described in Subsection (3) before the deadline described in Subsection (6)(b); and

(ii) the registered voters submit the amended or supplemented petition before the deadline described in Subsection (6)(b).

Section 18. Section 17-52a-304, which is renumbered from Section 17-52-203.5 is renumbered and amended to read:

[17-52-203.5]. 17-52a-304. Election to determine whether study committee should be established.

(1) The county legislative body shall hold an election under this section if:

(a) the county legislative body adopts a resolution under ~~[Subsection 17-52-202(1)]~~ Subsection 17-52a-302(1)(a); or

(b) ~~[a petition filed under Subsection 17-52-203(1) is certified by]~~ the county clerk ~~[under]~~ certifies, in accordance with Subsection ~~[17-52-203(3)]~~ 17-52a-303(3), a petition described in Subsection 17-52a-303(1)(a)(i).

(2) ~~[Each]~~ An election ~~[under]~~ described in Subsection (1) shall be a special election, called and held ~~[as required by]~~ in accordance with Sections 20A-1-203 and 20A-1-204 ~~[after:]~~.

~~[(a) adoption of a resolution under Subsection 17-52-202(1); or]~~

~~[(b) certification of a petition under Subsection 17-52-203(3).]~~

(3) The county clerk shall prepare the ballot for ~~[each]~~ an election ~~[under]~~ described in Subsection (1) with a question that asks substantially ~~[as follows]~~ the following:

“Shall a study committee be appointed to consider and possibly recommend a change in ~~[the]~~ _____ County’s form of government ~~[of _____ County:]~~?”

Section 19. Section 17-52a-305 is enacted to read:

17-52a-305. Public hearings.

The county legislative body shall hold four public hearings on a proposed optional plan within 45 days after the day on which:

(1) the county legislative body adopts a resolution that proposes an optional plan under Subsection 17-52a-302(1)(b); or

(2) the county clerk certifies, in accordance with Subsection 17-52a-303(3), a petition that proposes an optional plan under Subsection 17-52a-303(1)(a)(ii).

Section 20. Section 17-52a-401, which is renumbered from Section 17-52-301 is renumbered and amended to read:

Part 4. Study Committee and Optional Plan

[17-52-301]. 17-52a-401. Procedure for appointing members to study committee.

~~[(1) Each member of a study committee shall be appointed by an appointment council as provided in this section.]~~

(1) If a majority of voters voting in an election described in Section 17-52a-304 vote in favor of appointing a study committee, an appointment council shall appoint the members of a study committee as provided in this section.

~~[(2) (a) The county executive shall convene a meeting of the three members of the appointment council referred to in Subsections 17-52-101(1)(a), (b), and (c) within 10 days after the canvass of an election under Section 17-52-203.5 if a majority of those voting voted in favor of establishing a study committee.]~~

(2) (a) The county executive shall, within 10 days after the canvass of an election conducted under Section 17-52a-304, convene the first meeting of the appointment council members described in:

(i) for a council-initiated appointment council, Subsections 17-52a-101(2)(a), (b), and, if applicable, (c)(i)(A); or

(ii) for a petition-initiated appointment council, Subsection 17-52a-101(4).

(b) Within 10 days of the convening of the first meeting under Subsection (2)(a)(i), the ~~[three]~~ members of the appointment council described in Subsection (2)(a) shall designate the remaining ~~[two]~~ members ~~[referred to in Subsection 17-52-101(1)(d)]~~ of the appointment council.

(3) (a) Within 30 days ~~[of the designation of the remaining two members]~~ after the day on which the appointment council meets under Subsection (2)(a)(ii), or the last appointment council member is appointed under Subsection (2)(b), the appointment council shall:

(i) appoint the members to the study committee; and

(ii) notify in writing the appointees, the county executive, and the county legislative body of the appointments.

(b) In making appointments to the study committee, the appointment council shall work to achieve a broadly representative membership.

(c) The appointment council may not appoint ~~[a person]~~ an individual to the study committee unless that ~~[person]~~ individual:

(i) is a registered voter in the county whose form of government will be studied by the study committee; and

(ii) does not hold any public office or employment other than membership on the appointment council.

Section 21. Section 17-52a-402, which is renumbered from Section 17-52-302 is renumbered and amended to read:

[17-52-302]. 17-52a-402. Convening of first meeting of study committee.

(1) The county executive shall convene the first meeting of the study committee within 10 days after

~~[receipt of notification]~~ the county executive receives the notification described in Subsection 17-52a-401(3)(a) of the study committee members' appointment ~~[under Subsection 17-52-301(3)(a)]~~.

(2) (a) At the study committee's first meeting, the study committee shall select a chair from among the members of the study committee.

(b) The chair of the study committee is responsible for convening each future meeting of the study committee.

Section 22. Section 17-52a-403, which is renumbered from Section 17-52-303 is renumbered and amended to read:

~~[17-52-303]. 17-52a-403. Study committee -- Members -- Powers and duties -- Report -- Services provided by county.~~

(1) (a) ~~[Each]~~ A study committee ~~[shall consist of at least seven but no more than 11]~~ consists of seven members.

(b) A member of a study committee may not receive compensation for service on the committee.

(c) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.

(2) A study committee may:

(a) adopt rules for ~~[its]~~ the study committee's own organization and procedure and to fill a vacancy in its membership;

(b) establish advisory boards or committees and include on ~~[them]~~ the advisory boards or committees persons who are not members of the study committee; and

(c) request the assistance and advice of any officers or employees of any agency of state or local government.

(3) (a) ~~[Each]~~ A study committee shall:

~~[(a)]~~ (i) study the form of government within the county and compare it with other forms available under this chapter;

~~[(b)]~~ (ii) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;

~~[(c)]~~ (iii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and

~~[(d)]~~ (iv) file a written report of ~~[its]~~ the study committee's findings and recommendations with the county executive ~~[and]~~, the county legislative body, and the county clerk no later than one year after the convening of ~~[its]~~ the study committee's first meeting under Section ~~[17-52-302]~~ 17-52a-402.

(b) Within 10 days after the day on which the study committee submits the study committee's report under Subsection (3)(a)(iv) to the county legislative body, if the report recommends a change in the form of county government, the county clerk shall send to the county attorney or, if the county does not have a county attorney, to the district attorney, a copy of each optional plan recommended in the report for review in accordance with Section 17-52a-406.

(4) Each study committee report under Subsection (3)(d) shall include:

(a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;

(b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed plan to change the form of county government, including all necessary implementing provisions; and

(c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.

(5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(d) and, following the hearings and subject to Subsection (5)(b), alter the report.

(b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report:

(i) that would recommend the adoption of an optional form different from that recommended in the original report; or

(ii) within the 120-day period before the election under Section ~~[17-52-206]~~ 17-52a-501.

(6) Each meeting ~~[held by]~~ that the study committee holds shall be open to the public.

~~[(7)]~~ If the study committee's report does not recommend a change in the form of county government, the report is final, the study committee is dissolved, and the process to change the county's form of government is concluded.

~~[(7)]~~ (8) The county legislative body shall provide for the study committee:

(a) suitable meeting facilities;

(b) necessary secretarial services;

(c) necessary printing and photocopying services;

(d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

Section 23. Section 17-52a-404, which is renumbered from Section 17-52-401 is renumbered and amended to read:

~~[17-52-401]. 17-52a-404. Contents of proposed optional plan.~~

(1) ~~[Each]~~ The study committee, a county legislative body that adopts a resolution described in Subsection 17-52a-302(1)(b), or the sponsors of a petition described in Subsection 17-52a-303(1)(a)(ii) shall ensure that each optional plan ~~proposed~~ the committee, legislative body, or registered voters propose under this chapter, respectively:

(a) ~~shall propose~~ proposes the adoption of one of the forms of county government listed in Subsection ~~[17-52-402]~~ 17-52a-405(1)(a);

(b) ~~shall contain~~ contains detailed provisions relating to the transition from the existing form of county government to the form proposed in the optional plan, including provisions relating to the:

(i) election or appointment of officers specified in the optional plan for the new form of county government;

(ii) retention, elimination, or combining of existing offices and, if an office is eliminated, the division or department of county government responsible for performing the duties of the eliminated office;

(iii) continuity of existing ordinances and regulations;

(iv) continuation of pending legislative, administrative, or judicial proceedings;

(v) making of interim and temporary appointments; and

(vi) preparation, approval, and adjustment of necessary budget appropriations;

(c) ~~shall specify~~ specifies the date ~~[it is to become]~~ the optional plan becomes effective if adopted, which may not be earlier than the first day of January next following the election of officers under the new plan; and

(d) notwithstanding any other provision of this title and except with respect to an optional plan that proposes the adoption of the county commission or expanded county commission form of government, with respect to the county budget ~~shall provide~~ provides that:

(i) the county executive's role is to prepare and present a proposed budget to the county legislative body~~;~~; and

(ii) the county legislative body's role is to adopt a final budget.

(2) Subject to Subsection (3), an optional plan may include provisions that are considered necessary or advisable to the effective operation of the proposed optional plan.

(3) An optional plan may not include any provision that is inconsistent with or prohibited by the Utah Constitution or any statute.

(4) ~~[Each]~~ The optional plan proponent described in Subsection (1) shall ensure that each optional plan proposing to change the form of government to ~~[a]~~ the county executive-council form under Section

~~[17-52-504 or 17-52-505 shall]~~ 17-52a-203 or the council-manager form under Section 17-52a-204:

(a) ~~provide~~ provides for the same executive and legislative officers as are specified in the applicable section for the form of government ~~[being proposed by]~~ that the optional plan proposes;

(b) ~~provide~~ provides for the election of the county council;

(c) ~~specify~~ specifies the number of county council members, which shall be an odd number from three to nine;

(d) ~~specify~~ specifies whether the members of the county council are to be elected from districts, at large, or by a combination of at large and by district;

(e) ~~specify~~ specifies county council members' qualifications and terms and whether the terms are to be staggered;

(f) ~~contain~~ contains procedures for filling vacancies on the county council, consistent with the provisions of Section 20A-1-508; and

(g) ~~state~~ states the initial compensation, if any, of county council members and procedures for prescribing and changing compensation.

(5) ~~[Each]~~ The optional plan proponent described in Subsection (1) shall ensure that each optional plan proposing to change the form of government to the county commission form under Section ~~[17-52-501]~~ 17-52a-201 or the expanded county commission form under Section ~~[17-52-502 shall specify]~~ 17-52a-202 specifies:

(a) (i) for the county commission form of government, that the county commission shall have three members; or

(ii) for the expanded county commission form of government, whether the county commission shall have five or seven members;

(b) the terms of office for county commission members and whether the terms are to be staggered;

(c) whether members of the county commission are to be elected from districts, at large, or by a combination of at large and from districts;

(d) if any members of the county commission are to be elected from districts, the district residency requirements for those commission members; and

(e) if any members of the county commission are to be elected at large, whether the election of county commission members is subject to the provisions of Subsection ~~[17-52-501]~~ 17-52a-201(6) or Subsection ~~[17-52-502]~~ 17-52a-202(6).

Section 24. Section 17-52a-405, which is renumbered from Section 17-52-402 is renumbered and amended to read:

~~[17-52-402].~~ 17-52a-405. Plan may propose changing forms of county government -- Plan may propose change of structural form -- Partisan elections.

(1) (a) ~~[Each]~~ The optional plan proponent described in Subsection 17-52a-404(1) shall ensure

that each optional plan ~~[shall propose]~~ proposes changing the form of county government to:

(i) the county commission form under Section ~~[17-52-501]~~ 17-52a-201;

(ii) the expanded county commission form under Section ~~[17-52-502]~~ 17-52a-202;

(iii) the county executive and council form under Section ~~[17-52-504]~~ 17-52a-203; or

(iv) the council-manager form under Section ~~[17-52-505]~~ 17-52a-204.

(b) ~~[A]~~ The optional plan proponent described in Subsection 17-52a-404(1) may not recommend an optional plan [adopted after May 1, 2000, may not] that:

(i) ~~[propose]~~ proposes changing the form of government to a form not included in Subsection (1)(a);

(ii) ~~[provide]~~ provides for the nonpartisan election of elected officers;

(iii) ~~[impose]~~ imposes a limit on the number of terms or years that an elected officer may serve; ~~[or]~~

(iv) ~~[provide]~~ provides for elected officers to be subject to a recall election~~[-];~~ or

(v) provides, in a county with a population of 225,000 or more, for a full-time county commission in an expanded county commission form of government under Section 17-52a-202.

(2) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1)(a), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.

(3) A county that ~~[provided]~~ provides for the election of the county's elected officers through a partisan election ~~[in or after the 2000 general election]~~ may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

Section 25. Section 17-52a-406, which is renumbered from Section 17-52-204 is renumbered and amended to read:

[17-52-204]. 17-52a-406. County or district attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.

~~[(1) Within 10 days after the study committee submits its report under Subsection 17-52-303(3)(d) to the county legislative body recommending a change in the form of county government, the county clerk shall send to the county attorney of the county in which the optional plan is proposed or, if the county does not have a county attorney, to the district attorney a copy of each optional plan recommended by the study~~

~~committee in its report under Subsection 17-52-303(3)(d).]~~

~~[(2) (1) Within 45 days after [receipt of] the day on which the county or district attorney receives the recommended optional plan from the county clerk under Subsection [(4)] (3)(d), 17-52a-303(3)(c), or 17-52a-403(3)(b) or from the county legislative body under Subsection (3)(c) or 17-52a-302(3), the county or district attorney shall send a written report to the county clerk containing the information [required under] described in Subsection [(3)] (2).~~

~~[(3) (2) [Each] A report from the county or district attorney under Subsection [(2)] (1) shall:~~

(a) state the attorney's opinion as to whether implementation of the optional plan ~~[as prepared by the study committee]~~ described in Subsection (1) would result in a violation of any applicable statutory or constitutional provision;

(b) if the attorney concludes that a violation would result:

(i) identify specifically each statutory or constitutional provision that ~~[would be violated by]~~ implementation of the optional plan [as prepared by the study committee] would violate;

(ii) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the plan is implemented ~~[as prepared by the study committee];~~ and

~~[(iii) state whether, in the attorney's opinion, any of the provisions or features identified in Subsection (3)(b)(ii) are so integral to the proposed optional plan that having previously changed the specified provision or feature to avoid the violation would have affected the decision of a study committee member who favored the proposed optional plan; and]~~

~~[(iv) if all the provisions or features identified in Subsection (3)(b)(ii) do not meet the standard of Subsection (3)(b)(iii);]~~

(iii) recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.

~~[(4) (3) (a) [If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that meet the standard of Subsection (3)(b)(iii);] Except as provided in Subsection (3)(b), if the attorney determines under Subsection (2) that a violation would occur, the proposed optional plan may not be the subject of [a resolution or petition under Subsection 17-52-206(1), except that the] an election under Section 17-52a-501.~~

(b) The study committee may:

(i) modify ~~[the]~~ an optional plan that the study committee recommends in accordance with Section 17-52a-403 to avoid [the] a violation that a county or district attorney's report describes under Subsection (2); and [then]

(ii) file a new report under Subsection [17-52-303] 17-52a-403(3)(d) [that will be treated as any other report under that subsection].

~~[(b) If the attorney's statement under Subsection (3) identifies provisions or features under Subsection (3)(b)(ii) that do not meet the standard of Subsection (3)(b)(iii), the optional plan may be modified by the study committee to avoid the statutory or constitutional violations and then be the subject of a resolution or petition under Subsection 17-52-206(1).]~~

(c) A county legislative body may:

(i) modify an optional plan that the county legislative body proposes in accordance with Subsection 17-52a-302(1)(b) to avoid a violation that a county or district attorney's report describes under Subsection (2); and

(ii) within 10 days of modifying the optional plan, send the modified optional plan to:

(A) the county clerk; and

(B) the county or district attorney for review in accordance with this section.

(d) (i) The petition sponsors may:

(A) modify an optional plan that the petition proposes in accordance with Subsection 17-52a-303(1)(a)(ii) to avoid a violation that a county or district attorney's report describes under Subsection (2); and

(B) submit the modified optional plan to the county clerk.

(ii) Upon receipt of a modified optional plan described in Subsection (3)(d)(i), the county clerk shall send the modified optional plan to the county or district attorney for review in accordance with this section.

(4) The county executive, county legislative body, county or district attorney, and county clerk shall treat the following as an original:

(a) a new report that a study committee files under Subsection 17-52a-403(3)(d);

(b) a modified optional plan that a county legislative body sends under Subsection (3)(c); and

(c) a modified optional plan that petition sponsors submit to the county clerk and that the county clerk sends under Subsection (3)(d).

~~[(5)] (6) If the attorney's [statement] report under Subsection [(3)] (2) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan [may be the subject of a resolution or petition under Subsection 17-52-206(1)] is subject to the provisions described in Section 17-52a-501.~~

Section 26. Section 17-52a-501, which is renumbered from Section 17-52-206 is renumbered and amended to read:

Part 5. Adoption and Implementation of Optional Plan

[17-52-206]. 17-52a-501. Election on recommended optional plan -- Resolution or petition to submit plan to voters in certain counties.

~~[(1) (a) The county legislative body shall hold an election on an optional plan recommended in a study committee report filed under Subsection 17-52-303(3)(d) if:]~~

~~[(i) the county or district attorney has completed the review of the recommended optional plan and has submitted the attorney's report to the county clerk as provided in Section 17-52-204;]~~

~~[(ii) the recommended optional plan may, under Subsection 17-52-204(3), be the subject of a resolution or petition under this Subsection (1); and]~~

~~[(iii) after the county or district attorney has submitted the attorney's report under Section 17-52-204;]~~

(1) If the county or district attorney finds that a proposed optional plan does not violate a statutory or constitutional provision under Section 17-52a-406 or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on the day immediately before the day on which this bill takes effect:

(a) in a county with a population of 225,000 or more or in a county in which voters approved the appointment of a study committee by a vote of at least 60%, the county legislative body shall hold an election on the optional plan under Subsection (3); or

(b) in a county with a population of less than 225,000 in which voters did not approve the appointment of a study committee by a vote of at least 60%, an election may not be held for the optional plan under Subsection (3) until:

~~[(A)] (i) the county legislative body adopts a resolution to submit the [recommended] optional plan to voters; or~~

~~[(B) a petition is filed with the county clerk that:]~~

(ii) the county clerk certifies a petition under Subsection (2).

(2) (a) In a county with a population of less than 225,000 in which voters did not approve the appointment of a study committee by a vote of at least 60%, to qualify the proposed optional plan described in Subsection (1) for an election described in Subsection (3), registered voters may file a petition with the county clerk that:

(i) requests that the proposed optional plan be submitted to voters; and

~~[(4)] (ii) is signed by registered voters residing in the county equal in number to at least [10%] 5% of~~

the total number of votes cast in the county for all candidates for president of the United States at the most recent election ~~[for]~~ at which a president of the United States~~[;]~~ was elected.

(b) Registered voters who file a petition under Subsection (2)(a) shall, at the time the registered voters file the petition:

~~[(II) designates]~~ (i) designate up to five of the petition signers as sponsors~~[-, one of whom shall be designated as the contact sponsor;]~~;

(ii) provide the county clerk with the mailing address and telephone number of each petition sponsor; and

~~[(III) requests that the recommended optional plan be submitted to voters.]~~

~~[(b) The process for certifying a petition filed under Subsection (1)(a)(iii)(B) shall be the same as that provided in Subsection 17-52-203(3).]~~

~~[(2) Each election under Subsection (1) shall be held at the next regular general or municipal general election date that is no less than two months after:]~~

~~[(a) the county legislative body's adoption of a resolution under Subsection (1)(a)(iii)(A); or]~~

~~[(b) certification of a petition filed under Subsection (1)(a)(iii)(B).]~~

(iii) designate one of the petition sponsors as the contact sponsor.

(c) The county clerk shall certify or reject a petition filed under this Subsection (2) in the same manner as the county clerk certifies or rejects a petition under Subsection 17-52a-303(3).

(3) When the conditions described in Subsection (1) are met, a county shall hold an election on the optional plan at the next regular general or municipal general election that is not less than 60 days after:

(a) for a county with a population of 225,000 or more or for a county in which voters approved the appointment of a study committee by a vote of at least 60%, the day on which the county or district attorney submits to the county clerk the attorney's report described in Subsection 17-52a-406(4) or, for a county under a pending process described in Section 17-52a-104, the attorney's report that is described in Section 17-52-204 as that section was in effect on the day immediately before the day on which this bill takes effect and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on the day immediately before the day on which this bill takes effect; or

(b) for a county with a population of less than 225,000 in which voters did not approve the appointment of a study committee by a vote of at least 60%, the day on which:

(i) the county legislative body adopts a resolution under Subsection (1)(b)(i); or

(ii) the county clerk certifies a petition under Subsection (2)(b).

~~[(3)]~~ (4) The county clerk shall prepare the ballot for ~~[each]~~ an election under ~~[Subsection (1)]~~ this section so that the question on the ballot states substantially ~~[as follows]~~ the following:

"Shall _____ County adopt the alternate form of government known as the _____(insert the proposed form of government)_____ that ~~[has been recommended by]~~ the study committee has recommended?"

~~[(4)]~~ (5) The county clerk shall:

(a) ~~[eause]~~ publish the complete text of the proposed optional plan ~~[to be published]~~ in a newspaper of general circulation within the county at least once during two different calendar weeks within the 30-day period immediately before the date of the election ~~[under]~~ described in Subsection (1); ~~[and]~~

(b) post the complete text of the proposed optional plan in a conspicuous place on the county's website during the 45-day period that immediately precedes the election on the optional plan; and

~~[(b)]~~ (c) make a complete copy of the optional plan and the study committee report available free of charge to any member of the public who requests a copy.

(6) A county clerk shall declare an optional plan as adopted by the voters if a majority of voters voting on the optional plan vote in favor of the optional plan.

Section 27. Section 17-52a-502, which is renumbered from Section 17-52-205 is renumbered and amended to read:

[17-52-205]. 17-52a-502. Voter information pamphlet.

(1) In anticipation of an election under Section ~~[17-52-206]~~ 17-52a-501, the county clerk may prepare a voter information pamphlet to inform the public of the proposed optional plan.

(2) In preparing a voter information pamphlet under this section, the county clerk may:

(a) allow proponents and opponents of the proposed optional plan to provide written statements to be included in the pamphlet; and

(b) use as a guideline the provisions of Title 20A, Chapter 7, Part 7, Voter Information Pamphlet.

(3) ~~[Each]~~ A county clerk ~~[preparing]~~ who prepares a voter information pamphlet under this section shall cause the publication and distribution of the pamphlet in a manner ~~[determined by]~~ that the county clerk ~~[to be]~~ determines is adequate.

Section 28. Section 17-52a-503, which is renumbered from Section 17-52-403 is renumbered and amended to read:

[17-52-403]. 17-52a-503. Adoption of optional plan -- Election of new county officers -- Effect of adoption.

(1) If a proposed optional plan is approved at an election held under Section ~~[17-52-206]~~ 17-52a-501:

(a) the elected county officers specified in the plan shall be elected at the next regular general election following the election under Section 17-52a-501, according to the procedure and schedule established under Title 20A, Election Code, for the election of county officers;

~~[(a)]~~ (b) the proposed optional plan:

(i) becomes effective according to ~~its~~ the optional plan's terms ~~and~~;

(ii) subject to Subsection ~~[17-52-401]~~ 17-52a-404(1)(c), at the time specified in ~~it~~ the optional plan, is a public record open to inspection by the public~~;~~; and

~~[(ii)]~~ (iii) is judicially noticeable by all courts;

~~[(b)]~~ (c) the county clerk shall, within 10 days of the canvass of the election, file with the lieutenant governor a copy of the optional plan, certified by the clerk to be a true and correct copy;

~~[(e)]~~ (d) all public officers and employees shall cooperate fully in making the transition between forms of county government; and

~~[(d)]~~ (e) the county legislative body may enact and enforce necessary ordinances to bring about an orderly transition to the new form of government, including any transfer of power, records, documents, properties, assets, funds, liabilities, or personnel that are consistent with the approved optional plan and necessary or convenient to place it into full effect.

(2) Adoption of an optional plan changing only the form of county government without adopting one of the structural forms under Chapter 35b, Part 3, Structural Forms of County Government, does not alter or affect the boundaries, organization, powers, duties, or functions of any:

(a) school district;

(b) justice court;

(c) local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) special service district under Title 17D, Chapter 1, Special Service District Act;

(e) city or town; or

(f) entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(3) After the adoption of an optional plan, the county remains vested with all powers and duties vested generally in counties by statute.

Section 29. Section 17-52a-504, which is renumbered from Section 17-52-404 is renumbered and amended to read:

[17-52-404]. 17-52a-504. Amendment of optional plan.

(1) Subject to Subsection (2), an optional plan, after going into effect following an election held under Section ~~[17-52-206]~~ 17-52a-501, may be

amended by an affirmative vote of two-thirds of the county legislative body.

(2) Notwithstanding Subsection (1), an amendment to an optional plan that is in effect may not take effect until ~~approved by~~ a majority of registered voters voting in a general or special election at which the amendment is proposed approve the amendment, if the amendment changes:

(a) the size or makeup of the legislative body, except for adjustments necessary due to decennial reapportionment;

(b) the distribution of powers between the executive and legislative branches of county government; or

(c) the status of the county executive or legislative body from full-time to part-time or vice versa.

Section 30. Section 17-52a-505, which is renumbered from Section 17-52-405 is renumbered and amended to read:

[17-52-405]. 17-52a-505. Repeal of optional plan.

(1) An optional plan ~~adopted~~ that the voters in an election adopt under this chapter may be repealed as provided in this section.

(2) Registered voters of a county that has adopted an optional plan may initiate the process of repealing an optional plan by filing a petition for the repeal of the optional plan.

(3) (a) ~~[A] Registered voters of a county may not file a petition to repeal an optional plan ~~may not be filed~~ sooner than four years or more than five years after the election of county officers under Section ~~[17-52-207]~~ 17-52a-503.~~

(b) (i) If the registered voters file a petition to repeal an optional plan under this section, the petition is certified, and the optional plan is not repealed at an election described in Subsection (8), the voters may not circulate or file a subsequent petition to repeal until at least four, and not more than five, years after the certification of the original petition.

(ii) If, after four years, the voters file a subsequent petition ~~as described in~~ under Subsection (3)(b)(i), the voters:

(A) may not circulate or file another petition to repeal until at least four, and not more than five, years after certification of the subsequent petition; and

(B) shall wait an additional four, and not more than five, years after the date of certification of the previous petition for each petition filed thereafter.

(4) ~~[Each] A~~ petition ~~under~~ described in Subsection (2) shall:

(a) be signed by registered voters residing in the county:

(i) equal in number to at least 15% of the total number of votes cast in each precinct described in Subsection (4)(a)(ii) for all candidates for president

of the United States at the most recent election ~~[for]~~ in which a president of the United States was elected; and

(ii) who represent at least 85% of the voting precincts located within the county;

(b) designate up to five of the petition signers as sponsors, ~~[one of whom shall be designated]~~ designating one petition signer as the contact sponsor, with the mailing address and telephone number of each; and

(c) be filed in the office of the clerk of the county in which the petition signers reside.

(5) Within 30 days after the filing of a petition under Subsection (2) or an amended petition under Subsection (6), the county clerk shall:

(a) determine whether the required number of voters have signed the petition or amended petition has been signed by the required number of registered voters; and

(b) (i) if ~~[se]~~ a sufficient number of voters have signed the petition, certify the petition or amended petition and deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or

(ii) if ~~[not]~~ a sufficient number of voters have not signed the petition, reject the petition or the amended petition and notify ~~[in writing]~~ the county legislative body and the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) If a county clerk rejects a petition or an amended petition under Subsection (5)(b)(ii), the petition may be amended or an amended petition may be further amended with additional signatures and refiled within 20 days of the date of rejection.

(7) ~~[(a)]~~ If a county clerk certifies a petition under Subsection (2) ~~[is certified]~~, the county legislative body shall ~~[within 60 days after petition certification adopt a resolution granting the petition and deciding to]~~ hold an election on the proposal to repeal the optional plan. ~~[(b) The county legislative body shall hold the election]~~ at the next regular general election ~~[date]~~ that is at least ~~[two months after the legislative body's decision]~~ 60 days after the day on which the county clerk certifies the petition.

(8) If, at an election held under Subsection (7) ~~[(b)]~~, a majority of voters voting on the proposal to repeal the optional plan vote in favor of repealing:

(a) the optional plan is repealed, effective January 1 of the year following the election of county officers under Subsection (8)(c);

(b) upon the effective date of the repeal under Subsection (8)(a), the form of government under which the county operates reverts to the form it had before the optional plan was adopted; and

(c) the county officers under the form of government to which the county reverts, who are different than the county officers under the repealed optional plan, shall be elected at the next

regular general election following the election under Subsection (7) ~~[(b)]~~.

Section 31. Section 17-53-101 is amended to read:

17-53-101. County officers enumerated.

(1) The elected officers of a county are:

(a) (i) in a county operating under a county commission or expanded county commission form of government, county commission members; or

(ii) in a county operating under one of the other forms of county government under Subsection ~~[17-52-402]~~ 17-52a-405(1)(a), county legislative body members and the county executive;

(b) a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder, a county attorney, a district attorney in a county which is part of a prosecution district, a county surveyor, and a county assessor; and

(c) any others provided by law.

(2) Notwithstanding Subsection (1), in counties having a taxable value of less than \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the duties of the office without extra compensation.

Section 32. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section ~~[17-52-101]~~ 17-52a-101, adopted for a county

executive-council form of county government as described in Section ~~[17-52-504]~~ 17-52a-203.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

- (i) act as the executive of the district;
- (ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and
- (iii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section ~~[17-52-101]~~ 17-52a-101, adopted for a county executive-council form of county government as described in Section ~~[17-52-504]~~ 17-52a-203.

(3) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (3)(b), a member of that municipality's governing body;

(ii) subject to Subsection (4), two members of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members shall be an odd number.

(b) A member described in Subsection (3)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the chair of the metro township.

(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).

(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).

(4) (a) The number of county council members may be increased or decreased to meet the membership requirements of Subsection (3)(a)(iii) but may not be less than one.

(b) The number of county council members described in Subsection (3)(a)(ii) does not include the county mayor.

(5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (3)(a)(i), within that member's municipality; and

(b) for each member described in Subsection (3)(a)(ii), within the unincorporated county, with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii).

(6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

(8) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 33. Section 17C-1-203 is amended to read:

17C-1-203. Agency board -- Quorum.

(1) The governing body of an agency is a board consisting of the current members of the community legislative body.

(2) A majority of board members constitutes a quorum for the transaction of agency business.

(3) A board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.

(4) (a) The mayor or the mayor's designee of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:

(i) serves as the executive director of an agency created by the municipality; and

(ii) exercises the agency's executive powers.

(b) The county executive or the county executive's designee of a county operating under a county executive-council form of government, as described in Section ~~[17-52-504]~~ 17-52a-203:

(i) serves as the executive director of an agency created by the county; and

(ii) exercises the agency's executive powers.

Section 34. Section 17D-2-203 is amended to read:

17D-2-203. Local building authority board of directors.

(1) Except as provided in Subsection (3), the members of the governing body of the creating local entity constitute the authority board of the local building authority created by the creating local entity.

(2) An authority board may be referred to as a board of trustees.

(3) (a) For a local building authority whose creating local entity is a county that operates under the county commission form of government under Section ~~[17-52-504]~~ 17-52a-201, two members of the authority board may appoint an elected officer of the county to serve temporarily as a member of the authority board if the other authority board member:

(i) is, as a member of the county commission, placed on paid administrative leave under Section 17-16-10.5;

(ii) is unable to serve due to a disability;

(iii) has a conflict of interest with respect to a matter before the authority board that disqualifies the authority board member or causes the member to abstain from participating in action on that matter; or

(iv) is unable for any other reason to serve temporarily on the authority board or to participate in a matter before the board.

(b) An elected county officer appointed to an authority board under Subsection (3)(a) may serve only until the condition under Subsection (3)(a)(i), (ii), (iii), or (iv) causing the need for the appointment is no longer present.

Section 35. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1;

(viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

(x) a vote on the creation of a study committee under Sections ~~[17-52-202 and 17-52-203.5]~~ 17-52a-302 and 17-52a-304;

(xi) a vote on a special property tax under Section 53A-16-110;

(xii) a vote on the incorporation of a city in accordance with Section 10-2a-210;

(xiii) a vote on the incorporation of a town in accordance with Section 10-2a-304; or

(xiv) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 36. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body,

the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not mean the offices of president and vice president of the United States, United States senators and representatives, members of the Utah Legislature, state constitutional officers, county attorneys, district attorneys, and judges.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (2).

(b) (i) To appoint an interim replacement, the county legislative body shall give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, within 30 days, submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person for the interim replacement appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (2)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison as an interim replacement to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed as interim replacement under this Subsection (2) shall hold office until their successor is elected and has qualified.

(3) (a) The requirements of this Subsection (3) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the person was elected but before April 10 of the next even-numbered year.

(b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection [~~17-52-501(6)~~ or ~~17-52-502~~] 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate for the vacant office or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, for the vacant office shall run in the regular general election.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75 days before the regular primary election.

(b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk shall notify the public and each registered political party that:

(A) the vacancy exists; and

(B) identifies the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(ii) An individual intending to become a candidate for a vacant office shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection [~~17-52-501(6)~~ or ~~17-52-502~~] 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk at least 60 days before the regular primary election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) (i) When the conditions established in Subsection (6)(a) are met, the county legislative body shall give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, within 30 days, submit the name of the person to fill the vacancy to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person to fill the vacancy appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint a person to fill the vacancy in accordance with Subsection (6)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed to fill the vacancy under this Subsection (6) shall hold office until their successor is elected and has qualified.

(7) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(8) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.

(9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 37. Section 20A-9-409 is amended to read:

20A-9-409. Primary election provisions relating to qualified political party.

(1) The fourth Tuesday of June of each even-numbered year is designated as a regular primary election day.

(2) (a) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and does not have a candidate qualify as a candidate for that office under Section 20A-9-408, may, but is not required to, participate in the primary election for that office.

(b) A qualified political party that has only one candidate qualify as a candidate for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407, may, but is not required to, participate in the primary election for that office.

(c) A qualified political party that nominates one or more candidates for an elective office under Section 20A-9-407 and has one or more candidates qualify as a candidate for that office under Section 20A-9-408 shall participate in the primary election for that office.

(d) A qualified political party that has two or more candidates qualify as candidates for an elective office under Section 20A-9-408 and does not nominate a candidate for that office under Section 20A-9-407 shall participate in the primary election for that office.

(3) Notwithstanding Subsection (2), in an opt-in county, as defined in Section ~~17-52-501 or Section 17-52-502~~ 17-52a-201 or 17-52a-202, a qualified political party shall participate in the primary election for a county commission office if:

(a) there is more than one:

(i) open position as defined in Section ~~17-52-501~~ 17-52a-201; or

(ii) midterm vacancy as defined in Section ~~17-52-501~~ 17-52a-201; and

(b) the number of candidates nominated under Section 20A-9-407 or qualified under Section 20A-9-408 for the respective open positions or midterm vacancies exceeds the number of respective open positions or midterm vacancies.

(4) (a) As used in this Subsection (4), a candidate is "unopposed" if:

(i) no individual other than the candidate receives a certification, from the appropriate filing officer, for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(ii) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification, from the

appropriate filing officer, for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(b) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall:

(i) provide to the county clerks:

(A) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications from the appropriate filing officer, along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(B) a list of unopposed candidates for elective office who have been nominated by a registered political party; and

(ii) instruct the county clerks to exclude unopposed candidates from the primary election ballot.

Section 38. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part [5] 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health created in Title 26, Chapter 1, Department of Health Organization.

(5) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(10) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(11) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 39. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section [17-52-504] 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in

accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds

the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

**“NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)**

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ _____ to \$ _____, which is \$ _____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ _____ to \$ _____, which is \$ _____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the

same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 40. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2020.

(2) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

(b) Subsection 17-27a-103(37) is repealed June 1, 2020.

(3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2020.

(4) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2020.

(5) Subsection 17-27a-302(1), the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2020.

(6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2020.

(7) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-401(6) is repealed June 1, 2020.

(8) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2020.

(c) Subsection (2)(a)(iii), the language that states “or the mountainous planning district” is repealed June 1, 2020.

(d) Subsection 17-27a-403(2)(c)(i), the language that states “or mountainous planning district” is repealed June 1, 2020.

(9) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.

(10) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.

(11) Subsection 17-27a-602(1)(b), the language that states “or, in the case of a mountainous planning district, the mountainous planning district” is repealed June 1, 2020.

(12) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.

(13) Subsection 17-27a-605(1), the language that states “or mountainous planning district land” is repealed June 1, 2020.

(14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2020.

(15) On June 1, 2020, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s understanding of the Legislature’s intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(16) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states “or under a provision described in Subsection 17-52a-104(2),” is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on the day immediately before the day on which this bill takes effect,” is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on the day immediately

before the day on which this bill takes effect and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on the day immediately before the day on which this bill takes effect,” is repealed.

(17) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

Section 41. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) “Adjudicative proceeding” means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) “Administrator” includes “executor” when the subject matter justifies the use.

(4) “Advisory board,” “advisory commission,” and “advisory council” mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) “Armed forces” means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(6) “County executive” means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section [17-52-504] 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section [17-52-505] 17-52a-204.

(7) “County legislative body” means:

(a) the county commission, in the county commission or expanded county commission form of

government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section [~~17-52-504~~] 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized by Section [~~17-52-505~~] 17-52a-204.

(8) "Depose" means to make a written statement made under oath or affirmation.

(9) "Executor" includes "administrator" when the subject matter justifies the use.

(10) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

(11) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(12) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(13) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

(14) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(15) "Month" means a calendar month, unless otherwise expressed.

(16) "Oath" includes "affirmation."

(17) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

(18) "Personal property" includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

(g) a right or interest in an item described in Subsections (18)(a) through (f).

(19) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections (19)(a) through (d) under the law governing the person's status.

(20) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(21) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

(22) "Process" means a writ or summons issued in the course of a judicial proceeding.

(23) "Property" includes both real and personal property.

(24) “Real estate” or “real property” includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

(25) “Review board,” “review commission,” and “review council” mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(26) “Road” includes:

- (a) a public bridge;
- (b) a county way;
- (c) a county road;
- (d) a common road; and
- (e) a state road.

(27) “Signature” includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(28) “State,” when applied to the different parts of the United States, includes a state, district, or territory of the United States.

(29) “Swear” includes “affirm.”

(30) “Testify” means to make an oral statement under oath or affirmation.

(31) “Uniformed services” means:

- (a) the armed forces;
- (b) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(c) the commissioned corps of the United States Public Health Service.

(32) “United States” includes each state, district, and territory of the United States of America.

(33) “Utah Code” means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection (33)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

(34) “Vessel,” when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

(35) (a) “Veteran” means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

(36) “Will” includes a codicil.

(37) “Writ” means an order or precept in writing, issued in the name of:

- (a) the state;
- (b) a court; or
- (c) a judicial officer.

(38) “Writing” includes:

- (a) printing;
- (b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 42. Repealer.

This bill repeals:

Section 17-52-207, Election of officers under optional plan.

Section 43. Effective date.

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

Section 44. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the following references:

(1) in Section 17-52a-104, from “the effective date of this bill” to the bill’s actual effective date;

(2) in Subsection 17-52a-104(1)(a), from “this bill” to the bill’s designated chapter number in the Laws of Utah; and

(3) in Subsections 17-52a-104(1)(b)(i), (2)(a)(i), and (2)(a)(ii), 17-52a-501(1) and (3)(a), and 63I-2-217(16)(d) and (e) from “the day immediately before the day on which this bill takes effect” to the actual date before the day that the bill takes effect.

CHAPTER 69**H. B. 234**

Passed February 26, 2018

Approved March 15, 2018

Effective May 8, 2018

COMPULSORY EDUCATION REVISIONS

Chief Sponsor: Jefferson Moss

Senate Sponsor: Howard A. Stephenson

Cosponsors: Steve Eliason

Justin L. Fawson

Michael S. Kennedy

Val K. Potter

LONG TITLE**General Description:**

This bill amends the definition of "valid excuse" in the compulsory education code.

Highlighted Provisions:

This bill:

- ▶ amends a definition to specify that "valid excuse" means a physical or mental illness.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-6-201, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-6-201 is amended to read:**53G-6-201. Definitions.**

For purposes of this part:

(1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a school-age minor assigned to a class or class period to attend the entire class or class period.

(b) A school-age minor may not be considered absent under this part more than one time during one day.

(2) "Habitual truant" means a school-age minor who:

(a) is at least 12 years old;

(b) is subject to the requirements of Section 53G-6-202; and

(c) (i) is truant at least 10 times during one school year; or

(ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53G-6-206.

(3) "Minor" means a person under the age of 18 years.

(4) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (4)(a) or (b).

(5) "School-age minor" means a minor who:

(a) is at least six years old, but younger than 18 years old; and

(b) is not emancipated.

(6) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor:

(a) is enrolled; or

(b) should be enrolled, if the school-age minor is not enrolled in school.

(7) "Truant" means absent without a valid excuse.

(8) "Truant minor" means a school-age minor who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

(9) "Valid excuse" means:

(a) an illness, which may be either mental or physical;

(b) a family death;

(c) an approved school activity;

(d) an absence permitted by a school-age minor's:

(i) individualized education program, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended; or

(ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended; or

(e) any other excuse established as valid by a local school board, local charter board, or school district.

CHAPTER 70**H. B. 236**

Passed February 23, 2018

Approved March 15, 2018

Effective May 8, 2018

**PUBLIC EDUCATION
REFERENCE CHECK AMENDMENTS**Chief Sponsor: Jefferson Moss
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill modifies provisions regarding public education system reference checks for certain unsupervised volunteers and job applicants.

Highlighted Provisions:

This bill:

- ▶ requires a local education agency to make reference check requests under certain circumstances; and
- ▶ requires a local education agency to respond to certain reference check requests within 20 business days.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-11-410, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-11-410 is amended to read:**53G-11-410. Reference check requirements for LEA applicants and volunteers.**

- (1) As used in this section:
- (a) "Child" means an individual who is younger than 18 years old.
- (b) "LEA applicant" means an applicant for employment by an LEA.
- (c) "Physical abuse" means the same as that term is defined in Section 78A-6-105.
- (d) "Potential volunteer" means an individual who:
- (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and
 - (ii) during the last three years, has worked in a qualifying position.
- (e) "Qualifying position" means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.
- (f) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.
- (g) "Student" means an individual who:

(i) is enrolled in an LEA in any grade from preschool through grade 12; or

(ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.

(2) (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:

(i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer's previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;

(ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;

(iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and

(iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).

(b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).

(c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).

(d) An LEA shall ~~use the LEA's best efforts to~~ request information under Subsection (2)(a)(ii) or (iii) before:

- (i) hiring an LEA applicant; or
- (ii) giving an unsupervised volunteer assignment to a potential volunteer.

(e) In accordance with state and federal law, an LEA may request from an LEA applicant or potential volunteer other information the LEA determines is relevant.

(3) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall ~~use the LEA's best efforts to~~ respond to the request within 20 business days after the day on which the LEA received the request.

(b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the

LEA or other employer is immune from civil and criminal liability for the disclosure.

CHAPTER 71**H. B. 265**

Passed March 6, 2018
 Approved March 15, 2018
 Effective May 8, 2018

BODY CAMERA AMENDMENTS

Chief Sponsor: Daniel McCay
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends the Utah Criminal Code regarding the retention of recordings made by law enforcement officers wearing a body-worn camera.

Highlighted Provisions:

This bill:

- ▶ provides that recordings made by law enforcement officers while wearing a body-worn camera may not be retained by a private entity if the private entity has authority to withhold the recording or prevent access or disclosure of the recording; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7a-107, as last amended by Laws of Utah 2017, Chapter 294

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

Section 1. Section 77-7a-107 is amended to read:**77-7a-107. Retention and release of recordings.**

(1) (a) Any recording made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer shall be retained in accordance with applicable federal, state, and local laws.

(b) Any recording made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer may not be retained, electronically or otherwise, by a private entity if the private entity has any authority to:

- (i) withhold the recording; or
- (ii) prevent the political subdivision from accessing or disclosing the recording.

(c) (i) Notwithstanding Subsection (1)(b), a political subdivision may continue to retain a recording in a manner prohibited under Subsection (1)(b) if the political subdivision is under contract with a private entity on May 7, 2018, and the contract includes terms prohibited by Subsection (1)(b).

(ii) A political subdivision may not renew a contract described in Subsection (1)(c)(i).

(d) This Subsection (1) does not prohibit a political subdivision from using a private entity's retention or redaction service if the private entity does not have authority to:

- (i) withhold the recording; or
- (ii) prevent the political subdivision from accessing or disclosing the recording.

(2) (a) Any release of recordings made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer shall be subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding any other provision in state or local law, a person who requests access to the recordings may immediately appeal to a district court, as provided in Section 63G-2-404, any denial of access to a recording based solely on Subsection 63G-2-305(10)(b) or (c) due to a pending criminal action that has been filed in a court of competent jurisdiction.

CHAPTER 72**H. B. 266**

Passed March 8, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**LIMITED ACCESS
 HIGHWAY AMENDMENTS**

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill amends provisions related to access to public highways.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides circumstances under which a highway authority may not close a legal point of access to a public highway; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-7-103, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

Section 1. Section 72-7-103 is amended to read:

72-7-103. Limitation on access authority.

(1) As used in this section:

(a) "Highway facility" means:

- (i) SR-7 as described in Section 72-4-106;
- (ii) SR-67 as described in Section 72-4-112;
- (iii) SR-85 as described in Section 72-4-114;
- (iv) SR-154 as described in Section 72-4-121; or
- (v) SR-201 as described in Section 72-4-126.

(b) "Legal point of access" means an access established in accordance with applicable law:

- (i) before July 1, 2003;
- (ii) by permit issued by the highway authority; or
- (iii) by a deed or court order.

(2) A highway authority may not deny reasonable ingress and egress to property adjoining a public highway except where:

[4] (a) the highway authority acquires right of ingress and egress by gift, agreement, purchase, eminent domain, or otherwise; or

[2] (b) no right of ingress or egress exists between the right-of-way and the adjoining property.

(3) For a property adjoining a public highway that is not an interstate system or a highway facility, a highway authority may not close a legal point of access to the public highway, unless:

(a) the property has reasonably equivalent access to the public highway after the legal access is closed; or

(b) the highway authority acquires the legal point of access by gift, agreement, purchase, or eminent domain.

CHAPTER 73**H. B. 270**

Passed February 27, 2018

Approved March 15, 2018

Effective May 8, 2018

TEACHER EMPLOYMENT AMENDMENTS

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill enacts provisions related to a public education database for teacher credentials.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires the State Board of Education to ensure that a public education database for teacher credentials performs in a certain manner.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53E-3-516, Utah Code Annotated 1953

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

Section 1. Section 53E-3-516 is enacted to read:**53E-3-516. Educator credential database.**

(1) As used in this section:

- (a) “Board” means the State Board of Education.
- (b) “Educator” means the same as that term is defined in Section 53E-6-102.
- (c) “Educator credential database” means a database used by the board that:
 - (i) contains educator credential information and LEA information; and
 - (ii) is used by the board to determine funding distribution.
- (d) “Local education agency” or “LEA” means:
 - (i) a charter school;
 - (ii) a school district; or
 - (iii) the Utah Schools for the Deaf and the Blind.
- (2) Before July 1, 2020, the board shall ensure that a technical limitation of the educator credential database does not prevent an educator from accepting employment at more than one LEA.

CHAPTER 74**H. B. 308**

Passed March 6, 2018
 Approved March 15, 2018
 Effective May 8, 2018

TELEHEALTH MENTAL HEALTH PILOT PROGRAM

Chief Sponsor: Ken Ivory
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill creates a telehealth mental health pilot project grant program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Division of Substance Abuse and Mental Health to create a telehealth mental health pilot project grant program;
- ▶ creates a reporting requirement; and
- ▶ repeals the provisions of this bill on December 31, 2021.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Human Services - Division of Substance Abuse and Mental Health, as a one-time appropriation:
 - from the General Fund, One-time, \$590,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-262, as last amended by Laws of Utah 2017, Chapter 459

ENACTS:

62A-15-114, Utah Code Annotated 1953

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

Section 1. Section 62A-15-114 is enacted to read:**62A-15-114. Telehealth Mental Health Pilot Program.**

(1) As used in this section:

(a) "Grant" means a grant awarded by the division under this section to a person to develop and implement a project.

(b) "Project" means a telehealth mental health pilot project for which the division awards a grant.

(c) "Public school" means:

- (i) a school district;
- (ii) a school under the control of a school district;
- (iii) a charter school; or
- (iv) the Utah Schools for the Deaf and the Blind.

(d) "Telehealth mental health services" means mental health services provided remotely through the use of telecommunications technology.

(e) "Utah State Hospital" means the Utah State Hospital established in Section 62A-15-601.

(2) (a) On or before July 1, 2018, the division shall issue a project proposal request in accordance with this section to award a grant to:

(i) one or more local authorities to develop and implement one or more projects in one or more public schools in the state; or

(ii) the Utah State Hospital.

(b) An application for a project described in Subsection (2)(a) shall be submitted jointly by:

(i) a public school or the Utah State Hospital; and

(ii) a provider of telehealth mental health services.

(c) The division shall award all grants under this section before December 31, 2018.

(d) A project shall run for two years.

(3) The purpose of the telehealth mental health pilot program is to:

(a) determine how telehealth mental health services can best be used in the state to:

(i) increase access to mental health services by public school students;

(ii) increase the timeliness and effectiveness of mental health crisis intervention services for public school students;

(iii) reduce the cost associated with providing mental health services to public school students; and

(iv) increase access to mental health services by public school students in underserved areas of the state;

(b) identify best practices for providing telehealth mental health services to public school students in the state; and

(c) identify the best methods of using telecommunications technology to provide mental health services to public school students remotely.

(4) Persons who apply for a grant under this section shall:

(a) identify the population to which the proposed project will provide telehealth mental health services;

(b) explain how the population described in Subsection (4)(a):

(i) is currently underserved; and

(ii) will benefit from the provision of telehealth mental health services;

(c) provide details regarding:

(i) how the proposed project will provide the telehealth mental health services;

(ii) the projected costs of providing the telehealth mental health services;

(iii) the sustainability of the proposed project; and

(iv) the methods that the proposed project will use to:

(A) protect the privacy of students and patients;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(d) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (5).

(5) In evaluating a proposal for a grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (3);

(b) the extent to which the population that will be served by the proposed project is:

(i) currently underserved; and

(ii) likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the viability and innovation of the proposed project; and

(e) the extent to which the proposed project will yield useful data to evaluate the effectiveness of the proposed project.

(6) (a) Within six months after the day on which the division awards a grant, the division shall report to the Health and Human Services Interim Committee regarding:

(i) each person who received a grant; and

(ii) the details of each project.

(b) Within six months after the day on which a project concludes, the division shall report to the Health and Human Services Interim Committee regarding:

(i) the success of each project;

(ii) data gathered in relation to each project;

(iii) knowledge gained from each project relating to the provision of telehealth mental health services;

(iv) proposals for the future use of telehealth mental health services in the state;

(v) obstacles encountered in the provision of telehealth mental health services; and

(vi) changes needed in the law to overcome obstacles to providing telehealth mental health services.

**Section 2. Section 63I-1-262 is amended to read:
63I-1-262. Repeal dates, Title 62A.**

~~[(1) Section 62A-4a-213 is repealed July 1, 2019.]~~

~~[(2) Section 62A-4a-202.9 is repealed December 31, 2019.]~~

(1) Section 62A-4a-202.9 is repealed December 31, 2019.

(2) Section 62A-4a-213 is repealed July 1, 2019.

(3) Section 62A-15-114 is repealed December 31, 2021.

~~[(3)] (4) Subsection 62A-15-1101(5) is repealed July 1, 2018.~~

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services -- Division of Substance Abuse and Mental Health

<u>From General Fund, One-time</u>	<u>\$590,000</u>
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Schedule of Programs:

<u>Community Mental Health Services</u>	<u>\$590,000</u>
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The Legislature intends that:

(1) the Division of Substance Abuse and Mental Health expend appropriations provided under this item for the Telehealth Mental Health Pilot Program described in Section 62A-15-114;

(2) the Division of Substance Abuse and Mental Health expend the appropriations provided under this item in fiscal years 2019 and 2020, in an amount not to exceed \$310,000 in fiscal year 2019, and the remainder in fiscal year 2020; and

(3) under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2019.

CHAPTER 75**H. B. 317**

Passed March 6, 2018

Approved March 15, 2018

Effective May 8, 2018

SPECIAL EDUCATION AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill amends provisions related to services for students with disabilities.

Highlighted Provisions:

This bill:

- ▶ amends a provision related to the State Board of Education's responsibility for the education of certain individuals;
- ▶ amends a provision related to the ages for free, appropriate public education for students with disabilities;
- ▶ amends the definition of "blind student";
- ▶ repeals provisions related to the appointment and duties of a state director of special education; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-3-503, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-202, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-204, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-301, as renumbered and amended by Laws of Utah 2018, Chapter 1

REPEALS:

53E-7-203, as renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-3-503 is amended to read:

53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.

(1) For purposes of this section, "board" means the State Board of Education.

(2) (a) The board is directly responsible for the education of all [persons under the age of 21 who are:] individuals who are:

- (i) (A) younger than 21 years old; or

(B) students with disabilities entitled to a free, appropriate public education as described in Section 53E-7-202; and

(4) (ii) (A) receiving services from the Department of Human Services;

(4) (ii) (B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(4) (iii) (C) being held in a juvenile detention facility.

(b) The board shall ~~adopt~~ make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of [persons] individuals described in Subsection (2)(a).

(3) Subsection [(2)(a)(ii)] (2)(a)(ii)(B) does not apply to [persons] an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(4) The board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the board shall retain responsibility for the programs.

(5) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;

(b) the Division of Substance Abuse and Mental Health; and

(c) the Division of Services for People with Disabilities.

(6) (a) The Department of Human Services and the ~~[State Board of Education]~~ board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The ~~[department]~~ Department of Human Services and the board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

(7) A school district contracting to provide services under Subsection (4) shall establish an advisory council to plan, coordinate, and review education and treatment programs for [persons] individuals held in custody in the district.

Section 2. Section 53E-7-202 is amended to read:

53E-7-202. Education programs for students with disabilities -- Supervision

by the State Board of Education -- Enforcement.

(1) (a) All students with disabilities, who are ~~[between the ages of three and 22]~~ 3 years old or older but younger than 22 years old and have not graduated from high school with a regular diploma, are entitled to a free, appropriate public education.

(b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the school year, the entitlement extends to the ~~[the]~~ end of the school year.

~~[(i) beginning of the school's winter holiday for those who turn 22 on or after the beginning of the school year and before December 31; and]~~

~~[(ii) end of the school year for those who turn 22 after December 31 and before the end of the school year.]~~

(c) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall adopt rules consistent with applicable state and federal law to implement this part.

(2) The rules adopted by the ~~[state board]~~ State Board of Education shall include the following:

(a) appropriate and timely identification of students with disabilities;

(b) diagnosis, evaluation, and classification by qualified personnel;

(c) standards for classes and services;

(d) provision for multidistrict programs;

(e) provision for delivery of service responsibilities;

(f) certification and qualifications for instructional staff; and

(g) services for dual enrollment students attending public school on a part-time basis under Section 53G-6-702.

(3) (a) The ~~[state board]~~ State Board of Education shall have general control and supervision over all educational programs for students within the state who have disabilities.

(b) Those programs must comply with rules adopted by the ~~[state board]~~ State Board of Education under this section.

(4) The state superintendent of public instruction shall enforce this part.

Section 3. Section 53E-7-204 is amended to read:

53E-7-204. School district responsibility -- Reimbursement of costs -- Other programs.

(1) (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.

(b) The program shall include necessary special facilities, instruction, and education-related services.

(c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this part in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under Title 53F, Chapter 2, State Funding -- Minimum School Program, and other applicable laws.

(3) (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are:

(i) younger than ~~[three]~~ 3 years old; or

(ii) older than 22 ~~[consistent with]~~ years old as described in Subsection 53E-7-202(1).

(b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

Section 4. Section 53E-7-301 is amended to read:

53E-7-301. Definitions.

As used in this part:

(1) "Blind student" means an individual ~~[between ages three through 21 who is]~~, who is 3 years old or older but younger than 22 years old and eligible for special education services, ~~[and]~~ who:

(a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no greater than 20 degrees;

(b) has a medically indicated expectation of visual deterioration; or

(c) has functional blindness.

(2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.

(3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.

(4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Section 1414(d).

Section 5. Repealer.

This bill repeals:

Section 53E-7-203, State director of special education -- Qualifications -- Duties.

CHAPTER 76**H. B. 360**

Passed March 1, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**STATE BOARD OF EDUCATION
 FINANCE AMENDMENTS**

Chief Sponsor: Jefferson Moss
 Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill amends provisions related to State Board of Education finance.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ exempts the State Board of Education from certain state budgetary requirements under certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-601, as last amended by Laws of Utah 2016, Chapter 271

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

Section 1. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year --

Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.

(1) As used in this section[, "~~transaction~~"]:

(a) "Education grant subrecipient" means a nonfederal entity that:

(i) receives a subaward from the State Board of Education to carry out at least part of a federal or state grant program; and

(ii) does not include an individual who is a beneficiary of the federal or state grant program.

(b) "Transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

- (i) enterprise funds;
- (ii) internal service funds;
- (iii) trust and agency funds;
- (iv) capital projects funds;
- (v) discrete component unit funds;
- (vi) debt service funds; and
- (vii) permanent funds;

(b) those revenue collections, appropriations from a fund or account, or appropriations to a program that are designated as nonlapsing under Sections 63J-1-602.1 through 63J-1-602.5;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of Parks and Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A, Chapter 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) (a) For purposes of this chapter, a reimbursement request received from an education grant subrecipient:

(i) is not a liability or expense to the state for budgetary purposes, unless the State Board of Education receives the claim within the time periods described in Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the State Board of Education records on a claim invoice is the date of receipt.

[~~6~~] (7) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

CHAPTER 77**H. B. 366**

Passed March 8, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**SUBSTANCE USE DISORDER
TREATMENT AMENDMENTS**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions regarding treatment for substance use disorder.

Highlighted Provisions:

This bill:

- ▶ defines “emergency, life saving treatment”;
- ▶ clarifies and requires a binding commitment to pay, rather than a “financial guarantee,” when an individual seeks an order for essential treatment and intervention;
- ▶ allows the documentation of certain emergency, life saving treatment to qualify to reduce the number of essential treatment examinations that a court shall require;
- ▶ establishes procedures to follow when an individual fails to comply with a court order related to a petition for essential treatment and intervention;
- ▶ allows a court to designate an individual to be a personal representative, under specified conditions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-15-1202, as enacted by Laws of Utah 2017, Chapter 408
 62A-15-1203, as enacted by Laws of Utah 2017, Chapter 408
 62A-15-1205, as enacted by Laws of Utah 2017, Chapter 408
 62A-15-1207, as enacted by Laws of Utah 2017, Chapter 408

ENACTS:

- 62A-15-1205.5, Utah Code Annotated 1953
 62A-15-1207.5, Utah Code Annotated 1953

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

Section 1. Section 62A-15-1202 is amended to read:**62A-15-1202. Definitions.**

As used in this part:

(1) “Emergency, life saving treatment” means treatment that is:

(a) provided at a licensed health care facility or licensed human services program;

(b) provided by a licensed health care professional;

(c) necessary to save the life of the patient; and

(d) required due to the patient’s:

(i) use of an illegal substance; or

(ii) excessive use or misuse of a prescribed medication.

(4) (2) “Essential treatment examiner” means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specifically qualified by training or experience in the diagnosis of substance use disorder; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years’ continual experience in the treatment of substance use disorder.

(2) (3) “Relative” means an adult who is a spouse, parent, stepparent, grandparent, child, or sibling of an individual.

(3) (4) “Serious harm” means the individual, due to substance use disorder, is at serious risk of:

(a) drug overdose;

(b) suicide;

(c) serious bodily self-injury;

(d) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter; or

(e) causing or attempting to cause serious bodily injury to another individual.

(4) (5) “Substance use disorder” means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Section 2. Section 62A-15-1203 is amended to read:**62A-15-1203. Petition for essential treatment -- Contents -- Commitment to pay.**

(1) A relative seeking essential treatment and intervention for a sufferer of a substance use disorder may file a petition with the district court of the county in which the sufferer of the substance use disorder resides or is found.

(2) The petition shall include:

(a) the respondent’s:

(i) legal name;

(ii) date of birth, if known;

(iii) social security number, if known; and

(iv) residence and current location, if known;

(b) the petitioner’s relationship to the respondent;

(c) the name and residence of the respondent's legal guardian, if any and if known;

(d) a statement that the respondent:

(i) is suffering from a substance use disorder; and
 (ii) if not treated for the substance use disorder presents a serious harm to self or others;

(e) the factual basis for the statement described in Subsection (4)(d); and

(f) at least one specified local substance abuse authority or approved treatment facility or program where the respondent may receive essential treatment.

(3) Any petition filed under this section:

(a) may be accompanied by proof of health insurance to provide for the respondent's essential treatment; ~~and~~

(b) shall be accompanied by a ~~financial guarantee~~ binding commitment to pay, signed by the petitioner or another individual, obligating the petitioner or other individual to pay all treatment costs beyond those covered by the respondent's health insurance policy for court-ordered essential treatment for the respondent~~[-]~~; and

(c) may be accompanied by documentation of emergency, life saving treatment provided to the respondent.

(4) Nothing in this section alters the contractual relationship between a health insurer and an insured individual.

Section 3. Section 62A-15-1205 is amended to read:

62A-15-1205. Proceeding for essential treatment -- Duties of court -- Disposition.

(1) A district court shall review the assertions contained in the verified petition described in Section 62A-15-1203.

(2) If the court determines that the assertions, if true, are sufficient to order the respondent to undergo essential treatment, the court shall:

(a) set an expedited date for a time-sensitive hearing to determine whether the court should order the respondent to undergo essential treatment for a substance use disorder;

(b) provide notice of:

(i) the contents of the petition, including all assertions made;

(ii) a copy of any order for detention or examination;

(iii) the date of the hearing;

(iv) the purpose of the hearing;

(v) the right of the respondent to be represented by legal counsel; and

(vi) the right of the respondent to request a preliminary hearing before submitting to an order for examination;

(c) provide notice to:

(i) the respondent;

(ii) the respondent's guardian, if any; and

(iii) the petitioner; and

(d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be examined before the hearing date:

(i) by two essential treatment examiners~~[-]~~; or

(ii) by one essential treatment examiner, if documentation before the court demonstrates that the respondent received emergency, life saving treatment:

(A) within 30 days before the day on which the petition for essential treatment and intervention was filed; or

(B) during the pendency of the petition for essential treatment and intervention.

(3) ~~[The]~~ An essential treatment ~~[examiners]~~ examiner shall examine the respondent to determine:

(a) whether the respondent meets each of the criteria described in Section 62A-15-1204;

(b) the severity of the respondent's substance use disorder, if any;

(c) what forms of treatment would substantially benefit the respondent, if the examiner determines that the respondent has a substance use disorder; and

(d) the appropriate duration for essential treatment, if essential treatment is recommended.

(4) An essential treatment examiner shall certify the examiner's findings to the court within 24 hours after completion of the examination.

(5) The court may, based upon the findings of ~~[the]~~ an essential treatment ~~[examiners]~~ examiner, terminate the proceedings and dismiss the petition.

(6) The parties may, at any time, make a binding stipulation to an essential treatment plan and submit that plan to the court for court order.

(7) At the hearing, the petitioner and the respondent may testify and may cross-examine witnesses.

(8) If, upon completion of the hearing, the court finds that the criteria in Section 62A-15-1204 are met, the court shall order essential treatment for an initial period that:

(a) does not exceed 360 days, subject to periodic review as provided in Section 62A-15-1206; and

(b) (i) is recommended by an essential treatment examiner; or

(ii) is otherwise agreed to at the hearing.

(9) The court shall designate the facility for the essential treatment, as:

- (a) described in the petition;
- (b) recommended by an essential treatment examiner; or
- (c) agreed to at the hearing.

(10) The court shall issue an order that includes the court's findings and the reasons for the court's determination.

(11) The court may order the petitioner to be the respondent's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

Section 4. Section 62A-15-1205.5 is enacted to read:

62A-15-1205.5. Failure to comply with court order.

(1) The provisions of this section apply after a respondent has been afforded full due process rights, as provided in this Essential Treatment and Intervention Act, including notice, an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that the evidence meets the clear and convincing standard, as described in Section 62A-15-1204, for a court to order essential treatment and intervention.

(2) When a respondent fails to comply with a court order issued under Subsection 62A-15-1205(2)(d) or (10), the court may:

- (a) find the respondent in contempt under Subsection 78B-6-301(5); and
- (b) issue a warrant of commitment under Section 78B-6-312.

(3) When a peace officer executes a warrant issued under this section, the officer shall take the respondent into protective custody and transport the respondent to the location specified by the court.

(4) Notwithstanding Subsection (3), if a peace officer determines through the peace officer's experience and training that taking the respondent into protective custody or transporting the respondent would increase the risk of substantial danger to the respondent or others, a peace officer may exercise discretion to not take the respondent into custody or transport the respondent, as permitted by policies and procedures established by the peace officer's law enforcement agency and any applicable federal or state statute, or case law.

Section 5. Section 62A-15-1207 is amended to read:

62A-15-1207. Seventy-two-hour emergency treatment pending a final court order.

(1) A court may order a respondent to be hospitalized for up to 72 hours if:

(a) an essential treatment examiner has examined the respondent and certified that the respondent meets the criteria described in Section 62A-15-1204; and

(b) the court finds by clear and convincing evidence that the respondent presents an imminent

threat of serious harm to self or others as a result of a substance use disorder.

(2) An individual who is admitted to a hospital under this section shall be released from the hospital within 72 hours after admittance, unless a treating physician or essential treatment examiner determines that the individual continues to pose an imminent threat of serious harm to self or others.

(3) If a treating physician or essential treatment examiner makes the determination described in Subsection (2), the individual may be detained for as long as the threat of serious harm remains imminent, but not more than 10 days after the day on which the individual was hospitalized, unless a court orders otherwise.

(4) A treating physician or an essential treatment examiner shall, as frequently as practicable, examine an individual hospitalized under this section and release the individual if ~~[the examination determines]~~ it is determined that a threat of imminent serious harm no longer exists.

Section 6. Section 62A-15-1207.5 is enacted to read:

62A-15-1207.5. Emergency, life saving treatment -- Temporary personal representative.

(1) When an individual receives emergency, life saving treatment:

(a) a licensed health care professional, at the health care facility where the emergency, life saving treatment is provided, may ask the individual who, if anyone, may be contacted and informed regarding the individual's treatment;

(b) a treating physician may hold the individual in the health care facility for up to 48 hours, if the treating physician determines that the individual poses a serious harm to self or others; and

(c) a relative of the individual may petition a court to be designated as the individual's personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the individual's medical and mental health care related to a substance use disorder.

(2) The petition described in Subsection (1)(c) shall include:

(a) the respondent's:

- (i) legal name;
- (ii) date of birth, if known;
- (iii) social security number, if known; and
- (iv) residence and current location, if known;

(b) the petitioner's relationship to the respondent;

(c) the name and residence of the respondent's legal guardian, if any and if known;

(d) a statement that the respondent:

- (i) is suffering from a substance use disorder; and
- (ii) has received, within the last 72 hours, emergency, life saving treatment;

(e) the factual basis for the statement described in Subsection (2)(d); and

(f) the name of any other individual, if any, who may be designated as the respondent's personal representative.

(3) A court shall grant a petition for designation as a personal representative, ex parte, if it appears from the petition for designation as a court-designated personal representative that:

(a) the respondent is suffering from a substance use disorder;

(b) the respondent received emergency, life saving treatment within 10 days before the day on which the petition for designation as a personal representative is filed;

(c) the petitioner is a relative of the respondent; and

(d) no other individual is otherwise designated as the respondent's personal representative.

(4) When a court grants, ex parte, a petition for designation as a personal representative, the court:

(a) shall provide notice to the respondent;

(b) shall order the petitioner to be the respondent's personal representative for 10 days after the day on which the court designates the petitioner as the respondent's personal representative; and

(c) may extend the duration of the order:

(i) for good cause shown, after the respondent has been notified and given a proper and sufficient opportunity to respond; or

(ii) if the respondent consents to an extension.

CHAPTER 78**H. B. 435**

Passed March 8, 2018
 Approved March 15, 2018
 Effective May 8, 2018

MEDICAID DENTAL BENEFITS

Chief Sponsor: Steve Eliason
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill addresses dental benefits in the Medicaid program.

Highlighted Provisions:

This bill:

- ▶ provides dental benefits to certain adults in the Medicaid program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-413, as last amended by Laws of Utah 2017, Chapter 233

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

Section 1. Section 26-18-413 is amended to read:**26-18-413. Medicaid waiver for delivery of adult dental services.**

(1) (a) ~~[No later than]~~ Before June 30, 2016, the department shall ask the United States Secretary of Health and Human Services to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2).

(b) Before June 30, 2018, the department shall submit to the Centers for Medicare and Medicaid Services a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b) through (g), to an individual described in Subsection (2)(b).

(2) (a) To the extent funded, ~~[services shall be provided]~~ the department shall provide services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years ~~[of age]~~ old or older and eligible for the program.

(b) Notwithstanding Subsection (2)(a), if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

(i) qualifies for the health coverage improvement program described in Section 26-18-411; and

(ii) is receiving treatment in a substance abuse treatment program, as defined in Section

62A-2-101, licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

~~[(b)]~~ (c) To the extent possible, services to individuals described in Subsection (2)(a) within Salt Lake County shall be provided through the University of Utah School of Dentistry.

(d) The department shall provide the services to individuals described in Subsection (2)(b):

(i) by contracting with an entity that:

(A) has demonstrated experience working with individuals who are being treated for both a substance use disorder and a major oral health disease;

(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);

(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and

(D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)(b) and administering the program described in Subsection (2)(b); and

(ii) through a fee-for-service payment model.

(e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).

~~[(e)]~~ (f) Each fiscal year, the University of Utah School of Dentistry shall transfer money to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.

~~[(d)]~~ (g) During each general session of the Legislature, the department shall report to the Social Services Appropriations Subcommittee whether the University of Utah School of Dentistry will have sufficient funds to make the transfer required by Subsection (2)~~[(e)]~~(f) for the current fiscal year.

~~[(e)]~~ (h) Where possible, the department shall ensure that services that are not provided by the University of Utah School of Dentistry ~~[shall be]~~ are provided:

(i) through fee for service reimbursement until July 1, 2018; and

(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.

~~[(f)]~~ (i) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.

(3) The reporting requirements of Section 26-18-3 apply to the waivers requested under Subsection (1).

(4) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than July 1, 2017.

(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.

(5) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section [~~indefinitely~~] no later than the end of the current fiscal year.

CHAPTER 79**H. B. 437**

Passed March 7, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**CAREER AND TECHNICAL
 EDUCATION SCHOLARSHIPS**

Chief Sponsor: Keith Grover
 Senate Sponsor: Evan J. Vickers
 Cosponsor: Derrin R. Owens

LONG TITLE**General Description:**

This bill creates a scholarship for individuals who meet certain conditions to attend a technical college.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a scholarship to fund attendance at a technical college for individuals who meet certain conditions;
- ▶ enacts provisions related to a technical college scholarship, including provisions related to:
 - eligibility for a scholarship;
 - the amount of a scholarship; and
 - the duration of a scholarship, including the circumstances under which a technical college may cancel a scholarship or grant a deferral to a scholarship recipient; and
- ▶ requires the Utah System of Technical Colleges Board of Trustees to make rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-2a-116, Utah Code Annotated 1953

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

Section 1. Section 53B-2a-116 is enacted to read:**53B-2a-116. Technical college scholarships.**

(1) As used in this section:

(a) “High demand program” means a program that:

(i) prepares an individual to work in a targeted job; and

(ii) is offered by a technical college.

(b) “Institution of higher education” means an institution within the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(c) “Membership hour” means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

(d) “Scholarship” means a technical college scholarship described in this section.

(e) “Targeted job” means the same as that term is defined in Section 53B-7-702.

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the board of trustees to be distributed to technical colleges to award scholarships.

(b) The board of trustees shall annually distribute:

(i) 50% of the appropriation described in Subsection (2)(a) to each technical college in an equal amount; and

(ii) 50% of the appropriation described in Subsection (2)(a) to each technical college based on the technical college’s prior year share of secondary student membership hours completed at all technical colleges.

(3) In accordance with the rules described in Subsection (6), a technical college may award a scholarship to an individual who:

(a) graduates or will graduate from high school within the seven months prior to the individual receiving a scholarship;

(b) is enrolled in, or intends to enroll in, a high demand program; and

(c) while the individual is enrolled in a secondary school, makes satisfactory progress in a career and technical education pathway offered by:

(i) a technical college;

(ii) an institution of higher education; or

(iii) a school district or charter school.

(4) Subject to Subsection (5), a technical college may award a scholarship for an amount of money up to the total cost of tuition, program fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(5) (a) Except as provided in Subsection (5)(b), a technical college may only apply a scholarship toward a scholarship recipient’s costs described in Subsection (4) from the day on which the technical college awards the scholarship until seven months after the day on which the scholarship recipient graduates from high school.

(b) (i) A technical college may defer a scholarship for up to three years after the day on which the scholarship recipient graduates from high school.

(ii) A technical college that defers a scholarship may apply the scholarship toward the scholarship recipient’s costs described in Subsection (4) for up to a total of seven months.

(c) A technical college may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the technical college on at least a half time basis, as determined by the technical college; or

(ii) make satisfactory progress toward the completion of a certificate.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board of trustees shall make rules that establish:

(a) requirements related to a technical college's administration of a scholarship described in this section;

(b) requirements related to eligibility for a scholarship, including requiring technical colleges to prioritize scholarships for underserved populations;

(c) a process for an individual to apply to a technical college to receive a scholarship; and

(d) how to determine satisfactory progress for purposes described in Subsections (3)(c) and (5)(c)(ii).

CHAPTER 80**S. B. 17**

Passed February 1, 2018
Approved March 15, 2018
Effective May 8, 2018

ELECTION LAW MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jeremy A. Peterson

LONG TITLE**General Description:**

This bill amends provisions of the Election Code.

Highlighted Provisions:

This bill:

- ▶ modifies the provisions of a notice of election to conform with existing law;
- ▶ modifies a deadline relating to the voter information pamphlet;
- ▶ requires a registered political party to notify the lieutenant governor of the dates of the party's political conventions and changes in those dates;
- ▶ modifies the director of elections' rulemaking authority;
- ▶ modifies the declaration of candidacy for a write-in candidate; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-4-107, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

20A-5-101, as last amended by Laws of Utah 2017, Chapters 251, 267 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 267

20A-7-702, as last amended by Laws of Utah 2017, Chapters 251, 267, 291 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 267

20A-9-403, as last amended by Laws of Utah 2017, Chapter 91

20A-9-601, as last amended by Laws of Utah 2017, Chapter 63

ENACTS:

20A-8-402.5, Utah Code Annotated 1953

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

Section 1. Section 20A-4-107 is amended to read:**20A-4-107. Review and disposition of provisional ballot envelopes.**

(1) As used in this section, a person is "legally entitled to vote" if:

- (a) the person:
 - (i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the person resides; and

(iii) provides valid voter identification to the poll worker;

(b) the person:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

(c) the person:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is:

(i) registered to vote in this state; and

(ii) legally entitled to vote:

(A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) If the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer

shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) If the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:

(a) ~~[(4)]~~ the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;

~~[(4)]~~ (b) eight or more days before the election, the individual who cast the provisional ballot:

~~[(A)]~~ (i) completed and signed the voter registration; and

~~[(B)]~~ (ii) provided the voter registration to another person to file;

~~[(4)]~~ (c) the late filing was made due to the person described in Subsection (5)~~[(a)]~~~~(ii)~~~~(B)]~~~~(b)~~~~(ii)~~ filing the voter registration less than eight days before the election; and

~~[(4)]~~ (d) the election officer receives the voter registration no later than one day before the day of the election~~[-; -or]~~.

~~[(b) the provisional ballot is cast on or before election day in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot is not otherwise prohibited from being counted under the provisions of this chapter.]~~

**Section 2. Section 20A-5-101 is amended to read:
20A-5-101. Notice of election.**

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

~~[(c) includes the master ballot position list for the next year and the year following as established under Section 20A-6-305; and]~~

~~[(d)]~~ (c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give printed notice of the following information, or printed notice of a website where the following information can be obtained:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(4) To provide the printed notice described in Subsection (3), the election officer shall:

(a) publish the notice at least two days before election day:

(i) in a newspaper of general circulation common to the area to which the election pertains; and

(ii) as required in Section 45-1-101; or

(b) mail the notice to each registered voter who resides in the area to which the election pertains at least five days before election day.

Section 3. Section 20A-7-702 is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.

(1) The lieutenant governor shall ensure that all information submitted for publication in the voter information pamphlet is:

(a) printed and bound in a single pamphlet;

(b) printed in clear readable type, no less than 10 point, except that the text of any measure may be set forth in eight-point type; and

(c) printed on a quality and weight of paper that best serves the voters.

(2) The voter information pamphlet shall contain the following items in this order:

(a) a cover title page;

(b) an introduction to the pamphlet by the lieutenant governor;

(c) a table of contents;

(d) a list of all candidates for constitutional offices;

(e) a list of candidates for each legislative district;

(f) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the ~~[date that falls 105 days]~~ first business day in August before the date of the election;

(g) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

(i) a copy of the number and ballot title of the measure;

(ii) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

(iii) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

(iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the

rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

(v) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

(vi) for each initiative qualified for the ballot:

(A) a copy of the measure as certified by the lieutenant governor and a copy of the fiscal impact estimate prepared according to Section 20A-7-202.5; and

(B) if the initiative proposes a tax increase, the following statement in bold type:

“This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”; and

(vii) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

(h) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

(i) a description of the judicial selection process;

(ii) a description of the judicial performance evaluation process;

(iii) a description of the judicial retention election process;

(iv) a list of the criteria of the judicial performance evaluation and the minimum performance standards;

(v) the names of the judges standing for retention election; and

(vi) for each judge:

(A) a list of the counties in which the judge is subject to retention election;

(B) a short biography of professional qualifications and a recent photograph;

(C) a narrative concerning the judge's performance;

(D) for each standard of performance, a statement identifying whether or not the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(E) a statement identifying whether or not the Judicial Performance Evaluation Commission recommends the judge be retained or declines to make a recommendation and the number of votes for and against the commission's recommendation;

(F) any statement provided by a judge who is not recommended for retention by the Judicial Performance Evaluation Commission under Section 78A-12-203;

(G) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

(H) a website address that contains the Judicial Performance Evaluation Commission's report on the judge's performance evaluation;

(i) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge's current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

(j) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(k) voter registration information, including information on how to obtain an absentee ballot;

(l) a list of all county clerks' offices and phone numbers;

(m) the address of the Statewide Electronic Voter Information Website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(n) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(o) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, _____ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on ____ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of ____ (month), ____ (year)

(signed) _____
Lieutenant Governor"

(3) No earlier than 75 days, and no later than 15 days, before the day on which voting commences, the lieutenant governor shall:

(a) (i) distribute one copy of the voter information pamphlet to each household within the state;

(ii) distribute to each household within the state a notice:

(A) printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail;

(B) that states the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(C) that states the phone number a voter may call to request delivery of a voter information pamphlet by mail; or

(iii) ensure that one copy of the voter information pamphlet is placed in one issue of every newspaper of general circulation in the state;

(b) ensure that a sufficient number of printed voter information pamphlets are available for distribution as required by this section;

(c) provide voter information pamphlets to each county clerk for free distribution upon request and for placement at polling places; and

(d) ensure that the distribution of the voter information pamphlets is completed 15 days before the election.

(4) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.

Section 4. Section 20A-8-402.5 is enacted to read:

20A-8-402.5. Notification of political convention dates.

(1) On or before February 15 of each even-numbered year, a registered political party shall notify the lieutenant governor of the dates of each political convention that will be held by the registered political party that year.

(2) If, after providing the notice described in Subsection (1), a registered political party changes the date of a political convention, the registered political party shall notify the lieutenant governor of the change within one business day after the day on which the registered political party makes the change.

Section 5. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing

officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, ~~shall~~ may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, ____ (year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party

candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 6. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) Each person wishing to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer not later than 60 days before the regular general election or a municipal general election in which the person intends to be a write-in candidate.

(b) (i) The form of the declaration of candidacy for all offices, except president or vice president of the United States, is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ for the _____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and ~~removal of my name from the ballot~~ rejection of any votes cast for me. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath).”

(ii) The form of the declaration of candidacy for president of the United States is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____.

I designate _____ as my vice presidential candidate.

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath).”

(iii) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202(8).

(iv) An agent designated to file a declaration of candidacy under Subsection (2) may not sign the form described in Subsection (1)(b)(i) or (ii).

(c) (i) The filing officer shall:

(A) read to the candidate the constitutional and statutory requirements for the office; and

(B) ask the candidate whether or not the candidate meets the requirements.

(ii) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate’s declaration of candidacy.

(2) Notwithstanding the requirement in Subsection (1) to file a declaration of candidacy in person, a person may designate an agent to file the declaration of candidacy in person with the filing officer if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status; and

(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other.

(3) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

CHAPTER 81**S. B. 23**

Passed February 1, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**GOVERNMENT OPERATIONS
 COMMITTEE AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Jeremy A. Peterson

LONG TITLE**General Description:**

This bill modifies requirements related to reports given to the Government Operations Interim Committee and repeals, or modifies provisions regarding, certain boards and commissions.

Highlighted Provisions:

This bill:

- ▶ modifies the timing and format of reports required to be submitted to the Government Operations Interim Committee by the:
 - government records ombudsman;
 - Commission on Federalism;
 - Free Market Protection and Privatization Board; and
 - Federal Funds Commission;
- ▶ repeals the Rural Development Legislative Liaison Committee;
- ▶ repeals the Legislative Committee on Landfill Siting Disputes;
- ▶ repeals the Government Procurement Private Proposal Program Committee and related provisions;
- ▶ repeals the Constitutional Revision Commission;
- ▶ requires the Data Security Management Council to meet at least quarterly rather than monthly; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-12-111, as last amended by Laws of Utah 2013, Chapter 278
 63C-4a-303, as last amended by Laws of Utah 2014, Chapter 221
 63C-14-301, as last amended by Laws of Utah 2015, Chapter 409
 63F-1-205, as last amended by Laws of Utah 2017, Chapter 238
 63F-2-102, as last amended by Laws of Utah 2017, Chapter 382
 63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415
 63G-6a-304, as last amended by Laws of Utah 2015, Chapter 283
 63G-6a-305, as last amended by Laws of Utah 2015, Chapter 283
 63I-4a-203, as last amended by Laws of Utah 2016, Chapter 182

REPEALS:

19-6-102.6, as last amended by Laws of Utah 2012, Chapter 360
 36-25-101, as enacted by Laws of Utah 2004, Chapter 73
 36-25-102, as last amended by Laws of Utah 2014, Chapter 387
 36-25-103, as enacted by Laws of Utah 2004, Chapter 73
 36-25-104, as enacted by Laws of Utah 2004, Chapter 73
 63G-6a-711, as last amended by Laws of Utah 2015, Chapter 283
 63I-3-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63I-3-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63I-3-201, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63I-3-202, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63I-3-203, as last amended by Laws of Utah 2011, Chapter 384
 63I-3-204, as last amended by Laws of Utah 2011, Chapter 384
 63I-3-205, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63I-3-206, as last amended by Laws of Utah 2014, Chapter 387
 63I-3-207, as last amended by Laws of Utah 2011, Chapter 384
 63N-13-201, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-202, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-203, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-204, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-205, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-206, as last amended by Laws of Utah 2016, Chapter 222
 63N-13-207, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-208, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-209, as last amended by Laws of Utah 2016, Chapter 222
 63N-13-210, as last amended by Laws of Utah 2016, Chapter 222
 63N-13-211, as renumbered and amended by Laws of Utah 2015, Chapter 283
 63N-13-212, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

Section 1. Section 63A-12-111 is amended to read:

63A-12-111. Government records ombudsman.

(1) (a) The director of the division shall appoint a government records ombudsman.

(b) The government records ombudsman may not be a member of the records committee.

(2) The government records ombudsman shall:

(a) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;

(b) serve as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request;

(c) upon request, attempt to mediate disputes between requestors and responders; and

(d) on an annual basis, electronically transmit a written report to the Government Operations Interim Committee on the work performed by the government records ombudsman during the previous year.

(3) The government records ombudsman may not testify, or be compelled to testify, before the records committee, another administrative body, or a court regarding a matter that the government records ombudsman provided services in relation to under this section.

Section 2. Section 63C-4a-303 is amended to read:

63C-4a-303. Duties of Commission on Federalism.

(1) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(a) as agreed by a majority of the commission; or

(b) submitted to the commission by a council member.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; and

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) ~~[On May 20 and October 20 of each]~~ Each year, the commission shall submit a report by electronic mail to the Legislative Management Committee and the Government Operations Interim Committee that summarizes:

(a) action taken by the commission in accordance with this section; and

(b) action taken by, or communication received from, any of the following in response to a request or inquiry made, or other action taken, by the commission:

(i) a United States senator or representative elected from the state;

(ii) a representative of another state; or

(iii) a federal entity, official, or employee.

(7) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(8) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:

(a) fundamental principles of federalism;

(b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(c) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(d) the authority and limits on the authority of the federal government as found in the United States Constitution;

(e) the relationship between the state and federal governments;

(f) methods of evaluating a federal law in the context of the principles of federalism;

(g) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(h) the separate and independent powers of the state that serve as a check on the federal government;

(i) first amendment rights and freedoms contained therein; and

(j) any other issues relating to federalism the commission considers necessary.

(9) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

Section 3. Section 63C-14-301 is amended to read:

63C-14-301. Commission duties.

(1) Until November 30, 2019, the commission shall:

(a) study and assess:

(i) the financial stability of the federal government;

(ii) the level of dependency that the state and local governments have on the receipt of federal funds;

(iii) the risk that the state and local governments in the state will experience a reduction in the amount or value of federal funds they receive, in both the near and distant future;

(iv) the likely and potential impact on the state and its citizens from a reduction in the amount or value of federal funds received by the state and by local governments in the state, in both the near and distant future; and

(v) the likely and potential national impact from a reduction in the amount or value of federal funds paid to the states, in both the near and distant future; and

(b) make recommendations to the governor and Legislature on methods to:

(i) avoid or minimize the risk of a reduction in the amount or value of federal funds by the state and by local governments in the state;

(ii) reduce the dependency of the state and of local governments in the state on federal funds; and

(iii) prepare for and respond to a reduction in the amount or value of federal funds by the state and by local governments in the state.

(2) After November 30, 2019, the commission shall study, assess, and provide recommendations on any federal issue that the governor, the Legislature through a joint resolution of the Legislature, or the Legislative Management Committee directs the commission to study, assess, and make recommendations on.

(3) ~~[On or before November 30 of each year, the]~~ The commission shall present a report to the Government Operations Interim Committee of the Legislature each year on the commission's findings and recommendations.

Section 4. Section 63F-1-205 is amended to read:

63F-1-205. Approval of acquisitions of information technology.

(1) (a) ~~[Except as provided in Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, in]~~ In accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, certify in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section 63F-1-206, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

- (i) the executive branch strategic plan;
- (ii) the applicable agency information technology plan;
- (iii) the budget for the executive branch agency or department as adopted by the Legislature;
- (iv) Title 63G, Chapter 6a, Utah Procurement Code; and
- (v) the information technology accessibility standards described in Section 63F-1-210; and

(c) in accordance with Section 63F-1-207, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

- (a) at the request of the chief information officer; and
- (b) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(5) (a) In accordance with administrative rules established by the department under Section 63F-1-206, an executive branch agency and the department may not initiate a new technology project unless the technology project is described in a formal project plan and a business case analysis is approved by the chief information officer and the highest ranking executive branch agency official.

(b) The project plan and business case analysis required by this Subsection (5) shall include:

- (i) a statement of work to be done and existing work to be modified or displaced;
- (ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;
- (iii) savings or added operating costs that will result after conversion;
- (iv) other advantages or reasons that justify the work;
- (v) source of funding of the work, including ongoing costs;
- (vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(c) The chief information officer shall determine the required form of the project plan and business case analysis described in this Subsection (5).

(6) The chief information officer and the Division of Purchasing and General Services within the Department of Administrative Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

Section 5. Section 63F-2-102 is amended to read:

63F-2-102. Data Security Management Council -- Membership -- Duties.

(1) There is created the Data Security Management Council composed of nine members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

- (i) the Judicial Council;
- (ii) the State Board of Regents;
- (iii) the State Board of Education;
- (iv) the Utah System of Technical Colleges Board of Trustees;
- (v) the State Tax Commission; and
- (vi) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet ~~monthly~~ quarterly, or as often as necessary, to:

- (a) review existing state government data security policies;
- (b) assess ongoing risks to state government information technology;
- (c) create a method to notify state and local government entities of new risks;
- (d) coordinate data breach simulation exercises with state and local government entities; and
- (e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

- (ii) continuous risk monitoring;
- (iii) password management;
- (iv) using the latest technology to identify and respond to vulnerabilities;
- (v) protecting data in new and old systems; and
- (vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 6. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2),

that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and

methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and

Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

~~[(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;]~~

[454] (53) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

~~[(55)]~~ (54) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

~~[(56)]~~ (55) records contained in the Management Information System created in Section 62A-4a-1003;

~~[(57)]~~ (56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

~~[(58)]~~ (57) information requested by and provided to the 911 Division under Section 63H-7a-302;

~~[(59)]~~ (58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

~~[(60)]~~ (59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

~~[(61)]~~ (60) records that reveal methods used by the Office of Inspector General of Medicaid

Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

~~[(62)]~~ (61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

~~[(63)]~~ (62) a record described in Section 63G-12-210;

~~[(64)]~~ (63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

~~[(65)]~~ (64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

~~[(66)]~~ (65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; and

~~[(67)]~~ (66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist.

Section 7. Section 63G-6a-304 is amended to read:

63G-6a-304. Delegation of authority.

~~[(4)]~~ In accordance with rules made by the board, the chief procurement officer may delegate authority to designees or to any department, agency, or official.

~~[(2) For a procurement under Title 63N, Chapter 13, Part 2, Government Procurement Private~~

~~Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.]~~

Section 8. Section 63G-6a-305 is amended to read:

63G-6a-305. Duty of chief procurement officer in maintaining specifications.

(1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the use of specifications for each procurement over which the chief procurement officer has authority.

(2) The chief procurement officer shall obtain expert advice and assistance from personnel of procurement units in the development of specifications and may delegate in writing to a procurement unit the authority to prepare and utilize its own specifications.

~~[(3) For a procurement under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.]~~

Section 9. Section 63I-4a-203 is amended to read:

63I-4a-203. Free Market Protection and Privatization Board -- Duties.

(1) The board shall:

(a) determine whether an activity provided by an agency could be privatized to provide the same types and quality of a good or service that would result in cost savings;

(b) review privatization of an activity at the request of:

- (i) an agency; or
- (ii) a private enterprise;

(c) review issues concerning agency competition with one or more private enterprises to determine:

(i) whether privatization:

- (A) would be feasible;
- (B) would result in cost savings; and

(C) would result in equal or better quality of a good or service; and

(ii) ways to eliminate any unfair competition with a private enterprise;

(d) recommend privatization to an agency if a proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing a good or service, taking into account:

- (i) the scope of providing the good or service;
- (ii) whether cost savings will be realized;
- (iii) whether quality will be improved;

(iv) the impact on risk management;

(v) the impact on timeliness;

(vi) the ability to accommodate fluctuating demand;

(vii) the ability to access outside expertise;

(viii) the impact on oversight;

(ix) the ability to develop sound policy and implement best practices; and

(x) legal and practical impediments to privatization;

(e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making rules establishing privatization standards, procedures, and requirements;

(f) in fulfilling the duties described in this Subsection (1), consult with, maintain communication with, and access information from:

(i) other entities promoting privatization; and

(ii) managers and employees in the public sector;

(g) comply with Part 3, Commercial Activities Inventory and Review; and

(h) (i) prepare an annual report ~~[for each calendar year]~~ that contains:

(A) information about the board's activities;

(B) recommendations on privatizing an activity provided by an agency; and

(C) the status of the inventory created under Part 3, Commercial Activities Inventory and Review; and

(ii) each year, electronically submit the ~~[annual]~~ report described in Subsection (1)(h)(i) to the ~~[Legislature]~~ Government Operations Interim Committee and the governor ~~[by no later than January 15 immediately following the calendar year for which the report is made; and].~~

~~[(iii) submit, before November 1, an annual written report to the Government Operations Interim Committee.]~~

(2) (a) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an agency or a local entity:

(i) on the board's own initiative;

(ii) upon request by an agency or a local entity;

(iii) in response to a complaint that an agency or a local entity is engaging in unfair competition with a private enterprise; or

(iv) in light of a proposal made by any person, regardless of whether the proposal was solicited.

(b) The board may, using the criteria described in Subsection (1), consider whether to recommend privatization of an activity provided by an entity that is an exempted agency under Subsection 63I-4a-102(2)(b) if the entity requests that the

board review privatization of the activity provided by the entity.

(3) In addition to filing a copy of recommendations for privatization with an agency head, the board shall file a copy of its recommendations for privatization with:

(a) the governor's office; and

(b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative appropriation subcommittee.

(4) (a) The board may appoint advisory groups to conduct studies, research, or analyses, and make reports and recommendations with respect to a matter within the jurisdiction of the board.

(b) At least one member of the board shall serve on each advisory group.

(5) (a) Subject to Subsection (5)(b), this chapter does not preclude an agency from privatizing the provision of a good or service independent of the board.

(b) If an agency privatizes the provision of a good or service, the agency shall include as part of the contract that privatizes the provision of the good or service that any contractor assumes all liability to provide the good or service.

Section 10. Repealer.

This bill repeals:

Section 19-6-102.6, Legislative participation in landfill siting disputes.

Section 36-25-101, Title.

Section 36-25-102, Rural Development Legislative Liaison Committee -- Creation -- Membership -- Chairs -- Salary -- Expenses.

Section 36-25-103, Duties.

Section 36-25-104, Staff support.

Section 63G-6a-711, Procurement for submitted proposal.

Section 63I-3-101, Title.

Section 63I-3-102, Definitions.

Section 63I-3-201, Creation -- Members -- Appointment -- Qualifications -- Term of office -- Maximum length of service.

Section 63I-3-202, Vacancies -- Person filling a vacancy begins serving new term.

Section 63I-3-203, Duties.

Section 63I-3-204, The commission may invite testimony.

Section 63I-3-205, Public hearings -- Purpose.

Section 63I-3-206, Per diem and travel expenses of members.

Section 63I-3-207, Appointment of staff.

Section 63N-13-201, Title.

Section 63N-13-202, Definitions.

Section 63N-13-203, Government Procurement Private Proposal Program -- Proposals -- Rulemaking.

Section 63N-13-204, Committee for reviewing proposals -- Appointment -- Accepting or rejecting a proposal.

Section 63N-13-205, Initial proposal -- Requirements.

Section 63N-13-206, Review of initial proposal -- Affected department review.

Section 63N-13-207, Acceptance of initial proposal -- Obtaining detailed proposals.

Section 63N-13-208, Detailed proposal -- Requirements -- Cooperation of affected department.

Section 63N-13-209, Receipt of detailed proposals -- Economic feasibility report -- Acceptance of a detailed proposal.

Section 63N-13-210, Project agreement.

Section 63N-13-211, Advisory committee.

Section 63N-13-212, Private Proposal Expendable Special Revenue Fund -- Fees.

CHAPTER 82**S. B. 24**

Passed February 1, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**LOCAL GOVERNMENT INDIGENT
 DEFENSE REQUIREMENT**

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: V. Lowry Snow
 Cosponsor: Todd Weiler

LONG TITLE**General Description:**

This bill requires local governments to include certain information in ordinances with criminal penalties that include any possibility of imprisonment.

Highlighted Provisions:

This bill:

- ▶ requires local governments to include information regarding indigent legal defense of an indigent individual in ordinances with criminal penalties that include any possibility of imprisonment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-704, as last amended by Laws of Utah 2010, Chapter 378

17-53-223, as last amended by Laws of Utah 2000, Chapter 323 and renumbered and amended by Laws of Utah 2000, Chapter 133

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

Section 1. Section 10-3-704 is amended to read:

10-3-704. Form of ordinance.

[Any] The governing body shall ensure that any ordinance [passed by] that the governing body [, after the effective date of this act, shall contain and be] passes contains the following, in substantially the following order and form:

- (1) a number;
- (2) a title which indicates the nature of the subject matter of the ordinance;
- (3) a preamble which states the need or reason for the ordinance;
- (4) an ordaining clause which states "Be it ordained by the ____ (name of the governing body and municipality):";
- (5) the body or subject of the ordinance;

(6) when applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;

(7) when a penalty for a violation of the ordinance includes any possibility of imprisonment, a statement that the municipality is required, under Section 77-32-301, to provide for indigent legal defense, as those terms are defined in Section 77-32-201;

[(7)] (8) a statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this chapter;

[(8)] (9) a line for the signature of the mayor or acting mayor to sign the ordinance;

[(9)] (10) a place for the municipal recorder to attest the ordinance and fix the seal of the municipality; and

[(10)] (11) in municipalities where the mayor may disapprove an ordinance passed by the legislative body, [the ordinance shall show, that it was passed] a statement showing:

(a) if the mayor approves the ordinance, that the governing body passes the ordinance with the mayor's approval [or that];

(b) if the mayor [disapproved] disapproves the ordinance, that [it was passed] the governing body passes the ordinance over [his] the mayor's disapproval[-ff]; or

(c) if the mayor neither approves[,], or disapproves [an] the ordinance, that the ordinance [shall show that it] became effective without the approval or disapproval of the mayor.

Section 2. Section 17-53-223 is amended to read:

17-53-223. Ordinances -- Power to enact -- Penalty for violation.

(1) A county legislative body may:

(a) pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by this title, and as are necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and its inhabitants, and for the protection of property in the county;

(b) enforce obedience to ordinances with fines or penalties as the county legislative body considers proper; and

(c) pass ordinances to control air pollution.

(2) (a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the maximum

fine for a class B misdemeanor under Section 76-3-301, imprisonment, or [by] both fine and imprisonment.

(b) When a penalty for a violation of an ordinance includes any possibility of imprisonment, the county legislative body shall include in the ordinance a statement that the county is required, under Section 77-32-301, to provide for indigent legal defense, as those terms are defined in Section 77-32-201.

(3) (a) Except as specifically authorized by statute, the county legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

(b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles on a highway.

CHAPTER 83**S. B. 26**

Passed February 1, 2018
 Approved March 15, 2018
 Effective May 8, 2018

CAMPAIGN FINANCE AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Patrice M. Arent

LONG TITLE**General Description:**

This bill modifies provisions of the Election Code relating to contributions and financial statements.

Highlighted Provisions:

This bill:

- ▶ modifies the deadline by which a state office candidate is required to report receipt of certain contributions or public service assistance;
- ▶ modifies the deadline by which a state office candidate or state officeholder is required to dispose of certain anonymous contributions;
- ▶ modifies the expenditure threshold for requiring a county political party to file financial statements;
- ▶ modifies the penalties for a county political party that fails to file a required financial statement;
- ▶ modifies and enacts financial requirements for political action committees, political issues committees, and politically active corporations;
- ▶ modifies reporting requirements for a school board office candidate;
- ▶ modifies reporting requirements relating to an independent expenditure; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-201, as last amended by Laws of Utah 2015, Chapters 21 and 127
 20A-11-301, as last amended by Laws of Utah 2015, Chapters 21 and 127
 20A-11-401, as last amended by Laws of Utah 2016, Chapter 409
 20A-11-510, as enacted by Laws of Utah 2011, Chapter 396
 20A-11-511, as last amended by Laws of Utah 2015, Chapter 204
 20A-11-512, as last amended by Laws of Utah 2015, Chapter 204
 20A-11-601, as last amended by Laws of Utah 2011, Chapter 347
 20A-11-602, as last amended by Laws of Utah 2015, Chapters 21 and 204
 20A-11-704, as enacted by Laws of Utah 2006, Chapter 226
 20A-11-705, as enacted by Laws of Utah 2015, Chapter 296
 20A-11-801, as last amended by Laws of Utah 2015, Chapter 388
 20A-11-802, as last amended by Laws of Utah 2015, Chapters 21, 204, and 388

20A-11-803, as last amended by Laws of Utah 2015, Chapter 204
 20A-11-1005, as last amended by Laws of Utah 2013, Chapter 252
 20A-11-1301, as last amended by Laws of Utah 2016, Chapter 28
 20A-11-1502, as last amended by Laws of Utah 2015, Chapter 204
 20A-11-1703, as enacted by Laws of Utah 2014, Chapter 60
 20A-11-1704, as enacted by Laws of Utah 2014, Chapter 60
 20A-12-303, as last amended by Laws of Utah 2015, Chapters 21 and 127

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

Section 1. Section 20A-11-201 is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

- (i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report to the lieutenant governor each contribution and public service assistance received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within [30] 31 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the state office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) For each contribution or provision of public service assistance that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) (A) 10% of the amount of the contribution, if the state office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(B) 20% of the amount of the contribution, if the state office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) (A) 10% of the value of the public service assistance, if the state office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(B) 20% of the amount of the public service assistance, if the state office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends.

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

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

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

(7) Within [30] 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a state office candidate shall disburse the amount of the contribution to:

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

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

Section 2. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report to the lieutenant governor each contribution and public service assistance received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within [30] 31 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the legislative office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) For each contribution or provision of public service assistance that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) (A) 10% of the amount of the contribution, if the legislative office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(B) 20% of the amount of the contribution, if the legislative office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) (A) 10% of the value of the public service assistance, if the legislative office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(B) 20% of the amount of the public service assistance, if the legislative office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends.

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) Within [30] 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a legislative office candidate shall disburse the amount of the contribution to:

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

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

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 3. Section 20A-11-401 is amended to read:

20A-11-401. Officeholder financial reporting requirements -- Year-end summary report -- Officeholder as a political action committee officer -- Anonymous contribution or public service assistance.

(1) (a) Each officeholder shall file a summary report by January 10 of each year.

(b) An officeholder that is required to file a summary report both as an officeholder and as a candidate for office under the requirements of this chapter may file a single summary report as a candidate and an officeholder, provided that the combined report meets the requirements of:

(i) this section; and

(ii) the section that provides the requirements for the summary report filed by the officeholder in the officeholder's capacity of a candidate for office.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts received since the last summary report, if any;

(iii) a single figure equal to the total amount of expenditures made since the last summary report, if any;

(iv) a detailed listing of each contribution and public service assistance received since the last summary report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The summary report shall contain a paragraph signed by the officeholder certifying that, to the best of the officeholder's knowledge, all receipts and all expenditures have been reported as of December 31 of the last calendar year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

(4) An officeholder may:

(a) receive public service assistance from a political action committee registered under Section 20A-11-601; and

(b) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(5) Within ~~30~~ 31 days after receiving a contribution or public service assistance that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, an officeholder shall disburse the amount of the contribution or public service assistance to:

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

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

Section 4. Section 20A-11-510 is amended to read:

20A-11-510. County political party financial reporting requirements -- Year-end summary report.

(1) A county political party officer of a county political party that has received contributions totaling at least \$750, or disbursed expenditures totaling at least ~~[\$50]~~ \$750, during a calendar year shall file a summary report by January 10 of the following year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, filed during the previous year;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure; and

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures.

(b) (i) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The county political party officer shall certify in the summary report that, to the best of the officer's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 5. Section 20A-11-511 is amended to read:

20A-11-511. County political party financial reporting requirements -- Interim reports.

(1) (a) A county political party officer of a county political party that has received contributions totaling at least \$750, or disbursed expenditures totaling at least ~~[\$50]~~ \$750, during a calendar year

shall file an interim report at the following times in any year in which there is a regular general election:

(i) seven days before the county political party's convention;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the general election date.

(b) A county political party officer need not file an interim report if it received no contributions or made no expenditures during the reporting period.

(2) Each interim report shall include the following information:

(a) the net balance of the last financial statement, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

Section 6. Section 20A-11-512 is amended to read:

20A-11-512. County political party -- Criminal penalties -- Fines.

~~[(1)(a) A county political party that fails to file an interim report that is due seven days before the county political party's convention is subject to a fine imposed in accordance with Section 20A-11-1005.]~~

~~[(b)] (1) A county political party that fails to file an interim report described in Subsections 20A-11-511(1)(a)[(ii)](i) through (iv) is subject to a fine [of \$1,000] in accordance with Section 20A-11-1005, which the chief election officer shall deposit in the General Fund.~~

(2) Within 30 days after a deadline for the filing of the January 10 statement required by Section 20A-11-510, the lieutenant governor shall review each filed statement to ensure that:

(a) a county political party officer who is required to file a statement has filed one; and

(b) each statement contains the information required by Section 20A-11-510.

(3) If it appears that any county political party officer has failed to file a financial statement, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any financial statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the county political party officer of the violation or written complaint and direct the county political party officer to file a financial statement correcting the problem.

(4) (a) A county political party that fails to file or amend a financial statement within seven days after receiving notice from the lieutenant governor under this section is subject to a fine of ~~[\$1,000, which the chief election officer shall deposit in the General Fund.]~~ the lesser of:

(i) 10% of the total contributions received by the county political party during the reporting period for the financial statement that the county political party failed to file or amend; or

(ii) \$1,000.

(b) The chief election officer shall deposit a fine collected under Subsection (4)(a) into the General Fund.

Section 7. Section 20A-11-601 is amended to read:

20A-11-601. Political action committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Each political action committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless the political action committee has filed a notice of dissolution under Subsection (4).

(b) If a political action committee is organized after the January 10 filing date, the political action committee shall file an initial statement of organization no later than seven days after:

(i) receiving contributions totaling at least \$750; or

(ii) distributing expenditures for political purposes totaling at least ~~[\$50]~~ \$750.

(c) Each political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) A person may not exercise primary decision-making authority for a political action committee who is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and address of the political action committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2)(a);

(c) the name, street address, occupation, and title of all other officers of the political action committee;

(d) the name and street address of the organization, individual corporation, association, unit of government, or union that the political action committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political action committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer; and

(g) the name, street address, and occupation of each member of the governing and advisory boards, if any.

(4) (a) Any registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political action committee does not exempt that political action committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political action committee has filed a notice of dissolution under Subsection (4), a political action committee shall file, with the

lieutenant governor's office, notice of any change of an officer described in Subsection (2)(a).

(b) Notice of a change of a primary officer described in Subsection (2)(a) shall:

(i) be filed within 10 days of the date of the change; and

(ii) contain the name and title of the officer being replaced, and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

Section 8. Section 20A-11-602 is amended to read:

20A-11-602. Political action committees -- Financial reporting.

(1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least [§50] \$750, during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) on September 30; and

(v) seven days before:

(A) the municipal general election; and

(B) the regular general election date.

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through (iv), all contributions and expenditures as of five days before the required filing date of the financial statement.

(c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) The verified financial statement shall include:

(i) the name and address of any individual who makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity, if known, that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iv) for each nonmonetary contribution, the fair market value of the contribution;

(v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;

(vi) for each nonmonetary expenditure, the fair market value of the expenditure;

(vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;

(viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and

(ix) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting

requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), “received” means:

(i) for a cash contribution, that the cash is given to a political action committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution’s benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor within [30] 31 days after the contribution is received.

(5) A political action committee may not expend a contribution for political purposes if the contribution:

- (a) is cash or a negotiable instrument;
- (b) exceeds \$50; and
- (c) is from an unknown source.

(6) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a political action committee shall disburse the amount of the contribution to:

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

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

Section 9. Section 20A-11-704 is amended to read:

20A-11-704. Statement of organization required for certain new corporations.

(1) A corporation that is incorporated, organized, or otherwise created less than 90 days before the date of a general election shall file a statement of organization with the lieutenant governor’s office before making a contribution to a political action committee or a political issues committee in association with the election.

(2) The statement of organization shall include:

(a) the name and street address of the corporation;

(b) the name, street address, phone number, occupation, and title of one or more individuals that have primary decision-making authority for the corporation;

(c) the name, street address, phone number, occupation, and title of the corporation’s chief financial officer;

(d) the name, street address, occupation, and title of all other officers or managers of the corporation; and

(e) the name, street address, and occupation of each member of the corporation’s governing and advisory boards, if any.

(3) (a) A corporation shall file with the lieutenant governor’s office a notice of intent to cease making contributions, if the corporation:

(i) has made a contribution described in Subsection (1); and

(ii) intends to permanently cease making contributions described in Subsection (1).

(b) A notice filed under Subsection (3)(a) does not exempt the corporation from complying with the financial reporting requirements described in this chapter.

Section 10. Section 20A-11-705 is amended to read:

20A-11-705. Notice of in-kind contributions.

(1) A corporation that makes an in-kind contribution to a reporting entity shall, in accordance with Subsection (2), provide the reporting entity a written notice that includes:

- (a) the name and address of the corporation;
- (b) the date of the in-kind expenditure;
- (c) a description of the in-kind expenditure; and
- (d) the value, in dollars, of the in-kind expenditure.

(2) A corporation shall provide the written notice described in Subsection (1) to the reporting entity:

(a) except as provided in Subsection (2)(b), within [30] 31 days after the day on which the corporation makes the in-kind contribution; or

(b) within three business days after the day on which the corporation makes the in-kind contribution, if:

(i) the in-kind contribution is to a candidate who is contested in a convention and the corporation makes the in-kind contribution within 30 days before the day on which the convention is held;

(ii) the in-kind contribution is to a candidate who is contested in a primary election and the corporation makes the in-kind contribution within 30 days before the day on which the primary election is held; or

(iii) the in-kind contribution is to a candidate who is contested in a general election and the corporation makes the in-kind contribution within 30 days before the day on which the general election is held.

(3) A corporation that provides, and a reporting entity that receives, the written notice described in Subsection (1) shall retain a copy of the notice for five years after the day on which the written notice is provided to the reporting entity.

(4) A corporation or reporting entity that fails to comply with the requirements of this section is guilty of a class B misdemeanor.

(5) A person that intentionally or knowingly provides, or conspires to provide, false information on a written notice described in this section is guilty of a class B misdemeanor.

Section 11. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Each political issues committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless the political issues committee has filed a notice of dissolution under Subsection (4).

(b) If a political issues committee is organized after the January 10 filing date, the political issues committee shall file an initial statement of organization no later than seven days after:

(i) receiving political issues contributions totaling at least \$750; or

(ii) disbursing political issues expenditures totaling at least \$750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) Each political issues committee shall designate two officers that have primary decision-making authority for the political issues committee.

(3) The statement of organization shall include:

(a) the name and street address of the political issues committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, street address, occupation, and title of all other officers of the political issues committee;

(d) the name and street address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, street address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) Any registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) Notice of a change of a primary officer described in Subsection (2) shall:

(i) be filed within 10 days of the date of the change; and

(ii) contain the name and title of the officer being replaced and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

Section 12. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least \$750, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) seven days before the date of an incorporation election, if the political issues committee has received donations or made disbursements to affect an incorporation;

(v) at least three days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, at the time the initiative or referendum sponsors submit:

(A) the verified and certified initiative packets as required by Section 20A-7-206; or

(B) the signed and verified referendum packets as required by Section 20A-7-306;

(vii) on September 30; and

(viii) seven days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name and address, if known, of any individual who makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address, if known, of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the

reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and

(x) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

(i) need only report the amount paid to each initiative petition circulator; and

(ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 30 31 days after the contribution is received.

(4) A political issues committee may not expend a contribution for a political issues expenditure if the contribution:

- (a) is cash or a negotiable instrument;
- (b) exceeds \$50; and
- (c) is from an unknown source.

(5) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a political issues committee shall disburse the amount of the contribution to:

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

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

Section 13. Section 20A-11-803 is amended to read:

20A-11-803. Criminal penalties -- Fines.

(1) (a) Each political issues committee that fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each political issues committee that fails to file a financial statement described in Subsection 20A-11-802(1)(a)(vii) or (viii) is guilty of a class B misdemeanor.

~~(b)~~ (c) The lieutenant governor shall report all violations of Subsection (1)~~(a)~~(b) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement, the lieutenant governor shall review each filed statement to ensure that:

(a) each political issues committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political issues committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political issues committee of the violation or written complaint and direct the political issues committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political issues committee to fail to file or amend a statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political issues committee who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political issues committee that violates Subsection (4)(a).

Section 14. Section 20A-11-1005 is amended to read:

20A-11-1005. Fines for failing to file a financial statement.

(1) Except as provided in ~~[Subsections] Subsection 20A-11-512(1)(b) and~~ (4), the chief election officer shall fine a filing entity \$100 for failing to file a financial statement by the filing deadline.

(2) If a filing entity is unable to pay the fine or files an affidavit of impecuniosity in a manner similar to Subsection 20A-9-201(5)(d), the chief election officer shall impose the fine against the candidate or treasurer, as appropriate.

(3) The chief election officer shall deposit fines collected under this chapter in the General Fund.

Section 15. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report

required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board office candidate may transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6), "received" means the same as that term is defined in Subsection 20A-11-1303(1)(a).

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within ~~[30]~~ 31 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the school board office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

~~[(A)]~~ (B) the school board office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

~~[(B)]~~ (C) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) For each contribution or provision of public service assistance that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) (A) 10% of the amount of the contribution, if the school board office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(B) 20% of the amount of the contribution, if the school board office candidate fails to report the contribution within 60 days after the day on which

the time period described in Subsection (6)(b) ends; or

(ii) (A) 10% of the value of the public service assistance, if the school board office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(B) 20% of the amount of the public service assistance, if the school board office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends.

(d) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) Within ~~[30]~~ 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a school board office candidate shall disburse the contribution to:

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

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

(8) (a) As used in this Subsection (8), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 16. Section 20A-11-1502 is amended to read:

20A-11-1502. Campaign financial reporting of expenditures -- Filing requirements -- Statement contents.

(1) (a) Each labor organization that has made expenditures for political purposes or political issues expenditures on current or proposed ballot issues that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven days before the regular primary election date;

(iii) on September 30; and

(iv) seven days before the regular general election date.

(b) The labor organization shall report:

(i) a detailed listing of all expenditures made since the last statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through (iv), all expenditures as of five days before the required filing date of the financial statement.

(c) The labor organization ~~need not~~ is not required to file a financial statement under this section if the labor organization:

(i) made no expenditures during the reporting period; or

(ii) reports ~~its~~ the labor organization's expenditures during the reporting period under another part of this chapter.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure or political issues expenditure of more than \$50 from the labor organization, and the amount of each expenditure or political issues expenditure;

(b) the total amount of expenditures disbursed by the labor organization; and

(c) a statement by the labor organization's treasurer or chief financial officer certifying the accuracy of the financial statement.

Section 17. Section 20A-11-1703 is amended to read:

20A-11-1703. Exceptions.

(1) A registered political party is not required to comply with the requirements of this part.

(2) A reporting entity is not required to report an independent expenditure under this part if the reporting party:

(a) reports the expenditure under another part in this chapter; and

(b) in the report described in Subsection (2)(a):

(i) identifies the expenditure as an independent expenditure; and

(ii) provides the information, described in Section 20A-11-1704, in relation to the independent expenditure.

Section 18. Section 20A-11-1704 is amended to read:

20A-11-1704. Independent expenditure report.

(1) Except as provided in Section 20A-11-1703, within ~~[30]~~ 31 days after the day on which a person has made a total of at least \$1,000 in independent expenditures during an election cycle, the person shall file an independent expenditure report with the chief election officer.

(2) Except as provided in Section 20A-11-1703, within ~~[30]~~ 31 days after the day on which a person has made a total of at least \$1,000 in independent expenditures during an election cycle that were not reported in an independent expenditure report already filed with the chief election officer during the same election cycle, the person shall file another independent expenditure report with the chief election officer.

(3) An independent expenditure report shall include the following information:

(a) if the person who made the independent expenditures is an individual, the person's name, address, and phone number;

(b) if the person who made the independent expenditures is not an individual:

(i) the person's name, address, and phone number; and

(ii) the name, address, and phone number of an individual who may be contacted by the chief election officer in relation to the independent expenditure report; and

(c) for each independent expenditure made by the person during the current election cycle that was not reported in a previous independent expenditure report:

(i) the date of the independent expenditure;

(ii) the amount of the independent expenditure;

(iii) the candidate or ballot proposition for which the independent expenditure expressly advocates the success or defeat and a description of whether the independent expenditure supports or opposes the candidate or ballot proposition;

(iv) the identity, address, and phone number of the person to whom the independent expenditure was made;

(v) a description of the goods or services obtained by the independent expenditure; and

(vi) for each person who, for political purposes, made cumulative donations of \$1,000 or more during the current election cycle to the filer of the independent expenditure report:

(A) the identity, address, and phone number of the person;

(B) the date of the donation; and

(C) the amount of the donation.

(4) (a) If the person filing an independent expenditure report is an individual, the person shall sign the independent expenditure report and certify that the information contained in the report is complete and accurate.

(b) If the person filing an independent expenditure report is not an individual:

(i) the person filing the independent expenditure report shall designate an authorized individual to sign the independent expenditure report on behalf of the person; and

(ii) the individual designated under Subsection (4)(b)(i) shall sign the independent expenditure report and certify that the information contained in the report is complete and accurate.

(5) If a person who files an independent expenditure report previously filed an independent expenditure report during, or in relation to, the same election cycle that includes information, described in Subsection (3)(a) or (b), that has changed since the person filed the previous independent expenditure report, the person shall include in the most recent independent expenditure report a description of the information that has changed that includes both the old information and the new information.

(6) An independent expenditure report is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 19. Section 20A-12-303 is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within [30] 31 days after the day on which the contribution is received.

(c) For each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to:

(i) 10% of the amount of the contribution if the judge reports the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends; or

(ii) 20% of the amount of the contribution, if the judge fails to report the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends.

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(4) Within [30] 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a judge or the judge's personal campaign committee shall disburse the amount of the contribution to:

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

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

CHAPTER 84**S. B. 31**

Passed February 15, 2018

Approved March 15, 2018

Effective May 8, 2018

**UTAH MOBILE CRISIS
OUTREACH TEAM ACT**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill enacts the Utah Mobile Crisis Outreach Team Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Mental Health Crisis Line Commission to serve as the mobile crisis outreach team (MCOT) advisory committee;
- ▶ requires the Division of Substance Abuse and Mental Health (division) to set standards for an MCOT certification;
- ▶ requires the division to make rules outlining:
 - the responsibilities of MCOTs; and
 - the interaction of MCOTs with the civil commitment process; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63C-18-203, as enacted by Laws of Utah 2017, Chapter 23

ENACTS:

62A-15-1301, Utah Code Annotated 1953

62A-15-1302, Utah Code Annotated 1953

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

Section 1. Section 62A-15-1301 is enacted to read:**Part 13. Utah Mobile Crisis Outreach Team Act****62A-15-1301. Definitions.**

As used in this part:

(1) "Commission" means the Mental Health Crisis Line Commission created in Section 63C-18-202.

(2) "Emergency medical service personnel" means the same as that term is defined in Section 26-8a-102.

(3) "Emergency medical services" means the same as that term is defined in Section 26-8a-102.

(4) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(5) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(6) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(a) serious jeopardy to the individual's health or well-being; or

(b) a danger to others.

(7) (a) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(b) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(8) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(9) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

Section 2. Section 62A-15-1302 is enacted to read:**62A-15-1302. Department and division duties -- MCOT license creation.**

(1) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section 62A-15-629.

(2) (a) With recommendations from the commission, the division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection (1); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division may delegate the MCOT plan requirement described in Subsection (2)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 3. Section 63C-18-203 is amended to read:

63C-18-203. Commission duties -- Reporting requirements.

(1) ~~[(a)]~~ The commission shall:

~~[(i)]~~ (a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

~~[(ii)]~~ (b) study how to establish and implement a statewide mental health crisis line, including identifying:

~~[(A)]~~ (i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line;

~~[(B)]~~ (ii) a supply of qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

~~[(C)]~~ (iii) a funding mechanism to operate and maintain the statewide mental health crisis line; ~~and]~~

~~[(iii)]~~ (c) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a)~~[(i) and (ii)]~~ and (b); and

(d) recommend standards for mobile crisis outreach team certification as described in Section 62A-15-1303.

~~[(b)]~~ (2) The commission may conduct other business related to the commission's duties described in Subsection (1)~~[(a)]~~.

~~[(2) Before November 30, 2017, the commission shall report to the Political Subdivisions Interim Committee regarding:]~~

~~[(a) the extent to which the commission fulfilled the commission's duties described in Subsection (1); and]~~

~~[(b) recommendations for future legislation related to integrating local mental health crisis lines or establishing a statewide mental health crisis line.]~~

CHAPTER 85**S. B. 32**

Passed February 7, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**MENTAL HEALTH CRISIS LINE
 COMMISSION SUNSET AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends the sunset date for the Mental Health Crisis Line Commission.

Highlighted Provisions:

This bill:

- ▶ amends the sunset date for the Mental Health Crisis Line Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

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

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, [2018] 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

CHAPTER 86**S. B. 33**

Passed February 7, 2018
 Approved March 15, 2018
 Effective May 8, 2018

DNA AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill addresses DNA.

Highlighted Provisions:

This bill:

- ▶ corrects fees collected by sheriff for obtaining a DNA specimen;
- ▶ repeals language regarding when postconviction testing of DNA may be requested; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-22-2.5, as last amended by Laws of Utah 2011, Chapters 67 and 340
 53-10-407, as last amended by Laws of Utah 2011, Chapter 81
 78B-9-301, as last amended by Laws of Utah 2017, Chapter 306

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

Section 1. Section 17-22-2.5 is amended to read:**17-22-2.5. Fees of sheriff.**

(1) (a) The legislative body of a county may set a fee for a service described in this section and charged by the county sheriff:

(i) in an ordinance adopted under Section 17-53-223; and

(ii) in an amount reasonably related to, but not exceeding, the actual cost of providing the service.

(b) If the legislative body of a county does not under Subsection (1)(a) set a fee charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2) through (7).

(2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a fee described in this Subsection (2), the sheriff shall charge the following fees:

(a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and complaint, or garnishee execution, or other process by which an action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, \$20;

(b) for taking or approving a bond or undertaking in any case in which he is authorized to take or approve a bond or undertaking, including justification, \$5;

(c) for a copy of any writ, process or other paper when demanded or required by law, for each folio, 50 cents;

(d) for serving an attachment on property, or levying an execution, or executing an order of arrest or an order for the delivery of personal property, including copies when furnished by plaintiff, \$50;

(e) for taking and keeping possession of and preserving property under attachment or execution or other process, the amount the court orders to a maximum of \$15 per day;

(f) for advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, \$15;

(g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of acknowledgment, \$15, to be paid by the grantee;

(h) for recording each deed, conveyance, or other instrument affecting real estate, exclusive of the cost of recording, \$10, to be paid by the grantee;

(i) for serving a writ of possession or restitution, and putting any person entitled to possession into possession of premises, and removing occupant, \$50;

(j) for holding each trial of right of property, to include all services in the matter, except mileage, \$35;

(k) for conducting, postponing, or canceling a sale of property, \$15;

(l) for taking a prisoner in civil cases from prison before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, \$2.50;

(m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100 miles, \$2.50;

(n) for receiving and paying over money on execution or other process, as follows:

(i) if the amount collected does not exceed \$1,000, 2% of this amount, with a minimum of \$1; and

(ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the balance; and

(o) for executing in duplicate a certificate of sale, exclusive of filing it, \$10.

(3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising shall be collected from the judgment debtor as part of the execution in the same manner as the sum directed to be made.

(4) When serving an attachment on property, an order of arrest, or an order for the delivery of personal property, the sheriff may only collect traveling fees for the distance actually traveled

beyond the distance required to serve the summons if the attachment or those orders:

- (a) accompany the summons in the action; and
- (b) may be executed at the time of the service of the summons.

(5) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the sheriff may receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, computed from the courthouse for each person served, to a maximum of 100 miles.

(ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, computed from the post office where received for each person served, to a maximum of 100 miles.

(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address.

(c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges.

(6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a mental health facility, as defined in Section 62A-15-602, when the cost of transportation is payable by private individuals, the sheriff may collect, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, to a maximum of 100 miles.

(b) If the sheriff requires assistance to transport the person, the sheriff may also charge the actual and necessary cost of that assistance.

(7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall collect the fee of [~~\$100~~] \$150 in accordance with Section 53-10-404.

(b) The fee amount described in Subsection (7)(a) may not be changed by a county legislative body under Subsection (1).

Section 2. Section 53-10-407 is amended to read:

53-10-407. DNA Specimen Restricted Account.

(1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."

(2) The sources of money for the account are:

(a) DNA collection fees paid under Section 53-10-404;

(b) any appropriations made to the account by the Legislature; and

(c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.

(3) The account shall earn interest, and this interest shall be deposited in the account.

(4) The Legislature may appropriate money from the account solely for the following purposes:

(a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;

(b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and 78A-6-117;

(c) to the Division of Juvenile Justice Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and 62A-7-104; and

(d) to the Department of Public Safety for the costs of:

(i) storing and analyzing DNA specimens in accordance with the requirements of this part;

(ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(~~8~~)(7); and

(iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections 53-10-404 and 53-10-404.5.

(5) Appropriations from the account to the Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and to the Department of Public Safety are nonlapsing.

Section 3. Section 78B-9-301 is amended to read:

78B-9-301. Postconviction testing of DNA -- Petition -- Sufficient allegations -- Notification of victim.

(1) As used in this part:

(a) "DNA" means deoxyribonucleic acid.

(b) "Factually innocent" [~~has~~] means the same [definition] as that term is defined in Section 78B-9-402.

(2) A person convicted of a felony offense may at any time file a petition for postconviction DNA testing in the trial court that entered the judgment of conviction if the person asserts factual innocence under oath and the petition alleges:

(a) evidence has been obtained regarding the person's case [~~which~~] that is still in existence and is in a condition that allows DNA testing to be conducted;

(b) the chain of custody is sufficient to establish that the evidence has not been altered in any material aspect;

(c) the person identifies the specific evidence to be tested and states a theory of defense, not inconsistent with theories previously asserted at trial, that the requested DNA testing would support;

(d) the evidence was not previously subjected to DNA testing, or if the evidence was tested previously, the evidence was not subjected to the testing that is now requested, and the new testing may resolve an issue not resolved by the prior testing;

(e) the proposed DNA testing is generally accepted as valid in the scientific field or is otherwise admissible under Utah law;

(f) the evidence that is the subject of the request for testing:

(i) has the potential to produce new, noncumulative evidence; and

(ii) there is a reasonable probability that the defendant would not have been convicted or would have received a lesser sentence if the evidence had been presented at the original trial; and

(g) the person is aware of the consequences of filing the petition, including:

(i) those specified in Sections 78B-9-302 and 78B-9-304; and

(ii) that the person is waiving any statute of limitations in all jurisdictions as to any felony offense the person has committed which is identified through DNA database comparison.

(3) The petition under Subsection (2) shall comply with Rule 65C, Utah Rules of Civil Procedure, including providing the underlying criminal case number.

~~[(4) The court may not order DNA testing in cases in which DNA testing was available at the time of trial and the person did not request DNA testing or present DNA evidence for tactical reasons.]~~

~~[(5) (4) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel have a duty to cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which may be subject to DNA testing.~~

~~[(6) (5) (a) A person who files a petition under this section shall serve notice upon the office of the prosecutor who obtained the conviction, and upon the Utah attorney general. The attorney general shall, within 30 days after receipt of service of a copy of the petition, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.~~

~~(b) After the attorney general responds under Subsection ~~[(6) (5)(a)~~, the petitioner has the right to reply to the response of the attorney general.~~

~~(c) After the attorney general and the petitioner have filed a response and reply in compliance with Subsection ~~[(6) (5)(b)~~, the court shall order DNA testing if it finds by a preponderance of the evidence that all criteria of Subsection (2) have been met.~~

~~[(7) (6) (a) If the court grants the petition for testing, the DNA test shall be performed by the Utah State Crime Laboratory within the Criminal~~

Investigations and Technical Services Division created in Section 53-10-103, unless the person establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(b) If the court orders that the testing be conducted by any laboratory other than the state crime laboratory, the court shall require that the testing be performed:

(i) under reasonable conditions designed to protect the state's interests in the integrity of the evidence; and

(ii) according to accepted scientific standards and procedures.

~~[(8) (7) (a) DNA testing under this section shall be paid for from funds appropriated to the Department of Public Safety under Subsection 53-10-407(4)(d)(ii) from the DNA Specimen Restricted Account created in Section 53-10-407 if:~~

~~(i) the court ordered the DNA testing under this section;~~

~~(ii) the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division has a conflict of interest or does not have the capability to perform the necessary testing; and~~

~~(iii) the petitioner who has filed for postconviction DNA testing under Section 78B-9-201 is serving a sentence of imprisonment and is indigent.~~

~~(b) Under this Subsection ~~[(8) (7)~~, costs of DNA testing include those necessary to transport the evidence, prepare samples for analysis, analyze the evidence, and prepare reports of findings.~~

~~[(9) (8) If the person is serving a sentence of imprisonment and is indigent, the state shall pay for the costs of the testing under this part, but if the result is not favorable to the person the court may order the person to reimburse the state for the costs of the testing, pursuant to ~~[the provisions of]~~ Subsections 78B-9-302(4) and 78B-9-304(1)(b).~~

~~[(10) (9) Any victim of the crime regarding which the person petitions for DNA testing, who has elected to receive notice under Section 77-38-3 shall be notified by the state's attorney of any hearing regarding the petition and testing, even though the hearing is a civil proceeding.~~

CHAPTER 87**S. B. 43**

Passed February 20, 2018

Approved March 15, 2018

Effective May 8, 2018

STATE DINOSAUR AMENDMENT

Chief Sponsor: Curtis S. Bramble
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill designates the Utahraptor as the state dinosaur.

Highlighted Provisions:

This bill:

- designates the Utahraptor as the state dinosaur.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-601, as last amended by Laws of Utah 2017, Chapters 271 and 402

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

Section 1. Section 63G-1-601 is amended to read:**63G-1-601. State symbols.**

- (1) Utah's state animal is the elk.
- (2) Utah's state bird is the sea gull.
- (3) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.
- (4) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.
- (5) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern of repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.
- (6) Utah's state cooking pot is the dutch oven.
- (7) Utah's state emblem is the beehive.
- (8) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:
 - (a) a red field covering the top two-thirds of the flag;
 - (b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

(9) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

(10) Utah's state fish is the Bonneville cutthroat trout.

(11) Utah's state flower is the sego lily.

(12) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

(13) Utah's state dinosaur is the Utahraptor.

~~(13)~~ (14) Utah's state fossil is the Allosaurus.

~~(14)~~ (15) Utah's state fruit is the cherry.

~~(15)~~ (16) Utah's state vegetable is the Spanish sweet onion.

~~(16)~~ (17) Utah's historic state vegetable is the sugar beet.

~~(17)~~ (18) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

~~(18)~~ (19) Utah's state grass is Indian rice grass.

~~(19)~~ (20) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

~~(20)~~ (21) Utah's state insect is the honeybee.

~~(21)~~ (22) Utah's state mineral is copper.

~~(22)~~ (23) Utah's state motto is "Industry."

~~(23)~~ (24) Utah's state railroad museum is Ogden Union Station.

~~(24)~~ (25) Utah's state rock is coal.

~~(25)~~ (26) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

~~(26)~~ (27) Utah's state tree is the quaking aspen.

~~(27)~~ (28) Utah's state winter sports are skiing and snowboarding.

~~(28)~~ (29) Utah's state works of art are Native American rock art.

~~(29)~~ (30) Utah's state work of land art is the Spiral Jetty.

CHAPTER 88**S. B. 49**

Passed February 8, 2018

Approved March 15, 2018

Effective May 8, 2018

SPECIAL NEEDS TRUST AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill amends provisions related to the creation of a trust for an individual with a disability.

Highlighted Provisions:

This bill:

- ▶ expands who may establish a discretionary trust for an individual with a disability; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-5-110, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 62A-5-110 is amended to read:**62A-5-110. Discretionary trust for an individual with a disability -- Impact on state services.**

(1) For purposes of this section:

(a) "Discretionary trust for ~~[a person with disabilities]~~ an individual with a disability" means a trust:

(i) that is established for the benefit of an individual who, at the time the trust is created, is under age 65 and has a disability, as defined in 42 U.S.C. Sec. 1382c;

(ii) under which the trustee has discretionary power to determine distributions;

(iii) under which the ~~[beneficiary]~~ individual may not control or demand payments unless an abuse of the trustee's duties or discretion is shown;

~~[(iv) that contains the assets of the beneficiary and is established for the benefit of the beneficiary by a parent, grandparent, legal guardian, or court;]~~

(iv) that contains the assets of the individual and is established for the benefit of the individual by the individual, a court, or a parent, grandparent, or legal guardian of the individual;

(v) that is irrevocable, except that the trust document may provide that the trust be terminated if the ~~[beneficiary]~~ individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

(vi) that is invalid as to any portion funded by property that is or may be subject to a lien by the state; and

(vii) ~~[providing]~~ that provides that, upon the death of the ~~[beneficiary]~~ individual, the state will receive all amounts remaining in the trust, up to an amount equal to the total medical assistance paid on behalf of the ~~[beneficiary]~~ individual.

(b) "Medical assistance" means the same as that term is defined in Section 26-18-2.

(2) A state agency providing services or support to ~~[a person with disabilities]~~ an individual with a disability may:

(a) waive application of Subsection (1)(a)(v) with respect to that individual if ~~[it]~~ the state agency determines that application of the criteria would place an undue hardship upon that individual; and

(b) define, by rule, what constitutes "undue hardship" for purposes of this section.

(3) A discretionary trust for ~~[a person with disabilities]~~ an individual with a disability is not liable for reimbursement or payment to the state or any state agency, for financial aid or services provided to that individual except:

(a) to the extent that the trust property has been distributed directly to or is otherwise under the control of the beneficiary with a disability; or

(b) as provided in Subsection (1)(a)(vi).

(4) Property, goods, and services that are purchased or owned by a discretionary trust for ~~[a person with disabilities]~~ an individual with a disability and that are used or consumed by a beneficiary with a disability shall not be considered trust property that is distributed to or under the control of the beneficiary.

(5) The benefits that ~~[a person with disabilities]~~ an individual with a disability is otherwise legally entitled to may not be reduced, impaired, or diminished in any way because of contribution to a discretionary trust for that ~~[person]~~ individual.

(6) All state agencies shall disregard a discretionary trust for ~~[a person with disabilities, as defined in Subsection (1),]~~ an individual with a disability as a resource when determining eligibility for services or support except as, and only to the extent that it is otherwise prohibited by federal law.

(7) This section applies to all discretionary trusts that meet the requirements contained in Subsection (1) created before, on, or after July 1, 1994.

CHAPTER 89**S. B. 51**

Passed February 8, 2018
Approved March 15, 2018
Effective May 8, 2018

ALIMONY MODIFICATIONS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions related to alimony.

Highlighted Provisions:

This bill:

- ▶ addresses when cohabitation results in the termination of alimony; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-5, as last amended by Laws of Utah 2017, Chapter 31

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

Section 1. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Determination of alimony -- Nonmeritorious petition for modification.

(1) When a decree of divorce is rendered, the court may include in it equitable orders relating to the children, property, debts or obligations, and parties. The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of ~~the~~ a dependent ~~children~~ child including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for ~~the~~ a dependent ~~children~~ child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with ~~the provisions of~~ Section 30-3-5.4 which will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) pursuant to Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(2) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of ~~the~~ a dependent ~~children~~ child, necessitated by the employment or training of the custodial parent. If the court determines that the circumstances are appropriate and that the dependent ~~children~~ child would be adequately cared for, ~~it~~ the court may include an order allowing the noncustodial parent to provide child care for the dependent ~~children~~ child, necessitated by the employment or training of the custodial parent.

(3) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of ~~the children~~ a child and ~~their~~ the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(4) Child support, custody, visitation, and other matters related to ~~children~~ a child born to the mother and father after entry of the decree of divorce may be added to the decree by modification.

(5) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(6) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable ~~[attorneys']~~ attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(7) If a petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party costs, including actual attorney fees and court costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time.

(8) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of a minor ~~[children]~~ child requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms ~~[thereof]~~ of the alimony.

(c) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage relationship:

(i) engaging in sexual relations with a person other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a minor ~~[children]~~ child;

(iii) knowingly and intentionally causing the other party or a minor ~~[children]~~ child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the minor ~~[children]~~ child.

(d) The court may, when fault is at issue, close the proceedings and seal the court records.

(e) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (8)(a). However, the court shall consider all relevant facts and equitable principles and may, in ~~[its]~~ the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no ~~[children have]~~ child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(f) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(g) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(h) In determining alimony when a marriage of short duration dissolves, and no ~~[children have]~~ child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(i) (i) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not foreseeable at the time of the divorce.

(ii) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(iii) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in this Subsection (8).

(A) The court may consider the subsequent spouse's financial ability to share living expenses.

(B) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(j) Alimony may not be ordered for a duration longer than the number of years that the marriage existed unless, at any time prior to termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.

(9) Unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment of

alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(10) ~~Any~~ (a) Subject to Subsection (10)(b), an order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse ~~is cohabitating~~, after the order for alimony is issued, cohabits with another person, even if the former spouse is not cohabiting with another person when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (10)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another person.

CHAPTER 90**S. B. 60**

Passed February 7, 2018
Approved March 15, 2018
Effective May 8, 2018

LICENSE HOLD FOR MILITARY SERVICE

Chief Sponsor: Lincoln Fillmore
House Sponsor: Justin L. Fawson

LONG TITLE**General Description:**

This bill modifies provisions related to occupational and professional licensing.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Occupational and Professional Licensing to waive the fee for the renewal of an inactive license, if the licensee is on full-time active duty with a branch of the armed forces of the United States; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-305, as enacted by Laws of Utah 1993,
Chapter 297

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

Section 1. Section 58-1-305 is amended to read:**58-1-305. Inactive license.**

(1) (a) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may adopt rules permitting inactive licensure.

(b) The rules shall specify the requirements and procedures for placing a license on inactive status, the length of time a license may remain on inactive status, and the requirements and procedures to activate an inactive license.

(2) Except as otherwise specified by rule, an inactive licensee has no right or privilege to engage in the practice of the licensed occupation or profession.

(3) The division shall waive the renewal fee for a person holding or applying for an inactive license, if at the time of the application for or renewal of the inactive license, the person is on full-time active service with a branch of the armed forces of the United States, including a person who is on full-time active duty orders with the National Guard or reserve component of the armed forces.

CHAPTER 91**S. B. 65**

Passed February 7, 2018
 Approved March 15, 2018
 Effective May 8, 2018

CHILD NEGLECT AMENDMENTS

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends the definition of "neglect" and makes related restrictions.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "neglect"; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-4a-403, as last amended by Laws of Utah 2008, Chapter 299
- 62A-4a-409, as last amended by Laws of Utah 2017, Chapter 459
- 78A-6-105, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
- 78A-6-302, as last amended by Laws of Utah 2017, Chapter 330
- 78A-6-306, as last amended by Laws of Utah 2017, Chapter 330
- 78A-6-312, as last amended by Laws of Utah 2017, Chapters 323 and 330

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

Section 1. Section 62A-4a-403 is amended to read:**62A-4a-403. Reporting requirements.**

(1) (a) Except as provided in Subsection (2), when any ~~[person]~~ individual, including ~~[persons]~~ an individual licensed under ~~[Title 58, Chapter 67, Utah Medical Practice Act, or]~~ Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child has been subjected to abuse or neglect, or ~~[who]~~ observes a child being subjected to conditions or circumstances ~~[which]~~ that would reasonably result in abuse or neglect, that ~~[person]~~ individual shall immediately ~~[notify]~~ report the alleged abuse or neglect to the nearest peace officer, law enforcement agency, or office of the division.

(b) Upon receipt of ~~[the notification]~~ a report described in Subsection (1)(a), the peace officer or law enforcement agency shall immediately notify the nearest office of the division. If an initial report of abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency.

~~(c) The division shall, in addition to its own investigation, comply with and lend support to investigations by law enforcement undertaken [pursuant to] to investigate a report [made under this section] described in Subsection (1)(a).~~

~~[(2) Subject to Subsection (3), the notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to the clergyman or priest in the professional character of the clergyman or priest in the course of discipline enjoined by the church to which the clergyman or priest belongs, if:]~~

~~[(a) the confession was made directly to the clergyman or priest by the perpetrator; and]~~

~~(2) Subject to Subsection (3), the notification requirement described in Subsection (1)(a) does not apply to a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:~~

~~(a) the perpetrator made the confession directly to the member of the clergy; and~~

~~(b) the ~~[clergyman or priest]~~ member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.~~

~~(3) (a) When a ~~[clergyman or priest]~~ member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the ~~[clergyman or priest]~~ member of the clergy is required to ~~[give notification on the basis of]~~ report that information even though the ~~[clergyman or priest]~~ member of the clergy may have also received ~~[a report of]~~ information about abuse or neglect from the confession of the perpetrator.~~

~~(b) Exemption of ~~[notification requirements]~~ the reporting requirement for a ~~[clergyman or priest]~~ member of the clergy does not exempt ~~[a clergyman or priest]~~ the member of the clergy from any other efforts required by law to prevent further abuse or neglect by the perpetrator.~~

Section 2. Section 62A-4a-409 is amended to read:**62A-4a-409. Investigation by division --
Temporary protective custody --
Preremoval interviews of children.**

(1) (a) The division shall make a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same

investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53A-11-101 through 53A-11-103.

(6) When the division completes its initial investigation under this part, it shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged

perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

(ii) may not be ~~a person~~ an individual who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection unit was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing the case.

Section 3. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

- (1) (a) "Abuse" means:
- (i) (A) nonaccidental harm of a child;
 - (B) threatened harm of a child;
 - (C) sexual exploitation;
 - (D) sexual abuse; or
 - (E) human trafficking of a child in violation of Section 76-5-308.5; or
 - (ii) that a child's natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b) "Abuse" does not include:
- (i) reasonable discipline or management of a child, including withholding privileges;
 - (ii) conduct described in Section 76-2-401; or
 - (iii) the use of reasonable and necessary physical restraint or force on a child:
 - (A) in self-defense;
 - (B) in defense of others;
 - (C) to protect the child; or
 - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.
- (4) "Adult" means ~~[a person]~~ an individual 18 years of age or over, except that ~~[a person]~~ an individual 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.
- (5) "Board" means the Board of Juvenile Court Judges.
- (6) "Child" means ~~[a person]~~ an individual under 18 years of age.
- (7) "Child placement agency" means:

- (a) a private agency licensed to receive a child for placement or adoption under this code; or
 - (b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.
- (8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- (9) "Commit" means, unless specified otherwise:
- (a) with respect to a child, to transfer legal custody; and
 - (b) with respect to a minor who is at least 18 years of age, to transfer custody.
- (10) "Court" means the juvenile court.
- (11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.
- (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.
- (13) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
- (14) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.
- (15) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:
- (a) pending court disposition or transfer to another jurisdiction; or
 - (b) while under the continuing jurisdiction of the court.
- (16) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.
- (17) "Division" means the Division of Child and Family Services.
- (18) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.
- (19) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.
- (20) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is or appears to be within the

court's jurisdiction and that a case must be reviewed.

(21) "Group rehabilitation therapy" means psychological and social counseling of one or more [persons] individuals in the group, depending upon the recommendation of the therapist.

(22) "Guardianship of the person" includes the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another [person] individual, agency, or institution.

(23) "Habitual truant" means the same as that term is defined in Section 53A-11-101.

(24) "Harm" means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

(25) (a) "Incest" means engaging in sexual intercourse with [a person] an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (25)(a) include:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(26) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(27) "Intellectual disability" means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, regarding the [person's] individual's effectiveness in meeting the standards expected for the [person's] individual's age by the [person's] individual's cultural group, in at least two

of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the [person] individual reaches the age of 18 years.

(28) "Legal custody" means a relationship embodying the following rights and duties:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary care.

(29) "Material loss" means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss;
- (c) lost wages; or
- (d) medical expenses.

(30) "Mental disorder" means a serious emotional and mental disturbance that severely limits a minor's development and welfare over a significant period of time.

(31) "Minor" means:

- (a) a child; or
- (b) [a person] an individual who is:
 - (i) at least 18 years of age and younger than 21 years of age; and
 - (ii) under the jurisdiction of the juvenile court.

(32) "Mobile crisis outreach team" means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(33) "Molestation" means that [a person] an individual, with the intent to arouse or gratify the sexual desire of any [person] individual:

- (a) touches the anus or any part of the genitals of a child;
- (b) takes indecent liberties with a child; or
- (c) causes a child to take indecent liberties with the perpetrator or another.

(34) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(35) (a) "Neglect" means action or inaction causing:

- (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused; or

(v) abandonment of a child through an unregulated custody transfer.

(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

~~[(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.]~~

~~[(d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.]~~

~~[(ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.]~~

(c) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(36) "Neglected child" means a child who has been subjected to neglect.

(37) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(38) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(39) "Physical abuse" means abuse that results in physical injury or damage to a child.

(40) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(41) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(42) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(43) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” also include the right to consent to:

- (i) marriage;
- (ii) enlistment; and
- (iii) major medical, surgical, or psychiatric treatment.

(44) “Secure facility” means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

(45) “Severe abuse” means abuse that causes or threatens to cause serious harm to a child.

(46) “Severe neglect” means neglect that causes or threatens to cause serious harm to a child.

(47) “Sexual abuse” means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

- (i) there is an indication of force or coercion;
- (ii) the children are related, as described in Subsection (25);
- (iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or
- (iv) there is a disparity in chronological age of four or more years between the two children; or

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7.

(48) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(49) “Shelter” means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(50) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(51) “Substance abuse” means the misuse or excessive use of alcohol or other drugs or substances.

(52) “Substantiated” means the same as that term is defined in Section 62A-4a-101.

(53) “Supported” means the same as that term is defined in Section 62A-4a-101.

(54) “Termination of parental rights” means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(55) “Therapist” means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(56) “Unregulated custody transfer” means the placement of a child:

(a) with a person who is not the child’s parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child’s federally recognized tribe;

(b) with the intent of severing the child’s existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the person taking custody of the child.

(57) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

(58) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

(59) “Without merit” means the same as that term is defined in Section 62A-4a-101.

Section 4. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child’s home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child’s physical health or safety may not be protected without removing the child from the custody of the child’s parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child’s emotional health may be protected without removing the child from the custody of the child’s parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent’s or guardian’s household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child’s support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsections 78A-6-105(35)(d)(c)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent’s or guardian’s actions, omissions, or habitual action create an environment that poses a serious risk to the child’s health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent’s or guardian’s action in leaving a child unattended would reasonably pose a threat to the child’s health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child’s natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child’s welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child’s parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact

constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) (a) For purposes of Subsection (1), if the division files a petition under Section 78A-6-304, the court shall consider the division's safety and risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

(4) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(5) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(6) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(7) (a) Except as provided in Subsection (7)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 5. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, one will be provided in accordance with the provisions of Section 78A-6-1111; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(ix) subject to Subsections 78A-6-105(35)(d)(c)(i) through (iii) and

78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available

services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as described in Subsection 78A-6-105(35)(b), truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 6. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), 78A-6-105(35)(~~d~~)(c)(i) through (iii), and 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;

(iv) sibling visitation; or

(v) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

(a) protect the physical safety of the minor;

(b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:

(a) prove that the parent has not used legal or illegal substances; or

(b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency plan.

(10) (a) The court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, the court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance use disorder program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) When a child is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the court's determination of the best interests of the child for whom the hearing is held.

(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.

(23) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(24) (a) If reunification services are not ordered pursuant to Subsections (20) through (22), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless the court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (25)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(26) If, pursuant to Subsections (21)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

CHAPTER 92**S. B. 77**

Passed February 22, 2018

Approved March 15, 2018

Effective May 8, 2018

TAX ADMINISTRATION AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies the Revenue and Taxation code by amending provisions relating to the disclosure of confidential tax information.

Highlighted Provisions:

This bill:

- ▶ authorizes the Tax Commission to provide certain individual income tax withholding information to the Department of Workforce Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-1-403, as last amended by Laws of Utah 2017, Chapters 181, 277, and 430

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

Section 1. Section 59-1-403 is amended to read:**59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of

Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) "Office" means the Office of the Legislative Fiscal Analyst, established in Section 36-12-13, the Office of Legislative Research and General Counsel, established in Section 36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or the Governor's Office of Management and Budget, created in Section 63J-4-2011.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of an office provide to the office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), an office may not request and the commission may not provide to an office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to an office, the commission shall in all instances protect

the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of an office provide to the office other tax information.

(B) Before providing other tax information to an office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) An office may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the tax information from the commission in accordance with this Subsection (3)(n).

(B) An office may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information the office provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information

requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to:

(i) the board of the Utah Communications Authority created in Section 63H-7a-201; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(v) Notwithstanding Subsection (1), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(n)(iii) or a person that requests information in accordance with Subsection (3)(n)(v):

- (i) is not guilty of a class A misdemeanor; and
- (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (5)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (5)(b).
- (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

CHAPTER 93**S. B. 78**

Passed February 5, 2018
 Approved March 15, 2018
 Effective May 8, 2018

OFFICE OF LICENSING AMENDMENTS

Chief Sponsor: Allen M. Christensen
 House Sponsor: Christine F. Watkins

LONG TITLE**General Description:**

This bill extends the length of time that the Office of Licensing may suspend a license.

Highlighted Provisions:

This bill:

- ▶ authorizes the Office of Licensing within the Department of Human Services to suspend a license for up to three years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-2-113, as last amended by Laws of Utah 2016,
 Chapter 211

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

Section 1. Section 62A-2-113 is amended to read:**62A-2-113. License revocation -- Suspension.**

(1) If a license is revoked, the office may not grant a new license unless:

(a) the human services program provides satisfactory evidence to the office that the conditions upon which revocation was based have been corrected;

(b) the human services program is inspected by the office and found to be in compliance with all provisions of this chapter and applicable rules;

(c) at least five years have passed since the day on which the licensee is served with final notice that the license is revoked; and

(d) the office determines that the interests of the public will not be jeopardized by granting the license.

(2) The office may suspend a license for no longer than [~~one year~~] three years.

(3) When a license has been suspended, the office may restore, or restore subject to conditions, the suspended license upon a determination that the:

(a) conditions upon which the suspension was based have been completely or partially corrected; and

(b) interests of the public will not be jeopardized by restoration of the license.

CHAPTER 94**S. B. 81**

Passed February 14, 2018

Approved March 15, 2018

Effective May 8, 2018

CHILDREN'S JUSTICE CENTER PROGRAM

Chief Sponsor: Ralph Okerlund
House Sponsor: Derrin R. Owens

LONG TITLE**General Description:**

This bill requires the attorney general to establish a Children's Justice Center, satellite office, or multidisciplinary team in Juab County.

Highlighted Provisions:

This bill:

- ▶ requires the attorney general to establish a Children's Justice Center, satellite office, or multidisciplinary team in Juab County; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5b-102, as last amended by Laws of Utah 2016, Chapter 290

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

Section 1. Section 67-5b-102 is amended to read:**67-5b-102. Children's Justice Center -- Requirements of center -- Purposes of center.**

(1) (a) There is established [a program, known as] the Children's Justice Center Program, [~~that provides~~] to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center.

(b) The attorney general shall administer the program.

(c) The attorney general shall:

(i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;

(ii) administer applications for state and federal grants and subgrants;

(iii) staff the Advisory Board on Children's Justice;

(iv) assist in the development of new centers;

(v) coordinate services between centers;

(vi) contract with counties and other entities for the provision of services;

(vii) provide training, technical assistance, and evaluation to centers; and

(viii) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.

(2) (a) The attorney general shall establish Children's Justice Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Juab County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.

(b) The attorney general may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.

(3) The attorney general and each center shall:

(a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;

(b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;

(c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;

(d) obtain reliable and admissible information that can be used effectively in child abuse cases in the state;

(e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;

(f) hold regularly scheduled case reviews with the multidisciplinary team;

(g) coordinate and track:

(i) investigation of the alleged offense; and

(ii) preparation of prosecution;

(h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;

(i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;

(j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;

(k) enhance community understanding of child abuse cases; and

(l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases.

(4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

CHAPTER 95**S. B. 82**

Passed February 22, 2018

Approved March 15, 2018

Effective May 8, 2018

**UTAH TRANSPARENCY
ADVISORY BOARD AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions relating to the Utah Transparency Advisory Board.

Highlighted Provisions:

This bill:

- ▶ modifies the appointment term for a member of the Utah Transparency Advisory Board;
- ▶ modifies the frequency for electing a chair and a vice chair of the Utah Transparency Advisory Board; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-403, as last amended by Laws of Utah 2016, Chapters 47 and 233

63I-2-263, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

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

Section 1. Section 63A-3-403 is amended to read:**63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.**

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(c) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(d) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(e) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(f) an individual appointed by the director of the Department of Technology Services;

(g) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(i) an individual representing counties, appointed by the governor;

(j) an individual representing municipalities, appointed by the governor;

(k) an individual representing special districts, appointed by the governor;

(l) an individual representing the State Board of Education, appointed by the State Board of Education; and

(m) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (l).

(3) The board shall:

(a) advise the division on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

- (i) fiscal year;
- (ii) expenditure type;
- (iii) name of the agency;
- (iv) payee;
- (v) date; and
- (vi) amount; and

(h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) ~~[The]~~ Every two years, the board shall [annually] elect a chair and a vice chair from its members.

~~[(5) (a) Each member shall serve a two-year term.]~~

(5) (a) (i) The term of a member appointed for an unexpired two-year term before May 8, 2018, shall be extended by two years from the date of the original appointment.

(ii) Each member appointed on or after May 8, 2018, shall serve a four-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for [the remainder of the unexpired term] a four-year term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's

service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

~~[(4)]~~ (2) Section 63A-5-227 is repealed on January 1, 2018.

~~[(2)]~~ (3) Section 63H-7a-303 is repealed on July 1, 2022.

~~[(3)]~~ (4) On July 1, 2019:

(a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in Subsection (3)(c)(ii)" is repealed; and

(b) Subsection 63J-1-206(3)(c)(ii) is repealed.

~~[(4)]~~ (5) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

~~[(5)]~~ (6) Section 63N-3-110 is repealed July 1, 2020.

CHAPTER 96**S. B. 93**

Passed February 8, 2018
 Approved March 15, 2018
 Effective July 1, 2018

CHILD SUPPORT ACT AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Val K. Potter

LONG TITLE**General Description:**

This bill addresses child support requirements.

Highlighted Provisions:

This bill:

- ▶ defines “health care coverage”;
- ▶ addresses how health care coverage for medical expenses is treated for purposes of child support; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

30-3-5.4, as enacted by Laws of Utah 2010, Chapter 285
 30-3-35.1, as last amended by Laws of Utah 2017, Chapter 120
 78B-12-102, as last amended by Laws of Utah 2015, Chapter 45
 78B-12-212, as last amended by Laws of Utah 2010, Chapter 285

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

Section 1. Section 30-3-5.4 is amended to read:**30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.**

(1) For purposes of this section, “health, hospital, or dental insurance plan” has the same meaning as “health care insurance” as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate which parent’s health, hospital, or dental insurance plan is primary coverage and which parent’s health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents’ health, hospital, or dental insurance plans; and

(ii) include the following language:

“If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent’s Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent’s Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent’s health, hospital, or dental insurance plan but is covered by a step-parent’s plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child.”

(c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5(1)(a) and 78B-12-212~~(6)~~(7).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

- (a) the birth dates of the parents;
- (b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;
- (c) the parent with physical custody of the dependent child; or
- (d) any other factor the court considers relevant.

Section 2. Section 30-3-35.1 is amended to read:**30-3-35.1. Optional schedule for parent-time for children 5 to 18 years of age.**

(1) The optional parent-time schedule in this section applies to children 5 to 18 years of age. This schedule is 145 overnights. Any impact on child support shall be consistent with Subsection 78B-12-102~~(14)~~(15).

(2) The parents and the court may consider the following increased parent-time schedule as a minimum when the parties agree or the noncustodial parent can demonstrate the following:

- (a) the noncustodial parent has been actively involved in the child’s life;
- (b) the parties are able to communicate effectively regarding the child, or the noncustodial parent has a plan to accomplish effective communications regarding the child;
- (c) the noncustodial parent has the ability to facilitate the increased parent-time;
- (d) the increased parent-time would be in the best interest of the child; and
- (e) any other factor the court considers relevant.

(3) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

(b) involvement in day care;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;

(f) bonding with the child; and

(g) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the child and the noncustodial parent, consistent with Subsection 30-3-10(4);

(d) flexibility of employment or other schedule of the parent;

(e) ability to provide appropriate playtime with the child;

(f) history and ability of the parent to implement a flexible schedule for the child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(5) An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order. An election may only be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(6) If the parties agree or the court enters an order for the optional parent-time schedule as set forth in this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the following optional parent-time schedule:

(a) The noncustodial parent or the court may specify one weekday for parent-time. If no day is specified, weekday parent-time shall be on Wednesday from 5:30 p.m. until the following day when delivering the child to school, or until 8 a.m., if there is no school the following day. Once the election of the weekday is made, it may only be changed in accordance with Subsection (5). At the election of the noncustodial parent, weekday parent-time may commence:

(i) from the time the child's school is regularly dismissed; or

(ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m., accommodating the custodial parent's work schedule.

(b) Beginning on the first weekend after the entry of the decree, the noncustodial parent shall be entitled to alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until Monday when delivering the child to school, or until 8 a.m. if there is no school on Monday. At the election of the noncustodial parent, weekend parent-time may commence:

(i) from the time the child's school is regularly dismissed on Friday; or

(ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m. on Friday, accommodating the custodial parent's work schedule.

(c) Subsections 30-3-35(2)(f) through (p) are incorporated into this section and constitute the parent-time schedule with the exception that all instances that require the noncustodial parent to return the child at any time after 6 p.m. be changed so that the noncustodial parent is required to return the child to school the next morning or at 8 a.m., if there is no school.

(7) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent may pick up the child if the custodial parent is aware of the identity of the individual, and if the noncustodial parent will be with the child by 7 p.m.

(8) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(9) Holidays include any "snow" days, teacher development days after the child begins the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule.

(a) If a holiday falls on a school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(b) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(c) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is dismissed at the beginning of the holiday weekend or, if school is not in session, and if the noncustodial parent is available to be with the child, parent-time over a scheduled holiday weekend may begin at approximately 8 a.m., accommodating the custodial parent's work schedule, unless the court directs the application of Subsection (6)(a).

(10) Birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day. Birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time is out of town for the uninterrupted extended parent-time. At the discretion of the noncustodial parent, other siblings may be taken along for birthdays.

(11) Notwithstanding Subsection (9)(b), the Halloween holiday may not be extended beyond the hours designated in Subsection 30-3-35(2)(g)(vi).

(12) If there are children aged 5 to 18 and children under the age of five who are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule pursuant to this section.

Section 3. Section 78B-12-102 is amended to read:

78B-12-102. Definitions.

As used in this chapter:

(1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).

(2) "Administrative agency" means the Office of Recovery Services or the Department of Human Services.

(3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(4) "Base child support award" means the award that may be ordered and is calculated using the guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.

(6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(7) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, [all] arrearages [which] that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support order" or "support order" means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise [which] that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Chapter 14, Utah Uniform Interstate Family Support Act.

(10) "Child support services" or "TV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. [Section] Sec. 651 et seq.

(11) "Court" means the district court or juvenile court.

(12) "Guidelines" means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.

(13) "Health care coverage" means coverage under which medical services are provided to a dependent child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

[~~(13)~~] (14) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

[~~(a)~~] (i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

[~~(b)~~] (ii) interest and dividends;

[~~(c)~~] (iii) periodic payments made under pension or retirement programs or insurance policies of any type;

[~~(d)~~] (iv) unemployment compensation benefits;

[~~(e)~~] (v) workers' compensation benefits; and

~~(4f)~~ (vi) disability benefits.

~~(14)~~ (15) “Joint physical custody” means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

~~(145)~~ (16) “Medical expenses” means health and dental expenses and related insurance costs.

~~(146)~~ (17) “Obligee” means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

~~(147)~~ (18) “Obligor” means ~~any~~ a person owing a duty of support.

~~(148)~~ (19) “Office” means the Office of Recovery Services within the Department of Human Services.

~~(149)~~ (20) “Parent” includes a natural parent, or an adoptive parent.

~~(149)~~ (21) “Split custody” means that each parent has physical custody of at least one of the children.

~~(141)~~ (22) “State” includes ~~any~~ a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

~~(122)~~ (23) “Temporary” means a period of time that is projected to be less than 12 months in duration.

~~(123)~~ (24) “Third party” means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

~~(124)~~ (25) “Tribunal” means the district court, the Department of Human Services, Office of Recovery Services, or court or administrative agency of ~~any~~ a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

~~(125)~~ (26) “Work-related child care costs” means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78B-12-215.

~~(126)~~ (27) “Worksheets” means the forms used to aid in calculating the base child support award.

Section 4. Section 78B-12-212 is amended to read:

78B-12-212. Medical expenses.

(1) A child support order issued or modified in this state on or after July 1, 2018, shall require compliance with this section as of the effective date of the child support order unless the court makes specific findings as to good cause to deviate from the requirements of this section.

~~(14)~~ (2) (a) The court shall order that ~~insurance~~ health care coverage for the medical expenses of ~~the minor children~~ a minor child be provided by a parent ~~if it is available at a reasonable cost~~.

(b) The court shall order that a parent provide insurance for the medical expenses of a minor child if insurance is available to that parent at a reasonable cost.

~~(14b)~~ (c) The court shall, in accordance with Section 30-3-5, designate which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary if at any time a dependent child is covered by both parents’ health, hospital, or dental insurance plans.

~~(12)~~ (3) In determining which parent shall be ordered to maintain insurance for medical expenses, the court or administrative agency may consider the:

- (a) reasonableness of the cost;
- (b) availability of a group insurance policy;
- (c) coverage of the policy; and
- (d) preference of the custodial parent.

~~(13)~~ (4) The order shall require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the ~~children’s~~ child’s portion of insurance unless the court finds good cause to order otherwise.

~~(14)~~ (5) The parent who provides the insurance coverage may receive credit against the base child support award or recover the other parent’s share of the ~~children’s~~ child’s portion of the premium. ~~In cases in which~~ If the parent does not have insurance but another member of the parent’s household provides insurance coverage for the ~~children~~ child, the parent may receive credit against the base child support award or recover the other parent’s share of the ~~children’s~~ child’s portion of the premium.

~~(15)~~ (6) The ~~children’s~~ child’s portion of the premium is a per capita share of the premium actually paid. The premium expense for ~~the children~~ a child shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.

~~(16)~~ (7) The order shall, in accordance with Subsection 30-3-5(1)(b), include a cash medical support provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for ~~the~~ a dependent ~~children~~ child, including ~~but not limited to~~ deductibles and copayments unless the court finds good cause to order otherwise.

~~(17)~~ (8) The parent ordered to maintain insurance shall provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. ~~Section~~ Sec. 601 et seq., upon initial enrollment of the dependent ~~children~~ child, and

~~[thereafter]~~ after initial enrollment on or before January 2 of each calendar year. The parent shall notify the other parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. ~~[Section]~~ Sec. 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.

~~[(8)]~~ (9) A parent who incurs medical expenses shall provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.

~~[(9)]~~ (10) In addition to any other sanctions provided by the court, a parent incurring medical expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with Subsections ~~[(7)]~~ (8) and ~~[(8)]~~ (9).

Section 5. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 97**S. B. 107**

Passed March 1, 2018

Approved March 15, 2018

Effective May 8, 2018

THIRD DISTRICT COURT JUDGE

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Brian S. King

LONG TITLE**General Description:**

This bill modifies the number of judges in a district court.

Highlighted Provisions:

This bill:

- ▶ adds one judge to the Third District Court.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-1-103, as last amended by Laws of Utah 2017,
Chapter 50

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

Section 1. Section 78A-1-103 is amended to read:**78A-1-103. Number of district judges.**

The number of district court judges shall be:

- (1) four district judges in the First District;
 - (2) 14 district judges in the Second District;
 - (3) ~~28~~ 29 district judges in the Third District;
 - (4) 13 district judges in the Fourth District;
 - (5) six district judges in the Fifth District;
 - (6) two district judges in the Sixth District;
 - (7) three district judges in the Seventh District;
- and
- (8) three district judges in the Eighth District.

CHAPTER 98**S. B. 117**

Passed March 6, 2018
Approved March 15, 2018
Effective May 8, 2018

**LANGUAGE IMMERSION
PROGRAM AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions related to dual language immersion.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ converts the pilot program for dual language immersion into an ongoing program;
- ▶ requires the State Board of Education to make rules to administer the Dual Language Immersion Program;
- ▶ provides for the State Board of Education to award a grant to a local education agency for dual language immersion;
- ▶ describes requirements for a local education agency that receives a grant for dual language immersion;
- ▶ requires the State Board of Education to provide support to a participating local education agency;
- ▶ requires the State Board of Education to conduct a program evaluation and report to the Legislature on the results;
- ▶ repeals a program to provide instruction in certain languages; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS AND REENACTS:**

53F-2-502, as renumbered and amended by Laws of Utah 2018, Chapter 2

REPEALS:

53F-2-516, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-502 is repealed and reenacted to read:**53F-2-502. Dual language immersion.**

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.

(c) "Local education agency" or "LEA" means a school district or a charter school.

(d) "Participating LEA" means an LEA selected by the board to receive a grant described in this section.

(e) "Partner language" means a language other than English in which instruction is provided in dual language immersion.

(2) The board shall:

(a) establish a dual language immersion program;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish:

(i) a grant program for an LEA to receive funding for dual language immersion;

(ii) the required qualifications for an LEA to be a participating LEA;

(iii) subject to this section, requirements of a participating LEA;

(iv) a proficiency assessment for each partner language; and

(v) a progression of how a school in a participating LEA adds grade levels in which the school offers dual language immersion;

(c) subject to legislative appropriations:

(i) select participating LEAs; and

(ii) award to a participating LEA a grant to support dual language immersion in the LEA; and

(d) report to a legislative committee on the results of a proficiency assessment described in Subsection (2)(b)(iv) upon request.

(3) A participating LEA shall:

(a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;

(b) in accordance with the board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and

(c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).

(4) The board shall:

(a) provide support to a participating LEA, including by:

(i) offering professional learning for dual language immersion educators;

(ii) developing curriculum related to dual language immersion; or

(iii) providing instructional support for a partner language;

(b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and

(c) on or before November 1, 2019, report to the Education Interim Committee and the Public Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

(5) The board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

Section 2. Repealer.

This bill repeals:

Section 53F-2-516, Critical Languages Program -- Pilot.

CHAPTER 99**S. B. 119**

Passed February 22, 2018

Approved March 15, 2018

Effective October 1, 2018

**SPECIAL GROUP LICENSE
PLATE AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Justin L. Fawson

LONG TITLE**General Description:**

This bill creates a new recognition special group license plate to recognize and commemorate women's suffrage.

Highlighted Provisions:

This bill:

- ▶ creates a recognition special group license plate commemorating women's suffrage in Utah; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2017, Chapters 107, 181, and 194

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

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans' and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team; ~~or~~

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual supporting commemoration and recognition of women's suffrage; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness;

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiv) programs that support children with heart disease;

(xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxvi) programs that provide assistance to children with cancer; or

(xxvii) programs that promote leadership and career development through agricultural education.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or

after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Effective date.

This bill takes effect on October 1, 2018.

CHAPTER 100**S. B. 121**

Passed March 6, 2018
 Approved March 15, 2018
 Effective January 1, 2019

**UNIFORM ELECTRONIC
LEGAL MATERIAL ACT**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill enacts the Uniform Electronic Legal Material Act.

Highlighted Provisions:

This bill:

- ▶ enacts the Uniform Electronic Legal Material Act, including:
 - defining terms;
 - establishing the applicability of the act;
 - addressing the legal material that is an official electronic record;
 - providing for authentication;
 - addressing preservation and security;
 - addressing public access;
 - establishing standards;
 - providing for uniformity of application and construction; and
 - addressing relation to Electronic Signatures in Global and National Commerce Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

46-5-101, Utah Code Annotated 1953
 46-5-102, Utah Code Annotated 1953
 46-5-103, Utah Code Annotated 1953
 46-5-104, Utah Code Annotated 1953
 46-5-105, Utah Code Annotated 1953
 46-5-106, Utah Code Annotated 1953
 46-5-107, Utah Code Annotated 1953
 46-5-108, Utah Code Annotated 1953
 48-5-109, Utah Code Annotated 1953
 48-5-110, Utah Code Annotated 1953
 48-5-111, Utah Code Annotated 1953

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

Section 1. Section 46-5-101 is enacted to read:

**TITLE 46. NOTARIZATION AND
 AUTHENTICATION OF DOCUMENTS,
 ELECTRONIC SIGNATURES, AND LEGAL
 MATERIAL**

**CHAPTER 5. UNIFORM ELECTRONIC
 LEGAL MATERIAL ACT**

46-5-101. Title.

This chapter is known as the “Uniform Electronic Legal Material Act.”

Section 2. Section 46-5-102 is enacted to read:**46-5-102. Definitions.**

In this chapter:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) “Legal material” means, whether or not in effect:

- (a) the Utah Constitution;
- (b) the Laws of Utah;
- (c) the Utah Code;
- (d) the Utah Administrative Code; or
- (e) the Utah State Bulletin.

(3) “Official publisher” means:

(a) for the Utah Constitution, the Office of Legislative Research and General Counsel;

(b) for the Laws of Utah, the Office of Legislative Research and General Counsel;

(c) for the Utah Code, the Office of Legislative Research and General Counsel;

(d) for the Utah Administrative Code, the Office of Administrative Rules created in Section 63G-3-401 within the Department of Administrative Services; or

(e) for the Utah State Bulletin, the Office of Administrative Rules.

(4) “Publish” means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

(5) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 3. Section 46-5-103 is enacted to read:**46-5-103. Applicability.**

This chapter applies to all legal material in an electronic record that is designated as official under Section 46-5-104 and first published electronically on or after January 1, 2019.

Section 4. Section 46-5-104 is enacted to read:**46-5-104. Legal material in official electronic record.**

(1) If an official publisher publishes legal material only in an electronic record, the official publisher shall:

(a) designate the electronic record as official; and

(b) comply with Sections 46-5-105, 46-5-107, and 46-5-108.

(2) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the official publisher complies with Sections 46-5-105, 46-5-107, and 46-5-108.

Section 5. Section 46-5-105 is enacted to read:

46-5-105. Authentication of official electronic record.

An official publisher of legal material in an electronic record that is designated as official under Section 46-5-104 shall authenticate the record. To authenticate an electronic record, the official publisher shall provide a method for a user to determine that the record received by the user from the official publisher is unaltered from the official record published by the official publisher.

Section 6. Section 46-5-106 is enacted to read:

46-5-106. Effect of authentication.

(1) Legal material in an electronic record that is authenticated under Section 46-5-105 is presumed to be an accurate copy of the legal material.

(2) If another state has adopted a law substantially similar to this chapter, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(3) A party contesting the authentication of legal material in an electronic record authenticated under Section 46-5-105 has the burden of proving by a preponderance of the evidence that the record is not authentic.

Section 7. Section 46-5-107 is enacted to read:

46-5-107. Preservation and security of legal material in official electronic records.

(1) An official publisher of legal material in an electronic record that is or was designated as official under Section 46-5-104 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(2) If legal material is preserved under Subsection (1) in an electronic record, the official publisher shall:

- (a) ensure the integrity of the record;
- (b) provide for backup and disaster recovery of the record; and
- (c) ensure the continuing usability of the material.

Section 8. Section 46-5-108 is enacted to read:

46-5-108. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that is required to be preserved under Section 48-5-107 shall ensure that the material is reasonably available for use by the public on a permanent basis.

Section 9. Section 48-5-109 is enacted to read:

48-5-109. Standards.

In implementing this chapter, an official publisher of legal material in an electronic record shall consider:

- (1) standards and practices of other jurisdictions;
- (2) the most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;
- (3) the needs of users of legal material in an electronic record;
- (4) the views of governmental officials and entities and other interested persons; and
- (5) to the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this chapter.

Section 10. Section 48-5-110 is enacted to read:

48-5-110. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 11. Section 48-5-111 is enacted to read:

48-5-111. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 12. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 101**S. B. 124**

Passed February 28, 2018

Approved March 15, 2018

Effective January 1, 2019

BUDGET DEADLINE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill amends certain deadlines related to local government budgets.

Highlighted Provisions:

This bill:

- ▶ amends the deadline by which a taxing entity is required to adopt certain budgets; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 10-5-109, as last amended by Laws of Utah 1989, Chapter 118
- 10-6-118, as last amended by Laws of Utah 2001, Chapter 178
- 17C-1-601.5, as renumbered and amended by Laws of Utah 2016, Chapter 350
- 53G-7-303, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 59-2-924, as last amended by Laws of Utah 2017, Chapter 390
- 63H-1-701, as last amended by Laws of Utah 2015, Chapters 258 and 377
- 63H-2-502, as enacted by Laws of Utah 2009, Chapter 378

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

Section 1. Section 10-5-109 is amended to read:**10-5-109. Adoption of budgets -- Filing.**

[Prior to June 22]

(1) Before June 30 of each year, or August 17 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council shall by resolution or ordinance adopt a budget for the ensuing fiscal year for each fund for which a budget is required under this chapter. [A]

(2) The council shall file a copy of the final budget for each fund ~~(shall be filed)~~ with the state auditor within 30 days after adoption.

Section 2. Section 10-6-118 is amended to read:**10-6-118. Adoption of final budget -- Certification and filing.**

(1) Before ~~(the last June 22)~~ June 30 of each fiscal period, or, in the case of a property tax increase

under Sections 59-2-919 through 59-2-923, before August 17 of the year for which a property tax increase is proposed, the governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal period for each fund for which a budget is required under this chapter. ~~[A copy of the final budget for each fund shall be certified by the budget officer and filed with the state auditor within 30 days after adoption.]~~

(2) The budget officer of the governing body shall certify a copy of the final budget and file the copy with the state auditor within 30 days after adoption.

Section 3. Section 17C-1-601.5 is amended to read:**17C-1-601.5. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.**

(1) Each agency shall prepare an annual budget of the agency's revenues and expenditures for each fiscal year.

(2) The board shall adopt each agency budget:

(a) for an agency created by a municipality, before June ~~[22]~~ 30; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

(i) (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or

(B) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries; and

(ii) publishing notice on the Utah Public Notice Website created in Section 63F-1-701, at least one week before the public hearing.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each board shall file a copy of the annual

budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity from which the agency receives project area funds.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Section 4. Section 53G-7-303 is amended to read:

53G-7-303. Local governing board budget procedures.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) (a) For a school district, before June [22] 30 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.

(b) For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section 53F-8-301.

(3) (a) For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.

(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (3)(a), at least 10 days prior to the public hearing, a local school board shall:

(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;

(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;

(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and

(iv) post the proposed budget on the school district's Internet website.

(c) A notice of a public hearing on a school district's proposed budget shall include information

on how the public may access the proposed budget as provided in Subsections (3)(b)(iii) and (iv).

(4) For a charter school, before June [22] 30 of each year, a charter school governing board shall adopt a budget for the next fiscal year.

(5) Within 30 days of adopting a budget, a governing board shall file a copy of the adopted budget with the state auditor and the State Board of Education.

Section 5. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(c) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission

assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(d) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(e) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(f) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth.

(g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

(h) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(i) "Project area" means the same as that term is defined in Section 17C-1-102.

(j) "Project area new growth" means an amount equal to the incremental value that is no longer provided to an agency as tax increment.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by subtracting eligible new growth from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53A-16-113, 53A-17a-133, or 53A-17a-164; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June [22] 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 6. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June [22] 30.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 7. Section 63H-2-502 is amended to read:

63H-2-502. Annual authority budget -- Auditor forms -- Requirement to file form.

(1) (a) The authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.

(b) Before June [22] 30 of each year and subject to the other provisions of this section, the board shall adopt an annual budget of revenues and

expenditures of the authority for the immediately following fiscal year.

(2) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) Before holding the public hearing required by this Subsection (2), the board shall post notice of the public hearing on the Utah Public Notice Website created under Section 63F-1-701 no less than 14 days before the day on which the public hearing is to be held.

(3) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget of the authority, including:

(a) revenues and expenditures for the budget year;

(b) the outstanding bonds and related expenses;

(c) legal fees; and

(d) administrative costs, including:

(i) rent;

(ii) supplies;

(iii) other materials; and

(iv) salaries of authority personnel.

(4) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with:

(a) the State Tax Commission; and

(b) the state auditor.

(5) (a) Subject to Subsection (5)(b), the board may by resolution amend an annual budget of the authority.

(b) The board may make an amendment of an annual budget that would increase total expenditures of the authority only after:

(i) holding a public hearing; and

(ii) before holding the public hearing required by this Subsection (5)(b), posting notice of the public hearing on the Utah Public Notice Website created under Section 63F-1-701 no less than 14 days before the day on which the public hearing is to be held.

(6) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Section 8. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 102**S. B. 132**

Passed March 6, 2018

Approved March 15, 2018

Effective May 8, 2018

**COMPETENCY-BASED
EDUCATION AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill repeals a requirement related to certain grants for competency-based education.

Highlighted Provisions:

This bill:

- ▶ repeals a limit on the number of planning grants the State Board of Education may award for competency-based education; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-5-503, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-5-503 is amended to read:**53F-5-503. Planning grants -- Requirements.**

(1) (a) The board shall, subject to legislative appropriations, award a planning grant to ~~subject to Subsection (1)(e),~~ an LEA:

(i) that submits a planning grant application that meets the requirements established by the board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53F-5-502; and

(iii) if the LEA planning grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than one calendar year after receiving the funds.

~~[(c) The board may not select more than three LEAs to award planning grants to under this section.]~~

(2) (a) A planning grant application shall include evidence that the LEA:

(i) can provide a general description of the program the LEA would like to plan;

(ii) is intending to plan for:

(A) schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, phasing the plan in schoolwide or districtwide over a specified period of time;

(iii) can describe the types of partners that will help with the plan and, eventually, implement the program;

(iv) planning activities and program will focus on:

(A) implementation of the core principles described in Section 53F-5-502;

(B) use of the methods, as applicable, described in Section 53F-5-502; and

(C) the outcome-based measures adopted by the board under Section 53F-5-502;

(v) has:

(A) the capacity, qualifications, local governing body support, and time to successfully plan the program; and

(B) an intentional and feasible planning process;

(vi) will align the LEA's budget as necessary with the planning process; and

(vii) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The board may adopt other requirements in addition to the requirements in Subsection (2)(a).

CHAPTER 103**S. B. 133**

Passed February 28, 2018

Approved March 15, 2018

Effective May 8, 2018

DESIGN AND BUILD AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Kay J. Christofferson

LONG TITLE**General Description:**

This bill amends the definition of a design-build project in relation to building improvements and public works projects.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a design-build project; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-39-101, as last amended by Laws of Utah 2016, Chapter 176

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

Section 1. Section 11-39-101 is amended to read:**11-39-101. Definitions.**

As used in this chapter:

- (1) "Bid limit" means:
 - (a) for a building improvement:
 - (i) for the year 2003, \$40,000; and
 - (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and
 - (b) for a public works project:
 - (i) for the year 2003, \$125,000; and
 - (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.
- (2) "Building improvement":
 - (a) means the construction or repair of a public building or structure; and
 - (b) does not include construction or repair at an international airport.

(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) (a) "Design-build project"~~[-(a)]~~ means a building improvement or public works project ~~[costing over \$250,000 with respect to]~~ for which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services~~[-and]~~.

(b) "Design-build project" does not include a building improvement or public works project:

- (i) that ~~[is undertaken by]~~ a local entity undertakes under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and
- (ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including ~~[its]~~ the actual construction of the project.

(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:

- (a) eliminate an imminent risk of damage to or loss of public or private property;
- (b) remedy a condition that poses an immediate physical danger; or
- (c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

- (a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;
- (b) for a local district, the board of trustees of the local district; and
- (c) for a special service district:
 - (i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
 - (ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(8) "Local district" has the same meaning as defined in Section 17B-1-102.

(9) "Local entity" means a county, city, town, metro township, local district, or special service district.

(10) "Lowest responsive responsible bidder" means a prime contractor who:

- (a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

(11) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(12) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

(iii) construction or repair at an international airport.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

CHAPTER 104**S. B. 150**

Passed March 6, 2018
 Approved March 15, 2018
 Effective May 8, 2018

**UTAH STATEWIDE STROKE
AND CARDIAC REGISTRY ACT**

Chief Sponsor: Brian Zehnder
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill creates statewide stroke and cardiac registries and stroke and cardiac registry advisory committees within the Department of Health.

Highlighted Provisions:

This bill:

- ▶ creates statewide stroke and cardiac registries within the Department of Health;
- ▶ creates advisory committees for those registries; and
- ▶ grants rulemaking authority to the Department of Health to administer and define data elements for the registries.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-8d-101, Utah Code Annotated 1953
 26-8d-102, Utah Code Annotated 1953
 26-8d-103, Utah Code Annotated 1953
 26-8d-104, Utah Code Annotated 1953
 26-8d-105, Utah Code Annotated 1953

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

Section 1. Section 26-8d-101 is enacted to read:**CHAPTER 8d. UTAH STATEWIDE STROKE
AND CARDIAC REGISTRY ACT****26-8d-101. Title.**

This chapter is known as the "Utah Statewide Stroke and Cardiac Registry Act."

Section 2. Section 26-8d-102 is enacted to read:**26-8d-102. Statewide stroke registry.**

(1) The department shall establish and supervise a statewide stroke registry to:

- (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of stroke;
- (b) promote optimal care for stroke patients;
- (c) alleviate unnecessary death and disability from stroke;
- (d) encourage the efficient and effective continuum of patient care, including prevention,

prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of stroke.

(2) The department shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide stroke registry on the provision of stroke care.

(3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for stroke care.

(c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section 26-1-37.

(4) A general acute hospital shall submit stroke data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to Chapter 3, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in accordance with this section.

Section 3. Section 26-8d-103 is enacted to read:**26-8d-103. Statewide cardiac registry.**

(1) The department shall establish and supervise a statewide cardiac registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of cardiac diseases;

(b) promote optimal care for cardiac patients;

(c) alleviate unnecessary death and disability from cardiac diseases;

(d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of cardiac care.

(2) The department shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide cardiac registry on the provision of cardiac care.

(3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for cardiac care.

(c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section 26-1-37.

(4) A general acute hospital shall submit cardiac data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to Chapter 3, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in accordance with this section.

Section 4. Section 26-8d-104 is enacted to read:

26-8d-104. Stroke registry advisory committee.

(1) There is created within the department a stroke registry advisory committee.

(2) The stroke registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the stroke registry;

(c) assist the department in evaluating the quality and outcomes of the stroke registry; and

(d) review and comment on proposals and rules governing the statewide stroke registry.

Section 5. Section 26-8d-105 is enacted to read:

26-8d-105. Cardiac registry advisory committee.

(1) There is created within the department a cardiac registry advisory committee.

(2) The cardiac registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, nurses, hospital administrators, emergency medical services personnel, government

officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the cardiac registry;

(c) assist the department in evaluating the quality and outcomes of the cardiac registry; and

(d) review and comment on proposals and rules governing the statewide cardiac registry.

CHAPTER 105**S. B. 158**

Passed March 7, 2018

Approved March 15, 2018

Effective May 8, 2018

MUNICIPAL BUSINESS LICENSING

Chief Sponsor: Jacob L. Anderegg

House Sponsor: A. Cory Maloy

LONG TITLE**General Description:**

This bill addresses a municipality's licensure of a home-based business.

Highlighted Provisions:

This bill:

- ▶ modifies a prohibition on charging a fee for a home-based business;
- ▶ allows a municipality to charge an administrative fee when an otherwise exempt business owner requests a license;
- ▶ requires certain notification regarding the home-based business license exemption; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-1-203, as last amended by Laws of Utah 2017, Chapter 361

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

Section 1. Section 10-1-203 is amended to read:**10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.**

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" means the same as that term is defined in Section 10-1-402.

(c) "Telecommunications tax or fee" means the same as that term is defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5) and (7)(a), and subject to Subsection (7)(b), the legislative body of a municipality may license for the purpose of regulation any business within the limits of the municipality, may regulate that business by ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a

municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) \$1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to \$5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community reinvestment agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) A municipality may not:

(a) require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under 18 years of age; or

(b) charge ~~a license fee for a homebased~~ any fee for a resident of the municipality to operate a home-based business, unless the combined offsite impact of the ~~homebased~~ home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

(8) (a) Notwithstanding Subsection (7)(b), a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt under Subsection (7)(b) but who requests a license from the municipality.

(b) A municipality shall notify the owner of each home-based business of the exemption described in Subsection (7)(b) in any communication with the owner.

~~(8)~~ (9) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

~~(9)~~ (10) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

CHAPTER 106**S. B. 176**

Passed March 6, 2018

Approved March 15, 2018

Effective May 8, 2018

STUDENT INTERNSHIP LIABILITY

Chief Sponsor: Howard A. Stephenson

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill removes a certain distinction to broaden the class of student interns that the State Risk Fund covers.

Highlighted Provisions:

This bill:

- ▶ removes a distinction to broaden the class of student interns that the State Risk Fund covers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-102, as last amended by Laws of Utah 2017, Chapter 300

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

Section 1. Section 63G-7-102 is amended to read:**63G-7-102. Definitions.**

As used in this chapter:

(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(3) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) members of a governing body;

(iii) members of a government entity board;

(iv) members of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

(vi) student teachers holding a letter of authorization in accordance with Sections 53A-6-103 and 53A-6-104;

(vii) educational aides;

(viii) students engaged in ~~providing services to members of the public in the course of an approved medical, nursing, or other professional health care clinical training program~~ internships under Section 53B-16-402 or 53G-7-902;

(ix) volunteers as defined by Subsection 67-20-2(3); and

(x) tutors.

(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(4) "Governmental entity" means the state and its political subdivisions as both are defined in this section.

(5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

CHAPTER 107**S. B. 179**

Passed March 6, 2018

Approved March 15, 2018

Effective May 8, 2018

EDUCATION CODE MODIFICATIONS

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill makes technical corrections to the public education code.

Highlighted Provisions:

This bill:

- ▶ makes technical corrections to the public education code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53G-7-1202, as renumbered and amended by Laws of Utah 2018, Chapter 3

63I-1-253, as last amended by Laws of Utah 2017, Chapters 166 and 181

63I-2-253, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381, 386, and 468

RENUMBERS AND AMENDS:

53F-2-519, (Renumbered from 53F-2-406, as renumbered and amended by Laws of Utah 2018, Chapter 2)

Utah Code Sections Affected by Coordination Clause:

53F-2-414, Utah Code Annotated 1953

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

Section 1. Section 53F-2-519, which is renumbered from Section 53F-2-406 is renumbered and amended to read:

[53F-2-406]. 53F-2-519. Appropriation for school nurses.

The State Board of Education shall distribute money appropriated for school nurses to award grants to school districts and charter schools that:

- (1) provide an equal amount of matching funds; and
- (2) do not supplant other money used for school nurses.

Section 2. Section 53G-7-1202 is amended to read:

53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

- (1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53G-7-1204;

(ii) create the School LAND Trust Program in accordance with Section 53F-2-404;

(iii) advise and make recommendations to school and school district administrators and the local school board regarding:

- (A) the school and its programs;
 - (B) school district programs;
 - (C) a child access routing plan in accordance with Section 53G-4-402;
 - (D) safe technology utilization and digital citizenship; and
 - (E) other issues relating to the community environment for students;
- (iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:
- (A) a student to make smart media and online choices; and
 - (B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and
- (v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3).
- (b) To fulfill the school community council's duties described in Subsections (3)(a)(iv) and (v), a school community council may:
- (i) partner with one or more non-profit organizations; or
 - (ii) create a subcommittee.
- (c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.
- (4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.
- (b) Except as provided in Subsection (4)(c) or (d):
- (i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and
 - (ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.
- (c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:
- (i) the membership includes two or more parent or guardian members than the number of school employee members; and
 - (ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) this section;

(ii) Section 53F-2-404;

~~(i) Section 53G-7-1202;~~

~~(iii)~~ (iii) Section 53G-7-1203; and

~~(iii)~~ (iv) Section 53G-7-1204[; and].

~~(iv) Section 53F-2-404.]~~

Section 3. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

- (1) Subsection 53-10-202(18) is repealed July 1, 2018.
- (2) Section 53-10-202.1 is repealed July 1, 2018.
- ~~(3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.]~~

~~[(4) Section 53A-13-106.5 is repealed July 1, 2019.]~~

~~[(5) Section 53A-15-106 is repealed July 1, 2019.]~~

~~[(6) Sections 53A-15-206 and 53A-15-207 are repealed January 1, 2023.]~~

~~[(7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.]~~

~~[(8)] (3) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.~~

~~[(9)] (4) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.~~

~~(5) Section 53E-3-515 is repealed January 1, 2023.~~

~~(6) Section 53F-2-514 is repealed July 1, 2020.~~

~~(7) Section 53F-5-203 is repealed July 1, 2019.~~

~~(8) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.~~

~~(9) Section 53F-6-201 is repealed July 1, 2019.~~

~~(10) Section 53F-9-501 is repealed January 1, 2023.~~

Section 4. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

~~[(1) Section 53A-1-403.5 is repealed July 1, 2017.]~~

~~[(2) Section 53A-1-411 is repealed July 1, 2017.]~~

~~[(3) Section 53A-1-415 is repealed July 1, 2019.]~~

~~[(4) Section 53A-1-709 is repealed July 1, 2020.]~~

~~[(5) Subsection 53A-1-1207(3)(b)(ii)(B) is repealed July 1, 2020.]~~

~~[(6) Section 53A-1-1208 is repealed July 1, 2020.]~~

~~[(7) Subsection 53A-1a-513(4) is repealed July 1, 2017.]~~

~~[(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.]~~

~~[(9) Section 53A-24-601 is repealed January 1, 2018.]~~

~~[(10)] (1) Section 53A-24-602 is repealed July 1, 2018.~~

~~[(11)] (2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.~~

~~(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary~~

changes to subsection numbering and cross references.

~~[(12) Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]~~

~~[(13)] (3) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.~~

~~[(14)] (4) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.~~

~~[(15)] (5) (a) The following sections are repealed on July 1, 2023:~~

~~(i) Section 53B-8-202;~~

~~(ii) Section 53B-8-203;~~

~~(iii) Section 53B-8-204; and~~

~~(iv) Section 53B-8-205.~~

~~(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.~~

~~(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

~~[(16)] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.~~

~~(7) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.~~

~~(8) Subsection 53E-5-307 is repealed July 1, 2020.~~

~~(9) Subsection 53F-4-204 is repealed July 1, 2019.~~

~~(10) Section 53F-6-202 is repealed July 1, 2020.~~

Section 5. Coordinating S.B. 179 with H.B. 230 -- Technical amendment.

If this S.B. 179 and H.B. 230, Related to Basic School Programs Review, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify the reference in Subsection 53F-2-414(3)(s) from "Section 53F-2-406" to "Section 53F-2-519".

CHAPTER 108**S. B. 220**

Passed March 7, 2018

Approved March 15, 2018

Effective May 8, 2018

**HOLE IN THE ROCK STATE
PARK TRAIL EXTENSION**

Chief Sponsor: Margaret Dayton

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies provisions related to the Hole in the Rock State Park.

Highlighted Provisions:

This bill:

- ▶ expands the definition of the Hole in the Rock area, which is included within the state park system.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

79-4-605, as enacted by Laws of Utah 2017, Chapter 45

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

Section 1. Section 79-4-605 is amended to read:**79-4-605. Hole in the Rock included within state park system.**

(1) As used in this section, "Hole in the Rock area" means the area of land ~~(in)~~ beginning at Escalante, Garfield County ~~(on)~~ to the western rim of Glen Canyon National Recreation Area, ~~which includes~~ a) extending eastward to Bluff Fort in San Juan County, following the trail used by Mormon pioneers to reach the southeastern area of Utah.

(2) The division may:

(a) enter into an agreement to acquire the Hole in the Rock area, or part of the area, as a state park with the United States Bureau of Land Management and the United States National Park Service; and

(b) receive donations of land or facilities at the Hole in the Rock area for inclusion within the state park.

(3) In entering the agreement described in Subsection (2)(a), the division may:

(a) pursue a land transfer agreement with the United States Bureau of Land Management and the United States National Park Service;

(b) if a land transfer agreement is not possible, seek to purchase or lease the land from the United States Bureau of Land Management and the United States National Park Service through the

Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.; and

(c) finalize an agreement to receive land by transfer, purchase, or lease, as described in Subsections (3)(a) and (b), if:

(i) the resulting state park, including the cost of law enforcement, would be financially self-sustaining;

(ii) all current grazing allotments shall be maintained; and

(iii) the Legislative Management Committee and the Natural Resources, Agriculture, and Environment Interim Committee approve the plan to expand the state park system by including the Hole in the Rock area.

(4) In pursuing state park status for the Hole in the Rock area, the division shall consult with affected counties, the Hole in the Rock Foundation, and other parties as appropriate.

(5) If the division successfully enters into the agreement described in Subsection (2)(a), the division shall negotiate in good faith with the School and Institutional Trust Lands Administration to attempt to:

(a) purchase parcels of school and institutional trust land located within the boundaries of the Hole in the Rock area; or

(b) exchange parcels of school and institutional trust land located within the boundaries of the Hole in the Rock area for other parcels of state land or other lands administered by the United States government.

(6) The Hole in the Rock area shall be included within the state park system upon the division entering into the agreement described in Subsection (2)(a).

(7) Upon its inclusion in the state park system, the state shall be responsible for the cost of law enforcement within the Hole in the Rock area.

CHAPTER 109**H. B. 13**

Passed February 15, 2018

Approved March 16, 2018

Effective May 8, 2018

**PUBLIC SAFETY PEER
COUNSELING PROVISIONS**

Chief Sponsor: Lee B. Perry

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill creates provisions for peer support and counseling services within public safety agencies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the creation of teams to provide peer support and counseling services within public safety agencies;
- ▶ requires that members of the peer support team receive training in accordance with POST guidelines for law enforcement officers, the State Fire Marshal's Office for firefighters, and the Health Department for all other first responders; and
- ▶ prohibits the release of information obtained through peer counseling except in specified circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

78B-5-901, Utah Code Annotated 1953

78B-5-902, Utah Code Annotated 1953

78B-5-903, Utah Code Annotated 1953

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

Section 1. Section 78B-5-901 is enacted to read:**Part 9. Public Safety Peer Counseling****78B-5-901. Public safety peer counseling.**

This part is known as "Public Safety Peer Counseling."

Section 2. Section 78B-5-902 is enacted to read:**78B-5-902. Definitions.**

As used in this part:

(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section 26-8a-102, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

(3) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(4) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Health Department, as applicable.

Section 3. Section 78B-5-903 is enacted to read:**78B-5-903. Creation -- Training -- Communications -- Exclusions.**

(1) A law enforcement agency, fire department, emergency medical service agency, or rescue unit:

(a) may create a peer support team; and

(b) if a peer support team is created, shall develop guidelines for the peer support team and its members.

(2) A peer support team member shall complete a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Health Department, as applicable.

(3) In accordance with the Utah Rules of Evidence, a peer support team member may refuse to disclose communications made by a person participating in peer support services, including group therapy sessions.

(4) Subsection (3) applies only to communications made during individual interactions conducted by a peer support team member who is:

(a) acting in the member's capacity as a law enforcement or firefighter peer support team member or an emergency medical service provider or rescue unit peer support team member; and

(b) functioning within the written peer support guidelines that are in effect for the member's respective law enforcement agency, fire

department, emergency medical service agency, or rescue unit.

(5) This part does not apply if:

(a) a law enforcement or firefighter peer support team member or emergency medical service provider or rescue unit peer support team member was a witness or a party to the incident that prompted the delivery of peer support services;

(b) information received by a peer support team member is indicative of actual or suspected child abuse, or actual or suspected child neglect;

(c) the person receiving peer support is a clear and immediate danger to the person's self or others;

(d) communication to a peer support team member establishes reasonable cause for the peer support team member to believe that the person receiving peer support services is mentally or emotionally unfit for duty; or

(e) communication to the peer support team member provides evidence that the person who is receiving the peer support services has committed a crime, plans to commit a crime, or intends to conceal a crime.

CHAPTER 110**H. B. 25**

Passed March 6, 2018
Approved March 16, 2018
Effective May 8, 2018

**CANNABINOID PRODUCT BOARD
MEMBERSHIP AMENDMENTS**

Chief Sponsor: Brad M. Daw
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions related to the Cannabinoid Product Board.

Highlighted Provisions:

This bill:

- ▶ amends the required composition of the Cannabinoid Product Board; and
- ▶ amends the duties of the Cannabinoid Product Board to include review of expanded cannabinoid products.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-61-201, as enacted by Laws of Utah 2017, Chapter 398

26-61-202, as enacted by Laws of Utah 2017, Chapter 398

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

Section 1. Section 26-61-201 is amended to read:

26-61-201. Cannabinoid Product Board.

(1) There is created the Cannabinoid Product Board within the department.

(2) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the Cannabinoid Product Board as follows:

(a) three individuals who are medical research professionals; and

(b) four physicians.

(3) The department shall ~~appoint board members under Subsection (2) such~~ ensure that ~~[three]~~ at least one of the board members ~~[are members]~~ appointed under Subsection (2) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

(4) (a) Four of the board members appointed under Subsection (2) shall serve an initial term of two years and three of the board members appointed under Subsection (2) shall serve an initial term of four years.

(b) Successor board members shall each serve a term of four years.

(5) The department may remove a board member without cause.

(6) The board shall nominate a board member to serve as chairperson of the board by a majority vote of the board members.

(7) The board shall meet as often as necessary to accomplish the duties assigned to the board under this chapter.

(8) Each board member, including the chair, has one vote.

(9) (a) A majority of board members constitutes a quorum.

(b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.

(10) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 2. Section 26-61-202 is amended to read:

26-61-202. Cannabinoid Product Board -- Duties.

(1) The board shall review any available research related to the human use of a cannabinoid product or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB; or

(b) was conducted or approved by the federal government.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety, risks, and efficacy of cannabinoid products and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabinoid products and expanded cannabinoid products;

(b) cannabinoid dosage amounts and medical dosage forms; and

(c) interaction of cannabinoid products and expanded cannabinoid products with other treatments.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for a physician recommending treatment with a cannabinoid product or an expanded cannabinoid product that includes a list of medical conditions, if any, that the board determines are appropriate for treatment with a cannabinoid product or an expanded cannabinoid product.

(4) The board shall submit the guidelines described in Subsection (3) to:

(a) the director of the Division of Occupational and Professional Licensing; and

(b) the Health and Human Services Interim Committee.

(5) The board shall report the board's findings before November 1 of each year to the Health and Human Services Interim Committee.

CHAPTER 111

H. B. 47

Passed February 9, 2018

Approved March 16, 2018

Effective May 8, 2018

(Exception clause in Section 5)

**TRANSPORTATION NETWORK
VEHICLE RECOVERY FUND SUNSET**

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to the Transportation Network Vehicle Recovery Fund.

Highlighted Provisions:

This bill:

- ▶ repeals the requirement that a transportation network company pay into the Transportation Network Vehicle Recovery Fund;
- ▶ provides that the Division of Consumer Protection may not accept or pay a claim from the Transportation Network Vehicle Recovery Fund after the balance of the fund is zero;
- ▶ removes a repeal date for provisions related to the Transportation Network Vehicle Recovery Fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-51-201, as enacted by Laws of Utah 2016, Chapter 359

13-51-203, as enacted by Laws of Utah 2016, Chapter 359

63I-1-213, as last amended by Laws of Utah 2016, Chapter 359

REPEALS:

13-51-202, as enacted by Laws of Utah 2016, Chapter 359

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

Section 1. Section 13-51-201 is amended to read:

13-51-201. Transportation Network Vehicle Recovery Fund -- Creation -- Report to the Legislature.

(1) As used in this part, "fund" means the Transportation Network Vehicle Recovery Fund created in Subsection (2).

(2) There is created an expendable special revenue fund called the "Transportation Network Vehicle Recovery Fund."

(3) The fund consists of:

~~[(a) the amount collected by the division under Subsection 13-51-202(1); and]~~

~~(a) money deposited in the fund before July 1, 2018; and~~

(b) interest earned on the money in the fund.

~~[(4) The division shall deposit the money collected for the fund in an account with the state treasurer and record the money in the fund.]~~

~~[(5)] (4) The division may [hire employees and] allocate resources necessary to administer the fund.~~

~~[(6)] (5) The division shall use money from the fund to cover the division's cost to administer this part.~~

~~[(7)] (6) The fund is not insurance as defined in Section 31A-1-301.~~

Section 2. Section 13-51-203 is amended to read:

13-51-203. Payment of a claim from the fund.

(1) A person that holds a lien on a vehicle used by a transportation network driver to provide transportation network services may submit a claim to the division for payment from the fund for physical damage to the vehicle.

(2) The division shall pay a claim for payment from the fund to a person that holds a lien on a vehicle described in Subsection (1) for physical damage to the vehicle if:

(a) the physical damage to the vehicle occurred during a waiting period or a prearranged ride;

(b) the lien complies with Section 41-1a-601;

(c) the person required the transportation network driver, by contract, to maintain insurance coverage for physical damage to the vehicle;

(d) the insurance coverage described in Subsection (2)(c):

(i) names the person as the loss payee;

(ii) was in effect at the time the physical damage occurred; and

(iii) denied coverage to the person as the loss payee on the sole basis that the transportation network driver used the vehicle to provide transportation network services in the state; and

(e) the division determines, no earlier than 10 days after the day on which the person makes the claim, that:

(i) no other insurance is available from the relevant transportation network company; and

(ii) the fund has enough money to cover the cost of the claim.

(3) If the division grants a claim to a person for a lien on a transportation network driver's vehicle under Subsection (2), the fund shall pay the person the lesser of, as estimated by the division:

(a) the cost to repair the vehicle; ~~or~~

(b) the actual cash value of the vehicle less any salvage costs~~[-]; or~~

(c) the amount of money in the fund.

(4) The division may not accept or pay a claim under this section after the balance of the fund is zero.

Section 3. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates, Title 13.

~~[Title 13, Chapter 51, Part 2, Transportation Network Vehicle Recovery Fund, is repealed on July 1, 2018.]~~

Section 4. Repealer.

This bill repeals:

Section 13-51-202, Per-ride payment -- Initial assessment -- Assessment for shortfall.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2018.

(2) The actions affecting Section 63I-1-213 take effect on June 30, 2018.

CHAPTER 112**H. B. 66**

Passed February 15, 2018

Approved March 16, 2018

Effective May 8, 2018

LOCAL GOVERNMENT MODIFICATIONS

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies the required number of board members for certain local district boards of trustees.

Highlighted Provisions:

This bill:

- ▶ provides that a local district board of trustees is not required to have an odd number of members once the board reaches a certain size;
- ▶ amends provisions related to the membership of a municipal services district board of trustees; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-302, as last amended by Laws of Utah 2017, Chapters 112 and 263

17B-2a-404, as last amended by Laws of Utah 2017, Chapter 112

17B-2a-604, as last amended by Laws of Utah 2017, Chapter 112

17B-2a-905, as last amended by Laws of Utah 2017, Chapters 112 and 138

17B-2a-1106, as last amended by Laws of Utah 2016, Chapter 176

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

Section 1. Section 17B-1-302 is amended to read:**17B-1-302. Board member qualifications -- Number of board members.**

(1) Each member of a local district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close

as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the local district;

(B) that receives service from the local district; and

(C) whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis.

(b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(i) receives service from the district; and

(ii) is located within the local district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic local district that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) is replaced with the requirement that the member be an owner of land within the local district that receives service from the district, or an agent or officer of the owner.

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b), the county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:

(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

(B) for an appointment to fill a midterm vacancy, Subsections 20A-1-512(1)(a) and (b);

(ii) no qualified candidate timely files to be considered for appointment to the local district board; and

(iii) the county legislative body appoints a member of the body to the local district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the local district; or

(C) if the local district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the local district in which there is a board vacancy.

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a local district that has nine or fewer members shall [be] have an odd number of members that is no [less] fewer than three.

(b) If a board of trustees of a local district has more than nine members, the number of members may be odd or even.

(5) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

(i) violate Subsection (4); or

(ii) serve to shorten the term of any member of the board.

Section 2. Section 17B-2a-404 is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1);

(ii) adopt at any time a resolution providing for:

(A) the election of board of trustees members, as provided in Section 17B-1-306; or

(B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and

(iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.

(b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(2)(a)(ii);

(ii) the board of trustees are appointed by the legislative body of the county; and

(iii) there are at least two appointed board members who meet the requirements of Subsections 17B-1-302(1), (2), and (3), except that

a member of the legislative body of the county need not satisfy the requirements of Subsections 17B-1-302(1), (2), and (3).

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

(b) the terms of all of the elected board members have expired without the board having called an election; or

(c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.

(5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).

(b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number of included municipalities is greater than nine or is an odd number that is not greater than nine; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is an even number that is less than nine; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is an odd number that is less than nine; and

(ii) the district includes a remaining area.

(8) (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (6)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (9) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of

the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 3. Section 17B-2a-604 is amended to read:

17B-2a-604. Metropolitan water district board of trustees.

(1) Members of the board of trustees of a metropolitan water district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the metropolitan water district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (3)(a).

(2) (a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.

(b) If a district contains the area of a single municipality:

(i) the legislative body of that municipality shall appoint each member of the board of trustees; and

(ii) one member shall be the officer with responsibility over the municipality's water supply and distribution system, if the system is municipally owned.

(c) If a district contains some or all of the retail water service area of more than one municipality:

(i) the legislative body of each municipality shall appoint the number of members for that municipality as determined under Subsection (2)(c)(ii);

(ii) subject to Subsection (2)(c)(iii), the number of members appointed by each municipality shall be determined:

(A) by agreement between the metropolitan water district and the municipalities, subject to ~~the maximum stated in~~ Subsection 17B-1-302(4); or

(B) as provided in Chapter 1, Part 3, Board of Trustees; and

(iii) at least one member shall be appointed by each municipality.

(d) Each trustee shall be appointed without regard to partisan political affiliations from among citizens of the highest integrity, attainment, competence, and standing in the community.

(3) (a) Members of the board of trustees of a metropolitan water district shall be elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

(i) three-fourths of all members of the board of trustees of the metropolitan water district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (3)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(4) A member of the board of trustees of a metropolitan water district shall be:

(a) a registered voter;

(b) a property taxpayer; and

(c) a resident of:

(i) the metropolitan water district; and

(ii) the retail water service area of the municipality that:

(A) elects the member; or

(B) the member is appointed to represent.

(5) (a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).

(b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.

(6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.

(7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

Section 4. Section 17B-2a-905 is amended to read:

17B-2a-905. Service area board of trustees.

(1) (a) Except as provided in Subsection (2) or (3):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

(A) consist of the county legislative body;

(B) be appointed, as provided in Section 17B-1-304; or

(C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

(i) board members shall be elected in conjunction with the bond election;

(ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

(B) provide a ballot for the election of board members separate from the bond ballot; and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

(i) the service area was created to provide:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) the service area is not a service area described in Subsection (3).

(b) (i) Each county [whose] with unincorporated area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint up to three members to the board of trustees.

(ii) Each municipality [whose] with an area that is included within a service area described in Subsection (2)(a), whether in conjunction with the

creation of the service area or by later service area annexation or municipal incorporation or annexation, shall appoint one member to the board of trustees, unless the area of the municipality is withdrawn from the service area.

(iii) Each member [appointed by] that a county or municipality appoints under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

(i) the service area was created to provide fire protection, paramedic, and emergency services;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) each municipality [whose] with an area that is included within the service area or county [whose] with unincorporated area, whether in whole or in part, that is included within a service area is a party to an agreement:

(A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with all the other municipalities or counties [whose] with an area that is included in the service area;

(B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection 17B-1-203(1)(d).

(b) (i) Each county [whose] with unincorporated area, whether in whole or in part, that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality [whose] with an area that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member [appointed by] that a county or municipality appoints under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of trustees of a service area described in Subsection (3)(a) [shall be] is the number resulting from the application of Subsection (3)(b).

Section 5. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district;

(ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and

(iii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(3) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in

accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (3)(b), a member of that municipality's governing body;

(ii) ~~subject to Subsection (4), two members~~ one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members ~~shall~~ is not required to be an odd number.

(b) A member described in Subsection (3)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the chair of the metro township.

(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).

(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).

~~[(4) (a) The number of county council members may be increased or decreased to meet the membership requirements of Subsection (3)(a)(iii) but may not be less than one.]~~

~~[(b)] (4) The [number of] county council [members] member described in Subsection (3)(a)(ii) [does] may not [include] be the county mayor who, as the executive of the district, is not a member of the board of trustees.~~

(5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (3)(a)(i), within that member's municipality; and

(b) for ~~each~~ the member described in Subsection (3)(a)(ii), within the unincorporated county ~~with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii)].~~

(6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

(8) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

CHAPTER 113**H. B. 85**

Passed February 22, 2018

Approved March 16, 2018

Effective May 8, 2018

**PUBLIC TRANSIT VEHICLES
AND SAFETY BELT AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill amends provisions related to the safety belt requirements and certain public transit vehicles.

Highlighted Provisions:

This bill:

- ▶ exempts certain vehicles operated by a public transit district from some safety belt requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1804, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Section 41-6a-1804 is amended to read:**41-6a-1804. Exceptions.**

(1) This part does not apply to an operator or passenger of:

(a) a motor vehicle manufactured before July 1, 1966;

(b) a motor vehicle in which the operator or passengers possess a written verification from a licensed physician that the person is unable to wear a safety belt for physical or medical reasons; or

(c) a motor vehicle or seating position which is not required to be equipped with a safety belt system under federal law.

(2) This part does not apply to a passenger if all seating positions are occupied by other passengers.

(3) This part does not apply to a passenger of a public transit vehicle with a gross vehicle weight rating exceeding 10,000 pounds.

CHAPTER 114**H. B. 105**

Passed February 9, 2018

Approved March 16, 2018

Effective May 8, 2018

(Exception clause in Section 4)

MEDICAID SANCTIONS AMENDMENTS

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Brian Zehnder

LONG TITLE**General Description:**

This bill adds Medicaid sanctions to the list of programs with nonlapsing authority.

Highlighted Provisions:

This bill:

- ▶ adds Medicaid sanctions to the list of programs with nonlapsing authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

26-18-3, as last amended by Laws of Utah 2017, Chapter 74

63J-1-602.1 (Effective 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 107, 194, and 383

63J-1-602.1 (Superseded 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 194, and 383

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

Section 1. Section 26-18-3 is amended to read:

26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver; or

(v) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.1, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a,

Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section ~~[53B-8a-102]~~ 53B-8a-102.5.

Section 2. Section 63J-1-602.1 (Superseded 09/30/18) is amended to read:

63J-1-602.1 (Superseded 09/30/18). List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The Native American Repatriation Restricted Account created in Section 9-9-407.

(5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(6) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(7) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(8) The Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5.

(9) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(13) The primary care grant program created in Section 26-10b-102.

(14) Sanctions collected from Medicaid providers under Subsection 26-18-3(7).

~~[(14)]~~ (15) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

~~[(15)]~~ (16) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

~~[(16)]~~ (17) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(17)]~~ (18) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(18)]~~ (19) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

~~[(19)]~~ (20) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

~~[(20)]~~ (21) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

Section 3. Section 63J-1-602.1 (Effective 09/30/18) is amended to read:

63J-1-602.1 (Effective 09/30/18). List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The Native American Repatriation Restricted Account created in Section 9-9-407.

(5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(6) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(7) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(8) The Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5.

(9) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(13) The primary care grant program created in Section 26-10b-102.

(14) Sanctions collected from Medicaid providers under Subsection 26-18-3(7).

[~~14~~] (15) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

[~~15~~] (16) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

[~~16~~] (17) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~17~~] (18) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~18~~] (19) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~19~~] (20) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

Section 4. Effective date.

This bill takes effect on May 8, 2018, except that the amendments to Section 63J-1-602.1 (Effective 09/30/18) take effect on September 30, 2018.

CHAPTER 115**H. B. 130**

Passed February 14, 2018

Approved March 16, 2018

Effective May 8, 2018

**RESOURCE
CONSERVATION AMENDMENTS**Chief Sponsor: Scott D. Sandall
Senate Sponsor: David P. Hinkins**LONG TITLE****General Description:**

This bill modifies provisions related to the Conservation Commission.

Highlighted Provisions:

This bill:

- ▶ modifies the membership and duties of the Conservation Commission;
- ▶ modifies the procedure for making a loan or a grant from the Agriculture Resource Development Fund;
- ▶ authorizes an advisory board of the Conservation Commission to approve loans from the Agriculture Resource Development Fund;
- ▶ modifies the duties of a conservation district to include responsibility for planning watershed and flood control projects;
- ▶ clarifies that a conservation district may not exercise taxing authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-18-102, as last amended by Laws of Utah 2017, Chapter 345
- 4-18-104, as last amended by Laws of Utah 2017, Chapter 345
- 4-18-105, as last amended by Laws of Utah 2017, Chapters 345 and 463
- 4-18-106, as last amended by Laws of Utah 2017, Chapter 345
- 17D-3-103, as enacted by Laws of Utah 2008, Chapter 360
- 17D-3-105, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 4-18-102 is amended to read:**4-18-102. Purpose declaration.**

- (1) The Legislature finds and declares that:
- (a) the soil and water resources of this state constitute one of the state's basic assets; and
- (b) the preservation of soil and water resources requires planning and programs to ensure:
- (i) the development and utilization of soil and water resources; and

(ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

(2) The Legislature finds that local production of food is essential for:

- (a) the security of the state's food supply; and
- (b) the self-sufficiency of the state's citizens.

(3) The Legislature finds that sustainable agriculture is critical to:

- (a) the success of rural communities;
- (b) the historical culture of the state;
- (c) maintaining healthy farmland;
- (d) maintaining high water quality;
- (e) maintaining abundant wildlife;
- (f) high-quality recreation for citizens of the state; and
- (g) helping to stabilize the state economy.

(4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.

(5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of [land,] soil, water, and air.

(6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.

Section 2. Section 4-18-104 is amended to read:**4-18-104. Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.**

(1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.

(2) The Conservation Commission shall be composed of [15]:

- (a) 11 voting members, including:

~~[(a)]~~ (i) the director of the Extension Service at Utah State University or the director's designee;

~~[(b)]~~ the president of the Utah Association of Conservation Districts or the president's designee;

~~[(c)]~~ the commissioner or the commissioner's designee;

~~[(d)]~~ (ii) the executive director of the Department of Natural Resources or the executive director's designee;

~~[(e)]~~ (iii) the executive director of the Department of Environmental Quality or the executive director's designee;

~~[(f) the chair, or the chair's designee, of the State Grazing Advisory Board, created in Section 4-20-103;]~~

~~[(g) (iv) the president of the County Weed Supervisors Association or the president's designee; and~~

~~[(h) (v) seven district supervisors who provide district representation on the commission on a multicounty basis; and~~

~~(b) the commissioner or the commissioner's designee.~~

~~[(i) the director of the School and Institutional Trust Lands Administration or the director's designee.]~~

(3) If a district supervisor is unable to attend a meeting, the district supervisor may designate an alternate ~~[may]~~ to serve in the place of the district supervisor for that meeting.

(4) None of the members described in Subsection (2)(a)(v) or (3) may serve on an association that represents a conservation district.

(5) (a) The commissioner or the commissioner's designee shall serve as chair of the Conservation Commission.

(b) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.

~~[(4)] (6) The members of the commission specified in Subsection (2)(~~h~~)(e) shall:~~

(a) be recommended by the commission to the governor; and

(b) be appointed by the governor with the consent of the Senate.

~~[(5)] (7) (a) Except as required by Subsection [(5)] (7)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term.~~

(b) Notwithstanding the requirements of Subsection ~~[(5)] (7)(a)~~, the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member may not be appointed to more than two consecutive terms.

~~[(6)] (8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.~~

~~[(7) The commissioner is chair of the commission.]~~

~~[(8)] (9) Attendance of [a majority] six voting members of the commission [members] at a meeting constitutes a quorum.~~

~~[(9)] (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~[(10)] (11) The commission shall keep a record of the commission's actions.~~

~~[(11)] (12) The attorney general shall provide legal services to the commission upon request.~~

Section 3. Section 4-18-105 is amended to read:

4-18-105. Conservation Commission -- Functions and duties.

(1) The commission shall:

(a) facilitate the development and implementation of the strategies and programs necessary to:

(i) protect, conserve, utilize, and develop the soil, ~~air, and~~ water, and air resources of the state; and

(ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;

(b) disseminate information regarding districts' activities and programs;

(c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually ~~[an audit of the district's funds to the commission]~~ the information required in Section 17D-3-103;

(e) approve and make loans for agricultural purposes, through the loan advisory ~~[board]~~ subcommittee described in Section 4-18-106, from the Agriculture Resource Development Fund~~[-for];~~

~~[(i) rangeland improvement and management projects;]~~

~~[(ii) watershed protection and flood prevention projects;]~~

~~[(iii) agricultural cropland soil and water conservation projects;]~~

~~[(iv) programs designed to promote energy efficient farming practices; and]~~

~~[(v) programs or improvements for agriculture product storage or protections of a crop or animal resource;]~~

(f) seek to obtain and administer federal or state funds~~[-, including loan funds under this chapter,]~~ in accordance with applicable federal or state guidelines and make loans or grants from those funds to ~~[land occupiers]~~ an eligible entity, as

defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for[:] the preservation of soil, water, and air resources;

~~[(i) conservation of soil or water resources;]~~

~~[(ii) maintenance of rangeland improvement projects;]~~

~~[(iii) development and implementation of coordinated resource management plans, as defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and]~~

~~[(iv) control or eradication of noxious weeds and invasive plant species;]~~

~~[(A) in cooperation and coordination with local weed boards; and]~~

~~[(B) in accordance with Section 4-17-114;]~~

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies; and

~~[(h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;]~~

~~[(i) assist other state agencies with conservation standards for agriculture when requested; and]~~

~~[(j) (h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:~~

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise its powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 4. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

(1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(2) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to it by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

(3) The commission shall make loans from the Agriculture Resource Development Fund ~~as provided by Subsections 4-18-105(1)(e)(i) through (iv)-] for a:~~

(a) rangeland improvement and management project;

(b) watershed protection or flood prevention project;

(c) soil and water conservation project;

(d) program designed to promote energy efficient farming practices;

(e) improvement program for agriculture product storage or program designed to protect a crop or animal resource; or

(f) hydroponic or aquaponic system.

(4) The commission may appoint an advisory board that shall:

(a) oversee the award process for loans, as described in this section;

(b) ~~make recommendations to the commission regarding] approve loans; and~~

(c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

(5) The commission may make a grant from the Agriculture Resource Development Fund to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that has the legal right to occupy land for:

(a) the development or implementation of a coordinated resource management plan with a conservation district, as defined in Section 17D-3-102; and

(b) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board.

Section 5. Section 17D-3-103 is amended to read:

17D-3-103. Conservation district status, authority, and duties.

(1) A conservation district created under this chapter:

- (a) is a body corporate and politic;
- (b) is a political subdivision of the state; and
- (c) may sue and be sued.

(2) (a) A conservation district may:

(i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;

(ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;

(iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;

(iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;

(v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;

(vi) enter into a contract in the name of the conservation district;

(vii) receive money from:

- (A) a federal or state agency;
- (B) a county, municipality, or other political subdivision of the state; or
- (C) a private source;

(viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

(A) the observance of particular methods of cultivation;

(B) the use of specific crop programs and tillage practices;

(C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;

(D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and

(E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;

(ix) plan watershed and flood control projects in cooperation with local, state, and federal authorities, and coordinate flood control projects in the state;

~~(ix)~~ (x) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;

~~(x)~~ (xi) employ clerical and other staff personnel, including legal staff, subject to available funds; and

~~(xi)~~ (xii) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.

(b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:

(i) the land occupier; and

(ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.

(c) (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.

(ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.

(3) (a) Each conservation district shall annually submit to the commission, no later than the date that the commission prescribes:

(i) a copy of the minutes of each conservation district meeting;

(ii) a copy of the conservation district's annual work plan; and

(iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).

(b) The accounting required under Subsection (3)(a)(iii) shall:

(i) be prepared by a disinterested person; and

(ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

Section 6. Section 17D-3-105 is amended to read:

17D-3-105. Conservation districts subject to other provisions.

(1) [A] Subject to Subsection (3), a conservation district is, to the same extent as if it were a local district, subject to and governed by:

(a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

(b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

(c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

(d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

(e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the local district board of trustees means the board of supervisors described in Section 17D-3-301.

(3) A conservation district may not exercise taxing authority.

CHAPTER 116**H. B. 131**

Passed February 16, 2018

Approved March 16, 2018

Effective May 8, 2018

SPENDTHRIFT PROVISIONS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies application of spendthrift provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies spendthrift exceptions;
- ▶ provides an exception for victim's restitution; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

75-7-503, as enacted by Laws of Utah 2004, Chapter 89

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

Section 1. Section 75-7-503 is amended to read:**75-7-503. Exceptions to spendthrift provision.**

(1) ~~[It]~~ As used in this section, “~~child~~”:

(a) “Child” includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) “Restitution” means the same as that term is defined in Section 77-38a-102.

(c) “Victim” means the same as that term is defined in Section 77-38a-102.

(2) Even if a trust contains a spendthrift provision, the following may obtain from a court an order attaching present or future distributions to the beneficiary:

(a) a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance~~[, or]~~;

(b) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust~~[, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary.]; or~~

(c) a victim who has a judgment requiring the beneficiary to pay restitution in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act, or similar provision in another state.

(3) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

CHAPTER 117**H. B. 132**

Passed March 8, 2018
 Approved March 16, 2018
 Effective March 16, 2018
 (Exception clause in Section 9)

JUVENILE JUSTICE MODIFICATIONS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses treatment of minors who commit offenses or truancy.

Highlighted Provisions:

This bill:

- ▶ expands the uses of appropriations for the Enhancement for At-Risk Students Program;
- ▶ modifies provisions related to responses to school-based behavior;
- ▶ clarifies when a prosecutor may file a petition or review a referral;
- ▶ addresses adjudication of jurisdiction by juvenile court, including addressing suspended custody orders;
- ▶ addresses the inquiry a prosecutor shall conduct before filing a petition;
- ▶ addresses victim related issues;
- ▶ creates a sunset review for certain provisions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53F-2-410, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53G-8-211, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-8-506, as renumbered and amended by Laws of Utah 2018, Chapter 3
 63I-1-253, as last amended by Laws of Utah 2017, Chapters 166 and 181
 78A-6-117 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 330
 78A-6-210, as last amended by Laws of Utah 2017, Chapter 186
 78A-6-602, as last amended by Laws of Utah 2017, Chapter 330
 78A-6-603, as last amended by Laws of Utah 2017, Chapter 330

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

Section 1. Section 53F-2-410 is amended to read:**53F-2-410. Enhancement for At-Risk Students Program.**

(1) (a) Subject to ~~the requirements of~~ Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for

At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students Program for a gang prevention and intervention program designed to help students [at-risk] at risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:

- (a) low performance on statewide assessments described in Section 53E-4-301;
- (b) poverty;
- (c) mobility; and
- (d) limited English proficiency.

(3) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure including addressing truancy.

(4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

(5) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

Section 2. Section 53G-8-211 is amended to read:**53G-8-211. Responses to school-based behavior.**

(1) As used in this section:

~~[(a) "Class A misdemeanor person offense" means a class A misdemeanor described in Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 5b, Sexual Exploitation Act.]~~

(a) "Evidence-based" means a program or practice that has:

- (i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;
- (ii) been rated as effective by a standardized program evaluation tool; or
- (iii) been approved by the State Board of Education.

(b) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.

~~[(c) "Nonperson class A misdemeanor" means a class A misdemeanor that is not a class A misdemeanor person offense.]~~

~~(d)~~ (c) “Restorative justice program” means a school-based program or a program used or adopted by a local education agency that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

(d) “School administrator” means a principal of a school.

(e) “School is in session” means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) “School resource officer” means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(g) (i) “School-sponsored activity” means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to local board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency or public school’s facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school’s activity funds or minimum school program dollars.

(ii) “School-sponsored activity” includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(h) (i) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(ii) Notwithstanding Subsection (1)(h)(i), a status offense does not include a violation that by statute is made a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property~~[-; or]~~ where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity; or

(b) that is truancy.

(3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be

referred to evidence-based alternative ~~[school-related]~~ interventions, including:

~~(a)~~ (i) a mobile crisis outreach team, as defined in Section 78A-6-105;

~~(b)~~ (ii) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104; ~~[and]~~

~~(e)~~ (iii) a youth court or comparable restorative justice program~~[-]~~;

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the State Board of Education, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.

(b) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(ii) consult with school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or

(v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(c) Notwithstanding other provisions of this section, a law enforcement officer who has cause to believe a minor has committed an offense on school property when school is not in session nor during a school-sponsored activity, the law enforcement officer may refer the minor to court or may refer the minor to evidence-based alternative interventions at the discretion of the law enforcement officer.

(4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor committed on school property or for being a habitual truant, as defined in Section 53G-6-201, if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(b) (i) When a minor is referred to court under Subsection (4)(a), the school shall appoint a school representative to continue to engage with the minor and the minor’s family through the court process.

(ii) A school representative appointed under this Subsection (4)(b) may not be a school resource officer.

(c) A school district or school shall include the following in its referral to the court:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family; and

(iv) any other information the school district or school considers relevant.

(d) A minor referred to court under this Subsection (4), may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101 when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.

(e) If a minor is referred to court under this Subsection (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

[4] (5) If the alleged offense is a class B misdemeanor or a [nonperson] class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator [or], the school administrator's designee, or a school resource officer, or the minor may be referred to the evidence-based alternative interventions in Subsection (3)(a).

Section 3. Section 53G-8-506 is amended to read:

53G-8-506. Reporting of prohibited acts affecting a school -- Confidentiality.

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:

- (a) the principal;
- (b) an administrator of the affected school;
- (c) the superintendent of the affected school district; or
- (d) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school [grounds] property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

- (1) Subsection 53-10-202(18) is repealed July 1, 2018.
- (2) Section 53-10-202.1 is repealed July 1, 2018.
- (3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.
- (4) Section 53A-13-106.5 is repealed July 1, 2019.
- (5) Section 53A-15-106 is repealed July 1, 2019.
- (6) Sections 53A-15-206 and 53A-15-207 are repealed January 1, 2023.
- (7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.
- (8) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.
- (9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.
- (10) Subsection 53G-8-211(4) is repealed July 1, 2020.

Section 5. Section 78A-6-117 (Effective 07/01/18) is amended to read:

78A-6-117 (Effective 07/01/18). Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.

(1) (a) When a minor is found to come within Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within Subsection 78A-6-103(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

- (i) the specific offenses for which the minor was adjudicated; and
- (ii) if available, if the victim:
 - (A) resides in the same school district as the minor; or
 - (B) attends the same school as the minor.

(c) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment. Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(c); and

(C) if the court orders treatment, be based on a validated risk and needs assessment conducted under Subsection (1)(c);

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or protective supervision, but the juvenile court may not assume the function of developing foster home services.

(c) (i) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(A) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(B) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(ii) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

(d) (i) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that the minor poses a

risk of harm to others and is adjudicated under this section for:

- (A) a felony offense;
- (B) a misdemeanor if the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes; or
- (C) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.
- (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.
- (iii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:
 - (A) contempt of court;
 - (B) a violation of probation;
 - (C) failure to pay a fine, fee, restitution, or other financial obligation;
 - (D) unfinished compensatory or community service hours;
 - (E) an infraction; or
 - (F) a status offense.
- (e) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.
- (f) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor. This commitment may not be suspended upon conditions ordered by the court.
 - (ii) This Subsection (2)(f) applies only to a minor adjudicated for:
 - (A) an act which if committed by an adult would be a criminal offense; or
 - (B) contempt of court under Section 78A-6-1101.
 - (iii) The court may not commit a minor to a place of detention for:
 - (A) contempt of court except to the extent allowed under Section 78A-6-1101;
 - (B) a violation of probation;
 - (C) failure to pay a fine, fee, restitution, or other financial obligation;
 - (D) unfinished compensatory or community service hours;
 - (E) an infraction; or
 - (F) a status offense.
 - (iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days

eligible as a disposition under Subsection (2)(f)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(f)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(i). Only the seven days under this Subsection (2)(f)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(t), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c)(i).

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim has the meaning defined under Subsection 77-38a-102(14). A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay; and

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs

expended by any governmental entity for the return.

(viii) The prosecutor shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within three months after disposition.

(ix) A financial disposition ordered shall prioritize the payment of restitution.

(i) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(j) (i) The court may through its probation department encourage the development of nonresidential employment or work programs to enable minors to fulfill their obligations under Subsection (2)(h) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order is reasonable and prioritizes restitution.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for children under age 16 at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(j)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(k) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other eligible disposition under Subsection (2)(k)(i) except for a disposition under Subsection (2)(c), (d), or (f). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(l) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(j)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(h).

(m) (i) Subject to Subsection (2)(m)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(m)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(m)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the

parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(m).

(n) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(o) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(p) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(q) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to

judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(q)(i).

(r) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(s) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c) and (d).

(t) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

(u) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(v) Except as provided in Subsection (2)(x)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

(w) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(x) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(x)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as

determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

- (i) would be a felony if committed by an adult;
 - (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
 - (iii) was committed with a weapon; and
- (c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court pursuant to this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court may suspend a custody order pursuant to Subsection (2)(c) or (d) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii) or if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall do so for a defined period of time pursuant to this section.

(a) For the purposes of placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive maximum length of intake probation may not exceed three months; and

(ii) the presumptive maximum length of formal probation may not exceed four to six months.

(b) For the purposes of vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive maximum length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive maximum length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the

basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed; or

(v) there is an outstanding fine.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i), (ii), (iii), or (iv) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i), (ii), (iii), or (iv) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) a felony violation of Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery;

(i) Section 76-10-508.1, felony discharge of a firearm; or

(j) an offense other than those listed in Subsections (7)(a) through (i) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

Section 6. Section 78A-6-210 is amended to read:

78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.

(1) There is created within the General Fund a restricted account known as the "Nonjudicial Adjustment Account."

(2) (a) The account shall be funded from the financial penalty established under Subsection 78A-6-602(2)(~~(d)~~)(e)(i).

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case in the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.

(3) (a) Except under Subsections (3)(b), (4), and as otherwise provided by law, all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court shall be paid to the state treasurer for deposit in the General Fund.

(b) Not more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for delinquent minors that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the minor's delinquent behavior;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately

and are subject to audit at any time by the state auditor.

(d) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing. The Board of Juvenile Court Judges shall establish policies for the use of the funds described in this subsection.

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) No fee may be charged by any state or local public officer for the service of process in any proceedings initiated by a public agency.

Section 7. Section 78A-6-602 is amended to read:

78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal referral -- Citation -- Failure to appear.

(1) A proceeding in a minor's case is commenced by petition, except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.

(2) (a) A peace officer or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours, excluding weekends and holidays. A formal referral under Section [53A-11-911] 53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject to referral under Section [53A-11-911] 53G-8-211.

(b) (i) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the minor is eligible to enter into a written consent agreement with the probation department and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2). [The]

(ii) Except as provided in Subsection (2)(k), the court's probation department shall offer a nonjudicial adjustment if the minor:

[4] (A) is referred with a misdemeanor, infraction, or status offense;

[4ii] (B) has [fewer than three] no more than two prior adjudications; and

[4iii] (C) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment means an

action based on a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.

(c) (i) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(ii) The victim shall be responsible to provide to the division upon request:

(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss;

(B) documentation and evidence of compensation or reimbursement from insurance companies or agencies of Utah, any other state, or federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(C) proof of identification, including home and work address and telephone numbers.

(iii) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.

[e] (d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a validated risk and needs assessment and may request that the prosecutor review the referral pursuant to Subsection (2)[4g](h) to determine whether to dismiss the referral or file a petition instead of offering a nonjudicial adjustment if:

(A) the results of the assessment indicate the youth is high risk; or

(B) the results of the assessment indicate the youth is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(ii) [The] Except as provided in Subsection (2)(k), the court's probation department[,] may offer a nonjudicial adjustment to any other minor who does not meet the criteria provided in Subsection (2)(b).

(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an admission of guilt.

(iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to pay a financial penalty under Subsection (2)[4d](e).

(v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.

(vi) A prosecutor may not file a petition against a minor unless:

(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or (d)(ii);

(B) the minor declines nonjudicial adjustment;

(C) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(D) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

(E) the prosecutor is acting under Subsection (2)(k).

[(d)] (e) The nonjudicial adjustment of a case may include the following conditions agreed upon as part of the nonjudicial closure:

(i) payment of a financial penalty of not more than \$250 to the juvenile court subject to the terms established under Subsection (2)(e)(f);

(ii) payment of victim restitution;

(iii) satisfactory completion of community or compensatory service;

(iv) referral to an appropriate provider for counseling or treatment;

(v) attendance at substance use disorder programs or counseling programs;

(vi) compliance with specified restrictions on activities and associations; and

(vii) victim-offender mediation, if requested by the victim; and

[(viii)] (viii) other reasonable actions that are in the interest of the child or minor and, the community, and the victim.

[(e)] (f) A fee, fine, or restitution included in a nonjudicial closure in accordance with Subsection (2)(d)(e) shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1, 2018.

[(f)] (g) If a prosecutor learns of a referral involving an offense identified in Subsection (2)(k), if a minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial closure, or if a minor is not offered or declines a nonjudicial adjustment pursuant to Subsection (2)(b) ~~or (2)(e)(ii)~~, (2)(d)(ii), or (2)(d)(vi), the prosecutor shall review the case and take one of the following actions:

(i) dismiss the case;

(ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or

(iii) ~~in accordance with Subsections~~ subject to Subsection (2)(h)(i), file a petition with the court.

[(g)] (h) Notwithstanding Subsection (2)(f)(g), a petition may only be filed upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support ~~conviction~~ adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

[(h)] (i) Failure to [a] pay a fine or fee may not serve as a basis for filing of a petition under Subsection (2)(f)(g)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (2)(d)(e) or those imposed through any other court diversion program.

[(i)-A] (j) Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court may include a fine or penalty and participation in a court-approved tobacco education program, which may include a participation fee.

(k) Notwithstanding the other provisions of this section, the probation department shall request that a prosecutor review a referral in accordance with Subsection (2)(g) if:

(i) the referral involves a violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(C) Section 76-5-206, negligent homicide;

(D) Section 76-9-702.1, sexual battery;

(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(F) Section 76-10-509, possession of dangerous weapon by minor, but only if the dangerous weapon is a firearm; or

(ii) the minor has a current suspended order for custody under Subsection 78A-6-117(5)(a).

[(j)] (l) If the prosecutor files a petition in court, the court may refer the case to the probation department for another offer of nonjudicial adjustment.

(m) If a minor violates Section 41-6a-502, regardless of whether a prosecutor reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol screening and participate in an assessment, if found appropriate by the screening, and if warranted, follow the recommendations of the assessment.

(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.

(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by

general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in accordance with Subsection (2)(b)(i) is required.

(b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.

Section 8. Section 78A-6-603 is amended to read:

78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to appear.

(1) As used in this section, "citation" means an abbreviated referral and is sufficient to invoke the jurisdiction of the court in lieu of a petition.

(2) A citation shall be submitted to the court within five days of issuance.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that is alleged to have been violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested minor into custody as provided in Section 78A-6-112;

(i) the date and time when the minor is to appear, or a statement that the minor and parent or legal guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the parent or legal guardian, if present, agreeing to appear at the juvenile court as designated on the citation.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or legal guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information

shall be removed from the documents the minor receives.

(5) A citation received by the court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) In accordance with Section ~~[53A-11-911]~~ 53G-8-211, the following offenses may be sent to the juvenile court as a citation:

(a) violations of wildlife laws;

(b) violations of boating laws;

(c) violations of curfew laws;

(d) any class B misdemeanor or less traffic violations where the person is under the age of 16;

(e) any class B or class C misdemeanor or infraction;

(f) any other infraction or misdemeanor as designated by general order of the Board of Juvenile Court Judges; and

(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.

(7) A minor offense defined under Section 78A-6-1202, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be sent to the prosecutor or the juvenile court in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

~~[(8) A preliminary inquiry by the prosecutor, and]~~

(8) An inquiry shall be conducted:

(a) by the prosecutor to determine upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice; and

(b) if appropriate, by the court[,], under Section 78A-6-117 [is required].

(9) Subsection (5) may not apply to a runaway child.

(10) (a) A minor receiving a citation described in this section shall appear at the juvenile court designated in the citation on the time and date specified in the citation or when notified by the juvenile court.

(b) A citation may not require a minor to appear sooner than five days following its issuance.

(11) A minor who receives a citation and willfully fails to appear before the juvenile court pursuant to a citation may be found in contempt of court. The court may proceed against the minor as provided in Section 78A-6-1101.

(12) When a citation is issued under this section, bail may be posted and forfeited under Section 78A-6-113 with the consent of:

(a) the court; and

(b) if the minor is a child, the parent or legal guardian of the child cited.

Section 9. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Section 78A-6-117 (Effective 07/01/18) take effect on July 1, 2018.

CHAPTER 118

H. B. 133

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

EMPLOYMENT AMENDMENTS

Chief Sponsor: Craig Hall
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill expands nepotism provisions of Title 52, Chapter 3, Prohibiting Employment of Relatives, to include a household member.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands nepotism provisions of Title 52, Chapter 3, Prohibiting Employment of Relatives, to include a household member; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 52-3-1, as last amended by Laws of Utah 2015, Chapter 56
- 52-3-2, Utah Code Annotated 1953

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

Section 1. Section 52-3-1 is amended to read:

52-3-1. Employment of relatives and household members prohibited -- Exceptions.

(1) ~~For purposes of this section~~ As used in this chapter:

(a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

(c) "Household member" means a person who resides in the same residence as the public officer.

~~(e)~~ (d) "Public officer" means a person who holds a position that is compensated by public funds.

~~(d)~~ (e) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) ~~(b)~~ A public officer may not employ, appoint, or vote for or recommend the appointment

~~of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and] an appointee when the appointee will be directly supervised by a relative, except as follows] or household member, unless:~~

(i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of ~~[his] the appointee's compliance with civil service [laws or regulations,] or merit system laws or regulations;~~

(ii) the appointee will be compensated from funds designated for vocational training;

(iii) the appointee will be employed for a period of 12 weeks or less;

(iv) the appointee is a volunteer as defined by the employing entity; or

(v) the chief administrative officer determines that the appointee is the only or best person available, qualified, or eligible for the position.

(b) ~~[Nø] A public officer may not directly supervise an appointee who is a relative [when the salary, wages, pay, or compensation of the relative will be paid from public funds, except as follows] or household member of the public officer, unless:~~

(i) the ~~[relative]~~ appointee was appointed or employed before the public officer assumed ~~[his] the public officer's supervisory position, if the [relative's] appointee's appointment did not violate the provisions of this chapter in effect at the time of [his] the appointee's appointment;~~

(ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of ~~[his] the appointee's compliance with civil service [laws or regulations,] or merit system laws or regulations;~~

(iii) the appointee will be compensated from funds designated for vocational training;

(iv) the appointee will be employed for a period of 12 weeks or less;

(v) the appointee is a volunteer as defined by the employing entity;

(vi) the appointee is the only person available, qualified, or eligible for the position; or

(vii) the chief administrative officer determines that the public officer is the only ~~[person] individual~~ available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative or household member under Subsection (2)(b):

(i) the public officer shall ~~[make] immediately~~ submit a complete written disclosure of the ~~[relationship to the chief administrative officer of the agency or institution, and] public officer's relationship with the relative or household member:~~

(A) for a public officer subject to the requirements of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, in the same manner the

public officer is required to make a disclosure under Section 67-16-7;

(B) for a public officer subject to the requirements of Title 17, Chapter 16a, County Officers and Employees Disclosure Act, in the same manner the public officer is required to make a disclosure under Section 17-16a-6; and

(C) for a public officer subject to the requirements of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act, in the same manner the public officer is required to make a disclosure under Section 10-3-1306; and

(ii) the public officer [~~who exercises authority over a relative~~] may not evaluate the [~~relative's~~] job performance of or recommend salary increases for the relative or household member.

(d) A disclosure submitted under this Subsection (2) is public, and the person or entity with which the public officer files the disclosure shall make the disclosure available for public inspection.

(3) [~~No~~] An appointee may not accept or retain employment if [~~he is paid from public funds, and he is~~] accepting or retaining employment will place the appointee under the direct supervision of a relative[~~, except as follows~~] or household member unless:

(a) the relative or household member was appointed or employed before the [~~public officer assumed his~~] appointee assumed the appointee's position, if the [~~relative's~~] appointment of the relative or household member did not violate the provisions of this chapter in effect at the time of [~~his~~] the appointment;

(b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of [~~his~~] the appointee's compliance with civil service [~~laws or regulations,~~] or merit system laws or regulations;

(c) the appointee is the only person available, qualified, or eligible for the position;

(d) the appointee is compensated from funds designated for vocational training;

(e) the appointee is employed for a period of 12 weeks or less;

(f) the appointee is a volunteer as defined by the employing entity; or

(g) the chief administrative officer [~~has determined~~] determines that the appointee's relative or household member is the only [~~person~~] individual available or qualified to supervise the appointee.

Section 2. Section 52-3-2 is amended to read:

52-3-2. Each day of violation a separate offense.

Each day [~~any such person, father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousins, mother-in-law,~~

~~father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law, is retained in office by any of said officials shall be regarded as] a relative or household member remains unlawfully in office in violation of this chapter is a separate offense.~~

CHAPTER 119**H. B. 139**

Passed March 2, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**TELEPSYCHIATRIC
 CONSULTATION ACCESS AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Curtis S. Bramble
 Cosponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill amends the Insurance Code to provide health benefit plan coverage for the use of telepsychiatric consultations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the state Medicaid program to reimburse for telepsychiatric consultations; and
- ▶ requires certain health benefit plans to provide coverage for the use of physician-to-physician psychiatric consultations using telehealth services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-13.5, as enacted by Laws of Utah 2017, Chapter 241

ENACTS:

31A-22-647, Utah Code Annotated 1953

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

Section 1. Section 26-18-13.5 is amended to read:

26-18-13.5. Mental health telehealth services -- Reimbursement -- Reporting -- Telepsychiatric consultations.

(1) As used in this section:

(a) "Mental health therapy" means the same as the term "practice of mental health therapy" is defined in Section 58-60-102.

(b) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed in Section 58-60-102.

(c) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(d) "Telemedicine services" means the same as that term is defined in Section 26-60-102.

(e) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to

engage in the practice of medicine in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) This section applies to:

(a) a managed care organization that contracts with the Medicaid program; and

(b) a provider who is reimbursed for health care services under the Medicaid program.

(3) The Medicaid program shall reimburse for personal mental health therapy office visits provided through telemedicine services at a rate set by the Medicaid program.

(4) Before December 1, 2017, the department shall report to the Legislature's Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:

(a) the result of the reimbursement requirement described in Subsection (3);

(b) existing and potential uses of telehealth and telemedicine services;

(c) issues of reimbursement to a provider offering telehealth and telemedicine services;

(d) potential rules or legislation related to:

(i) providers offering and insurers reimbursing for telehealth and telemedicine services; and

(ii) increasing access to health care, increasing the efficiency of health care, and decreasing the costs of health care; and

(e) the department's efforts to obtain a waiver from the federal requirement that telemedicine communication be face-to-face communication.

(5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by the Medicaid program.

Section 2. Section 31A-22-647 is enacted to read:

31A-22-647. Coverage of telepsychiatric consultations.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(b) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to

engage in the practice of medicine in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental health services shall:

(a) provide coverage for a telepsychiatric consultation during or after an initial visit between the patient and a referring in-network physician;

(b) provide coverage for a telepsychiatric consultation from an out-of-network board certified psychiatrist if a telepsychiatric consultation is not made available to a physician within seven business days after the initial request is made by the physician to an in-network provider of telepsychiatric consultations; and

(c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent in-network or out-of-network rate set by the health benefit plan after taking into account cost-sharing that may be required under the health benefit plan.

(3) A single telepsychiatric consultation includes all contacts, services, discussion, and information review required to complete an individual request from a referring physician for a patient.

(4) An insurer may satisfy the requirement to cover a telepsychiatric consultation described in Subsection (2)(a) for a patient by:

(a) providing coverage for behavioral health treatment, as defined in Section 31A-22-642, in person or using telehealth services; and

(b) ensuring that the patient receives an appointment for the behavioral health treatment in person or using telehealth services on a date that is within seven business days after the initial request is made by the in-network referring physician.

(5) A referring physician who uses a telepsychiatric consultation for a patient shall, at the time that the questionnaire described in Subsection (1)(b)(ii) is completed, notify the patient that:

(a) the referring physician plans to request a telepsychiatric consultation; and

(b) additional charges to the patient may apply.

(6) (a) An insurer may receive a temporary waiver from the department from the requirements in this

section if the insurer demonstrates to the department that the insurer is unable to provide the benefits described in this section due to logistical reasons.

(b) An insurer that receives a waiver from the department under Subsection (6)(a) is subject to the requirements of this section beginning July 1, 2019.

(7) This section does not limit an insurer from engaging in activities that ensure payment integrity or facilitate review and investigation of improper practices by health care providers.

CHAPTER 120**H. B. 140**

Passed February 15, 2018

Approved March 16, 2018

Effective May 8, 2018

AIR QUALITY TECHNICAL AMENDMENTS

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Environmental Quality Code.

Highlighted Provisions:

This bill:

- ▶ clarifies the definition of “pollution control facility”;
- ▶ moves two sections of the Environmental Quality Code; and
- ▶ creates a new chapter in the Environmental Quality Code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-12-102, as last amended by Laws of Utah 2015, Chapter 154

ENACTS:

19-2a-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

19-2a-102, (Renumbered from 19-2-128, as enacted by Laws of Utah 2017, Chapter 140)

19-2a-103, (Renumbered from 19-2-129, as enacted by Laws of Utah 2017, Chapter 395)

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 19-2a-101 is enacted to read: CHAPTER 2a. AIR QUALITY - SPECIAL PROVISIONS****19-2a-101. Title.**This chapter is known as “Air Quality - Special Provisions.”**Section 2. Section 19-2a-102, which is renumbered from Section 19-2-128 is renumbered and amended to read:****[19-2-128]. 19-2a-102. Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.**

(1) There is created the Air Quality Policy Advisory Board consisting of the following 10 voting members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) three members of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the director;

(d) one representative of industry interests, appointed by the president of the Senate;

(e) one representative of business or economic development interests, appointed by the speaker of the House of Representatives, who has expertise in air quality matters;

(f) one representative of the academic community, appointed by the governor, who has expertise in air quality matters; and

(g) one representative of a nongovernmental organization, appointed by the governor, who:

(i) represents community interests;

(ii) does not represent industry or business interests; and

(iii) has expertise in air quality matters.

(2) The Air Quality Policy Advisory Board shall:

(a) seek the best available science to identify legislative actions to improve air quality;

(b) identify and prioritize potential legislation and funding that will improve air quality; and

(c) make recommendations to the Legislature on how to improve air quality in the state.

(3) (a) Except as required by Subsection (3)(b), members appointed under Subsections (1)(d), (e), (f), and (g) are appointed to serve four-year terms.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of the Senate, and speaker of the House of Representatives shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the advisory board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The advisory board shall elect one member to serve as chair of the advisory board for a term of one year.

(5) Compensation for a member of the advisory board who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) A member of the advisory board who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall provide staff support for the advisory board.

Section 3. Section 19-2a-103, which is renumbered from Section 19-2-129 is renumbered and amended to read:

[19-2-129]. 19-2a-103. Gasoline vapor recovery -- Penalties.

(1) As used in this section:

(a) "Gasoline cargo tank" means a tank that:

- (i) is intended to hold gasoline;
- (ii) has a capacity of 1,000 gallons or more; and
- (iii) is attached to or intended to be drawn by a motor vehicle.

(b) "Operator" means an individual who controls a motor vehicle:

- (i) to which a gasoline cargo tank is attached; or
- (ii) that draws a gasoline cargo tank.

(c) "Underground storage tank" means the same as that term is defined in Section 19-6-102.

(2) The operator of a gasoline cargo tank shall comply with requirements of this section if the operator:

(a) permits the loading of gasoline into the gasoline cargo tank; or

(b) loads an underground storage tank with gasoline from the gasoline cargo tank.

(3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit the loading of gasoline into a tank described in Subsection (2) or load an underground storage tank with gasoline from the gasoline cargo tank described in Subsection (1) only if:

(a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar month are controlled by the use of:

(i) a properly installed and maintained vapor collection and control system that is equipped with fittings that:

(A) make a vapor-tight connection; and

(B) prevent the release of gasoline vapors by automatically closing upon disconnection; and

(ii) submerged filling or bottom filling methods; and

(b) the resulting vapor emitted into the air does not exceed the levels described in Subsection (4).

(4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may not exceed 0.640 pounds per 1,000 gallons transferred.

(5) (a) The department may fine an operator who violates this section:

(i) up to \$1,000 for a first offense; or

(ii) up to \$2,000 for a second offense.

(b) An operator who violates this section is guilty of a class C misdemeanor for a third or subsequent offense.

(6) If a facility at which an underground storage tank is located does not have the equipment necessary for an operator of a gasoline cargo tank to comply with Subsection (3), the operator is excused from the requirements of Subsections (3) and (4) and may not be fined or penalized under Subsection (5).

Section 4. Section 19-12-102 is amended to read:

19-12-102. Definitions.

As used in this chapter:

(1) "Air pollutant" means the same as that term is defined in Section 19-2-102.

(2) "Air pollutant source" means the same as that term is defined in Section 19-2-102.

(3) "Air pollution" means the same as that term is defined in Section 19-2-102.

(4) "Director" means:

(a) for purposes of an application or certification under this chapter related to air pollution, the director of the Division of Air Quality; or

(b) for purposes of an application or certification under this chapter related to water pollution, the director of the Division of Water Quality.

(5) (a) "Freestanding pollution control property" means tangible personal property located in the state, regardless of whether a purchaser purchases the tangible personal property voluntarily or to comply with a requirement of a governmental entity, if:

(i) the primary purpose of the tangible personal property is the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices; and

(ii) the tangible personal property is not used at, in the construction of, or incorporated into a pollution control facility.

(b) "Freestanding pollution control property" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) other property;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (5)(b)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(6) (a) "Pollution control facility" means real property in the state, regardless of whether a purchaser purchases the real property voluntarily or to comply with a requirement of a governmental entity, if the primary purpose of the real property is the prevention, control, or reduction of air pollution or water pollution by:

(i) the disposal or elimination of, or redesign to eliminate[;], waste and the use of treatment works for industrial waste; or

~~[(A) waste; and]~~

~~[(B) the use of treatment works for industrial waste; or]~~

(ii) (A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources; and

(B) the use of one or more air cleaning devices.

(b) "Pollution control facility" includes:

(i) an addition to real property described in Subsection (6)(a);

(ii) the reconstruction of real property described in Subsection (6)(a); or

(iii) an improvement to real property described in Subsection (6)(a).

(c) "Pollution control facility" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) another facility;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (6)(c)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(7) "Treatment works" means the same as that term is defined in Section 19-5-102.

(8) "Waste" means the same as that term is defined in Section 19-5-102.

(9) "Water pollution" has the same meaning as "pollution" under Section 19-5-102.

CHAPTER 121**H. B. 144**

Passed March 2, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**DRIVER LICENSE
 SUSPENSION AMENDMENTS**

Chief Sponsor: A. Cory Maloy
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions of the Uniform Driver License Act related to suspension of a driver license.

Highlighted Provisions:

This bill:

- ▶ provides that the Driver License Division may not suspend a person's driver license for certain offenses, unless the person was an operator of a motor vehicle at the time of the offense; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-218, as last amended by Laws of Utah 2015, Chapters 346 and 412
 53-3-220, as last amended by Laws of Utah 2017, Chapter 181

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

Section 1. Section 53-3-218 is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) [(4)] A court may not forward to the division an abstract of [the] a court record of [the] a conviction for a violation described in Subsection 53-3-220(1)(c) [and the Driver License Division may not suspend a person's license for a violation described in Subsection 53-3-220(1)(c) if the person: (A)(i) or (ii), unless the court found that the person convicted of [a] the violation [described in Subsection 53-3-220(1)(c) was not] was an operator of a motor vehicle at the time of the violation[; and].

[(B) (I) is participating in or has successfully completed substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; or]

[(II) is participating in or has successfully completed probation through the Department of Corrections Adult Probation and Parole in accordance with Section 77-18-1.]

[(ii) If the person convicted of a violation described in Subsection 53-3-220(1)(c) fails to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);]

[(A) the substance abuse treatment program licensed by the Division of Substance Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall immediately provide an affidavit or other sworn information to the court notifying the court that the person has failed to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);]

[(B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the court shall immediately forward an abstract of the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) to the division; and]

[(C) the division shall immediately suspend the person's license in accordance with Subsection 53-3-220(1)(c).]

(3) The abstract shall be made in the form prescribed by the division and shall include:

- (a) the name, date of birth, and address of the party charged;
- (b) the license certificate number of the party charged, if any;
- (c) the registration number of the motor vehicle or motorboat involved;
- (d) whether the motor vehicle was a commercial motor vehicle;
- (e) whether the motor vehicle carried hazardous materials;
- (f) whether the motor vehicle carried 16 or more occupants;
- (g) whether the driver presented a commercial driver license;

- (h) the nature of the offense;
- (i) whether the offense involved an accident;
- (j) the driver's blood alcohol content, if applicable;
- (k) if the offense involved a speeding violation:
 - (i) the posted speed limit;
 - (ii) the actual speed; and
 - (iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;
 - (l) the date of the hearing;
 - (m) the plea;
 - (n) the judgment or whether bail was forfeited; and
 - (o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(5) Upon a conviction for a violation of the prohibition on using a handheld wireless communication device for text messaging or electronic mail communication while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.

(6) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

Section 2. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

- (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;
- (ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or

as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a peace officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court

provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of [a] the convicted person [upon receiving a record of conviction for] if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

CHAPTER 122**H. B. 145**

Passed February 23, 2018

Approved March 16, 2018

Effective May 8, 2018

PEDESTRIAN SAFETY AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to roads where a pedestrian is restricted from certain conduct that may impede and block traffic to include roads with a median or that share a right-of-way with a railway, and also amends provisions related to pedestrian safety in a crosswalk.

Highlighted Provisions:

This bill:

- ▶ removes certain language to provide additional safety to pedestrians in crosswalks and at school crossings; and
- ▶ amends provisions describing roads where a pedestrian may not engage in certain activity that could impede or block traffic to include:
 - a highway with a median, whether raised or flat; and
 - a highway where a fixed guideway or rail line shares the right-of-way with the highway.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1002, as renumbered and amended by Laws of Utah 2005, Chapter 2

41-6a-1009, as last amended by Laws of Utah 2017, Chapter 69

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

Section 1. Section 41-6a-1002 is amended to read:**41-6a-1002. Pedestrians' right-of-way -- Duty of pedestrian.**

(1) (a) Except as provided under Subsection (2), ~~[when traffic control signals are not in place or not in operation,]~~ the operator of a vehicle shall yield the right-of-way by slowing down or stopping if necessary:

(i) to a pedestrian crossing the roadway within a crosswalk when the pedestrian is on the half of the roadway upon which the vehicle is traveling; or

(ii) when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) Subsection (1)(a) does not apply under conditions of Subsection 41-6a-1003(2).

(c) A pedestrian may not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(2) The operator of a vehicle approaching a school crosswalk shall come to a complete stop at the school crosswalk if: ~~(a) a school speed limit sign has the warning lights operating; and (b)]~~ the crosswalk is occupied by a person.

(3) If a vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear may not overtake and pass the stopped vehicle.

Section 2. Section 41-6a-1009 is amended to read:**41-6a-1009. Use of roadway by pedestrians -- Prohibited activities.**

(1) Where there is a sidewalk provided and its use is practicable, a pedestrian may not walk along or on an adjacent roadway.

(2) Where a sidewalk is not provided, a pedestrian walking along or on a highway shall walk only on the shoulder, as far as practicable from the edge of the roadway.

(3) Where a sidewalk or a shoulder is not available, a pedestrian walking along or on a highway shall:

(a) walk as near as practicable to the outside edge of the roadway; and

(b) if on a two-way roadway, walk only on the left side of the roadway facing traffic.

(4) (a) An individual may not impede or block traffic within any of the following:

(i) an interstate system, as defined in Section 72-1-102;

(ii) a freeway, as defined in Section 41-6a-102;

(iii) a state highway, as defined in Title 72, Chapter 4, Designation of State Highways Act;

(iv) a state route, or "SR," as defined in Section 72-1-102; or

(v) a highway, as defined in Section 72-1-102, that:

(A) is paved[;] and ~~[(B)]~~ has a speed limit of 35 miles per hour or higher[;];

(B) has a median, whether elevated or flat; or

(C) has a fixed guideway as defined in Section 59-12-102 or any other railway that shares the highway right-of-way.

(b) The locations described in Subsection (4)(a) include:

(i) shoulder areas, as defined in Section 41-6a-102;

(ii) on-ramps;

(iii) off-ramps; and

(iv) an area between the roadways of a divided highway, as defined in Section 41-6a-102.

(c) The locations described in Subsection (4)(a) do not include sidewalks, as defined in Section 41-6a-102.

(d) Conduct that may impede or block traffic includes:

(i) while a pedestrian, accepting, transacting, exchanging, or otherwise taking possession or control of money or property from a person within a motor vehicle while that motor vehicle is within an area described in Subsection (4)(a); or

(ii) while a driver or passenger of a motor vehicle within an area described in Subsection (4)(a), accepting, transacting, exchanging, or otherwise taking possession or control of money or property from a pedestrian.

(e) Conduct that impedes or blocks traffic does not include:

(i) the conduct described in Section 41-6a-209 or other lawful direction of a peace officer;

(ii) conduct or actions resulting from a traffic accident, medical emergency, or similar exigent circumstance, including:

(A) exchanging insurance information; or

(B) exchanging contact information; or

(iii) conduct or actions that occur while the motor vehicle is legally parked.

(f) A county or municipality may adopt a resolution, ordinance, or regulation prohibiting conduct in locations described in Subsections (4)(a) and (b) within any of the roadways under its jurisdiction.

(g) (i) The state, a county, or a municipality shall create a permitting process for granting a person an exemption from this Subsection (4).

(ii) Upon receipt of a valid permit application, the state, a county, or a municipality shall grant a person a temporary exemption from this Subsection (4) for a specified location or time.

(h) Nothing in this section prohibits a temporary spontaneous demonstration.

(5) A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be on a highway except on a sidewalk or sidewalk area.

(6) Except as otherwise provided in this chapter, a pedestrian on a roadway shall yield the right-of-way to all vehicles on the roadway.

(7) A pedestrian may not walk along or on a no-access freeway facility except during an emergency.

(8) (a) As used in this Subsection (8):

(i) "Aggressive manner" means intentionally:

(A) persisting in approaching or following an individual after the individual has negatively responded to the solicitation;

(B) engaging in conduct that would cause a reasonable individual to fear imminent bodily harm;

(C) engaging in conduct that would intimidate a reasonable individual into giving money or goods;

(D) blocking the path of an individual; or

(E) physically contacting an individual or the individual's personal property without that individual's consent.

(ii) "Bank" is as defined in Section 13-42-102.

(iii) "Sidewalk" is as defined in Section 41-6a-102.

(b) An individual may not solicit money or goods from another individual in an aggressive manner:

(i) during the business hours of a bank if either the individual soliciting, or the individual being solicited, is on the portion of a sidewalk that is within 10 feet of the bank's entrance or exit; or

(ii) on the portion of a sidewalk that is within 10 feet of an automated teller machine.

(9) (a) Except as provided in Subsection (9)(b), a violation of this section is an infraction.

(b) A third or subsequent violation of Subsection (4) in a one-year period is a class C misdemeanor.

CHAPTER 123**H. B. 158**

Passed March 2, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**CONTROLLED SUBSTANCE
 DATABASE REVISIONS**

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to the controlled substance database administered by the Division of Occupational and Professional Licensing (DOPL).

Highlighted Provisions:

This bill:

- ▶ modifies the requirements related to providing information to DOPL for inclusion in the controlled substance database;
- ▶ modifies who may be penalized for failing to submit information to the controlled substance database as required by state statute; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-203, as last amended by Laws of Utah 2015, Chapters 89 and 326
 58-37f-301, as last amended by Laws of Utah 2017, Chapter 237
 58-37f-602, as enacted by Laws of Utah 2010, Chapter 287

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

Section 1. Section 58-37f-203 is amended to read:**58-37f-203. Submission, collection, and maintenance of data.**

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The ~~[pharmacist in charge]~~ pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) ~~[in accordance with]~~ the requirements of this section;

(ii) ~~[in accordance with]~~ the procedures established by the division; ~~[and]~~

(iii) additional types of information or data fields established by the division; and

~~[(iii) in]~~ (iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) The ~~[pharmacist]~~ pharmacist-in-charge and the pharmacist described in Subsection (2) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division ~~[the following information:]~~ any type of information or data field established by the division by rule in accordance with Subsection (6).

~~[(a) the name of the prescribing practitioner;]~~

~~[(b) the date of the prescription;]~~

~~[(c) the date the prescription was filled;]~~

~~[(d) the name of the individual for whom the prescription was written;]~~

~~[(e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;]~~

~~[(f) the name of the controlled substance;]~~

~~[(g) the quantity of the controlled substance prescribed;]~~

~~[(h) the strength of the controlled substance;]~~

~~[(i) the quantity of the controlled substance dispensed;]~~

~~[(j) the dosage quantity and frequency as prescribed;]~~

~~[(k) the name of the drug outlet dispensing the controlled substance; and]~~

~~[(4) the name of the pharmacist dispensing the controlled substance.]~~

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part~~], including the electronic format in which the information required under this section shall be submitted to the division.~~, including:

(a) electronic format;

(b) submission procedures; and

(c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

(a) the identification of each individual who requests or receives information from the database;

(b) the information provided to each individual; and

(c) the date and time that the information is requested or provided.

Section 2. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

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

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the

following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

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

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a member of a diversion committee established in accordance with Subsection 58-1-404(2) if:

(i) the diversion committee member is limited to obtaining information from the database regarding the person whose conduct is the subject of the committee's consideration; and

(ii) the conduct that is the subject of the committee's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an

employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

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

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

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

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

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

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

(ii) determining whether a person:

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

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

(l) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(j)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(m) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(n) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(o) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(p) a mental health therapist, if:

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

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

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(p)(i)(A) is associated with a practitioner who:

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

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(p), from the database;

(q) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(r) an individual under Subsection (2)(q) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(s) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; ~~and~~

(t) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation

benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment[.]; and

(u) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities.

(3) (a) (i) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(ii) A pharmacist described in Subsection (2)(k) who is a pharmacist-in-charge may designate up to five employees to access information from the database under Subsection (2)(l).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall,

when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(n).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

Section 3. Section 58-37f-602 is amended to read:

58-37f-602. Failure by pharmacist to submit information -- Penalties.

(1) The failure of a ~~[pharmacist in charge]~~ pharmacist-in-charge, a pharmacy, or a third party under contract with a pharmacist-in-charge to submit information to the database ~~[as required under]~~ in accordance with the requirements of Section 58-37f-203, after the division has submitted a specific written request for the information or when the division determines the ~~[individual]~~ pharmacist-in-charge, pharmacy, or third party has a demonstrable pattern of failing to submit the information as required, is grounds for the division to take the following actions in accordance with Section 58-1-401:

(a) refuse to issue a license to the ~~[individual]~~ pharmacist-in-charge or the pharmacy;

(b) refuse to renew the ~~[individual's]~~ license of the pharmacist-in-charge or the pharmacy;

(c) revoke, suspend, restrict, or place on probation the license of the pharmacist-in-charge or the pharmacy;

(d) issue a public reprimand to the ~~[individual]~~ pharmacist-in-charge or the pharmacy;

(e) issue a cease and desist order to the pharmacist-in-charge, the pharmacy, or the ~~third party;~~ and

(f) impose a civil penalty on the pharmacist-in-charge, the pharmacy, or the ~~third party of [not more than]~~ up to \$1,000 for each dispensed prescription regarding which the

required information is not submitted in accordance with the requirements of Section 58-37f-203.

(2) Civil penalties assessed under Subsection (1)(f) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

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

CHAPTER 124**H. B. 160**

Passed February 27, 2018

Approved March 16, 2018

Effective May 8, 2018

DOMESTIC VIOLENCE PROVISIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill amends provisions relating to a court order in cases of domestic violence.

Highlighted Provisions:

This bill:

- ▶ amends provisions of the Cohabitant Abuse Procedures Act to permit a court to order the transfer of a wireless telephone number to a petitioner when the current account holder is the respondent for an order for protection;
- ▶ amends provisions of the Judicial Code to permit a court to order the transfer of a wireless telephone number to a victim when the current account holder is the perpetrator;
- ▶ describes the contents of an order transferring a wireless telephone number;
- ▶ subject to certain exceptions, requires a wireless service provider to comply with an order transferring a wireless telephone number;
- ▶ describes the legal effect and other requirements relating to an order transferring a wireless telephone number; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-36-5.1, as last amended by Laws of Utah 2017, Chapter 332

78B-7-105, as last amended by Laws of Utah 2017, Chapter 332

78B-7-106, as last amended by Laws of Utah 2014, Chapter 267

ENACTS:

77-36-5.3, Utah Code Annotated 1953

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

Section 1. Section 77-36-5.1 is amended to read:**77-36-5.1. Conditions of probation for person convicted of domestic violence offense -- Continuous protective orders.**

(1) Before any perpetrator who has been convicted of a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with one

or more orders of the court, which may include a sentencing protective order:

(a) enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) prohibiting the perpetrator from possessing or consuming alcohol or controlled substances;

(e) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(f) directing the perpetrator to surrender any weapons the perpetrator owns or possesses;

(g) directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment;

(h) directing the perpetrator to pay restitution to the victim, enforcement of which shall be in accordance with Chapter 38a, Crime Victims Restitution Act; and

(i) imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) The perpetrator is responsible for the costs of any condition of probation, according to the perpetrator's ability to pay.

(4) (a) Adult Probation and Parole, or other provider, shall immediately report to the court and notify the victim of any offense involving domestic violence committed by the perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and any violation of any sentencing criminal protective order issued by the court.

(b) Notification of the victim under Subsection (4)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

(5) The court shall transmit all dismissals, terminations, and expirations of pretrial and sentencing criminal protective orders issued by the court to the statewide domestic violence network.

(6) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator

who is convicted of domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (6) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Chapter 37, Victims' Rights, and Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

(b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (6)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(d) A continuous protective order is permanent in accordance with this Subsection (6)(d) and may grant the following relief:

(i) enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Chapter 38a, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(e) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of this Subsection (6) have been met and the victim does not have a reasonable fear of future harm or abuse.

(f) Notice of a continuous protective order issued pursuant to this section shall be sent by the court to the statewide domestic violence network.

(g) Violation of a continuous protective order issued pursuant to this Subsection (6) is a class A misdemeanor, is a domestic violence offense under Section 77-36-1, and is subject to increased penalties in accordance with Section 77-36-1.1.

(h) In addition to the process of issuing a continuous protective order described in Subsection (6)(a), a district court may issue a continuous protective order at any time if the victim files a petition with the district court, and after notice and hearing the district court finds that a continuous protective order is necessary to protect the victim.

(7) (a) Before release of a person who is subject to a continuous protective order issued under Subsection (6), the victim shall receive notice of the imminent release by the law enforcement agency that is releasing the person who is subject to the continuous protective order:

(i) if the victim has provided the law enforcement agency contact information; and

(ii) in accordance with Section 64-13-14.7, if applicable.

(b) Before release, the law enforcement agency shall notify in writing the person being released that a violation of the continuous protective order issued at the time of conviction or sentencing continues to apply, and that a violation of the continuous protective order is a class A misdemeanor, is a separate domestic violence offense under Section 77-36-1, and is subject to increased penalties in accordance with Section 77-36-1.1.

(8) In addition to a protective order issued under this section, the court may issue a separate order relating to the transfer of a wireless telephone number in accordance with Section 77-36-5.3.

Section 2. Section 77-36-5.3 is enacted to read:

77-36-5.3. Court order for transfer of wireless telephone number.

(1) As used in this section, "wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Federal Telecommunications Act of 1996.

(2) At or after the time that a court issues a protective order under Section 77-36-5.1 or an order of protection under Section 78B-7-106, the court may order the transfer of a wireless telephone number as provided in this section, if:

(a) the perpetrator is the account holder for the wireless telephone number;

(b) the number is assigned to a telephone that is primarily used by the victim or an individual who will reside with the victim during the time that the protective order or the order of protection is in effect; and

(c) the victim requests transfer of the wireless telephone number.

(3) An order transferring a wireless telephone number under this section shall:

(a) direct a wireless service provider to transfer the rights to, and the billing responsibility for, the wireless telephone number to the victim; and

(b) include the wireless telephone number to be transferred, the name of the transferee, and the name of the account holder.

(4) A wireless service provider shall comply with an order issued under this section, unless compliance is not reasonably possible due to:

(a) the account holder having already terminated the account;

(b) differences in network technology that prevent the victim's device from functioning on the network to which the number is to be transferred;

(c) geographic or other service availability constraints; or

(d) other barriers outside the control of the wireless service provider.

(5) A wireless service provider that fails to comply with an order issued under this section shall, within four business days after the day on which the wireless service provider receives the order, provide notice to the victim stating:

(a) that the wireless service provider is not able to reasonably comply with the order; and

(b) the reason that the wireless service provider is not able to reasonably comply with the order.

(6) The victim has full financial responsibility for each wireless telephone number transferred to the victim by an order under this section, beginning on the day on which the wireless telephone number is transferred, including monthly service costs and costs for any mobile device associated with the wireless telephone number.

(7) This section does not preclude a wireless service provider from applying standard requirements for account establishment to the victim when transferring financial responsibility under Subsection (6).

(8) A wireless service provider, and any officer, employee, or agent of the wireless service provider, is not civilly liable for action taken in compliance with an order issued under this section.

Section 3. Section 78B-7-105 is amended to read:

78B-7-105. Forms for petitions and protective orders -- Assistance.

(1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to persons seeking to proceed under this chapter.

(b) The Administrative Office of the Courts shall develop and adopt uniform forms for petitions and orders for protection in accordance with the provisions of this chapter. That office shall provide the forms to the clerk of each court authorized to issue protective orders. The forms shall include:

(i) a statement notifying the petitioner for an ex parte protective order that knowing falsification of any statement or information provided for the purpose of obtaining a protective order may subject the petitioner to felony prosecution;

(ii) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation, as provided in Subsection 78B-7-106[(5)](6);

(iii) language in the criminal provision portion stating violation of any criminal provision is a class A misdemeanor, and language in the civil portion stating violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iv) a space for information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description;

(v) a space for the petitioner to request a specific period of time for the civil provisions to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for the requested extension of the length of time beyond 150 days;

(vi) a statement advising the petitioner that when a minor child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school where the child attends; and

(vii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance.

(2) If the person seeking to proceed under this chapter is not represented by an attorney, it is the responsibility of the court clerk's office to provide:

(a) the forms adopted pursuant to Subsection (1);

(b) all other forms required to petition for an order for protection including, but not limited to, forms for service;

(c) clerical assistance in filling out the forms and filing the petition, in accordance with Subsection (1)(a), except that a court clerk's office may designate any other entity, agency, or person to provide that service, but the court clerk's office is responsible to see that the service is provided;

(d) information regarding the means available for the service of process;

(e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and

(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.

(3) No charges may be imposed by a court clerk, constable, or law enforcement agency for:

- (a) filing a petition under this chapter;
 - (b) obtaining an ex parte protective order;
 - (c) obtaining copies, either certified or not certified, necessary for service or delivery to law enforcement officials; or
 - (d) fees for service of a petition, ex parte protective order, or protective order.
- (4) A petition for an order of protection shall be in writing and verified.

(5) (a) An order for protection shall be issued in the form adopted by the Administrative Office of the Courts pursuant to Subsection (1).

(b) A protective order issued, except orders issued ex parte, shall include the following language:

“Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.”

(c) A protective order issued in accordance with this part, including protective orders issued ex parte and except for a continuous protective order issued under Subsection 77-36-5.1(6), shall include the following language:

“NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent.”

Section 4. Section 78B-7-106 is amended to read:

78B-7-106. Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for an order for protection or a petition to modify an order for protection that domestic violence or abuse has occurred or a modification of an order for protection is required, a court may:

- (a) without notice, immediately issue an order for protection ex parte or modify an order for protection ex parte as it considers necessary to protect the petitioner and all parties named to be protected in the petition; or
- (b) upon notice, issue an order for protection or modify an order after a hearing, ~~whether or not~~ regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in an order for protection or a modification issued ex parte:

- (a) enjoin the respondent from threatening to commit or committing domestic violence or abuse against the petitioner and any designated family or household member;
- (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;
- (c) order that the respondent is excluded from the petitioner's residence and its premises, and order the respondent to stay away from the residence, school, or place of employment of the petitioner, and the premises of any of these, or any specified place frequented by the petitioner and any designated family or household member;

(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(e) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(f) order the respondent to maintain an existing wireless telephone contract or account;

~~(g)~~ (g) grant to the petitioner temporary custody of any minor children of the parties;

~~(h)~~ (h) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;

~~(i)~~ (i) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

~~(j)~~ (j) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in an order for protection or a modification of an order after notice and hearing, ~~whether or not~~ regardless of whether the respondent appears:

- (a) grant the relief described in Subsection (2); and
- (b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or

deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 77-36-5.3.

[4(5)] (5) Following the protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement agency or agencies designated by the petitioner; and

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.

[4(5)] (6) (a) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

(i) criminal offenses are those under Subsections (2)(a) through (e), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and

(ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a) as it refers to Subsections (2)(f), (h), and (i).

(b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.

(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.

[4(6)] (7) The protective order shall include:

(a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;

(b) information the petitioner is able to provide to facilitate identification of the respondent, such as Social Security number, driver license number, date of birth, address, telephone number, and physical description; and

(c) a statement advising the petitioner that:

(i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;

(ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of

the petitioner's current address for notice of any hearing; and

(iii) the address provided by the petitioner will not be made available to the respondent.

[4(7)] (8) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

[4(8)] (9) (a) The county sheriff that receives the order from the court, pursuant to Subsection [4(5)] (6)(a), shall provide expedited service for orders for protection issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

[4(9)] (10) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

[4(10)] (11) A court may modify or vacate an order of protection or any provisions in the order after notice and hearing, except that the criminal provisions of a protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules of Civil Procedure, and the petitioner personally appears before the court and gives specific consent to the vacation of the criminal provisions of the protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the protective order.

[4(11)] (12) A protective order may be modified without a showing of substantial and material change in circumstances.

[4(12)] (13) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

CHAPTER 125**H. B. 174**

Passed February 22, 2018

Approved March 16, 2018

Effective May 8, 2018

**UTAH DIGITAL HEALTH SERVICE
COMMISSION MEMBERSHIP
AMENDMENTS**Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill changes the composition of the Utah Digital Health Service Commission.

Highlighted Provisions:

This bill:

- ▶ increases the number of members on the Utah Digital Health Service Commission;
- ▶ creates an additional category for representation on the Utah Digital Health Service Commission;
- ▶ increases the number of members required for a quorum; and
- ▶ adds information security to the duties and responsibilities of the Utah Digital Health Service Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-9f-103, as last amended by Laws of Utah 2010, Chapter 286

26-9f-104, as last amended by Laws of Utah 2008, Chapter 46

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

Section 1. Section 26-9f-103 is amended to read:**26-9f-103. Utah Digital Health Service Commission.**

(1) There is created within the department the Utah Digital Health Service Commission.

(2) The governor shall appoint ~~[12]~~ 13 members to the commission with the consent of the Senate, as follows:

(a) a physician who is involved in digital health service;

(b) a representative of a health care system or a licensed health care facility ~~[or system]~~ as that term is defined in Section 26-21-2;

(c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues created pursuant to Section 26-1-20;

(d) a member of the public who is not involved with digital health service;

(e) a nurse who is involved in digital health service; and

(f) ~~[seven]~~ eight members who fall into one or more of the following categories:

(i) individuals who use digital health service in a public or private institution;

(ii) individuals who use digital health service in serving medically underserved populations;

(iii) nonphysician health care providers involved in digital health service;

(iv) information technology professionals involved in digital health service;

(v) representatives of the health insurance industry; ~~[and]~~

(vi) telehealth digital health service consumer advocates~~[-]~~; and

(vii) individuals who use digital health service in serving mental or behavioral health populations.

(3) (a) The commission shall annually elect a chairperson from its membership. The chairperson shall report to the executive director of the department.

(b) The commission shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

(c) ~~[Six]~~ Seven commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.

(4) (a) Except as provided in Subsection (4)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately 1/3 of the commission is appointed each year.

(c) A commission member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.

(d) Notwithstanding Subsection (4)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.

(e) When a vacancy occurs in membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The department shall provide informatics staff support to the commission.

(7) The funding of the commission shall be a separate line item to the department in the annual appropriations act.

Section 2. Section 26-9f-104 is amended to read:

26-9f-104. Duties and responsibilities.

The commission shall:

(1) advise and make recommendations on digital health service issues to the department and other state entities;

(2) advise and make recommendations on digital health service related patient privacy and information security to the department;

(3) promote collaborative efforts to establish technical compatibility, uniform policies, ~~and~~ privacy features, and information security to meet legal, financial, commercial, and other societal requirements;

(4) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to digital health service;

(5) explore and encourage the development of digital health service systems as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records;

(6) seek public input on digital health service issues; and

(7) in consultation with the department, advise the governor and Legislature on:

(a) the role of digital health service in the state;

(b) the policy issues related to digital health service;

(c) the changing digital health service needs and resources in the state; and

(d) state budgetary matters related to digital health service.

CHAPTER 126**H. B. 177**

Passed March 7, 2018
 Approved March 16, 2018
 Effective March 16, 2018

TRAUMA-INFORMED JUSTICE PROVISIONS

Chief Sponsor: Ken Ivory
 Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill addresses trauma-informed justice.

Highlighted Provisions:

This bill:

- ▶ modifies the duties of the Commission on Criminal and Juvenile Justice;
- ▶ creates a trauma-informed justice program, including:
 - defining terms;
 - creating a committee;
 - establishing powers and duties of the committee;
 - providing for a performance incentive grant program; and
 - requiring reporting; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63M-7-204, as last amended by Laws of Utah 2017, Chapter 330

ENACTS:

63M-7-209, Utah Code Annotated 1953

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

Section 1. Section 63M-7-204 is amended to read:**63M-7-204. Duties of commission.**

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the

reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants funded from money from the Law Enforcement Operations Account created in Section 51-9-411 for law

enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms; ~~and~~

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633[-]; and

(t) oversee the trauma-informed justice program described in Section 63M-7-209.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 2. Section 63M-7-209 is enacted to read:

63M-7-209. Trauma-informed justice program.

(1) As used in this section:

(a) “Committee” means the Multi-Disciplinary Trauma-Informed Committee created under Subsection (2).

(b) “First responder” includes:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) emergency medical service personnel, as defined in Section 26-8a-102; and

(iii) a firefighter.

(c) “Trauma-informed” means a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system.

(d) “Victim” means the same as that term is defined in Section 77-37-2.

(2) (a) The commission shall create a committee known as the Multi-Disciplinary Trauma-Informed Committee to assist the commission in meeting the requirements of this section. The commission shall provide for the

membership, terms, and quorum requirements of the committee, except that:

(i) at least one member of the committee shall be a victim;

(ii) the executive director of the Department of Health or the executive director’s designee shall be on the committee;

(iii) the executive director of the Department of Human Services or the executive director’s designee shall be on the committee;

(iv) a member of the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, as chosen by the chair of the Utah Intergenerational Welfare Reform Commission shall be on the committee; and

(v) the commission shall terminate the committee on June 30, 2020.

(b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the requirements of this section.

(3) (a) The committee shall work with statewide coalitions, children’s justice centers, and other stakeholders to complete, by no later than September 1, 2019, a review of current and recommended trauma-informed policies, procedures, programs, or practices in the state’s criminal and juvenile justice system, including:

(i) reviewing the role of victim advocates and victim services in the criminal and juvenile justice system and:

(A) how to implement the option of a comprehensive, seamless victim advocate system that is based on the best interests of victims and assists a victim throughout the criminal and juvenile justice system or a victim’s process of recovering from the trauma the victim experienced as a result of being a victim of crime; and

(B) recommending what minimum qualifications a victim advocate must meet, including recommending trauma-informed training or trauma-informed continuing education hours;

(ii) reviewing of best practice standards and protocols, including recommending adoption or creation of trauma-informed interview protocols, that may be used to train persons within the criminal and juvenile justice system concerning trauma-informed policies, procedures, programs, or practices, including training of:

(A) peace officers that is consistent with the training developed under Section 76-5-608;

(B) first responders;

(C) prosecutors;

(D) defense counsel;

(E) judges and other court personnel;

(F) the Board of Pardons and Parole and its personnel;

(G) the Department of Corrections, including Adult Probation and Parole; and

(H) others involved in the state's criminal and juvenile justice system;

(iii) recommending outcome based metrics to measure achievement related to trauma-informed policies, procedures, programs, or practices in the criminal and juvenile justice system;

(iv) recommending minimum qualifications and continuing education of individuals providing training, consultation, or administrative supervisory consultation within the criminal and juvenile justice system regarding trauma-informed policies, procedures, programs, or practices;

(v) identifying needs that are not funded or that would benefit from additional resources;

(vi) identifying funding sources, including outlining the restrictions on the funding sources, that may fund trauma-informed policies, procedures, programs, or practices;

(vii) reviewing which governmental entities should have the authority to implement recommendations of the committee; and

(viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.

(b) Whenever the commission conducts a related survey, the commission, when possible, shall include how victims and their family members interact with Utah's criminal and juvenile justice system, including whether the victims and family members are treated with trauma-informed policies, procedures, programs, or practices throughout the criminal and juvenile justice system.

(4) The commission shall establish and administer a performance incentive grant program that allocates money appropriated by the Legislature to public or private entities:

(a) to provide advocacy and related service for victims in connection with the Board of Pardons and Parole process; and

(b) that have demonstrated experience and competency in the best practices and standards of trauma-informed care.

(5) The commission shall report to the Judiciary Interim Committee, at the request of the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee by no later than the September 2019 interim regarding the grant under Subsection (4), the committee's activities under this section, and whether the committee should be extended beyond June 30, 2020.

Section 3. Effective date.

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

signature, or in the case of a veto, the date of veto override.

CHAPTER 127**H. B. 183**

Passed February 16, 2018

Approved March 16, 2018

Effective May 8, 2018

**CAREER SERVICE REVIEW
OFFICE AMENDMENTS**

Chief Sponsor: LaVar Christensen

Senate Sponsor: Brian Zehnder

LONG TITLE**General Description:**

This bill repeals a requirement that the Career Service Review Office employ a court reporter to make a transcript of a grievance procedure hearing.

Highlighted Provisions:

This bill:

- ▶ repeals a requirement that the administrator of the Career Service Review Office employ a court reporter to make a transcript of a grievance procedure hearing; and
- ▶ requires the administrator of the Career Service Review Office to record a grievance procedure hearing.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19a-406, as last amended by Laws of Utah 2013, Chapter 109

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

Section 1. Section 67-19a-406 is amended to read:**67-19a-406. Procedural steps to be followed by aggrieved employee -- Hearing before hearing officer -- Evidentiary and procedural rules.**

(1) (a) The administrator shall ~~employ a certified court reporter to~~ record the hearing and ~~prepare an official transcript of the hearing~~ preserve the record.

(b) The ~~official transcript~~ recording of the proceedings and all exhibits, briefs, motions, and pleadings received by the hearing officer are the official record of the proceeding.

(2) (a) The agency has the burden of proof in all grievances.

(b) The agency must prove the agency's case by substantial evidence.

(3) (a) The hearing officer shall issue a written decision within 20 working days after the hearing is adjourned.

(b) If the hearing officer does not issue a decision within 20 working days, the agency that is a party to the grievance is not liable for any claimed back wages or benefits after the date the decision is due.

(4) The hearing officer may:

(a) not award attorney fees or costs to either party;

(b) close a hearing by complying with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(c) seal the file and the evidence produced at the hearing if the evidence raises questions about an employee's character, professional competence, or physical or mental health;

(d) grant continuances according to rule; and

(e) decide a motion, an issue regarding discovery, or another issue in accordance with this chapter.

(5) (a) A hearing officer shall affirm, rescind, or modify agency action.

(b) (i) If a hearing officer does not affirm agency action, the hearing officer shall order back pay and back benefits that the grievant would have received without the agency action.

(ii) An order under Subsection (5)(b)(i) shall include:

(A) reimbursement to the grievant for premiums that the grievant paid for benefits allowed under the Consolidated Omnibus Reconciliation Act of 1985; and

(B) an offset for any state paid benefits the grievant receives because of the agency action, including unemployment compensation benefits.

(c) In an order under Subsection (5)(b)(i), a hearing officer may not reduce the amount of back pay and benefits awarded a grievant because of income that the grievant earns during the grievance process.

CHAPTER 128**H. B. 189**

Passed March 2, 2018

Approved March 16, 2018

Effective May 8, 2018

DRIVER LICENSE EXAM REVISIONS

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to limited-term driver license certificate and renewals for an approved asylee or refugee.

Highlighted Provisions:

This bill:

- ▶ changes the term of a limited-term license certificate issued to an approved asylee or refugee from four years to five years;
- ▶ allows an approved asylee or refugee applicant for a limited-term driver license certificate renewing the limited-term license certificate for the first time to take the written examination in the person's native language;
- ▶ requires that upon the second renewal of an approved asylee's or refugee's limited-term driver license certificate, the applicant shall take the written examination in English; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-205, as last amended by Laws of Utah 2016, Chapter 175

53-3-206, as last amended by Laws of Utah 2011, Chapter 415

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

Section 1. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(20)(b).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth

date of the applicant in the ~~fourth~~ fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 2. Section 53-3-206 is amended to read:

53-3-206. Examination of applicant's physical and mental fitness to drive a motor vehicle.

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a physician licensed under Title 58, Chapter 67, Utah Medical Practice

Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2) (a) Notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow a refugee or an approved asylee to take an examination of the person's knowledge of the state traffic laws in the person's native language:

(i) the first time the person applies for a limited-term license certificate[-]; and

(ii) the first time the person applies for a renewal of a limited-term license certificate.

(b) Upon the second renewal of a refugee's or approved asylee's limited-term license certificate for a refugee or approved asylee that has taken the knowledge exam in the person's native language under Subsection (2)(a), the division shall re-examine the person's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for a refugee or an approved asylee to take an examination of the person's knowledge of the state traffic laws in the person's native language.

(3) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

(4) The division shall examine each applicant according to the class of license applied for.

(5) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform Commercial Driver License Act, of this chapter.

CHAPTER 129**H. B. 192**

Passed February 16, 2018

Approved March 16, 2018

Effective May 8, 2018

**PROFESSIONAL LICENSING
BOARDS AMENDMENTS**Chief Sponsor: R. Curt Webb
Senate Sponsor: Don L. Ipson**LONG TITLE****General Description:**

This bill modifies provisions of the Division of Occupational and Professional Licensing Act.

Highlighted Provisions:

This bill:

- ▶ permits occupational and professional licensing boards to make a recommendation to the Legislature concerning proposed amendments to licensing acts; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-202, as last amended by Laws of Utah 2016, Chapter 198

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

Section 1. Section 58-1-202 is amended to read:**58-1-202. Boards -- Duties, functions, and responsibilities.**

(1) The duties, functions, and responsibilities of each board established under this title include the following:

- (a) recommending to the director appropriate rules;
- (b) recommending to the director policy and budgetary matters;
- (c) approving and establishing a passing score for applicant examinations;
- (d) screening applicants and recommending licensing, renewal, reinstatement, and relicensure actions to the director in writing;
- (e) assisting the director in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and

(f) acting as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the director.

(2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(3) (a) [The following boards may recommend to the appropriate legislative committee whether the board supports a change to a licensing act:] Each board or commission established under this title may recommend to the appropriate legislative committee whether the board or commission supports a change to a licensing act.

~~[(i) Chapter 5a, Podiatric Physician Licensing Act;]~~

~~[(ii) Chapter 16a, Utah Optometry Practice Act;]~~

~~[(iii) Chapter 17b, Pharmacy Practice Act;]~~

~~[(iv) Chapter 24b, Physical Therapy Practice Act;]~~

~~[(v) Chapter 28, Veterinary Practice Act;]~~

~~[(vi) Chapter 31b, Nurse Practice Act;]~~

~~[(vii) Chapter 40a, Athletic Trainer Licensing Act;]~~

~~[(viii) Chapter 44a, Nurse Midwife Practice Act;]~~

~~[(ix) Chapter 67, Utah Medical Practice Act;]~~

~~[(x) Chapter 68, Utah Osteopathic Medical Practice Act;]~~

~~[(xi) Chapter 69, Dentist and Dental Hygienist Practice Act;]~~

~~[(xii) Chapter 70a, Physician Assistant Act;]~~

~~[(xiii) Chapter 71, Naturopathic Physician Practice Act;]~~

~~[(xiv) Chapter 72, Acupuncture Licensing Act; and]~~

~~[(xv) Chapter 73, Chiropractic Physician Practice Act.]~~

(b) This Subsection (3) does not:

- (i) require a board's approval to amend a practice act; and
- (ii) apply to technical or clarifying amendments to a practice act.

CHAPTER 130**H. B. 196**

Passed March 7, 2018

Approved March 16, 2018

Effective May 8, 2018

BREASTFEEDING PROTECTION ACT

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: Deidre M. Henderson
 Cosponsor: Travis M. Seegmiller

LONG TITLE**General Description:**

This bill creates the Breastfeeding Protection Act and amends provisions related to public accommodations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits discrimination based on pregnancy in places of public accommodation;
- ▶ permits a woman to breastfeed in any place of public accommodation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-7-1, as last amended by Laws of Utah 2010, Chapter 378
 13-7-2, as last amended by Laws of Utah 2010, Chapters 276 and 378
 13-7-3, as last amended by Laws of Utah 1973, Chapter 18

ENACTS:

- 13-7a-101, Utah Code Annotated 1953
 13-7a-102, Utah Code Annotated 1953
 13-7a-103, Utah Code Annotated 1953

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

Section 1. Section 13-7-1 is amended to read:**13-7-1. Policy and purposes of act.**

It is hereby declared that the practice of discrimination on the basis of race, color, sex, pregnancy, religion, ancestry, or national origin in business establishments or places of public accommodation or in enterprises regulated by the state endangers the health, safety, and general welfare of this state and its inhabitants; and that such discrimination in business establishments or places of public accommodation or in enterprises regulated by the state, violates the public policy of this state. It is the purpose of this act to assure all citizens full and equal availability of all goods, services and facilities offered by business establishments and places of public accommodation and enterprises regulated by the state without discrimination because of race, color, sex, pregnancy, religion, ancestry, or national origin.

The rules of common law that statutes in derogation thereof shall be strictly construed has no application to this act. This act shall be liberally construed with a view to promote the policy and purposes of the act and to promote justice. The remedies provided herein are not exclusive but are in addition to any other remedies available at law or equity.

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

As used in this chapter:

(1) "Enterprise regulated by the state" means:

- (a) an institution subject to regulation under Title 70C, Utah Consumer Credit Code;
- (b) a place of business that sells an alcoholic product at retail as provided in Title 32B, Alcoholic Beverage Control Act;
- (c) an insurer regulated by Title 31A, Insurance Code; and
- (d) a public utility subject to regulation under Title 54, Public Utilities.

(2) "Person" includes ~~one or more individuals, partnerships, associations, organizations, corporations, labor unions, legal representatives, trustees, trustees in bankruptcy, receivers~~ an individual, partnership, association, organization, corporation, labor union, legal representative, trustee, trustee in bankruptcy, receiver, and other organized groups of persons.

~~(1)~~ (3) (a) "Place of public accommodation" includes:

(i) every place, establishment, or facility of whatever kind, nature, or class that caters or offers ~~its~~ services, facilities, or goods to the general public for a fee or charge, except, an establishment that is:

~~(i)~~ (A) located within a building that contains not more than five rooms for rent or hire; and

~~(ii)~~ (B) actually occupied by the proprietor of the establishment as the proprietor's residence~~[-];~~ and

~~(b)~~ A (ii) a place, establishment, or facility that caters or offers ~~its~~ services, facilities, or goods to the general public gratuitously ~~[shall be within the definition of this term if it]~~ if the place, establishment, or facility receives any substantial governmental subsidy or support.

~~(e)~~ (b) "Place of public accommodation" does not ~~apply to any~~ include an institution, church, [any] apartment house, club, or place of accommodation [which] that is in [its] nature distinctly private except to the extent that [it] the institution, church, apartment house, club, or place of accommodation is open to the public.

~~(3)~~ "Enterprises"

(4) "Pregnancy" includes pregnancy or a pregnancy-related condition.

(5) "Pregnancy-related condition" includes breastfeeding, lactation, or a medical condition related to breastfeeding.

Section 3. Section 13-7-3 is amended to read:

13-7-3. Equal right in business establishments, places of public accommodation, and enterprises regulated by the state.

All persons within the jurisdiction of this state are free and equal and are entitled to full and equal accommodations, advantages, facilities, privileges, goods and services in all business establishments and in all places of public accommodation, and by all enterprises regulated by the state of every kind whatsoever, without discrimination on the basis of race, color, sex, pregnancy, religion, ancestry or national origin. Nothing in this act shall be construed to deny any person the right to regulate the operation of a business establishment or place of public accommodation or an enterprise regulated by the state in a manner which applies uniformly to all persons without regard to race, color, sex, pregnancy, religion, ancestry, or national origin; or to deny any religious organization the right to regulate the operation and procedures of its establishments.

Section 4. Section 13-7a-101 is enacted to read:

**CHAPTER 7a. BREASTFEEDING
PROTECTION ACT**

13-7a-101. Title.

This chapter is known as "Breastfeeding Protection Act."

Section 5. Section 13-7a-102 is enacted to read:

13-7a-102. Definitions.

As used in this chapter:

(1) "Breastfeeding" means the act of a woman breastfeeding a child.

(2) "Breastfeeding" includes lactation.

Section 6. Section 13-7a-103 is enacted to read:

13-7a-103. Breastfeeding location and conduct.

A woman may breastfeed in any place of public accommodation, as defined in Section 13-7-2.

CHAPTER 131**H. B. 208**

Passed February 20, 2018

Approved March 16, 2018

Effective May 8, 2018

UTAH NATIONAL GUARD AMENDMENTS

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill makes changes to the Utah National Guard statutes.

Highlighted Provisions:

This bill:

- ▶ updates references and language in the Utah National Guard statutes;
- ▶ provides that the adjutant general of the Utah National Guard is the commanding general of the Utah National Guard;
- ▶ repeals the Utah Code of Military Justice and adopts the federal Uniform Code of Military Justice; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 39-1-1, as last amended by Laws of Utah 2010, Chapter 324
- 39-1-3, as last amended by Laws of Utah 1989, Chapter 22
- 39-1-12, as last amended by Laws of Utah 2011, Chapter 115
- 39-6-4, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-113, as last amended by Laws of Utah 2015, Chapter 70

REPEALS AND REENACTS:

- 39-6-114, as last amended by Laws of Utah 2015, Chapter 70

REPEALS:

- 39-6-66, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-67, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9
- 39-6-68, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-69, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-70, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-71, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-72, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-73, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-74, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-75, as enacted by Laws of Utah 1988,

- Chapter 210
- 39-6-76, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-77, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-78, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-79, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-80, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-81, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-82, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-83, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9
- 39-6-84, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-85, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-86, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-87, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-88, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-89, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-90, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9
- 39-6-91, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-92, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-93, as last amended by Laws of Utah 2005, Chapter 2
- 39-6-94, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-95, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-96, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-97, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-98, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-99, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-100, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-101, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-102, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-103, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-104, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-105, as enacted by Laws of Utah 1988, Chapter 210
- 39-6-106, as enacted by Laws of Utah 1988, Chapter 210

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

Section 1. Section 39-1-1 is amended to read:

39-1-1. Militia -- How constituted -- Persons exempted.

(1) All able-bodied citizens, and all able-bodied persons of foreign birth who have declared their intention to become citizens, who are 18 years of age or older and younger than ~~[45]~~ 66 years of age, who are residents of this state, constitute the militia, subject to the following exemptions:

(a) persons exempted by laws of the United States;

(b) persons exempted by the laws of this state;

(c) all persons who have been honorably discharged from the army, air force, navy, marines, coast guard, or volunteer forces of the United States;

(d) active members of any regularly organized fire or police department in any city or town, but no member of the active militia is relieved from duty because of his joining any volunteer fire company or department; and

(e) judges and clerks of courts of record, state and county civil officers holding office by election, state officers appointed by the governor for a specified term of office, ministers of the gospel, practicing physicians, superintendents, and officers and assistants of hospitals[,] and prisons and jails[, conductors, brakemen, flagmen, engineers and firemen of railways, and all other employees of railways actually employed in train service; and].

~~[(f) idiots, lunatics, and persons convicted of infamous crime.]~~

(2) All exempted persons, except those enumerated in Subsections (1)(a) through ~~[(f)]~~ (e), are liable to military duty in case of war, insurrection, invasion, tumult, riot, or public disaster, or imminent danger of any of these, or after they have voluntarily enlisted in the National Guard of this state.

Section 2. Section 39-1-3 is amended to read:

39-1-3. Governor commander in chief -- Powers and duties.

(1) The governor by virtue of ~~[his]~~ the governor's office shall be commander in chief of the Utah National Guard and of the unorganized militia, and of any portions of the unorganized militia which may ~~[hereafter]~~ be organized. ~~[He shall be empowered and]~~

(2) The governor:

(a) is authorized to issue all ~~[such]~~ orders, rules and regulations necessary to conform the Utah National Guard to Title 32 of the United States Code in its organization, government, discipline, maintenance, training, equipment, and regulations~~[-He]~~;

(b) shall appoint and commission all officers and ~~select~~ all warrant officers, subject to the provisions of Title 32 of the United State Code; provided, that any ~~[such]~~ appointee failing to receive federal recognition after having been ~~[so]~~ notified by the National Guard Bureau, shall revert to status occupied before ~~[such]~~ the appointment~~[-He]~~;

(c) shall determine and fix the home station and location of the various units of the Utah National Guard~~[-He]~~;

(d) shall provide armories, warehouses, maintenance and repair shops, hangars, small arms, artillery and aircraft ranges, campsites, concentration areas, training facilities, military reservations and arsenals as required for organizations of the Utah National Guard; and

(e) shall furnish suitable offices, or office space for regular army personnel assigned to duties with the Utah National Guard~~[-]~~, the expenses of which may be paid out of the state military appropriations.

Section 3. Section 39-1-12 is amended to read:

39-1-12. Adjutant general -- Appointment -- Term.

(1) There shall be one adjutant general appointed by the governor. The adjutant general is ~~[chief of staff]~~ the commanding general and holds office for a term of six years, unless terminated by resignation, disability, or for cause as determined by a military court or court-martial.

(2) The person appointed to the office shall:

(a) be a citizen of Utah and meet the requirements provided in Title 32, United States Code~~[-He shall]~~;

(b) be a federally recognized commissioned officer of the National Guard of the United States with no fewer than ~~[10]~~ five years commissioned service in the Utah National Guard~~[-]~~; and

(c) as determined by the governor, have sufficient knowledge and experience to command the Utah National Guard.

(3) Active service in the armed forces of the United States may be included in ~~[this]~~ the requirement in Subsection (2)(b), if the officer was a member of the Utah National Guard when ~~[he]~~ the officer entered that service.

(4) An officer is no longer eligible to hold the office of adjutant general after ~~[becoming 64]~~ attaining 66 years of age.

Section 4. Section 39-6-4 is amended to read:

39-6-4. Fraudulently obtained discharge -- Desertion.

(1) A person discharged from the Utah National Guard who is later charged with having fraudulently obtained the discharge is~~[-subject to Section 39-6-72,]~~ subject to trial by a military court on that charge.

(2) After apprehension, [he] the person is subject to this chapter while in military custody for trial. Upon conviction of that charge [he] the person is subject to trial for all offenses under this chapter committed prior to the fraudulent discharge.

(3) A person who has deserted from a military unit, which act would subject [him] the person to the jurisdiction of this chapter, is not relieved from the jurisdiction of this chapter due to a separation from any later period of service.

Section 5. Section 39-6-113 is amended to read:

39-6-113. Jurisdiction over offenses.

(1) A member may not be tried or punished by court-martial or non-judicial punishment respectively for any offense [~~under Sections 39-6-66 through 39-6-106,~~] unless the offense was committed while the member was in a military duty status under Title 32, United States Code, or while on state active duty orders.

(2) Nothing in this section shall limit a commander's authority to use adverse administrative action to address misconduct by a member, regardless of the member's status at the time of the misconduct.

Section 6. Section 39-6-114 is repealed and reenacted to read:

39-6-114. Chapter interpretation -- Federal law governs.

(1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the National Guard not inconsistent with the constitution and laws of this state or with a rule or regulation adopted pursuant to Section 39-1-3, apply to and govern the National Guard of this state, including all members on active duty within the state as active duty guard/reserve personnel under U.S.C.A. Title 32, National Guard.

(2) The Uniform Code of Military Justice, 10 U.S.C.A. 47, including regulations, manuals, forms, precedents, and usages implementing, interpreting and complementing the code, is adopted for use by the National Guard of this state and applies as long as it is not inconsistent with:

(a) the constitution and laws of this state, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the constitution and laws of this state; or

(b) a rule or regulation adopted pursuant to Section 39-1-3, to govern the National Guard of this state, including all members on active duty within the state as active duty guard/reserve personnel under U.S.C.A. Title 32, National Guard, when the members are serving other than in a federal capacity under U.S.C.A. Title 10.

Section 7. Repealer.

This bill repeals:

Section 39-6-66, Principal defined.

Section 39-6-67, Accessory after the fact.

Section 39-6-68, Conviction of lesser included offense or attempt.

Section 39-6-69, Attempt.

Section 39-6-70, Conspiracy.

Section 39-6-71, Solicitation of desertion, mutiny, or other act of misconduct.

Section 39-6-72, Fraudulent enlistment, appointment, or separation.

Section 39-6-73, Unlawful enlistment, appointment, or separation of another.

Section 39-6-74, Desertion.

Section 39-6-75, Absence without leave.

Section 39-6-76, Missing movement.

Section 39-6-77, Contempt toward officials.

Section 39-6-78, Disrespect toward superior officer.

Section 39-6-79, Assault or willful disobedience of an officer.

Section 39-6-80, Assault or willful disobedience of subordinate officer.

Section 39-6-81, Failure to obey order or regulation.

Section 39-6-82, Cruelty -- Maltreatment.

Section 39-6-83, Mutiny -- Sedition.

Section 39-6-84, Breaking arrest or confinement.

Section 39-6-85, Releasing prisoner without proper authority -- Allowing escape.

Section 39-6-86, Unlawful detention.

Section 39-6-87, Delay in disposition of case or noncompliance with chapter.

Section 39-6-88, Forcing a safeguard.

Section 39-6-89, Signing a false record.

Section 39-6-90, Sale, waste, or destruction of military property.

Section 39-6-91, Waste or destruction of nonmilitary property.

Section 39-6-92, Improper hazarding of vessel.

Section 39-6-93, Intoxicated or reckless driving.

Section 39-6-94, Intoxicated on duty -- Sentinel or lookout.

Section 39-6-95, Malingering.

Section 39-6-96, Riot -- Breach of peace.

Section 39-6-97, Provoking speeches or gestures.

Section 39-6-98, Theft -- Wrongful conversion.

Section 39-6-99, Aggravated arson -- Arson.

Section 39-6-100, Extortion.

Section 39-6-101, Assault -- Aggravated assault.

Section 39-6-102, Housebreaking.

Section 39-6-103, Perjury.

Section 39-6-104, Fraudulent claim against government.

Section 39-6-105, Conduct unbecoming an officer.

Section 39-6-106, Acts discrediting National Guard.

CHAPTER 132**H. B. 214**

Passed March 2, 2018
Approved March 16, 2018
Effective May 8, 2018

AGRICULTURAL ADVISORY BOARD AMENDMENTS

Chief Sponsor: Michael K. McKell
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the duties of the Agricultural Advisory Board relating to best management practices for agricultural industries.

Highlighted Provisions:

This bill:

- ▶ modifies the duties of the Agricultural Advisory Board relating to best management practices for certain agricultural industries;
- ▶ defines terms; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-2-108, as renumbered and amended by Laws of Utah 2017, Chapter 345

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

Section 1. Section 4-2-108 is amended to read:**4-2-108. Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.**

(1) There is created the Agricultural Advisory Board composed of 21 members, with each member representing one of the following:

- (a) Utah Farm Bureau Federation;
- (b) Utah Farmers Union;
- (c) Utah Cattlemen's Association;
- (d) Utah Wool Growers Association;
- (e) Utah Dairymen's Association;
- (f) Utah Pork Producers Association;
- (g) egg and poultry producers;
- (h) Utah Veterinary Medical Association;
- (i) Livestock Auction Marketing Association;
- (j) Utah Association of Conservation Districts;
- (k) the Utah horse industry;
- (l) the food processing industry;
- (m) the fruit and vegetable industry;

- (n) the turkey industry;
- (o) manufacturers of food supplements;
- (p) a consumer affairs group;
- (q) dean of the College of Agriculture and Applied Science and vice president of extension from Utah State University;
- (r) urban and small farmers;
- (s) Utah Elk Breeders Association;
- (t) Utah Beekeepers Association; and
- (u) Utah Fur Breeders Association.

(2) ~~[(a)]~~ The Agricultural Advisory Board shall:

(a) advise the commissioner regarding:

- (i) the planning, implementation, and administration of the department's programs; and
- (ii) the establishment of standards governing the care of livestock and poultry, including consideration of:

(A) food safety;

(B) local availability and affordability of food; and

(C) acceptable practices for livestock and farm management[-];

(b) ~~[The Agricultural Advisory Board shall]~~ fulfill the duties described in Title 4, Chapter 2, Part 5, Horse Tripping Awareness[-]; and

(c) adopt best management practices for sheep, swine, cattle, and poultry industries in the state.

(3) The Agricultural Advisory Board may adopt best management practices for domesticated elk, mink, apiaries, and other agricultural industries in the state.

(4) For purposes of this section, "best management practices" means practices used by agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:

(a) protect the environment;

(b) protect human health; and

(c) promote the financial viability of agricultural production.

~~[(3)]~~ (5) (a) Except as required by Subsection ~~[(3)]~~ (5)(c), members are appointed by the commissioner to four-year terms of office.

(b) The commissioner shall appoint representatives of the organizations cited in Subsections (1)(a) through (h) to the Agricultural Advisory Board from a list of nominees submitted by each organization.

(c) Notwithstanding the requirements of Subsection ~~[(3)]~~ (5)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) Members may be removed at the discretion of the commissioner upon the request of the group they represent.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

[4] (6) The board shall elect one member to serve as chair of the Agricultural Advisory Board for a term of one year.

[5] (7) (a) The board shall meet four times annually, but may meet more often at the discretion of the chair.

(b) Attendance of 11 members at a duly called meeting constitutes a quorum for the transaction of official business.

[6] (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 133**H. B. 222**

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

PEACE OFFICER AMENDMENTS

Chief Sponsor: A. Cory Maloy
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill clarifies that it is unlawful to flee from a peace officer.

Highlighted Provisions:

This bill:

- ▶ clarifies failure to stop at the command of a law enforcement officer;
- ▶ changes the statute for failure to stop at the command of a law enforcement officer, to failure to stop at the command of a peace officer; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-210, as renumbered and amended by Laws of Utah 2005, Chapter 2
 53-3-220, as last amended by Laws of Utah 2017, Chapter 181
 76-8-305.5, as enacted by Laws of Utah 2005, Chapter 288
 76-8-1403, as enacted by Laws of Utah 2009, Chapter 284

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

Section 1. Section 41-6a-210 is amended to read:

41-6a-210. Failure to respond to officer's signal to stop -- Fleeing -- Causing property damage or bodily injury -- Suspension of driver's license -- Forfeiture of vehicle -- Penalties.

(1) (a) An operator who receives a visual or audible signal from a [peacee] law enforcement officer to bring the vehicle to a stop may not:

(i) operate the vehicle in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vehicle or person; or

(ii) attempt to flee or elude a [peacee] law enforcement officer by vehicle or other means.

(b) (i) A person who violates Subsection (1)(a) is guilty of a felony of the third degree.

(ii) The court shall, as part of any sentence under this Subsection (1), impose a fine of not less than \$1,000.

(2) (a) An operator who violates Subsection (1) and while so doing causes death or serious bodily injury to another person, under circumstances not amounting to murder or aggravated murder, is guilty of a felony of the second degree.

(b) The court shall, as part of any sentence under this Subsection (2), impose a fine of not less than \$5,000.

(3) (a) In addition to the penalty provided under this section or any other section, a person who violates Subsection (1)(a) or (2)(a) shall have the person's driver license revoked under Subsection 53-3-220(1)(a)(ix) for a period of one year.

(b) (i) The court shall forward the report of the conviction to the division.

(ii) If the person is the holder of a driver license from another jurisdiction, the division shall notify the appropriate officials in the licensing state.

Section 2. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a ~~peace~~ law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, the division shall immediately suspend for six months the license of a person upon receiving a record of conviction for:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 3. Section 76-8-305.5 is amended to read:

76-8-305.5. Failure to stop at the command of a peace officer.

A person is guilty of a class A misdemeanor who flees from or otherwise attempts to elude a [~~law enforcement~~] peace officer:

(1) after the officer has issued a verbal or visual command to stop;

(2) for the purpose of avoiding arrest; and

(3) by any means other than a violation of Section 41-6a-210 regarding failure to stop a vehicle at the command of a law enforcement officer.

Section 4. Section 76-8-1403 is amended to read:

76-8-1403. Evading law enforcement by going onto school property -- Penalty -- Restitution.

(1) As used in this section:

(a) "School" means any public or private kindergarten, elementary, or secondary school through grade 12, including all buildings and property of the school.

(b) "School property" means real property:

(i) that is owned or occupied by a public or private school; or

(ii) (A) that is temporarily occupied by students for a school-related activity or program; and

(B) regarding which, during the time the activity or program is being conducted, the main use of the real property is allocated to participants in the activity or program.

(2) A person is guilty of the class A misdemeanor of evading law enforcement while on school property, if the person enters onto school property when:

(a) students are attending the school or students are participating in any school-related activity or program on school property; and

(b) the person is in the act of fleeing or evading, or attempting to flee or evade, pursuit or apprehension by any peace officer.

(3) It is not a defense that the person did not know that the person had entered onto school property.

(4) As a part of the sentence for violation of this section, the court shall order the defendant to reimburse the school for costs incurred by the school in responding to the defendant's presence on the school property.

(5) The offense under this section of evading law enforcement while on school property is a separate offense from a violation of:

(a) Section 41-6a-210, regarding failure to respond to an officer's signal to stop; or

(b) Section 76-8-305.5, regarding failure to stop at the command of a [~~law enforcement~~] peace officer.

CHAPTER 134**H. B. 223**

Passed February 16, 2018

Approved March 16, 2018

Effective May 8, 2018

**DISPLAY OF PRISONER OF WAR
AND MISSING IN ACTION FLAG**

Chief Sponsor: John R. Westwood

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill requires the Department of Veterans and Military Affairs to display the POW/MIA flag wherever the United States flag is displayed out of doors at a veterans' cemetery.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Veterans and Military Affairs to display the POW/MIA flag wherever the United States flag is displayed out of doors at a veterans' cemetery.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-703, as enacted by Laws of Utah 2013,
Chapter 90

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

Section 1. Section 63G-1-703 is amended to read:**63G-1-703. Display of POW/MIA flag.**

(1) In any place at the capitol hill complex where the United States flag is displayed out of doors, the entity responsible for the display of the United States flag shall display the POW/MIA flag, in the manner described in Subsection ~~[(2)]~~ (3), from sunrise to sunset on the following days:

- (a) Armed Forces Day, the third Saturday in May;
- (b) Memorial Day, the last Monday in May;
- (c) Flag Day, June 14;
- (d) Independence Day, July 4;
- (e) Veteran's Day, November 11; and
- (f) National POW/MIA Recognition Day, the third Friday in September.

(2) The Department of Veterans and Military Affairs shall ensure that, in any place where the United States flag is displayed out of doors at a cemetery that is operated by the Department of Veterans and Military Affairs, the POW/MIA flag is displayed in the manner described in Subsection (3).

~~[(2)]~~ (3) When displaying the POW/MIA flag under Subsection (1) or (2), the entity responsible to

display the flag shall fly or hang the POW/MIA flag as follows:

- (a) if the United States flag and the POW/MIA flag are attached to the same flag pole, by placing the POW/MIA flag directly under the United States flag; or
- (b) if the United States flag and the POW/MIA flag are displayed near each other, but not on the same flag pole, by placing the top of the POW/MIA flag below the top of the United States flag.

CHAPTER 135**H. B. 252**

Passed March 5, 2018
 Approved March 16, 2018
 Effective March 16, 2018

DUI PROGRAM AMENDMENTS

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions related to participation in the 24-7 sobriety program and available technologies for testing for the presence of alcohol or drugs.

Highlighted Provisions:

This bill:

- ▶ amends provisions to allow for timely sanctions, instead of immediate sanctions, to allow for more options in testing methodologies and flexibility for participants;
- ▶ removes provisions related to primary testing methods and hardship testing methods;
- ▶ allows the commissioner of the Department of Public Safety to evaluate the appropriate testing methodologies for each participant;
- ▶ amends a provision related to the duration of participation in the 24-7 sobriety program for a person ordered by a judge to participate if the person also has a prior conviction for driving under the influence; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-6a-515.5, as enacted by Laws of Utah 2017, Chapter 446

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

Section 1. Section 41-6a-515.5 is amended to read:**41-6a-515.5. Sobriety program for DUI.**

(1) As used in this section:

(a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and drug monitoring program that:

(i) requires an individual to abstain from alcohol or drugs for a period of time;

(ii) requires an individual to submit to random drug testing; and

(iii) requires the individual to be subject to testing to determine the presence of alcohol:

(A) twice a day at a central location where [immediate] timely sanctions may be applied;

(B) by continuous remote sensing or transdermal alcohol monitoring by means of an electronic

monitoring device that allows timely sanctions to be applied; or

(C) by an alternate method that is approved by the National Highway Traffic Safety Administration.

(b) (i) "Testing" means a procedure for determining the presence and level of alcohol or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

(ii) "Testing" includes any combination of the use of:

(A) remote and in-person breath testing;

(B) drug patch testing;

(C) urinalysis testing;

(D) saliva testing;

(E) continuous remote sensing;

(F) transdermal alcohol monitoring; or

(G) alternate body fluids approved for testing by the commissioner of the department.

(2) (a) The department shall establish and administer a 24-7 sobriety program as a pilot program.

(b) The department shall establish one pilot program with a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and requirements under this section.

(3) (a) The 24-7 sobriety program shall include use of [a primary testing methodology] multiple testing methodologies for the presence of alcohol or drugs that:

(i) best facilitates the ability to apply [immediate] timely sanctions for noncompliance;

(ii) is available at an affordable cost; and

(iii) provides for positive, behavioral reinforcement for program compliance.

[~~(b) Primary testing methods include twice a day, in person breath testing for alcohol at a central location, random drug testing, and other methodologies approved by the commissioner of the department.~~]

[~~(c) In cases of hardship, testing methodologies with timely sanctions for noncompliance may be used.~~]

[~~(d) Hardship testing methodologies under Subsection (3)(e) include:~~]

[~~(i) the use of transdermal alcohol monitoring devices;~~]

[~~(ii) remote breath test devices; and~~]

[~~(iii) other commissioner approved methods for hardship exceptions.~~]

[~~(e) The commissioner shall consider the following factors to determine whether a hardship exception applies under Subsection (3)(e):~~]

[~~(i) whether a device is available;~~]

~~[(ii) whether the participant is capable of paying the fees and costs associated with transdermal alcohol monitoring or remote breath testing; and]~~

~~[(iii) whether the participant qualifies for a hardship exception from twice-daily breath testing because of one or more of the following:]~~

~~[(A) the participant lives more than a 25-mile radius from a testing site, and submitting to twice-daily breath tests would be unduly burdensome;]~~

~~[(B) the participant's employment requires job performance at a location that is more than a 25-mile radius from a testing site and submitting to twice-daily breath tests would be unduly burdensome;]~~

~~[(C) the participant's schooling is at a location that is more than a 25-mile radius from a testing site and submitting to twice-daily breath tests would be unduly burdensome; or]~~

~~[(D) the participant lives in a county where twice-daily breath testing is not available.]~~

(b) The commissioner shall consider the following factors to determine which testing methodologies are best suited for each participant:

(i) whether a device is available;

(ii) whether the participant is capable of paying the fees and costs associated with each testing methodology;

(iii) travel requirements based on each testing methodology and the participant's circumstances;

(iv) the substance or substances for which testing will be required; and

(v) other factors the commissioner considers relevant.

(4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and satisfy at least two of the following categories:

(i) the program is included in the federal registry of evidence-based programs and practices;

(ii) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or

(iii) the program has been documented as effective by informed experts and other sources.

(b) If a law enforcement agency participates in a 24-7 sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this section.

(c) A 24-7 sobriety program shall have at least one testing location and two daily testing times approximately 12 hours apart.

(d) If a person who is ordered by a judge to participate in the 24-7 sobriety program has a prior conviction as defined in Subsection 41-6a-501(2)

that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the person shall be required to participate in a 24-7 sobriety program for at least one year.

(5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.

(b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall establish the testing locations and times for the county.

(6) (a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.

(b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.

(c) The data collected under this Subsection (6) is owned by the state.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

(b) The rules under Subsection (7)(a) shall:

(i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;

(ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;

(iii) require and provide for the approval of a 24-7 sobriety program data management technology plan that shall be used by the department and participating law enforcement agencies to manage testing, data access, fees and fee payments, and any required reports;

(iv) establish a model sanctioning schedule for program noncompliance; and

(v) establish a process for piloting alternate components of the 24-7 sobriety program.

Section 2. Effective date.

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

CHAPTER 136**H. B. 273**

Passed March 7, 2018

Approved March 16, 2018

Effective May 8, 2018

**CRIMINAL JUDGMENT ACCOUNT
RECEIVABLE AMENDMENTS**

Chief Sponsor: Elizabeth Weight

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill requires the court to accept payment of a criminal judgment account receivable on the day of sentencing.

Highlighted Provisions:

This bill:

- ▶ requires the court to accept any amount tendered against a criminal judgment account receivable on the day of sentencing before converting an unpaid account to a civil judgment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-32a-102, as enacted by Laws of Utah 2017,
Chapter 304

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

Section 1. Section 77-32a-102 is amended to read:**77-32a-102. Creation of criminal judgment account receivable.**

(1) At the time of sentencing or acceptance of a plea in abeyance, the court shall establish the criminal accounts receivable, as determined in this chapter including all amounts then owing, including, as applicable, fines, fees, surcharges, costs, restitution, and interest.

(2) After creating the account receivable, the court:

(a) shall, ~~[in the case of felonies where]~~ when a prison sentence is imposed and not suspended, accept any payment on the criminal judgment account receivable tendered on the date of sentencing, enter any remaining unpaid criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgment to the Office of State Debt Collection;

(b) may, in other cases, permit a defendant to pay the criminal judgment account receivable by a date certain or in installments; or

(c) may, in other cases where the court finds that collection of the account by the court would not be feasible, enter any unpaid criminal judgment account receivable as a civil judgment and transfer

the responsibility for collecting the judgement to the Office of State Debt Collection.

(3) A court allowing installment payments does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(4) If the court makes restitution or another financial decision at a time after sentencing that increases the total amount owed in a case, the criminal accounts receivable balance shall be adjusted to include the new amounts determined by the court.

(5) The court may modify the amount and number of any installment payments, as justice requires, at any time before the time for default as outlined in Subsection 77-32a-103(2).

(6) In the district court, delinquent accounts may incur post judgment interest.

CHAPTER 137**H. B. 285**

Passed March 6, 2018

Approved March 16, 2018

Effective May 8, 2018

RATE COMMITTEE AMENDMENTS

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends the membership of a rate committee within the Department of Administrative Services.

Highlighted Provisions:

This bill:

- ▶ amends the membership of a rate committee within the Department of Administrative Services to include the State Board of Education;
- ▶ clarifies membership of the committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-1-114, as last amended by Laws of Utah 2016, Chapter 287

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

Section 1. Section 63A-1-114 is amended to read:**63A-1-114. Rate committee -- Membership -- Duties.**

(1) (a) There is created a rate committee~~[, which shall consist]~~ consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, ~~[appointed by]~~ that the governor appoints for a two-year term.

(b) (i) Of the seven state agencies represented on the rate committee under Subsection (1)(a), only one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of Management and Budget; or

~~[(B) the Division of Finance; or]~~

~~[(C)]~~ (B) the Department of Technology Services.

(ii) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from its members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for

their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The Department of Administrative Services shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate and fee schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules;

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (2)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

CHAPTER 138**H. B. 295**

Passed March 6, 2018

Approved March 16, 2018

Effective May 8, 2018

**DRIVING UNDER THE
INFLUENCE MODIFICATIONS**Chief Sponsor: Steve Eliason
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill modifies penalties for driving under the influence if the individual is also convicted for driving in the wrong direction during the same occurrence.

Highlighted Provisions:

This bill:

- ▶ increases the penalty for driving under the influence to a class A misdemeanor if the individual was also driving in the wrong direction on a freeway or controlled-access highway during the same occurrence; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-503, as last amended by Laws of Utah 2009, Chapter 214

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

Section 1. Section 41-6a-503 is amended to read:**41-6a-503. Penalties for driving under the influence violations.**

(1) A person who violates for the first or second time Section 41-6a-502 is guilty of a:

- (a) class B misdemeanor; or
- (b) class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years of age in the vehicle at the time of the offense; [or]

(iii) was 21 years of age or older and had a passenger under 18 years of age in the vehicle at the time of the offense[.]; or

(iv) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-714.

(2) A person who violates Section 41-6a-502 is guilty of a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction under Section 41-6a-502; or

(ii) the commission of the offense upon which the current conviction is based; or

(c) the conviction under Section 41-6a-502 is at any time after a conviction of:

(i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of conviction is reduced under Section 76-3-402.

(3) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.

CHAPTER 139**H. B. 320**

Passed March 8, 2018
Approved March 16, 2018
Effective March 16, 2018

CAMPAIGN FINANCE MODIFICATIONS

Chief Sponsor: Mark A. Wheatley
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill prohibits a person from making a campaign contribution to the lieutenant governor, attorney general, state auditor, or state treasurer while the Legislature is in session.

Highlighted Provisions:

This bill:

- ▶ prohibits a person from making a campaign contribution to the lieutenant governor, attorney general, state auditor, or state treasurer while the Legislature is in session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

36-11-305, as last amended by Laws of Utah 2011, Chapter 250

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

Section 1. Section 36-11-305 is amended to read:**36-11-305. Campaign contribution during session prohibited.**

(1) It is unlawful for a person, lobbyist, principal, or political committee to make a campaign contribution, or contract, promise, or agree to make a campaign contribution, to ~~[a legislator or a legislator's personal campaign committee, or a political action committee controlled by a legislator]~~ any of the following during the time the Legislature is convened in annual general session, veto override session, or special session[-]:

- (a) (i) a legislator;
- (ii) the lieutenant governor;
- (iii) the attorney general;
- (iv) the state auditor; or
- (v) the state treasurer;
- (b) the personal campaign committee of an individual described in Subsection (1)(a); or
- (c) a political action committee controlled by a person described in Subsection (1)(a).

(2) It is unlawful for a person, lobbyist, principal, or political committee to make a campaign contribution, or contract, promise, or agree to make a campaign contribution, to the governor, the

governor's personal campaign committee, or a political action committee controlled by the governor during the time the Legislature is convened in annual general session, veto override session, special session, or during the time period established by the Utah Constitution, Article VII, Section 8, for the governor to approve or veto bills passed by the Legislature in the annual general session.

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

Section 2. Effective date.

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

CHAPTER 140**H. B. 321**

Passed March 5, 2018

Approved March 16, 2018

Effective May 8, 2018

ARREST AMENDMENTS

Chief Sponsor: Kelly B. Miles

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to an arrest made without a warrant.

Highlighted Provisions:

This bill:

- ▶ transfers the duties of a person who makes an arrest without a warrant to a jail and a jail's personnel, if the jail accepts custody of the arrested person; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7-23, as last amended by Laws of Utah 1997, Chapters 10 and 215

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

Section 1. Section 77-7-23 is amended to read:**77-7-23. Delivery of prisoner arrested without warrant to magistrate -- Transfer to court with jurisdiction -- Transfer of duties -- Violation as misdemeanor.**

(1) (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested shall be taken without unnecessary delay to the magistrate in the district court, the precinct of the county, or the municipality in which the offense occurred, except under Subsection (2). An information stating the charge against the person shall be made before the magistrate.

(b) If the justice court judge of the precinct or municipality or the district court judge is not available, the arrested person shall be taken before the magistrate within the same county who is nearest to the scene of the alleged offense or nearest to the jail under Subsection (2), who may act as committing magistrate for arraigning the accused, setting bail, or issuing warrants.

(2) (a) If the arrested person under Subsection (1) must be transported from jail to a magistrate, the person may be taken before the magistrate nearest to the jail rather than the magistrate specified in Subsection (1) for arraignment, setting bail, or issuing warrants.

~~[(3)]~~ (b) The case shall then be transferred to the court having jurisdiction.

(3) If a jail accepts custody of a person arrested under Subsection (1), the duties under this section of the peace officer or private person who makes the arrest are transferred to the jail and the jail's personnel.

(4) This section does not confer jurisdiction upon a court unless otherwise provided by law.

~~[(4)]~~ (5) Any officer or person violating this section is guilty of a class B misdemeanor.

CHAPTER 141**H. B. 349**

Passed March 6, 2018

Approved March 16, 2018

Effective May 8, 2018

**HIGHER EDUCATION LEGACY
SCHOLARSHIP AMENDMENTS**Chief Sponsor: Val K. Potter
Senate Sponsor: Don L. Ipson**LONG TITLE****General Description:**

This bill amends provisions related to alumni legacy nonresident scholarships.

Highlighted Provisions:

This bill:

- ▶ repeals a provision that restricts a student from counting time toward establishing resident student status while the student receives an alumni legacy nonresident scholarship; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-8-103.5, as last amended by Laws of Utah 2013, Chapter 23

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

Section 1. Section 53B-8-103.5 is amended to read:**53B-8-103.5. Alumni legacy nonresident scholarships.**

(1) In addition to other nonresident tuition scholarships, the president of an institution may ~~also~~ waive an amount up to the full nonresident portion of tuition for alumni legacy nonresident scholarships.

(2) The purposes of alumni legacy nonresident scholarships are to:

(a) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in institutions of higher education;

(b) promote enrollment of nonresident students with high academic aptitudes; and

(c) recognize the legacy of past graduates and promote a continued connection to their alma mater.

(3) To qualify for an alumni legacy scholarship, a student shall:

(a) enroll at an institution within the state system of higher education for the first time; and

(b) have at least one parent or grandparent who graduated with an associate's degree or higher from the same institution in which the student is enrolling.

~~[(4) A student who attends an institution within the state system of higher education on an alumni legacy nonresident scholarship may not count the time during which the scholarship is received towards establishing resident student status in Utah.]~~

CHAPTER 142**H. B. 368**

Passed March 2, 2018

Approved March 16, 2018

Effective May 8, 2018

AUTISM LICENSE PLATE AMENDMENTS

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions related to the Autism Awareness Restricted Account and Autism Awareness Support special group license plate.

Highlighted Provisions:

This bill:

- ▶ requires the superintendent of the State Board of Education to ensure funds are allocated to pay for license plates and decals as needed;
- ▶ amends provisions related to the qualifications of an organization requesting a disbursement from the account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-9-401, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-9-401 is amended to read:**53F-9-401. Autism Awareness Restricted Account.**

(1) There is created in the General Fund a restricted account known as the "Autism Awareness Restricted Account."

(2) The account shall be funded by:

- (a) contributions deposited into the account in accordance with Section 41-1a-422;
- (b) private contributions; and
- (c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the superintendent shall ~~[distribute funds in the account to one or more charitable organizations that]~~:

(a) (i) ensure the inventory of Autism Awareness Support special group license plate decals are in stock; and

(ii) transfer money to the Tax Commission to pay for the group license plate as needed;

(b) distribute funds in the account to one or more charitable organizations that:

~~[(a)] (i) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;~~

~~[(b)] (ii) has as the organization's sole mission to promote access to resources and responsible information for individuals of all ages who have, or are affected by, autism or autism spectrum related conditions;~~

~~[(e)] (iii) is an independent organization that has representation from state agencies and private providers serving individuals with autism spectrum disorder and their families in the state;~~

~~[(d)] (iv) includes representation of:~~

~~[(i)] (A) national and local autism advocacy groups, as available; and~~

~~[(ii)] (B) interested parents and professionals; and~~

~~[(e)] (v) does not endorse any specific treatment, therapy, or intervention used for autism.~~

(4) (a) An organization described in Subsection (3) may apply to the superintendent to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the superintendent in accordance with Subsection (3) shall expend the distribution only to:

(i) pay for autism education and public awareness of programs and related services in the state;

(ii) enhance programs designed to serve individuals with autism;

(iii) provide support to caregivers providing services for individuals with autism;

(iv) pay administrative costs of the organization; and

~~[(iv)] (v) pay for academic scholarships and research efforts in the area of autism spectrum disorder[; and].~~

~~[(v) pay the costs of issuing or reordering Autism Awareness Support special group license plate decals.]~~

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules providing procedures for an organization to apply to the superintendent to receive a distribution under Subsection (3).

CHAPTER 143**H. B. 381**

Passed March 6, 2018
 Approved March 16, 2018
 Effective March 16, 2018

AGRICULTURAL WATER OPTIMIZATION

Chief Sponsor: Timothy D. Hawkes
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill creates the Agricultural Water Optimization Task Force.

Highlighted Provisions:

This bill:

- ▶ creates the Agricultural Water Optimization Task Force;
- ▶ describes the duties of the Agricultural Water Optimization Task Force, including reporting requirements;
- ▶ creates the Agricultural Water Optimization Restricted Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Agricultural Water Optimization Restricted Account as a one-time appropriation:
 - from the General Fund, one-time, \$75,000;
 - from the Agriculture Resource Development Fund, one-time, \$500,000;
 - from the Water Resources Conservation and Development Fund, one-time, \$500,000; and
 - from Nonlapsing Balances - Utah State University Cooperative Extension, one-time, \$100,000; and
- ▶ to the Department of Natural Resources -- Water Resources as a one-time appropriation:
 - from the Agricultural Water Optimization Restricted Account, \$1,275,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

73-10g-101, as enacted by Laws of Utah 2015, Chapter 458

ENACTS:

73-10g-201, Utah Code Annotated 1953
 73-10g-202, Utah Code Annotated 1953
 73-10g-203, Utah Code Annotated 1953
 73-10g-204, Utah Code Annotated 1953

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

Section 1. Section 73-10g-101 is amended to read:

CHAPTER 10g. WATER INFRASTRUCTURE AND LONG-TERM PLANNING

73-10g-101. Title.

(1) This chapter is known as "Water Infrastructure and Long-Term Planning."

(2) This part is known as "Funding."

Section 2. Section 73-10g-201 is enacted to read:

Part 2. Agricultural Water Optimization**73-10g-201. Title.**

This part is known as "Agricultural Water Optimization."

Section 3. Section 73-10g-202 is enacted to read:

73-10g-202. Agricultural Water Optimization Task Force.

(1) There is created the Agricultural Water Optimization Task Force, consisting of:

(a) the following voting members:

(i) one person representing the Department of Agriculture and Food;

(ii) one person representing the board or division;

(iii) one person representing the Division of Water Rights;

(iv) one person representing the Division of Water Quality;

(v) one person representing the interests of the agriculture industry;

(vi) one person representing environmental interests; and

(vii) one person representing water conservancy districts; and

(b) one nonvoting member from the higher education community with a background in research.

(2) (a) The commissioner of the Department of Agriculture and Food shall appoint the members described in Subsections (1)(a)(i), (v), and (vii).

(b) The executive director of the Department of Natural Resources shall appoint the members described in Subsections (1)(a)(ii), (iii), and (vi).

(c) The governor shall appoint the members described in Subsections (1)(a)(iv) and (1)(b).

(3) The division shall provide administrative support to the task force.

(4) The task force shall select a chair from among its membership.

(5) Service on the task force is voluntary and members may not be compensated for their service on the task force but may receive per diem and travel expenses as allowed in Sections 63A-3-106 and 63A-3-107, and relevant Division of Finance rules.

Section 4. Section 73-10g-203 is enacted to read:

73-10g-203. Duties of the task force.

(1) The task force created in Section 73-10g-202 shall:

(a) identify critical issues facing the state's long-term water supply, particularly in regard to

how the state should optimize agricultural water supply and use in light of future population growth, and the future water needs of Utah agriculture;

(b) identify current obstacles to, and constraints upon, quantification of agricultural water use, and recommend means, methods, technologies, or other opportunities to improve the quantification of agricultural water use on a basin level; and

(c) identify means, methods, systems, or technologies with the potential to maintain or increase agricultural production while reducing the agriculture industry's water diversion and consumption.

(2) The task force shall issue requests for proposals and award grants to study the issues identified in Subsection (1), prioritizing proposals and grants as necessary.

(3) In identifying critical issues as described in Subsection (1), and prioritizing requests for proposals and grants as described in Subsection (2), the task force shall:

(a) identify, develop, and apply sound science and relevant research on optimizing agricultural water use;

(b) measure gains at the basin level;

(c) take into account the variety of agricultural products, opportunities to improve water use practices, and local needs;

(d) address and account for farm economics at the enterprise and community level;

(e) work within existing agricultural markets or encourage market behavior that financially rewards improved practices;

(f) recognize established water rights;

(g) create meaningful benefits for farmers to optimize water use and protect water quality;

(h) monitor funded research projects and evaluate the efficacy of completed research; and

(i) disseminate research findings.

(4) The task force shall report on its progress under this section by November 30, of each year, to:

(a) the Legislative Water Development Commission;

(b) the Natural Resources, Agriculture, and Environment Interim Committee; and

(c) the Executive Water Task Force.

Section 5. Section 73-10g-204 is enacted to read:

73-10g-204. Agricultural Water Optimization Account.

(1) There is created a restricted account within the General Fund called the Agricultural Water Optimization Account.

(2) The Agricultural Water Optimization Account consists of appropriations from the Legislature and donations.

(3) The task force created in Section 73-10g-202 may, subject to appropriation, expend money in the Agricultural Water Optimization Account to fulfill the duties of Section 73-10g-203.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To General Fund Restricted - Agricultural Water Optimization Account

From General Fund, one-time \$75,000

From Agricultural Resource Development Fund, one-time \$500,000

From Water Resources Conservation and Development Fund, one-time \$500,000

From Nonlapsing Balances - Utah State University Cooperative Extension, one-time \$100,000

Schedule of Programs:

Agricultural Water Optimization Account \$1,175,000

ITEM 2

To Department of Natural Resources -- Water Resources

From Agricultural Water Optimization Restricted Account one-time \$1,275,000

Schedule of Programs:

Funding projects and research \$1,275,000

Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to the purposes described in Section 73-10g-203.

Section 7. Effective date.

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

CHAPTER 144**H. B. 395**

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**TECHNOLOGY
 INNOVATION AMENDMENTS**

Chief Sponsor: Bruce R. Cutler
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill enacts provisions relating to a technology innovation program.

Highlighted Provisions:

This bill:

- ▶ authorizes the Technology Advisory Board and the Governor's Office of Management and Budget to approve technology innovation proposals submitted by multiple executive branch agencies;
- ▶ provides a process for the submission, review, approval, and funding of technology innovation proposals; and
- ▶ authorizes the Department of Technology Services to pay expenses of implementing an approved technology innovation proposal.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Technology Services - Technology Innovation, as an ongoing appropriation:
 - from the General Fund, \$150,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63J-1-602.4, as last amended by Laws of Utah 2017, Chapters 253, 430, and 470

ENACTS:

63F-4-101, Utah Code Annotated 1953

63F-4-102, Utah Code Annotated 1953

63F-4-201, Utah Code Annotated 1953

63F-4-202, Utah Code Annotated 1953

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

Section 1. Section 63F-4-101 is enacted to read:

**CHAPTER 4. TECHNOLOGY INNOVATION
 ACT**

Part 1. General Provisions

63F-4-101. Title.

This chapter is known as the "Technology Innovation Act."

Section 2. Section 63F-4-102 is enacted to read:

63F-4-102. Definitions.

As used in this chapter:

(1) "Executive branch agency" means a department, division, or other agency within the executive branch of state government.

(2) "Governor's budget office" means the Governor's Office of Management and Budget, created in Section 63J-4-201.

(3) "Review board" means the Architecture Review Board established within the department.

(4) "Technology innovation" means a new information technology not previously in use or a substantial adaptation or modification of an existing information technology.

(5) "Technology proposal" means a proposal to implement a technology innovation designed to result in a greater efficiency in a government process or a cost saving in the delivery of a government service, or both.

Section 3. Section 63F-4-201 is enacted to read:

Part 2. Technology Innovation Program

63F-4-201. Submitting a technology proposal -- Review process.

(1) Multiple executive branch agencies may jointly submit to the chief information officer a technology proposal, on a form or in a format specified by the department.

(2) The chief information officer shall transmit to the review board each technology proposal the chief information officer determines meets the form or format requirements of the department.

(3) The review board shall:

(a) conduct a technical review of a technology proposal transmitted by the chief information officer;

(b) determine whether the technology proposal merits further review and consideration by the board, based on the technology proposal's likelihood to:

(i) be capable of being implemented effectively; and

(ii) result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) transmit a technology proposal to the board and to the governor's budget office, if the review board determines that the technology proposal merits further review and consideration by the board.

Section 4. Section 63F-4-202 is enacted to read:

63F-4-202. Technology Advisory Board review and approval of technology proposals.

(1) The board shall review and evaluate each technology proposal that the review board transmits to the board.

(2) The board may approve and recommend that the department provide funding from legislative appropriations for a technology proposal if, after the board's review and evaluation of the technology proposal:

(a) the board determines that there is a reasonably good likelihood that the technology proposal:

(i) is capable of being implemented effectively; and

(ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(b) the board receives approval from the governor's budget office for the technology proposal.

(3) The board may:

(a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and

(b) recommend funding based on the board's prioritization under Subsection (3)(a).

(4) The department shall:

(a) track the implementation and success of a technology proposal approved by the board;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the department's tracking and evaluation:

(i) to the board, as frequently as the board requests; and

(ii) at least annually to the Public Utilities, Energy, and Technology Interim Committee.

(5) The department may, upon recommendation by the board, expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the board has approved.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.;"

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4[(15)](16) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4[(15)](16), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 6. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(10) Appropriations to the Department of Technology Services for technology innovation under Section 63F-4-202.

~~(40)~~ (11) Funds appropriated or collected for publishing the Office of Administrative Rules' publications, as provided in Section 63G-3-402.

~~(41)~~ (12) The Immigration Act Restricted Account created in Section 63G-12-103.

~~(42)~~ (13) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~(43)~~ (14) Appropriations from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

~~(44)~~ (15) Appropriations from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

~~(45)~~ (16) Appropriations from the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

~~[(16)]~~ (17) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

~~[(17)]~~ (18) Appropriations to the Utah Science Technology and Research Initiative created in Section 63M-2-301.

~~[(18)]~~ (19) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

~~[(19)]~~ (20) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

~~[(20)]~~ (21) The Motion Picture Incentive Account created in Section 63N-8-103.

~~[(21)]~~ (22) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Technology Services -
Technology Innovation

<u>From General Fund</u>	<u>\$150,000</u>
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Schedule of Programs:

<u>Technology Innovation</u>	<u>\$150,000</u>
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CHAPTER 145**H. B. 399**

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**OPIOID ABUSE PREVENTION
AND TREATMENT AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill requires a warning label and informational pamphlet to be distributed with an opiate prescription.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to develop a pamphlet with information about opiates; and
- ▶ requires a pharmacist who is dispensing certain prescriptions for an opiate to affix a warning label and to display an informational brochure.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37-7, as last amended by Laws of Utah 2004, Chapter 241

ENACTS:

26-55-109, Utah Code Annotated 1953

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

Section 1. Section 26-55-109 is enacted to read:**26-55-109. Opiate abuse prevention pamphlet.**

(1) As funding is available, the department shall produce and distribute, in conjunction with the Division of Substance Abuse and Mental Health, a pamphlet about opiates that includes information regarding:

- (a) the risk of dependency and addiction;
- (b) methods for proper storage and disposal;
- (c) alternative options for pain management;
- (d) the benefits of and ways to obtain naloxone;
and
- (e) resources if the patient believes that the patient has a substance abuse disorder.

(2) The pamphlet described in Subsection (1) shall be:

- (a) evaluated periodically for effectiveness at conveying necessary information and revised accordingly;
- (b) written in simple and understandable language; and

(c) available in English and other languages that the department determines to be appropriate and necessary.

Section 2. Section 58-37-7 is amended to read:**58-37-7. Labeling and packaging controlled substance -- Informational pamphlet for opiates.**

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of Section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.

(3) Whenever a pharmacist sells or dispenses any controlled substance on a prescription issued by a practitioner, [he] the pharmacist shall affix to the container in which the substance is sold or dispensed:

(a) a label showing the:

- (i) pharmacy name and address;
- (ii) serial number; and
- (iii) date of initial filling;

(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;

(c) the name of the practitioner by whom the prescription was written;

(d) any directions stated on the prescription; and

(e) any directions required by rules and regulations promulgated by the department.

(4) Whenever a pharmacist sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, a pharmacist shall affix a warning to the container or the lid for the container in which the substance is sold or dispensed that contains the following text:

(a) "Caution: Opioid. Risk of overdose and addiction"; or

(b) any other language that is approved by the Department of Health.

(5) (a) A pharmacist who sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate shall, if available from the Department of Health, prominently display at the point of sale the informational pamphlet developed by the Department of Health under Section 26-55-109.

(b) The board and the Department of Health shall encourage pharmacists to use the informational pamphlet to engage in patient counseling regarding the risks associated with taking opiates.

(c) The requirement in Subsection (5)(a) does not apply to a pharmacist if the pharmacist is unable to

obtain the informational pamphlet from the Department of Health for any reason.

[~~(4)~~] (6) A person may not alter the face or remove any label so long as any of the original contents remain.

[~~(5)~~] (7) (a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to [~~him~~] the individual by the person selling or dispensing it.

(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

CHAPTER 146**H. B. 434**

Passed March 8, 2018
Approved March 16, 2018
Effective May 8, 2018

**CONTROLLED
SUBSTANCES ACT AMENDMENTS**

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

LONG TITLE**General Description:**

This bill modifies the Utah Controlled Substances Act.

Highlighted Provisions:

This bill:

- ▶ adds certain substances to the lists of controlled substances and Schedule I controlled substances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37-4, as last amended by Laws of Utah 2017, Chapters 172 and 432
58-37-4.2, as last amended by Laws of Utah 2017, Chapter 172

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

Section 1. Section 58-37-4 is amended to read:**58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.**

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide);

~~(D)~~ (E) Allylprodine;

~~(E)~~ (F) Alphacetylmethadol, except levo-alpha-acetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

~~(F)~~ (G) Alphameprodine;

~~(G)~~ (H) Alphamethadol;

~~(H)~~ (I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

~~(I)~~ (J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

~~(J)~~ (K) Benzylpiperazine;

~~(K)~~ (L) Benzethidine;

~~(L)~~ (M) Betacetylmethadol;

~~(M)~~ (N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

~~(N)~~ (O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

~~(O)~~ (P) Betameprodine;

~~(P)~~ (Q) Betamethadol;

~~(Q)~~ (R) Betaprodine;

~~(R)~~ (S) Butyryl fentanyl[:] (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

~~(S)~~ (T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

~~(T)~~ (V) Dextromoramide;

~~(U)~~ (W) Diampromide;

~~(V)~~ (X) Diethylthiambutene;

~~(W)~~ (Y) Difenoxin;

~~(X)~~ (Z) Dimenoxadol;

~~(Y)~~ (AA) Dimepheptanol;

~~(Z)~~ (BB) Dimethylthiambutene;

~~(AA)~~ (CC) Dioxaphetyl butyrate;

~~(BB)~~ (DD) Dipipanone;

~~(CC)~~ (EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);

~~(DD)~~ (GG) Etonitazene;

[(~~EE~~)] (HH) Etoxadrine;

[(~~FF~~)] (II) Furanyl fentanyl[~~z~~] (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide);

[(~~GG~~)] (JJ) Furethidine;

[(~~HH~~)] (KK) Hydroxypethidine;

[(~~II~~)] (LL) Ketobemidone;

[(~~JJ~~)] (MM) Levomoramide;

[(~~KK~~)] (NN) Levophenacymorphan;

(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);

[(~~LL~~)] (PP) Morpheridine;

[(~~MM~~)] (QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

[(~~NN~~)] (RR) Noracymethadol;

[(~~OO~~)] (SS) Norlevorphanol;

[(~~PP~~)] (TT) Normethadone;

[(~~QQ~~)] (UU) Norpipanone;

[(~~RR~~)] (VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

[(~~SS~~)] (XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

[(~~TT~~)] (YY) Phenadoxone;

[(~~UU~~)] (ZZ) Phenampromide;

[(~~VV~~)] (AAA) Phenomorphan;

[(~~WW~~)] (BBB) Phenoperidine;

[(~~XX~~)] (CCC) Piritramide;

[(~~YY~~)] (DDD) Proheptazine;

[(~~ZZ~~)] (EEE) Properidine;

[(~~AAA~~)] (FFF) Propiram;

[(~~BBB~~)] (GGG) Racemoramide;

(HHH) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

[(~~CCC~~)] (III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

[(~~DDD~~)] (JJJ) Tilidine;

[(~~EEE~~)] (KKK) Trimeperidine;

[(~~FFF~~)] (LLL) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

[(~~GGG~~)] (MMM) 3-methylthiofentanyl (N-[

(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide); and

[(~~HHH~~)] (NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700[~~z~~]; and

(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Acetorphine;
- (B) Acetyldihydrocodeine;
- (C) Benzylmorphine;
- (D) Codeine methylbromide;
- (E) Codeine-N-Oxide;
- (F) Cyprenorphine;
- (G) Desomorphine;
- (H) Dihydromorphine;
- (I) Drotebanol;
- (J) Etorphine (except hydrochloride salt);
- (K) Heroin;
- (L) Hydromorphanol;
- (M) Methyl-desorphine;
- (N) Methylhydromorphine;
- (O) Morphine methylbromide;
- (P) Morphine methylsulfonate;
- (Q) Morphine-N-Oxide;
- (R) Myrophine;
- (S) Nicocodeine;
- (T) Nicomorphine;
- (U) Normorphine;
- (V) Pholcodine; and
- (W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

- (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)indole; α -ET; and AET;
- (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:

4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxy-methamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6, β 6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora*

williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Δ 1 cis or trans tetrahydrocannabinol, and their optical isomers Δ 6 cis or trans tetrahydrocannabinol, and their optical isomers Δ 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names:

N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names:

1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylamine;

(D) Methcathinone, some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) (̄)cis-4-methylaminorex ((̄)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thethylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextropropranolol, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

(VII) Codeine;

(VIII) Ethylmorphine;

(IX) Etorphine hydrochloride;

(X) Hydrocodone;

(XI) Hydromorphone;

(XII) Metopon;

(XIII) Morphine;

(XIV) Oxycodone;

(XV) Oxymorphone; and

(XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextropropranolol and levopropoxyphene:

(A) Alfentanil;

(B) Alphaprodine;

(C) Anileridine;

(D) Bezitramide;

(E) Bulk dextropropoxyphene (nondosage forms);

(F) Carfentanil;

(G) Dihydrocodeine;

(H) Diphenoxylate;

(I) Fentanyl;

(J) Isomethadone;

(K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

- (L) Levomethorphan;
- (M) Levorphanol;
- (N) Metazocine;
- (O) Methadone;
- (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (R) Pethidine (meperidine);
- (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (V) Phenazocine;
- (W) Piminodine;
- (X) Racemethorphan;
- (Y) Racemorphan;
- (Z) Remifentanyl; and
- (AA) Sufentanyl.
- (iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
- (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- (C) Phenmetrazine and its salts; and
- (D) Methylphenidate.
- (iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (A) Amobarbital;
- (B) Glutethimide;
- (C) Pentobarbital;
- (D) Phencyclidine;
- (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and
- (F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (ñ)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is

approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: *n*-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpiazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, fluprazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

(A) Boldenone;

(B) Chlorotestosterone (4-chlorotestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebolone (formebolone);

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone; and

(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary

of Health and Human Services for use, may not be classified as a controlled substance.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Alprazolam;
- (B) Barbitol;
- (C) Bromazepam;
- (D) Butorphanol;
- (E) Camazepam;
- (F) Carisoprodol;
- (G) Chloral betaine;
- (H) Chloral hydrate;
- (I) Chlordiazepoxide;
- (J) Clobazam;
- (K) Clonazepam;
- (L) Clorazepate;
- (M) Clotiazepam;
- (N) Cloxazolam;
- (O) Delorazepam;
- (P) Diazepam;
- (Q) Dichloralphenazone;
- (R) Estazolam;
- (S) Ethchlorvynol;
- (T) Ethinamate;
- (U) Ethyl loflazepate;
- (V) Fludiazepam;
- (W) Flunitrazepam;
- (X) Flurazepam;
- (Y) Halazepam;
- (Z) Haloxazolam;
- (AA) Ketazolam;
- (BB) Loprazolam;
- (CC) Lorazepam;
- (DD) Lormetazepam;
- (EE) Mebutamate;

- (FF) Medazepam;
- (GG) Meprobamate;
- (HH) Methohexital;
- (II) Methylphenobarbital (mephobarbital);
- (JJ) Midazolam;
- (KK) Nimetazepam;
- (LL) Nitrazepam;
- (MM) Nordiazepam;
- (NN) Oxazepam;
- (OO) Oxazolam;
- (PP) Paraldehyde;
- (QQ) Pentazocine;
- (RR) Petrichloral;
- (SS) Phenobarbital;
- (TT) Pinazepam;
- (UU) Prazepam;
- (VV) Quazepam;
- (WW) Temazepam;
- (XX) Tetrazepam;
- (YY) Triazolam;
- (ZZ) Zaleplon; and
- (AAA) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Cathine ((+)-norpseudoephedrine);
- (B) Diethylpropion;
- (C) Fencamfamine;
- (D) Fenproporex;
- (E) Mazindol;
- (F) Mefenorex;
- (G) Modafinil;
- (H) Pemoline, including organometallic complexes and chelates thereof;
- (I) Phentermine;

(J) Pipradrol;

(K) Sibutramine; and

(L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers; and

(H) all forms of Tramadol.

(ii) Cannabidiol in a drug product that is approved by the United States Food and Drug Administration.

Section 2. Section 58-37-4.2 is amended to read:

58-37-4.2. Listed controlled substances.

The following substances, their analogs, homologs, and synthetic equivalents are listed controlled substances:

(1) AB-001;

(2) AB-PINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide;

(3) AB-FUBINACA; N-[1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide;

(4) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);

~~(4)~~ (5) ADB-CHMINACA[₃] (N-[(2S)-1-amino-3,3-dimethyl-1-oxobutan-2-yl]-1-(cyclohexylmethyl)indazole-3-carboxamide);

~~(5)~~ (6) ADB-FUBINACA[₃] (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide);

~~(6)~~ (7) AKB48;

(8) alpha-Pyrrolidinohexanophenone (alpha-PHP) (1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one);

~~(7)~~ (9) alpha-Pyrrolidinovalerophenone (alpha-PVP);

~~(8)~~ (10) AM-694[₃] (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone);

~~(9)~~ (11) AM-1248;

~~(10)~~ (12) AM-2201[₃] (1-(5-fluoropentyl)-3-(1-naphthoyl)indole);

~~(11)~~ (13) AM-2233;

~~(12)~~ (14) AM-679;

~~(13)~~ (15) A796,260;

~~(14)~~ (16) Butylone;

~~(15)~~ (17) CP 47,497 and its C6, C8, and C9 homologs[₃] (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol);

~~(16)~~ (18) Diisopropyltryptamine (DiPT);

~~(17)~~ (19) Ethylone;

~~(18)~~ (20) Ethylphenidate;

~~(19)~~ (21) Fluoroisocathinone;

~~(20)~~ (22) Fluoromethamphetamine;

~~(21)~~ (23) Fluoromethcathinone;

~~(22)~~ (24) FUB-AMB; methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)valinate;

~~(23)~~ (25) HU-210; (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

~~(24)~~ (26) HU-211; Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

~~(25)~~ (27) JWH-015; (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;

~~(26)~~ (28) JWH-018; Naphthalen-1-yl-(pentylindol-3-yl)methanone (also known as 1-Pentyl-3-(1-naphthoyl)indole);

~~(27)~~ (29) JWH-019; 1-hexyl-3-(1-naphthoyl)indole;

[(28)] (30) JWH-073; Naphthalen-1-yl (1-butylindol-3-yl)methanone {also known as 1-Butyl-3-(1-naphthoyl)indole};

[(29)] (31) JWH-081; 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;

[(30)] (32) JWH-122; CAS#619294-47-2; (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);

[(31)] (33) JWH-200; 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;

[(32)] (34) JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;

[(33)] (35) JWH-210; 4-ethyl-1-naphthalenyl (1-pentyl-1H-indol-3-yl)-methanone;

[(34)] (36) JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;

[(35)] (37) JWH-251; 2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone;

[(36)] (38) JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;

[(37)] (39) MAM-2201;

[(38)] (40) MAM-2201; (1-(5-fluoropentyl)-1H-indol-3-yl)(4-ethyl-1-naphthalenyl)-methanone;

[(39)] (41) Methoxetamine;

[(40)] (42) Naphyrone;

[(41)] (43) PB-22; 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester;

[(42)] (44) Pentedrone;

[(43)] (45) Pentylone;

[(44)] (46) RCS-4; 1-pentyl-3-(4-methoxybenzoyl)indole;

[(45)] (47) RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole {also known as BTW-8 and SR-18};

[(46)] (48) STS-135;

[(47)] (49) UR-144;

[(48)] (50) UR-144 N-(5-chloropentyl) analog;

[(49)] (51) XLR11;

[(50)] (52) 2C-C;

[(51)] (53) 2C-D;

[(52)] (54) 2C-E;

[(53)] (55) 2C-H;

[(54)] (56) 2C-I;

[(55)] (57) 2C-N;

[(56)] (58) 2C-P;

[(57)] (59) 2C-T-2;

[(58)] (60) 2C-T-4;

[(59)] (61) 2NE1;

[(60)] (62) 25I-NBOMe;

[(61)] (63) 2,5-Dimethoxy-4-chloroamphetamine (DOC);

[(62)] (64) 4-methylmethcathinone {also known as mephedrone};

[(63)] (65) 3,4-methylenedioxypropylvalerone {also known as MDPV};

[(64)] (66) 3,4-Methylenedioxypropylmethcathinone {also known as methylone};

[(65)] (67) 4-methoxymethcathinone;

[(66)] (68) 4-Methyl-alpha-pyrrolidinopropiophenone;

[(67)] (69) 4-Methylethcathinone;

[(68)] (70) 5F-AKB48; 1-(5-fluoropentyl)-N-tricyclo[3.3.1.1.3,7]dec-1-yl-1H-indazole-3-carboxamide;

(71) 5-Fluoro ADB (Methyl N-([1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl)-3-methyl-valinate);

(72) 5-Fluoro AMB (Methyl N-([1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl)valinate);

[(69)] (73) 5-fluoro-PB-22; 1-(5-fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester;

[(70)] (74) 5-Iodo-2-aminoindane (5-IAI);

[(71)] (75) 5-MeO-DALT;

[(72)] (76) 25B-NBOMe; 2-(r-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine;

[(73)] (77) 25C-NBOMe; 2-(4Chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine; and

[(74)] (78) 25H-NBOMe; 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine.

CHAPTER 147**S. B. 19**

Passed February 22, 2018

Approved March 16, 2018

Effective May 8, 2018

COMPETENCY TO STAND TRIAL AMENDMENTS

Chief Sponsor: Lincoln Fillmore

House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill amends provisions related to a defendant's competency to stand trial.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures for determining the competency of a defendant charged with a misdemeanor;
- ▶ adds and modifies time frames for evaluations, reports, and court hearings relating to competency to stand trial determinations;
- ▶ clarifies standards for restoration treatment and competency review; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-1-104, as last amended by Laws of Utah 2017, Chapter 331

62A-1-108.5, as last amended by Laws of Utah 2012, Chapters 316 and 347

77-15-1, as last amended by Laws of Utah 2000, Chapter 256

77-15-2, as last amended by Laws of Utah 1994, Chapter 162

77-15-3, as last amended by Laws of Utah 1994, Chapter 162

77-15-4, as last amended by Laws of Utah 1994, Chapter 162

77-15-5, as last amended by Laws of Utah 2016, Chapter 115

77-15-6, as last amended by Laws of Utah 2012, Chapter 109

77-15-6.5, as last amended by Laws of Utah 2008, Chapter 212

77-15-7, as repealed and reenacted by Laws of Utah 1994, Chapter 162

77-15-9, as last amended by Laws of Utah 1994, Chapter 162

ENACTS:

77-15-3.5, Utah Code Annotated 1953

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

Section 1. Section 62A-1-104 is amended to read:**62A-1-104. Definitions.**

- (1) As used in this title:

(a) "Competency evaluation" means the same as that term is defined in Section 77-15-2.

~~[(a)]~~ (b) "Concurrence of the board" means agreement by a majority of the members of a board.

~~[(b)]~~ (c) "Department" means the Department of Human Services established in Section 62A-1-102.

~~[(e)]~~ (d) "Executive director" means the executive director of the department, appointed under Section 62A-1-108.

(e) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

~~[(d)]~~ (f) "System of care" means a broad, flexible array of services and supports that:

(i) serves a child with or who is at risk for complex emotional and behavioral needs;

(ii) is community based;

(iii) is informed about trauma;

(iv) builds meaningful partnerships with families and children;

(v) integrates service planning, service coordination, and management across state and local entities;

(vi) includes individualized case planning;

(vii) provides management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(viii) is guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title that are applicable to specified chapters or parts.

Section 2. Section 62A-1-108.5 is amended to read:**62A-1-108.5. Mental illness and intellectual disability examinations -- Responsibilities of the department.**

(1) In accomplishing ~~[its duties to conduct mental illness and intellectual disability examinations]~~ the department's duties to conduct a competency evaluation under Title 77, Utah Code of Criminal Procedure, and a juvenile competency ~~[evaluations pursuant to]~~ evaluation under Title 78A, Chapter 6, Juvenile Court Act, the department shall proceed as outlined in this section and within appropriations authorized by the Legislature. ~~[The executive director may delegate the executive director's responsibilities under this section to one or more divisions within the department.]~~

(2) When the department is ordered by ~~[the district]~~ a court to conduct a ~~[mental illness or intellectual disability examination the executive director]~~ competency evaluation, the department shall ~~[(a) direct that the examination be performed~~

at the Utah State Hospital; or (b) ~~designate at least one examiner,~~ designate a forensic evaluator, selected under Subsection (4), to ~~examine~~ evaluate the defendant in the defendant's current custody or status.

(3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation ~~[pursuant to]~~ under Title 78A, Chapter 6, Juvenile Court Act, the ~~[executive director]~~ department shall:

(a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and

(b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.

(4) The department shall establish criteria, in consultation with the Commission on Criminal and Juvenile Justice, and shall contract with persons ~~[or organizations]~~ to conduct ~~[mental illness and intellectual disability or related condition]~~ competency evaluations and juvenile competency evaluations under Subsections (2)~~(b)~~ and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(5) Nothing in this section prohibits the ~~[executive director]~~ department, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Section 3. Section 77-15-1 is amended to read:

77-15-1. Incompetent individual not to be tried for public offense.

~~[No person]~~ An individual who is incompetent to proceed ~~[shall]~~ may not be tried for a public offense.

Section 4. Section 77-15-2 is amended to read:

77-15-2. Definitions.

~~[For the purposes of this chapter, a person is incompetent to proceed if he is suffering from a mental disorder or mental retardation resulting either in:]~~

~~[(1) his inability to have a rational and factual understanding of the proceedings against him or of the punishment specified for the offense charged; or]~~

~~[(2) his inability to consult with his counsel and to participate in the proceedings against him with a reasonable degree of rational understanding.]~~

As used in this chapter:

(1) "Competency evaluation" means an evaluation conducted by a forensic evaluator to determine if an individual is competent to stand trial.

(2) "Competent to stand trial" means that a defendant has:

(a) a rational and factual understanding of the criminal proceedings against the defendant and of the punishment specified for the offense charged; and

(b) the ability to consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense.

(3) "Department" means the Department of Human Services.

(4) "Forensic evaluator" means a licensed mental health professional who is:

(a) not involved in the defendant's treatment; and

(b) trained and qualified by the department to conduct a competency evaluation, a restoration screening, and a progress toward competency evaluation.

(5) "Incompetent to proceed" means that a defendant is not competent to stand trial.

(6) "Petition" means a petition to request a court to determine whether a defendant is competent to stand trial.

(7) "Progress toward competency evaluation" means an evaluation to determine whether an individual who is receiving restoration treatment is:

(a) competent to stand trial;

(b) incompetent to proceed but has a substantial probability of becoming competent to stand trial in the foreseeable future; or

(c) incompetent to proceed and does not have a substantial probability of becoming competent to stand trial in the foreseeable future.

(8) "Restoration screening" means an assessment of an individual determined to be incompetent to stand trial for the purpose of determining the appropriate placement and restoration treatment for the individual.

(9) "Restoration treatment" means training and treatment that is:

(a) provided to an individual who is incompetent to proceed;

(b) tailored to the individual's particular impairment to competency; and

(c) limited to the purpose of restoring the individual to competency.

Section 5. Section 77-15-3 is amended to read:

77-15-3. Petition for inquiry regarding defendant -- Prisoner -- Filing -- Contents.

~~(1) [Whenever a person] When a defendant charged with a public offense or serving a sentence of imprisonment is [or becomes] incompetent to proceed, [as defined in this chapter, a petition may be filed] an individual described in Subsection (2)(b) may file a petition in the district court of the county where the charge is pending or where the [person] defendant is confined.~~

(2) (a) The petition shall contain a certificate that it is filed in good faith and on reasonable grounds to believe the defendant is incompetent to proceed. The petition shall contain a recital of the facts, observations, and conversations with the defendant that have formed the basis for the petition. If filed by defense counsel, the petition ~~[shall contain such information without invading the lawyer-client]~~ may not disclose information in violation of the attorney-client privilege.

(b) The petition may be based upon knowledge or information and belief and may be filed by the ~~[party alleged incompetent to proceed] defendant,~~ any person acting on ~~[his] behalf of the defendant,~~ the prosecuting attorney, or any person having custody or supervision over the ~~[person] defendant.~~

Section 6. Section 77-15-3.5 is enacted to read:

77-15-3.5. Incompetent to proceed in misdemeanor cases.

(1) When a defendant charged with a misdemeanor is incompetent to proceed, a petition may be filed in the district court of the county where the charge is pending or where the defendant is confined.

(2) If the most severe charge against a defendant is a misdemeanor and the defendant is adjudicated by a court as incompetent to proceed:

(a) the department shall provide restoration treatment to the defendant; and

(b) the court may refer the defendant to pretrial diversion services, upon agreement of the prosecution and defense counsel.

(3) Unless the prosecutor indicates that civil commitment proceedings will be initiated under Subsection 77-15-6(5)(c), a court shall release a defendant who is incompetent to proceed if:

(a) the most severe charge against the defendant is no more severe than a class B misdemeanor;

(b) more than 60 days have passed after the day on which the court adjudicated the defendant incompetent to proceed; and

(c) the defendant has not been restored to competency.

(4) A court may dismiss the charges against a defendant who was released under Subsection (3).

Section 7. Section 77-15-4 is amended to read:

77-15-4. Court may raise issue of competency at any time.

The court in which a charge is pending may raise the issue of ~~[the] a defendant's competency at any time. If raised by the court, the court shall permit counsel for each party [shall be permitted] to address the issue of competency.~~

Section 8. Section 77-15-5 is amended to read:

77-15-5. Order for hearing -- Stay of other proceedings -- Examinations of defendant -- Scope of examination and report.

~~(1) (a) When a petition is filed pursuant to Section 77-15-3 raising the issue of the defendant's competency to stand trial or when the court raises the issue of the defendant's competency pursuant to Section 77-15-4, the court in which proceedings are pending shall stay all proceedings. If the proceedings are in a court other than the district court in which the petition is filed, the district court shall notify that court of the filing of the petition.]~~

~~(b) The district court in which the petition is filed:]~~

(1) A court in which criminal proceedings are pending shall stay all criminal proceedings, if:

(a) a petition is filed under Section 77-15-3 or 77-15-3.5; or

(b) the court raises the issue of the defendant's competency under Section 77-15-4.

(2) The court in which the petition described in Subsection (1)(a) is filed:

(a) shall inform the court in which criminal proceedings are pending of the petition, if the petition is not filed in the court in which criminal proceedings are pending;

(i) (b) shall review the allegations of incompetency;

(ii) (c) may hold a limited hearing solely for the purpose of determining the sufficiency of the petition, if the court finds the petition is not clearly sufficient on its face;

(iii) (d) shall hold a hearing, if the petition is opposed by either party;

(iv) (e) may not order an examination of the defendant or order a hearing on the mental condition of the defendant unless the court finds that the allegations in the petition raise a bona fide doubt as to the defendant's competency to stand trial; and

~~(v) shall order an examination of the defendant and a hearing on the defendant's mental condition]~~

(f) if the court finds that the allegations raise a bona fide doubt as to the defendant's competency to stand trial[-], shall order:

(i) the department to have the defendant evaluated by one forensic evaluator, if:

(A) the most severe charge against the defendant is a misdemeanor; or

(B) the defendant is charged with a felony but is not charged with a capital felony, and the court

determines, based upon the allegations in the petition, that a second competency evaluation is not necessary;

(ii) the department to have the defendant evaluated by two forensic evaluators, if:

(A) the defendant is charged with a capital felony; or

(B) the defendant is charged with a felony but is not charged with a capital felony, and the court determines, based upon the allegations in the petition, that a second competency evaluation is necessary; and

(iii) the defendant to be evaluated by an additional forensic evaluator, if requested by a party, who shall:

(A) select the additional forensic evaluator; and

(B) pay for the costs of the additional forensic evaluator.

~~[(2) (a) After the granting of a petition and prior to a full competency hearing, the court may order the Department of Human Services to examine the person and to report to the court concerning the defendant's mental condition.]~~

~~[(b) The defendant shall be examined by at least two mental health experts not involved in the current treatment of the defendant.]~~

~~[(c) If the issue is sufficiently raised in the petition or if it becomes apparent that the defendant may be incompetent due to intellectual disability, at least one expert experienced in intellectual disability assessment shall evaluate the defendant. Upon appointment of the experts, the petitioner or other party as directed by the court shall provide information and materials to the examiners relevant to a determination of the defendant's competency and shall provide copies of the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.]~~

~~[(d) The prosecuting and defense attorneys shall cooperate in providing the relevant information and materials to the examiners, and the court may make the necessary orders to provide the information listed in Subsection (2)(c) to the examiners. The court may provide in its order for a competency examination of a defendant]~~

(3) (a) If the petition or other information sufficiently raises concerns that the defendant may have intellectual or developmental disabilities, at least one forensic evaluator who is experienced in intellectual or developmental disability assessments shall conduct a competency evaluation.

(b) The petitioner or other party, as directed by the court, shall provide to the forensic evaluator information and materials relevant to a determination of the defendant's competency, including the charging document, arrest or incident

reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a competency evaluation, a court may order that custodians of mental health records pertaining to the defendant ~~[shall]~~ provide those records to ~~[the]~~ a ~~[examiners]~~ forensic evaluator without the need for consent of the defendant ~~[or further order of the court]~~.

(d) An order for a competency evaluation may not contain an order for any other inquiry into the mental state of the defendant.

~~[(3) During the examination under Subsection (2)]~~

(4) Pending a competency evaluation, unless the court or the ~~[executive director of the]~~ department directs otherwise, the defendant shall be retained in the same custody or status ~~[he]~~ that the defendant was in at the time the examination was ordered.

~~[(4) The experts shall in the conduct of their examination and in their report to the court consider and address, in addition to any other factors determined to be relevant by the experts:]~~

(5) In the conduct of a competency evaluation, a progress toward competency evaluation, and in a report to the court, a forensic evaluator shall consider and address, in addition to any other factors determined to be relevant by the forensic evaluator:

(a) the defendant's present ~~[capacity]~~ ability to:

(i) rationally and factually understand the criminal proceedings against the defendant;

(ii) consult with the defendant's legal counsel with a reasonable degree of rational understanding in order to assist in the defense;

~~[(i) comprehend and appreciate]~~

(iii) understand the charges or allegations against the defendant;

~~[(ii) disclose to counsel pertinent]~~

(iv) communicate facts, events, and states of mind;

~~[(iii) comprehend and appreciate]~~

(v) understand the range ~~[and nature]~~ of possible penalties~~], if applicable, that may be imposed in the proceedings]~~ associated with the charges or allegations against the defendant;

~~[(iv)]~~ (vi) engage in reasoned choice of legal strategies and options;

~~[(v)]~~ (vii) understand the ~~[adversary]~~ adversarial nature of the proceedings against the defendant;

~~[(vi)]~~ (viii) manifest ~~[appropriate courtroom]~~ behavior sufficient to allow the court to proceed; and

~~[(vii)]~~ (ix) testify relevantly, if applicable;

(b) the impact of the mental disorder or intellectual disability, if any, on the nature and quality of the defendant's relationship with counsel;

(c) if psychoactive medication is currently being administered:

(i) whether the medication is necessary to maintain the defendant's competency; and

(ii) ~~the effect of~~ whether the medication~~, if any,~~ may have an effect on the defendant's demeanor ~~and~~, affect, and ability to participate in the proceedings; and

(d) whether the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial.

~~[(5)] (6) If the [expert's] forensic evaluator's opinion is that the defendant is incompetent to proceed, the [expert] forensic evaluator shall indicate in the report to the court:~~

~~(a) [which of the above factors contributes] the factors that contribute to the defendant's incompetency~~[(b)], including the nature of the defendant's mental disorder or intellectual or developmental disability, if any, and its relationship to the factors contributing to the defendant's incompetency; and~~~~

~~[(c) the treatment or treatments appropriate and available;]~~

~~[(d) the defendant's capacity to give informed consent to treatment to restore competency; and]~~

~~[(e) any diagnostic instruments, methods, and observations used by the expert to determine whether or not the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial and the expert's opinion as to the significance of any false or exaggerated symptoms regarding the defendant's capacity.]~~

~~(b) whether there is a substantial probability that restoration treatment may, in the foreseeable future, bring the defendant to competency to stand trial, or that the defendant cannot become competent to stand trial in the foreseeable future.~~

~~[(6) The experts examining the defendant]~~

~~(7) (a) A forensic evaluator shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the defendant to stand trial~~, or, in the alternative, the examiner may inform the court in writing that additional time is needed to complete the report. If the examiner informs the court that additional time is needed, the examiner shall have up to an additional 30 days to provide the report to the court and counsel. The examiner shall provide the report within 60 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report].~~~~

~~(b) (i) If the forensic evaluator is unable to complete the report in the time specified in Subsection (7)(a), the forensic evaluator shall give written notice to the court.~~

~~(ii) A forensic evaluator who provides the notice described in Subsection (7)(b)(i) shall receive a 15-day extension, giving the forensic evaluator a total of 45 days after the day on which the forensic evaluator received the court's order to conduct a competency evaluation and file a report.~~

~~(iii) The court may further extend the deadline for completion of the evaluation and report if the court determines that there is good cause for the extension.~~

~~(iv) Upon receipt of an extension described in Subsection (7)(b)(iii), the forensic evaluator shall file the report as soon as reasonably possible.~~

~~[(7)] (8) Any written report submitted by [the experts] a forensic evaluator shall:~~

~~(a) identify the [specific matters referred] case ordered for evaluation by the case number;~~

~~(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;~~

~~(c) state the [expert's] forensic evaluator's clinical observations, findings, and opinions on each issue referred for examination by the court, and indicate specifically those issues, if any, on which the [expert] forensic evaluator could not give an opinion; and~~

~~(d) identify the sources of information used by the [expert] forensic evaluator and present the basis for the [expert's] forensic evaluator's clinical findings and opinions.~~

~~[(8)] (9) (a) Any statement made by the defendant in the course of any competency examination, whether the examination is with or without the consent of the defendant, any testimony by [the expert] a forensic evaluator based upon the statement, and any other fruits of the statement may not be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the defendant's competency.~~

~~(b) [Prior to] Before examining the defendant, [examiners should] the forensic evaluator shall specifically advise the defendant of the limits of confidentiality as provided under Subsection [(8)] (9)(a).~~

~~[(9) (a) When the report is received]~~

~~(10) (a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a [mental] competency hearing. The hearing shall be held [in] not less than [five] 5 and not more than 15 days~~, unless the court enlarges the time for good cause.~~] after the day on which the court received the forensic evaluators' reports, unless for good cause the court sets a later date.~~

~~(b) Any person [or organization] directed by the department to conduct the [examination] competency evaluation may be subpoenaed to testify at the hearing. [If the experts are in conflict as to the competency of the defendant, all experts~~

should be called to testify at the hearing if reasonably available. A conflict in the opinions of the experts does not require the appointment of an additional expert unless the court determines the appointment to be necessary.]

(c) The court may call any [examiner] forensic evaluator to testify at the hearing who is not called by the parties. If the court calls [an examiner] a forensic evaluator, counsel for the parties may cross-examine the [expert] forensic evaluator.

(d) If the forensic evaluators are in conflict as to the competency of the defendant, all forensic evaluators should be called to testify at the hearing if reasonably available. A conflict in the opinions of the forensic evaluators does not require the appointment of an additional forensic evaluator unless the court determines the appointment to be necessary.

[~~(10)~~ (11) (a) A [person] defendant shall be presumed competent to stand trial unless the court, by a preponderance of the evidence, finds the [person] defendant incompetent to proceed. The burden of proof is upon the proponent of incompetency at the hearing.

(b) An adjudication of [incompetency] incompetent to proceed does not operate as an adjudication of incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order.

[~~(11)~~ (12) In determining the defendant's competency to stand trial, the court shall consider the totality of the circumstances, which may include the testimony of lay witnesses, in addition to the [expert testimony, studies, and reports provided under this section] forensic evaluator's report, testimony, and studies.

[~~(12)~~ (a) (13) If the court finds the defendant incompetent to [stand trial, its order shall contain] proceed:

(a) the court shall issue the order described in Subsection 77-15-6(1), which shall:

(i) include findings addressing each of the factors in [Subsections (4)(a) and (b).] Subsection (5)(a);

[~~The order issued pursuant to Subsection 77-15-6(1) which the court sends to the facility where the defendant is committed or to the person who is responsible for assessing the defendant's progress toward competency shall be provided contemporaneously with the transportation and commitment order of the defendant, unless exigent circumstances require earlier commitment in which case the court shall forward the order within five working days of the order of transportation and commitment of the defendant.~~

(b) The order finding the defendant incompetent to stand trial shall be accompanied by:]

(i) copies of the reports of the experts filed with the court pursuant to the order of examination if not provided previously;]

(ii) copies of any of the]

(ii) include a transportation order, if necessary;

(iii) be accompanied by the forensic evaluators' reports, any psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the defendant[; and (iii)], and any other documents made available to the court by either the defense or the prosecution, pertaining to the defendant's current or past mental condition[; and

(iv) be sent by the court to the department; and

(b) the prosecuting attorney shall provide to the department:

(i) the charging document and probable cause statement, if any;

(ii) arrest or incident reports prepared by law enforcement and pertaining to the charged offense; and

(iii) additional supporting documents.

[~~(13) (a) If the court finds it necessary to order the defendant transported prior to the completion of findings and compilation of documents required under Subsection (12), the transportation and commitment order delivering the defendant to the Utah State Hospital, or other mental health facility as directed by the executive director of the Department of Human Services or a designee, shall indicate that the defendant's commitment is based upon a finding of incompetency, and the mental health facility's copy of the order shall be accompanied by the reports of any experts filed with the court pursuant to the order of examination.~~

(b) The executive director of the Department of Human Services or a designee may refuse to accept a defendant as a patient unless the defendant is accompanied by a transportation and commitment order which is accompanied by the reports.]

[~~(14) Upon a finding of incompetency to stand trial by the court, the prosecuting and defense attorneys shall provide information and materials relevant to the defendant's competency to the facility where the defendant is committed or to the person responsible for assessing the defendant's progress towards competency. In addition to any other materials, the prosecuting attorney shall provide:]~~

(a) copies of the charging document and supporting affidavits or other documents used in the determination of probable cause;]

(b) arrest or incident reports prepared by a law enforcement agency pertaining to the charged offense; and]

(c) information concerning the defendant's known criminal history.]

[~~(15) (14) The court may make any reasonable order to [insure] ensure compliance with this section.~~

[~~(16) (15) Failure to comply with this section does not result in the dismissal of criminal charges.~~

Section 9. Section 77-15-6 is amended to read:

77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) (a) Except as provided in Subsection (5), if after a hearing, ~~the defendant is found~~ a court finds a defendant to be incompetent to ~~stand trial~~ proceed, the court shall order the defendant committed to the ~~eustody of the executive director of the Department of Human Services or a designee for the purpose of treatment intended to restore the defendant to competency~~ department for restoration treatment.

(b) The court may recommend but may not order placement of the defendant. The court may, however, order that the defendant be placed in a secure setting rather than a nonsecure setting. ~~The director or a~~ Following restoration screening, the department's designee shall designate and inform the court of the specific placement ~~of the defendant during the period of evaluation and treatment to restore competency~~ and restoration treatment program for the defendant.

(c) Restoration treatment shall be of sufficient scope and duration to:

(i) restore the individual to competency; or

(ii) determine whether the individual can be restored to competency in the foreseeable future.

(d) A defendant whom a court determines is incompetent to proceed may not be held for restoration treatment longer than:

(i) the time reasonably necessary to determine whether there is a substantial probability that the defendant will become competent to stand trial in the foreseeable future, or that the defendant cannot become competent to stand trial in the foreseeable future; and

(ii) the maximum period of incarceration that the defendant could receive if the defendant were convicted of the most severe offense of the offenses charged.

~~(2) The examiner or examiners designated by the executive director to assess the defendant's progress toward competency may not be involved in the routine treatment of the defendant. The examiner or examiners shall provide a full report to the court and prosecuting and defense attorneys within 90 days of arrival of the defendant at the treating facility. If any examiner~~

(2) (a) A defendant who is receiving restoration treatment shall receive a progress toward competency evaluation, by:

(i) a forensic evaluator, designated by the department; and

(ii) an additional forensic evaluator, if requested by a party and paid for by the requesting party.

(b) A forensic evaluator shall complete a progress toward competency evaluation and submit a report within 90 days after the day on which the forensic evaluator receives the commitment order. If the forensic evaluator is unable to complete the ~~assessment~~ report within 90 days, ~~that examiner~~ the forensic evaluator shall provide to the court and counsel a summary progress ~~report which~~ statement that informs the court that additional time is necessary to complete the ~~assessment~~ report, in which case the examiner shall have up to an additional ~~90~~ 45 days to provide the full report.

(c) The ~~full~~ report shall ~~assess~~:

~~(a)~~ (i) assess whether the defendant is exhibiting false or exaggerated physical or psychological symptoms; ~~and shall report;~~

~~(4)~~ (ii) describe any diagnostic instruments, methods, and observations used by the examiner to make the determination; ~~and~~

~~(ii)~~ the examiner's

(iii) state the forensic evaluator's opinion as to the effect of any false or exaggerated symptoms on the defendant's ~~capacity~~ competency to stand trial;

~~(4b)~~ (iv) assess the facility's or program's capacity to provide appropriate restoration treatment for the defendant;

~~(e)~~ (v) assess the nature of ~~treatments~~ restoration treatment provided to the defendant;

~~(4d)~~ (vi) assess what progress the defendant has made toward competency restoration, ~~has been made~~ with respect to the factors identified by the court in its initial order;

~~(e)~~ (vii) describe the defendant's current level of ~~mental disorder or mental retardation~~ intellectual or developmental disability and need for treatment, if any; and

~~(4f)~~ (viii) assess the likelihood of restoration ~~of competency and~~ to competency, the amount of time estimated to achieve ~~it~~ competency, or the amount of time estimated to determine whether restoration to competency may be achieved.

(3) The court on its own motion or upon motion by either party or ~~by the executive director~~ the department may appoint an additional ~~mental health examiners to examine the defendant and advise the court on the defendant's current mental status and progress toward competency restoration~~ forensic evaluator to conduct a progress toward competency evaluation. If the court appoints an additional forensic evaluator upon motion of a party, that party shall pay the costs of the additional forensic evaluator.

(4) ~~Upon receipt of the full report, the court shall hold a hearing to determine the defendant's current status.~~ Within 15 days after the day on which the court receives the forensic evaluator's report of the progress toward competency evaluation, the court shall hold a hearing to review the defendant's competency. At the hearing, the burden of proving that the defendant is competent to stand trial is on the proponent of competency. Following the

hearing, the court shall determine by a preponderance of evidence whether the defendant is:

- (a) competent to stand trial;
- (b) incompetent to ~~[stand trial]~~ proceed, with a substantial probability that the defendant may become competent in the foreseeable future; or
- (c) incompetent to ~~[stand trial]~~ proceed, without a substantial probability that the defendant may become competent in the foreseeable future.

(5) (a) If the court ~~[enters a finding pursuant to Subsection (4)(a),]~~ determines that the defendant is competent to stand trial, the court shall:

- (i) proceed with the trial or other procedures as may be necessary to adjudicate the charges~~[-];~~ and
- (ii) order that the defendant be returned to the placement and status that the defendant was in at the time when the petition for the adjudication of competency was filed, unless the court determines that a different placement is more appropriate.

(b) ~~[If the court enters a finding pursuant to Subsection (4)(b), the court may order that the defendant remain committed to the custody of the executive director of the Department of Human Services or a designee for the purpose of treatment intended to restore the defendant to competency.]~~ If the court determines that the defendant is not competent to proceed but that there is a substantial probability that the defendant may become competent in the foreseeable future, the court may order that the defendant remain committed to the department or the department's designee for the purpose of restoration treatment.

(c) If the court ~~[enters a finding pursuant to Subsection (4)(c),]~~ determines that the defendant is incompetent to proceed and that there is not a substantial probability that the defendant may become competent in the foreseeable future, the court shall order the defendant released from ~~[the custody of the director]~~ commitment to the department, unless the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings must be initiated within seven days ~~[after the court's order entering the finding in Subsection (4)(c), unless the court enlarges the time for good cause shown. The defendant may be ordered to remain in the custody of the director until commitment proceedings have been concluded.]~~ after the day on which the court makes the determination described in Subsection (4)(c), unless the court finds that there is good cause to delay the initiation of the civil commitment proceedings. The court may order the defendant to remain in the commitment of the department until the civil commitment proceedings conclude. If the defendant is civilly committed, ~~[the court which entered the order pursuant to Subsection (4)(c), shall be notified by the director]~~ the department shall notify the court that adjudicated the defendant incompetent to proceed at least 10 days

~~[prior to]~~ before any release of the committed ~~[person]~~ individual.

~~[(6) If the defendant is recommitted to the department pursuant to Subsection (5)(b), the court shall hold a hearing one year following the recommitment.]~~

~~[(7) At the hearing held pursuant to Subsection (6), except for defendants charged with the crimes listed in Subsection (8), a defendant who has not been restored to competency shall be ordered released or temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(c).]~~

(6) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall schedule a competency review hearing for the earlier of:

- (a) the department's best estimate of when the defendant may be restored to competency; or
- (b) three months after the day on which the court determined under Subsection (5)(b) to extend the defendant's commitment.

(7) If a defendant is not competent to proceed by the day of the competency review hearing that follows the extension of a defendant's commitment, a court shall:

(a) except for a defendant charged with crimes listed in Subsection (8), order a defendant:

- (i) released; or
- (ii) temporarily detained pending civil commitment proceedings under the same terms as described in Subsection (5)(c); and

(b) terminate the defendant's commitment to the department for restoration treatment.

(8) If the defendant has been charged with aggravated murder, murder, attempted murder, manslaughter, or a first degree felony and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the hearing held pursuant to Subsection (6), the court may ~~[order the defendant recommitted]~~ extend the commitment for a period not to exceed ~~[18]~~ 9 months for the purpose of ~~[treatment to restore the defendant to competency]~~ restoration treatment, with a mandatory review hearing at the end of the ~~[18-month]~~ 9-month period.

~~[(9) Except for defendants charged with aggravated murder or murder, a defendant who has not been restored to competency at the time of the hearing held pursuant to Subsection (8) shall be ordered released or temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(c).]~~

(9) If at the 9-month review hearing described in Subsection (8), the court determines that the defendant is not competent to proceed, the court shall:

(a) order the defendant, except for a defendant charged with aggravated murder or murder, to be:

- (i) released; or

(ii) temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(c); and

(b) terminate the defendant's commitment to the department for restoration treatment.

(10) If the defendant has been charged with aggravated murder or murder and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the ~~[mandatory review hearing held pursuant to]~~ 9-month review hearing described in Subsection (8), the court may ~~[order the defendant recommitted]~~ extend the commitment for a period not to exceed ~~[36]~~ 24 months for the purpose of ~~[treatment to restore competency]~~ restoration treatment.

(11) If the ~~[defendant is recommitted to the department pursuant to]~~ court extends the defendant's commitment term under Subsection (10), the court shall hold a hearing no ~~[later than at 18-month]~~ less frequently than at 12-month intervals following the ~~[recommitment]~~ extension for the purpose of determining the defendant's competency status.

~~[(12) A defendant who has not been restored to competency at the expiration of the additional 36-month commitment period ordered pursuant to Subsection (10) shall be ordered released or temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(e).]~~

(12) If, at the end of the 24-month commitment period described in Subsection (10), the court determines that the defendant is not competent to proceed, the court shall:

(a) order the defendant to be:

(i) released; or

(ii) temporarily detained pending civil commitment proceedings under the same terms as provided in Subsection (5)(c); and

(b) terminate the defendant's commitment to the department for restoration treatment.

~~[(13) (a) In no event may the maximum period of detention under this section exceed the maximum period of incarceration which the defendant could receive if the defendant were convicted of the charged offense.]~~

~~[(b) This Subsection (13) does not preclude pursuing involuntary civil commitment nor does it place any time limit on civil commitments.]~~

[(14) (13) Neither release from a pretrial incompetency commitment under the provisions of this section nor civil commitment requires dismissal of criminal charges. The court may retain jurisdiction over the criminal case and may order periodic reviews [to assess the defendant's competency to stand trial].]

[(15) (14) A defendant who is civilly committed pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15,

Substance Abuse and Mental Health Act, may still be adjudicated competent to stand trial under this chapter.

~~[(16) (15) (a) The remedy for a violation of the time periods specified in this section, other than those specified in Subsection (5)(c), (7), (9), or (12), [or (13),] shall be a motion to compel the hearing, or mandamus, but not release from detention or dismissal of the criminal charges.~~

~~(b) The remedy for a violation of the time periods specified in Subsection (5)(c), (7), (9), or (12), [or (13)] is not dismissal of the criminal charges.~~

~~[(17) (16) In cases in which the treatment of the defendant is precluded by court order for a period of time, that time period may not be considered in computing time limitations under this section.~~

~~[(18) (17) (a) At any time that the defendant becomes competent to stand trial, the clinical director of the hospital [or other facility or the executive director of the Department of Human Services], the department, or the department's designee shall certify that fact to the court.~~

~~(b) The court shall conduct a competency review hearing:~~

~~(i) within 15 working days [of the receipt of the clinical director's or executive director's report, unless the court enlarges the time for good cause.] after the day on which the court receives the certification described in Subsection (17)(a); or~~

~~(ii) within 30 working days after the day on which the court receives the certification described in Subsection (17)(a), if the court determines that more than 15 days are necessary for good cause related to the defendant's competency.~~

~~[(19) (18) The court may order a hearing or rehearing at any time on its own motion or upon recommendations of the clinical director of the hospital or other facility or the [executive director of the Department of Human Services] department.~~

~~[(20) (19) Notice of a hearing on competency to stand trial shall be given to the prosecuting attorney. If the hearing is held in the county where the defendant is confined, notice shall also be given to the prosecuting attorney for that county.~~

Section 10. Section 77-15-6.5 is amended to read:

77-15-6.5. Petition for involuntary medication of incompetent defendant.

~~[(1) As used in this section:]~~

~~[(a) "Executive director" means the executive director of the Department of Human Services or the executive director's designee.]~~

~~[(b) (1) ["Final] As used in this section, "final order" means a court order that determines the rights of the parties and concerning which appellate remedies have been exhausted or the time for appeal has expired.~~

~~(2) (a) At any time after a defendant has been found incompetent to proceed and has been~~

committed to the ~~[Department of Human Services]~~ department under Section 77-15-6 for ~~[treatment to restore competency, the executive director]~~ restoration treatment, the department shall notify the court, prosecuting attorney, and attorney for the defendant if the ~~[executive director has determined]~~ department determines that the defendant is not responding to restoration treatment and is unlikely to be restored to competency without the involuntary administration of antipsychotic medication.

(b) The ~~[executive director]~~ department shall provide the notification under Subsection (2)(a) only if there is no basis for involuntarily medicating the defendant for reasons other than to restore the defendant's competency.

(3) In the notice under Subsection (2)(a), the ~~[executive director]~~ department shall state whether ~~[the executive director believes]:~~

(a) medication is necessary to render the defendant competent;

(b) medication is substantially likely to render the defendant competent;

(c) medication is substantially unlikely to produce side effects which would significantly interfere with the defendant's ability to assist in [his] the defendant's defense;

(d) no less intrusive means are available, and whether any of those means have been attempted to render the defendant competent; and

(e) medication is medically appropriate and is in the defendant's best medical interest in light of [his] the defendant's medical condition.

(4) (a) ~~[Upon receipt of the notice under Subsection (2)(a), the]~~ The court shall conduct a hearing within ~~[30 days, unless the court extends the time for good cause, to determine whether the court should convene a hearing]~~ 15 days, or, for good cause, within 30 days after the day on which the court receives the notice described in Subsection (2)(a), regarding the involuntary medication of the defendant.

(b) The prosecuting attorney shall represent the state at any hearing under this section.

(c) The court shall consider whether the following factors apply in determining whether the defendant should be involuntarily medicated:

(i) important state interests are at stake in restoring the defendant's competency;

(ii) involuntary medication will significantly further the important state interests, in that the medication proposed:

(A) is substantially likely to render the defendant competent to stand trial; and

(B) is substantially unlikely to produce side effects which would significantly interfere with the defendant's ability to assist ~~[the defense counsel in conducting his]~~ in the defendant's defense;

(iii) involuntary medication is necessary to further important state interests, because any ~~[alternate]~~ less intrusive treatments are unlikely to achieve substantially the same results; and

(iv) the administration of the proposed medication is medically appropriate, as it is in the defendant's best medical interest in light of [his] the defendant's medical condition.

(5) In determining whether the proposed treatment is medically appropriate and is in the defendant's best medical interest, the potential penalty the defendant may be subject to, if the defendant is convicted of any charged offense, is not a relevant consideration.

(6) (a) If the court finds by clear and convincing evidence that the involuntary administration of antipsychotic medication is appropriate, it shall make findings addressing each of the factors in Subsection (4)(c) and shall issue an order authorizing the ~~[Department of Human Services]~~ department to involuntarily administer antipsychotic medication to the defendant in order to restore [his] the defendant's competency, subject to the periodic reviews and other procedures provided in Section 77-15-6.

(b) When issuing an order under Subsection (6)(a), the court shall consider ordering less intrusive means for administering the drugs, such as a court order to the defendant enforceable by the contempt power, before ordering more intrusive methods of involuntary medication.

(7) The provisions in Section 77-15-6 establishing time limitations for treatment of incompetent defendants before they must be either released or civilly committed are tolled from the time the ~~[executive director]~~ department gives notice to the court and the parties under Subsection (2) until:

(a) the court has issued a final order for the involuntary medication of the defendant, and the defendant has been medicated under that order; or

(b) the court has issued a final order that the defendant will not be involuntarily medicated.

(8) This section applies only when ~~[the prosecution seeks]~~ an order of involuntary medication is sought solely for the purpose of rendering a defendant competent to ~~[proceed]~~ stand trial.

Section 11. Section 77-15-7 is amended to read:

77-15-7. Statute of limitations and speedy trial -- Effect of incompetency of defendant.

(1) The statute of limitations is tolled during any period in which the defendant is adjudicated incompetent to proceed.

(2) Any period of time during which the defendant has been adjudicated incompetent to proceed and any period during which ~~[he]~~ the defendant is being evaluated for competency may not be computed in determining the defendant's speedy trial rights.

Section 12. Section 77-15-9 is amended to read:

77-15-9. Expenses.

(1) In determining the competence of a defendant to proceed, expenses of examination, observation, or treatment, excluding travel to and from any mental health facility, shall be charged to the ~~[Department of Human Services]~~ department when the offense is a state offense. Travel expenses incurred by the defendant shall be charged to the county where prosecution is commenced. Examination of ~~[defendants]~~ a defendant on local ordinance violations shall be charged by the department to the municipality or county commencing the prosecution.

(2) When examination is initiated by the court or on motion of the prosecutor, expenses of commitment and treatment of the ~~[person confined to a mental health facility after examination, if he]~~ defendant, if the defendant is determined to be incompetent to proceed, shall also be charged to the department.

(3) Expenses of examination, treatment, or confinement in a mental health facility for any ~~[person]~~ individual who has been convicted of a crime and placed in a state correctional facility shall be charged to the Department of Corrections.

(4) ~~[If the defendant, after examination, is found to be competent by the court,]~~ If, after evaluation, the court determines that a defendant is competent to stand trial, all subsequent costs are charged to the county commencing prosecution. If the defendant requested the examination and is found to be competent to stand trial by the court, the department may recover the expenses of the examination from the defendant.

CHAPTER 148**S. B. 20**

Passed March 5, 2018

Approved March 16, 2018

Effective May 8, 2018

MISDEMEANOR AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Marc K. Roberts

LONG TITLE**General Description:**

This bill modifies penalties in county and municipal ordinances and the Utah Code.

Highlighted Provisions:

This bill:

- ▶ repeals a criminal provision in the Wildlife Resources Code of Utah that is addressed by another provision of law;
- ▶ designates offenses currently designated as misdemeanors for which a punishment or classification is not specified in the Utah Code as class B misdemeanors;
- ▶ reduces to an infraction the default penalty for offenses designated as misdemeanors for which a punishment or classification is not specified in the Utah Code and, as of a certain date, in a county or municipal ordinance; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 9-7-214, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 9-9-211, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 10-3-908, as enacted by Laws of Utah 1977, Chapter 48
- 11-1-6, Utah Code Annotated 1953
- 11-6-3, Utah Code Annotated 1953
- 13-10-6, as last amended by Laws of Utah 1995, Chapter 325
- 17-30-22, as last amended by Laws of Utah 2011, Chapter 297
- 17-43-308, as renumbered and amended by Laws of Utah 2003, Chapter 22
- 23-15-4, as enacted by Laws of Utah 1971, Chapter 46
- 30-1-11, Utah Code Annotated 1953
- 30-1-39, as enacted by Laws of Utah 1971, Chapter 64
- 34-19-12, as enacted by Laws of Utah 1969, Chapter 85
- 34-28-4, as enacted by Laws of Utah 1969, Chapter 85
- 34-28-12, as enacted by Laws of Utah 1969, Chapter 85
- 34-29-1, as last amended by Laws of Utah 2011, Chapter 297
- 34-29-6, as last amended by Laws of Utah 1988, Chapter 133
- 34-29-20, as enacted by Laws of Utah 1969,

- Chapter 85
- 34-30-9, as enacted by Laws of Utah 1969, Chapter 85
- 34-32-3, as enacted by Laws of Utah 1969, Chapter 85
- 34-33-2, as enacted by Laws of Utah 1969, Chapter 85
- 34-34-17, as enacted by Laws of Utah 1969, Chapter 85
- 34A-2-108, as renumbered and amended by Laws of Utah 1997, Chapter 375
- 34A-2-803, as renumbered and amended by Laws of Utah 1997, Chapter 375
- 39-1-53, as last amended by Laws of Utah 1963, Chapter 61
- 39-7-113, as last amended by Laws of Utah 2008, Chapter 122
- 39-7-114, as enacted by Laws of Utah 1997, Chapter 306
- 39-7-115, as enacted by Laws of Utah 1997, Chapter 306
- 39-7-117, as enacted by Laws of Utah 1997, Chapter 306
- 42-3-5, Utah Code Annotated 1953
- 52-3-3, as last amended by Laws of Utah 1953, Chapter 79
- 53B-3-108, as enacted by Laws of Utah 1987, Chapter 167
- 53B-17-304, as enacted by Laws of Utah 1987, Chapter 167
- 53E-4-407, as last amended by Laws of Utah 2001, Chapter 84
- 54-3-21, Utah Code Annotated 1953
- 54-5-4, Utah Code Annotated 1953
- 56-1-12, Utah Code Annotated 1953
- 56-1-14, as last amended by Laws of Utah 1975, First Special Session, Chapter 9
- 56-1-16, Utah Code Annotated 1953
- 56-1-29, as enacted by Laws of Utah 1961, Chapter 131
- 63A-5-502, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 71-10-3, as last amended by Laws of Utah 1993, Chapter 133
- 72-10-412, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 76-3-104, as enacted by Laws of Utah 1973, Chapter 196
- 78A-2-411, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-6-111, as last amended by Laws of Utah 2017, Chapter 330
- 78B-1-126, as renumbered and amended by Laws of Utah 2008, Chapter 3

REPEALS:

- 23-20-27, as enacted by Laws of Utah 1973, Chapter 33

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

Section 1. Section 9-7-214 is amended to read:

9-7-214. Intentionally defacing, injuring, destroying, or refusing to return property -- Misdemeanor.

Whoever intentionally defaces, injures, or refuses to return on demand, or destroys any property

belonging to the state library or loaned through its coordinating agencies or facilities, ~~shall be~~ is guilty of a class B misdemeanor.

Section 2. Section 9-9-211 is amended to read:

9-9-211. Hunting, trapping, or fishing on reservation a misdemeanor.

Any person who, without lawful authority or permission from constituted tribal authorities, willfully and knowingly goes upon any real property within an Indian reservation belonging to any Indian, or any Indian tribe, band, or community, that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, is guilty of a class B misdemeanor, and all game, fish, and peltries in ~~his~~ the person's possession shall be forfeited to the tribe.

Section 3. Section 10-3-908 is amended to read:

10-3-908. Noncompliance a misdemeanor.

Any city engineer who fails to comply with Sections 10-3-903 through 10-3-907 is guilty of a class B misdemeanor.

Section 4. Section 11-1-6 is amended to read:

11-1-6. Violation of act a misdemeanor.

Anyone violating the provisions of this act ~~shall be~~ is guilty of a class B misdemeanor.

Section 5. Section 11-6-3 is amended to read:

11-6-3. Violation a misdemeanor.

A violation of any of the provisions of this chapter is a class B misdemeanor.

Section 6. Section 13-10-6 is amended to read:

13-10-6. Violation a misdemeanor.

Each violation of Section 13-10-4 is a class B misdemeanor.

Section 7. Section 17-30-22 is amended to read:

17-30-22. Prohibitions against political activities -- Penalties.

(1) Any employee of a governmental unit or member of a governing body, or appointing authority, or peace officer who shall appoint, promote, transfer, demote, suspend, discharge or change the amount of compensation of any merit system officer or seek, aid or abet the appointment, promotion, transfer, demotion, suspension, discharge or change in the amount of compensation of any merit system officer, or promise or threaten to do so, for giving, withholding, or neglecting to make any contributions or any service for any political purpose, or who solicits, directly or

indirectly, any such contribution or service, from a merit system officer, ~~shall be~~ is guilty of a class B misdemeanor. This section does not apply to political speeches or use of mass communications media for political purposes by persons not merit system officers even though merit system officers may be present or within the reach of such media unless the purpose and intent is to violate this section with direct respect to those officers.

(2) No merit system officer may engage in any political activity during the hours of employment, nor shall any person solicit political contributions from merit system officers during hours of employment for political purposes; but nothing in this section shall preclude voluntary contributions by a merit system officer to the party or candidate of the officer's choice.

Section 8. Section 17-43-308 is amended to read:

17-43-308. Specified treatments prohibited -- Criminal penalties.

(1) It is a class B misdemeanor to give shock treatment, lobotomy, or surgery to anyone without the written consent of the person's next of kin or legal guardian. Services provided under this part are governed by Title 58, Chapter 67, Utah Medical Practice Act.

(2) It is a felony to give psychiatric treatment, nonvocational mental health counseling, case-finding testing, psychoanalysis, drugs, shock treatment, lobotomy, or surgery to any individual for the purpose of changing his concept of, belief about, or faith in God.

Section 9. Section 23-15-4 is amended to read:

23-15-4. Screens or other devices required -- Failure to install after notice a misdemeanor.

It is unlawful for any person, company or corporation to take any water from the state streams, lakes or reservoirs for power purposes, or for waterworks, without first furnishing and maintaining suitable screens or other devices to prevent fish from entering such power plants, millraces or waterworks system; said screen or other devices to be built and maintained under the direction of the board and at the expense of said owner or operators. The failure of any person, firm or corporation to install a screen or device within 30 days after notice in writing so to do has been given by the board ~~shall constitute a~~ is a class B misdemeanor.

Section 10. Section 30-1-11 is amended to read:

30-1-11. Return of license after ceremony -- Failure -- Penalty.

(1) The ~~person~~ individual solemnizing the marriage shall within 30 days thereafter return the license to the clerk of the county whence it issued, with a certificate of the marriage over ~~his~~ the individual's signature, giving the date and place of

celebration and the names of two or more witnesses present at the marriage. ~~[For failure]~~

(2) An individual described in Subsection (1) who fails to make ~~[such]~~ the return ~~[he shall be]~~ is guilty of a class B misdemeanor.

Section 11. Section 30-1-39 is amended to read:

30-1-39. Violation of counseling provisions -- Misdemeanor.

~~[Any person]~~ An individual coming within the provisions of this act who falsely represents that ~~[he]~~ the individual has complied with the requirements of a master plan for premarital counseling or who, for the purpose of evading the provisions of this act, applies for a marriage license in a county within the state of Utah which does not require premarital counseling, is guilty of a class B misdemeanor.

Section 12. Section 34-19-12 is amended to read:

34-19-12. Deputizing of employees prohibited.

(1) No employee of any employer whose employees are on strike or lockout for any reason shall be deputized for any purpose arising from or in connection with such strike by any sheriff, chief of police, town marshal, officer of the highway patrol, or any other peace officer during the time such strike or lockout exists.

(2) Any person who violates the provisions of this section ~~[shall be]~~ is guilty of a class B misdemeanor.

Section 13. Section 34-28-4 is amended to read:

34-28-4. Notice of paydays -- Failure to notify a misdemeanor.

(1) It shall be the duty of every employer to notify ~~[his]~~ the employer's employees at the time of hiring of the day and place of payment, of the rate of pay, and of any change with respect to any of these items prior to the time of the change. Alternatively, however, every employer shall have the option of giving such notification by posting these facts and keeping them posted conspicuously at or near the place of work where such posted notice can be seen by each employee as ~~[he]~~ the employee comes or goes to ~~[his]~~ the employee's place of work.

(2) Failure to post and to keep posted any notice or failure to give notice as prescribed in this section ~~[shall be deemed a]~~ is a class B misdemeanor ~~[and punishable as such]~~.

Section 14. Section 34-28-12 is amended to read:

34-28-12. Violations -- Misdemeanor.

(1) Any employer who ~~[shall violate, or fail]~~ violates or fails to comply with any of the provisions of this chapter ~~[shall be]~~ is guilty of a class B misdemeanor.

(2) Any employer who shall refuse to pay the wages due and payable when demanded as in this chapter provided, or who shall falsely deny the amount thereof, or that the same is due, with intent to secure for ~~[himself]~~ the employer or any other person any discount upon such indebtedness or with intent to annoy, harass, oppress, hinder, delay or defraud the person to whom such indebtedness is due, or who hires additional employees without advising each of them of every wage claim due and unpaid and of every judgment that the employer has failed to satisfy, ~~[shall be]~~ is guilty of a class B misdemeanor.

Section 15. Section 34-29-1 is amended to read:

34-29-1. License required -- Agencies for teachers excepted.

It ~~[shall be]~~ is unlawful for any person to open and establish in any city or town, or elsewhere within the limits of this state, any intelligence or employment office for the purpose of procuring or obtaining for money or other valuable consideration, either directly or indirectly, any work or employment for persons seeking the same, or to otherwise engage in such business, or in any way to act as a broker or go-between between employers and persons seeking work, without first having obtained a license so to do from the city, town, or, if not within any city or town, from the county where such intelligence or employment office is to be opened or such business is to be carried on. Any person performing any of these services shall be deemed to be an employment agent within the meaning of this chapter, but the provisions of Section 34-29-10 do not apply to any person operating agencies for schoolteachers; but it ~~[shall be a]~~ is a class B misdemeanor for any schoolteachers' employment agency to receive as commission for information or assistance such as is described herein any consideration in value in excess of 5% of the amount of the first year's salary of the person to whom such information is furnished.

Section 16. Section 34-29-6 is amended to read:

34-29-6. Referring employment to unlawful places -- Penalty.

Any employment agent who knowingly refers employment to any place of bad repute, house of ill fame, assignation house, or to any house or place of amusement kept for immoral purposes, is guilty of a class B misdemeanor. In addition to any other penalty, the agent's license shall be revoked.

Section 17. Section 34-29-20 is amended to read:

34-29-20. False orders for employees -- Misdemeanor.

Any person who gives to an employment agent any false or unauthorized order for employees, or who causes to be published in any newspaper or otherwise any false or unauthorized notice or statement that employees are wanted by any person, is guilty of a class B misdemeanor.

Section 18. Section 34-30-9 is amended to read:

34-30-9. Violation of chapter -- Failure to keep or produce records -- Misdemeanor.

Any officer, agent or representative of the state, or of any political subdivision, district or municipality of it who shall violate, or omit to comply with any of the provisions of this chapter, and any contractor or subcontractor, or agent or representative thereof, doing such public work, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him or her, in connection with this public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this chapter [~~shall be~~] is guilty of a class B misdemeanor.

Section 19. Section 34-32-3 is amended to read:

34-32-3. Failure to comply -- Penalty.

Any employer, dealer or processor who willfully fails to comply with the duties imposed by this chapter [~~shall be~~] is guilty of a class B misdemeanor.

Section 20. Section 34-33-2 is amended to read:

34-33-2. Violation a misdemeanor.

Any person, firm, corporation or partnership violating the provisions of this chapter [~~shall be~~] is guilty of a class B misdemeanor.

Section 21. Section 34-34-17 is amended to read:

34-34-17. Violation of act a misdemeanor.

A violation of this act [~~shall constitute a~~] is a class B misdemeanor, and each day such unlawful conduct, as defined in this chapter, is in effect or continued [~~shall be deemed~~] is a separate offense and [~~shall be~~] is punishable as such, as provided in this chapter.

Section 22. Section 34A-2-108 is amended to read:

34A-2-108. Void agreements between employers and employees.

(1) Except as provided in Section 34A-2-420, an agreement by an employee to waive the employee's rights to compensation under this chapter or Chapter 3, Utah Occupational Disease Act, is not valid.

(2) An agreement by an employee to pay any portion of the premium paid by [~~his~~] the employee's employer is not valid.

(3) Any employer who deducts any portion of the premium from the wages or salary of any employee entitled to the benefits of this chapter or Chapter 3, Utah Occupational Disease Act:

(a) is guilty of a class B misdemeanor; and

(b) shall be fined not more than \$100 for each such offense.

Section 23. Section 34A-2-803 is amended to read:

34A-2-803. Violation of judgments, orders, decrees, or provisions of chapter -- Grade of offense.

(1) An employer, employee, or other person is guilty of a class B misdemeanor if that employer, employee, or other person violates this chapter or Chapter 3, Utah Occupational Disease Act, including:

(a) doing any act prohibited by this chapter or Chapter 3, Utah Occupational Disease Act;

(b) failing or refusing to perform any duty lawfully imposed under this chapter or Chapter 3, Utah Occupational Disease Act; or

(c) failing, neglecting, or refusing to obey any lawful order given or made by the commission, or any judgment or decree made by any court in connection with the provisions of this chapter or Chapter 3, Utah Occupational Disease Act.

(2) Every day during which any person fails to observe and comply with any order of the commission, or to perform any duty imposed by this chapter or Chapter 3, Utah Occupational Disease Act, [~~shall constitute~~] is a separate and distinct offense.

Section 24. Section 39-1-53 is amended to read:

39-1-53. Military units not to leave state.

No military unit of the Army or Air National Guard, unless called into the service of the United States, shall leave the state with arms and equipment without the consent of the commander in chief, and any person causing any unit to so leave the state is guilty of a class B misdemeanor.

Section 25. Section 39-7-113 is amended to read:

39-7-113. Eviction or distress of dependents.

(1) A landlord may not evict or take and hold property of a service member or the service member's dependents for nonpayment of rent during the period of military service if the rent on the premises occupied by the service member or the service member's dependents is less than \$2,400 per month unless a court allows it after application to the court and an order granted in an action or proceeding affecting the right of possession.

(2) In any action affecting the right of possession, the court may, on its own motion, stay the proceedings for not longer than three months, or make any order the court determines to be reasonable and just under the circumstances, unless the court finds that the ability of the tenant to pay the agreed rent is not materially affected by reason of the service member's military service.

(3) When a stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application, to relief with respect to the premises similar to that granted service

members in military service in Sections 39-7-114 through 39-7-116 to the extent and for any period as the court determines to be just and reasonable under the circumstances.

(4) Any person who knowingly takes part in any eviction or distress otherwise than as provided in Subsection (1), or attempts to do so, is guilty of a class B misdemeanor.

(5) The governor is empowered to order an allotment of the pay of a service member in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

Section 26. Section 39-7-114 is amended to read:

39-7-114. Installment contracts.

(1) The creditor of a service member who, prior to entry into military service, has entered into an installment contract for the purchase of real or personal property may not terminate the contract or repossess the property for nonpayment or any breach occurring during military service without an order from a court of competent jurisdiction.

(2) The court, upon application to it under this section, may, unless the court finds on the record that the ability of the service member to comply with the terms of the contract is not materially affected by reason of [his] the service member's military service:

(a) order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(b) order a stay of the proceedings on its own motion, or on motion by the service member or another person on [his] the service member's behalf; or

(c) make any other disposition of the case it considers to be equitable to conserve the interests of all parties.

(3) Any person who knowingly repossesses property which is the subject of this section other than as provided in Subsection (1) is guilty of a class B misdemeanor.

Section 27. Section 39-7-115 is amended to read:

39-7-115. Mortgage foreclosures.

(1) The creditor of a service member who, prior to entry into military service, has entered into a mortgage contract with the service member or [his] the service member's dependent for the purchase of real or personal property may not foreclose on the mortgage or repossess the property for nonpayment or any breach occurring during military service without an order from a court of competent jurisdiction.

(2) The court, upon application to it under this section, may, unless the court finds on the record that the ability of the service member to comply with the terms of the mortgage is not materially

affected by reason of [his] the service member's military service:

(a) order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(b) order a stay of the proceedings on its own motion, or on motion by the service member or another person on [his] the service member's behalf; or

(c) make any other disposition of the case as it considers to be equitable to conserve the interests of all parties.

(3) In order to come within the provisions of this section, the service member or dependent shall establish the following:

(a) that relief is sought on an obligation secured by a mortgage, trust deed, or other security in the nature of a mortgage on either real or personal property;

(b) that the obligation originated prior to the service member's entry into military service;

(c) that the property was owned by the service member or [his] the service member's dependent prior to the commencement of military service; and

(d) that the property is still owned by the service member or [his] the service member's dependent at the time relief is sought.

(4) Any person who knowingly forecloses on property which is the subject of this section other than as provided in Subsection (1) is guilty of a class B misdemeanor.

Section 28. Section 39-7-117 is amended to read:

39-7-117. Storage liens.

(1) A person may not exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a service member in military service during the service member's period of military service and for 60 days after termination or discharge, except upon an order previously granted by a court upon application and a return to the court made and approved by the court. In the proceeding the court may, after hearing the matter, on its own motion, and shall, on application to it by the service member in military service or another person on [his] the service member's behalf, unless in the opinion of the court the ability of the service member to pay the storage charges due is not materially affected by reason of [his] the service member's military service:

(a) stay the proceedings as provided in this chapter; or

(b) make any other disposition the court considers to be equitable to conserve the interest of all the parties.

(2) The enactment of the provisions of this section may not be construed in any way as affecting or limiting the scope of Section 39-7-115.

(3) Any person who knowingly takes any action contrary to the provisions of this section, or attempts to do so, is guilty of a class B misdemeanor.

Section 29. Section 42-3-5 is amended to read:

42-3-5. Use of name by another -- Penalty.

It is a class B misdemeanor for any person other than the person in whose name a farm is registered to use such registered name for any other farm.

Section 30. Section 52-3-3 is amended to read:

52-3-3. Penalty.

Any person violating any of the provisions of this chapter is guilty of a class B misdemeanor.

Section 31. Section 53B-3-108 is amended to read:

53B-3-108. Violation of chapter a misdemeanor.

A violation of this chapter is a class B misdemeanor.

Section 32. Section 53B-17-304 is amended to read:

53B-17-304. Failure to comply with chapter is a misdemeanor.

A person who commits the following violations is guilty of a class B misdemeanor:

- (1) failure or neglect to give notice required under Subsection 53B-17-301(1); or
- (2) failure or neglect to forward a body upon request under Subsection 53B-17-301(3).

Section 33. Section 53E-4-407 is amended to read:

53E-4-407. Illegal acts -- Misdemeanor.

It is a class B misdemeanor for a member of the commission or the board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Section 34. Section 54-3-21 is amended to read:

54-3-21. Commission to be furnished information and copies of records -- Hearings before commission to be public -- Privilege.

(1) Every public utility shall furnish to the commission in such form and such detail as the commission shall prescribe all tabulations and computations and all other information required by it to carry into effect any of the provisions of this title, and shall make specific answers to all questions submitted by the commission.

(2) Every public utility receiving from the commission any blanks with directions to fill the same shall cause the same to be properly filled so as to answer fully and correctly each question

propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure.

(3) Whenever required by the commission every public utility shall deliver to the commission copies of any or all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business, and also a complete inventory of all its property in such form as the commission may direct.

(4) Hearings or proceedings of the commission or of any commissioner shall be open to the public, and all records of all hearings or proceedings or orders, rules or investigations by the commission or any commissioner shall be at all times open to the public; provided, that any information furnished the commission by a public utility or by any officer, agent or employee of any public utility may be withheld from the public whenever and during such time as the commission may determine that it is for the best interests of the public to withhold such information. Any officer or employee of the commission who in violation of the provisions of this subsection divulges any such information is guilty of a class B misdemeanor.

Section 35. Section 54-5-4 is amended to read:

54-5-4. Penalties.

Any person or corporation which exercises or attempts to exercise any right or privilege as any such utility during the period for which the operating rights of any such utility are suspended as provided in Section 54-5-3 is guilty of a class B misdemeanor. Each day's violation shall constitute a separate offense. Jurisdiction of such offense shall be held to be in any county in which any part of such transaction of business occurred. Every contract made in violation of this section is unenforceable by such corporation or person.

Section 36. Section 56-1-12 is amended to read:

56-1-12. Injury to livestock -- Notice.

Every person operating a railroad within this state that injures or kills any livestock of any description by the running of any engine or engines, car or cars, over or against any such livestock shall within three days thereafter post at the first railroad station in each direction from the place of such injury or killing in some conspicuous place on the outside of such station a notice in writing of the number and kind of animals so injured or killed, with a full description of each, and the time and place as near as may be of such injury or killing. Such notice shall be dated and signed by some officer or agent of such railroad, and a duplicate thereof shall be filed with the county clerk of the county in which stock is so injured or killed. Every person willfully failing, neglecting or refusing to comply with the provisions of this section is guilty of a class B misdemeanor and shall be fined in any sum not exceeding \$50.

Section 37. Section 56-1-14 is amended to read:

56-1-14. Procedures at grade crossings.

Every locomotive shall be provided with a bell which shall be rung continuously from a point not less than 80 rods from any city or town street or public highway grade crossing until such city or town street or public highway grade crossing shall be crossed, but, except in towns and at terminal points, the sounding of the locomotive whistle or siren at least one-fourth of a mile before reaching any such grade crossing shall be deemed equivalent to ringing the bell as aforesaid; during the prevalence of fogs, snow and dust storms, the locomotive whistle shall be sounded before each street crossing while passing through cities and towns. All locomotives with or without trains before crossing the main track at grade of any other railroad must come to a full stop at a distance not exceeding 400 feet from the crossing, and must not proceed until the way is known to be clear; two blasts of the whistle or two sounds of the siren shall be sounded at the moment of starting; provided, that whenever interlocking signal apparatus and derailing switches or any other crossing protective device approved by the Department of Transportation is adopted such stop shall not be required.

Provided, that local authorities in their respective jurisdiction may by ordinance approved by the Department of Transportation provide more restricted sounding of bells or whistles or sirens than is provided herein and may prescribe points different from those herein set forth at which such signals shall be given and may further restrict such ringing of bells or sounding of whistles or sirens so as to provide for either the ringing of a bell or the sounding of a whistle or of a siren or the elimination of the sounding of such bells or whistles or sirens or either of them, except in case of emergency.

The term locomotive as used herein shall mean every self-propelled steam engine, electrically propelled interurban car and so-called diesel operated locomotive.

Every person in charge of a locomotive violating the provisions of this section is guilty of a class B misdemeanor, and the railroad company shall be liable for all damages which any person may sustain by reason of such violation.

Section 38. Section 56-1-16 is amended to read:

56-1-16. Time schedules to be maintained -- Notice of delays.

Every railroad company shall start and run its trains for the transportation of persons and property at such regular times as it shall fix by public notice, and the station agents thereof shall announce on a bulletin board, placed in a conspicuous and public place at each station not less than 15 minutes before the regular time of departure of each passenger train, the time of such departure, or if the train is delayed, the probable duration of such delay, and on failure to do so is

guilty of a class B misdemeanor. The railroad company shall be liable for all damages that may be sustained by any person by reason of the failure of any of its station agents to observe the requirements of this section.

Section 39. Section 56-1-29 is amended to read:

56-1-29. Removal or use of first-aid kit except for proper purpose -- Misdemeanor.

Any person or any employee of the railroad company who shall remove, carry away from its proper place or use any emergency first-aid kit provided for in this act, except for the purpose of administering first-aid in the event of injury to any passenger, employee, or other person in any accident whereby said kit may be made available at once, ~~shall be deemed~~ is guilty of a class B misdemeanor.

Section 40. Section 63A-5-502 is amended to read:

63A-5-502. Violation -- Misdemeanor.

Any person who violates this act ~~shall be~~ is guilty of a class B misdemeanor.

Section 41. Section 71-10-3 is amended to read:

71-10-3. Willful failure to give preference a misdemeanor.

Any officers, agents, or representatives of a government entity who is charged with employment of people and who willfully fails to give preference as provided in this chapter is guilty of a class B misdemeanor.

Section 42. Section 72-10-412 is amended to read:

72-10-412. Violations of chapter or rulings -- Misdemeanor -- Remedies of political subdivisions.

(1) Each violation of this part or of any regulations, orders, or rulings ~~promulgated or~~ made pursuant to this part, ~~shall constitute a~~ is a class B misdemeanor.

(2) (a) A political subdivision or agency adopting zoning regulations under this part may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this part, or of airport zoning regulations adopted under this part, or of any order or ruling made in connection with their administration or enforcement.

(b) The court shall adjudge to the plaintiff the relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this part and of the regulations adopted and orders and rulings made pursuant to them.

Section 43. Section 76-3-104 is amended to read:

76-3-104. Misdemeanors classified.

(1) Misdemeanors are classified into three categories:

- (a) Class A misdemeanors;
- (b) Class B misdemeanors;
- (c) Class C misdemeanors.

(2) An offense designated as a misdemeanor[, either] in this code [or in another law,] without specification as to punishment or category[, is a class B misdemeanor.] is an infraction punishable in accordance with Section 76-3-205.

(3) Except as provided in Subsection (4), an offense designated as a misdemeanor in a county or municipal ordinance without specification as to punishment or category is a class B misdemeanor.

(4) After June 30, 2019, an offense designated as a misdemeanor in a county or municipal ordinance without specification as to punishment or category is an infraction punishable in accordance with Section 76-3-205.

Section 44. Section 78A-2-411 is amended to read:

78A-2-411. Crimes.

Any violation of the provisions of this chapter, except Section 78A-2-404, is a class B misdemeanor.

Section 45. Section 78A-6-111 is amended to read:

78A-6-111. Appearances -- Parents, guardian, or legal custodian to appear with minor or child -- Failure to appear -- Contempt -- Warrant of arrest, when authorized -- Parent's employer to grant time off -- Appointment of guardian ad litem.

(1) Any person required to appear who, without reasonable cause, fails to appear may be proceeded against for contempt of court, and the court may cause a bench warrant to be issued to produce the person in court.

(2) In a case when a minor is required to appear in court, the parents, guardian, or other person with legal custody of the minor shall appear with the minor unless excused by the judge.

(a) An employee may request permission to leave the workplace for the purpose of attending court if the employee has been notified by the juvenile court that the employee's minor is required to appear before the court.

(b) An employer must grant permission to leave the workplace with or without pay if the employee has requested permission at least seven days in advance or within 24 hours of the employee receiving notice of the hearing.

(3) If a parent or other person who signed a written promise to appear and bring the child to court under Section 78A-6-112 or 78A-6-113 fails to appear and bring the child to court on the date set in the promise, or, if the date was to be set, after

notification by the court, a warrant may be issued for the apprehension of that person.

(4) Willful failure to perform the promise is a class B misdemeanor if, at the time of the execution of the promise, the promisor is given a copy of the promise which clearly states that failure to appear and have the child appear as promised is a class B misdemeanor. The juvenile court shall have jurisdiction to proceed against the promisor in adult proceedings pursuant to Part 10, Adult Offenses.

(5) The court shall endeavor, through use of the warrant of arrest if necessary, as provided in Subsection (6), or by other means, to ensure the presence at all hearings of one or both parents or of the guardian of a child. If neither a parent nor guardian is present at the court proceedings, the court may appoint a guardian ad litem to protect the interest of a minor. A guardian ad litem may also be appointed whenever necessary for the welfare of a minor, whether or not a parent or guardian is present.

(6) A warrant may be issued for a parent, a guardian, a custodian, or a minor if:

- (a) a summons is issued but cannot be served;
- (b) it is made to appear to the court that the person to be served will not obey the summons; or
- (c) serving the summons will be ineffectual.

Section 46. Section 78B-1-126 is amended to read:

78B-1-126. Jurors and witnesses -- Purchase of certificate forbidden -- Penalty.

(1) No person connected officially with any of the district courts of this state, and no state, district, county or precinct officer, shall purchase or cause to be purchased any certificate issued to any juror or witness under the provisions of this title.

(2) Any person who violates the provisions of this section is guilty of a class B misdemeanor.

Section 47. Repealer.

This bill repeals:

Section 23-20-27, Alteration of license, permit, tag or certificate a misdemeanor.

CHAPTER 149**S. B. 39**

Passed February 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

BUSINESS ENTITY AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions related to a certificate of good standing from the Division of Corporations and Commercial Code.

Highlighted Provisions:

This bill:

- ▶ changes the term “certificate of good standing” to “certificate of existence”; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 16-16-206, as enacted by Laws of Utah 2008, Chapter 363
- 16-16-1402, as last amended by Laws of Utah 2010, Chapter 378
- 16-17-209, as enacted by Laws of Utah 2008, Chapter 364
- 48-2e-211, as enacted by Laws of Utah 2013, Chapter 412
- 48-3a-211, as enacted by Laws of Utah 2013, Chapter 412
- 63M-4-503, as last amended by Laws of Utah 2014, Chapter 414
- 63M-4-603, as enacted by Laws of Utah 2015, Chapter 356
- 63N-2-703, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

Section 1. Section 16-16-206 is amended to read:**16-16-206. Certificate of existence or authorization.**

(1) The division, upon request and payment of the required fee, shall furnish any person that requests it a certificate of [~~good standing~~] existence for a limited cooperative association if the records filed in the office of the division show that the division has filed the association’s articles of organization, that the association is [~~in good standing~~] registered with the division, and that the division has not filed a statement of termination.

(2) The division, upon request and payment of the required fee, shall furnish to any person that requests it a certificate of authority for a foreign cooperative if the records filed in the office of the

division show that the division has filed the foreign cooperative’s certificate of authority, has not revoked nor has reason to revoke the certificate of authority, and has not filed a notice of cancellation.

(3) Subject to any exceptions stated in the certificate, a certificate of [~~good standing~~] existence or authority issued by the division establishes conclusively that the limited cooperative association or foreign cooperative is [~~in good standing~~] registered with the division or is authorized to transact business in this state.

Section 2. Section 16-16-1402 is amended to read:**16-16-1402. Application for certificate of authority.**

(1) A foreign cooperative may apply for a certificate of authority by delivering an application to the division for filing. The application shall state:

(a) the name of the foreign cooperative and, if the name does not comply with Section 16-16-111, an alternative name adopted pursuant to Section 16-16-1405;

(b) the name of the state or other jurisdiction under whose law the foreign cooperative is organized;

(c) the street address and, if different, mailing address of the principal office and, if the law of the jurisdiction under which the foreign cooperative is organized requires the foreign cooperative to maintain another office in that jurisdiction, the street address and, if different, mailing address of the required office;

(d) the street address and, if different, mailing address of the foreign cooperative’s designated office in this state, and the name of the foreign cooperative’s agent for service of process at the designated office; and

(e) the name, street address and, if different, mailing address of each of the foreign cooperative’s current directors and officers.

(2) A foreign cooperative shall deliver with a completed application under Subsection (1) a certificate of [~~good standing~~] existence or a similar record signed by the division or other official having custody of the foreign cooperative’s publicly filed records in the state or other jurisdiction under whose law the foreign cooperative is organized.

Section 3. Section 16-17-209 is amended to read:**16-17-209. Resignation of registered agent.**

(1) A registered agent may resign at any time with respect to a represented entity by filing with the division a statement of resignation signed by or on behalf of the agent which states:

(a) the name of the entity;

(b) the name of the agent;

(c) that the agent resigns from serving as agent for service of process for the entity; and

(d) the name and address of the person to which the agent will send the notice required by Subsection (3).

(2) A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

(3) The registered agent shall promptly furnish the represented entity notice in a record of the date on which a statement of resignation was filed.

(4) When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity has against the agent or that the agent has against the entity.

(5) A registered agent may resign with respect to a represented entity whether or not the entity is [~~in good standing~~] registered with the division.

Section 4. Section 48-2e-211 is amended to read:

48-2e-211. Certificate of existence or registration.

(1) On request of any person, the division shall issue a certificate of [~~good standing~~] existence for a limited partnership or a certificate of registration for a registered foreign limited partnership.

(2) A certificate under Subsection (1) must state:

(a) the limited partnership's name or the registered foreign limited partnership's name used in this state;

(b) in the case of a limited partnership:

(i) that a certificate of limited partnership has been filed and has taken effect;

(ii) the date the certificate of limited partnership became effective;

(iii) the period of the limited partnership's duration if the records of the division reflect that its period of duration is less than perpetual; and

(iv) that:

(A) no statement of dissolution, statement of administrative dissolution, or statement of termination has been filed;

(B) the records of the division do not otherwise reflect that the limited partnership has been dissolved or terminated; and

(C) a proceeding is not pending under Section 48-2e-810;

(c) in the case of a registered foreign limited partnership, that it is registered to do business in this state;

(d) that all fees, taxes, interest, and penalties owed to this state by the limited partnership or the registered foreign limited partnership and collected through the division have been paid, if:

(i) payment is reflected in the records of the division; and

(ii) nonpayment affects the good standing or registration of the limited partnership or registered foreign limited partnership;

(e) that the most recent annual report required by Section 48-2e-212 has been delivered to the division for filing; and

(f) other facts reflected in the records of the division pertaining to the limited partnership or foreign limited partnership which the person requesting the certificate reasonably requests.

(3) Subject to any qualification stated in the certificate, a certificate issued by the division under Subsection (1) may be relied upon as conclusive evidence of the facts stated in the certificate.

Section 5. Section 48-3a-211 is amended to read:

48-3a-211. Certificate of existence or registration.

(1) On request of any person, the division shall issue a certificate of [~~good standing~~] existence for a limited liability company or a certificate of registration for a registered foreign limited liability company.

(2) A certificate under Subsection (1) must state:

(a) the limited liability company's name or the registered foreign limited liability company's name used in this state;

(b) in the case of a limited liability company:

(i) that a certificate of organization has been filed and has taken effect;

(ii) the date the certificate of organization became effective;

(iii) the period of the limited liability company's duration if the records of the division reflect that its period of duration is less than perpetual; and

(iv) that:

(A) no statement of dissolution, statement of administrative dissolution, or statement of termination has been filed;

(B) the records of the division do not otherwise reflect that the company has been dissolved or terminated; and

(C) a proceeding is not pending under Section 48-3a-708;

(c) in the case of a registered foreign limited liability company, that it is registered to do business in this state;

(d) that all fees, taxes, interest, and penalties owed to this state by the limited liability company or foreign limited liability company and collected through the division have been paid, if:

(i) payment is reflected in the records of the division; and

(ii) nonpayment affects the [~~good standing or registration~~] status of the limited liability company

or foreign limited liability company with the division;

(e) that the most recent annual report required by Section 48-3a-212 has been delivered to the division for filing; and

(f) other facts reflected in the records of the division pertaining to the limited liability company or foreign limited liability company which the person requesting the certificate reasonably requests.

(3) Subject to any qualification stated in the certificate, a certificate issued by the division under Subsection (1) may be relied upon as conclusive evidence of the facts stated in the certificate.

Section 6. Section 63M-4-503 is amended to read:

63M-4-503. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office, in consultation with other state agencies as necessary, shall certify:

(i) that the alternative energy entity plans to produce in the state at least:

(A) two megawatts of electricity;

(B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent production; or

(C) 250 barrels per day if the alternative energy project is a biomass energy fuel production;

(ii) that the alternative energy project will generate new state revenues;

(iii) the economic life of the alternative energy project produced by the alternative energy entity;

(iv) that the alternative energy entity meets the requirements of Section 63M-4-504; and

(v) that the alternative energy entity has received a [~~Certificate of Good Standing~~] certificate of existence from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office shall enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsection (3)(b), if the office expects that the time from the commencement of construction until the end of the economic life of the alternative energy project is 20 years or more:

(i) the office shall grant a tax credit for the lesser of:

(A) the economic life of the alternative energy project; or

(B) 20 years; and

(ii) the tax credit is equal to 75% of new state revenues generated by the alternative energy project.

(b) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy project during that taxable year.

(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:

(a) annually file a report with the office showing the new state revenues generated by the alternative energy project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029;

(b) subject to Subsection (5), annually file a report with the office prepared by an independent certified public accountant verifying the new state revenue described in Subsection (4)(a);

(c) subject to Subsection (5), file a report with the office at least every four years prepared by an independent auditor auditing the new state revenue described in Subsection (4)(a);

(d) provide the office with information required by the office to certify the economic life of the alternative energy project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and

(e) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.

(5) An alternative energy entity for which a report is prepared under Subsection (4)(b) or (c) shall pay the costs of preparing the report.

(6) The office shall annually certify the new state revenues generated by an alternative energy project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029.

Section 7. Section 63M-4-603 is amended to read:

63M-4-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, and other state agencies as necessary, shall, in accordance with the procedures described in Section 63M-4-604, certify:

(a) that the project meets the definition of a high cost infrastructure project under this part;

(b) that the high cost infrastructure project will generate infrastructure-related revenue;

(c) the economic life of the high cost infrastructure project; and

(d) that the applicant has received a certificate of [~~good-standing~~] existence from the Division of Corporations and Commercial Code.

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Authority Board shall evaluate the project's benefit to the state, based on whether the project:

(i) is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iii) would have a positive environmental impact on the state;

(iv) would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability; and

(v) is less likely to be completed without a tax credit issued to the applicant under this part.

(b) The Utah Energy Infrastructure Authority Board may recommend that the office deny an applicant a tax credit if the applicant's project does not, as determined by the Utah Energy Infrastructure Authority Board, sufficiently benefit the state based on the criteria described in Subsection (2)(a).

(3) Subject to the procedures described in Section 63M-4-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Authority Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project.

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Authority Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 8. Section 63N-2-703 is amended to read:

63N-2-703. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office, with advice from the board, shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office shall certify:

(i) that the alternative energy manufacturing project will generate new state revenues;

(ii) the economic life of the alternative energy manufacturing project produced by the alternative energy entity;

(iii) that local incentives have been committed or will be committed to be provided to the alternative energy manufacturing project;

(iv) that the alternative energy entity meets the requirements of Section 63N-2-704; and

(v) that the alternative energy entity has received a [~~Certificate of Good Standing~~] certificate of existence from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office may enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsections (3)(b) through (d), the office may authorize or commit a tax credit under this part that may not exceed 100% of new state revenues generated by the alternative energy manufacturing project.

(b) As determined by the office, the office may authorize or commit a tax credit under this section for a time period that does not exceed the lesser of:

(i) the economic life of the alternative energy manufacturing project; or

(ii) 20 years.

(c) The office shall consider economic modeling, including the costs and benefits of an alternative energy manufacturing project to the state and local governments, in determining:

(i) the amount of tax credit to authorize or commit in accordance with Subsection (3)(a); and

(ii) the time period for which the office will authorize or commit a tax credit in accordance with Subsection (3)(b).

(d) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy manufacturing project during that taxable year.

(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:

(a) annually file a report with the office showing the new state revenues generated by the

alternative energy manufacturing project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030;

(b) submit to an audit for verification of a tax credit under Section 59-7-614.8 or 59-10-1030;

(c) provide the office with information required by the office to certify the economic life of the alternative energy manufacturing project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and

(d) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.8 or 59-10-1030.

(5) The office shall annually certify the new state revenues generated by an alternative energy manufacturing project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030.

CHAPTER 150**S. B. 58**

Passed February 14, 2018

Approved March 16, 2018

Effective May 8, 2018

FAILURE TO APPEAR AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill repeals Section 77-7-22.

Highlighted Provisions:

This bill:

- ▶ repeals Section 77-7-22 which provides an individual is guilty of a class B misdemeanor for failure to appear before a court after being issued a citation requiring appearance for a misdemeanor or infraction charge; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-22-16, as last amended by Laws of Utah 2005, Chapter 2

73-18-20, as last amended by Laws of Utah 2005, Chapter 2

73-18a-15, as last amended by Laws of Utah 2005, Chapter 2

REPEALS:

77-7-22, as enacted by Laws of Utah 1980, Chapter 15

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 41-22-16 is amended to read:****41-22-16. Authorized peace officers -- Arrest provisions.**

(1) Any peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce the provisions of this chapter and the rules ~~[promulgated]~~ made under this chapter.

(2) Whenever any ~~[person]~~ individual is arrested for any violation of the provisions of this chapter or ~~[of the rules promulgated]~~ a rule made under this chapter, the procedure for the arrest is the same as ~~[outlined]~~ described in Sections ~~[77-7-22, 77-7-23[,] and 77-7-24.~~

Section 2. Section 73-18-20 is amended to read:**73-18-20. Enforcement of chapter -- Authority to stop and board vessels -- Disregarding law enforcement signal to stop as misdemeanor -- Procedure for arrest.**

(1) Any law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications,

may enforce the provisions of this chapter and the rules ~~[promulgated]~~ made under this chapter.

(2) Any law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, has the authority to stop and board any vessel subject to this chapter, whether the vessel is on water or land. If that officer determines the vessel is overloaded, unseaworthy, or the safety equipment required by this chapter or rules of the board is not on the vessel, that officer may prohibit the launching of the vessel or stop the vessel from operating.

(3) An operator who, having received a visual or audible signal from a law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to bring ~~[his]~~ the operator's vessel to a stop, operates ~~[his]~~ the vessel in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vessel or endanger any ~~[person]~~ individual, or who attempts to flee or elude the officer whether by vessel or otherwise is guilty of a class A misdemeanor.

(4) Whenever any ~~[person]~~ individual is arrested for any violation of the provisions of this chapter or ~~[of the rules promulgated]~~ a rule made under this chapter, the procedure for arrest is the same as ~~[outlined in Sections 77-7-22 through]~~ described in Sections 77-7-23 and 77-7-24.

Section 3. Section 73-18a-15 is amended to read:**73-18a-15. Arrest for violation -- Procedure.**

Whenever any ~~[person]~~ individual is arrested for any violation of the provisions of this chapter or ~~[rule promulgated]~~ a rule made under this chapter, the procedure for arrest is the same as ~~[specified in Sections 77-7-22 through]~~ described in Sections 77-7-23 and 77-7-24.

Section 4. Repealer.

This bill repeals:

Section 77-7-22, Failure to appear as misdemeanor.

CHAPTER 151**S. B. 66**

Passed March 7, 2018

Approved March 16, 2018

Effective May 8, 2018

**EMERGENCY VEHICLE OPERATOR
DUTY OF CARE AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: A. Cory Maloy

LONG TITLE**General Description:**

This bill requires agencies to have written policies to govern the protocol for engaging and terminating authorized emergency vehicle pursuit and modifies the duty of care if the operator acts outside the written policy.

Highlighted Provisions:

This bill:

- ▶ requires agencies operating authorized emergency vehicles to have a written policy to govern the protocol of the operator of the authorized emergency vehicle to engage, conduct, and terminate vehicle pursuit;
- ▶ provides that the operator of an authorized emergency vehicle owes a duty of care to the occupant of a vehicle under pursuit if the operator of the authorized emergency vehicle acts outside the written protocol for vehicle pursuit;
- ▶ requires the head of a law enforcement agency involved in a pursuit resulting in injury or property damage to evaluate compliance with policies and document and remedy any violations of the policies; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-212, as last amended by Laws of Utah 2014, Chapter 288

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

Section 1. Section 41-6a-212 is amended to read:**41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits -- Applicability of traffic law to highway work vehicles -- Exemptions.**

(1) As used in this section, "marked authorized emergency vehicle" means an authorized emergency vehicle that:

(a) has emergency lights that comply with Section 41-6a-1601 affixed to the top of the vehicle; or

(b) is displaying an identification mark designating the vehicle as the property of an entity

that is authorized to operate emergency vehicles in a conspicuous place on both sides of the vehicle.

(2) Subject to Subsections (3) through (6), the operator of an authorized emergency vehicle may exercise the privileges granted under this section when:

(a) responding to an emergency call;

(b) in the pursuit of an actual or suspected violator of the law; or

(c) responding to but not upon returning from a fire alarm.

(3) The operator of an authorized emergency vehicle may:

(a) park or stand, irrespective of the provisions of this chapter;

(b) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) exceed the maximum speed limits, unless prohibited by a local highway authority under Section 41-6a-208; or

(d) disregard regulations governing direction of movement or turning in specified directions.

(4) (a) Except as provided in Subsection (4)(b), privileges granted under this section to the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit, apply only when:

(i) the operator of the vehicle sounds an audible signal under Section 41-6a-1625; or

(ii) uses a visual signal with emergency lights in accordance with rules made under Section 41-6a-1601, which is visible from in front of the vehicle.

(b) An operator of an authorized emergency vehicle may exceed the maximum speed limit when engaged in normal patrolling activities with the purpose of identifying and apprehending violators.

(5) (a) Privileges granted under this section to the operator of an authorized emergency vehicle involved in any vehicle pursuit apply only when:

~~[(a)]~~ (i) the operator of the vehicle:

~~[(4)]~~ (A) sounds an audible signal under Section 41-6a-1625; and

~~[(4)]~~ (B) uses a visual signal with emergency lights in accordance with rules made under Section 41-6a-1601, which is visible from in front of the vehicle;

~~[(b)] the public agency employing the operator of the vehicle has, in effect, a written policy which describes the manner and circumstances in which any vehicle pursuit should be conducted and terminated;~~

~~[(e)]~~ (ii) the operator of the authorized emergency vehicle has been trained in accordance with the written policy described in Subsection (5)(b); and

~~[(4)]~~ (iii) the pursuit policy of the public agency described in Subsection (5)(b) is in conformance with standards established under Subsection (6).

(b) (i) Each public agency that owns, operates, or causes to be operated an authorized emergency vehicle shall have a written policy that describes the manner and circumstances in which an operator of an authorized emergency vehicle shall engage, conduct, and terminate vehicle pursuit.

(ii) The policy described in Subsection (5)(b)(i) shall conform with the minimum standards set forth pursuant to Subsection (6).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Public Safety shall make rules providing minimum standards for all emergency pursuit policies that are adopted by public agencies authorized to operate emergency pursuit vehicles.

(7) (a) Except as provided in Subsection (7)(b), the privileges granted under this section do not relieve the operator of an authorized emergency vehicle of the duty to act as a reasonably prudent emergency vehicle operator under the circumstances.

(b) The operator of a marked authorized emergency vehicle owes no duty of care under this Subsection (7) to a person who is:

(i) (A) a suspect in the commission of a crime; and

(B) evading, fleeing, or otherwise attempting to elude the operator of a marked authorized emergency vehicle; or

(ii) in a motor vehicle with the suspect described in Subsection (7)(b)(i), unless it is proven by a preponderance of the evidence that:

(A) the person's presence in the vehicle was involuntary; and

(B) the person's participation in evading, fleeing, or attempting to elude was involuntary.

(c) (i) Notwithstanding Subsection (7)(b), an operator of a marked authorized emergency vehicle may be held liable for a fleeing suspect's injuries if the operator of a marked authorized emergency vehicle had actual intent to cause harm to the fleeing suspect in an act that was unrelated to the legitimate object of the arrest.

(ii) "Actual intent" under this Subsection (7)(c) means a malicious motive to cause injury, not merely an intent to do the act resulting in the injury.

(d) If an operator of a marked authorized emergency vehicle complies with the requirements described in Subsections (5) and (6) while operating the marked authorized emergency vehicle, the operator shall be deemed to have met the operator's duty to act as a reasonably prudent emergency vehicle operator under the circumstances.

(8) (a) For each instance involving an authorized emergency vehicle in pursuit that results in injury or property damage, the head of the law enforcement agency involved in the pursuit shall evaluate the situation to determine whether the operator of the authorized emergency vehicle complied with the agency's policies.

(b) After the evaluation described in Subsection (8)(a), the head of the law enforcement agency shall document and appropriately remedy through agency administrative action any violations of the agency's policies.

(c) Any document produced under Subsection (8)(b) shall be subject to Title 63G, Chapter 2, Government Records Access and Management Act.

~~[(8)]~~ (9) Except for Sections 41-6a-210, 41-6a-502, and 41-6a-528, this chapter does not apply to persons, motor vehicles, and other equipment while actually engaged in work on the surface of a highway.

CHAPTER 152**S. B. 67**

Passed February 5, 2018
 Approved March 16, 2018
 Effective May 8, 2018

FIREWORKS AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill requires the Utah Fire Prevention Board to create a uniform statewide policy regarding a government entity's seizure, storage, and disposal of certain explosives.

Highlighted Provisions:

This bill:

- ▶ requires the Utah Fire Prevention Board to create, by rule, a uniform statewide policy regarding a government entity's safe seizure, storage, and disposal of certain explosives; and
- ▶ provides requirements for a rule made with regards to the preceding paragraph.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-7-204, as last amended by Laws of Utah 2017, Chapters 18 and 165

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

Section 1. Section 53-7-204 is amended to read:**53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.**

- (1) The board shall:
- (a) administer the state fire code as the standard in the state;
 - (b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:
 - (A) publicly owned building, including all public and private schools, colleges, and university buildings;
 - (B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that:

(A) is illegal; or

(B) a person uses or handles in an illegal manner;

~~(v)~~ (vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

~~(vi)~~ (vii) implementing Section 15A-1-403;

~~(vii)~~ (viii) setting guidelines for use of funding;

~~(viii)~~ (ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;

~~(ix)~~ (x) establishing ongoing training standards for hazardous materials emergency response agencies; and

~~(x)~~ (xi) establishing criteria for the fire safety inspection of a food truck;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(g) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the Board of Regents;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) establish a fire academy in accordance with Section 53-7-204.2;

(j) coordinate the efforts of all people engaged in fire suppression in the state;

(k) work aggressively with the local political subdivisions to reduce fire losses;

(l) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(m) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

(n) establish a certification program for persons who inspect and test fire alarm systems;

(o) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(p) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and

(q) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

[(2)] (3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

[(3)] (4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

CHAPTER 153**S. B. 68**

Passed February 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

PHYSICIAN ASSISTANT VITAL STATISTICS ACT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill allows certain individuals who are licensed as a physician assistant to practice as a health care professional under the Utah Vital Statistics Act.

Highlighted Provisions:

This bill:

- ▶ adds certain physician assistants to the list of individuals who can practice as a health care professional under the Utah Vital Statistics Act; and
- ▶ creates requirements that a physician assistant must meet in order to practice as a health care professional under the Utah Vital Statistics Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-2-2, as last amended by Laws of Utah 2015, Chapters 137 and 184

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

Section 1. Section 26-2-2 is amended to read:**26-2-2. Definitions.**

As used in this chapter:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

~~[(2) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.]~~

~~[(3) (2) "Custodial funeral service director" means a funeral service director who:~~

~~(a) is employed by a licensed funeral establishment; and~~

~~(b) has custody of a dead body.~~

~~[(4) (3) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.~~

~~[(5) (4) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):~~

~~(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and~~

~~(b) that was not born alive.~~

~~[(6) (5) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.~~

~~[(7) (6) "Dispositioner" means:~~

~~(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or~~

~~(b) the next of kin of the decedent, if:~~

~~(i) (A) a person has not been designated as described in Subsection ~~[(7) (6)]~~(a); or~~

~~(B) the person described in Subsection ~~[(7) (6)]~~(a) is unable or unwilling to exercise the right and duty described in Subsection ~~[(7) (6)]~~(a); and~~

~~(ii) the next of kin voluntarily acts as the dispositioner.~~

~~[(8) (7) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.~~

~~[(9) (8) "Funeral service director" means the same as that term is defined in Section 58-9-102.~~

~~[(10) (9) "Health care facility" means the same as that term is defined in Section 26-21-2.~~

~~[(11) (10) "Health care professional" means a physician, physician assistant, or nurse practitioner.~~

~~[(12) (11) "Licensed funeral establishment" means a funeral service establishment, as defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act.~~

~~[(13) (12) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.~~

~~[(14) (13) "Local registrar" means a person appointed under Subsection 26-2-3(3)(b).~~

~~[(15) (14) "Nurse practitioner" means an ~~advanced practice registered nurse specializing as a nurse practitioner~~ individual who:~~

~~(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and~~

~~(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule ~~adopted~~ made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~[(16)]~~ (15) "Office" means the Office of Vital Records and Statistics within the Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

~~[(17)]~~ (16) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(17) "Physician assistant" means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(18) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

(19) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

(20) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(2)(e).

(21) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection (21)(a);

(c) an adoption document; and

(d) other similar documents.

(22) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

CHAPTER 154**S. B. 70**

Passed February 28, 2018

Approved March 16, 2018

Effective May 8, 2018

HUMAN RESOURCE REQUIREMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill requires certain local entities to address human resource management.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires charter schools and local districts to:
 - establish human resource management policies; and
 - ensure that at least one of the school's or district's employees or another person is assigned human resource management duties and receives human resource management training;
- ▶ modifies a provision requiring the executive director of the Department of Human Resource Management to provide certain entities with human resource management advice and training recommendations; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-5-302, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-5-407, as renumbered and amended by Laws of Utah 2018, Chapter 3

67-19-6, as last amended by Laws of Utah 2015, Chapter 175

ENACTS:

17B-1-805, Utah Code Annotated 1953

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

Section 1. Section 17B-1-805 is enacted to read:**17B-1-805. Human resource management requirement.**

(1) As used in this section:

(a) "Governing body" means the same as that term is defined in Section 17B-1-201.

(b) "Human resource management duties" means the exercise of human resource management functions and responsibilities, including:

(i) complying with federal and state employment law;

(ii) administering compensation and benefits; and

(iii) ensuring employee safety.

(c) "Human resource management training" means a program designed to instruct an individual on the performance of human resource management duties.

(2) If a local district has full or part-time employees, the governing body shall:

(a) adopt human resource management policies;

(b) assign human resource management duties to one of the district's employees or another person; and

(c) ensure that the employee or person assigned under Subsection (2)(b) receives human resource management training.

Section 2. Section 53G-5-302 is amended to read:**53G-5-302. Charter school application -- Applicants -- Contents.**

(1) (a) An application to establish a charter school may be submitted by:

(i) an individual;

(ii) a group of individuals; or

(iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements described in Section 53G-5-408;

(ii) require employee evaluations; ~~and~~

(iii) address employment of relatives within the charter school; and

(iv) address human resource management and ensure that:

(A) at least one of the school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and

(B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives human resource management training, as defined in Section 17B-1-805;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school; and

(n) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, administering the statewide assessments described in Section 53E-4-301;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Section 3. Section 53G-5-407 is amended to read:

53G-5-407. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The school's governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this chapter and other related provisions.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter 11, Part 5, School District and Utah Schools for the Deaf and the Blind Employee Requirements; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:

(i) are licensed; or

(ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.

(b) The school's governing board shall disclose the qualifications of its teachers to the parents of its students.

(5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.

(7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(b) An election under this Subsection (7):

(i) shall be documented by a resolution adopted by the governing board of the charter school; and

(ii) applies to the charter school as the employer and to all employees of the charter school.

(c) The governing board of a charter school may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(8) A charter school may not revoke an election to participate made under Subsection (7).

(9) The governing board of a charter school shall ensure that, prior to the beginning of each school year~~[-]~~:

(a) each of ~~[its]~~ the charter school's employees signs a document acknowledging that the employee:

~~[(a)]~~ (i) has received:

~~[(4)]~~ (A) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or

~~[(4)]~~ (B) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and

~~[(4)]~~ (ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure~~[-]~~; and

(b) (i) at least one of the charter school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and

(ii) the assigned employee or person described in Subsection (9)(b)(i) receives human resource management training, as defined in Section 17B-1-805.

Section 4. Section 67-19-6 is amended to read:

67-19-6. Responsibilities of the executive director.

(1) The executive director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service ~~[and]~~, training recommendations, or advice on human resource management at a charge determined by the executive director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the governor and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(2) (a) After consultation with the governor and the heads of other agencies, the executive director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection (2) shall have application to more than one agency.

(c) The department may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(3) (a) (i) The department may collect fees for training as authorized by this Subsection (3).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

CHAPTER 155**S. B. 73**

Passed March 8, 2018

Approved March 16, 2018

Effective May 8, 2018

PUBLIC EMPLOYEES' BENEFIT AND INSURANCE PROGRAM AMENDMENTS

Chief Sponsor: Daniel Hemmert

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies the Public Employees' Benefit and Insurance Program Act by amending provisions relating to the high deductible health plan.

Highlighted Provisions:

This bill:

- ▶ amends the requirements for the contributions made by an employer to the health savings account for a federally qualified high deductible health plan.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-20-410, as last amended by Laws of Utah 2016, Chapter 93

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

Section 1. Section 49-20-410 is amended to read:**49-20-410. High deductible health plan -- Health savings account -- Contributions.**

(1) (a) In addition to other employee benefit plans offered under Subsection 49-20-201(1), the office shall offer at least one federally qualified high deductible health plan with a health savings account as an optional health plan.

(b) The provisions and limitations of the plan shall be:

(i) determined by the office in accordance with federal requirements and limitations; and

(ii) designed to promote appropriate health care utilization by consumers, including preventive health care services.

(c) A state employee hired on or after July 1, 2011, who is offered a plan under Subsection 49-20-202(1)(a), shall be enrolled in a federally qualified high deductible health plan unless the employee chooses a different health benefit plan during the employee's open enrollment period.

(2) The office shall:

(a) administer the high deductible health plan in coordination with a health savings account for medical expenses for each covered individual in the high deductible health plan;

(b) offer to all employees training regarding all health plans offered to employees;

(c) prepare online training as an option for the training required by Subsections (2)(b) and (4);

(d) ensure the training offered under Subsections (2)(b) and (c) includes information on changing coverages to the high deductible plan with a health savings account, including coordination of benefits with other insurances, restrictions on other insurance coverages, and general tax implications; and

(e) coordinate annual open enrollment with the Department of Human Resource Management to give state employees the opportunity to affirmatively select preferences from among insurance coverage options.

(3) (a) Contributions to the health savings account may be made by the employer.

(b) The amount of the employer contributions under Subsection (3)(a) shall be determined annually by the office, after consultation with the Department of Human Resource Management and the Governor's Office of Management and Budget so that the annual employer contribution amount [~~reflects the~~] is not less than the difference in the actuarial value between the program's health maintenance organization coverage and the federally qualified high deductible health plan coverage, after taking into account any difference in employee premium contribution.

(c) The office shall distribute the annual amount determined under Subsection (3)(b) to employees in two equal amounts with a pay date in January and a pay date in July of each plan year.

(d) An employee may also make contributions to the health savings account.

(e) If an employee is ineligible for a contribution to a health savings account under federal law and would otherwise be eligible for the contribution under Subsection (3)(a), the contribution shall be distributed into a health reimbursement account or other tax-advantaged arrangement authorized under the Internal Revenue Code for the benefit of the employee.

(4) (a) An employer participating in a plan offered under Subsection 49-20-202(1)(a) shall require each employee to complete training on the health plan options available to the employee.

(b) The training required by Subsection (4)(a):

(i) shall include materials prepared by the office under Subsection (2);

(ii) may be completed online; and

(iii) shall be completed:

(A) before the end of the 2012 open enrollment period for current enrollees in the program; and

(B) for employees hired on or after July 1, 2011, before the employee's selection of a plan in the program.

CHAPTER 156**S. B. 75**

Passed February 14, 2018

Approved March 16, 2018

Effective May 8, 2018

LABOR CODE AMENDMENTS

Chief Sponsor: Daniel Hemmert

House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Labor Code.

Highlighted Provisions:

This bill:

- ▶ defines “certified mail”;
- ▶ modifies the mailing requirements under Title 34A, Utah Labor Code;
- ▶ provides the circumstances under which the Division of Industrial Accidents may waive or reduce a penalty against an employer for conducting business without securing workers’ compensation benefits for the employer’s employees; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-1-102, as enacted by Laws of Utah 1997, Chapter 375

34A-2-206, as renumbered and amended by Laws of Utah 1997, Chapter 375

34A-2-209, as last amended by Laws of Utah 2009, Chapter 288

34A-2-211, as last amended by Laws of Utah 2017, Chapter 363

34A-6-303, as renumbered and amended by Laws of Utah 1997, Chapter 375

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

Section 1. Section 34A-1-102 is amended to read:**34A-1-102. Definitions.**

Unless otherwise specified, as used in this title:

(1) “Certified mail” means a method of mailing by any carrier that is accompanied by proof of delivery.

[4] (2) “Commission” means the Labor Commission created in Section 34A-1-103.

[2] (3) “Commissioner” means the commissioner of the commission appointed under Section 34A-1-201.

Section 2. Section 34A-2-206 is amended to read:**34A-2-206. Furnishing information to division -- Employers’ annual report --****Rights of division -- Examination of employers under oath -- Penalties.**

(1) (a) Every employer shall furnish the division, upon request, all information required by it to carry out the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) In the month of July of each year every employer shall prepare and mail to the division a statement containing the following information:

(i) the number of persons employed during the preceding year from July 1, to June 30, inclusive;

(ii) the number of the persons employed at each kind of employment;

(iii) the scale of wages paid in each class of employment, showing the minimum and maximum wages paid; and

(iv) the aggregate amount of wages paid to all employees.

(2) (a) The information required under Subsection (1) shall be furnished in the form prescribed by the division.

(b) Every employer shall:

(i) answer fully and correctly all questions and give all the information sought by the division under Subsection (1); or

(ii) if unable to comply with Subsection (2)(b)(i), give to the division, in writing, good and sufficient reasons for the failure.

(3) (a) The division may require the information required to be furnished by this chapter or Chapter 3, Utah Occupational Disease Act, to be made under oath and returned to the division within the period fixed by it or by law.

(b) The division, or any person employed by the division for that purpose, shall have the right to examine, under oath, any employer, or the employer’s agents or employees, for the purpose of ascertaining any information that the employer is required by this chapter or Chapter 3, Utah Occupational Disease Act, to furnish to the division.

(4) (a) The division may seek a penalty of not to exceed \$500 for each offense to be recovered in a civil action brought by the commission or the division on behalf of the commission against an employer who:

(i) within a reasonable time to be fixed by the division and after the receipt of written notice signed by the director or the director’s designee specifying the information demanded and served by certified mail or personal service, refuses to furnish to the division:

(A) the annual statement required by this section; or

(B) other information as may be required by the division under this section; or

(ii) willfully furnishes a false or untrue statement.

(b) All penalties collected under Subsection (4)(a) shall be paid into the Employers' Reinsurance Fund created in Section 34A-2-702.

Section 3. Section 34A-2-209 is amended to read:

34A-2-209. Employer's penalty for violation -- Notice of noncompliance -- Proof required -- Admissible evidence -- Criminal prosecution.

(1) (a) (i) An employer who fails to comply, and every officer of a corporation or association that fails to comply, with Section 34A-2-201 is guilty of a class B misdemeanor.

(ii) Each day's failure to comply with Subsection (1)(a)(i) is a separate offense.

(b) If the division sends written notice of noncompliance by certified mail or personal service to the last-known address of an employer, a corporation, or an officer of a corporation or association, and the employer, corporation, or officer does not within 10 days of the day on which the notice is delivered provide to the division proof of compliance, the notice and failure to provide proof constitutes prima facie evidence that the employer, corporation, or officer is in violation of this section.

(2) (a) If the division has reason to believe that an employer is conducting business without securing the payment of compensation in a manner provided in Section 34A-2-201, the division may give notice of noncompliance by certified mail or personal service to the following at the last-known address of the following:

- (i) the employer; or
- (ii) if the employer is a corporation or association:
 - (A) the corporation or association; or
 - (B) the officers of the corporation or association.

(b) If an employer, corporation, or officer described in Subsection (2)(a) does not, within 10 days of the day on which the notice is delivered, provide to the division proof of compliance, the employer and every officer of an employer corporation or association is guilty of a class B misdemeanor.

(c) Each day's failure to comply with Subsection (2)(a) is a separate offense.

(3) A fine, penalty, or money collected or assessed under this section shall be:

(a) deposited in the Uninsured Employers' Fund created by Section 34A-2-704;

(b) used for the purposes of the Uninsured Employers' Fund specified in Section 34A-2-704; and

(c) collected by the Uninsured Employers' Fund administrator in accordance with Section 34A-2-704.

(4) A form or record kept by the division or its designee pursuant to Section 34A-2-205 is admissible as evidence to establish noncompliance under this section.

(5) The commission or division on behalf of the commission may prosecute or request the attorney general or district attorney to prosecute a criminal action in the name of the state to enforce this chapter or Chapter 3, Utah Occupational Disease Act.

Section 4. Section 34A-2-211 is amended to read:

34A-2-211. Notice of noncompliance to employer -- Enforcement power of division -- Penalty.

(1) (a) In addition to the remedies [specified] described in Section 34A-2-210, if the division has reason to believe that an employer is conducting business without securing the payment of benefits in [a manner provided in] accordance with Section 34A-2-201, the division [may give that employer] shall deliver written notice of the noncompliance to the employer by certified mail or personal service to the employer's last-known address [of the employer].

(b) If the employer does not [remedy the default] demonstrate compliance with Section 34A-2-201 to the division within 15 days after the day on which the notice is delivered, the division [may] shall issue an order requiring the employer to appear before the division and show cause why the employer should not be ordered to comply with Section 34A-2-201.

(c) If the division finds that an employer has failed to [provide for the payment of benefits in a manner provided in] comply with Section 34A-2-201, the division [may] shall require the employer to comply with Section 34A-2-201.

(2) (a) [~~Notwithstanding Subsection (1)~~] Except as provided in Subsection (2)(d), after the division makes a finding of noncompliance described in Subsection (1)(c), the division [may] shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and this Subsection (2), impose a penalty against the employer [under this Subsection (2)].

[~~(i) subject to Title 63G, Chapter 4, Administrative Procedures Act; and~~]

[~~(ii) if the division believes that an employer of one or more employees is conducting business without securing the payment of benefits in a manner provided in Section 34A-2-201.~~]

(b) [~~The~~] Except as provided in Subsection (2)(e), a penalty imposed under Subsection (2)(a) shall be the greater of:

(i) \$1,000; or

(ii) three times the amount of the premium the employer would have paid for workers' compensation insurance based on the rate filing of the workers' compensation insurance carrier that

provides workers' compensation insurance under Section 31A-22-1001, during the period of noncompliance.

(c) For purposes of Subsection (2)(b)(ii):

(i) the premium is calculated by applying rates and rate multipliers to the payroll basis under Subsection (2)(c)(ii), using the highest rated employee class code applicable to the employer's operations; and

(ii) the payroll basis is 150% of the state's average weekly wage multiplied by the highest number of workers employed by the employer during the period of the employer's noncompliance multiplied by the number of weeks of the employer's noncompliance up to a maximum of 156 weeks.

(d) The division may waive the penalty described in this Subsection (2) if:

(i) (A) the finding of noncompliance is the first finding of noncompliance against the employer under this section;

(B) the period of noncompliance was less than 180 days;

(C) the employer is currently in compliance with Section 34A-2-201; and

(D) no injury was reported to the division in accordance with Section 34A-2-407 during the period of noncompliance; or

(ii) (A) the employer is a corporation;

(B) each employee of the corporation is an officer of the corporation; and

(C) the employer is currently in compliance with Section 34A-2-201.

(e) (i) The division may reduce the penalty described in this Subsection (2) if:

(A) the finding of noncompliance is the first finding of noncompliance against the employer under this section;

(B) the employer is currently in compliance with Section 34A-2-201;

(C) no injury was reported to the division in accordance with Section 34A-2-407 during the period of noncompliance; and

(D) upon request from the division, the employer submits to the division the employer's payroll records related to the period of noncompliance.

(ii) (A) The reduced penalty shall be an amount equal to the premium the employer would have paid for workers' compensation insurance based on the rate filing of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001, during the period of noncompliance.

(B) The division shall calculate the amount described in Subsection (2)(e)(ii)(A) using the payroll records described in Subsection (2)(e)(i)(D).

(f) The division may reinstate the full penalty amount against an employer if the Uninsured Employers' Fund is ordered to pay benefits for an injury that occurred but was not reported during the period of noncompliance for which the division waived or assessed a reduced penalty under this subsection.

(3) A penalty imposed under Subsection (2) shall be:

(a) deposited in the Uninsured Employers' Fund created by Section 34A-2-704;

(b) used for the purposes of the Uninsured Employers' Fund specified in Section 34A-2-704; and

(c) collected by the Uninsured Employers' Fund administrator in accordance with Section 34A-2-704.

(4) (a) An employer who disputes a determination, imposition, or amount of a penalty imposed under Subsection (2) shall request a hearing before an administrative law judge within 30 days of the date of issuance of the administrative action imposing the penalty or the administrative action becomes a final order of the commission.

(b) An employer's request for a hearing under Subsection (4)(a) shall specify the facts and grounds that are the basis of the employer's objection to the determination, imposition, or amount of the penalty.

(c) An administrative law judge's decision under this Subsection (4) may be reviewed pursuant to Part 8, Adjudication.

(5) An administrative action issued by the division under this section shall:

(a) be in writing;

(b) be sent by certified mail or personal service to the last-known address of the employer;

(c) state the findings and administrative action of the division; and

(d) specify its effective date, which may be:

(i) immediate; or

(ii) at a later date.

(6) A final order of the commission under this section, upon application by the commission made on or after the effective date of the order to a court of general jurisdiction in any county in this state, may be enforced by an order to comply:

(a) entered ex parte; and

(b) without notice by the court.

Section 5. Section 34A-6-303 is amended to read:

34A-6-303. Enforcement procedures -- Notification to employer of proposed assessment -- Notification to employer of failure to correct violation -- Contest by employer of citation or proposed assessment -- Procedure.

(1) (a) If the division issues a citation under Subsection 34A-6-302(1), it shall within a reasonable time after inspection or investigation, notify the employer by certified mail or personal service of the assessment, if any, proposed to be assessed under Section 34A-6-307 and that the employer has 30 days to notify the Division of Adjudication that the employer intends to contest the citation, abatement, or proposed assessment.

(b) If, within 30 days from the receipt of the notice issued by the division, the employer fails to notify the Division of Adjudication that the employer intends to contest the citation, abatement, or proposed assessment, and no notice is filed by any employee or representative of employees under Subsection (3) within 30 days, the citation, abatement, and assessment, as proposed, is final and not subject to review by any court or agency.

(2) (a) If the division has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the time period permitted, the division shall notify the employer by certified mail or personal service:

(i) of the failure;

(ii) of the assessment proposed to be assessed under Section 34A-6-307; and

(iii) that the employer has 30 days to notify the Division of Adjudication that the employer intends to contest the division's notification or the proposed assessment.

(b) The period for corrective action does not begin to run until entry of a final order by the commission.

(c) If the employer fails to notify the Division of Adjudication, in writing, within 30 days from the receipt of notification issued by the division, that the employer intends to contest the notification or proposed assessment, the notification and assessment, as proposed, is final and not subject to review by any court or agency.

(3) (a) If an employer notifies the Division of Adjudication that the employer intends to contest a citation issued under Subsection 34A-6-302(1), or notification issued under Subsection (1) or (2), or if, within 30 days of the issuance of a citation under Subsection 34A-6-302(1), any employee or representative of employees files a notice with the division alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the division shall advise the commissioner of the notification, and the commissioner shall provide an opportunity for a hearing.

(b) Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that the abatement has not been completed because of factors beyond the employer's reasonable control, the division, after an opportunity for discussion and consideration, shall issue an order affirming or modifying the abatement requirements in any citation.

CHAPTER 157**S. B. 85**

Passed February 7, 2018

Approved March 16, 2018

Effective May 8, 2018

**CONTROLLED SUBSTANCE
DISPOSAL AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: Stewart E. Barlow**LONG TITLE****General Description:**

This bill creates standards for the disposal of a controlled substance by a nursing care facility.

Highlighted Provisions:

This bill:

- ▶ creates standards for the disposal of a controlled substance by a nursing care facility; and
- ▶ requires a nursing care facility to develop a written plan for the disposal of a controlled substance by the nursing care facility.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-21-30, Utah Code Annotated 1953

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

Section 1. Section 26-21-30 is enacted to read:**26-21-30. Disposal of controlled substances at nursing care facilities.**

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) (i) "Irretrievable" means a state in which the physical or chemical condition of a controlled substance is permanently altered through irreversible means so that the controlled substance is unavailable and unusable for all practical purposes.

(ii) A controlled substance is irretrievable if the controlled substance is non-retrievable as that term is defined in 21 C.F.R. Sec. 1300.05.

(2) A nursing care facility that is in lawful possession of a controlled substance in the nursing care facility's inventory that desires to dispose of the controlled substance shall dispose of the controlled substance in a manner that:

(a) renders the controlled substance irretrievable; and

(b) complies with all applicable federal and state requirements for the disposal of a controlled substance.

(3) A nursing care facility shall:

(a) develop a written plan for the disposal of a controlled substance in accordance with this section; and

(b) make the plan described in Subsection (3)(a) available to the department and the committee for inspection.

CHAPTER 158**S. B. 87**

Passed February 15, 2018

Approved March 16, 2018

Effective May 8, 2018

SCHOOL SECURITY LOCKSChief Sponsor: Todd Weiler
House Sponsor: Daniel McCay**LONG TITLE****General Description:**

This bill amends provisions of the State Construction and Fire Codes Act.

Highlighted Provisions:

This bill:

- ▶ amends the International Building Code and International Fire Code regarding:
 - hardware height on a door for certain occupancies for purposes of a lockdown or a lockdown drill; and
 - door operations provisions for locks and bolt locks, and latching and unlatching, for certain occupancies for purposes of a lockdown or a lockdown drill; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-3-105, as last amended by Laws of Utah 2016, Chapter 249

15A-5-205, as last amended by Laws of Utah 2016, Chapter 216

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

Section 1. Section 15A-3-105 is amended to read:**15A-3-105. Amendments to Chapters 10 through 12 of IBC.**

(1) In IBC, Section 1010.1.9, an exception is added as follows: “Exception: Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5.”

(2) In IBC, Section 1010.1.9.2, “Exception:” is deleted and replaced with “Exceptions: 1.”

(3) In IBC, Section 1010.1.9.2, a new exception 2 is added as follows: “2. Group E occupancies for purposes of a lockdown or a lockdown drill may have one lock below 34 inches in accordance with Section 1010.1.9.5 Exception 5.”

(4) In IBC, Section 1010.1.9.3, a new number 6 is added as follows: “6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5.”

(5) In IBC, Section 1010.1.9.4, a new exception 6 is added as follows: “6. Group E occupancies for

purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5.”

(6) In IBC, Section 1010.1.9.5, a new exception 5 is added as follows: “5. Group E occupancies may have a second lock on classrooms for purposes of a lockdown or lockdown drill, if:

5.1 The application of the lock is approved by the code official.

5.2 The unlatching of any door or leaf does not require more than two operations.

5.3 The lock can be released from the opposite side of the door on which it is installed.

5.4 The lock is only applied during lockdown or during a lockdown drill.

5.5 The lock complies with all other state and federal regulations, including the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq.”

~~(4)~~ (7) In IBC, Section 1010.1.9.6, a new number 9 is added as follows: “9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type V construction.”

~~(2)~~ (8) In IBC, Section 1011.5.2, exception 3 is deleted and replaced with the following: “3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).”

~~(3)~~ (9) In IBC, Section 1011.11, a new exception 5 is added as follows: “5. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.”

~~(4)~~ (10) In IBC, Section 1013.5, the words “, including when the building may not be fully occupied” are added at the end of the sentence.

~~(5)~~ (11) IBC, Section 1025, is deleted.

~~(6)~~ (12) In IBC, Section 1029.14, exception 2 is deleted.

~~(7)~~ (13) In IBC, Section 1109.8, the following words “shall be capable of operation without a key and” are inserted in the second sentence between the words “lift” and “shall”.

~~(8)~~ (14) In IBC, Section 1208.4, subparagraph 1 is deleted and replaced with the following: “1. The unit shall have a living room of not less than 165 square feet (15.3 m2) of floor area. An additional 100 square feet (9.3 m2) of floor area shall be

provided for each occupant of such unit in excess of two.”

Section 2. Section 15A-5-205 is amended to read:

15A-5-205. Amendments and additions to IFC related to means of egress and special processes and uses.

(1) In IFC, Chapter 10, Section 1008.2.1, Illumination level under normal power, delete exemption.

(2) In IFC, Chapter 10, Section 1010.1.9, Door operations, a new exception is added as follows: “Exception: Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5.”

(3) In IFC, Chapter 10, Section 1010.1.9.2, Hardware height, “Exception:” is deleted and replaced with “Exceptions: 1.”

(4) In IFC, Chapter 10, Section 1010.1.9.2, Hardware height, Exception 2 is added as follows: “2. Group E occupancies for purposes of a lockdown or a lockdown drill may have one lock below 34 inches in accordance with Section 1010.1.9.5 Exception 5.”

(5) In IFC, Chapter 10, Section 1010.1.9.3, Locks and latches, Item 6 is added after the existing Item 5 as follows: “6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5.”

(6) In IFC, Chapter 10, Section 1010.1.9.4, Bolt locks, Exception 6 is added after the existing Exception 5 as follows: “6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5.”

(7) In IFC, Chapter 10, Section 1010.1.9.5, Unlatching, Exception 5 is added after the existing Exception 4 as follows: “5. Group E occupancies may have a second lock on classrooms for purposes of a lockdown or lockdown drill, if:

5.1 The application of the lock is approved by the code official.

5.2 The unlatching of any door or leaf does not require more than two operations.

5.3 The lock can be released from the opposite side of the door on which it is installed.

5.4 The lock is only applied during lockdown or during a lockdown drill.

5.5 The lock complies with all other state and federal regulations, including the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq.”

~~[(2)]~~ (8) IFC, Chapter 10, Section 1010.1.9.6, Controlled egress doors in groups I-1 and I-2, after existing Item 8 add Item 9 as follows: “9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type V construction.”

~~[(3)]~~ (9) In IFC, Chapter 10, Section 1010.1.9.7, Delayed egress locks, Item 9 is added after the

existing Item 8 as follows: “9. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction.”

~~[(4)]~~ (10) In IFC, Chapter 10, Section [BE] 1011.5.2, Riser height and tread depth, Exception 3 is deleted and replaced with the following: “3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).”

~~[(5)]~~ (11) IFC, Chapter 10, Section [BE] 1011.11, Handrails, is amended to add the following exception: “5. In occupancies in Group R-3, as applicable in Section 1014 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 1014, handrails shall be provided on at least one side of stairways consisting of four or more risers.”

~~[(6)]~~ (12) IFC, Chapter 10, Section 1013.5, Internally illuminated exit signs, delete and rewrite the last sentence to read “Exit signs shall be illuminated at all times, including when the building is not fully occupied.”

~~[(7)]~~ (13) IFC, Chapter 10, Section 1025, Luminous Egress Path Markings, is deleted.

~~[(8)]~~ (14) IFC, Chapter 10, Section 1029.14, Seat stability, delete Exemption 2 and renumber exemptions.

~~[(9)]~~ (15) IFC, Chapter 10, Section 1031.2.1, Security Devices and Egress Locks, is amended to add the following: On line three, after the word “fire”, add the words “and building.”

CHAPTER 159**S. B. 88**

Passed February 9, 2018
Approved March 16, 2018
Effective May 8, 2018

**FINANCIAL EXPLOITATION
OF VULNERABLE ADULTS**

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill enacts provisions related to the financial exploitation of vulnerable adults.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses reporting requirements when a broker-dealer; an investment adviser; an agent; an investment adviser representative; or an individual who serves in a supervisory, compliance, or legal capacity for a broker-dealer or an investment adviser believes a person has engaged in or attempted to engage in the financial exploitation of an elderly or vulnerable adult;
- ▶ allows a broker-dealer or an investment adviser to delay a disbursement or transaction from an account when the broker-dealer or investment adviser suspects the disbursement or transaction will result in the financial exploitation of an elderly or vulnerable adult;
- ▶ allows certain agencies to extend a broker-dealer's or an investment adviser's delay of a disbursement or transaction;
- ▶ provides that a court may terminate or extend the delay of a disbursement or transaction;
- ▶ requires a broker-dealer or an investment adviser to provide certain agencies access to records related to the financial exploitation of an elderly or vulnerable adult;
- ▶ addresses the classification of a record that a broker-dealer or an investment adviser provides to an agency under the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

ENACTS:

61-1-201, Utah Code Annotated 1953
61-1-202, Utah Code Annotated 1953
61-1-203, Utah Code Annotated 1953
61-1-204, Utah Code Annotated 1953
61-1-205, Utah Code Annotated 1953
61-1-206, Utah Code Annotated 1953

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

Section 1. Section 61-1-201 is enacted to read:**Part 2. Protection of Vulnerable Adults from Financial Exploitation Act****61-1-201. Definitions.**

As used in this part:

(1) "Adult Protective Services" means the same as that term is defined in Section 62A-3-301.

(2) "Eligible adult" means:

(a) an individual who is 65 years of age or older; or
(b) a vulnerable adult as defined in Section 62A-3-301.

(3) "Financial exploitation of an eligible adult" means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or other property of an eligible adult; or

(b) an act or omission, including through a power of attorney, guardianship, or conservatorship of an eligible adult, to:

(i) obtain control, through deception, intimidation, or undue influence, over an eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other property; or

(ii) convert an eligible adult's money, assets, or other property to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or other property.

(4) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(5) "Qualified individual" means:

(a) an agent;
(b) an investment adviser representative; or
(c) an individual who serves in a supervisory, compliance, or legal capacity for a broker-dealer or an investment adviser.

Section 2. Section 61-1-202 is enacted to read:**61-1-202. Governmental and third party disclosures.**

(1) If a broker-dealer, an investment adviser, or a qualified individual reasonably believes that a person has engaged in or attempted to engage in the financial exploitation of an eligible adult, the broker-dealer, investment adviser, or qualified individual:

(a) shall promptly notify the division and Adult Protective Services; and

(b) subject to Subsection (2), may notify a person previously designated by the eligible adult, a person allowed to receive notification under applicable law or any customer agreement, or an individual reasonably associated with the eligible adult.

(2) A broker-dealer, an investment adviser, or a qualified individual may not notify a third party under Subsection (1)(b) if the third party is suspected of engaging in the financial exploitation of the eligible adult or other abuse of the eligible adult.

Section 3. Section 61-1-203 is enacted to read:

61-1-203. Immunity for governmental and third party disclosures.

A broker-dealer, an investment adviser, or a qualified individual who, in good faith and exercising reasonable care, notifies the division, Adult Protective Services, or a third party, in accordance with Section 61-1-202, is immune from administrative or civil liability that might otherwise arise from the notification.

Section 4. Section 61-1-204 is enacted to read:

61-1-204. Delaying disbursements or transactions.

(1) A broker-dealer or an investment adviser may delay a disbursement or transaction from an eligible adult's account or from an account on which the eligible adult is a beneficiary, if the broker-dealer or investment adviser:

(a) suspects that the disbursement or transaction may result in the financial exploitation of an eligible adult;

(b) initiates an internal review of the disbursement or transaction and the suspected financial exploitation of an eligible adult;

(c) after initiating the internal review, reasonably believes that the disbursement or transaction may result in the financial exploitation of an eligible adult;

(d) within two business days after the day on which the disbursement or transaction is delayed, provides written notification of the delay and the reason for the delay to:

(i) each party authorized to transact business on the account, unless the party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) the division; and

(iii) Adult Protective Services;

(e) continues the broker-dealer's or investment adviser's internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary; and

(f) upon request, provides a timely report on the status and results of the internal review to the division or Adult Protective Services.

(2) Except as provided in Subsection (3), a delay of a disbursement or transaction under Subsection (1) expires the earlier of:

(a) the day on which the broker-dealer or investment adviser determines that the

disbursement or transaction will not result in the financial exploitation of an eligible adult; or

(b) 15 business days after the day on which the broker-dealer or investment adviser initially delayed the disbursement or transaction.

(3) If an internal review described in Subsection (1) supports a reasonable belief that a person has engaged in or attempted to engage in the financial exploitation of an eligible adult, the division or Adult Protective Services may extend the delay of the disbursement or transaction under Subsection (1) as reasonably necessary.

(4) A court of competent jurisdiction may enter an order terminating or extending a delay under this section or granting other protective relief.

Section 5. Section 61-1-205 is enacted to read:

61-1-205. Immunity for delaying disbursements or transactions.

A broker-dealer or investment adviser who, in good faith and exercising reasonable care, delays a disbursement or transaction in accordance with Section 61-1-204 is immune from administrative or civil liability that might otherwise arise from the delay.

Section 6. Section 61-1-206 is enacted to read:

61-1-206. Records.

(1) Upon request, a broker-dealer or investment adviser shall provide access to or a copy of any record, including a historical record, that is relevant to the suspected or attempted financial exploitation of an eligible adult to Adult Protective Services or a law enforcement agency.

(2) For purposes of Title 63G, Chapter 2, Government Records Access and Management Act, a record made available to Adult Protective Services or a law enforcement agency under this section is a protected record as defined in Section 63G-2-103.

(3) Nothing in this section affects the authority of the division to access or examine the books or records of a broker-dealer or investment adviser as otherwise provided by law.

Section 7. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures,

policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would

reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or

any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

- (a) the safety of the general public; or
- (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

- (a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
- (b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who,

during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; ~~and~~

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist~~[-];~~ and

(68) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206.

CHAPTER 160**S. B. 97**

Passed February 22, 2018

Approved March 16, 2018

Effective May 8, 2018

**DRIVING WITHOUT
INSURANCE AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill amends provisions related to security while operating a motor vehicle.

Highlighted Provisions:

This bill:

- ▶ modifies the penalties for operating a motor vehicle without proof of security; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-12a-303.2, as last amended by Laws of Utah 2017, Chapter 416

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

Section 1. Section 41-12a-303.2 is amended to read:**41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.**

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(iii) A person operating a vehicle that is owned by a rental company, as defined in Section

31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 31A-22-311.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d) (i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e) (i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge or in an administrative action under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) The following are considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804:

(i) evidence defined in Subsection (2)(b);

(ii) a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified; or

(iii) a written statement from an insurance producer or company, or provision in an insurance policy, indicating that the policy provides coverage for a newly purchased car and the coverage extended to the date specified.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

~~[(5) A violation of this section is an infraction, and the fine shall be not less than:]~~

~~[(a) \$400 for a first offense; and]~~

~~[(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.]~~

(5) (a) A person who is convicted of violating Subsection (2)(a)(i):

(i) is guilty of an infraction for a first offense and subject to a fine of not less than \$400; and

(ii) is guilty of a class C misdemeanor for each offense subsequent to the first offense that is committed within three years after the day on which the person commits the first offense and subject to a fine of not less than \$1,000.

(b) A court may waive up to \$300 of a fine charged under Subsection (5)(a) if the person demonstrates that the owner's or operator's security required under Section 41-12a-301 was obtained after the violation but before sentencing.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

CHAPTER 161**S. B. 105**

Passed March 1, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**CRIME STATISTICS
 REPORTING AMENDMENTS**

Chief Sponsor: Don L. Ipson
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies provisions related to reporting criminal activity to the Bureau of Criminal Identification.

Highlighted Provisions:

This bill:

- ▶ prohibits the Bureau of Criminal Identification from acquiring certain information;
- ▶ requires a law enforcement agency to:
 - report certain information to the Bureau of Criminal Identification within a specified time frame;
 - submit that information in a specified manner; and
 - review and verify that information upon request of the Bureau of Criminal Identification; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-10-205, as renumbered and amended by Laws of Utah 1998, Chapter 263

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

Section 1. Section 53-10-205 is amended to read:

53-10-205. Uniform crime reporting system -- Reporting timelines and use of data.

(1) The data acquired under the statewide uniform crime reporting system shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime or law enforcement officer.

(2) A law enforcement agency shall, for the jurisdiction of the law enforcement agency, submit crime reporting data required for the statewide uniform crime reporting system described in Section 53-10-202:

(a) to the bureau before the 16th day of the month after the month in which a reported crime occurs; and

(b) in a manner prescribed by the bureau and in compliance with the requirements of the Federal

Bureau of Investigation's uniform crime reporting standards.

(3) Upon request of the bureau, a law enforcement agency shall review and verify crime reporting data within 10 business days after the day on which the law enforcement agency receives the request.

CHAPTER 162**S. B. 109**

Passed February 28, 2018

Approved March 16, 2018

Effective May 8, 2018

DEBT COLLECTION AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Val K. Potter

LONG TITLE**General Description:**

This bill allows disclosure by the Office of State Debt Collection of accident report information to certain interested parties.

Highlighted Provisions:

This bill:

- ▶ allows the Office of State Debt Collection to disclose information in an accident report to:
 - a person, other than a witness, involved in the accident;
 - the owner of a vehicle involved in the accident; and
 - an agent, parent, or legal guardian of a person involved in the accident.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-404, as last amended by Laws of Utah 2010, Chapter 220

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

Section 1. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

~~[(b)]~~ (a) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams; and

(v) field notes.

~~[(a)]~~ (b) "Agent" means:

(i) a person's attorney;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section 26-21-2, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) (a) Except as provided in ~~[Subsection]~~ Subsections (3) and (7), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure; or

(ii) may withhold an accident report, and any of its accompanying data if disclosure would

jeopardize an ongoing criminal investigation or criminal prosecution.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) the names and addresses of the drivers;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(5) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

(7) (a) The Office of State Debt Collection may, in the performance of its regular duties, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident; or

(iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or (ii).

(b) A disclosure under Subsection (7)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

CHAPTER 163**S. B. 115**

Passed February 28, 2018

Approved March 16, 2018

Effective May 8, 2018

UPSTART PROGRAM AMENDMENTS

Chief Sponsor: J. Stuart Adams

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to a contract for a home-based educational technology program.

Highlighted Provisions:

This bill:

- ▶ permits the State Board of Education to issue a request for proposals and enter into a contract for a two-year pilot of a home-based educational technology program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-4-402, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-4-402 is amended to read:**53F-4-402. UPSTART program to develop school readiness skills of preschool children.**

(1) UPSTART, a project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) (a) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(b) (i) The State Board of Education ~~shall~~ may, on or before July 1, 2019, issue a request for proposals for two-year pilot proposals from, and

enter into a contract with, one or more educational technology providers that do not have an existing contract under this part with the state for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(ii) ~~[After the two-year pilots]~~ If the State Board of Education enters into a contract for a two-year pilot as described in Subsection (3)(b)(i), the State Board of Education may enter into a contract with one or more educational technology providers that have participated in a Utah pilot.

(c) Every five years after July 1, 2021, the State Board of Education may issue a new request for proposals described in this section.

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of low income families that cannot afford the equipment and service;

(c) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

(d) the program shall include the following components:

(i) computer-assisted, individualized instruction in reading, mathematics, and science;

(ii) a multisensory reading tutoring program; and

(iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

(e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;

(f) the contractor shall work in cooperation with school district personnel who will provide administrative and technical support of the program as provided in Section 53F-4-403;

(g) the contractor shall solicit families to participate in the program as provided in Section 53F-4-404; and

(h) in implementing the home-based educational technology program, the contractor shall seek the advise and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:

(i) soliciting families to participate in the program;

(ii) providing training to families; and

(iii) motivating families to regularly use the instructional software.

(5) (a) The contract shall provide funding for a home-based educational technology program for preschool children, subject to the appropriation of money by the Legislature for UPSTART.

(b) An appropriation for a request for proposals described in Subsection (3)(b)(i) shall be separate from an appropriation described in Subsection (5)(a).

(6) The State Board of Education shall evaluate a proposal based on:

(a) whether the home-based educational technology program meets the standards specified in Subsection (4);

(b) the results of an independent evaluation of the home-based educational technology program;

(c) the experience of the home-based educational technology program provider; and

(d) the per pupil cost of the home-based educational technology program.

CHAPTER 164**S. B. 134**

Passed March 6, 2018
Approved March 16, 2018
Effective May 8, 2018

**MATERIALS HARMFUL
TO MINORS AMENDMENTS**

Chief Sponsor: Todd Weiler
House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill amends the Utah Criminal Code regarding an Internet service provider's responsibility to offer content filtering methods for material harmful to minors.

Highlighted Provisions:

This bill:

- ▶ amends the definition of Internet service provider;
- ▶ requires an Internet service provider to notify consumers and the Division of Consumer Protection of the ability to block material harmful to minors;
- ▶ provides a civil fine for failure to comply with the preceding paragraph;
- ▶ allows Internet service providers to engage a third party to assist with filtering methods;
- ▶ increases the cap on the civil fine that may be imposed on an Internet service provider that knowingly fails to filter material harmful to minors;
- ▶ removes provisions requiring the Division of Consumer Protection to test an Internet service provider's filtering methods; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-1230, as last amended by Laws of Utah 2008, Chapter 297

76-10-1231, as last amended by Laws of Utah 2008, Chapters 297 and 382

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

Section 1. Section 76-10-1230 is amended to read:**76-10-1230. Definitions.**

As used in Sections 76-10-1231 and 76-10-1233:

(1) "Consumer" means ~~a natural person~~ an individual residing in this state who subscribes to a service provided by a service provider for personal or residential use.

(2) "Content provider" means a person domiciled in Utah or that generates or hosts content in Utah, and that creates, collects, acquires, or organizes electronic data for electronic delivery to a consumer with the intent of making a profit.

(3) (a) "Hosting company" means a person that provides services or facilities for storing or distributing content over the Internet without editorial or creative alteration of the content.

(b) A hosting company may have policies concerning acceptable use without becoming a content provider under Subsection (2).

(4) ~~[(a)]~~ "Internet service provider" means a person engaged in the business of providing ~~[a computer communications facility in Utah]~~ broadband Internet access service, with the intent of making a profit, ~~[through which a consumer may obtain access to the Internet]~~ to consumers in Utah.

~~[(b) "Internet service provider" does not include a common carrier if it provides only telecommunications service.]~~

(5) "Properly rated" means content using a labeling system to label material harmful to minors provided by the content provider in a way that:

(a) accurately apprises a consumer of the presence of material harmful to minors; and

(b) allows the consumer the ability to control access to material harmful to minors based on the material's rating by use of reasonably priced commercially available software, including software in the public domain.

(6) "Restrict" means to limit access to material harmful to minors by:

(a) properly rating content; or

(b) any other reasonable measures feasible under available technology.

(7) (a) Except as provided in Subsection (7)(b), "service provider" means an Internet service provider.

(b) "Service provider" does not include a person who does not terminate a service in this state, but merely transmits data through:

(i) a wire;

(ii) a cable; or

(iii) an antenna.

(c) "Service provider," notwithstanding Subsection (7)(b), includes a person who meets the requirements of Subsection (7)(a) and leases or rents a wire or cable for the transmission of data.

Section 2. Section 76-10-1231 is amended to read:**76-10-1231. Data service providers --
Internet content harmful to minors.**

(1) (a) Upon request by a consumer, a service provider shall filter content to prevent the transmission of material harmful to minors to the consumer.

(b) A service provider complies with Subsection (1)(a) if [it uses a] the service provider makes a good faith effort to apply a generally accepted and commercially reasonable method of filtering.

(2) (a) At the time of a consumer's subscription to a service provider's service, ~~[or at the time this~~

~~section takes effect if the consumer subscribes to the service provider's service at the time this section takes effect,] the service provider shall notify the consumer in a conspicuous manner that the consumer may request to have material harmful to minors blocked under Subsection (1)(a).~~

~~(b) (i) A service provider shall, before December 30, 2018, notify in a conspicuous manner all of the service provider's consumers with a Utah residential address that the consumer may request material harmful to minors be blocked under Subsection (1)(a).~~

~~(ii) A service provider may provide the notice described in Subsection (2)(b)(i):~~

~~(A) by electronic communication;~~

~~(B) with a consumer's bill; or~~

~~(C) in another conspicuous manner.~~

~~(c) Before December 31, 2018, a service provider shall:~~

~~(i) notify the Division of Consumer Protection within the Department of Commerce that notice was sent under Subsection (2)(b); and~~

~~(ii) provide the Division of Consumer Protection within the Department of Commerce a copy of the notice that was sent under Subsection (2)(b).~~

~~(d) The Division of Consumer Protection within the Department of Commerce shall report all violations of Subsections (2)(b) and (c) to the attorney general.~~

~~(3) (a) A service provider may comply with Subsection (1)(a) by:-(i) providing in-network filtering to prevent receipt of material harmful to minors, provided that the filtering does not affect or interfere with access to Internet content for consumers who do not request filtering under Subsection (1);-or(a).~~

~~(ii) providing software,]~~

~~(b) A service provider may comply with Subsection (1)(a) by engaging a third party to provide [software, or referring users to a third party that provides filtering software, by providing a clear and conspicuous hyperlink or written statement, for installation on the consumer's computer that blocks, in an easy-to-enable and commercially reasonable manner,] or referring a consumer to a third party that provides a commercially reasonable method of filtering to block the receipt of material harmful to minors.~~

~~(b) (c) A service provider may charge a consumer a commercially reasonable fee for providing filtering under this Subsection (3)(a).~~

~~(4) If the attorney general determines that a service provider violates Subsection (1) or (2), the attorney general shall:~~

~~(a) notify the service provider that the service provider is in violation of Subsection (1) or (2); and~~

~~(b) notify the service provider that the service provider has [30] 90 days to comply with the~~

~~provision being violated or be subject to Subsection (5).~~

~~(5) (a) A service provider that intentionally or knowingly violates Subsection (1)[or-(2)](a) is subject to a civil fine of \$2,500 for each separate violation of Subsection (1)[or-(2)](a), up to [\$10,000] \$15,000 per day.~~

~~(b) A service provider that intentionally or knowingly violates Subsection (2) is subject to a civil fine up to \$10,000.~~

~~(6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the attorney general in a court of competent jurisdiction.~~

~~[(7) (a) The Division of Consumer Protection within the Department of Commerce shall, in consultation with other entities as the Division of Consumer Protection considers appropriate, test the effectiveness of a service provider's system for blocking material harmful to minors under Subsection (1) at least annually.]~~

~~[(b) The results of testing by the Division of Consumer Protection under Subsection (7)(a) shall be made available to:]~~

~~[(i) the service provider that is the subject of the test; and]~~

~~[(ii) the public.]~~

~~[(c) The Division of Consumer Protection shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to fulfil its duties under this section.]~~

CHAPTER 165**S. B. 145**

Passed March 8, 2018
 Approved March 16, 2018
 Effective May 8, 2018

SCHOOL FUNDING REVISIONS

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Bradley G. Last
 Cosponsors: J. Stuart Adams
 Curtis S. Bramble
 Wayne A. Harper
 Daniel Hemmert
 Ann Millner
 Howard A. Stephenson
 Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends and enacts provisions related to public education funding for the Enhancement for At-Risk Students Program.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the Enhancement for At-Risk Students Program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-2-410, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-410 is amended to read:**53F-2-410. Enhancement for At-Risk Students Program.**

(1) (a) Subject to the requirements of Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students for a gang prevention and intervention program designed to help students at-risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall:

(a) use the following criteria:

~~[(a)]~~ (i) low performance on statewide assessments described in Section 53E-4-301;

~~[(b)]~~ (ii) poverty;

~~[(c)]~~ (iii) mobility; ~~and~~

~~[(d)]~~ (iv) limited English proficiency~~[-]~~;

(v) chronic absenteeism; and

(vi) homelessness;

(b) ensure that the distribution formula distributes money on a per student and per criterion basis; and

(c) ensure that the distribution formula provides funding for each criterion that a student meets such that a student who meets:

(i) one criterion is counted once; and

(ii) more than one criterion is counted for each criterion the student meets up to three criteria.

(3) Subject to future budget constraints, the amount appropriated for the Enhancement for At-Risk Students Program shall increase annually with growth in the at-risk student population and changes to the value of the weighted pupil unit as defined in Section 53F-9-305.

~~[(3)]~~ (4) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure.

~~[(4)]~~ (5) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

~~[(5)]~~ (6) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

(7) During the fiscal year that begins July 1, 2022, the Public Education Appropriations Subcommittee shall evaluate:

(a) the impact of funding provided in this section to determine whether the funding has improved educational outcomes for students who are at-risk for academic failure; and

(b) whether the funding should continue as established, be amended, or be consolidated in the value of the weighted pupil unit.

CHAPTER 166**S. B. 149**

Passed March 5, 2018

Approved March 16, 2018

Effective May 8, 2018

SPORT VEHICLE MODIFICATIONS

Chief Sponsor: David P. Hinkins

House Sponsor: Derrin R. Owens

LONG TITLE**General Description:**

This bill defines and amends definitions of certain types of all-terrain vehicles.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “all-terrain type II vehicle”;
- ▶ defines “all-terrain type III vehicle”;
- ▶ removes the definitions of “full-sized all-terrain vehicle” and “utility type vehicle”;
- ▶ modifies required equipment for an all-terrain type I vehicle operated as a street-legal ATV; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-8-44.6, as enacted by Laws of Utah 2015, Chapter 146

13-35-102, as last amended by Laws of Utah 2016, Chapter 414

17-50-329.5, as enacted by Laws of Utah 2015, Chapter 146

41-1a-102, as last amended by Laws of Utah 2016, Chapter 40

41-6a-102, as last amended by Laws of Utah 2016, Chapters 40 and 173

41-6a-1509, as last amended by Laws of Utah 2017, Chapters 393 and 406

41-22-2, as last amended by Laws of Utah 2017, Chapter 38

41-22-5.5, as last amended by Laws of Utah 2015, Chapters 208 and 412

59-2-405.2, as last amended by Laws of Utah 2014, Chapter 237

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

Section 2. Section 10-8-44.6 is amended to read:**10-8-44.6. Regulation of drive-through facilities.**

(1) As used in this section:

(a) “Business” means a private enterprise carried on for the purpose of gain or economic profit.

(b) (i) “Business lobby” means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.

(ii) “Business lobby” does not include the area of a business where drive-through service is conducted.

(c) “Land use application” means the same as that term is defined in Section 10-9a-103.

~~[(e)]~~ (d) (i) “Motor vehicle” means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.

(ii) “Motor vehicle” does not include an off-highway vehicle.

~~[(d)]~~ (e) “Motorcycle” means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(f) “Off-highway vehicle” means any snowmobile, all-terrain type I vehicle, ~~[(e)]~~ all-terrain type II vehicle, or all-terrain type III vehicle.

(2) A municipality may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of its business operations to:

(a) allow a person other than a person in a motorized vehicle to use the drive-through service; or

(b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

Section 3. Section 13-35-102 is amended to read:**13-35-102. Definitions.**

As used in this chapter:

(1) “Advisory board” or “board” means the Utah Powersport Vehicle Franchise Advisory Board created in Section 13-35-103.

(2) “Dealership” means a site or location in this state:

(a) at which a franchisee conducts the business of a new powersport vehicle dealer; and

(b) that is identified as a new powersport vehicle dealer’s principal place of business for registration purposes under Section 13-35-105.

(3) “Department” means the Department of Commerce.

(4) “Executive director” means the executive director of the Department of Commerce.

(5) “Franchise” or “franchise agreement” means a written agreement, for a definite or indefinite period, in which:

(a) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(b) a community of interest exists in the marketing of new powersport vehicles, new powersport vehicle parts, and services related to the sale or lease of new powersport vehicles at wholesale or retail.

(6) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor.

(7) (a) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor, and includes:

(i) the manufacturer or distributor of the new powersport vehicles;

(ii) an intermediate distributor;

(iii) an agent, officer, or field or area representative of the franchisor; and

(iv) a person who is affiliated with a manufacturer or a representative or who directly or indirectly through an intermediary is controlled by, or is under common control with the manufacturer.

(b) For purposes of Subsection (7)(a)(iv), a person is controlled by a manufacturer if the manufacturer has the authority directly or indirectly by law or by an agreement of the parties, to direct or influence the management and policies of the person.

(8) "Lead" means the referral by a franchisor to a franchisee of an actual or potential customer for the purchase or lease of a new powersport vehicle, or for service work related to the franchisor's vehicles.

(9) "Line-make" means the powersport vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer of the powersport vehicle.

(10) "New powersport vehicle dealer" means a person who is engaged in the business of buying, selling, offering for sale, or exchanging new powersport vehicles either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has established a place of business for the sale, lease, trade, or display of powersport vehicles.

(11) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

(12) (a) "Powersport vehicle" means:

(i) an all-terrain type I ~~[œ]~~, type II, or type III vehicle "ATV" defined in Section 41-22-2;

(ii) a snowmobile as defined in Section 41-22-2;

(iii) a motorcycle as defined in Section 41-1a-102;

(iv) a personal watercraft as defined in Section 73-18-2;

(v) except as provided in Subsection (12)(b), a motor-driven cycle as defined in Section 41-6a-102; or

(vi) a moped as defined in Section 41-6a-102.

(b) "Powersport vehicle" does not include:

(i) an electric assisted bicycle defined in Section 41-6a-102;

(ii) a motor assisted scooter as defined in Section 41-6a-102; or

(iii) an electric personal assistive mobility device as defined in Section 41-6a-102.

(13) "Relevant market area" means:

(a) for a powersport dealership in a county that has a population of less than 225,000:

(i) the county in which the powersport dealership exists or is to be established or relocated; and

(ii) in addition to the county described in Subsection (13)(a)(i), the area within a 15-mile radius from the site of the existing, new, or relocated dealership; or

(b) for a powersport dealership in a county that has a population of 225,000 or more, the area within a 10-mile radius from the site of the existing, new, or relocated dealership.

(14) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

(15) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

(16) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Section 4. Section 17-50-329.5 is amended to read:

17-50-329.5. Regulation of drive-through facilities.

(1) As used in this section:

(a) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(b) (i) "Business lobby" means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.

(ii) "Business lobby" does not include the area of a business where drive-through service is conducted.

(c) "Land use application" means the same as that term is defined in Section 17-27a-103.

[~~(e)~~] (d) (i) "Motor vehicle" means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.

(ii) "Motor vehicle" does not include an off-highway vehicle.

[~~(d)~~] (e) "Motorcycle" means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(f) “Off-highway vehicle” means any snowmobile, all-terrain type I vehicle, ~~all-terrain type II vehicle, or all-terrain type III vehicle.~~

(2) A county may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of its business operations to:

(a) allow a person other than a person in a motorized vehicle to use the drive-through service; or

(b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

Section 5. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) “Actual miles” means the actual distance a vehicle has traveled while in operation.

(2) “Actual weight” means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) “All-terrain type I vehicle” ~~has the same meaning provided~~ means the same as that term is defined in Section 41-22-2.

(4) “All-terrain type II vehicle” ~~has the same meaning provided~~ means the same as that term is defined in Section 41-22-2.

(5) “All-terrain type III vehicle” means the same as that term is defined in Section 41-22-2.

~~(45)~~ (6) “Amateur radio operator” means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

~~(46)~~ (7) “Autocycle” means the same as that term is defined in Section 53-3-102.

(7) (8) “Branded title” means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(8) (9) “Camper” means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(9) (10) “Certificate of title” means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

~~(40)~~ (11) “Certified scale weigh ticket” means a weigh ticket that has been issued by a weighmaster.

~~(41)~~ (12) “Commercial vehicle” means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

~~(42)~~ (13) “Commission” means the State Tax Commission.

~~(43)~~ (14) “Dealer” means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

~~(44)~~ (15) “Division” means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

~~(45)~~ (16) “Essential parts” means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

~~(46)~~ (17) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

~~(47)~~ (18) (a) “Farm truck” means a truck used by the owner or operator of a farm solely for ~~his~~ the owner’s or operator’s own use in the transportation of:

- (i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;
- (ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and
- (iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) “Farm truck” does not include the operation of trucks by commercial processors of agricultural products.

~~(48)~~ (19) “Fleet” means one or more commercial vehicles.

~~(49)~~ (20) “Foreign vehicle” means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

[~~(20)~~ (21) “Gross laden weight” means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

[~~(21)~~ (22) “Highway” or “street” means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

[~~(22)~~ (23) (a) “Identification number” means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) “Identification number” includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

[~~(23)~~ (24) “Implement of husbandry” means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

[~~(24)~~ (25) (a) “In-state miles” means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, “in-state miles” means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

[~~(25)~~ (26) “Interstate vehicle” means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

[~~(26)~~ (27) “Jurisdiction” means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

[~~(27)~~ (28) “Lienholder” means a person with a security interest in particular property.

[~~(28)~~ (29) “Manufactured home” means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

[~~(29)~~ (30) “Manufacturer” means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

[~~(30)~~ (31) “Mobile home” means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code

which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

[~~(33)~~ (32) (a) “Motor vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) “Motor vehicle” does not include an off-highway vehicle.

[~~(31)~~ (33) “Motorboat” has the same meaning as provided in Section 73-18-2.

[~~(32)~~ (34) “Motorcycle” means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an auticycle.

[~~(34)~~ (35) (a) “Nonresident” means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

[~~(35)~~ (36) “Odometer” means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

[~~(36)~~ (37) “Off-highway implement of husbandry” has the same meaning as provided in Section 41-22-2.

[~~(37)~~ (38) “Off-highway vehicle” has the same meaning as provided in Section 41-22-2.

[~~(38)~~ (39) “Operate” means to drive or be in actual physical control of a vehicle or to navigate a vessel.

[~~(39)~~ (40) “Outboard motor” means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

[~~(40)~~ (41) (a) “Owner” means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the

lessee exercises [his] the lessee's option to purchase the vehicle.

[41] (42) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[42] (43) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[43] (44) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

[44] (45) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

[45] (46) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[46] (47) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[47] (48) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[48] (49) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[49] (50) "Recreational vehicle" has the same meaning as provided in Section 13-14-102.

[50] (51) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration

is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[51] (52) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[52] (53) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[53] (54) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[54] (55) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[55] (56) "Sailboat" means the same as that term is defined in Section 73-18-2.

[56] (57) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[57] (58) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[58] (59) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[59] (60) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [59] (60) (a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from

original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~60~~] (61) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~61~~] (62) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[~~62~~] (63) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~63~~] (64) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~64~~] (65) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~65~~] (66) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~66~~] (67) "Transferor" means a person who transfers ~~his~~ the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~67~~] (68) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement

permit when drawn by a self-propelled motor vehicle.

[~~68~~] (69) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~69~~] (70) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~70~~] (71) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~71~~] (72) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~72~~] (73) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~73~~] (74) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 6. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction,

concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

~~[(23) (a) "Full-sized all-terrain vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:]~~

~~[(i) traveling on four or more tires;]~~

~~[(ii) having a width that, when measured at the widest point of the vehicle:]~~

~~[(A) is not less than 55 inches; or]~~

~~[(B) does not exceed 92 inches;]~~

~~[(iii) having an unladen dry weight of 6,500 pounds or less;]~~

~~[(iv) having a maximum seat height of 50 inches when measured at the forward edge of the seat bottom; and]~~

~~[(v) having a steering wheel for control.]~~

~~[(b) "Full-sized all-terrain vehicle" does not include:]~~

~~[(i) all-terrain type I vehicle;]~~

~~[(ii) a utility type vehicle;]~~

~~[(iii) a motorcycle; or]~~

~~[(iv) a snowmobile as defined in Section 41-22-2.]~~

[(24) (23) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[(25) (24) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[(26) (25) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[(27) (26) "Highway authority" means the same as that term is defined in Section 72-1-102.

[(28) (27) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

~~[(29) (28) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:~~

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

~~[(30) (29) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.~~

[(31) (30) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

~~[(32) (31) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.~~

[(33) (32) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[(34) (33) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[(35) (34) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[(36)] (35) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [(36)] (35)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[(37)] (36) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" includes a motor assisted scooter.

(d) "Moped" does not include an electric assisted bicycle.

[(38)] (37) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) a gas or electric motor not exceeding 40 cubic centimeters;

(iv) either:

(A) a deck design for a person to stand while operating the device; or

(B) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

(v) a design for the ability to be propelled by human power alone.

(b) "Motor assisted scooter" does not include an electric assisted bicycle.

[(41)] (38) (a) "Motor vehicle" means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assistive mobility device, or an electric assisted bicycle.

(39) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an auticycle.

(40) (a) "Motor-driven cycle" means every motorcycle, motor scooter, moped, motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device; or

(ii) an electric assisted bicycle.

[(42)] (41) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[(43)] (42) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[(44)] (43) "Operator" means a person who is in actual physical control of a vehicle.

[(45)] (44) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

[(46)] (45) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[(47)] (46) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[(48)] (47) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[(49)] (48) "Person" means every natural person, firm, copartnership, association, or corporation.

[(50)] (49) "Pole trailer" means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[(51)] (50) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[(52)] (51) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[(53)] (52) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[(54)] (53) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[(55)] (54) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[(56)] (55) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[(57)] (56) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[(58)] (57) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[(59)] (58) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[(60)] (59) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[(61)] (60) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[(62)] (61) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[(63)] (62) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[(64)] (63) "Stop" when required means complete cessation from movement.

[(65)] (64) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[(66)] (65) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, ~~[utility type vehicle, or full-sized all-terrain vehicle]~~ all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[(67)] (66) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[(70)] (67) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(68) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(69) "Traffic-control signal" means a device, whether manually, electrically, or mechanically

operated, by which traffic is alternately directed to stop and permitted to proceed.

~~[(71)] (70)~~ (a) “Trailer” means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) “Trailer” does not include a pole trailer.

~~[(72)] (71)~~ “Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.

~~[(73)] (72)~~ “Truck tractor” means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

~~[(74)] (73)~~ “Two-way left turn lane” means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

~~[(75)] (74)~~ “Urban district” means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

~~[(76) (a) “Utility type vehicle” means any recreational vehicle designed for and capable of travel over unimproved terrain;]~~

~~[(i) traveling on four or more tires;]~~

~~[(ii) having a width that, when measured at the widest point of the vehicle;]~~

~~[(A) is not less than 30 inches; or]~~

~~[(B) does not exceed 70 inches;]~~

~~[(iii) having an unladen dry weight of 2,200 pounds or less;]~~

~~[(iv) having a seat height of 20 to 40 inches when measured at the forward edge of the seat bottom; and]~~

~~[(v) having side-by-side seating with a steering wheel for control.]~~

~~[(b) “Utility type vehicle” does not include:]~~

~~[(i) an all-terrain type I vehicle;]~~

~~[(ii) a motorcycle; or]~~

~~[(iii) a snowmobile as defined in Section 41-22-2.]~~

~~[(77) (75)~~ “Vehicle” means a device in, on, or by which a person or property is or may be transported

or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 7. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) An all-terrain type I vehicle, ~~[utility type vehicle, or full-sized all-terrain vehicle]~~ all-terrain type II vehicle, or all-terrain type III vehicle, that meets the requirements of this section may be operated as a street-legal ATV on a street or highway unless:

(i) the highway is an interstate freeway as defined in Section 41-6a-102; or

(ii) (A) the highway is in a county of the first class;

(B) the highway is near a grade separated portion of the highway;

(C) the highway has a posted speed limit of 50 miles per hour or greater; and

(D) the highway authority with jurisdiction over the highway has designated a portion of a highway as closed to street-legal ATVs.

(b) The restriction to street-legal ATVs described in Subsection (1)(a)(ii) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) A street-legal ATV shall comply with Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under Title 41, Chapter 6a, Traffic Code;

(ii) registration, titling, odometer statement, vehicle identification, license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;

(iii) fees in lieu of property taxes or in lieu of fees under Section 59-2-405.2; and

(iv) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) (a) The owner of an all-terrain type I vehicle ~~[or a utility type vehicle]~~ being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger; and

~~[(xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and]~~

~~[(xv)]~~ (xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of ~~[a full-sized]~~ an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, ~~including a footrest and handhold for each passenger;~~

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant; ~~[and]~~

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

~~[(xv)]~~ (xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirements of Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility

requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

Section 8. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the Board of Parks and Recreation.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 2,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

[43] (4) (a) "All-terrain type ~~II~~ III vehicle" means any other motor vehicle, not defined in Subsection (2), ~~[40], or (21)~~ (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type ~~II~~ III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

[43] (5) "Board" means the Board of Parks and Recreation.

[45] (6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

[46] (7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

[47] (8) "Division" means the Division of Parks and Recreation.

[48] (9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

[49] (10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

[10] (12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

[42] (13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

[43] (14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

[44] (15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

[45] (16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

[46] (17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

[47] (18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

[48] (19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

[49] (20) "Register" means the act of assigning a registration number to an off-highway vehicle.

[20] (21) "Roadway" is used as defined in Section 41-6a-102.

[41] (22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

[22] (24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 9. Section 41-22-5.5 is amended to read:

41-22-5.5. Off-highway husbandry vehicles.

(1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

(A) evidence of ownership;

(B) a title or a manufacturer's certificate of origin; and

(C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the board not to exceed \$10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the board and shall identify the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile that is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile is only being used to travel from one parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner of the vehicle to another parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator

exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

(6) A violation of this section is an infraction.

Section 10. Section 59-2-405.2 is amended to read:

59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2; [øø]

(II) all-terrain type II vehicle as defined in Section 41-22-2; or

(III) all-terrain type III vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or

(E) notwithstanding the definition of vessel in Subsection (1)(bb), a canoe with an outboard motor.

(d) “Dealer” is as defined in Section 41-1a-102.

(e) “Jon boat” means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) “Motor vehicle” is as defined in Section 41-22-2.

(g) “Other motorcycle” means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) “Other trailer” means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) “Outboard motor” is as defined in Section 41-1a-102.

(j) “Park model recreational vehicle” is as defined in Section 41-1a-102.

(k) “Personal watercraft” means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(l) (i) “Pontoon” means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “houseboat.”

(m) “Qualifying adjustment, exemption, or reduction” means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

(n) (i) “Qualifying payment” means the payment made:

(A) of a uniform statewide fee in accordance with this section:

(I) by a qualifying person;

(II) to a county; and

(III) during the refund period; and

(B) on an item of qualifying tangible personal property; and

(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:

(A) the payment described in this Subsection (1)(n) for that item of qualifying tangible personal property; and

(B) the amount of the qualifying adjustment, exemption, or reduction.

(o) “Qualifying person” means a person that paid a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of qualifying tangible personal property.

(p) “Qualifying tangible personal property” means a:

(i) qualifying vehicle; or

(ii) qualifying watercraft.

(q) “Qualifying vehicle” means:

(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or

(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.

(r) “Qualifying watercraft” means a:

- (i) canoe;
- (ii) collapsible inflatable vessel;
- (iii) jon boat;
- (iv) pontoon;
- (v) sailboat; or
- (vi) utility boat.

(s) “Refund period” means the time period:

- (i) beginning on January 1, 2006; and
- (ii) ending on December 29, 2006.

(t) “Sailboat” means a sailboat as defined in Section 73-18-2.

(u) (i) “Small motor vehicle” means a motor vehicle that:

(A) is required to be registered in accordance with Title 41, Motor Vehicles; and

(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or

(II) a motor that produces five or less horsepower; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:

(A) an engine with 150 or less cubic centimeters displacement; or

(B) a motor that produces five or less horsepower.

(v) “Snowmobile” means a motor vehicle that:

- (i) is a snowmobile as defined in Section 41-22-2;
- (ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(w) “Street motorcycle” means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation on highways;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(x) “Tangible personal property owner” means a person that owns an item of qualifying tangible personal property.

(y) “Tent trailer” means a portable vehicle without motive power that:

(i) is constructed with collapsible side walls that:

- (A) fold for towing by a motor vehicle; and
- (B) unfold at a campsite;

(ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

(iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(z) (i) Except as provided in Subsection (1)(z)(ii), “travel trailer” means a travel trailer:

(A) as defined in Section 41-1a-102; and

(B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(ii) notwithstanding Subsection (1)(z)(i), “travel trailer” does not include:

- (A) a camper; or
- (B) a tent trailer.

(aa) (i) “Utility boat” means a vessel that:

(A) has:

- (I) two or three bench seating;
- (II) an outboard motor; and

(III) a hull made of aluminum, fiberglass, or wood; and

(B) does not have:

- (I) decking;
- (II) a permanent canopy; or
- (III) a floor other than the hull; and

(ii) notwithstanding Subsection (1)(aa)(i), “utility boat” does not include a collapsible inflatable vessel.

(bb) “Vessel” means a vessel:

(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on

January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

(i) exempt from the tax imposed by Section 59-2-103; and

(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

- (i) an all-terrain vehicle;
- (ii) a camper;
- (iii) an other motorcycle;
- (iv) an other trailer;
- (v) a personal watercraft;
- (vi) a small motor vehicle;
- (vii) a snowmobile;
- (viii) a street motorcycle;
- (ix) a tent trailer;
- (x) a travel trailer;
- (xi) a park model recreational vehicle; and

(xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection (6).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:

(a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$20
6 or more years but less than 9 years	\$30
3 or more years but less than 6 years	\$35
Less than 3 years	\$45

(b) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$25
6 or more years but less than 9 years	\$35
3 or more years but less than 6 years	\$50

Less than 3 years \$70

(c) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$15
6 or more years but less than 9 years	\$20
3 or more years but less than 6 years	\$25
Less than 3 years	\$30

(d) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$25
6 or more years but less than 9 years	\$35
3 or more years but less than 6 years	\$45
Less than 3 years	\$55

(e) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	\$10
3 or more years but less than 6 years	\$15
Less than 3 years	\$25

(f) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$35
6 or more years but less than 9 years	\$50
3 or more years but less than 6 years	\$70
Less than 3 years	\$95

(g) for a travel trailer or park model recreational vehicle:

Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee
12 or more years	\$20
9 or more years but less than 12 years	\$65
6 or more years but less than 9 years	\$90

3 or more years but less than 6 years \$135
 Less than 3 years \$175
 (h) \$10 regardless of the age of the vessel if the vessel is:
 (i) less than 15 feet in length;
 (ii) a canoe;
 (iii) a jon boat; or
 (iv) a utility boat;
 (i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	\$15
19 feet or more in length but less than 23 feet in length	\$25
23 feet or more in length but less than 27 feet in length	\$40
27 feet or more in length but less than 31 feet in length	\$75

(j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$25
9 or more years but less than 12 years	\$65
6 or more years but less than 9 years	\$80
3 or more years but less than 6 years	\$110
Less than 3 years	\$150

(k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$50
9 or more years but less than 12 years	\$120
6 or more years but less than 9 years	\$175
3 or more years but less than 6 years	\$220
Less than 3 years	\$275

(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$100
9 or more years but less than 12 years	\$180
6 or more years but less than 9 years	\$240
3 or more years but less than 6 years	\$310
Less than 3 years	\$400

(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$120
9 or more years but less than 12 years	\$250
6 or more years but less than 9 years	\$350
3 or more years but less than 6 years	\$500
Less than 3 years	\$700

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	\$7.75
9 or more years but less than 12 years	\$27
6 or more years but less than 9 years	\$38.50
3 or more years but less than 6 years	\$54
Less than 3 years	\$73

(b) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	\$7.75
3 or more years but less than 6 years	\$11.50
Less than 3 years	\$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) The revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(7) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection (7).

(b) (i) Except as provided in Subsection (7)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection (7)(b)(i), the length of a vessel may not include the length of:

(A) a swim deck;

(B) a ladder;

(C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection (7)(d) if the length of the vessel

measured under Subsection (7)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection (7)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection (7)(d).

(d) (i) A form under Subsection (7)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection (7)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection (7)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance of any form.

(8) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection (8)(b) if:

(i) the difference described in Subsection (8)(b) is \$1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections (8)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection (8)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection (8)(c) or (9) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

(Aa) the length of the qualifying watercraft;

(Bb) the age of the qualifying watercraft; and

(Cc) the type of qualifying watercraft;

(E) be signed by the qualifying person or tangible personal property owner; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection (8)(c) or (9) is considered to have given the qualifying person's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection (8)(d)(iii)(A) is a condition to the acceptance of any form.

(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection (8)(c).

(9) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection (8)(d).

(10) (a) For purposes of this Subsection (10), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.

(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:

(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and

(iii) that the owner may be entitled to a refund pursuant to Subsection (8).

CHAPTER 167**S. B. 151**

Passed March 5, 2018

Approved March 16, 2018

Effective May 8, 2018

**COURT SECURITY
FUNDING AMENDMENTS**

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions regarding the Court Security Account.

Highlighted Provisions:

This bill:

- ▶ modifies provisions regarding the sources of money of the Court Security Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-2-602, as last amended by Laws of Utah 2009, Chapter 200

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

Section 1. Section 78A-2-602 is amended to read:**78A-2-602. Court Security Account --
Creation -- Funding -- Uses.**

(1) There is created a restricted account in the General Fund known as the "Court Security Account."

(2) The state treasurer shall deposit in the Court Security Account money from:

(a) ~~collected money from~~ the surcharge established in Section 78A-2-601;

(b) ~~money from the portion~~ the portions of filing fees ~~established in~~ allocated under Subsections 78A-2-301(1)(j)(iv) and (v); and

~~[(e) amounts designated by Subsection 78A-7-122(4)(b)(ii).]~~

(c) the portions of a surcharge allocated under Subsections 78A-7-122(3) and (4)(b)(ii).

(3) The Court Security Account consists of money:

(a) deposited by the state treasurer under Subsection (2); and

(b) appropriated by the Legislature.

~~[(3)]~~ (4) ~~[The]~~ Subject to appropriation, the Administrative Office of the Courts shall use the allocation to contract for court security at all district and juvenile courts throughout the state.

CHAPTER 168**S. B. 153**

Passed March 2, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**CARSON SMITH
 SCHOLARSHIP AMENDMENTS**

Chief Sponsor: Brian Zehnder
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends provisions related to the Carson Smith Scholarship Program.

Highlighted Provisions:

This bill:

- ▶ includes deafblindness as a qualifying disability for scholarship eligibility;
- ▶ enacts provisions governing the term of a scholarship and participation in other specified education programs;
- ▶ amends requirements for eligible private schools;
- ▶ enacts language governing payment of scholarships;
- ▶ authorizes the State Board of Education to award additional scholarships in certain circumstances;
- ▶ requires the State Board of Education to adopt rules on payment procedures to eligible private schools;
- ▶ repeals outdated language; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53F-4-302, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-4-303, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-4-304, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-4-305, as renumbered and amended by Laws of Utah 2018, Chapter 2

REPEALS:

- 53F-4-308, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-4-302 is amended to read:

53F-4-302. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

- (i) an intellectual disability;
- (ii) deafness or being hard of hearing;
- (iii) a speech or language impairment;
- (iv) a visual impairment;
- (v) a serious emotional disturbance;
- (vi) an orthopedic impairment;
- (vii) autism;
- (viii) traumatic brain injury;
- (ix) other health impairment;
- (x) specific learning disabilities; [øø]
- (xi) deafblindness; or

[~~(xi)~~] (xii) a developmental delay, provided the student is at least three years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;

(c) the student shall be at least three years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

(4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the LEA where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.

(b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:

“I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time.”

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) (a) [A] Except as provided in Subsection (6)(b), a scholarship shall remain in force for the lesser of:

(i) three years[-]; or

(ii) until the student is determined ineligible for special education services.

(b) If a student is determined ineligible for special education services as described in Subsection (6)(a)(ii) before the end of a school year, the student may remain enrolled at the private school and qualifies for the scholarship until the end of the school year.

[(b)] (c) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

[(e)] (d) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

[(d)] (e) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and [(b)] (c):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student:

(a) may participate in the Statewide Online Education Program described in Part 5, Statewide Online Education Program; and

(b) may not participate in a dual enrollment program pursuant to Section 53G-6-702.

(9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) An LEA shall notify in writing the parents or guardians of students enrolled in the LEA who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) An LEA or school within an LEA that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the LEA's or school's website, if the LEA or school has one.

Section 2. Section 53F-4-303 is amended to read:

53F-4-303. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

~~[(B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:]~~

~~[(I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and]~~

~~[(II) working capital shall be calculated by subtracting current liabilities from current assets; and]~~

(B) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement, as adopted by the board; and

(ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) ~~[disclose]~~ provide a written disclosure to the parent of each prospective student, before the student is enrolled~~[,]~~ of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum that the student will be participating in;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53F-4-302(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

~~[(4b)]~~ (i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the board under Title 53E, Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

~~[(4)]~~ (j) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another eligible private school during the school year;

~~[(a)]~~ (b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

~~[(4b)]~~ (c) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application

to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Section 3. Section 53F-4-304 is amended to read:

53F-4-304. Scholarship payments.

(1) (a) ~~[Scholarships shall be awarded by the board.]~~ The board shall award scholarships subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments.

(c) ~~[Beginning with the 2013-14 school year, the]~~ The Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the ~~[scholarships shall be allocated]~~ board shall allocate scholarships on a random basis except that ~~[preference shall be given]~~ the board shall give preference to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, ~~[new scholarships may not be awarded]~~ the board may not award new scholarships during that school year and the board shall prorate money available for scholarships ~~[shall be prorated]~~ among the eligible students who received scholarships in the previous year.

(2) ~~[Full-year]~~ Except as provided in Subsection (4), the board shall award full-year scholarships ~~[shall be awarded]~~ in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) If a student leaves a private school before the end of a fiscal quarter:

(a) the private school is only entitled to the amount of scholarship equivalent to the number of days that the student attended the private school; and

(b) the private school shall remit a prorated amount of the scholarship to the board in accordance with the procedures described in rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) For the amount of funds remitted under Subsection (4)(b), the board shall:

(a) make the amount available to the student to enroll immediately in another qualifying private school; or

(b) refund the amount back to the Carson Smith Scholarship Program account to be available to support the costs of another scholarship.

(6) (a) The board shall make an additional allocation on a random basis before June 30 each year only:

(i) if there are sufficient remaining funds in the program; and

(ii) for scholarships for students enrolled in a full-day preschool program.

(b) If the board awards a scholarship under Subsection (6)(a), the scholarship amount or supplement may not exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.0; or

(ii) the private school tuition and fees.

(c) The board shall, when preparing annual growth projection numbers for the Legislature, include the annual number of applications for additional allocations described in Subsection (6)(a).

~~[4]~~ (7) (a) The scholarship amount for a student who receives a waiver under Subsection 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education

services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a full-year scholarship is equal to the amount specified in Subsection (3).

~~[(5)]~~ (8) (a) Except as provided in Subsection ~~[(5)]~~ (8)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with board rule, the board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

~~[(6)]~~ (9) A parent of a scholarship student shall notify the board if the student does not have continuing enrollment and attendance at an eligible private school.

~~[(7)]~~ (10) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, LEAs, and youth in custody to ensure that scholarship payments are not erroneously made.

~~[(8) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.]~~

~~[(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (8)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney-in-fact.]~~

Section 4. Section 53F-4-305 is amended to read:

53F-4-305. Board to make rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part establishing:

(1) the eligibility of students to participate in the scholarship program; ~~and]~~

(2) the application process for the scholarship program~~[-]; and~~

(3) payment procedures to eligible private schools.

Section 5. Repealer.

This bill repeals:

Section 53F-4-308, Review by Legislative Auditor General.

CHAPTER 169**S. B. 160**

Passed March 6, 2018
Approved March 16, 2018
Effective July 1, 2018

COLD CASE DATABASE

Chief Sponsor: Todd Weiler
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill requires that the Department of Public Safety develop and maintain a database of cold cases.

Highlighted Provisions:

This bill:

- ▶ defines “cold case”;
- ▶ requires the Criminal Investigations and Technical Services Division to develop and maintain a secure database of certain unsolved crimes and missing persons investigations;
- ▶ allows the division to determine what information to collect, maintain, and allow the public to access by rule; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-10-104, as last amended by Laws of Utah 2006, Chapter 137

ENACTS:

53-10-115, Utah Code Annotated 1953

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

Section 1. Section 53-10-104 is amended to read:**53-10-104. Division duties.**

The division shall:

- (1) provide and coordinate the delivery of support services to law enforcement agencies;
- (2) maintain and provide access to criminal records for use by law enforcement agencies;
- (3) publish law enforcement and statistical data;
- (4) maintain dispatch and communications services for public safety communications centers and provide emergency medical, fire suppression, highway maintenance, public works, and law enforcement communications for municipal, county, state, and federal agencies;
- (5) analyze evidence from crime scenes and crime-related incidents for criminal prosecution;
- (6) provide criminalistic laboratory services to federal, state, and local law enforcement agencies, prosecuting attorneys' and agencies, and public

defenders, with the exception of those services provided by the state medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act;

(7) establish satellite laboratories as necessary to provide criminalistic services;

(8) safeguard the public through licensing and regulation of activities that impact public safety, including concealed weapons, emergency vehicles, and private investigators;

(9) provide investigative assistance to law enforcement and other government agencies;

(10) collect and provide intelligence information to criminal justice agencies;

(11) investigate crimes that jeopardize the safety of the citizens, as well as the interests, of the state;

(12) regulate and investigate laws pertaining to the sale and distribution of liquor;

(13) make rules to implement this chapter;

(14) perform the functions specified in this chapter;

(15) comply with the requirements of Section 11-40-103; ~~and~~

(16) comply with the requirements of Sections 72-10-602 and 72-10-603[-]; and

(17) develop and maintain a secure database of cold cases within the Utah Criminal Justice Information System pursuant to Section 53-10-115.

Section 2. Section 53-10-115 is enacted to read:**53-10-115. Cold case database.**

(1) As used in this section, “cold case” means an investigation into any crime listed in Subsections 76-1-301(2)(a) through (g), or regarding a missing person, that remains unsolved at least three years after the crime occurred or the individual went missing.

(2) The division shall develop a secure database within the Utah Criminal Justice Information System that contains information related to each cold case that is open in any jurisdiction in the state.

(3) The division shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify:

(a) the information to be collected and maintained in the database; and

(b) what information may be accessed by the public.

(4) Each law enforcement agency in the state shall provide the information required by the division for inclusion in the database for each open investigation. The law enforcement agency shall maintain the physical evidence and investigation file for each case unless otherwise agreed to by the law enforcement agency and the division.

(5) The division shall maintain the information on a cold case indefinitely.

Section 3. Effective date.

This bill takes effect July 1, 2018.

CHAPTER 170**S. B. 163**

Passed March 5, 2018

Approved March 16, 2018

Effective May 8, 2018

**REPEAL OF INTERNATIONAL RELATIONS
AND TRADE COMMISSION PROVISIONS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill relates to the Utah International Relations and Trade Commission.

Highlighted Provisions:

This bill:

- ▶ repeals provisions relating to the Utah International Relations and Trade Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-236, as last amended by Laws of Utah 2017,
Chapter 192

REPEALS:

36-26-101, as last amended by Laws of Utah 2010,
Chapter 327

36-26-102, as last amended by Laws of Utah 2014,
Chapter 387

36-26-103, as last amended by Laws of Utah 2010,
Chapter 327

36-26-104, as enacted by Laws of Utah 2006,
Chapter 362

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

Section 1. Section 63I-1-236 is amended to read:**63I-1-236. Repeal dates, Title 36.**

[~~(1)~~] Section 36-12-20 is repealed June 30, 2018.

[~~(2)~~] Sections ~~36-26-101~~ through ~~36-26-104~~ are repealed ~~December 31, 2027.~~]

Section 2. Repealer.

This bill repeals:

Section 36-26-101, Title.

Section 36-26-102, Utah International Relations and Trade Commission -- Creation -- Membership -- Chairs -- Per diem and expenses.

Section 36-26-103, Duties.**Section 36-26-104, Staff support.**

CHAPTER 171**S. B. 165**

Passed March 6, 2018

Approved March 16, 2018

Effective May 8, 2018

HIGHER EDUCATION REPEALS

Chief Sponsor: Evan J. Vickers

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill repeals provisions related to higher education.

Highlighted Provisions:

This bill:

- ▶ repeals provisions related to the reallocation of higher education appropriations in certain fiscal years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

53B-2-107, as last amended by Laws of Utah 2008, Chapters 250 and 382

53B-2-108, as last amended by Laws of Utah 2008, Chapter 382

53B-2-108.1, as last amended by Laws of Utah 2009, Chapter 370

53B-2-108.2, as enacted by Laws of Utah 2011, Chapter 184

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

Section 1. Repealer.

This bill repeals:

Section 53B-2-107, Appropriations reallocation for 2001-2002 fiscal year.

Section 53B-2-108, Appropriations reallocation for 2002-2003 fiscal year.

Section 53B-2-108.1, Appropriations reallocation -- Presidents' authority.

Section 53B-2-108.2, Appropriation reallocation -- Commissioner reallocation of certain compensation amounts.

CHAPTER 172**S. B. 167**

Passed March 1, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**FOOD TRUCK
 REGULATION AMENDMENTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill amends provisions related to political subdivision regulation of food trucks.

Highlighted Provisions:

This bill:

- ▶ restricts a political subdivision's ability to regulate a food truck through a land use or zoning ordinance;
- ▶ prohibits certain regulation of a food truck, including on private property; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-56-103, as enacted by Laws of Utah 2017, Chapter 165
 11-56-106, as enacted by Laws of Utah 2017, Chapter 165

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

Section 1. Section 11-56-103 is amended to read:**11-56-103. Licensing -- Reciprocity -- Fees.**

(1) A political subdivision may not:

(a) require a separate license or fee beyond the initial business license and fee for the operation of a food truck in more than one location or on more than one day within the political subdivision in the same calendar year; ~~or~~

(b) require a fee for each employee the food truck operator employs; or

~~(b)~~ (c) as a business license qualification, require a food truck operator or food truck vendor to:

(i) submit to or offer proof of a criminal background check~~[-]~~; or

(ii) demonstrate how the operation of the food truck will comply with a land use or zoning ordinance at the time the operator or vendor applies for the business license.

(2) (a) A political subdivision shall grant a business license to operate a food truck within the political subdivision to a food truck operator who has obtained a business license to operate a food

truck in another political subdivision within the state if the food truck operator presents to the political subdivision:

(i) a current business license from the other political subdivision within the state;

(ii) a current health department food truck permit from a local health department within the state; and

(iii) a current approval of a political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with Subsection 11-56-104(4)(a).

(b) If a food truck operator presents the documents described in Subsection (2)(a), the political subdivision may not:

(i) impose additional license qualification requirements on the food truck operator before issuing a license to operate within the political subdivision, except for charging a fee in accordance with Subsection (3); or

(ii) issue a license that expires on a date earlier or later than the day on which the license described in Subsection (2)(a)(i) expires.

(c) Nothing in this Subsection (2) prevents a political subdivision from enforcing the political subdivision's land use regulations, zoning, and other ordinances in relation to the operation of a food truck.

(3) (a) A political subdivision may only charge a licensing fee to a food truck operator in an amount that reimburses the political subdivision for the actual cost of regulating the food truck.

(b) For a business license that a political subdivision issues in accordance with Subsection (2), the political subdivision shall reduce the amount of the business licensing fee to an amount that accounts for the ~~lower~~ actual administrative burden on the political subdivision.

(4) Nothing in this section prevents a political subdivision from:

(a) requiring a food truck operator to comply with local zoning and land use regulations;

(b) promulgating local ordinances and regulations consistent with this section that address how and where a food truck may operate within the political subdivision;

~~(a)~~ (c) requiring a food truck operator to obtain an event permit, in accordance with Section 11-56-105; or

~~(b)~~ (d) revoking a license that the political subdivision has issued if the operation of the related food truck within the political subdivision violates the terms of the license.

Section 2. Section 11-56-106 is amended to read:**11-56-106. Food truck operation.**

A political subdivision may not:

(1) entirely or constructively prohibit food trucks in a zone in which a food establishment is a permitted or conditional use;

(2) prohibit the operation of a food truck within a given distance of a restaurant[.];

(3) restrict the total number of days a food truck operator may operate a food truck within the political subdivision during a calendar year;

(4) require a food truck operator to:

(a) provide to the political subdivision a site plan for each location in which the food truck operates in the public right of way, if the political subdivision permits food truck operation in the public right of way; or

(b) obtain and pay for a land use permit for each location and time during which the food truck operates; or

(5) if a food truck operator has the consent of a private property owner to operate the food truck on the private property:

(a) limit the number of days the food truck may operate on the private property;

(b) require that the food truck operator provide to the political subdivision or keep on file in the food truck the private property owner's written consent; or

(c) require a site plan for the operation of the food truck on the private property where the food truck operates in the same location for less than 10 hours per week.

CHAPTER 173**S. B. 170**

Passed March 1, 2018
 Approved March 16, 2018
 Effective May 8, 2018

CONSERVATION DISTRICT AMENDMENTS

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill addresses a conservation district's financial reporting requirements.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "participating local entity" to include a conservation district;
- ▶ requires a conservation district to comply with Title 63A, Chapter 3, Part 4, Utah Public Finance Website; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17D-3-107, as enacted by Laws of Utah 2012, Chapter 103
 63A-3-401, as last amended by Laws of Utah 2017, Chapters 221 and 363
 63A-3-405, as last amended by Laws of Utah 2016, Chapter 233

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

Section 1. Section 17D-3-107 is amended to read:**17D-3-107. Annual budget and financial reports requirements.**

(1) Upon agreement with the commission, the state auditor may modify:

(1) (a) for filing a budget, a requirement in Subsection 17B-1-614(2) or 17B-1-629(3)(d); or

(2) (b) for filing a financial report, a requirement in Section 17B-1-639.

(2) Beginning on July 1, 2019, a conservation district is a participating local entity, as that term is defined in Section 63A-3-401, and subject to Title 63A, Chapter 3, Part 4, Utah Public Finance Website.

Section 2. Section 63A-3-401 is amended to read:**63A-3-401. Definitions.**

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-3-403.

(2) "Division" means the Division of Finance of the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection (3), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(4) "Participating local entity" means each of the following local entities:

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(f) a school district;

(g) a charter school;

(h) except for a taxed interlocal entity as defined in Section 11-13-602:

(i) an interlocal entity as defined in Section 11-13-103;

(ii) a joint or cooperative undertaking as defined in Section 11-13-103; and

(iii) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; ~~and~~

(i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (4)(a) through (h), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (h) under the governmental accounting standards issued by the Governmental Accounting Standards Board[.]; and

(j) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(5) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the

governmental accounting standards issued by the Governmental Accounting Standards Board.

(6) “Public financial information” means records that are required to be made available on the Utah Public Finance Website, a participating local entity’s website, or an independent entity’s website as required by this part, and as the term “public financial information” is defined by rule under Section 63A-3-404.

Section 3. Section 63A-3-405 is amended to read:

63A-3-405. Participation by local entities.

(1) (a) ~~[Not later than]~~ On or before May 15, 2010, the following participating local entities, in ~~[conformity]~~ accordance with the ~~[rules established under Section 63A-3-404]~~ board’s policies, shall provide public financial information through the Utah Public Finance Website or ~~[their]~~ the participating local entity’s own website and provide a link to ~~[their]~~ the participating local entity’s website through the Utah Public Finance Website:

- (i) school districts;
- (ii) charter schools; and
- (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(b) Participating local entities subject to this Subsection (1) shall permit information that is generated not later than the fiscal year that begins July 1, 2009, to be accessible via the website.

(2) (a) ~~[Not later than]~~ On or before May 15, 2011, the following participating local entities, in ~~[conformity]~~ accordance with the ~~[rules established under Section 63A-3-404]~~ board’s policies, shall ~~[be required to]~~ provide public financial information through the Utah Public Finance Website or ~~[their]~~ the participating local entity’s own website and provide a link to ~~[their]~~ the participating local entity’s website through the Utah Public Finance Website:

- (i) counties;
- (ii) municipalities;
- (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, that are not already required to report; and
- (iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

(b) Participating local entities subject to this Subsection (2) shall permit information that is generated not later than the fiscal year that begins July 1, 2010, to be accessible via the website.

(3) (a) On or before May 15, 2013, an interlocal entity that is a participating local entity in ~~[conformity]~~ accordance with the ~~[rules established under Section 63A-3-404]~~ board’s policies, shall, subject to Subsection (3)(b), provide public financial information through the Utah Public Finance Website or the interlocal entity’s own website and

provide a link to ~~[their]~~ the interlocal entity’s website through the Utah Public Finance Website.

(b) A participating local entity subject to this Subsection (3) shall provide public financial information that is generated on or after the fiscal year that begins July 1, 2012, to be accessible via the website.

(4) A participating local entity that makes public financial information accessible via the Utah Public Finance Website on or after May 10, 2016, and that was not previously required to make financial information accessible via the website shall permit information that is generated on or after the first day of the participating local entity’s fiscal year that includes January 1, 2017, to be accessible via the website.

(5) (a) Except as provided in Subsection (5)(b), a participating local entity described in Subsection (4) shall comply with the provisions of this part on or before January 1, 2017.

(b) A participating local entity described in Subsection (4) that has an annual budget of \$100,000 or less shall comply with the provisions of this part on or before July 1, 2017.

(6) Beginning on July 1, 2019, in accordance with the board’s policies, a conservation district shall provide the district’s public financial information that is generated for the district’s fiscal year which includes July 1, 2018, through the Utah Public Finance Website or the district’s own website and provide a link to the district’s website through the Utah Public Finance Website.

CHAPTER 174**S. B. 175**

Passed March 5, 2018

Approved March 16, 2018

Effective May 8, 2018

METRO TOWNSHIP MODIFICATIONS

Chief Sponsor: Karen Mayne
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions related to a metro township and a municipal services district.

Highlighted Provisions:

This bill:

- ▶ renames the chair of the metro township council to mayor;
- ▶ amends provisions related to the membership of a municipal services district board of trustees;
- ▶ allows a certain county or municipality to share revenue other than sales tax for a municipal services district purpose; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-3b-501, as repealed and reenacted by Laws of Utah 2015, Chapter 352
- 10-3b-502, as repealed and reenacted by Laws of Utah 2015, Chapter 352
- 10-3b-503, as repealed and reenacted by Laws of Utah 2015, Chapter 352
- 10-3b-504, as last amended by Laws of Utah 2017, Chapter 13
- 17B-2a-1106, as last amended by Laws of Utah 2016, Chapter 176
- 17B-2a-1109, as enacted by Laws of Utah 2014, Chapter 405

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

Section 1. Section 10-3b-501 is amended to read:**10-3b-501. Metro township government powers vested in a five-member council.**

The powers of municipal government in a metro township, as defined in Section 10-2a-403, are vested in a council consisting of five members, one of which is the [chair] mayor.

Section 2. Section 10-3b-502 is amended to read:**10-3b-502. Governance of metro townships that are not in a municipal services district.**

For a metro township in which the voters at an election held in accordance with Section 10-2a-404 do not choose a metro township with limited

municipal powers that is included in a municipal services district:

(1) (a) the council:

(i) has the same powers, authority, and duties as a council described in Section 10-3b-403; and

(ii) is not subject to Section 10-3b-504; and

(b) the [chair] mayor:

(i) has the same powers, authority, and duties as a mayor described in Section 10-3b-402; and

(ii) is not subject to Section 10-3b-503.

Section 3. Section 10-3b-503 is amended to read:**10-3b-503. Mayor in a metro township included in a municipal services district.**

(1) The [chair] mayor in a metro township that is included in a municipal services district:

(a) is a regular and voting member of the council;

(b) is elected by the members of the council from among the council members;

(c) is the chair of the council and presides at all council meetings;

(d) exercises ceremonial functions for the municipality;

(e) may not veto any ordinance, resolution, tax levy passed, or any other action taken by the council;

(f) represents the metro township on the board of a municipal services district; and

(g) has other powers and duties described in this section and otherwise authorized by law except as modified by ordinance under Subsection 10-3b-504(2).

(2) Except as provided in Subsection (3), the [chair] mayor in a metro township that is included in a municipal services district:

(a) shall:

(i) keep the peace and enforce the laws of the metro township;

(ii) ensure that all applicable statutes and metro township ordinances and resolutions are faithfully executed and observed;

(iii) if the [chair] mayor remits a fine or forfeiture under Subsection (2)(b)(ii), report the remittance to the council at the council's next meeting after the remittance;

(iv) perform all duties prescribed by statute or metro township ordinance or resolution;

(v) report to the council the condition and needs of the metro township;

(vi) report to the council any release granted under Subsection (2)(b)(iv); and

(b) may:

(i) recommend for council consideration any measure that the [chair] mayor considers to be in the best interests of the municipality;

(ii) remit fines and forfeitures;

(iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;

(iv) release a person imprisoned for a violation of a municipal ordinance;

(v) with the council's advice and consent appoint a person to fill a municipal office or a vacancy on a commission or committee of the municipality; and

(vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agency of the municipality.

(3) The powers and duties in Subsection (1) are subject to the council's authority to limit or expand the [chair's] mayor's powers and duties under Subsection 10-3b-504(2).

(4) (a) If the [chair] mayor is absent, unable, or refuses to act, the council may elect a member of the council as [chair] mayor pro tempore, to:

(i) preside at a council meeting; and

(ii) perform during the [chair's] mayor's absence, disability, or refusal to act, the duties and functions of [chair] mayor.

(b) In accordance with Section 10-3c-203, the county clerk of the county in which the metro township is located shall enter in the minutes of the council meeting the election of a council member as [chair] mayor under Subsection (1)(b) or [chair] mayor pro tempore under Subsection (4)(a).

Section 4. Section 10-3b-504 is amended to read:

10-3b-504. Council in a metro township that is included in a municipal services district.

(1) The council in a metro township that is included in a municipal services district:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative power, duty, or function that has not been given to the [chair] mayor under Section 10-3b-503 unless the council removes that power, duty, or function from the [chair] mayor in accordance with Subsection (2);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the [chair] mayor any power, duty, or function of the [chair] mayor; and

(B) reinstating to the [chair] mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A); and

(ii) adopt an ordinance delegating to the [chair] mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a); and

(c) may not remove from the [chair] mayor or delegate:

(i) any of the [chair's] mayor's legislative or judicial powers or ceremonial functions;

(ii) the [chair's] mayor's position as chair of the council; or

(iii) any ex officio position that the [chair] mayor holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the [chair] mayor a power, duty, or function provided for in Section 10-3b-503 requires the affirmative vote of:

(a) the [chair] mayor and a majority of all other council members; or

(b) all council members except the [chair] mayor.

(3) The metro township council of a metro township that is included in a municipal services district:

(a) shall:

(i) by ordinance, provide for the manner in which a subdivision is approved, disapproved, or otherwise regulated;

(ii) review municipal administration and pass ordinances;

(iii) perform all duties that the law imposes on the council; and

(iv) elect one of its members to be [chair] mayor of the metro township and the chair of the council;

(b) may:

(i) (A) notwithstanding Subsection (3)(c), appoint a committee of council members or citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and

(B) delegate to an appointed committee powers of inquiry that the council considers necessary;

(ii) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and

(iii) take any action allowed under Section 10-8-84 that is reasonably related to the safety, health, morals, and welfare of the metro township inhabitants; and

(c) may not:

(i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;

(ii) interfere in any way with an executive officer's performance of the officer's duties; or

(iii) publicly or privately give orders to a subordinate of the ~~[chair]~~ mayor.

(4) A member of a metro township council as described in this section may not have any other compensated employment with the metro township.

Section 5. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district;

(ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and

(iii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(3) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (3)(b), a member of that municipality's governing body;

(ii) ~~[subject to Subsection (4), two members]~~ one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members ~~[shall]~~ is not required to be an odd number.

(b) A member described in Subsection (3)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the ~~[chair]~~ mayor of the metro township.

(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).

(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).

~~[(4) (a) The number of county council members may be increased or decreased to meet the membership requirements of Subsection (3)(a)(iii) but may not be less than one.]~~

~~[(b)]~~ (4) The ~~[number of]~~ county council ~~[members]~~ member described in Subsection (3)(a)(ii) ~~[does not include]~~ may not be the county mayor who, as the executive of the district, is not a member of the board of trustees.

(5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (3)(a)(i), within that member's municipality; and

(b) for ~~[each]~~ the member described in Subsection (3)(a)(ii), within the unincorporated county~~[-with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii)].~~

(6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of

trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

(8) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 6. Section 17B-2a-1109 is amended to read:

17B-2a-1109. Counties and municipalities authorized to provide funds to a municipal services district.

(1) A county^[,] or, subject to Section 17B-2a-1108, a municipality involved in the establishment and operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax and other revenue for district purposes.

(2) A municipal services district may use sales tax or other revenue that the district receives from a county or a municipality under Subsection (1) to fund expenses and activities of a county or municipality that is part of the district.

CHAPTER 175**S. B. 177**

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**BICYCLE AND ELECTRIC
 ASSISTED BICYCLE AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Carol Spackman Moss

LONG TITLE**General Description:**

This bill amends provisions related to the operation of bicycles and electric assisted bicycles.

Highlighted Provisions:

This bill:

- ▶ amends a restriction on operating a bicycle on a sidewalk where prohibited by a traffic control device to apply only to an individual over 18 years of age;
- ▶ amends provisions to prohibit the operation of a class 2 electric assisted bicycle with an open container of alcohol; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-526, as last amended by Laws of Utah 2015, Chapter 412
 41-6a-1106, as renumbered and amended by Laws of Utah 2005, Chapter 2
 41-6a-1115.5, as enacted by Laws of Utah 2016, Chapter 173

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

Section 1. Section 41-6a-526 is amended to read:

41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.

(1) As used in this section:

(a) "Alcoholic beverage" has the same meaning as defined in Section 32B-1-102.

(b) "Chartered bus" has the same meaning as defined in Section 32B-1-102.

(c) "Limousine" has the same meaning as defined in Section 32B-1-102.

(d) (i) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers.

(ii) "Passenger compartment" includes areas accessible to the operator and passengers while traveling, including a utility or glove compartment.

(iii) "Passenger compartment" does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.

(e) "Waters of the state" has the same meaning as defined in Section 73-18-2.

(2) A person may not drink any alcoholic beverage while operating a motor vehicle or a class 2 electric assisted bicycle, or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any highway or waters of the state.

(3) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, or a class 2 electric assisted bicycle, when the vehicle is on any highway or waters of the state, any container which contains any alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(4) Subsections (2) and (3) do not apply to a passenger:

(a) in the living quarters of a motor home or camper;

(b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections 32B-4-415(4)(b) and (c); or

(c) in a motorboat on the waters of the state.

(5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or bus.

(6) A violation of Subsection (2) or (3) is a class C misdemeanor.

Section 2. Section 41-6a-1106 is amended to read:

41-6a-1106. Bicycles and human powered vehicle or device to yield right-of-way to pedestrians on sidewalks, paths, or trails -- Uses prohibited -- Negligent collision prohibited -- Speed restrictions -- Rights and duties same as pedestrians.

(1) A person operating a bicycle or a vehicle or device propelled by human power shall:

(a) yield the right-of-way to any pedestrian; and

(b) give an audible signal before overtaking and passing a pedestrian.

(2) A person 18 years of age or older may not operate a bicycle or a vehicle or device propelled by human power on a sidewalk, path, or trail, or across a roadway in a crosswalk, where prohibited by a traffic-control device or ordinance.

(3) A person may not operate a bicycle or a vehicle or device propelled by human power in a negligent manner so as to collide with a:

(a) pedestrian; or

(b) person operating a:

(i) bicycle; or

(ii) vehicle or device propelled by human power.

(4) A person operating a bicycle or a vehicle or device propelled by human power on a sidewalk, path, or trail, or across a driveway, or across a roadway on a crosswalk may not operate at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing.

(5) Except as provided under Subsections (1) and (4), a person operating a bicycle or a vehicle or device propelled by human power on a sidewalk, path, or trail, or across a roadway on a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.

Section 3. Section 41-6a-1115.5 is amended to read:

41-6a-1115.5. Electric assisted bicycles -- Restrictions -- Penalties.

(1) Except as otherwise provided in this section, an electric assisted bicycle is subject to the provisions under this chapter for a bicycle.

(2) An individual may operate an electric assisted bicycle on a path or trail designated for the use of a bicycle.

(3) A local authority or state agency may adopt an ordinance or rule to regulate or restrict the use of an electric assisted bicycle, or a specific classification of an electric assisted bicycle, on a sidewalk, path, or trail within the jurisdiction of the local authority or state agency.

(4) An individual under 16 years of age may not operate a class 3 electric assisted bicycle.

(5) An individual under 14 years of age may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk unless the individual is under the direct supervision of the individual's parent or guardian.

(6) An individual under eight years of age may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk.

(7) The owner of an electric assisted bicycle may not authorize or knowingly permit an individual to operate an electric assisted bicycle in violation of this section.

(8) (a) Beginning January 1, 2017, each Utah-based manufacturer of an electric assisted bicycle and each distributor of an electric assisted bicycle in Utah shall permanently affix a label in a prominent location on the electric assisted bicycle.

(b) Each manufacturer and each distributor shall ensure that the label is printed in Arial font, in 9-point type or larger, and includes the:

(i) appropriate electric assisted bicycle classification number described in Section 41-6a-102;

(ii) top assisted speed; and

(iii) wattage of the motor.

(9) An individual who violates this section is guilty of an infraction.

(10) A class 2 electric assisted bicycle is subject to the restrictions of Section 41-6a-526.

CHAPTER 176**S. B. 193**

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

**PERSONS WITH
 DISABILITIES AMENDMENTS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill amends provisions regarding sexual offenses against a victim without consent of the victim.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding a victim's capacity to consent to a sexual act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-406, as last amended by Laws of Utah 2015, Chapter 57

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

Section 1. Section 76-5-406 is amended to read:**76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.**

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- (1) the victim expresses lack of consent through words or conduct;
- (2) the actor overcomes the victim through the actual application of physical force or violence;
- (3) the actor is able to overcome the victim through concealment or by the element of surprise;
- (4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4), "to retaliate" includes threats of physical force, kidnapping, or extortion;

(5) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows ~~[that as a result of mental disease or defect, or for any other reason the victim is at the time of the act]~~ or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:

(a) ~~[incapable either of appraising]~~ appraise the nature of the act ~~[or of resisting it]~~;

(b) resist the act;

(c) understand the possible consequences to the victim's health or safety; or

(d) appraise the nature of the relationship between the actor and the victim.

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) "health professional" means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse,

dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

CHAPTER 177**S. B. 197**

Passed March 7, 2018
 Approved March 16, 2018
 Effective May 8, 2018

PRIVATE SECURITY AMENDMENTS

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions of the Security Personnel Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies training requirements for licensed armed private security officers and licensed unarmed private security officers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-63-302, as last amended by Laws of Utah 2017, Chapter 197

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

Section 1. Section 58-63-302 is amended to read:**58-63-302. Qualifications for licensure.**

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have a qualifying agent who:

(i) shall meet with the division and the board and demonstrate that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state and is a corporate officer or owner of the applicant;

(iii) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;

(iv) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

(v) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's

performance under this chapter does not jeopardize the health or safety of the general public;

(vi) is not an employee of a government agency;

(vii) passes an examination component established by rule by the division in collaboration with the board; and

(viii) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, and social security numbers of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(h) have good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the

board indicates that the best interests of the public are not served by granting the applicant a license;

(i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

(j) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

(A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(B) State Tax Commission; and

(C) Internal Revenue Service; and

(k) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall

include [24] a minimum of eight hours of classroom or online curriculum;

(h) successfully complete firearms training requirements established by rule by the division in collaboration with the board, which shall include a minimum of 12 hours of training;

(i) pass the examination requirement established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(e) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include [24] a minimum of eight hours of classroom or online curriculum;

(g) pass the examination requirement established by rule by the division in collaboration with the board; and

(h) meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;

(h) successfully complete firearms training requirements established by rule by the division in collaboration with the board;

(i) pass the examination requirements established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant.

(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.

(7) The Department of Public Safety shall send the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and

the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.

(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure under this chapter is qualified for licensure.

CHAPTER 178**S. B. 199**

Passed March 8, 2018
 Approved March 16, 2018
 Effective May 8, 2018

UTAH PROTECTION OF PUBLIC EMPLOYEES ACT AMENDMENTS

Chief Sponsor: Jani Iwamoto
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill amends provisions of the Utah Protection of Public Employees Act.

Highlighted Provisions:

This bill:

- ▶ exempts an action filed under the Utah Protection of Public Employees Act from certain requirements of the Governmental Immunity Act of Utah;
- ▶ expands the list of entities to whom an employee may communicate wrongful government conduct under the protections provided by the Utah Protection of Public Employees Act;
- ▶ defines “independent personnel board” for a state institution of higher education;
- ▶ sets a deadline for an independent personnel board to hear a complaint;
- ▶ requires a state institution of higher education to adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging adverse action against an employee;
- ▶ provides an exception to the 180-day time limit for bringing an action under the Utah Protection of Public Employees Act;
- ▶ expands the circumstances under which an employer is required to provide a copy of the Utah Protection of Public Employees Act to an employee; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-203, as renumbered and amended by Laws of Utah 2008, Chapter 382
 67-21-3, as last amended by Laws of Utah 2013, Chapter 427
 67-21-3.7, as enacted by Laws of Utah 2013, Chapter 427
 67-21-4, as last amended by Laws of Utah 2013, Chapter 427
 67-21-9, as last amended by Laws of Utah 2013, Chapter 427

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

Section 1. Section 63G-7-203 is amended to read:**63G-7-203. Exemptions for certain actions.**

~~[An action that involves takings law, as defined in Section 63L-3-102, is not subject to the]~~ The requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, and 63G-7-601~~[.]~~ do not apply to:

(1) an action that involves takings law, as defined in Section 63L-3-102; or

(2) an action filed under Title 67, Chapter 21, Utah Protection of Public Employees Act.

Section 2. Section 67-21-3 is amended to read:**67-21-3. Reporting of governmental waste or violations of law -- Employer action -- Exceptions.**

(1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:

(i) the waste or misuse of public funds, property, or manpower;

(ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or

(iii) as it relates to a state government employer:

(A) gross mismanagement;

(B) abuse of authority; or

(C) unethical conduct.

(b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:

(i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

(ii) the attorney general's office;

(iii) law enforcement, if the conduct is criminal in nature;

(iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:

(A) the state auditor's office;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Office of Legislative Auditor General;

~~(D)~~ (E) the governor's office;

~~(E)~~ (F) the state court administrator; or

~~(F)~~ (G) the Division of Finance;

(v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;

(vi) if the employee is a political subdivision employee:

(A) the legislative body, or a member of the legislative body, of the political subdivision;

(B) the governing body, or a member of the governing body, of the political subdivision;

(C) the top executive of the political subdivision; or

(D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or

(vii) if the employee is an employee of a state institution of higher education:

(A) the State Board of Regents or a member of the State Board of Regents;

(B) the commissioner of higher education;

(C) the president of the state institution of higher education where the employee is employed; or

(D) the entity that conducts audits of the state institution of higher education where the employee is employed.

(c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.

(2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.

(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:

(a) the waste or misuse of public funds, property, or manpower;

(b) a violation or suspected violation of any law, rule, or regulation; or

(c) as it relates to a state government employer:

(i) gross mismanagement;

(ii) abuse of authority; or

(iii) unethical conduct.

Section 3. Section 67-21-3.7 is amended to read:

67-21-3.7. Administrative review for state institution of higher education employees.

(1) (a) As used in this section, "independent personnel board" means a board where no member of the board:

(i) is in the same department as the complainant;

(ii) is a supervisor of the complainant; or

(iii) has a conflict of interest in relation to the complainant or an allegation made in the complaint.

~~(1)-(a)~~ (b) A state institution of higher education ~~may~~ shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging adverse action.

~~(b)~~ (c) The policy described in Subsection (1)~~(a)~~(b) shall include:

(i) procedures for filing a complaint and conducting a hearing; and

(ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.

~~(2) If a state institution of higher education adopts a policy described in Subsection (1), an~~

(2) (a) An employee of ~~the~~ a state institution of higher education may file a complaint with the independent personnel board described in Subsection (1)(b) alleging adverse action.

(b) An independent personnel board that receives a complaint under Subsection (2)(a) shall hear the matter, resolve the complaint, and take action under Subsection (3) within the later of:

(i) 30 days after the day on which the employee files the complaint; or

(ii) a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.

(3) If an independent personnel board finds that adverse action is taken in violation of the policy described in Subsection (1)~~(a)~~(b), the independent personnel board may order, or recommend to a final decision maker:

(a) reinstatement of the employee at the same level as before the adverse action;

(b) the payment of back wages;

(c) full reinstatement of fringe benefits;

(d) full reinstatement of seniority rights; or

(e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

(4) A final decision maker who receives a recommendation under Subsection (3) shall render a decision and enter an order within seven days after the day on which the final decision maker receives the recommendation.

Section 4. Section 67-21-4 is amended to read:

67-21-4. Choice of forum -- Remedies for employee bringing action -- Proof required.

(1) (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(~~(e)~~(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(b) Except as provided in Subsection (1)(d):

(i) ~~[An]~~ an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies[-]; and

(ii) ~~[An]~~ an employee of a state institution of higher education ~~[that has adopted a policy described in Section 67-21-3.7]:~~

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.

(c) ~~[A]~~ Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:

(i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or

(ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(d) (i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:

(A) the claimant originally brought the action within the 180-day time limit;

(B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and

(C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).

(ii) A claimant may commence a new action under this Subsection (1)(d) only once.

~~[(d)]~~ (e) A public entity employee who files a grievance under Subsection (1)(~~(e)~~(d)(i):

(i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;

(ii) may seek a remedy described in Subsection 67-21-3.5(2); and

(iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).

~~[(e)]~~ (f) A public entity employee who files a civil action under Subsection (1)(~~(e)~~(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.

(2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.

(3) To prevail in an action brought under this section, the employer shall prove by substantial evidence that the employer's action was justified.

Section 5. Section 67-21-9 is amended to read:

67-21-9. Notice of contents of this chapter -- Posting.

(1) An employer shall post notices and use other appropriate means to keep employees informed of their protections and obligations under this chapter.

(2) ~~[Upon request by an employee, or when an employee alleges an adverse action, the]~~ An employer shall provide ~~[the]~~ an employee with a copy of this chapter[-];

(a) when the employee is hired;

(b) upon a request by the employee; and

(c) when the employee files a grievance under this chapter.

CHAPTER 179**S. B. 234**

Passed March 7, 2018
 Approved March 16, 2018
 Effective March 16, 2018

UTAH INLAND PORT AUTHORITY

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill enacts and modifies provisions related to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- ▶ creates the Utah Inland Port Authority;
- ▶ establishes the duties, responsibilities, and powers of the Utah Inland Port Authority;
- ▶ establishes a board to govern the port authority and provides for the board membership, terms, and responsibilities, and provides limits on board members;
- ▶ requires the port authority board to hire an executive director, and provides limits on the executive director;
- ▶ defines land that is under the jurisdiction of the port authority;
- ▶ authorizes the port authority to work to establish an inland port and a foreign trade zone;
- ▶ authorizes the port authority to adopt a project area plan and budget and to issue bonds;
- ▶ authorizes the port authority to receive tax differential funds;
- ▶ requires the port authority to prepare and adopt a budget and provides a process for preparing, adopting, and amending a budget; and
- ▶ requires the port authority to comply with certain audit and reporting requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

11-58-101, Utah Code Annotated 1953
 11-58-102, Utah Code Annotated 1953
 11-58-201, Utah Code Annotated 1953
 11-58-202, Utah Code Annotated 1953
 11-58-203, Utah Code Annotated 1953
 11-58-204, Utah Code Annotated 1953
 11-58-205, Utah Code Annotated 1953
 11-58-206, Utah Code Annotated 1953
 11-58-207, Utah Code Annotated 1953
 11-58-301, Utah Code Annotated 1953
 11-58-302, Utah Code Annotated 1953
 11-58-303, Utah Code Annotated 1953
 11-58-304, Utah Code Annotated 1953
 11-58-305, Utah Code Annotated 1953
 11-58-401, Utah Code Annotated 1953
 11-58-402, Utah Code Annotated 1953
 11-58-403, Utah Code Annotated 1953
 11-58-404, Utah Code Annotated 1953
 11-58-501, Utah Code Annotated 1953
 11-58-502, Utah Code Annotated 1953

11-58-503, Utah Code Annotated 1953
 11-58-504, Utah Code Annotated 1953
 11-58-505, Utah Code Annotated 1953
 11-58-601, Utah Code Annotated 1953
 11-58-602, Utah Code Annotated 1953
 11-58-701, Utah Code Annotated 1953
 11-58-702, Utah Code Annotated 1953
 11-58-703, Utah Code Annotated 1953
 11-58-704, Utah Code Annotated 1953
 11-58-705, Utah Code Annotated 1953
 11-58-706, Utah Code Annotated 1953
 11-58-801, Utah Code Annotated 1953
 11-58-802, Utah Code Annotated 1953
 11-58-803, Utah Code Annotated 1953
 11-58-804, Utah Code Annotated 1953
 11-58-805, Utah Code Annotated 1953
 11-58-806, Utah Code Annotated 1953
 11-58-901, Utah Code Annotated 1953

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

Section 1. Section 11-58-101 is enacted to read:**CHAPTER 58. UTAH INLAND PORT AUTHORITY ACT****Part 1. General Provisions****11-58-101. Title.**

This chapter is known as the "Utah Inland Port Authority Act."

Section 2. Section 11-58-102 is enacted to read:**11-58-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land":

(a) means:

(i) land north of I-80 in Salt Lake City that has:

(A) a northern boundary defined by the northern boundary of Salt Lake City;

(B) an eastern boundary defined by I-215;

(C) a southern boundary defined by I-80; and

(D) a western boundary defined by the western boundary of Salt Lake City's Northwest Quadrant Master Plan Area as of January 1, 2018; and

(ii) land south of I-80 that has:

(A) a northern boundary defined by I-80;

(B) an eastern boundary that begins at the intersection of I-80 and Bangerter Highway and follows Bangerter Highway south to SR 201 and turns west to follow SR 201 to 5600 West and turns south to follow 5600 West to the Riter Canal;

(C) a southern boundary that begins at the intersection of 5600 West and the Riter Canal and follows the Riter Canal west to 7600 West and turns south along 7600 West to the northern boundary of developed property and turns west to run along the

northern edge of developed property, jutting north to follow the northern boundary of developed properties straddling 8000 West, and continuing west along the northern boundary of developed properties to the western edge of developed property and turns north to SR 201 and turns east along SR 201 to the eastern edge of the tailings property; and

(D) a western boundary defined by the eastern edge of the tailings property; and

(b) excludes:

(i) the Salt Lake City airport; and

(ii) an area north of I-80 in Salt Lake City and west of the Salt Lake City airport, commonly known as the International Center, that has:

(A) a northern boundary defined by the north boundary of properties on the north side of and fronting Harold Gatty Drive;

(B) an eastern boundary defined by the eastern boundary of Salt Lake City's Northwest Quadrant Master Plan Area as of January 1, 2018;

(C) a southern boundary defined by I-80; and

(D) a western boundary defined by a north-south line that aligns with John Glenn Road.

(3) "Base taxable value" means the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including publicly owned infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets and the ability to allow global trade to be processed and altered by value-added services as goods move through the supply chain; and

(b) may include a satellite customs clearance terminal, an intermodal distribution facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Project area" means the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(12) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(13) "Property tax differential" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(14) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(15) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, or telecommunications service; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(16) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(17) "Taxing entity" means a public entity that levies a tax on property within a project area.

Section 3. Section 11-58-201 is enacted to read:

Part 2. Utah Inland Port Authority

11-58-201. Creation of Utah Inland Port Authority -- Status and purposes.

(1) Under the authority of Article XI, Section 8 of the Utah Constitution, there is created the Utah Inland Port Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) (a) The purpose of the authority is to fulfill the statewide public purpose of working in concert with applicable state and local government entities, property owners and other private parties, and other stakeholders to encourage and facilitate development of the authority jurisdictional land to maximize the long-term economic and other benefit for the state, consistent with the strategies, policies, and objectives described in this chapter, including:

(i) the development of inland port uses on the authority jurisdictional land;

(ii) the development of infrastructure to support inland port uses and associated uses on the authority jurisdictional land; and

(iii) other development on the authority jurisdictional land.

(b) The duties and responsibilities of the authority under this chapter are beyond the scope and capacity of a municipality, which has many other responsibilities and functions that appropriately command the attention and resources of the municipality, and are not municipal functions of purely local concern but are matters of regional and statewide concern, importance, interest, and impact, due to multiple factors, including:

(i) the strategic location of the authority jurisdictional land in proximity to significant existing and potential transportation infrastructure, including infrastructure provided and maintained by the state, conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement that trade;

(ii) the enormous potential for regional and statewide economic and other benefit that can come from the appropriate development of the authority jurisdictional land, including the establishment of a thriving inland port;

(iii) the regional and statewide impact that the development of the authority jurisdictional land will have; and

(iv) the considerable investment the state is making in connection with the development of the new correctional facility and associated infrastructure located on the authority jurisdictional land.

(c) The authority is the mechanism the state chooses to focus resources and efforts on behalf of the state to ensure that the regional and statewide interests, concerns, and purposes described in this Subsection (3) are properly addressed from more of a statewide perspective than any municipality can provide.

Section 4. Section 11-58-202 is enacted to read:

11-58-202. Port authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the strategies, policies, and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of the authority jurisdictional land, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the authority jurisdictional land;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities; and

(q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform.

Section 5. Section 11-58-203 is enacted to read:

11-58-203. Strategies, policies, and objectives to be pursued by the port authority -- Additional duties of the port authority.

In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land, the authority shall:

(1) pursue development strategies, policies, and objectives designed to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land; and

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(2) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and for an inland port;

(3) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(a) the strategies, policies, and objectives stated in Subsection (1); and

(b) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land; and

(4) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state.

Section 6. Section 11-58-204 is enacted to read:

11-58-204. Existing development line.

(1) As used in this section, "development line" means a line:

(a) dividing authority jurisdictional land areas for which development is permitted from authority jurisdictional land areas that are protected from development; and

(b) that has been established by municipal ordinance, policy, master plan, agreement, or other means before March 1, 2018.

(2) The authority shall:

(a) acknowledge and respect any development line involving authority jurisdictional land; and

(b) incorporate any development line into a business plan or development plan that the authority adopts or pursues.

Section 7. Section 11-58-205 is enacted to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources.

(1) Except as provided in Part 4, Appeals to Appeals Panel, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

Section 8. Section 11-58-206 is enacted to read:

11-58-206. Port authority funds.

The authority may use authority funds for any purpose authorized under this chapter, including:

(1) promoting, facilitating, and advancing inland port uses; and

(2) paying any consulting fees and staff salaries and other administrative, overhead, legal, and operating expenses of the authority.

Section 9. Section 11-58-207 is enacted to read:

11-58-207. Projects benefitting authority jurisdictional land.

To foster economic development within and enhance the uses of the authority jurisdictional land:

(1) the Department of Transportation shall fund, from money designated in the Transportation Investment Fund for that purpose, the completion of 2550 South from 5600 West to 8000 West, with matching funds from the county in which the road is located; and

(2) the county in which the proposed connection is located shall study a connection of 7200 West between SR 201 and I-80.

Section 10. Section 11-58-301 is enacted to read:

Part 3. Port Authority Board

11-58-301. Port authority board -- Delegation of power.

(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution delegate powers to authority staff.

Section 11. Section 11-58-302 is enacted to read:

11-58-302. Number of board members -- Appointment -- Vacancies.

(1) The authority's board shall consist of 11 members, as provided in Subsection (2).

(2) (a) The governor shall appoint two board members, one of whom shall be an employee or officer of the Governor's Office of Economic Development, created in Section 63N-1-201.

(b) The president of the Senate shall appoint one board member.

(c) The speaker of the House of Representatives shall appoint one board member.

(d) The Salt Lake County mayor shall appoint one board member.

(e) The chair of the Permanent Community Impact Fund Board, created in Section 35A-8-304, shall appoint one board member from among the members of the Permanent Community Impact Fund Board.

(f) The chair of the Salt Lake Airport Advisory Board, or the chair's designee, shall serve as a board member.

(g) The member of the Salt Lake City council who is elected by district and whose district includes authority jurisdictional land shall serve as a board member.

(h) The city manager of West Valley City, with the consent of the city council of West Valley City, shall appoint one board member.

(i) The executive director of the Department of Transportation, appointed under Section 72-1-202, shall serve as a board member.

(j) The director of the Salt Lake County office of Regional Economic Development shall serve as a board member.

(3) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, 2018.

(4) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(6) The authority may:

(a) appoint nonvoting members of the board; and

(b) set terms for nonvoting members appointed under Subsection (6)(a).

Section 12. Section 11-58-303 is enacted to read:

11-58-303. Term of board members -- Quorum -- Compensation.

(1) The term of a board member appointed under Subsection 11-58-302(a), (b), (c), (d), or (h) is four years, except that the initial term of one of the two members appointed under Subsection 11-58-302(2)(a) and of the members appointed under Subsections 11-58-302(d) and (h) is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).

(4) A majority of board members constitutes a quorum, and the action of a majority of a quorum constitutes action of the board.

(5) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 13. Section 11-58-304 is enacted to read:

11-58-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the authority jurisdictional land, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the authority jurisdictional state land.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, on or within five miles of the authority jurisdictional land, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located on or within one-half mile of the authority jurisdictional land; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to:

(i) participate in or receive compensation or other direct financial benefit from the development of the authority jurisdictional land; or

(ii) acquire an interest in or locate a facility on the authority jurisdictional land.

(3) Before taking office as a board member or accepting employment as executive director, an individual shall submit to the authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4) An individual may not, at any time during the individual's service as a board member or employment as executive director, take any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property located on or within five miles of the authority jurisdictional state land.

Section 14. Section 11-58-305 is enacted to read:

11-58-305. Executive director.

(1) On or before November 1, 2018, the board shall hire a full-time executive director to manage and oversee the day-to-day operations of the authority and to perform other functions, as directed by the board.

(2) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1).

(3) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

(4) The board shall establish the duties, compensation, and benefits of an executive director.

Section 15. Section 11-58-401 is enacted to read:

Part 4. Appeals to Appeals Panel

11-58-401. Definitions.

As used in this part:

(1) "Adversely affected person" means an owner of land within the authority jurisdictional land who has been adversely affected by a land use decision.

(2) "Appeals panel" means the panel established under Section 11-58-402 to hear and decide appeals under this part.

(3) "Land use decision" means the same as that term is defined in Section 10-9a-103.

Section 16. Section 11-58-402 is enacted to read:

11-58-402. Appeals panel.

(1) The board shall establish an appeals panel to hear and decide appeals under this part.

(2) The appeals panel consists of:

(a) the board; or

(b) one or more individuals designated by the board.

Section 17. Section 11-58-403 is enacted to read:

11-58-403. Appeals process.

(1) An adversely affected person may appeal a land use decision to the appeals panel.

(2) (a) Notwithstanding the provisions of Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, an appeal under Subsection (1) is the exclusive appeal of a land use decision available to an adversely affected person.

(b) An appeal of a land use decision under this section may not be considered unless it is submitted to the appeals panel in writing within 10 calendar days after the date of the land use decision being appealed.

(3) In deciding an appeal of a land use decision, an appeals panel may hold an informal hearing to

receive information and hear arguments from the parties.

(4) An appeals panel shall decide and issue a written decision on an appeal of a land use decision within 21 days after the appeal is filed.

(5) (a) A person aggrieved by an appeals panel decision may seek judicial review of the decision in district court by filing a petition with the court within 30 days after the appeals panel decision.

(b) The court shall uphold the appeals panel decision unless the court determines that the decision is:

(i) arbitrary and capricious; or

(ii) illegal.

Section 18. Section 11-58-404 is enacted to read:

11-58-404. Standards governing appeals.

The appeals panel may decide an appeal in favor of the adversely affected person if the appeals panel concludes that the land use decision that is the subject of the appeal:

(1) is detrimental to achieving or implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1); or

(2) substantially impedes, interferes with, or impairs authority jurisdictional land development that is consistent with the strategies, policies, and objectives stated in Subsection 11-58-203(1).

Section 19. Section 11-58-501 is enacted to read:

Part 5. Project Area Plan and Budget

11-58-501. Preparation of project area plan -- Required contents of project area plan.

(1) (a) The board may adopt a project area plan as provided in this part.

(b) In order to adopt a project area plan, the board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-58-502(2);

(iii) hold at least one public meeting, as required under Subsection 11-58-502(1); and

(iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.

(c) Before adopting a draft project area plan as the project area plan, the board may make modifications to the draft project area plan that the board considers necessary or appropriate.

(2) Each project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area;

(b) the authority's purposes and intent with respect to the project area; and

- (c) the board's findings and determination that:
- (i) there is a need to effectuate a public purpose;
- (ii) there is a public benefit to the proposed development project;
- (iii) it is economically sound and feasible to adopt and carry out the project area plan; and
- (iv) carrying out the project area plan will promote the goals and objectives stated in Subsection 11-58-203(1).

Section 20. Section 11-58-502 is enacted to read:

11-58-502. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

- (1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.
- (2) At least 10 days before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:
- (a) to each taxing entity;
- (b) to a municipality in which the proposed project area is located or that is located within one-half mile of the proposed project area; and
- (c) on the Utah Public Notice Website created in Section 63F-1-701.
- (3) Following consideration and discussion of the draft project area plan, and any modification of the project area plan under Subsection 11-58-501(1)(c), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Section 21. Section 11-58-503 is enacted to read:

11-58-503. Notice of project area plan adoption -- Effective date of plan.

- (1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:
- (a) in a newspaper of general circulation within or near the project area; and
- (b) as required by Section 45-1-101.
- (2) Each notice under Subsection (1) shall include:
- (a) the board resolution adopting the project area plan or a summary of the resolution; and
- (b) a statement that the project area plan is available for general public inspection and the hours for inspection.
- (3) The project area plan shall become effective on the date of publication of the notice.
- (4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

- (a) the State Tax Commission;
- (b) the Automated Geographic Reference Center created in Section 63F-1-506; and
- (c) the assessor and recorder of each county where the project area is located.

Section 22. Section 11-58-504 is enacted to read:

11-58-504. Amendment to a project area plan.

- (1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.
- (2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

Section 23. Section 11-58-505 is enacted to read:

11-58-505. Project area budget.

- (1) Before the authority may receive or use the property tax differential, the board shall prepare and adopt a project area budget.
- (2) A project area budget shall include:
- (a) the base taxable value of property in the project area;
- (b) the projected property tax differential expected to be generated within the project area;
- (c) the amount of the property tax differential expected to be shared with other taxing entities;
- (d) the amount of the property tax differential expected to be used to implement the project area plan, including the estimated amount of the property tax differential to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
- (e) the property tax differential expected to be used to cover the cost of administering the project area plan;
- (f) if the property tax differential is to be collected at different times or from different portions of the project area, or both:
- (i) (A) the tax identification numbers of the parcels from which the property tax differential will be collected; or
- (B) a legal description of the portion of the project area from which the property tax differential will be collected; and
- (ii) an estimate of when other portions of the project area will become subject to collection of the property tax differential; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

(4) If a project area plan defines the project area as all the authority jurisdictional land, the budget requirements of this part are met by the authority complying with the budget requirements of Part 8, Port Authority Budget, Reporting, and Audits.

Section 24. Section 11-58-601 is enacted to read:

Part 6. Property Tax Differential

11-58-601. Port authority receipt and use of property tax differential -- Distribution of property tax differential.

(1) (a) The authority may:

(i) subject to Subsections (1)(b) and (c), receive up to 100% of the property tax differential for up to 25 years, as determined by the board and as provided in this part; and

(ii) use the property tax differential during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) begins on the day on which the authority receives the first property tax differential from that parcel.

(c) The authority may not receive property tax differential from an area included within a community reinvestment project area, as defined in Section 17C-1-102, under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before March 1, 2018 from a taxing entity that has, before March 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan.

(2) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) A county that collects property tax on property within a project area shall pay and distribute to the authority the property tax differential that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(4) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax differential.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax differential.

Section 25. Section 11-58-602 is enacted to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) The authority may use the property tax differential, money the authority receives from the state, authority services revenue, and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax differential or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the property tax differential funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements outside the project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(f) to pay the principal and interest on bonds issued by the authority.

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(e) regarding benefit to the project area is final.

Section 26. Section 11-58-701 is enacted to read:

Part 7. Port Authority Bonds

11-58-701. Resolution authorizing issuance of port authority bonds -- Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the board first adopts a resolution authorizing their issuance.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued

in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Section 27. Section 11-58-702 is enacted to read:

11-58-702. Sources from which bonds may be made payable -- Port authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of authority jurisdictional land;

(d) property tax differential funds;

(e) authority revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of authority bonds, the authority may:

(a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 28. Section 11-58-703 is enacted to read:

11-58-703. Purchase of port authority bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Section 29. Section 11-58-704 is enacted to read:

11-58-704. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of the board or other person executing an authority bond is not liable personally on the bond.

(2) (a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.

(b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.

(c) The state and its political subdivisions are not and may not be held liable on a bond issued by the authority.

(d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the authority under this part is fully negotiable.

Section 30. Section 11-58-705 is enacted to read:

11-58-705. Obligor rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of a development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and

(C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Section 31. Section 11-58-706 is enacted to read:

11-58-706. Bonds exempt from taxes -- Port authority may purchase its own bonds.

(1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) The authority may purchase its own bonds at a price that its board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Section 32. Section 11-58-801 is enacted to read:

Part 8. Port Authority Budget, Reporting, and Audits

11-58-801. Annual port authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 33. Section 11-58-802 is enacted to read:

11-58-802. Amending the port authority annual budget.

(1) The board may by resolution amend an annual authority budget.

(2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.

(3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Section 34. Section 11-58-803 is enacted to read:

11-58-803. Port authority report.

(1) (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the property tax differential to be paid to the authority for the calendar year ending December 31; and

(b) an estimate of the property tax differential to be paid to the authority for the calendar year beginning the next January 1.

(3) Before November 30 of each year, the board shall present a report to the Executive Appropriations Committee of the Legislature, as the Executive Appropriations Committee directs, that includes:

(a) an accounting of how authority funds have been spent; and

(b) an explanation of the authority's progress in achieving the policies and objectives described in Subsection 11-58-203(1).

Section 35. Section 11-58-804 is enacted to read:

11-58-804. Audit requirements.

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 36. Section 11-58-805 is enacted to read:

11-58-805. Audit report.

(1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax

Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(2) Each audit report under Subsection (1) shall include:

(a) the property tax differential collected by the authority;

(b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's projects; and

(c) the actual amount expended for:

(i) acquisition of property;

(ii) site improvements or site preparation costs;

(iii) installation of public utilities or other public improvements; and

(iv) administrative costs of the authority.

Section 37. Section 11-58-806 is enacted to read:

11-58-806. Port authority chief financial officer is a public treasurer -- Certain port authority funds are public funds.

(1) The authority's chief financial officer:

(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), property tax differential funds, authority services revenue, and appropriations that the authority receives from the state:

(a) are public funds; and

(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Section 38. Section 11-58-901 is enacted to read:

Part 9. Port Authority Dissolution

11-58-901. Dissolution of port authority -- Restrictions -- Notice of dissolution -- Disposition of port authority property -- Port authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) Upon the dissolution of the authority:

(a) the Governor's Office of Economic Development shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the state.

(3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.

(4) The authority shall pay all expenses of the deactivation and dissolution.

Section 39. Effective date.

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

CHAPTER 180**H. B. 12**

Passed March 6, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**FAMILY PLANNING
 SERVICES AMENDMENTS**

Chief Sponsor: Raymond P. Ward
 Senate Sponsor: Brian Zehnder
 Cosponsors: Patrice M. Arent
 Rebecca Chavez-Houck
 Susan Duckworth
 Steve Eliason
 Sandra Hollins
 Karen Kwan
 Carol Spackman Moss
 Marie H. Poulson
 Elizabeth Weight
 Mark A. Wheatley
 Mike Winder

LONG TITLE**General Description:**

This bill enacts provisions for family planning services within the state Medicaid program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Medicaid program to reimburse providers separately for the insertion of long-acting reversible contraception immediately after childbirth;
- ▶ requires the Division of Health Care Financing to apply for a Medicaid waiver or a state plan amendment to provide family planning services to certain low-income individuals;
- ▶ institutes a program for the provision of family planning services under the Medicaid waiver or state plan amendment described in this bill;
- ▶ creates a reporting requirement; and
- ▶ provides a sunset date for the reporting requirement created in this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2017, Chapters 177 and 443

ENACTS:

26-18-24, Utah Code Annotated 1953
 26-18-415, Utah Code Annotated 1953

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

Section 1. Section 26-18-24 is enacted to read:**26-18-24. Reimbursement for long-acting reversible contraception immediately following childbirth.**

(1) As used in this section, "long-acting reversible contraception" means a contraception method that

requires administration less than once per month, including:

- (a) an intrauterine device; and
- (b) a contraceptive implant.

(2) The division shall separately identify and reimburse, from other labor and delivery services within the Medicaid program, the provision and insertion of long-acting reversible contraception immediately after childbirth.

Section 2. Section 26-18-415 is enacted to read:**26-18-415. Limited family planning services for low-income individuals.**

(1) As used in this section:

(a) (i) "Family planning services" means family planning services that are provided under the state Medicaid program, including:

(A) sexual health education and family planning counseling; and

(B) other medical diagnosis, treatment, or preventative care routinely provided as part of a family planning service visit.

(ii) "Family planning services" do not include an abortion, as that term is defined in Section 76-7-301.

(b) "Low-income individual" means an individual who:

(i) has an income level that is equal to or below 95% of the federal poverty level; and

(ii) does not qualify for full coverage under the Medicaid program.

(2) Before July 1, 2018, the division shall apply for a Medicaid waiver or a state plan amendment with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services to:

(a) offer a program that provides family planning services to low-income individuals; and

(b) receive a federal match rate of 90% of state expenditures for family planning services provided under the waiver or state plan amendment.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall report to the Health and Human Services Interim Committee each year before November 30 while the waiver or state plan amendment is in effect regarding:

(a) the number of qualified individuals served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program, including:

(i) any savings to the state Medicaid program from reductions in enrollment;

(ii) any reduction in the number of abortions;

(iii) any reduction in the number of unintended pregnancies;

(iv) any reduction in the number of individuals requiring services from the Women, Infants, and Children Program established in 42 U.S.C. Sec. 1786; and

(v) any other costs and benefits as a result of the program.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-415(3) is repealed on July 1, 2022.

[(4)] (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[(5)] (6) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

[(6)] (7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

[(7) ~~Section 26-38-2.5 is repealed July 1, 2017.~~]

[(8) ~~Section 26-38-2.6 is repealed July 1, 2017.~~]

[(9)] (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.

CHAPTER 181**H. B. 19**

Passed February 2, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**HEALTH INSURANCE RIGHT
TO SHOP AMENDMENTS**

Chief Sponsor: Norman K. Thurston
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions regarding the development of a program to reward enrollees for selecting high-quality and low-cost health care providers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the inducements provisions of the Insurance Code;
- ▶ permits a health insurer to develop and implement a savings reward program for enrollees; and
- ▶ requires the Public Employees' Benefit and Insurance Program to implement a savings reward program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-23a-402.5, as last amended by Laws of Utah 2015, Chapters 145 and 244

ENACTS:

31A-22-647, Utah Code Annotated 1953

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

Section 1. Section 31A-22-647 is enacted to read:**31A-22-647. Insurer shared savings program.**

(1) As used in this section:

(a) "Insurer" means a person who offers health care insurance, including a health maintenance organization as that term is defined in Section 31A-8-101.

(b) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(c) "Savings reward program" means a program to reward a health insurance enrollee if the enrollee receives services:

- (i) covered by the enrollee's health plan; and
- (ii) from a provider whose costs for services are lower than the average costs for the services.

(2) An insurer may, in accordance with Subsection (4), establish a savings reward program for a health benefit plan that is:

(a) offered by the insurer; and

(b) entered into or renewed on or after January 1, 2019.

(3) PEHP shall, in accordance with Subsection (4), establish a savings reward program for a health plan that is:

(a) offered to state employees under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; and

(b) entered into or renewed on or after July 1, 2019.

(4) A savings reward program described in Subsection (2) or (3) may include, in accordance with federal and state law, rewards to the enrollee through:

(a) premium discounts;

(b) rebates;

(c) reduction of out-of-pocket costs; or

(d) other rewards or incentives developed by the insurer.

Section 2. Section 31A-23a-402.5 is amended to read:**31A-23a-402.5. Inducements.**

(1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:

- (i) specified in the insurance contract; or
- (ii) directly related to the insurance contract.

(b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.

(c) A licensee under this title may not absorb the tax under Section 31A-3-301.

(2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.

(3) Items not prohibited by Subsection (1) include an insurer:

(a) reducing premiums because of expense savings;

(b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:

(i) a premium discount offered to a small or large employer group based on a wellness program if:

(A) the premium discount for the employer group does not exceed 20% of the group premium; and

(B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;

(ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives; ~~or~~

(iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:

(A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and

(B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or

(iv) rewards or incentives for employees of an employer group, if the rewards or incentives are for a savings reward program described in Section 31A-22-647; or

(c) receiving premiums under an installment payment plan.

(4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:

(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;

(b) extending credit on a premium to the insured:

(i) without interest, for no more than 90 days from the effective date of the insurance contract;

(ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and

(iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);

(c) preparing or conducting a survey that:

(i) is directly related to an accident and health insurance policy purchased from the licensee; or

(ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;

(d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:

(i) answering questions directly related to:

(A) an employee benefit offering or administration, if the insurance product purchased from the licensee is accident and health insurance or health insurance; and

(B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and

(ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;

(e) providing the following types of information or guidance:

(i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;

(ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or

(iii) providing information regarding:

(A) employee benefit issues;

(B) directly related insurance regulatory and legislative updates; or

(C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;

(f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;

(g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing ongoing administration of a flexible spending account;

(h) providing enrollment and billing assistance, including:

(i) providing benefit statements or new hire insurance benefits packages; and

(ii) providing technology services such as an electronic enrollment platform or application system;

(i) communicating coverages in writing and in consultation with the insured and employees;

(j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;

(k) providing claims management and resolution to the extent permitted under the licensee's license;

(l) providing underwriting or actuarial analysis or services;

(m) negotiating with an insurer regarding the placement and pricing of an insurance product;

(n) recommending placement and coverage options;

(o) providing a health fair or providing assistance or advice on establishing or operating a wellness program, but not providing any payment for or direct operation of the wellness program;

(p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;

(q) assisting with a summary plan description, including providing a summary plan description wraparound;

(r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;

(s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;

(t) sending proof of coverage to a third party with a legitimate interest in coverage;

(u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;

(v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:

(i) risk management;

(ii) claims and loss control services;

(iii) risk assessment consulting, including analysis of:

(A) employer's job descriptions; or

(B) employer's safety procedures or manuals; and

(iv) providing information and training on best practices;

(w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and

(x) providing other directly related services approved by the department.

(5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:

(a) (i) except as permitted under Section 31A-22-647, providing a rebate, reward, or incentive;

(ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or

(iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or

(b) except as provided in Subsection (10), engaging in one or more of the following, unless a fee is paid in accordance with Subsection (8):

(i) performing background checks of prospective employees;

(ii) providing legal services by a person licensed to practice law;

(iii) performing drug testing that is directly related to an insurance product purchased from the licensee;

(iv) preparing employer or employee handbooks, except that a licensee may:

(A) provide information for a medical benefit section of an employee handbook;

(B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or

(C) prepare or print an employee benefit enrollment guide;

(v) providing job descriptions, postings, and applications for a person;

(vi) providing payroll services;

(vii) providing performance reviews or performance review training;

(viii) providing union advice;

(ix) providing accounting services;

(x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);

(xi) providing administration of health reimbursement accounts or health savings accounts; or

(xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:

(A) performing background checks of prospective employees;

(B) providing legal services by a person licensed to practice law;

(C) performing drug testing that is directly related to an insurance product purchased from the insurer;

(D) preparing employer or employee handbooks;

(E) providing job descriptions postings, and applications;

(F) providing payroll services;

(G) providing performance reviews or performance review training;

(H) providing union advice;

(I) providing accounting services;

(J) providing discrimination testing; or

(K) providing data analysis information technology programs.

(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).

(7) (a) A de minimis gift or meal not to exceed a fair market value of \$100 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).

(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product.

(8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), the licensee shall comply with Subsection 31A-23a-501(2) in charging the fee, except that the fee paid for the item shall equal or exceed the fair market value of the item.

(9) For purposes of this section, "fair market value" means what a knowledgeable, willing, and unpressured buyer would pay for a product or service to a knowledgeable, willing, and unpressured seller in the open market without any connection to other goods, services, including insurance services, or contracts, including insurance contracts, sold by the producer, consultant, or other licensee, or an officer or employee of the licensee.

(10) Notwithstanding any other provision of this section, a producer, consultant, or other licensee, or an officer or employee of a licensee, may offer, make available, or provide goods or services, whether or not the goods or services are directly related to an insurance contract, for free or for less than fair market value if:

(a) the goods or services are available on the same terms to the general public;

(b) receipt of the goods or services is not contingent upon the immediate or future purchase, continuation, or termination of an insurance product or receipt of a quote for an insurance product; and

(c) the producer, consultant, or other licensee, or an officer or an employee of a licensee, does not retroactively charge for the goods or services based on an event subsequent to receipt of the goods or services.

(11) (a) A producer, consultant, or other licensee, or an officer or employee of a licensee, that provides

or offers goods or services that are not described in Subsection (3) or (4) for free or less than fair market value shall conspicuously disclose to the recipient before the purchase of insurance, receipt of a quote for insurance, or designation of an agent of record, that receipt of the goods or services is not contingent on the purchase, continuation, or termination of an insurance product or receiving a quote for an insurance product.

(b) A producer, consultant, or other licensee, or an officer or employee of the licensee, may comply with this Subsection (11) by an oral or written disclosure.

CHAPTER 182**H. B. 23**

Passed February 6, 2018
 Approved March 19, 2018
 Effective July 1, 2018

**OFFICE OF ECONOMIC
DEVELOPMENT AMENDMENTS**

Chief Sponsor: Carl R. Albrecht
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies provisions related to the Governor's Office of Economic Development (GOED) and the Department of Workforce Services (DWS).

Highlighted Provisions:

This bill:

- ▶ moves and renumbers provisions related to private activity bonds from GOED to DWS;
- ▶ repeals provisions related to the State Advisory Council on Science and Technology, the Utah Broadband Outreach Center, the Technology Commercialization and Innovation Program, and the Health System Reform Act;
- ▶ modifies GOED's duties regarding certain targeted industries;
- ▶ modifies GOED's duties regarding broadband economic development and mapping; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470
- 63N-3-111, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

63N-3-501, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 35A-8-2101, (Renumbered from 63N-5-101, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2102, (Renumbered from 63N-5-102, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2103, (Renumbered from 63N-5-103, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2104, (Renumbered from 63N-5-104, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2105, (Renumbered from 63N-5-105, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2106, (Renumbered from 63N-5-106, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2107, (Renumbered from 63N-5-107, as

- renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2108, (Renumbered from 63N-5-108, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2109, (Renumbered from 63N-5-109, as renumbered and amended by Laws of Utah 2015, Chapter 283)
- 35A-8-2110, (Renumbered from 63N-5-110, as enacted by Laws of Utah 2015, Chapter 283)

REPEALS:

- 63N-2-412, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-11-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-11-102, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-11-103, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-11-104, as last amended by Laws of Utah 2017, Chapter 292
- 63N-11-105, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-11-106, as last amended by Laws of Utah 2017, Chapter 18
- 63N-12-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-102, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-103, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-104, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-105, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-106, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-107, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-108, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-12-301, as enacted by Laws of Utah 2015, Chapter 278
- 63N-12-302, as enacted by Laws of Utah 2015, Chapter 278
- 63N-12-303, as enacted by Laws of Utah 2015, Chapter 278
- 63N-12-304, as enacted by Laws of Utah 2015, Chapter 278
- 63N-12-305, as enacted by Laws of Utah 2015, Chapter 278

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

Part 21. Private Activity Bonds

Section 1. Section 35A-8-2101, which is renumbered from Section 63N-5-101 is renumbered and amended to read:

[63N-5-101]. 35A-8-2101. Title -- Purpose.

(1) This [chapter] part is known as "Private Activity Bonds."

(2) [It is the intent of the Legislature to establish] This part establishes procedures to [most] effectively and equitably allocate this state's private activity bond volume cap authorized by the

Internal Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

Section 2. Section 35A-8-2102, which is renumbered from Section 63N-5-102 is renumbered and amended to read:

[63N-5-102]. 35A-8-2102. Definitions.

As used in this part:

(1) "Allocated volume cap" means a volume cap for which:

(a) a certificate of allocation is in effect; or [~~for which~~]

(b) bonds have been issued.

(2) "Allotment accounts" means the various accounts created in Section [~~63N-5-106~~] 35A-8-2106.

(3) "Board of review" means the Private Activity Bond Review Board created in Section [~~63N-5-103~~] 35A-8-2103.

(4) "Bond" means any obligation for which an allocation of volume cap is required by the code.

(5) "Code" means the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.

(6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the code.

(7) "Issuing authority" means:

(a) any county, city, or town in the state;

(b) any not-for-profit corporation or joint agency, or other entity acting on behalf of one or more counties, cities, towns, or any combination of these;

(c) the state; or

(d) any other entity authorized to issue bonds under state law.

(8) "State" means the state of Utah and any of its agencies, institutions, and divisions authorized to issue bonds or certificates under state law.

(9) "Volume cap" means the private activity bond volume cap for the state as computed under Section 146 of the code.

(10) "Year" means each calendar year.

Section 3. Section 35A-8-2103, which is renumbered from Section 63N-5-103 is renumbered and amended to read:

[63N-5-103]. 35A-8-2103. Private Activity Bond Review Board.

(1) There is created within the [~~office~~] department the Private Activity Bond Review Board, composed of the following 11 members:

(a) (i) the executive director of the [~~office~~] department or the executive director's designee;

(ii) ~~an employee of the office designated by the executive director;~~

(ii) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(iii) the state treasurer or the state treasurer's designee;

(iv) the chair of the Board of Regents or the chair's designee; and

(v) the chair of the Utah Housing Corporation or the chair's designee; and

(b) six local government members who are:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed by the governor with the consent of the Senate; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board of review members are staggered so that approximately half of the board of review is appointed every two years.

(c) Members may be reappointed only once.

(3) (a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that membership on the board of review terminates immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term [~~, and until his successor is appointed and qualified~~].

(4) (a) The chair of the board of review is the executive director of the [~~office~~] department or the executive director's designee.

(b) The chair is nonvoting except in the case of a tie vote.

(5) Six members of the board of review constitute a quorum.

(6) Formal action by the board of review requires a majority vote of a quorum.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The chair of the board of review serves as the state official designated under state law to make certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.

Section 4. Section 35A-8-2104, which is renumbered from Section 63N-5-104 is renumbered and amended to read:

[63N-5-104]. 35A-8-2104. Powers, functions, and duties of the board of review.

The board of review shall:

(1) make, subject to the limitations of the code, allocations of volume cap to issuing authorities;

(2) determine the amount of volume cap to be allocated with respect to approved applications;

(3) maintain a record of all applications filed by issuing authorities under Section ~~[63N-5-105]~~ 35A-8-2105 and all certificates of allocation issued under Section ~~[63N-5-107]~~ 35A-8-2107;

(4) maintain a record of all bonds issued by issuing authorities during each year;

(5) determine the amount of volume cap to be treated as a carryforward under Section 146(f) of the code and allocate this carryforward to one or more qualified carryforward purposes;

(6) make available upon reasonable request a certified copy of all or any part of the records maintained by the board of review under this part or a summary of them, including information relating to the volume cap for each year and any amounts available for allocation under this part;

(7) ~~[promulgate]~~ make rules for the allocation of volume cap under this part; and

(8) charge reasonable fees for the performance of duties prescribed by this part, including application, filing, and processing fees.

Section 5. Section 35A-8-2105, which is renumbered from Section 63N-5-105 is renumbered and amended to read:

[63N-5-105]. 35A-8-2105. Allocation of volume cap.

(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the ~~[various]~~ allotment accounts as ~~[set forth]~~ described in Section ~~[63N-5-106]~~ 35A-8-2106.

(b) The board of review may distribute up to 50% of each increase in the volume cap for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section ~~[63N-5-106]~~ 35A-8-2106.

(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of

review an application containing information required by the procedures and processes of the board of review.

(3) (a) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part.

(b) In making an allocation of volume cap the board of review shall consider the following:

(i) the principal amount of the bonds proposed to be issued;

(ii) the nature and the location of the project or the type of program;

(iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

(iv) whether the project or program could obtain adequate financing without an allocation of volume cap;

(v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;

(vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;

(vii) the anticipated economic development created or retained within the local community and the state as a whole;

(viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole;

(ix) if the project is a residential rental project, the degree to which the residential rental project:

(A) targets lower income populations; and

(B) is accessible housing; and

(x) whether the project meets the principles of quality growth recommended by the Quality Growth Commission created ~~[under]~~ in Section 11-38-201.

(4) The board of review shall provide evidence of an allocation of volume cap by issuing a certificate in accordance with Section ~~[63N-5-107]~~ 35A-8-2107.

(5) (a) From January 1 to June 30 of each year, the board of review shall set aside at least 50% of the Small Issue Bond Account that may only be allocated ~~[only]~~ to manufacturing projects.

(b) From July 1 to August 15 of each year, the board of review shall set aside at least 50% of the Pool Account that may only be allocated ~~[only]~~ to manufacturing projects.

Section 6. Section 35A-8-2106, which is renumbered from Section 63N-5-106 is renumbered and amended to read:

[63N-5-106]. 35A-8-2106. Allotment accounts.

(1) There are created the following allotment accounts:

(a) the Single Family Housing Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified mortgage bonds under Section 143 of the code;

(b) the Student Loan Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified student loan bonds under Section 144(b) of the code;

(c) the Small Issue Bond Account, for which eligible issuing authorities are those authorized under the code and state statute to issue:

(i) qualified small issue bonds under Section 144(a) of the code;

(ii) qualified exempt facility bonds for qualified residential rental projects under Section 142(d) of the code; or

(iii) qualified redevelopment bonds under Section 144(c) of the code;

(d) the Exempt Facilities Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap other than for purposes described in Subsections (1)(a), (b), or (c);

(e) the Pool Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap; and

(f) the Carryforward Account, for which eligible issuing authorities are those with projects or programs qualifying under Section 146(f) of the code.

(2) (a) The volume cap shall be distributed to the ~~various~~ allotment accounts on January 1 of each year on the following basis:

- (i) 42% to the Single Family Housing Account;
- (ii) 33% to the Student Loan Account;
- (iii) 1% to the Exempt Facilities Account; and
- (iv) 24% to the Small Issue Bond Account.

(b) From July 1 to September 30 of each year, the board of review may transfer any unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to the Pool Account.

(c) ~~[The board of review, upon]~~ Upon written notification by the issuing authorities eligible for volume cap allocation from the Single Family Housing Account or the Student Loan Account that all or a portion of volume cap distributed into that allotment account will not be used, the board of review may transfer the unused volume cap between the Single Family Housing Account and the Student Loan Account.

(d) From October 1 to the third Friday of December of each year, the board of review shall transfer all unallocated volume cap into the Pool Account.

(e) On the third Saturday of December of each year, the board of review shall transfer uncollected volume cap, or allocated volume cap for which bonds have not been issued prior to the third Saturday of December, into the Carryforward Account.

(f) If the authority to issue bonds designated in any allotment account is rescinded by amendment to the code, the board of review may transfer any unallocated volume cap from that allotment account to any other allotment account.

Section 7. Section 35A-8-2107, which is renumbered from Section 63N-5-107 is renumbered and amended to read:

~~[63N-5-107].~~ 35A-8-2107. Certificates of allocation.

(1) (a) After an allocation of volume cap for a project or program is approved by the board of review, the board of review shall issue a numbered certificate of allocation stating the amount of the allocation, the allotment account for which the allocation is being made, and the expiration date of the allocation.

(b) The certificates of allocation shall be mailed to the issuing authority within 10 working days of the date of approval.

(c) ~~[No bonds]~~ Bonds are not entitled to any allocation of the volume cap unless the issuing authority received a certificate of allocation with respect to the bonds.

(d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the date of approval.

(ii) If bonds for which a certificate has been approved are not issued within the 90-day period, the certificate of allocation is void and volume cap shall be returned to the applicable allotment account for reallocation by the board of review.

(2) (a) An issuing authority receiving an allocation of volume cap from the Carryforward Account shall receive a certificate of allocation similar to the certificates of allocation described in Subsection (1) from the board of review stating the amount of allocation from the Carryforward Account that has been allocated to the issuing authority and the expiration of the allocation.

(b) (i) If in the judgment of the board of review an issuing authority or a person or entity responsible for a project or program receiving an allocation from the Carryforward Account does not proceed with diligence in providing for the issuance of the bonds with respect to the project or program, and because of the lack of diligence the volume cap cannot be used, the board of review may exclude from ~~its~~ the board of review's consideration for a given period of time, determined by the board of review, an application of the issuing authority, person, or entity.

(ii) The board of review may, at any time, review and modify ~~its~~ the board of review's decisions relating to ~~[this exclusion]~~ the exclusion described in this Subsection (2)(b).

Section 8. Section 35A-8-2108, which is renumbered from Section 63N-5-108 is renumbered and amended to read:

[63N-5-108]. 35A-8-2108. Issuing authorities -- Limitations -- Duties.

(1) (a) ~~[Any]~~ Notwithstanding any law to the contrary ~~[notwithstanding]~~, an issuing authority issuing bonds without a certificate of allocation issued under Section ~~[63N-5-107]~~ 35A-8-2107, or an issuing authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an allocation of the volume cap for those bonds.

(b) An issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.

(2) Each issuing authority shall:

(a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and

(b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:

(i) the final decision not to issue all or a stated portion of the bonds; or

(ii) the expiration of the certificate of allocation.

(3) Failure by an issuing authority to notify the board of review under Subsection (2), including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the ~~[issuing authority being denied]~~ board of review denying further consideration of applications from the issuing authority.

Section 9. Section 35A-8-2109, which is renumbered from Section 63N-5-109 is renumbered and amended to read:

[63N-5-109]. 35A-8-2109. Procedures -- Adjudicative proceedings.

The board of review shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in ~~[its]~~ the board of review's adjudicative proceedings.

Section 10. Section 35A-8-2110, which is renumbered from Section 63N-5-110 is renumbered and amended to read:

[63N-5-110]. 35A-8-2110. Duties of the department.

(1) The ~~[office]~~ department is recognized as an issuing authority as defined in Section ~~[63N-5-102]~~ 35A-8-2102, entitled to issue bonds from the Small

Issue Bond Account created in Subsection ~~[63N-5-106(1)(c)]~~ 35A-8-2106(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal Revenue Code and computed under Section 146, Internal Revenue Code.

(2) To promote and encourage the issuance of bonds from the Small Issue Bond Account for manufacturing projects, the ~~[office]~~ department may:

(a) develop campaigns and materials that inform qualified small manufacturing businesses about the existence of the program and the application process;

(b) assist small businesses in applying for and qualifying for these bonds; and

(c) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide ~~[their]~~ services at a reduced rate when the ~~[division]~~ department can provide ~~[them]~~ such service providers with a high volume of applicants or issues.

Section 11. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.]~~

~~[(21)] (20) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.~~

Section 12. Section 63N-3-111 is amended to read:

63N-3-111. Annual policy considerations.

(1) (a) The board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section 63N-3-102.

(b) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

(c) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.

(2) In designating an economically disadvantaged rural area, the board shall consider the average agricultural and nonagricultural wage, personal income, unemployment, and employment in the area.

(3) In evaluating the economic impact of applications for assistance, the board shall use an econometric cost-benefit model or models adopted by the Governor's Office of Management and Budget.

(4) The board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(1)(a) or 63N-3-108(1)(b)(i)(A).

Section 13. Section 63N-3-501 is enacted to read:

Part 5. Infrastructure and Broadband Coordination

63N-3-501. Infrastructure and broadband coordination.

(1) The office shall partner with the Automated Geographic Reference Center created in Section 63F-1-506 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

(ii) business resource centers;

(iii) public institutions of higher education; and

(iv) procurement technical assistance centers;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The office may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the

Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 14. Repealer.

This bill repeals:

Section 63N-2-412, Technology Commercialization and Innovation Program.

Section 63N-11-101, Title.

Section 63N-11-102, Definitions.

Section 63N-11-103, Duties related to health system reform.

Section 63N-11-104, Creation of Office of Consumer Health Services -- Duties.

Section 63N-11-105, Strategic plan for health system reform.

Section 63N-11-106, Reporting on federal health reform -- Prohibition of individual mandate.

Section 63N-12-101, Title -- Purpose.

Section 63N-12-102, Definition of terms.

Section 63N-12-103, Creation.

Section 63N-12-104, Members -- Appointment -- Terms -- Qualifications -- Vacancies -- Chair and vice chair --

Executive secretary -- Executive committee -- Quorum -- Expenses.

Section 63N-12-105, Duties and powers.

Section 63N-12-106, Adviser -- Duties and powers.

Section 63N-12-107, Request for information.

Section 63N-12-108, Science education program.

Section 63N-12-301, Title.

Section 63N-12-302, Definitions.

Section 63N-12-303, Creation of center.

Section 63N-12-304, Center responsibilities.

Section 63N-12-305, Reporting.

Section 15. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 183**H. B. 24**

Passed February 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**AUTISM INSURANCE COVERAGE
 SUNSET AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill removes the repeal date of statutory provisions for insurance coverage of autism spectrum disorder.

Highlighted Provisions:

This bill:

- ▶ removes the repeal date of statutory provisions for insurance coverage of autism spectrum disorder.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-642, as last amended by Laws of Utah 2017, Chapter 292
 63I-1-231, as last amended by Laws of Utah 2017, Chapters 53 and 181

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

Section 1. Section 31A-22-642 is amended to read:

31A-22-642. Insurance coverage for autism spectrum disorder.

(1) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(b) "Autism spectrum disorder" means pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(c) "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by a:

(A) board certified behavior analyst; or

(B) person licensed under Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, whose scope of practice includes mental health services.

(d) "Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests:

(i) performed by a licensed physician who is board certified in neurology, psychiatry, or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed psychologist with experience diagnosing autism spectrum disorder; and

(ii) necessary to diagnose whether an individual has an autism spectrum disorder.

(e) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(f) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(g) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(h) "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists.

(i) "Treatment for autism spectrum disorder":

(i) means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a physician or a licensed psychologist described in Subsection (1)(d) who determines the care to be medically necessary; and

(ii) includes:

(A) behavioral health treatment, provided or supervised by a person described in Subsection (1)(c)(ii);

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism spectrum disorder:

(a) for a child who is at least two years old, but younger than 10 years old; and

(b) in accordance with the requirements of this section and rules made by the commissioner.

(3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to set the

minimum standards of coverage for the treatment of autism spectrum disorder.

(4) Subject to Subsection (5), the rules described in Subsection (3) shall establish durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of autism spectrum disorder that are similar to, or identical to, the coverage provided for other illnesses or diseases.

(5) (a) Coverage for behavioral health treatment for a person with an autism spectrum disorder shall cover at least 600 hours a year. Other terms and conditions in the health benefit plan that apply to other benefits covered by the health benefit plan apply to coverage required by this section.

(b) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment under Subsection (5)(a) shall include in the plan's provider network both board certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

(6) A health care provider shall submit a treatment plan for autism spectrum disorder to the insurer within 14 business days of starting treatment for an individual. If an individual is receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a review of that treatment not more than once every six months. A review of treatment under this Subsection (6) may include a review of treatment goals and progress toward the treatment goals. If an insurer makes a determination to stop treatment as a result of the review of the treatment plan under this subsection, the determination of the insurer may be reviewed under Section 31A-22-629.

(7) (a) In accordance with Subsection (7)(b), the commissioner shall waive the requirements of this section for all insurers in the individual market or the large group market, if an insurer demonstrates to the commissioner that the insurer's entire pool of business in the individual market or the large group market has incurred claims for the autism coverage required by this section in a 12 consecutive month period that will cause a premium increase for the insurer's entire pool of business in the individual market or the large group market in excess of 1% over the insurer's premiums in the previous 12 consecutive month period.

(b) The commissioner shall waive the requirements of this section if:

(i) after a public hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commissioner finds that the insurer has demonstrated to the commissioner based on generally accepted actuarial principles and methodologies that the insurer's entire pool of business in the individual market or the large group market will experience a premium increase of 1% or greater as a result of the claims for autism services as described in this section; or

(ii) the attorney general issues a legal opinion that the limits under Subsection (5)(a) cannot be

implemented by an insurer in a manner that complies with federal law.

(8) If a waiver is granted under Subsection (7), the insurer may:

(a) continue to offer autism coverage under the existing plan until the next renewal period for the plan, at which time the insurer:

(i) may delete the autism coverage from the plan without having to re-apply for the waiver under Subsection (7); and

(ii) file the plan with the commissioner in accordance with guidelines issued by the commissioner;

(b) discontinue offering plans subject to Subsection (2), no earlier than the next calendar quarter following the date the waiver is granted, subject to filing guidelines issued by the commissioner; or

(c) nonrenew existing plans that are subject to Subsection (2), in compliance with Subsection 31A-22-618.6(5) or Subsection 31A-22-618.7(3).

~~[(9) This section sunsets in accordance with Section 63I-1-231.]~~

Section 2. Section 63I-1-231 is amended to read:

63I-1-231. Repeal dates, Title 31A.

(1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.

(2) Section 31A-22-615.5 is repealed July 1, 2022.

(3) Section 31A-22-619.6, Coordination of benefits with workers' compensation claim--Health insurer's duty to pay, is repealed on July 1, 2018.

~~[(4) Section 31A-22-642, Insurance coverage for autism spectrum disorder, is repealed on January 1, 2019.]~~

CHAPTER 184**H. B. 26**

Passed February 2, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**TRANSPORTATION SAFETY
 PROGRAM FUNDING AMENDMENTS**

Chief Sponsor: Kay J. Christofferson
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill creates a restricted account to receive donations and contributions for certain traffic safety education and outreach programs.

Highlighted Provisions:

This bill:

- ▶ creates a restricted account to receive appropriations, donations, and other contributions for traffic safety education and outreach programs;
- ▶ requires the Department of Transportation to consult with the Department of Public Safety on how to expend funds in the account; and
- ▶ provides rulemaking authority to allow the department to establish in rule the programs and efforts for which the funds in the account may be expended.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-2-129, Utah Code Annotated 1953

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

Section 1. Section 72-2-129 is enacted to read:

72-2-129. Transportation Safety Program Restricted Account.

(1) There is created in the Transportation Fund the Transportation Safety Program Restricted Account.

(2) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) The Legislature shall appropriate funds in the account to the department.

(4) Upon appropriation the department may expend up to 5% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsection (5).

(5) (a) Upon appropriation the department shall expend the contributions to fund programs focused

on transportation safety including community education and outreach efforts.

(b) The department shall consult with the Department of Public Safety to establish an interagency policy to prioritize programs and efforts for which the department may expend account funds.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures and requirements for programs for which the department may expend the funds in the account.

CHAPTER 185**H. B. 29**

Passed February 23, 2018

Approved March 19, 2018

Effective July 1, 2018

**PUBLIC EMPLOYEES LONG-TERM
DISABILITY ACT AMENDMENTS**Chief Sponsor: Jefferson Moss
Senate Sponsor: Daniel Hemmert**LONG TITLE****General Description:**

This bill modifies the Public Employees' Long-Term Disability Act by amending provisions relating to long-term disability benefits.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ specifies when an employee will be evaluated for ongoing disability benefits;
- ▶ modifies the amount of certain disability benefits to be paid;
- ▶ modifies the types of reductions or reimbursements for a disability benefit and specifies when a reduction or reimbursement should be applied;
- ▶ requires repayment when an overpayment of monthly disability benefits occurs; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

49-21-102, as last amended by Laws of Utah 2014, Chapter 15

49-21-401, as last amended by Laws of Utah 2015, Chapter 328

49-21-402, as last amended by Laws of Utah 2017, Chapter 34

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

Section 1. Section 49-21-102 is amended to read:**49-21-102. Definitions.**

As used in this chapter:

(1) "Date of disability" means the date on which a period of ~~[continuous]~~ total disability ~~[commences]~~ begins, and may not ~~[commence]~~ begin on or before the last day of ~~[actual work]~~ performing full-duty work in the eligible employee's regular occupation.

(2) (a) "Eligible employee" means the following employee whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by a public or private system, organization, or company designated by the State Board of Regents.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) (a) "Gainful employment" means any occupation or employment position in the state that:

(i) contemplates continued employment during a fiscal or calendar year; and

(ii) would pay an amount equal to or greater than 40 hours per week at the legally required minimum wage, regardless of the number of hours worked.

(b) "Gainful employment" does not mean that an occupation or employment position in the state is:

(i) available within any geographic boundaries of the state;

(ii) offered at a certain level of wages;

(iii) available at a particular number of hours per week; or

(iv) currently available.

[4] (5) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

[5] (6) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

[6] (7) "Objective medical impairment" means an impairment resulting from an injury or illness

which is diagnosed by a physician and which is based on accepted objective medical tests or findings rather than subjective complaints.

~~[(b) (i) “Total disability”]~~ (8) (a) “Ongoing disability” means, after the elimination period and the first 24 months of disability benefits, the complete inability, as determined under Subsection ~~[(11)(b)(ii)]~~ (8)(b), to engage in any gainful ~~[occupation]~~ employment which is reasonable, considering the eligible employee’s education, training, and experience.

~~[(ii)]~~ (b) For purposes of Subsection ~~[(11)(b)(i)]~~ (8)(a), inability is determined:

~~[(A)]~~ (i) based solely on physical objective medical impairment; and

~~[(B)]~~ (ii) regardless of the existence or absence of any mental impairment.

(9) “Own occupation disability” means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee’s regular occupation during the elimination period and the first 24 months of disability benefits.

~~[(7)]~~ (10) “Physician” means a licensed physician.

~~[(8)]~~ (11) “Regular monthly salary” means the amount certified by the participating employer as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

~~[(9)]~~ (12) “Regular occupation” means either:

(a) the primary duties performed by the eligible employee for the 12 months preceding the date of disability~~;~~; or

(b) a permanent assignment of duty to the eligible employee, as long as the eligible employee has actually performed all the required duties of the permanent assignment of duty.

~~[(40)]~~ (13) “Rehabilitative employment” means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

~~[(11)-(a)]~~ (14) “Total disability” means:

(a) own occupation disability; or

(b) ongoing disability.

(15) (a) “Workers’ compensation indemnity benefits” means benefits provided that are designed to replace wages under Title 34A, Chapter 2, Part 4, Compensation and Benefits, including wage replacement for a temporary disability, temporary partial disability, permanent partial disability, or permanent total disability.

(b) “Workers’ compensation indemnity benefits” includes a settlement amount following a claim for indemnity benefits.

Section 2. Section 49-21-401 is amended to read:

49-21-401. Disability benefits -- Application -- Eligibility.

(1) An eligible employee shall apply for long-term disability benefits under this chapter by:

(a) completing an application form prepared by the office;

(b) signing a consent form allowing the office access to the eligible employee’s medical records; and

(c) providing any documentation or information reasonably requested by the office.

(2) (a) If an eligible employee is unable to apply on the employee’s own behalf, the application may be made by a person who is:

(i) the attorney for an eligible employee; or

(ii) appointed as a conservator or guardian of the eligible employee.

(b) A person described in Subsection (2)(a), may not make an application for a deceased employee.

(3) Upon request by the office, the participating employer of the eligible employee shall provide to the office documentation and information concerning the eligible employee.

(4) The office:

(a) shall review all relevant information;

(b) may request additional information; and

(c) shall determine whether or not the eligible employee has a total disability.

(5) (a) If the office determines that the eligible employee has a total disability due to accidental bodily injury or physical illness which is not the result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to:

(i) two-thirds of the eligible employee’s regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period~~[-];~~ minus

(ii) any required reductions or reimbursements under Section 49-21-402.

(b) For an eligible employee under an own occupation disability, the office shall, at the end of the two-year disability period or when a claim for total disability is made by an eligible employee:

(i) review and determine whether the eligible employee qualifies for ongoing disability benefits;

(ii) make the determination under Subsection (5)(b)(i) as of the day after the eligible employee’s own occupation disability benefits end;

(iii) consider only physical objective medical impairment that the office determines as a disabling condition on the date of disability; and

(iv) exclude any new intervening causes or new diagnoses during the own occupation disability period.

(6) If the office determines that the eligible employee has a total disability due to psychiatric illness, the eligible employee shall receive:

(a) a maximum of two years of monthly disability benefits equal to two-thirds of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period;

(b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses preauthorized by the office's consultants, paid during the period of monthly disability benefits; and

(c) payment of monthly disability benefits according to contractual provisions for a period not to exceed five years if the eligible employee is institutionalized due to psychiatric illness.

~~[(7) If the office determines that the eligible employee has a total disability due to a physical injury resulting from external force or violence as a result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period.]~~

(7) (a) An eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period, but reduced by any required reductions and reimbursements under Section 49-21-402, if the office determines that the employee meets all of the following:

(i) the eligible employee has a total disability due solely to a physical objective medical impairment;

(ii) the physical objective medical impairment described in Subsection (7)(a)(i) resulted from external force or violence as a result of the performance of an employment duty; and

(iii) the eligible employee received workers' compensation indemnity benefits for the physical objective medical impairment described in Subsection (7)(a)(i).

(b) An eligible employee who receives workers' compensation indemnity benefits for a physical objective medical impairment is not guaranteed to receive the 100% monthly disability benefit described in Subsection (7)(a).

(8) (a) Successive periods of disability are considered as a continuous period of disability if the period of disability:

(i) results from the same or related causes;

(ii) is separated by less than six months of continuous full-time work at the individual's usual place of employment; and

(iii) commences while the individual is an eligible employee covered by this chapter.

(b) The inability to work for a period of less than 15 consecutive calendar days is not considered as a period of disability.

(c) If Subsection (8)(a) or (b) does not apply, successive periods of disability are considered as separate periods of disability.

(9) The office may, at any time, have any eligible employee claiming to have a disability examined by a physician chosen by the office to determine if the eligible employee has a total disability.

(10) A claim brought by an eligible employee for long-term disability benefits under the Public Employee's Long-Term Disability Program is barred if it is not commenced within six months from the eligible employee's date of disability, unless the office determines that under the surrounding facts and circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

(11) (a) If the office denies or terminates a claim for long-term disability benefits, the eligible employee shall have the right to appeal the denial or termination:

(i) to the ~~[office disability claims review committee]~~ executive director of the office within 60 days of the denial or termination of long-term disability benefits; and

(ii) in accordance with Section 49-11-613.

(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (11)(a) is barred if it is not commenced within the time limit described in Subsection (11)(a).

~~[(12) (a) If the office disability claims review committee, after reviewing an appeal denying or terminating long-term disability benefits, denies or terminates a claim for long-term disability benefits, the eligible employee may appeal the office disability claims review committee's denial or termination to the executive director of the office in accordance with Section 49-11-613.]~~

~~[(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (12)(a) is barred if it is not commenced within 60 days of the office disability claims review committee's denial or termination.]~~

~~[(c) Following an appeal commenced under this Subsection (12), any further appeal proceedings shall be conducted in accordance with the administrative hearing process described in Section 49-11-613.]~~

~~[(13)] (12) Medical or psychiatric conditions which existed prior to eligibility may not be a basis for disability benefits until the eligible employee has had one year of continuous eligibility in the Public Employees Long-Term Disability Program.~~

~~[(14)] (13) If there is a valid benefit protection contract, service credit shall accrue during the period of total disability, unless the disabled eligible employee is:~~

(a) exempted from a system;

(b) eligible to retire with an unreduced retirement allowance; or

(c) otherwise ineligible for service credit.

~~[(15)]~~ (14) Regardless of any medical evidence provided by the employee to support the application for disability, an employee is not eligible for long-term disability benefits during any period in which the employee:

(a) makes a claim that the employee is able to work; or

(b) has a pending action in a court or before any federal, state, or local administrative body in which the employee has made a claim that the employee is able to work.

~~[(16)]~~ (15) Notwithstanding the provisions of Section 49-11-618, upon written request by an employer, information obtained under this part may, upon an order of a court or an administrative law judge, be released to an employer who is a party in an action under Subsection ~~[(15)]~~ (14).

Section 3. Section 49-21-402 is amended to read:

49-21-402. Reduction or reimbursement of benefit -- Circumstances -- Application for other benefits required.

(1) A monthly disability benefit may be terminated unless:

(a) the eligible employee is under the ongoing care and treatment of a physician other than the eligible employee; and

(b) the eligible employee provides the information and documentation requested by the office.

(2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee ~~from the following sources for the same period of time during which the eligible employee is entitled to receive a~~ for the same injury or illness that is the basis for the monthly disability benefit from the following sources:

~~[(a) Social Security disability benefits, including all benefits received by the eligible employee, the eligible employee's spouse, and the eligible employee's children as determined by the Social Security Administration;]~~

~~[(b)]~~ (i) workers' compensation indemnity benefits, regardless of whether the amount is received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers' compensation indemnity carrier;

~~[(c)]~~ (ii) any money received by judgment, legal action, or settlement from a third party liable to the employee for the monthly disability benefit;

~~[(d) unemployment compensation benefits;]~~

~~[(e)]~~ (iii) automobile no-fault, medical payments, or similar insurance payments;

~~[(f)]~~ (iv) any money received by a judgment, settlement, or other payment as a result of a claim against an employer; or

~~[(g) any payments made for sick leave,] (v) annual leave[, or similar lump-sum payments;]~~ and,

~~[(h) compensation received for employment, including self-employment, except for eligible amounts from approved rehabilitative employment in accordance with Section 49-21-406.]~~

(b) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit from the following sources:

(i) social security disability benefits, including all benefits received by the eligible employee, the eligible employee's spouse, and the eligible employee's children as determined by the Social Security Administration;

(ii) unemployment compensation benefits;

(iii) sick leave benefits; or

(iv) compensation received for employment, including self-employment, except for eligible amounts from approved rehabilitative employment in accordance with Section 49-21-406.

(3) The monthly disability benefit shall be reduced by any amount in excess of one-third of the eligible employee's regular monthly salary received by, or payable to, the eligible employee from the following sources for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit:

(a) any retirement payment earned through or provided by public or private employment; and

(b) any disability benefit, other than social security or workers' compensation indemnity benefits, resulting from the disability for which benefits are being received under this chapter.

(4) After the date of disability, cost-of-living increases to any of the benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability benefit.

(5) Any amounts payable to the eligible employee from one or more of the sources under Subsection (2) are considered as amounts received whether or not the amounts were actually received by the eligible employee.

(6) (a) An eligible employee shall first apply for all disability benefits from governmental entities under Subsection (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the applications.

(b) If the eligible employee fails to make application under this Subsection (6), the monthly disability benefit shall be suspended.

(7) During a period of total disability, an eligible employee has an affirmative duty to keep the program informed regarding:

(a) the award or receipt of an amount from a source that could result in the monthly disability benefit being reduced or reimbursed under this section within 10 days of the award or receipt of the amount; and

(b) any employment, including self-employment, of the eligible employee and the compensation for that employment within 10 days of beginning the employment or a material change in the compensation from that employment.

(8) The program shall use commercially reasonable means to collect any amounts of overpayments and reimbursements.

(9) (a) If the program is unable to reduce or obtain reimbursement for the required amount from the monthly disability benefit for any reason, the employee will have received an overpayment of monthly disability benefits.

(b) If an eligible employee receives an overpayment of monthly disability benefits, the eligible employee shall repay to the office the amount of the overpayment, plus interest as determined by the program, within 30 days from the date the overpayment is received by:

(i) the eligible employee; or

(ii) a third party related to the eligible employee.

(c) The executive director may waive the interest on an overpayment of monthly disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of the overpayment of monthly disability benefits.

Section 4. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 186**H. B. 32**

Passed February 12, 2018

Approved March 19, 2018

Effective May 8, 2018

**UNIFORM CONSTRUCTION
CODE AMENDMENTS**Chief Sponsor: Mike Schultz
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends the State Construction and Fire Codes Act.

Highlighted Provisions:

This bill:

- ▶ adds the definition of a “motor vehicle waste disposal well” to the International Plumbing Code;
- ▶ adds a section regarding the prohibition of certain motor vehicle waste disposal wells to the International Plumbing Code;
- ▶ amends the International Residential Code;
- ▶ incorporates by reference the 2017 edition of the National Electrical Code;
- ▶ amends incorporated provisions of the National Electrical Code; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-2-103, as last amended by Laws of Utah 2016, Chapter 249

15A-3-205, as last amended by Laws of Utah 2016, Chapter 249

15A-3-206, as last amended by Laws of Utah 2017, Chapter 236

15A-3-302, as last amended by Laws of Utah 2016, Chapter 249

15A-3-304, as last amended by Laws of Utah 2016, Chapter 249

15A-3-601, as last amended by Laws of Utah 2016, Chapter 249

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

Section 1. Section 15A-2-103 is amended to read:**15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.**

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Part 3, Statewide Amendments to International Plumbing Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the

regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2015 edition of the International Building Code, including Appendix J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) the 2015 edition of the International Plumbing Code, issued by the International Code Council;

(d) the 2015 edition of the International Mechanical Code, issued by the International Code Council;

(e) the 2015 edition of the International Fuel Gas Code, issued by the International Code Council;

(f) the [2014] 2017 edition of the National Electrical Code, issued by the National Fire Protection Association;

(g) the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(h) the 2015 edition of the International Existing Building Code, issued by the International Code Council;

(i) subject to Subsection 15A-2-104(2), the HUD Code;

(j) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council; and

(k) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

Section 2. Section 15A-3-205 is amended to read:**15A-3-205. Amendments to Chapters 26 through 35 of IRC.**

(1) A new IRC, Section P2602.3, is added as follows: “P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73-3-1 and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction.”

(2) A new IRC, Section P2602.4, is added as follows: “P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10–8–38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality.”

(3) In IRC, Section P2801.8, all words in the first sentence up to the word “water” are deleted.

(4) A new IRC, Section P2902.1.1, is added as follows: “P2902.1.1 Backflow assembly testing. The premise owner or the premise owner’s designee shall have backflow prevention assemblies operation tested in accordance with administrative rules made by the Drinking Water Board at the time of installation, repair, and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly. Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third-party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and rules made by the Drinking Water Board.”

(5) In IRC, Section P2902.1, the following subsections are added as follows:

“P2902.1.1 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

P2902.1.2 Specific Installation Criteria.

P2902.1.2.1 Reduced Pressure Principle Backflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly may not be installed in a pit.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.

c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4.

d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

P2902.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

P2902.1.2.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground, in a vault, or in a pit.e. The assembly shall be installed in a vertical position.”

(6) In IRC, Section P2903.9.3, the first sentence is deleted and replaced with the following: “Unless the plumbing appliance or plumbing fixture has a wall-mount valve, shutoff valves shall be required on each fixture supply pipe to each plumbing appliance and to each plumbing fixture other than bathtubs and showers.”

~~(6)~~ (7) IRC, Section P2910.5, is deleted and replaced with the following:

“P2910.5 Potable water connections.

When a potable water system is connected to a nonpotable water system, the potable water system

shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 2901.”

[~~(7)~~] (8) IRC, Section P2910.9.5, is deleted and replaced with the following:”P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902.”

[~~(8)~~] (9) In IRC, Section P2911.12.4, the following words are deleted: “and backwater valves”.

[~~(9)~~] (10) In IRC, Section P2912.15.6, the following words are deleted: “and backwater valves”.

[~~(10)~~] (11) In IRC, Section P2913.4.2, the following words are deleted: “and backwater valves”.

[~~(11)~~] (12) IRC, Section P3009, is deleted and replaced with the following:

“P3009 Connected to nonpotable water from on-site water reuse systems.

Nonpotable systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of R317-401, UAC, Gray Water Systems.”

[~~(12)~~] (13) In IRC, Section P3103.6, the following sentence is added at the end of the paragraph: “Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.”

[~~(13)~~] (14) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: “Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.”

Section 3. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3705.4.5, the following words are added after the word “assemblies”: “with ungrounded conductors 10 AWG and smaller”.

[~~(4)~~] (2) In IRC, Section E3901.9, the following exception is added:

“Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit.”

[~~(2)~~] (3) IRC, Section E3902.16 is deleted.

[~~(3)~~] (4) In Section E3902.17:

(a) following the word “Exception” the number “1.” is added; and

(b) at the end of the section, the following sentences are added:”2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence.”

[~~(4)~~] (5) IRC, Chapter 44, is amended by adding the following reference standard:

Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3”

[~~(5)~~] (6) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(5)~~] (6)(a) is not required.

Section 4. Section 15A-3-302 is amended to read:

15A-3-302. Amendments to Chapters 1 and 2 of IPC.

(1) A new IPC, Section 101.2.1, is added as follows: “For clarification, the International Private Sewage Disposal Code is not part of the plumbing code even though it is in the same printed volume.”

(2) In IPC, Section 202, the definition for “Backflow Backpressure, Low Head” is deleted.

(3) In IPC, Section 202, the following definition is added: “Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4).”

(4) In IPC, Section 202, the following definition is added: “Contamination (High Hazard). An impairment of the quality of the potable water that creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids or waste.”

(5) In IPC, Section 202, the definition for “Cross Connection” is deleted and replaced with the

following: “Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow”).”

(6) In IPC, Section 202, the following definition is added: “Deep Seal Trap. A manufactured or field fabricated trap with a liquid seal of 4” or larger.”

(7) In IPC, Section 202, the definition for “Essentially Nontoxic Transfer Fluid” is deleted and replaced with the following:

“ESSENTIALLY NONTOXIC TRANSFER FLUID. Fluids having a Gosselin rating of 1, including propylene glycol; and mineral oil.”

(8) In IPC, Section 202, the definition for “Essentially Toxic Transfer Fluid” is deleted and replaced with the following:

“ESSENTIALLY TOXIC TRANSFER FLUID. Soil, waste, or gray water; and any fluid that is not an essentially nontoxic transfer fluid under this code.”

(9) In IPC, Section 202, the following definition is added: “High Hazard. See Contamination.”

(10) In IPC, Section 202, the following definition is added: “Low Hazard. See Pollution.”

(11) In IPC, Section 202, the following definition is added: “Motor Vehicle Waste Disposal Well. An injection well that discharges to the subsurface by way of a floor drain, septic system, French drain, dry well, or similar system that receives or has received fluid from a facility engaged in vehicular repair or maintenance activities, including an auto body repair shop, automotive repair shop, new and used car dealership, speciality repair shop, or any other facility that does any vehicular repair work. A motor vehicle waste disposal well is subject to rulemaking under Section 19-5-104 regarding underground injection.”

~~(11)~~ (12) In IPC, Section 202, the following definition is added: “Pollution (Low Hazard). An impairment of the quality of the potable water to a degree that does not create a hazard to the public health but that does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.”

~~(12)~~ (13) In IPC, Section 202, the definition for “Potable Water” is deleted and replaced with the following: “Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

Section 5. Section 15A-3-304 is amended to read:

15A-3-304. Amendments to Chapter 4 of IPC.

(1) In IPC, Table 403.1, the following changes are made:

(a) The title for Table 403.1 is deleted and replaced with the following: “Table 403.1, Minimum Number of Required Plumbing Fixtures ^{a, b}”;

(b) In row number “3”, for “E” occupancy, in the field for “OTHER”, a new footnote g is added.

(c) In row number “5”, for “I-4 Adult day care and child day care” occupancy, in the field for “OTHER”, a new footnote g is added.

(d) A new footnote f is added as follows: “FOOTNOTE: f. When provided, in public toilet facilities, there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms. Diaper changing facilities shall meet the requirements of ASTM F2285-04 (2010) Standard Consumer Safety Performance Specifications for Diaper Changing Tables for Commercial Use.”

(e) A new footnote g is added to the table as follows: “FOOTNOTE g: Non-residential child care facilities shall comply with the additional requirements for sinks in administrative rule made by the Department of Health.”

(2) A new IPC, Section 406.3, is added as follows: “406.3 Automatic clothes washer safe pans. Safe pans, when installed under automatic clothes washers, shall be installed in accordance with Section 504.7.”

(3) A new IPC, Section 412.5, is added as follows: “412.5 Public toilet rooms. All public toilet rooms in A & E occupancies and M occupancies with restrooms having multiple water closets or urinals shall be equipped with at least one floor drain.”

(4) A new IPC, Section 412.6, is added as follows: “Prohibition of motor vehicle waste disposal wells. New and existing motor vehicle waste disposal wells are prohibited. A motor vehicle waste disposal well associated with a single family residence is not subject to this prohibition.”

~~(4)~~ (5) IPC, Section 423.3, is deleted.

Section 6. Section 15A-3-601 is amended to read:

15A-3-601. General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) The IRC provisions are adopted as the residential electrical standards applicable to residential installations ~~[applicable]~~ under the IRC. All other installations shall comply with the adopted NEC.

~~(2) NEC, Section 240.87(B), is modified to add the following as an additional approved equivalent means: [“6. An instantaneous trip function set at or below the available fault current.”]~~

(2) In NEC, Section 210.8(B), the words “and three phase receptacles rated 150 volts to ground or less, 100 amperes or less” are deleted.

(3) NEC, Section 210.71, is deleted.

(4) In NEC, Section 240.67, the words “January 1, 2020” are deleted and replaced with “upon adoption of the 2020 NEC”.

CHAPTER 187**H. B. 35**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

**MUNICIPAL ALTERNATE
VOTING METHODS PILOT PROJECT**

Chief Sponsor: Marc K. Roberts
Senate Sponsor: Howard A. Stephenson
Cosponsors: Patrice M. Arent
Rebecca Chavez-Houck
Justin L. Fawson
Brian M. Greene
Brian S. King
Adam Robertson
Mike Winder

LONG TITLE**General Description:**

This bill creates a pilot project to permit a municipality to conduct nonpartisan races using instant runoff voting.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes a pilot project for a municipality to conduct certain nonpartisan municipal races by instant runoff voting;
- ▶ establishes a process for a municipality to opt in to the pilot project;
- ▶ establishes requirements and procedures for conducting an election under the pilot program, including the completion of ballots, the counting of votes, recount provisions, resolving a tie, and canvassing;
- ▶ provides a sunset date for the pilot project; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2017, Chapter 52
20A-1-303, as enacted by Laws of Utah 1993, Chapter 1
20A-3-105, as last amended by Laws of Utah 2007, Chapter 75
20A-4-101, as last amended by Laws of Utah 2008, Chapter 225
20A-4-102, as last amended by Laws of Utah 2002, Chapter 177
20A-4-105, as last amended by Laws of Utah 2017, Chapter 327
20A-4-106, as last amended by Laws of Utah 2012, Chapter 251
20A-4-304, as last amended by Laws of Utah 2012, Chapter 309
20A-4-401, as last amended by Laws of Utah 2013, Chapter 92
20A-5-404, as last amended by Laws of Utah 2001, Chapter 9

20A-6-402, as last amended by Laws of Utah 2016, Chapter 176

20A-9-404, as last amended by Laws of Utah 2017, Chapter 91

63I-2-220, as last amended by Laws of Utah 2017, Chapters 32 and 452

ENACTS:

20A-4-601, Utah Code Annotated 1953

20A-4-602, Utah Code Annotated 1953

20A-4-603, Utah Code Annotated 1953

20A-4-604, Utah Code Annotated 1953

20A-6-203.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

20A-1-304, as last amended by Laws of Utah 2001, Chapter 20

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district board members that are required by law to be elected.

(41) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(45) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) "Municipality" means a city, town, or metro township.

(51) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(52) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(53) "Official register" means the official record furnished to election officials by the election officer

that contains the information required by Section 20A-5-401.

(54) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(55) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(57) "Polling place" means the building where voting is conducted.

(58) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(60) "Primary convention" means the political party conventions held during the year of the regular general election.

(61) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(62) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(63) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(64) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(66) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(67) "Registration form" means a book voter registration form and a by-mail voter registration form.

(68) "Regular ballot" means a ballot that is not a provisional ballot.

(69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(70) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(71) "Resident" means a person who resides within a specific voting precinct in Utah.

(72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

(74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(75) "Special election" means an election held as authorized by Section 20A-1-203.

(76) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(78) "Stub" means the detachable part of each ballot.

(79) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(80) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(81) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(82) "Vacancy" means the absence of a person to serve in any position created by statute, whether

that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(85) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(88) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(89) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-1-303 is amended to read:

20A-1-303. Determining results.

(1) (a) [~~When~~] Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when one person is to be elected or nominated, the person receiving the highest number of votes at any:

(i) election for any office to be filled at that election is elected to that office; and

(ii) primary for nomination for any office is nominated for that office.

(b) [~~When~~] Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when more than one person is to be elected or nominated, the persons receiving the highest number of votes at any:

(i) election for any office to be filled at that election are elected to that office; and

(ii) primary for nomination for any office are nominated for that office.

(2) Any ballot proposition submitted to voters for their approval or rejection:

(a) passes if the number of "yes" votes is greater than the number of "no" votes; and

(b) fails if:

(i) the number of "yes" votes equal the number of "no" votes; or

(ii) the number of "no" votes is greater than the number of "yes" votes.

Section 3. Section 20A-1-304 is repealed and reenacted to read:

20A-1-304. Tie votes.

Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if two or more candidates for a position have an equal and the highest number of votes for any office, the election officer shall, in a public meeting held within 30 days after the day on which the canvass is completed, determine the candidate selected, by lot, in the presence of each candidate subject to the tie.

Section 4. Section 20A-3-105 is amended to read:

20A-3-105. Marking and depositing ballots.

(1) (a) [~~If~~] Except as provided in Subsection (5), if a paper ballot is used, the voter, upon receipt of the ballot, shall go to a voting booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the name of each candidate of the voter's choice for each office to be filled.

(b) [~~A~~] Except as provided in Subsections (5) and (6), a mark is not required opposite the name of a write-in candidate.

(c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the appropriate square with a mark opposite the answer the voter intends to make.

(d) Before leaving the booth, the voter shall:

(i) fold the ballot so that its contents are concealed and the stub can be removed; and

(ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot envelope and complete the information printed on the envelope.

(2) (a) (i) [~~If~~] Subject to Subsection (5), if a punch card ballot is used, the voter shall insert the ballot sheet into the voting device and mark the ballot sheet according to the instructions provided on the device.

(ii) If the voter is issued a ballot sheet with a long stub without a secrecy envelope, the voter shall record any write-in votes on the long stub.

(iii) If the voter is issued a ballot sheet with a secrecy envelope, the voter shall record any write-in votes on the secrecy envelope.

(b) After the voter has marked the ballot sheet, the voter shall either:

(i) place the ballot sheet inside the secrecy envelope, if one is provided; or

(ii) fold the long stub over the face of the ballot sheet to maintain the secrecy of the vote if the voter is issued a ballot sheet with a long stub without a secrecy envelope.

(c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the provisional ballot envelope and complete the information printed on the envelope.

(3) (a) [~~If~~] Subject to Subsection (5), if a ballot sheet other than a punch card is used, the voter shall mark the ballot sheet according to the instructions provided on the voting device or ballot sheet.

(b) [~~The~~] Except as provided in Subsections (5) and (6), the voter shall record a write-in vote by:

(i) marking the position opposite the area for entering a write-in candidate; and

(ii) entering the name of the valid write-in candidate for whom the voter wishes to vote for by means of:

(A) writing;

(B) a label; or

(C) entering the name using the voting device.

(c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the provisional ballot envelope and complete the information printed on the envelope.

(4) (a) [~~If~~] Subject to Subsection (5), if an electronic ballot is used, the voter shall:

(i) insert the ballot access card into the voting device; and

(ii) make the selections according to the instructions provided on the device.

(b) ~~[The]~~ Except as provided in Subsections (5) and (6), the voter shall record a write-in vote by:

(i) marking the appropriate position opposite the area for entering a write-in candidate; and

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

(5) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a voter:

(a) shall indicate, as directed on the ballot, the name of the candidate who is the voter's first preference for the office; and

(b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference.

~~[(5)]~~ (6) After preparation of the ballot:

(a) if a paper ballot or punch card ballot is used:

(i) the voter shall:

(A) leave the voting booth; and

(B) announce ~~[his]~~ the voter's name to the poll worker in charge of the ballot box;

(ii) the poll worker in charge of the ballot box shall:

(A) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot;

(B) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the poll worker, remove the stub from the ballot; and

(C) return the ballot to the voter;

(iii) the voter shall, in full view of the poll workers, cast ~~[his]~~ the voter's vote by depositing the ballot in the ballot box; and

(iv) if the stub has been detached from the ballot:

(A) the poll worker may not accept the ballot; and

(B) the poll worker shall:

(I) treat the ballot as a spoiled ballot;

(II) provide the voter with a new ballot; and

(III) dispose of the spoiled ballot as provided in Section 20A-3-107;

(b) if a ballot sheet other than a punch card is used:

(i) the voter shall:

(A) leave the voting booth; and

(B) announce ~~[his]~~ the voter's name to the poll worker in charge of the ballot box;

(ii) the poll worker in charge of the ballot box shall:

(A) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot; and

(B) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the poll worker, return the ballot to the voter; and

(iii) the voter shall, in full view of the poll workers, cast his vote by depositing the ballot in the ballot box; and

(c) if an electronic ballot is used, the voter shall:

(i) cast the voter's ballot;

(ii) remove the ballot access card from the voting device; and

(iii) return the ballot access card to a designated poll worker.

~~[(6)]~~ (7) A voter voting a paper ballot in a regular primary election shall, after marking the ballot:

(a) (i) if the ballot is designed so that the names of all candidates for all political parties are on the same ballot, detach the part of the paper ballot containing the names of the candidates of the party ~~[he]~~ the voter has voted from the remainder of the paper ballot;

(ii) fold that portion of the paper ballot so that its face is concealed; and

(iii) deposit it in the ballot box; and

(b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the parties that the elector did not vote; and

(ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.

~~[(7)]~~ (8) (a) Each voter shall mark and cast or deposit the ballot without delay and shall leave the voting area after voting.

(b) A voter may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;

(ii) remain within the voting area more than 10 minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy them.

~~[(8)]~~ (9) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

~~[(9)]~~ (10) The poll workers may not allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

- (a) election officials;
- (b) watchers; or
- (c) assisting voters with a disability.

Section 5. Section 20A-4-101 is amended to read:

20A-4-101. Counting paper ballots during election day.

(1) Each county legislative body or municipal legislative body that has voting precincts that use paper ballots and each poll worker in those voting precincts shall comply with the requirements of this section.

(2) (a) Each county legislative body or municipal legislative body shall provide:

(i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and

(ii) a counting room for the use of the poll workers counting the ballots during the day.

(b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:

(i) close the first ballot box and deliver it to the counting judges; and

(ii) prepare and use another ballot box to receive voted ballots.

(c) ~~Upon~~ Except as provided in Subsection (2)(f), upon receipt of the ballot box, the counting judges shall:

(i) take the ballot box to the counting room;

(ii) count the votes on the regular ballots in the ballot box;

(iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and

(iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.

(d) (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and

(ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.

(e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.

(f) (i) The director of elections within the Office of the Lieutenant Governor shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing the procedures that a counting judge is required to follow for counting ballots in an instant runoff

voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(ii) When counting ballots in an instant runoff voting race described in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a counting judge shall comply with the procedures established under Subsection (2)(f)(i) and Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(3) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the count.

~~[(4) The counting judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.]~~

(4) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(a) to the extent applicable, Section 20A-4-105; and

(b) as applicable, for an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, Subsection 20A-4-603(3).

Section 6. Section 20A-4-102 is amended to read:

20A-4-102. Counting paper ballots after the polls close.

(1) (a) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

~~[(b) The election judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.]~~

(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(i) to the extent applicable, Section 20A-4-105; and

(ii) as applicable, for an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, Subsection 20A-4-603(3).

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the

ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;

(iii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iv) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(v) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(vi) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vii) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) Only election judges and counting poll watchers may be present at the place where counting is conducted until the count is completed.

Section 7. Section 20A-4-105 is amended to read:

20A-4-105. Standards and requirements for evaluating voter's ballot choices.

(1) (a) An election officer shall ensure that when a question arises regarding a vote recorded on a paper ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.

(b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.

(2) Except as provided in Subsection (1), Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.

(3) ~~The~~ Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a paper ballot if:

(a) the defective or incomplete mark is in the proper place; and

(b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.

(4) (a) When a voter has marked a ballot so that it appears that the voter has voted more than one straight ticket, the counting judges may not count any votes on the ballot for party candidates.

(b) The counting judges shall count the remainder of the ballot if the remainder of the ballot is voted correctly.

(5) ~~The~~ Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not

reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.

(6) (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.

(b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3, Voting.

(7) The counting judges may not reject a ballot because of an error in:

(a) stamping or writing an official endorsement; or

(b) delivering the wrong ballots to a polling place.

(8) The counting judges may not count a paper ballot that does not have the official endorsement by an election officer.

(9) The counting judges may not count a ballot proposition vote or candidate vote for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.

(10) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.

(11) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(12) ~~It~~ Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.

Section 8. Section 20A-4-106 is amended to read:

20A-4-106. Paper ballots -- Sealing.

(1) (a) (i) At all elections using paper ballots, as soon as the counting judges have read and tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate strings.

(ii) After the ballots are strung, they may not be examined by anyone, except when examined during a recount conducted under the authority of Section 20A-4-401 or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(b) The judges shall carefully seal all of the strung ballots in a strong envelope.

(2) (a) For regular primary elections, after all the ballots have been counted, certified to, and strung by the judges, they shall seal the ballots cast for each of the parties in separate envelopes.

(b) The judges shall:

(i) seal each of the envelopes containing the votes of each of the political parties in one large envelope; and

(ii) return that envelope to the county clerk.

(c) The judges shall:

(i) destroy the ballots in the blank ballot box; or

(ii) if directed to do so by the election officer, return them to the election officer for destruction.

(3) As soon as the judges have counted all the votes and sealed the ballots they shall sign and certify the pollbooks.

(4) (a) The judges, before they adjourn, shall:

(i) enclose and seal the official register, the posting book, the pollbook, the ballot disposition form, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, and any unprocessed absentee ballots in a strong envelope or pouch;

(ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been strung and placed in a separate envelope or pouch as required by Subsection (1);

(iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the ballot disposition form in a separate envelope or pouch;

(iv) place all provisional ballots in a separate envelope or pouch; and

(v) place the total votes cast form and the judges' vouchers requesting compensation for services rendered in a separate pouch.

(b) Before enclosing the official register in the envelope or pouch, the election judges shall certify it substantially as follows:

"We, the undersigned, judges of election for precinct _____, (jurisdiction) _____, Utah, certify that the required entries have been made for the election held _____(month\day\year), including:

a list of the ballot numbers for each voter;

the voters' signatures, except where a judge has signed for the absentee voters;

a list of information surrounding a voter who is challenged,

including any affidavits; and

a notation for each time a voter was assisted with a ballot."

(5) Each judge shall:

(a) write [his] the judge's name across the seal of each envelope or pouch;

(b) mark on the exterior of the envelope or pouch:

(i) the word "ballots" or "returns" or "unused ballots," or "provisional ballots" or other words plainly indicating the contents of the packages; and

(ii) the number of the voting precinct.

Section 9. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) (a) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate; ~~and~~

(B) for each race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for

each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

~~[(B)]~~ (C) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(vii) the number of ballots that were rejected; and

(viii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

(i) review the report to ensure that it is correct; and

(ii) sign the report.

(c) The election officer shall:

(i) record or file the certified report in a book kept for that purpose;

(ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(iii) publish a copy of the certified report:

(A) in one or more conspicuous places within the jurisdiction;

(B) in a conspicuous place on the county's website; and

(C) in a newspaper with general circulation in the board's jurisdiction; and

(iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(5) In regular primary elections and in the Western States Presidential Primary, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor:

(i) not later than the second Tuesday after the primary election for the regular primary election; and

(ii) not later than the Tuesday following the election for the Western States Presidential Primary; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 10. Section 20A-4-401 is amended to read:

20A-4-401. Recounts -- Procedure.

(1) (a) This section does not apply to a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

[(1)-(a)] (b) Except as provided in Subsection (1)[(b)](c), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)[(e)](d).

[(b)] (c) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)[(e)](d).

[(e)] (d) A candidate who files a request for a recount under Subsection (1)[(a)-(c)] (b) or (c) shall file the request:

(i) for a municipal primary election, with the municipal clerk, within three days after the canvass; or

(ii) for all other elections, within seven days after the canvass with:

(A) the municipal clerk, if the election is a municipal general election;

(B) the local district clerk, if the election is a local district election;

(C) the county clerk, for races voted on entirely within a single county; or

(D) the lieutenant governor, for statewide races and multicounty races.

[(d)] (e) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that race;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3, Absentee Voting;

(iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and

(v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.

(2) (a) Except as provided in Subsection (2)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount within seven days of the canvass with the person described in Subsection (2)(c).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount within seven days of the canvass with the person described in Subsection (2)(c).

(c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall file the request with:

(i) the municipal clerk, if the election is a municipal election;

(ii) the local district clerk, if the election is a local district election;

(iii) the county clerk, for propositions voted on entirely within a single county; or

(iv) the lieutenant governor, for statewide propositions and multicounty propositions.

(d) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that ballot proposition or bond proposition;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3, Absentee Voting; and

(iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.

(e) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

(f) The voters requesting the recount shall pay the costs of the recount.

(3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.

(4) (a) Upon completion of the recount, the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or Section 20A-4-306.

(c) If the recount is for a statewide or multicounty race or for a statewide proposition, the board of

county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304(3).

(d) The canvassers' report prepared as provided in this Subsection (4) is the official result of the race or proposition that is the subject of the recount.

Section 11. Section 20A-4-601 is enacted to read:

Part 6. Municipal Alternate Voting Methods Pilot Project

20A-4-601. Definitions.

As used in this part:

(1) "Candidate amplifier" means the product of:

(a) two less than the total number of candidates in a given canvassing phase of a multi-candidate race; and

(b) .02%.

(2) "Multi-candidate race" means a nonpartisan municipal race where:

(a) for the election of at-large officers, the number of candidates who qualify for the race exceeds the total number of seats to be filled; or

(b) for the election of an officer other than an at-large officer, more than two candidates qualify to run for one office.

(3) "Participating municipality" means a municipality that is participating in the pilot project, in accordance with Subsection 20A-4-602(3).

(4) "Pilot project" means the Municipal Alternate Voting Methods Pilot Project created in Section 20A-4-602.

(5) "Recount threshold" means the sum of the candidate amplifier and the following:

(a) for a canvassing phase in which fewer than 100 valid votes are counted, 0.21%;

(b) for a canvassing phase in which at least 100, but fewer than 500, valid votes are counted, 0.19%;

(c) for a canvassing phase in which at least 500, but fewer than 1,000, valid votes are counted, 0.17%;

(d) for a canvassing phase in which at least 1,000, but fewer than 5,000, valid votes are counted, 0.15%;

(e) for a canvassing phase in which at least 5,000, but fewer than 10,000, valid votes are counted, 0.13%; and

(f) for a canvassing phase in which 10,000 or more valid votes are counted, 0.11%.

(6) "Valid" means that the ballot is marked in a manner that permits the vote to be counted during the applicable ballot-counting phase.

Section 12. Section 20A-4-602 is enacted to read:

20A-4-602. Municipal Alternate Voting Methods Pilot Project -- Creation -- Participation.

(1) There is created the Municipal Alternate Voting Methods Pilot Project.

(2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.

(3) A municipality may participate in the pilot project, in accordance with the requirements of this section and all other applicable provisions of law, during any odd-numbered year that the pilot project is in effect, if, before January 1 of the odd-numbered year, the municipality provides written notice to the lieutenant governor:

(a) stating that the municipality intends to participate in the pilot project for the year specified in the notice; and

(b) that includes a document, signed by the election officer of the municipality, stating that the municipality has the resources and capability necessary to participate in the pilot project.

(4) The lieutenant governor shall maintain, in a prominent place on the lieutenant governor's website, a current list of the municipalities that are participating in the pilot project.

(5) (a) An election officer of a participating municipality shall, in accordance with the provisions of this part, conduct a multi-candidate race during the municipal general election using instant runoff voting.

(b) An election officer of a participating municipality that will conduct a multi-candidate race under Subsection (5)(a) may not conduct a municipal primary election relating to that race.

(c) A municipality that has in effect an ordinance described in Subsection 20A-9-404 (3) or (4) may not participate in the pilot project.

Section 13. Section 20A-4-603 is enacted to read:

20A-4-603. Instant runoff voting.

(1) In a multi-candidate race, the election officer shall:

(a) (i) conduct the first ballot-counting phase by counting the valid first preference votes for each candidate; and

(ii) if, after complying with Subsection (5), one of the candidates receives more than 50% of the valid first preference votes counted, declare that candidate elected;

(b) if, after counting the valid first preference votes for each candidate, and complying with Subsection (5), no candidate receives more than 50% of the valid first preference votes counted, conduct the second ballot-counting phase by:

(i) excluding from the multi-candidate race:

(A) the candidate who received the fewest valid first preference votes counted; or

(B) in the event of a tie for the fewest valid first preference votes counted, one of the tied candidates, determined by the tied election officer by lot, in accordance with Subsection (6);

(ii) adding, to the valid first preference votes counted for the remaining candidates, the valid second preference votes cast for the remaining candidates by the voters who cast a valid first preference vote for the excluded candidate; and

(iii) if, after adding the votes in accordance with Subsection (1)(b)(ii) and complying with Subsection (5), one candidate receives more than 50% of the valid votes counted, declaring that candidate elected; and

(c) if, after adding the valid second preference votes in accordance with Subsection (1)(b)(ii) and complying with Subsection (5), no candidate receives more than 50% of the valid votes counted, conduct subsequent ballot-counting phases by continuing the process described in Subsection (1)(b) until a candidate receives more than 50% of the valid votes counted, as follows:

(i) after complying with Subsection (5), excluding from consideration the candidate who has the fewest valid votes counted or, in the event of a tie for the fewest valid votes counted, excluding one of the tied candidates, by lot, in accordance with Subsection (6); and

(ii) adding the next valid preference vote cast by each voter whose vote was counted for the last excluded candidate to one of the remaining candidates, in the order of the next preference indicated by the voter.

(2) The election officer shall declare elected the first candidate who receives more than 50% of the valid votes counted under the process described in Subsection (1).

(3) (a) A vote is valid for a particular phase of a multi-candidate race only if the voter indicates the voter's preference for that phase and all previous phases.

(b) A vote is not valid for a particular phase of a multi-candidate race, and for all subsequent phases, if the voter indicates the same rank for more than one candidate for that phase.

(4) The election officer shall order a recount of the valid votes in the applicable ballot-counting phase if one candidate appears to have received at least 50% of the vote, and the difference between the number of votes counted for the candidate who received the most valid votes for the applicable ballot-counting phase and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:

(a) the total number of voters who cast a valid vote that is counted in the applicable ballot-counting phase of the race; and

(b) the recount threshold.

(5) Before excluding a candidate from a multi-candidate race under Subsection (1), the election officer shall order a recount of the valid votes counted in the applicable ballot-counting phase if the difference between the number of votes counted for the candidate who received the fewest valid votes in the applicable ballot-counting phase of the race and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:

(a) the total number of voters who cast a valid vote counted in that ballot-counting phase; and

(b) the recount threshold.

(6) For each ballot-counting phase after the first phase, if, after a recount is completed under Subsection (5), two or more candidates tie as having received the fewest valid votes counted at that point in the ballot count, the election officer shall eliminate one of those candidates from consideration, by lot, in the following manner:

(a) determine the names of the candidates who tie as having received the fewest valid votes for that ballot-counting phase;

(b) cast the lot in the presence of at least two election officials and any counting poll watchers who are present and desire to witness the casting of the lot; and

(c) sign a public document that:

(i) certifies the method used for casting the lot and the result of the lot; and

(ii) includes the name of each individual who witnessed the casting of the lot.

(7) In a multi-candidate race for an at-large office, where the number of candidates who qualify for the race exceeds the total number of at-large seats to be filled for the office, the election officer shall count the votes by:

(a) except as provided in Subsection (8), counting votes in the same manner as described in Subsections (1) through (6), until a candidate is declared elected;

(b) repeating the process described in Subsection (7)(a) for all candidates that are not declared elected until another candidate is declared elected; and

(c) continuing the process described in Subsection (7)(b) until all at-large seats in the race are filled.

(8) After a candidate is declared elected under Subsection (7), the election officer shall, in repeating the process described in Subsections (1) through (6) to declare the next candidate elected, add to the vote totals the next valid preference vote of each voter whose vote was counted for a candidate already declared elected.

Section 14. Section 20A-4-604 is enacted to read:

20A-4-604. Batch elimination.

(1) In any ballot count conducted under Section 20A-4-603, the election officer may exclude candidates through batch elimination by, instead of

excluding only one candidate in a ballot-counting phase, excluding each candidate:

(a) for which the number of remaining candidates with more valid votes than that candidate is greater than or equal to the number of offices to be filled; and

(b) (i) for which the number of valid votes counted for the candidate in the phase plus the number of votes counting for all candidates with fewer valid votes in the phase is less than the number of valid votes for the candidate with the next highest amount of valid votes in the phase; or

(ii) who has fewer valid votes in the phase than a candidate who is excluded under Subsection (1)(b)(i).

(2) The requirements for a recount before excluding a candidate under Subsection 20A-4-603(5) do not apply to candidates who are excluded through batch elimination.

Section 15. Section 20A-5-404 is amended to read:

20A-5-404. Election forms -- Preparation and contents.

(1) (a) For each election, the election officer shall prepare, for each voting precinct, a:

- (i) ballot disposition form;
- (ii) total votes cast form;
- (iii) tally sheet form; and
- (iv) pollbook.

(b) For each election, the election officer shall:

(i) provide a copy of each form to each of those precincts using paper ballots; and

(ii) provide a copy of the ballot disposition form and a pollbook to each of those voting precincts using an automated voting system.

(2) The election officer shall ensure that the ballot disposition form contains a space for the judges to identify:

- (a) the number of ballots voted;
- (b) the number of substitute ballots voted, if any;
- (c) the number of ballots delivered to the voters;
- (d) the number of spoiled ballots;
- (e) the number of registered voters listed in the official register;
- (f) the total number of voters voting according to the pollbook; and
- (g) the number of unused ballots.

(3) The election officer shall ensure that the total votes cast form contains:

(a) the name of each candidate appearing on the ballot, the office for which the candidate is running, and a blank space for the election judges to record the number of votes that the candidate received;

(b) for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the name of each candidate appearing on the ballot, the office for which the candidate is running, and blank spaces for the election judges to record the number of votes counted for each potential phase of the canvass;

~~[(b)]~~ (c) for each office, blank spaces for the election judges to record the names of write-in candidates, if any, and a blank space for the election judges to record the number of votes that the write-in candidate received;

~~[(e)]~~ (d) a heading identifying each ballot proposition and blank spaces for the election judges to record the number of votes for and against each proposition; and

~~[(d)]~~ (e) a certification, in substantially the following form, to be signed by the judges when they have completed the total votes cast form:

“TOTAL VOTES CAST

At an election held at _____ in _____ voting precinct in _____ (name of entity holding the election) and _____ State of Utah, on _____ (month \day \year), the following named persons received the number of votes annexed to their respective names for the following described offices: Total number of votes cast were as follows:

Certified by us ____, ____, ____, Judges of Election.”

(4) The election officer shall ensure that the tally sheet form contains:

(a) for each office, the names of the candidates for that office, and blank spaces to tally the votes that each candidate receives;

(b) for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the name of each candidate for office and blank spaces to tally the number of valid votes counted for each candidate for each potential phase of the canvass;

~~[(b)]~~ (c) for each office, blank spaces for the election judges to record the names of write-in candidates, if any, and a blank space for the election judges to tally the votes for each write-in candidate;

~~[(e)]~~ (d) for each ballot proposition, a heading identifying the ballot proposition and the words “Yes” and “No” or “For” and “Against” on separate lines with blank spaces after each of them for the election judges to tally the ballot proposition votes; and

~~[(d)]~~ (e) a certification, in substantially the following form, to be signed by the judges when they have completed the tally sheet form:

“Tally Sheet

We the undersigned election judges for voting precinct # _____, _____ (entity holding the election) certify that this is a true and correct list of all persons voted for and ballot propositions voted on at the election

held in that voting precinct on _____ (date of election) and is a tally of the votes cast for each of those persons. Certified by us ____, ____, ____, Judges of Election.”

(5) The election officer shall ensure that the pollbook:

(a) identifies the voting precinct number on its face; and

(b) contains:

(i) a section to record persons voting on election day, with columns entitled “Ballot Number” and “Voter’s Name”;

(ii) another section in which to record absentee ballots;

(iii) a section in which to record voters who are challenged; and

(iv) a certification, in substantially the following form:

“We, the undersigned, judges of an election held at _____ voting precinct, in _____ County, state of Utah, on _____ (month \day \year), having first been sworn according to law, certify that the information listed in this book is a true statement of the number and names of the persons voting in the voting precinct at the election, and that the total number of persons voting at the election was ____.”

Judges of Election

Section 16. Section 20A-6-203.5 is enacted to read:

20A-6-203.5. Instant runoff voting ballot.

If, in an election, at least one of the races is conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the portion of the ballot relating to that race shall:

(1) list each candidate who qualifies to be placed on the election ballot for that race;

(2) opposite each candidate’s name, include a place where a voter can indicate the voter’s vote in order of preference for each candidate, as described in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project; and

(3) provide the ability for a voter to enter a write-in candidate’s name and indicate the voter’s ordered preference for the write-in candidate.

Section 17. Section 20A-6-402 is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) [When] Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a paper ballot at municipal general elections, each election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter’s vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) [When] Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;

(ii) the ballot number and the words “Poll Worker’s Initial ____” are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) “Official Ballot for ____ (City, Town, or Metro Township), Utah”;

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer’s title in eight-point type;

(c) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(d) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(e) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;

(f) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

(i) the candidate groups are separated from each other by one light and one heavy line or rule.

(3) [When] Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:

(a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;

(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(b) immediately below the perforated ballot stub, the following endorsements are printed:

(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(c) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;

(d) immediately below the border or line, an "Instructions to Voters" section is printed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(e) after the border or line, the designation of the office for which the candidates seek election is printed and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed, followed by a line or border;

(f) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(g) an oval is printed adjacent to the names of the candidates;

(h) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) an oval printed adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

(i) the candidate groups are separated from each other by a line or border.

(4) [When] Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using an electronic ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first screen of the ballot:

(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for

up to ____ (the number of candidates for which the voter may vote)” are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(5) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate’s name on the ballot.

Section 18. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) ~~If~~ Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), “convention” means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate:

(A) an individual who has not submitted a declaration of candidacy, or has not been nominated by a nomination petition, under Section 20A-9-203; or

(B) more than one group of candidates, or have placed on the ballot more than one group of candidates, for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate an individual who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) The convention or committee shall prepare a certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk not later than 80 days before the municipal general election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate’s name.

(4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder by May 31 of any odd-numbered year;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections 20A-6-401 and 20A-6-401.1;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation;

(iv) every ballot is folded and perforated in a manner that separates the candidates of one party from those of the other parties and enables the voter to separate the part of the ballot containing the names of the party of the voter's choice from the remainder of the ballot; and

(v) the side edges of all ballots are perforated so that the outside sections of the ballots, when detached, are similar in appearance to inside sections when detached.

(e) After marking a municipal primary ballot, the voter shall:

(i) detach the part of the ballot containing the names of the candidates of the party the voter has voted from the rest of the ballot;

(ii) fold the detached part so that its face is concealed and deposit it in the ballot box; and

(iii) fold the remainder of the ballot containing the names of the candidates of the parties for whom the elector did not vote and deposit it in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 19. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates, Title 20A.

(1) Subsection 20A-5-803(8) is repealed July 1, 2023.

(2) Section 20A-5-804 is repealed July 1, 2023.

(3) On July 1, 2018, in Subsection 20A-11-101(21), the language that states “10-2a-302,” is repealed.

(4) On January 1, 2026:

(a) In Subsection 20A-1-102(23)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states “Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(c) In Section 20A-1-304, the language that states “Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states “Except as provided in Subsection (5),” is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states “Except as provided in Subsections (5) and (6),” is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states “Subject to Subsection (5),” is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states “Except as provided in Subsection (2)(f),” is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101(4) is repealed and replaced with the following:

“(4) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”

(k) In Subsection 20A-4-102(1)(a), the language that states “or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

“(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(m) In Subsection 20A-4-102(6)(a), the language that states “, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states “, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304(2)(a)(v) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;”.

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

(w) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(x) Section 20A-6-203.5 is repealed.

(y) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise

required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(z) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(aa) In Subsection 20A-9-404(2), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

CHAPTER 188**H. B. 36**

Passed February 8, 2018
 Approved March 19, 2018
 Effective May 14, 2019

**FREE EXPRESSION
 REGULATION AMENDMENTS**

Chief Sponsor: Norman K. Thurston
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill addresses local government regulation of expressive activity.

Highlighted Provisions:

This bill:

- ▶ requires that a political subdivision ensure that any generally or individually applicable time, place, or manner restriction on expressive activity on public grounds complies with certain constitutional requirements;
- ▶ requires that, if a political subdivision imposes a generally applicable time, place, or manner restriction on expressive activity on public grounds, the political subdivision must impose the restriction by ordinance or adopt the restriction in accordance with a general ordinance;
- ▶ prevents a political subdivision from prohibiting political activities on public grounds; and
- ▶ exempts compliance with Title 20A, Election Code, and certain property that a political subdivision owns or leases.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

11-58-101, Utah Code Annotated 1953
 11-58-102, Utah Code Annotated 1953
 11-58-103, Utah Code Annotated 1953
 11-58-104, Utah Code Annotated 1953
 11-58-105, Utah Code Annotated 1953

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

Section 1. Section 11-58-101 is enacted to read:

**CHAPTER 58. EXPRESSIVE ACTIVITY
 REGULATION BY LOCAL GOVERNMENT
 ACT**

11-58-101. Title.

This chapter is known as the “Expressive Activity Regulation by Local Government Act.”

Section 2. Section 11-58-102 is enacted to read:

11-58-102. Definitions.

As used in this chapter:

- (1) “Expressive activity” means:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign; or

(d) signature gathering or circulating a petition.

(2) “Generally applicable time, place, and manner restriction” means a content-neutral ordinance, policy, practice, or other action that:

(a) by its clear language and intent, restricts or infringes on expressive activity;

(b) applies generally to any person; and

(c) is not an individually applicable time, place, and manner restriction.

(3) (a) “Individually applicable time, place, and manner restriction” means a content-neutral policy, practice, or other action:

(i) that restricts or infringes on expressive activity; and

(ii) that a political subdivision applies:

(A) on a case-by-case basis;

(B) to a specifically identified person or group of persons; and

(C) regarding a specifically identified place and time.

(b) “Individually applicable time, place, and manner restriction” includes a restriction placed on expressive activity as a condition to obtain a permit.

(4) (a) “Political subdivision” means a county, city, town, or metro township.

(b) “Political subdivision” does not mean:

(i) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(ii) a special service district under Title 17D, Chapter 1, Special Service District Act; or

(iii) a school district under Title 53G, Chapter 3, School District Creation and Change.

(5) (a) “Public building” means a building or permanent structure that is:

(i) owned, leased, or occupied by a political subdivision or a subunit of a political subdivision;

(ii) open to public access in whole or in part; and

(iii) used for public education or political subdivision activities.

(b) “Public building” does not mean:

(i) a building owned or leased by a political subdivision or a subunit of a political subdivision:

(A) that is closed to public access;

(B) where state or federal law restricts expressive activity; or

(C) when the building is used by a person, in whole or in part, for a private function; or

(ii) a public school.

(6) (a) “Public grounds” means the area outside a public building that is a traditional public forum where members of the public may safely gather to engage in expressive activity.

(b) “Public grounds” includes sidewalks, streets, and parks.

(c) “Public grounds” does not include the interior of a public building.

Section 3. Section 11-58-103 is enacted to read:

11-58-103. Exceptions.

This chapter does not apply to:

(1) a restriction on expressive activity on public grounds that a political subdivision imposes in order to comply with Title 20A, Election Code;

(2) property that a political subdivision owns or leases:

(a) that is closed to public access; or

(b) where state or federal law restricts expressive activity; or

(3) a limited or nonpublic forum.

Section 4. Section 11-58-104 is enacted to read:

11-58-104. Time, place, and manner restrictions -- Generally applicable restrictions by ordinance.

(1) If a political subdivision imposes a generally applicable or individually applicable time, place, and manner restriction on expressive activity on public grounds, the political subdivision shall ensure that the restriction:

(a) is narrowly tailored to serve an important governmental interest, including public access to the public building, public safety, and protection of public property;

(b) is unrelated to the suppression of a particular message or the content of the expressive activity that the restriction addresses; and

(c) leaves open reasonable alternative means for the expressive activity.

(2) A political subdivision may not impose a generally applicable time, place, and manner restriction on expressive activity on public grounds unless the political subdivision:

(a) imposes the restriction by ordinance; or

(b) (i) adopts an ordinance to guide the adoption, by policy or practice, of restrictions on expressive activity on public grounds; and

(ii) adopts, by policy or practice, the restriction in accordance with the ordinance described in Subsection (2)(b)(i) and with the constitutional safeguards described in Subsection (1).

Section 5. Section 11-58-105 is enacted to read:

11-58-105. Political activity outside a public building.

(1) Except as provided in Section 11-58-103 and Subsection (2), a political subdivision may not prohibit a political activity, including signature gathering or petition circulation, on public grounds.

(2) A political subdivision may impose a time, place, and manner restriction on political activities outside a public building in accordance with Section 11-58-104.

Section 6. Effective date.

This bill takes effect on May 14, 2019.

CHAPTER 189**H. B. 38**

Passed February 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

FIREWORKS RESTRICTIONS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill amends provisions related to the permissible discharge of fireworks.

Highlighted Provisions:

This bill:

- ▶ amends and clarifies the dates on which a person may legally discharge fireworks;
- ▶ increases the criminal fine for discharging fireworks outside of permitted dates and times;
- ▶ clarifies when a municipality may prohibit a person from discharging fireworks;
- ▶ increases the areas within which a municipality or the state forester may prohibit the discharge of fireworks;
- ▶ in certain situations, requires local governments and the state forester to create and provide maps identifying areas in which fireworks are prohibited due to hazardous environmental conditions;
- ▶ requires retailers that sell fireworks to display:
 - maps a county provides indicating areas within the county in which fireworks are prohibited due to hazardous environmental conditions; and
 - signs regarding permissible discharge dates and times and certain criminal penalties;
- ▶ prohibits the state forester from limiting or restricting the discharge of fireworks within municipal boundaries;
- ▶ imposes civil liability when certain fireworks discharge causes a fire; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-8-47, as last amended by Laws of Utah 2012, Chapter 140
 11-3-8, as last amended by Laws of Utah 1993, Chapter 234
 15A-5-202.5, as last amended by Laws of Utah 2016, Chapter 216
 53-7-221, as enacted by Laws of Utah 1993, Chapter 234
 53-7-225, as last amended by Laws of Utah 2016, Chapter 216
 65A-8-212, as last amended by Laws of Utah 2013, Chapter 307

ENACTS:

53-7-225.1, Utah Code Annotated 1953

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

Section 1. Section 10-8-47 is amended to read:

10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

(b) ~~[the municipal legislative body may]~~ restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

(c) ~~[the municipal legislative body may]~~ regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

(d) ~~[the municipal legislative body may]~~ provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in all cases where the money or property embezzled or obtained under false pretenses does not exceed in value the sum of \$500; and

(e) ~~[may]~~ prohibit the sale, giving away, or furnishing of narcotics, alcoholic beverages to a person younger than 21 years of age, or tobacco to any person younger than 19 years of age~~[- cities may].~~

(2) A city may:

(a) by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony~~[-];~~ and

(b) provide for treatment of alcoholics, narcotic addicts, and other persons who are addicted to the use of drugs or intoxicants such that a person substantially lacks the capacity to control the person's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of effecting their rehabilitation.

Section 2. Section 11-3-8 is amended to read:

11-3-8. Conflicting local ordinances prohibited.

A county, city, ~~[or]~~ town, or metro township may not adopt an ordinance or regulation in conflict with Sections 53-7-220 through 53-7-225.

Section 3. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: “the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance”.

(b) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: “1. When the fire code official determines that existing or historical hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

[4] 1.1. If the existing or historical hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in:

1.1.1. mountainous, brush-covered, [Ø] forest-covered, or dry grass-covered areas [Ø];

1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

1.1.3. the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose[-]; or

1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to facilitate a readily identifiable closed area, in accordance with paragraph 2.

[2] 1.2. ~~Except as provided in paragraph 3, if the~~ If the existing or historical hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph [4] 1.1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

[3] 1.3. If the existing or historical hazardous environmental conditions exist in a metro township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class[,] on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph [4] 1.1 that are within the township.[2]

2. If a municipal legislative body, the state forester, or a metro township legislative body closes an area to the discharge of fireworks under paragraph 1, the legislative body or state forester shall:

2.1. designate the closed area along readily identifiable features like major roadways, waterways, or geographic features;

2.2. ensure that the boundary of the designated closed area is as close as is practical to the defined

hazardous area, provided that the closed area may include areas outside of the hazardous area to facilitate a readily identifiable line; and

2.3. identify the closed area through a written description or map that is readily available to the public.

3. A municipal legislative body, the state forester, or a metro township legislative body may close a defined area to the discharge of fireworks due to a historical hazardous environmental condition under paragraph 1 if the legislative body or state forester:

3.1. makes a finding that the historical hazardous environmental condition has existed in the defined area before July 1 of at least two of the preceding five years;

3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the defined area described; and

3.3. before May 1 of each year the defined area is closed, provides the map described in paragraph 3.2 to the county in which the defined area is located.

4. A municipal legislative body, the state forester, or a metro township legislative body may not close an area to the discharge of fireworks due to a historical hazardous environmental condition unless the legislative body or state forester provides a map, in accordance with paragraph 3.”

(c) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words “International Property Maintenance Code and the”.

(d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word “shall” and replace it with the word “may”.

(e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: “Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.”

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and replaced with the following:

“403.10.2.1 College and university buildings and fraternity and sorority houses.

(a) College and university buildings, including fraternity and sorority houses, shall prepare an approved fire safety and evacuation plan, in accordance with Section 404.

(b) Group R-2 college and university buildings, including fraternity and sorority houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2.”

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) “e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes. The third emergency evacuation drill for fire, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill for fire, the secondary school shall perform the third emergency evacuation drill for fire as soon as practicable after the missed deadline.”

(ii) “f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Subsection 404.2.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 4. Section 53-7-221 is amended to read:

53-7-221. Exceptions from Utah Fireworks Act.

(1) Sections 53-7-220 through 53-7-225 do not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) Sections 53-7-220 through 53-7-225 do not supersede Section 23-13-7, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of the state forester to close hazardous areas.

Section 5. Section 53-7-225 is amended to read:

53-7-225. Times for sale and discharge of fireworks -- Criminal penalty --

Permissible closure of certain areas -- Maps and signage.

(1) ~~[This]~~ Except as provided in Section 53-7-221, this section ~~[supersedes]~~ supersedes any other code provision regarding the sale or discharge of fireworks.

(2) A person may sell class C common state approved explosives in the state as follows:

(a) beginning on June ~~[23]~~ 24 and ending on July ~~[27]~~ 25;

(b) beginning on December 29 and ending on December 31; and

(c) two days before and on the Chinese New Year's eve.

~~(3) [Except as provided in Subsection (5), a county or municipality may not prohibit any person from discharging] A person may not discharge class C common state approved explosives in the state except as follows:~~

~~(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:~~

~~(i) beginning on July [4] 2 and ending on July [7] 5; and~~

~~(ii) beginning on July [24] 22 and ending on July [27] 25;~~

~~(b) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or~~

~~(ii) if New Year's eve is on a Sunday and the ~~[local governmental jurisdiction]~~ county, municipality, or metro township determines to celebrate New Year's eve on the prior Saturday, then ~~[it is lawful to discharge Class]~~ a person may discharge class C common state approved explosives on that prior Saturday within the county, municipality, or metro township; and~~

~~(c) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.~~

~~(4) A person ~~[who violates the time restrictions stated in Subsection (3)(a), (b), or (e)]~~ is guilty of an infraction[-], punishable by a fine of up to \$1,000, if the person discharges a class C common state approved explosive:~~

~~(a) outside the legal discharge dates and times described in Subsection (3); or~~

~~(b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).~~

~~(5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro township, or the state forester may not prohibit a person from discharging class C common state approved explosives during the permitted periods described in Subsection (3).~~

~~(b) (i) As used in this Subsection (5)(b), “negligent discharge”:~~

~~(A) means the improper use and discharge of a class C common state approved explosive; and~~

(B) does not include the date or location of discharge or the type of explosive used.

~~[(5)] (ii) A [county or] municipality or metro township may prohibit [any person from discharging]:~~

~~(A) the discharge of class C common state approved explosives[; (a) as provided] in certain areas with hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b); or~~

~~[(b) in accordance with a municipal ordinance prohibiting]~~

~~(B) the negligent discharge of class C common state approved explosives.~~

~~(iii) A county may prohibit the negligent discharge of class C common state approved explosives.~~

~~(c) The state forester may prohibit the discharge of class C common state approved explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.~~

~~(6) If a municipal legislative body, the state forester, or a metro township legislative body provides a map to a county identifying an area in which the discharge of fireworks is prohibited due to a historical hazardous environmental condition under Subsection 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:~~

~~(a) create a county-wide map, based on each map the county has received, indicating each area within the county in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b);~~

~~(b) provide the map described in Subsection (6)(a) to:~~

~~(i) each retailer that sells fireworks within the county; and~~

~~(ii) the state fire marshal; and~~

~~(c) publish the map on the county's website.~~

~~(7) A retailer that sells fireworks shall display:~~

~~(a) a sign that:~~

~~(i) is clearly visible to the general public in a prominent location near the point of sale;~~

~~(ii) indicates the legal discharge dates and times described in Subsection (3); and~~

~~(iii) indicates the criminal charge and fine associated with discharge:~~

~~(A) outside the legal dates and times described in Subsection (3); and~~

~~(B) within an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b); and~~

~~(b) the map that the county provides, in accordance with Subsection (6)(b).~~

Section 6. Section 53-7-225.1 is enacted to read:

53-7-225.1. Civil liability.

(1) (a) An individual who negligently, recklessly, or intentionally causes or spreads a fire through discharge of a class C explosive is liable for the cost of suppressing that fire and any damages the fire causes.

(b) If the individual described in Subsection (1)(a) is a minor, the parent or legal guardian having legal custody of the minor is liable for the costs and damages for which the minor is liable under this section.

(c) A court may waive part or all of the parent or guardian's liability for damages under Subsection (1)(b) if the court finds:

(i) good cause; and

(ii) that the parent or legal guardian:

(A) made a reasonable effort to supervise and direct the minor; or

(B) in the event the parent or guardian knew in advance of the negligent, reckless, or intentional conduct described in Subsection (1)(a), made a reasonable effort to restrain the minor.

(2) (a) The conduct described in Subsection (1) includes any negligent, reckless, or intentional conduct, regardless of whether:

(i) the person discharges a class C common state approved explosive:

(A) within the permitted time periods described in Subsection 53-7-225(3); or

(B) in an area where discharge was not prohibited under Subsection 53-7-225(5)(b) or (c); or

(ii) the fire begins on:

(A) private land;

(B) land owned by the state or a political subdivision of the state;

(C) federal land; or

(D) tribal land.

(b) Discharging a class C explosive in an area in which fireworks are prohibited due to hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b), constitutes the negligent, reckless, or intentional conduct described in Subsection (1).

(3) A person who incurs costs to suppress a fire described in Subsection (1) may bring an action under this section to recover those costs against an individual described in Subsection (1).

(4) A person who suffers damage from a fire described in Subsection (1) may:

(a) bring an action under this section for those damages against an individual described in Subsection (1); and

(b) pursue all other legal remedies in addition to seeking damages under Subsection (4)(a).

Section 7. Section 65A-8-212 is amended to read:

65A-8-212. Power of state forester to close hazardous areas -- Violations of an order closing an area.

(1) (a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, he shall close those areas to any forms of use by the public, or to limit that use, except as provided in Subsection (5).

(b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

- (i) smoking;
- (ii) the use of vehicles or equipment;
- (iii) welding, cutting, or grinding of metals;
- (iv) subject to Subsection (5), fireworks;
- (v) explosives; or
- (vi) the use of firearms for target shooting.

(c) Any restriction or closure relating to firearms use:

(i) shall be done with support of the duly elected county sheriff of the affected county or counties;

(ii) shall undergo a formal review by the State Forester and County Sheriff every 14 days; and

(iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.

(d) The State Forester and County Sheriff shall:

(i) agree to the terms of any restriction or closure relating to firearms use;

(ii) reduce the agreement to writing;

(iii) sign the agreement indicating approval of its terms and duration; and

(iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review and at termination of the restriction or closure.

(2) Nothing in this chapter prohibits any resident within the area from full and free access to his home or property, or any legitimate use by the owner or lessee of the property.

(3) The order or proclamation closing or limiting the use in the area shall set forth:

(a) the exact area coming under the order;

(b) the date when the order becomes effective; and

(c) if advisable, the authority from whom permits for entry into the area may be obtained.

(4) Any entry into or use of any area in violation of this section is a class B misdemeanor.

(5) The state forester may not restrict or prohibit the discharge of fireworks within the municipal boundaries of a city, town, or metro township.

CHAPTER 190**H. B. 54**

Passed February 26, 2018

Approved March 19, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

**INDIVIDUAL INCOME TAX ADDITION
AND DEDUCTION AMENDMENTS**

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies the Individual Income Tax Act by amending provisions relating to individual income tax additions and deductions.

Highlighted Provisions:

This bill:

- ▶ amends an addition to adjusted gross income of an individual income taxpayer and an addition to unadjusted income of a resident or nonresident estate or trust for the interest on certain bonds, notes, or other evidences of indebtedness;
- ▶ amends a deduction from adjusted gross income of an individual income taxpayer and a deduction from unadjusted income of a resident or nonresident estate or trust for the interest on certain bonds, notes, or other obligations; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-10-114, as last amended by Laws of Utah 2017, Chapter 389

59-10-202, as last amended by Laws of Utah 2017, Chapter 389

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

Section 1. Section 59-10-114 is amended to read:**59-10-114. Additions to and subtractions from adjusted gross income of an individual.**

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(~~(i)~~) (A) a state other than this state;

(~~(ii)~~) (B) the District of Columbia;

(~~(iii)~~) (C) a political subdivision of a state other than this state; or

~~(iv)~~ (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through ~~(iii)~~ (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year; ~~and~~

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction[-]; and

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the

information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through ~~[(iv)]~~ (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or ~~[(ii)]~~ (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)~~[(iii)]~~(i)(C) or ~~[(iv)]~~ (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 2. Section 59-10-202 is amended to read:

59-10-202. Additions to and subtractions from unadjusted income of a resident or nonresident estate or trust.

(1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

(a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;

(b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

~~[(i)]~~ (A) a state other than this state;

~~[(ii)]~~ (B) the District of Columbia;

~~(iii)~~ (C) a political subdivision of a state other than this state; or

~~(iv)~~ (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A) through ~~(iii)~~ (C); and

(ii) to the extent the interest is not included in federal taxable income on the taxpayer's federal income tax return for the taxable year;

(c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:

(i) in an S corporation; and

(ii) that is held by an electing small business trust;

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or trust that is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident estate or trust:

(I) that is the account owner; and

(II) on the resident or nonresident estate's or trust's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident estate or trust that is the account owner to claim a tax credit under Section 59-10-1017; and

(e) any fiduciary adjustments required by Section 59-10-210.

(2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:

(a) the interest or a dividend on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2), and by any

expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;

(ii) the trust first became a resident trust on or after January 1, 2004;

(iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;

(iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

(v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and

(vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:

(i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(d) any amount:

(i) received by a resident or nonresident estate or trust;

(ii) that constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;

(e) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and

- (C) for the taxable year; and
- (ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;
- (f) an amount:
- (i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and
- (ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
- (A) federal law;
- (B) a treaty; or
- (C) a final decision issued by a court of competent jurisdiction;
- (g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year; ~~and~~
- (h) any fiduciary adjustments required by Section 59-10-210~~;~~; and
- (i) an amount received:
- (i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;
- (ii) by a resident or nonresident estate or trust;
- (iii) for the taxable year; and
- (iv) to the extent the amount is included in federal taxable income on the taxpayer's federal income tax return for the taxable year.
- (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through ~~[(iv)]~~ (D) may not be added to unadjusted income of a resident or nonresident estate or trust if, as annually determined by the commission:
- (a) for an entity described in Subsection (1)(b)(i)(A) or ~~[(ii)]~~ (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
- (b) for an entity described in Subsection (1)(b)~~[(iii)]~~(i)(C) or ~~[(iv)]~~ (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:
- (i) the entity; or
- (ii) (A) the state in which the entity is located; or
- (B) the District of Columbia, if the entity is located within the District of Columbia.
- (4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
- (i) the income is derived from a deceased Ute tribal member; and
- (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).
- (b) The agreement described in Subsection (4)(a):
- (i) may not:
- (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- (B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(c); or
- (C) affect the power of the state to establish rates of taxation; and
- (ii) shall:
- (A) provide for the implementation of the subtraction described in Subsection (2)(c);
- (B) be in writing;
- (C) be signed by:
- (I) the governor; and
- (II) the chair of the Business Committee of the Ute tribe;
- (D) be conditioned on obtaining any approval required by federal law; and
- (E) state the effective date of the agreement.
- (c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
- (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.
- (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
- (i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and
- (ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 191**H. B. 61**

Passed February 16, 2018

Approved March 19, 2018

Effective May 8, 2018

COUNTY RECORDER AMENDMENTS

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill amends a restriction on the provision of county recorder services.

Highlighted Provisions:

This bill:

- ▶ removes a restriction on the provision of county recorder services in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-21-18, as last amended by Laws of Utah 1999,
Chapter 85

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

Section 1. Section 17-21-18 is amended to read:**17-21-18. Fees must be paid in advance.**

The recorder may not record any instrument, furnish any copies, or provide any service connected with the office, until the fees prescribed by law have been paid or have been authorized to be paid electronically.

CHAPTER 192**H. B. 77**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

CRIMINAL CODE AMENDMENTS

Chief Sponsor: Michael K. McKell
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies sexual offenses in the Utah Code.

Highlighted Provisions:

This bill:

- ▶ defines “takes indecent liberties” in certain sexual offenses;
- ▶ modifies certain sexual offenses; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 76-5-401.1, as last amended by Laws of Utah 2016, Chapter 372
76-5-401.2, as last amended by Laws of Utah 2014, Chapter 135
76-5-404, as last amended by Laws of Utah 2010, Chapter 218
76-5-404.1, as last amended by Laws of Utah 2014, Chapters 135 and 141
76-5-412, as last amended by Laws of Utah 2017, Chapter 65
76-5-413, as last amended by Laws of Utah 2017, Chapter 330
76-9-702, as last amended by Laws of Utah 2015, Chapter 210
78A-6-105, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
78B-2-308, as last amended by Laws of Utah 2016, Chapter 379

ENACTS:

76-5-416, Utah Code Annotated 1953

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

Section 1. Section 76-5-401.1 is amended to read:**76-5-401.1. Sexual abuse of a minor.**

(1) For purposes of this section “minor” is [a person] an individual who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) [A person] An individual commits sexual abuse of a minor if the [person] individual is four years or more older than the minor or holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(c)(xix) and, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2,

forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the [person] individual touches the anus, buttocks, pubic area, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, [~~or causes a minor to take indecent liberties with the actor or another person,~~] with the intent to cause substantial emotional or bodily pain to any [person] individual or with the intent to arouse or gratify the sexual desire of any [person] individual regardless of the sex of any participant.

(3) (a) Except under Subsection (3)(b), a violation of this section is a class A misdemeanor and is not subject to registration under Subsection 77-41-102(17)(a)(iv) on a first offense if the offender was younger than 21 years of age at the time of the offense.

(b) A violation of this section is a third degree felony if the actor at the time of the commission of the offense:

(i) is 18 years of age or older;

(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 2. Section 76-5-401.2 is amended to read:**76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old.**

(1) As used in this section, “minor” means [a person] an individual who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in Subsection (2) occurred.

(2) (a) [A person] An individual commits unlawful sexual conduct with a minor if, under circumstances not amounting to an offense listed under Subsection (3), [a person] an individual who is:

(i) seven or more years older but less than 10 years older than the minor at the time of the sexual conduct engages in any conduct listed in Subsection (2)(b), and the [person] individual knew or reasonably should have known the age of the minor;

(ii) 10 or more years older than the minor at the time of the sexual conduct and engages in any conduct listed in Subsection (2)(b); or

(iii) holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(c)(xix).

(b) As used in Subsection (2)(a), “sexual conduct” refers to when the [person] individual:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one ~~[person]~~ individual and the mouth or anus of another ~~[person]~~ individual, regardless of the sex of either participant;

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual or with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual, regardless of the sex of any participant; or

(iv) touches the anus, buttocks, pubic area, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, ~~[or causes a minor to take indecent liberties with the actor or another person,]~~ with the intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual or with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual regardless of the sex of any participant.

(3) The offenses referred to in Subsection (2) are:

(a) (i) rape, in violation of Section 76-5-402;

(ii) object rape, in violation of Section 76-5-402.2;

(iii) forcible sodomy, in violation of Section 76-5-403;

(iv) forcible sexual abuse, in violation of Section 76-5-404; or

(v) aggravated sexual assault, in violation of Section 76-5-405; or

(b) an attempt to commit any offense under Subsection (3)(a).

(4) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.

(5) (a) A violation of Subsection (2)(b)(iv) is a class A misdemeanor, except under Subsection (5)(b).

(b) A violation of Subsection (2)(b)(iv) is a third degree felony if the actor at the time of the commission of the offense:

(i) is 18 years of age or older;

(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and

(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

Section 3. Section 76-5-404 is amended to read:

76-5-404. Forcible sexual abuse.

(1) ~~[A person]~~ An individual commits forcible sexual abuse if the victim is 14 years of age or older and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, pubic area, or any part of the genitals of another, or touches the

breast of a female, or otherwise takes indecent liberties with another, ~~[or causes another to take indecent liberties with the actor or another,]~~ with intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual or with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual, without the consent of the other, regardless of the sex of any participant.

(2) Forcible sexual abuse is:

(a) except as provided in Subsection (2)(b), a felony of the second degree, punishable by a term of imprisonment of not less than one year nor more than 15 years; or

(b) except as provided in Subsection (3), a felony of the first degree, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the defendant caused serious bodily injury to another.

(3) If, when imposing a sentence under Subsection (2)(b), a court finds that a lesser term than the term described in Subsection (2)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(4) Imprisonment under Subsection (2)(b) or (3) is mandatory in accordance with Section 76-3-406.

Section 4. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Aggravated sexual abuse of a child.

(1) As used in this section:

(a) "Adult" means an individual 18 years of age or older.

(b) "Child" means an individual under the age of 14.

(c) "Position of special trust" means:

(i) an adoptive parent;

(ii) an athletic manager who is an adult;

(iii) an aunt;

(iv) a babysitter;

(v) a coach;

(vi) a cohabitant of a parent if the cohabitant is an adult;

(vii) a counselor;

(viii) a doctor or physician;

(ix) an employer;

(x) a foster parent;

(xi) a grandparent;

(xii) a legal guardian;

(xiii) a natural parent;

- (xiv) a recreational leader who is an adult;
- (xv) a religious leader;
- (xvi) a sibling or a stepsibling who is an adult;
- (xvii) a scout leader who is an adult;
- (xviii) a stepparent;
- (xix) a teacher or any other ~~[person]~~ individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years of age or older;
- (xx) an uncle;
- (xxi) a youth leader who is an adult; or
- (xxii) any ~~[person]~~ individual in a position of authority, other than those ~~[persons]~~ individuals listed in Subsections (1)(c)(i) through (xxi), which enables the ~~[person]~~ individual to exercise undue influence over the child.

(2) ~~[A person]~~ An individual commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, pubic area, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, ~~[or causes a child to take indecent liberties with the actor or another]~~ with intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual or with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual regardless of the sex of any participant.

(3) Sexual abuse of a child is a second degree felony.

(4) ~~[A person]~~ An individual commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:

- (a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;
- (b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;
- (c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;
- (d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;
- (e) the accused, prior to sentencing for this offense, was previously convicted of any sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by ~~[a person]~~ an individual who occupied a position of special trust in relation to the victim;

(i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other ~~[person]~~ individual, or sexual performance by the victim before any other ~~[person]~~ individual, human trafficking, or human smuggling; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;

(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (5)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(7) The provisions of Subsection (6) do not apply when ~~[a person]~~ an individual is sentenced under Subsection (5)(c).

(8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

(9) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 5. Section 76-5-412 is amended to read:

76-5-412. Custodial sexual relations -- Custodial sexual misconduct -- Definitions -- Penalties -- Defenses.

(1) As used in this section:

(a) "Actor" means:

(i) a correctional officer, as defined in Section 53-13-104;

(ii) a special function officer, as defined in Section 53-13-105;

(iii) a law enforcement officer, as defined in Section 53-13-103; or

(iv) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.

(b) "Person in custody" means ~~[a person]~~ an individual, either an adult 18 years of age or older, or a minor younger than 18 years of age, who is:

(i) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 62A-15-601 or other medical facility;

(ii) under correctional supervision, such as at a work release facility or as a parolee or probationer; or

(iii) under lawful or unlawful arrest, either with or without a warrant.

(c) "Private provider or contractor" means any person or entity that contracts with the Department of Corrections or with a county jail to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.

(2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the person in custody is younger than 18 years of age, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a person in custody;

(b) engaging in any sexual act with a person in custody involving the genitals of one ~~[person]~~ individual and the mouth or anus of another ~~[person]~~ individual, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the person in custody is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual or with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual, regardless of the sex of any participant:

(a) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;

(b) touching the breast of a female person in custody; or

(c) otherwise taking indecent liberties with a person in custody~~]; or~~];

~~[d) causing a person in custody to take indecent liberties with the actor or another person.]~~

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

- (e) Section 76-5-402.3, object rape of a child;
- (f) Section 76-5-403, forcible sodomy;
- (g) Section 76-5-403.1, sodomy on a child;
- (h) Section 76-5-404, forcible sexual abuse;
- (i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or
- (j) Section 76-5-405, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations under Subsection (2) or custodial sexual misconduct under Subsection (4), or an attempt to commit either of these offenses, if the person in custody is younger than 18 years of age, that the actor:

(i) mistakenly believed the person in custody to be 18 years of age or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 6. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations or misconduct with youth receiving state services -- Definitions -- Penalties -- Defenses.

(1) As used in this section:

(a) "Actor" means:

(i) ~~[a person]~~ an individual employed by the Department of Human Services, as created in Section 62A-1-102, or an employee of a private provider or contractor; or

(ii) ~~[a person]~~ an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(b) "Department" means the Department of Human Services created in Section 62A-1-102.

(c) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

(d) "Private provider or contractor" means any ~~[person]~~ individual or entity that contracts with the:

(i) department to provide services or functions that are part of the operation of the department; or

(ii) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(e) "Youth receiving state services" means ~~[a person-]~~ an individual:

(i) younger than 18 years of age, except as provided under Subsection (1)(e)(ii), who is:

(A) in the custody of the department under Subsection 78A-6-117(2)(c); or

(B) receiving services from any division of the department if any portion of the costs of these services is covered by public money as defined in Section 76-8-401; or

(ii) younger than 21 years of age who is:

(A) in the custody of the Division of Juvenile Justice Services, or the Division of Child and Family Services; or

(B) under the jurisdiction of the juvenile court.

(2) (a) An actor commits custodial sexual relations with a youth receiving state services if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving state services is younger than 18 years of age, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a youth receiving state services;

(b) engaging in any sexual act with a youth receiving state services involving the genitals of one ~~[person]~~ individual and the mouth or anus of another ~~[person]~~ individual, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any ~~[person]~~ individual, regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct with a youth receiving state services if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth receiving state services is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any ~~person~~ individual or with the intent to arouse or gratify the sexual desire of any ~~person~~ individual, regardless of the sex of any participant:

(a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(b) touching the breast of a female youth receiving state services; or

(c) otherwise taking indecent liberties with a youth receiving state services~~[-or]~~.

~~[(d) causing a youth receiving state services to take indecent liberties with the actor or another person.]~~

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations with a youth receiving state services under Subsection (2) or custodial sexual misconduct with a youth receiving state services under Subsection (4), or an attempt to commit either of these offenses, if the youth receiving state services is younger than 18 years of age, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years of age or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 7. Section 76-5-416 is enacted to read:

76-5-416. Indecent liberties -- Definition.

As used in this part, "takes indecent liberties" means:

(1) touching the actor's genitals, anus, buttocks, pubic area, or female breast against any part of the body of the victim;

(2) causing the victim to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(3) simulating or pretending to engage in sexual intercourse with the victim, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(4) causing the victim to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

Section 8. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations or misconduct under Section 76-5-412 or 76-5-413, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2) (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1); or

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

(c) (i) For purposes of this Subsection (2) and Subsection 77-41-102(17), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 9. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.

(4) "Adult" means ~~[a person]~~ an individual 18 years of age or over, except that [a person] an individual 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means ~~[a person]~~ an individual under 18 years of age.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(14) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(15) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(16) “Detention risk assessment tool” means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor’s risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(17) “Division” means the Division of Child and Family Services.

(18) “Evidence-based” means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(19) “Formal probation” means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(20) “Formal referral” means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court’s jurisdiction and that a case must be reviewed.

(21) “Group rehabilitation therapy” means psychological and social counseling of one or more [persons] individuals in the group, depending upon the recommendation of the therapist.

(22) “Guardianship of the person” includes the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another person, agency, or institution.

(23) “Habitual truant” means the same as that term is defined in Section 53A-11-101.

(24) “Harm” means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child’s growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

(25) (a) “Incest” means engaging in sexual intercourse with [a person] an individual whom the perpetrator knows to be the perpetrator’s ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (25)(a) include:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(26) “Intake probation” means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(27) “Intellectual disability” means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the [person’s] individual’s effectiveness in meeting the standards expected for the [person’s] individual’s age by the [person’s] individual’s cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the [person] individual reaches the age of 18 years.

(28) “Legal custody” means a relationship embodying the following rights and duties:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary care.

(29) “Material loss” means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss;
- (c) lost wages; or
- (d) medical expenses.

(30) “Mental disorder” means a serious emotional and mental disturbance that severely limits a minor’s development and welfare over a significant period of time.

(31) “Minor” means:

- (a) a child; or
- (b) [a person] an individual who is:
 - (i) at least 18 years of age and younger than 21 years of age; and
 - (ii) under the jurisdiction of the juvenile court.

(32) “Mobile crisis outreach team” means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(33) “Molestation” means that ~~[a person]~~ an individual, with the intent to arouse or gratify the sexual desire of any ~~[person]~~ individual, touches the anus ~~[or any part of the genitals of a child; (b)],~~ buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child~~[-or]~~ as defined in Section 76-5-416.

~~[(c) causes a child to take indecent liberties with the perpetrator or another.]~~

(34) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

(35) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child’s health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused; or

(v) abandonment of a child through an unregulated custody transfer.

(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by the child’s parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(36) “Neglected child” means a child who has been subjected to neglect.

(37) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

(38) “Not competent to proceed” means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(39) “Physical abuse” means abuse that results in physical injury or damage to a child.

(40) “Probation” means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor’s home under prescribed conditions.

(41) “Protective supervision” means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor’s home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(42) “Related condition” means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(43) (a) “Residual parental rights and duties” means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child’s religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(44) “Secure facility” means any facility operated by or under contract with the Division of Juvenile

Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

(45) “Severe abuse” means abuse that causes or threatens to cause serious harm to a child.

(46) “Severe neglect” means neglect that causes or threatens to cause serious harm to a child.

(47) “Sexual abuse” means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (25);

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children; or

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the [person] individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7.

(48) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any [person] individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any [person] individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the [person] individual who engages in the conduct is actually charged with, or convicted of, the offense.

(49) “Shelter” means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(50) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(51) “Substance abuse” means the misuse or excessive use of alcohol or other drugs or substances.

(52) “Substantiated” means the same as that term is defined in Section 62A-4a-101.

(53) “Supported” means the same as that term is defined in Section 62A-4a-101.

(54) “Termination of parental rights” means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(55) “Therapist” means:

(a) [a-person] an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other [person] individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(56) “Unregulated custody transfer” means the placement of a child:

(a) with [a-person] an individual who is not the child’s parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child’s federally recognized tribe;

(b) with the intent of severing the child’s existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the [person] individual taking custody of the child.

(57) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

(58) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

(59) “Without merit” means the same as that term is defined in Section 62A-4a-101.

Section 10. Section 78B-2-308 is amended to read:

78B-2-308. Legislative findings -- Civil actions for sexual abuse of a child -- Window for revival of time barred claims.

(1) The Legislature finds that:

(a) child sexual abuse is a crime that hurts the most vulnerable in our society and destroys lives;

(b) research over the last 30 years has shown that it takes decades for children and adults to pull their lives back together and find the strength to face what happened to them;

(c) often the abuse is compounded by the fact that the perpetrator is a member of the victim's family and when such abuse comes out, the victim is further stymied by the family's wish to avoid public embarrassment;

(d) even when the abuse is not committed by a family member, the perpetrator is rarely a stranger and, if in a position of authority, often brings pressure to bear on the victim to ensure silence;

(e) in 1992, when the Legislature enacted the statute of limitations requiring victims to sue within four years of majority, society did not understand the long-lasting effects of abuse on the victim and that it takes decades for the healing necessary for a victim to seek redress;

(f) the Legislature, as the policy-maker for the state, may take into consideration advances in medical science and understanding in revisiting policies and laws shown to be harmful to the citizens of this state rather than beneficial; and

(g) the Legislature has the authority to change old laws in the face of new information, and set new policies within the limits of due process, fairness, and justice.

(2) As used in this section:

(a) "Child" means ~~[a person]~~ an individual under 18 years of age.

(b) "Discovery" means when ~~[a person]~~ a victim knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.

(c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

(d) "Molestation" means that ~~[a person]~~ an individual, with the intent to arouse or gratify the sexual desire of any ~~[person:(i)]~~ individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child~~[(iii)]~~, or takes indecent liberties with a child~~[-or]~~ as defined in Section 76-5-416.

~~[(iii) causes a child to take indecent liberties with the perpetrator or another person -]~~

(e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to

report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any ~~[person]~~ individual cohabiting in the child's home.

(f) "Perpetrator" means an individual who has committed an act of sexual abuse.

(g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation by an adult directed towards a child.

(h) "Victim" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.

(3) (a) A victim may file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child at any time.

(b) A victim may file a civil action against a non-perpetrator for intentional or negligent sexual abuse suffered as a child:

(i) within four years after the ~~[person]~~ individual attains the age of 18 years; or

(ii) if a victim discovers sexual abuse only after attaining the age of 18 years, that ~~[person]~~ individual may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.

(4) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.

(5) The knowledge of a custodial parent or guardian may not be imputed to ~~[a person]~~ an individual under the age of 18 years.

(6) A civil action may be brought only against a living ~~[person]~~ individual who:

(a) intentionally perpetrated the sexual abuse;

(b) would be criminally responsible for the sexual abuse in accordance with Section 76-2-202; or

(c) negligently permitted the sexual abuse to occur.

(7) A civil action against ~~[a person listed]~~ an individual described in Subsection (6)(a) or (b) for sexual abuse that was time barred as of July 1, 2016, may be brought within 35 years of the victim's 18th birthday, or within three years of the effective date of this Subsection (7), whichever is longer.

(8) A civil action may not be brought as provided in Subsection (7) for:

(a) any claim that has been litigated to finality on the merits in a court of competent jurisdiction prior to July 1, 2016, however termination of a prior civil action on the basis of the expiration of the statute of

limitations does not constitute a claim that has been litigated to finality on the merits; and

(b) any claim where a written settlement agreement was entered into between a victim and a defendant or perpetrator, unless the settlement agreement was the result of fraud, duress, or unconscionability. There is a rebuttable presumption that a settlement agreement signed by the victim when the victim was not represented by an attorney admitted to practice law in this state at the time of the settlement was the result of fraud, duress, or unconscionability.

CHAPTER 193**H. B. 100**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**MEDICALLY COMPLEX CHILDREN
 WITH DISABILITIES WAIVER PROGRAM**

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Cheryl K. Acton
 Carl R. Albrecht
 Patrice M. Arent
 Joel K. Briscoe
 Rebecca Chavez-Houck
 Kim F. Coleman
 Susan Duckworth
 Rebecca P. Edwards
 Steve Eliason
 Gage Froerer
 Brian M. Greene
 Keith Grover
 Stephen G. Handy
 Sandra Hollins
 Eric K. Hutchings
 Michael S. Kennedy
 Brian S. King
 A. Cory Maloy
 Carol Spackman Moss
 Derrin R. Owens
 Lee B. Perry
 Dixon M. Pitcher
 Val K. Potter
 Marie H. Poulson
 Susan Pulsipher
 Paul Ray
 Angela Romero
 Douglas V. Sagers
 Robert M. Spendlove
 Raymond P. Ward
 R. Curt Webb
 Elizabeth Weight
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill requires the Department of Health to establish, through a Medicaid waiver, an ongoing program for children with disabilities and complex medical conditions.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to establish, through a Medicaid waiver, an ongoing program for children with disabilities and complex medical conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-410, as enacted by Laws of Utah 2015,
 Chapter 209

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

Section 1. Section 26-18-410 is amended to read:

26-18-410. Medicaid waiver for children with disabilities and complex medical needs.

(1) As used in this section:

(a) “Additional eligibility criteria” means the additional eligibility criteria set by the department under Subsection (4)(e).

~~[(a)]~~ (b) “Complex medical condition” means a physical condition of an individual that:

(i) results in severe functional limitations for the individual; and

(ii) is likely to:

(A) last at least 12 months; or

(B) result in death.

~~[(b)]~~ (c) “Program” means the program for children with complex medical conditions created in Subsection (3).

~~[(e)]~~ (d) “Qualified child” means a child who:

(i) is less than 19 years old;

(ii) is diagnosed with a complex medical condition;

(iii) has a condition that meets the definition of disability in 42 U.S.C. Sec. 12102; and

(iv) meets the additional eligibility criteria ~~[determined by the department under Subsection (4)].~~

(2) The department shall apply~~[, no later than June 30, 2015,]~~ for a Medicaid home and community-based waiver with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services to implement, within the state Medicaid program, the program described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the department shall offer a program that:

(a) as funding permits, provides treatment for qualified children; ~~[and]~~

(b) accepts applications for the program during periods of open enrollment~~[-]; and~~

(c) if approved by the Centers for Medicare and Medicaid Services:

(i) requires periodic reevaluations of an enrolled child’s eligibility based on the additional eligibility criteria; and

(ii) at the time of reevaluation, allows the department to disenroll a child who does not meet the additional eligibility criteria.

(4) The department shall:

(a) seek to prioritize, in the waiver described in Subsection (2), entrance into the program based on the:

(i) complexity of a qualified child's medical condition; and

(ii) financial needs of a qualified child and the qualified child's family;

(b) convene a public process to determine:

(i) the benefits and services to offer a qualified child under the program; and

(ii) additional eligibility criteria for a qualified child; ~~and~~

(c) evaluate, on an ongoing basis, the cost and effectiveness of the program~~;~~;

(d) if funding for the program is reduced, develop an evaluation process to reduce the number of children served based on the criteria in Subsection (4)(a); and

(e) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional eligibility criteria based on the factors described in Subsections (4)(a)(i) and (ii).

(5) The department shall annually report~~;~~ ~~beginning in 2016;~~ to the Legislature's Health and Human Services Interim Committee before November 30 while the waiver is in effect regarding:

(a) the number of qualified children served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program.

CHAPTER 194**H. B. 126**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

OFFENDER HOUSING AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: David G. Buxton
Cosponsors: Cheryl K. Acton
Stewart E. Barlow
Susan Duckworth
Rebecca P. Edwards
Justin L. Fawson
Gage Froerer
Craig Hall
Stephen G. Handy
Sandra Hollins
Eric K. Hutchings
Karianne Lisonbee
Kelly B. Miles
Lee B. Perry
Dixon M. Pitcher
Val K. Potter
Paul Ray
Edward H. Redd
Marc K. Roberts
Angela Romero
Scott D. Sandall
Mike Schultz
V. Lowry Snow
Robert M. Spendlove
Norman K. Thurston
Raymond P. Ward
Elizabeth Weight
Mark A. Wheatley
Logan Wilde
Brad R. Wilson
Mike Winder

LONG TITLE**General Description:**

This bill creates a process and formula for determining the release of offenders to community correctional centers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that the Department of Corrections may establish community correctional centers; and
- ▶ sets a cap on the number of offenders that may be released to a community correctional center based on population.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

64-13f-101, Utah Code Annotated 1953
64-13f-102, Utah Code Annotated 1953
64-13f-103, Utah Code Annotated 1953

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

Section 1. Section 64-13f-101 is enacted to read:**CHAPTER 13f. COMMUNITY CORRECTIONAL CENTERS****64-13f-101. Title.**

This chapter is known as "Community Correctional Centers."

Section 2. Section 64-13f-102 is enacted to read:**64-13f-102. Definitions.**

As used in this chapter:

(1) "Base percentage" means the population of a county or county zone as a percentage of the state population on June 30, 2023, and June 30 of every fifth subsequent year, determined using:

(a) the most recent United States decennial or special census; or

(b) another method used by the United States or state governments.

(2) "Cap" means the base percentage multiplied by the total number of offenders housed in community correctional centers throughout the state on June 30, 2023, and June 30 of every fifth subsequent year.

(3) "Community correctional center" means the same as that term is defined in Subsection 64-13-1(2).

(4) "County zone" means the eastern zone, northern zone, or western zone.

(5) "Department" means the Department of Corrections.

(6) (a) "Eastern zone" means, except as provided in Subsection (6)(b), Carbon, Daggett, Duchesne, Emery, Grand, San Juan, and Uintah counties.

(b) A county with a population of 150,000 or more on the date the base percentage is determined is not part of the eastern zone.

(7) (a) "Northern zone" means, except as provided in Subsection (7)(b), Box Elder, Cache, Morgan, Rich, Summit, and Wasatch counties.

(b) A county with a population of 150,000 or more on the date the base percentage is determined is not part of the northern zone.

(8) "Offender" means the same as that term is defined in Subsection 64-13-1(9).

(9) (a) "Western zone" means, except as provided in Subsection (9)(b), Beaver, Garfield, Tooele, Iron, Juab, Kane, Millard, Piute, Sanpete, Sevier, and Wayne counties.

(b) A county with a population of 150,000 or more on the date the base percentage is determined is not part of the western zone.

Section 3. Section 64-13f-103 is enacted to read:**64-13f-103. Establishment of community correctional centers -- Cap -- Rulemaking.**

(1) Subject to appropriation by the Legislature, the department may:

(a) establish community correctional centers throughout the state in accordance with this section;

(b) project the number of offenders that may be released to community correctional centers throughout the state by September 1, 2023, and September 1 of every fifth subsequent year; and

(c) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a procedure to allocate offenders to community correctional centers consistent with Subsections (2) and (3) and based on the number of offenders projected by the department to be released to community correctional centers under Subsection (1)(b).

(2) Except as provided in Subsection (3), after June 30, 2023, the total number of offenders housed in one or more community correctional centers within a county or county zone may not exceed the county or county zone's cap by more than 20%.

(3) (a) A county or county zone that exceeds the cap described in Subsection (2) on July 1, 2023, may continue to exceed the cap until the day on which the county or county zone first comes into compliance with the cap.

(b) A county or county zone described in Subsection (3)(a) may not exceed the cap after the day on which the county or county zone first comes into compliance with the cap described in Subsection (2).

(c) The department shall transfer offenders from a community correctional center in a county or county zone described in Subsection (3)(a) to a community correctional center in another county or county zone that does not meet or exceed the cap described in Subsection (2) until the county or county zone described in Subsection (3)(a) comes into compliance with the cap.

CHAPTER 195**H. B. 141**

Passed March 5, 2018

Approved March 19, 2018

Effective May 8, 2018

EARLY VOTING AMENDMENTS

Chief Sponsor: John R. Westwood

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill permits an election officer to reduce the early voting period.

Highlighted Provisions:

This bill:

- ▶ permits a municipal clerk and, for a county where an election is conducted entirely by mail, a county clerk, to reduce the early voting period;
- ▶ makes conforming changes to certain deadlines; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-202, as last amended by Laws of Utah 2012, Chapter 251

20A-3-202.3, as last amended by Laws of Utah 2015, Chapter 19

20A-3-601, as last amended by Laws of Utah 2017, Chapter 58

20A-3-604, as last amended by Laws of Utah 2017, Chapters 251, 267 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 267

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

Section 1. Section 20A-3-202 is amended to read:**20A-3-202. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.**

(1) A person's right to vote may be challenged because:

(a) the voter is not the person whose name appears in the official register or under which name the right to vote is claimed;

(b) the voter is not a resident of Utah;

(c) the voter is not a citizen of the United States;

(d) the voter has not or will not have resided in Utah for 30 days immediately before the date of the election;

(e) the voter's principal place of residence is not in the voting precinct claimed;

(f) the voter's principal place of residence is not in the geographic boundaries of the election area;

(g) the voter has already voted in the election;

(h) the voter is not at least 18 years of age;

(i) the voter has been convicted of a misdemeanor for an offense under this title and the voter's right to vote in an election has not been restored under Section 20A-2-101.3;

(j) the voter is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or

(k) in a regular primary election or in the Western States Presidential Primary, the voter does not meet the political party affiliation requirements for the ballot the voter seeks to vote.

(2) A person who challenges another person's right to vote at an election shall do so according to the procedures and requirements of:

(a) Section 20A-3-202.3, for challenges issued in writing more than ~~[21]~~ 35 days before the ~~[day on which voting commences]~~ date of the election; or

(b) Section 20A-3-202.5, for challenges issued in person at the time of voting.

Section 2. Section 20A-3-202.3 is amended to read:**20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.**

(1) (a) A person may challenge the right to vote of a person whose name appears on the official register by filing with the election officer, during regular business hours and ~~[not]~~ no later than ~~[21]~~ 35 days before the date ~~[that early voting commences]~~ of the election, a written statement that:

(i) lists the name and address of the person filing the challenge;

(ii) for each voter who is challenged:

(A) identifies the name of the challenged voter;

(B) lists the last known address or telephone number of the challenged voter;

(C) provides the basis for the challenge, as provided under Section 20A-3-202;

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3-202 for each challenged voter is valid.

(b) The challenge may not be based on unsupported allegations or allegations by an anonymous person.

(c) The election officer may provide a form that meets the requirements of this section for challenges filed under this section.

(2) (a) If the challenge is not in the proper form or if the basis for the challenge does not meet the requirements of this part, the election officer may dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

(b) A challenge is not in the proper form if the challenge form is incomplete.

(3) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall, at least [14] 28 days before the [day on which early voting commences] date of the election, attempt to notify each challenged voter:

(a) that a challenge has been filed against the challenged voter and the challenged voter may be required to cast a provisional ballot at the time of voting;

(b) of the basis for the challenge, which may include providing a copy of the written statement to the challenged voter; and

(c) that the challenged voter may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged voter's right to vote in the election to the election officer no later than [seven] 21 days before the [day on which early voting commences] date of the election.

(4) (a) [~~Before the day on which early voting commences~~] No later than 15 days before the date of the election, the election officer shall determine whether each challenged voter is eligible to vote.

(b) (i) The filer of the challenge has the burden to prove, by clear and convincing evidence, that the basis for challenging the voter's right to vote is valid.

(ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.

(5) A person who files a challenge under the requirements of this section is subject to criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(6) (a) A decision of the election officer regarding a person's eligibility to vote may be appealed to the district court having jurisdiction over the location where the challenge was filed.

(b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.

(c) In making the district court's determination, the district court's review is limited to:

(i) the information submitted under Subsection (1)(a) by the person challenging the voter's eligibility;

(ii) the information submitted under Subsection (3)(c) by the challenged voter; and

(iii) any additional facts and information used by the election official to determine whether the challenged voter is eligible to vote, as indicated by the election official.

(7) A challenged voter may register to vote or change the location of the voter's voter registration if otherwise legally entitled to do so.

(8) All documents pertaining to a voter challenge are public records.

Section 3. Section 20A-3-601 is amended to read:

20A-3-601. Early voting.

(1) [~~(a)~~] An individual who is registered to vote may vote before the election date in accordance with this section.

~~[(b) An individual who is not registered to vote may register to vote and vote before the election date in accordance with this section if the individual:]~~

~~[(i) is otherwise legally entitled to vote the ballot in a jurisdiction that is approved by the lieutenant governor to participate in the pilot project described in Section 20A-4-108; and]~~

~~[(ii) casts a provisional ballot in accordance with Section 20A-4-108.]~~

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period shall:

(a) begin on the date that is 14 days before the date of the election; and

(b) continue through the Friday before the election if the election date is a Tuesday.

(3) (a) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section 20A-3-604.

(b) For a municipal election, the municipal clerk may reduce the early voting period described in this section if:

(i) the municipal clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the municipal clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604.

(c) For a county election that is conducted entirely by mail, the county clerk may reduce the early voting period described in this section if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting shall be administered according to the requirements of this title.

Section 4. Section 20A-3-604 is amended to read:

20A-3-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3-603(2), the election officer shall, at least ~~[five]~~ 19 days before the ~~[day on which early voting begins]~~ date of the election, give notice of the dates, times, and locations of early voting by:

(a) publishing the notice:

(i) in one issue of a newspaper of general circulation in the county; and

(ii) in accordance with Section 45-1-101; and

(b) posting the notice at each early voting polling place.

(2) The election officer shall include in the notice described in Subsection (1)(a):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

CHAPTER 196**H. B. 142**

Passed March 5, 2018

Approved March 19, 2018

Effective May 8, 2018

IMPACT FEES AMENDMENTS

Chief Sponsor: Derrin R. Owens
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill addresses the definition of public facilities for the purpose of impact fees.

Highlighted Provisions:

This bill:

- ▶ amends a definition; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-36a-102, as last amended by Laws of Utah 2014, Chapter 363

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

Section 1. Section 11-36a-102 is amended to read:**11-36a-102. Definitions.**

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school

authorizer as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a local district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

(8) (a) "Impact fee" means a payment of money imposed upon new development activity as a

condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(9) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(11) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(12) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 53A-20-100.5.

(13) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(14) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(15) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(16) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities; ~~or~~

(h) environmental mitigation as provided in Section 11-36a-205[-]; or

(i) municipal natural gas facilities.

(17) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of \$500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(18) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(19) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(20) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(21) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

CHAPTER 197**H. B. 168**

Passed February 26, 2018

Approved March 19, 2018

Effective May 8, 2018

**POLITICAL SUBDIVISION
LIEN AUTHORITY**Chief Sponsor: R. Curt Webb
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill addresses provisions related to political subdivision lien authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies certain existing grants of political subdivision lien authority to ensure that each grant provides an identifiable effective date, notice mechanism, and enforcement mechanism;
- ▶ imposes limits on political subdivision liens;
- ▶ provides that certain political subdivision liens are invalid against a subsequent bona fide purchaser if the lien is not recorded or if certain notice is not provided before the purchase;
- ▶ prohibits a county treasurer from including an item on the property tax notice unless the item's inclusion is expressly authorized in statute;
- ▶ amends the items that a county treasurer is required to include on a property tax notice;
- ▶ addresses the priority status of a political subdivision lien listed on the property tax notice;
- ▶ allows a tax sale for delinquencies of any item that is statutorily authorized to be included on the property tax notice;
- ▶ amends Title 59, Chapter 2, Part 13, Collection of Taxes, to address items listed on the property tax notice; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-7-30, Utah Code Annotated 1953
- 10-8-17, as last amended by Laws of Utah 2010, Chapter 378
- 10-8-19, Utah Code Annotated 1953
- 10-11-4, as last amended by Laws of Utah 2017, Chapter 460
- 11-42-202, as last amended by Laws of Utah 2017, Chapters 127 and 470
- 11-42-501, as last amended by Laws of Utah 2015, Chapter 349
- 11-42-502, as last amended by Laws of Utah 2016, Chapter 85
- 11-42-502.1, as enacted by Laws of Utah 2016, Chapter 85
- 11-42a-201, as enacted by Laws of Utah 2017, Chapter 470

- 11-42a-301, as enacted by Laws of Utah 2017, Chapter 470
- 11-42a-303, as enacted by Laws of Utah 2017, Chapter 470
- 17B-1-902, as last amended by Laws of Utah 2017, Chapter 460
- 17B-2a-506, as last amended by Laws of Utah 2015, Chapter 349
- 17B-2a-1007, as last amended by Laws of Utah 2015, Chapter 258
- 59-2-1305, as last amended by Laws of Utah 1999, Chapter 207
- 59-2-1317, as last amended by Laws of Utah 2016, Chapter 353
- 59-2-1323, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1324, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1331, as last amended by Laws of Utah 2015, Chapter 201
- 59-2-1332.5, as last amended by Laws of Utah 2016, Chapter 368
- 59-2-1326, as last amended by Laws of Utah 2015, Chapter 258
- 59-2-1327, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1332, as last amended by Laws of Utah 2015, Chapter 201
- 59-2-1333, as last amended by Laws of Utah 1997, Chapter 143
- 59-2-1335, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1338, as last amended by Laws of Utah 1995, Chapter 181
- 59-2-1339, as last amended by Laws of Utah 2000, Chapter 75
- 59-2-1342, as last amended by Laws of Utah 1995, Chapter 181
- 59-2-1343, as last amended by Laws of Utah 1995, Chapter 181
- 59-2-1345, as last amended by Laws of Utah 1995, Chapter 181
- 59-2-1346, as last amended by Laws of Utah 2016, Chapter 368
- 59-2-1349, as last amended by Laws of Utah 1997, Chapter 143
- 59-2-1351, as last amended by Laws of Utah 2009, Chapter 388
- 59-2-1351.1, as last amended by Laws of Utah 2000, Chapter 75
- 59-2-1351.5, as last amended by Laws of Utah 2001, Chapter 9
- 59-2-1352, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1353, as last amended by Laws of Utah 1995, Chapter 181
- 59-2-1355, as last amended by Laws of Utah 1993, Chapter 227
- 59-2-1358, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1359, as last amended by Laws of Utah 1992, Chapter 4
- 59-2-1360, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 59-2-1361, as last amended by Laws of Utah 2001, Chapter 9

59-2-1362, as repealed and reenacted by Laws of Utah 1988, Chapter 3
 59-2-1363, as repealed and reenacted by Laws of Utah 1988, Chapter 3
 59-2-1365, as last amended by Laws of Utah 2011, Chapter 342
 59-2-1366, as last amended by Laws of Utah 2001, Chapter 241
 59-2-1372, as enacted by Laws of Utah 1988, Chapter 3

ENACTS:

11-58-101, Utah Code Annotated 1953
 11-58-102, Utah Code Annotated 1953
 11-58-103, Utah Code Annotated 1953
 59-2-1301.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

10-7-31, Utah Code Annotated 1953

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

Section 1. Section 10-7-30 is amended to read:**10-7-30. Failure to pay for repairs -- Lien on company's property.**

(1) In the event of the refusal of any [such] company to pave, repave, or repair as required [herein] in this section when so directed, upon the paving or repaving of any street upon which [its] the company's track is laid, the municipality [shall have power to] may:

(a) pave, repave, or repair the [same,] street; and

(b) collect the cost and expense of [such] the paving, repaving, or repairing [may be collected] by levy and sale of any property of [such] the company in the same manner as special taxes are [now or may be] collected. [Special]

(2) The municipality may levy special taxes, for the purpose [of paying the cost of any such paving or repaving, macadamizing] described in Subsection (1)(b) or repairing of [any such] the railway [may be levied], upon:

(a) all as one property:

(i) the track, including the ties, iron, roadbed, right of way, sidetracks, and appurtenances[;]; and

(ii) buildings and real estate belonging to [any such] the company and used for the purpose of [such] the railway business [all as one property,]; or [upon such]

(b) the parts of [such] the track, appurtenances, and property as may be within the district paved, repaved, macadamized, or repaired[, and shall be a lien upon the property levied upon from the time of the levy until satisfied. No].

(3) (a) The municipality may record the levied special taxes described in Subsection (2) as a political subdivision lien, as that term is defined in Section 11-58-102, upon the levied property, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

(b) Any mortgage, conveyance, pledge, transfer, or encumbrance of [any such] the property or of any

rolling stock or personal property of [any such] the company[, created or suffered by it after the time when any street or part thereof upon which any railway shall have been laid shall have been ordered paved, repaved, macadamized or repaired shall be made or suffered except] that the company creates or suffers is subject to the lien [of such special taxes, if such levy is in contemplation].

(c) If the lien amount is not paid in full in a given year:

(i) by September 15, the municipality shall certify any unpaid amount to the treasurer of the county in which the lien property is located; and

(ii) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

Section 2. Section 10-7-31 is repealed and reenacted to read:**10-7-31. Sale of property to satisfy claims for special taxes.**

(1) (a) The city treasurer may:

(i) seize any personal property belonging to any company described in Section 10-7-30 to satisfy a delinquent political subdivision lien described in Section 10-7-30; and

(ii) sell the seized personal property upon advertisement and in the same manner as constables may sell personal property upon execution.

(b) Failure to seize and sell personal property in accordance with Subsection (1)(a) does not affect or impair the lien described in Section 10-7-30 or any proceeding allowed by law to enforce the lien.

(2) The county may sell all or a portion of the real property the company described in Section 10-7-30 owns for the payment of the lien through a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

Section 3. Section 10-8-17 is amended to read:**10-8-17. City may act as distributing agent -- Collection of operating costs from users.**

(1) When the governing body of a city is acting as distributing agent of water, not the property of the corporation, outside of or within its corporate limits, the governing body may annually [prior to], before the commencement of the irrigation season, determine and fix the sum [deemed] considered necessary to meet the expense of the current year for the purpose of:

(a) controlling, regulating, and distributing [such] the water; and

(b) constructing and keeping in repair the necessary means for diverting, conveying, and distributing the [same, and they] water.

(2) (a) The governing body may collect [such] the sum described in Subsection (1) from the persons entitled to the use of [such] the water, pro rata according to acreage, whether the acreage is situate

within or without the corporate boundary of the city[; ~~provided, that the funds so derived may not be appropriated or used.~~]

(b) ~~The governing body may not appropriate or use the derived funds for any other purpose, and in~~ than the purposes described in Subsection (1).

(c) ~~In the event that the governing body collects a greater sum [is collected] in any one year than is necessary [for said purpose, the excess thereof shall be carried] under Subsection (1), the governing body shall carry the excess to the account of the year next following and [applied to the purpose for which it was collected. Such sum shall be fixed and collected as provided by ordinance, and until collected the same shall be] apply the excess to the purposes described in Subsection (1).~~

(d) The governing body shall enact an ordinance fixing and providing for the collection of the sum described in Subsection (1).

(3) (a) Until the governing body collects the sum described in Subsection (1), the sum is a political subdivision lien, as that term is defined in Section 11-58-102, on [such] the subject water rights and the land irrigated [thereby] by the water, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

(b) If the lien amount is not paid in full in a given year:

(i) by September 15, the governing body shall certify any unpaid amount to the treasurer of the county in which the lien property is located; and

(ii) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

Section 4. Section 10-8-19 is amended to read:

10-8-19. Water supply -- Special tax for increasing supply when city acting as distributing agent.

(1) Whenever a city is acting as distributing agent of water, not the property of the corporation, outside of or within the corporate limits of such city, upon written petition of the owners of [such] the water, [it] the city may increase the supply of water [owned by such persons] that the petitioners own by any means provided in Section 10-8-18[, and for that purpose].

(2) (a) To increase the supply of water under Subsection (1), the city may levy and collect from the owners of [such] the water a tax not exceeding [such] the sum per acre of land owned [by such persons as may have been] as agreed upon and designated in [said] the petition[; said tax when so collected to be appropriated exclusively to said purposes, except such part thereof].

(b) The city shall appropriate the tax collected under Subsection (2)(a) exclusively to increase the supply of water under Subsection (1), except as is necessary to pay the expense of levying and collecting the [same. Said tax shall constitute] tax.

(3) (a) Until the city collects the tax described in Subsection (2), the unpaid tax is a political subdivision lien, as that term is defined in Section 11-58-102, upon the owner's water rights [of the persons] and the land [irrigated thereby, and shall be levied and collected as provided in Section 10-8-17] that the water irrigates, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

(b) If the lien amount is not paid in full in a given year:

(i) by September 15, the city shall certify any unpaid amount to the treasurer of the county in which the lien property is located; and

(ii) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

Section 5. Section 10-11-4 is amended to read:

10-11-4. Costs of removal to be included in tax notice.

(1) A municipality may certify to the treasurer of the county in which a property described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has incurred under Section 10-11-3 with regard to the property.

(2) If the municipality certifies with the treasurer of the county any costs or expenses incurred for a property under Section 10-11-3, the treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose.

(3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year.

(4) (a) After entry by the treasurer of the county[;] under Subsection (2):

(i) the amount entered[; (a) shall have the force and effect of a valid judgment of the district court; (b)] is a nonrecurring tax notice charge that constitutes a political subdivision lien, as those terms are defined in Section 11-58-102, upon the property[; and] in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority; and

(e) (ii) [shall be collected by the] the treasurer of the county in which the property is located shall collect the amount entered at the time of the payment of general taxes.

(b) (i) Notwithstanding Subsection (7), the municipality may pursue judicial foreclosure to enforce the lien rather than relying on a tax sale.

(ii) If the municipality pursues judicial foreclosure under this Subsection (4)(b):

(A) the municipality shall record the lien in the office of the recorder of the county in which the lien property is located; and

(B) the priority date of the lien, for the purpose of the judicial foreclosure, is the date on which the municipality records the lien.

(5) Upon payment of the costs and expenses that the treasurer of the county enters under Subsection (2):

~~[(a) the judgement is satisfied;]~~

~~[(b)] (a) the lien described in Subsection (4) is released from the property; and~~

(b) the municipality shall record a release of the lien in the office of the recorder of the county in which the lien property is located; and

~~[(c)] (c) [receipt shall be acknowledged] the treasurer shall acknowledge receipt upon the general tax receipt [issued by] that the treasurer issues.~~

(6) (a) If a municipality certifies unpaid costs and expenses under this section, the treasurer of the county shall provide a notice, in accordance with this Subsection (6), to the owner of the property for which the municipality has incurred the unpaid costs and expenses.

(b) In providing the notice required in Subsection (6)(a), the treasurer of the county shall:

(i) include the amount of unpaid costs and expenses that a municipality has certified on or before July 15 of the current year;

(ii) provide contact information, including a phone number, for the property owner to contact the municipality to obtain more information regarding the amount described in Subsection (6)(b)(i); and

(iii) notify the property owner that:

(A) unless the municipality completes a judicial foreclosure under Subsection (4)(b), if the amount described in Subsection (6)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and

(B) the failure to pay the amount described in Subsection (6)(b)(i) has resulted in a lien on the property in accordance with ~~[this section]~~ Subsection (4).

(c) The treasurer of the county shall provide the notice required by this Subsection (6) to a property owner on or before August 1.

(d) If the municipality pursues judicial foreclosure under Subsection (4)(b) and completes the judicial foreclosure, before any tax sale proceedings on a property described in Subsection (1), the treasurer of the county shall remove from the assessment roll any costs or expenses that the treasurer added to the assessment roll under Subsection (2).

(7) If the amount described in Subsection (6)(b)(i) is not paid in full in a given year, by September 15, the county treasurer shall include any unpaid amount on the property tax notice required by Section 59-2-1317 for that year.

~~[(7)]~~ (8) This section does not apply to any public building, public structure, or public improvement.

Section 6. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

- (i) state:
- (i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;
- (ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and
- (iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;
- (j) state the date, time, and place of the public hearing required in Section 11-42-204;
- (k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:
- (i) how the reserve fund will be funded and replenished; and
- (ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;
- (l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:
- (i) estimates the total assessment to be levied against the particular parcel of property;
- (ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;
- (iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and
- (iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(~~e~~)(a)(ii)(C):
- (A) appoints a trustee that satisfies the requirements described in Section 57-1-21;
- (B) gives the trustee the power of sale; and
- (C) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;
- (m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:
- (i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;
- (ii) a description of how the estimated assessment will be determined;
- (iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:
- (A) in accordance with Section 11-42-406, current economic promotion activities; or
- (B) current operation and maintenance costs;
- (iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and
- (v) a statement of the maximum number of years over which the assessment will be levied for:
- (A) operation and maintenance costs; or
- (B) economic promotion activities;
- (n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;
- (o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and
- (p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.
- (2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.
- (3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:
- (a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;
- (b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and
- (c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).
- (4) Each notice required under Subsection 11-42-201(2)(a) shall:
- (a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or
- (B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries,

be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 7. Section 11-42-501 is amended to read:

11-42-501. Assessment constitutes a lien -- Characteristics of an assessment lien.

(1) [Each] If the governing body of the local entity that adopts an assessment resolution or ordinance records the assessment resolution or ordinance and the notice of proposed assessment, in accordance with Section 11-42-206, in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a political subdivision lien, as that term is defined in Section 11-58-102, against the

property assessed, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority, and subject to the provisions of this chapter, as of the effective date of the assessment resolution or ordinance.

(2) A lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) has the same priority as, but is separate and distinct from, a lien for general property taxes;

(c) applies without interruption, change in priority, or alteration in any manner to any reduced payment obligations; and

(d) continues until the assessments, reduced payment obligations, and any interest, penalties, and costs are paid, despite:

(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 8. Section 11-42-502 is amended to read:

11-42-502. Enforcement of an assessment lien -- Pre-May 10, 2016, procedure.

(1) The provisions of this section apply to any property that is:

(a) (i) located within the boundaries of an assessment area; and

(ii) the subject of a foreclosure procedure initiated before May 10, 2016, for an assessment or an installment of an assessment that is not paid when due; or

(b) located within the boundaries of an assessment area for which the local entity issued an assessment bond or a refunding assessment bond:

(i) before May 10, 2016;

(ii) that has not reached final maturity; and

(iii) that is not refinanced on or after May 10, 2016.

(2) (a) If an assessment or an installment of an assessment is not paid when due[;] in a given year:

(i) subject to Subsection (2)(b):

(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of certification to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:

~~[(a)]~~ (A) by resolution or ordinance of the local entity;

~~[(b)]~~ (B) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or

~~[(c)]~~ (C) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.

(b) (i) The certification of the unpaid amount described in Subsection (2)(a)(i):

(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the assessment as described in the assessment resolution or ordinance; and

(B) is required to provide for the ability of the local entity to collect the delinquent assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (2)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent assessment as described in Subsection (2)(b)(i)(B).

(c) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 58, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)~~[(b)]~~(a)(ii)(B) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4) (a) In a foreclosure under Subsection (2)~~[(e)]~~(a)(ii)(C):

(i) the local entity may bid at the sale;

(ii) the local entity's governing body shall designate a trustee satisfying the requirements of Section 57-1-21;

(iii) each trustee designated under Subsection (4)(a)(ii) has a power of sale with respect to the property that is the subject of the delinquent assessment lien;

(iv) the property that is the subject of the delinquent assessment lien is considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to exercise the trustee's power of sale under Subsection (4)(a)(iii);

(v) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and

(vi) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b) The designation of a trustee under Subsection (4)(a)(ii) shall be disclosed in the notice of default that the trustee gives to commence the foreclosure, and need not be stated in a separate instrument.

(5) (a) The redemption of property that is the subject of a tax sale under Subsection (2)~~[(b)]~~(a)(ii)(B) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)~~[(e)]~~(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

(6) (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Section 9. Section 11-42-502.1 is amended to read:

11-42-502.1. Enforcement of an assessment lien -- Post-May 10, 2016, procedure.

(1) (a) Except as provided in Subsection (1)(b), the provisions of this section apply to any property that is:

(i) located within the boundaries of an assessment area; and

(ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.

(b) The provisions of this chapter do not apply to property described in Subsection 11-42-502(1)(b).

(2) (a) If an assessment or an installment of an assessment is not paid when due~~[,]~~ in a given year:

(i) subject to Subsection (2)(b):

(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of the certification to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

~~[(a)]~~ (A) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;

~~[(b)]~~ (B) by judicial foreclosure; or

~~[(c)]~~ (C) in the manner described in Title 57, Chapter 1, Conveyances, if~~[-(d)]~~ the property is in a

voluntary assessment area⁽³⁾ and ⁽⁴⁾ the owner of record of the property at the time the local entity initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances, executed a property owner's consent form described in Subsection 11-42-202(1)(l) that includes a provision described in Subsection 11-42-202(1)(l)(iv).

(b) (i) The certification of the unpaid amount described in Subsection (2)(a)(i):

(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the assessment as described in the assessment resolution or ordinance; and

(B) is required to provide for the ability of the local entity to collect the delinquent assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (2)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent assessment as described in Subsection (2)(b)(i)(B).

(c) Nothing in Subsection (2)(a)(i) or in Title 11, Chapter 58, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (2)(a)(ii).

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a)(ii)(A) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4) (a) The redemption of property that is the subject of a tax sale under Subsection (2)(~~(a)~~)(a)(ii)(A) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a judicial foreclosure proceeding under Subsection (2)(~~(b)~~)(a)(ii)(B) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

(c) The redemption of property that is the subject of a foreclosure proceeding under Subsection (2)(~~(c)~~)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

(5) (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies described in this part does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Section 10. Section 11-42a-201 is amended to read:

11-42a-201. Resolution or ordinance designating an energy assessment area, levying an assessment, and issuing an energy assessment bond.

(1) (a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:

(i) designates an energy assessment area;

(ii) levies an assessment within the energy assessment area; and

(iii) if applicable, authorizes the issuance of an energy assessment bond.

(b) The boundaries of a proposed energy assessment area may:

(i) include property that is not intended to be assessed; and

(ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

(c) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) shall give notice of the adoption by:

(i) publishing a copy or a summary of the resolution or ordinance once in a newspaper of general circulation where the energy assessment area is located; or

(ii) if there is no newspaper of general circulation where the energy assessment area is located, posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days.

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or

(b) at a later date as provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the property to be assessed; and

(ii) describe the property to be assessed by legal description and tax identification number.

(c) ~~[A local entity's failure] If a local entity fails to file a notice of assessment interest under this Subsection (4) [has no effect on the validity of an assessment levied under an energy assessment resolution or ordinance adopted under Subsection (4)].~~

(i) the failure does not invalidate the designation of an energy assessment area; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (4)(d).

(d) The local entity may file a corrected notice if the entity fails to comply with the date or other requirements for filing a notice of assessment interest.

(e) If a governing body has filed a corrected notice under Subsection (4)(d), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (4)(c).

Section 11. Section 11-42a-301 is amended to read:

11-42a-301. Assessment constitutes a lien -- Characteristics of an energy assessment lien.

(1) [Each] If a local entity that adopts an assessment resolution or ordinance records the assessment resolution or ordinance and the notice of proposed assessment, in accordance with Section 11-42a-201, in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a political subdivision lien, as that term is defined in Section 11-58-102, against the assessed property, in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority,

and subject to the provisions of this chapter, beginning on the effective date of the energy assessment resolution or ordinance that the local entity adopts under Subsection 11-42a-201(1)(a).

(2) An energy assessment lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) has the same priority as, but is separate and distinct from:

(i) a lien for general property taxes; or

(ii) any other energy assessment lien levied under this chapter;

(c) applies to any reduced payment obligations without interruption, change in priority, or alteration in any manner; and

(d) continues until the assessment and any related reduced payment obligations, interest, penalties, and costs are paid, regardless of:

(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 12. Section 11-42a-303 is amended to read:

11-42a-303. Enforcement of an energy assessment lien.

(1) (a) If an assessment or an installment of an assessment is not paid when due~~;~~ in a given year:

(i) subject to Subsection (1)(c):

(A) by September 15, the governing body of the local entity that levies the assessment shall certify any unpaid amount calculated as of the date of certification to the treasurer of the county in which the assessed property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year; and

(ii) the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

~~[(a)]~~ (A) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes;

~~[(b)]~~ (B) by judicial foreclosure; or

~~[(c)]~~ (C) in the manner provided in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity if the owner of record of the property at the time the local entity initiates the process to sell the property in accordance with Title 57, Chapter 1, Conveyances, has executed a property owner's consent form [that:] in accordance with Subsection (1)(b).

(b) The local entity shall ensure that the consent form described in Subsection (1)(a)(ii)(C):

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the local entity expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the local entity; and

(iv) (A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale; and

(C) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances.

(c) (i) The certification of the unpaid amount described in Subsection (1)(a)(i):

(A) has no effect on the amount due plus interest, penalties, and costs or other requirements of the energy assessment as described in the energy assessment resolution or ordinance; and

(B) is required to provide for the ability of the local entity to collect the delinquent energy assessment by the sale of property in a sale for delinquent general property taxes and tax notice charges, as that term is defined in Section 59-2-1301.5, in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes.

(ii) A local entity's failure to certify an amount in accordance with Subsection (1)(a)(i) or a county treasurer's failure to include the certified amount on the property tax notice is not a defense to and does not delay, prohibit, or diminish a local entity's lien rights or authority to pursue any enforcement remedy, other than a delay in the local entity's ability to collect the delinquent energy assessment as described in Subsection (1)(c)(i)(B).

(d) Nothing in Subsection (1)(a)(i) or in Title 11, Chapter 58, Political Subdivision Lien Authority, prohibits or diminishes a local entity's authority to pursue any remedy in Subsection (1)(a)(ii).

(2) If the local entity has assigned the local entity's rights to a third-party lender under Section 11-42a-302, the local entity shall provide written instructions to the third-party lender as to which method of enforcement the third-party lender shall pursue.

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (1)(b)(a)(ii)(B) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4) (a) In a foreclosure under Subsection (1)(e)(a)(ii)(C):

(i) the local entity may bid at the sale;

(ii) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and

(iii) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b) (i) The local entity shall disclose the designation of a trustee under Subsection (4)(a)(ii) in the notice of default that the trustee gives to commence the foreclosure.

(ii) The local entity is not required to disclose the designation of a trustee under Subsection (4)(a)(ii) in an instrument separate from the notice described in Subsection (4)(b)(i).

(5) (a) The redemption of property that is the subject of a tax sale under Subsection (1)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection (1)(e)(a)(ii)(C) is governed by Title 57, Chapter 1, Conveyances.

(6) The remedies described in this part for the collection of an assessment and the enforcement of an energy assessment lien are cumulative, and the use of one or more of those remedies does not deprive the local entity of any other available remedy, means of collecting the assessment, or means of enforcing the energy assessment lien.

Section 13. Section 11-58-101 is enacted to read:

CHAPTER 58. POLITICAL SUBDIVISION LIEN AUTHORITY~~11-58-101. TITLE.~~

This chapter is known as "Political Subdivision Lien Authority."

Section 14. Section 11-58-102 is enacted to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a political subdivision charges to a property owner.

(2) "Nonrecurring tax notice charge" means a tax notice charge that a political subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than regularly over multiple calendar years.

(3) "Notice of lien" means a notice that:

(a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring tax notice charge is located; and

(b) describes the nature and amount of the nonrecurring tax notice charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that

allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.

(4) "Political subdivision" means:

(a) a county, as that term is defined in Section 17-50-101;

(b) a municipality, as that term is defined in Section 10-1-104;

(c) a local district, as that term is defined in Section 17B-1-102;

(d) a special service district, as that term is defined in Section 17D-1-102;

(e) an interlocal entity, as that term is defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as that term is defined in Section 17D-2-102;

(h) a conservation district, as that term is defined in Section 17D-3-102; or

(i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.

(5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.

(6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.

(7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

(8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Section 15. Section 11-58-103 is enacted to read:

11-58-103. Political subdivision liens -- Status -- Limitations.

(1) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for:

(a) a service that the political subdivision renders; or

(b) a product, an item, or goods that the political subdivision delivers.

(2) A political subdivision lien other than a lien described in Subsection (3):

(a) (i) is not equivalent to and does not have the same priority as property tax; and

(ii) is not subject to the same collection and tax sale procedures as a property tax;

(b) is effective as of the date on which the lienholder records the lien in the office of the recorder of the county in which the property is located;

(c) is subordinate in priority to all encumbrances on the property existing on the date on which the municipality records the lien; and

(d) is invalid and does not attach to the property if:

(i) the lienholder does not record the lien; or

(ii) a subsequent bona fide purchaser purchases the lien property for value before the lienholder records the lien.

(3) (a) A political subdivision lien that is included on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision:

(i) under Subsection 59-2-1317(3), has the same priority as a property tax and is subject to collection in a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes, if:

(A) in order to hold the lien, statute requires the lienholder to record the lien or a resolution, notice, ordinance, or order, and the lienholder makes the required recording; or

(B) statute does not require the lienholder to record the lien or a resolution, notice, ordinance, or order; and

(ii) except as provided in Subsection (3)(b):

(A) attaches to the property; and

(B) is valid against a subsequent bona fide purchaser of the property.

(b) Notwithstanding Subsection (3)(a)(ii), a nonrecurring tax notice charge does not attach to the property and is invalid against a subsequent bona fide purchaser if the recording of a document conveying title to the subsequent bona fide purchaser occurs before the earlier of:

(i) the recording of the lien or a notice of lien in the office of the recorder of the county in which the lien property is located; or

(ii) the mailing of the property tax notice that includes the nonrecurring tax notice charge.

(4) If the holder of a political subdivision lien records the lien or a notice of lien, upon payment of the amount that constitutes the lien:

(a) the lien is released from the property; and

(b) the lienholder shall record a release of the lien or the notice of lien in the same recorder's office in which the lienholder recorded the lien or the notice of the lien.

(5) Unless otherwise expressly stated in statute, a partial payment of an amount constituting a political subdivision lien, including all costs, charges, interest, and amounts accrued since the unpaid amount was certified to the county treasurer, is not a release of any assessment to be

paid in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(6) Nothing in this section limits a political subdivision's lien authority, lien rights, or remedies otherwise provided in statute, a contract, a judgment, or another property interest.

Section 16. Section 17B-1-902 is amended to read:

17B-1-902. Lien for past due service fees -- Notice -- Partial payment allocation.

(1) (a) A local district may ~~[file]~~ hold a lien on a customer's property for past due fees for commodities, services, or facilities that the district has provided to the customer's property by certifying, subject to Subsection (3), to the treasurer of the county in which the customer's property is located the amount of past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.

(b) (i) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a political subdivision lien that is a nonrecurring tax notice charge, as those terms are defined in Section 11-58-102, on the customer's property to which the commodities, services, or facilities were provided in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority.

~~[(e)]~~ (ii) A lien ~~[filed in accordance with this section]~~ described in this Subsection (1) has the same priority as, but is separate and distinct from, a property tax lien.

(2) (a) If a local district certifies past due fees under Subsection (1)(a), the treasurer of the county shall provide a notice, in accordance with this Subsection (2), to the owner of the property for which the local district has incurred the past due fees.

(b) In providing the notice required in Subsection (2)(a), the treasurer of the county shall:

(i) include the amount of past due fees that a local district has certified on or before July 15 of the current year;

(ii) provide contact information, including a phone number, for the property owner to contact the local district to obtain more information regarding the amount described in Subsection (2)(b)(i); and

(iii) notify the property owner that:

(A) if the amount described in Subsection (2)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and

(B) the failure to pay the amount described in Subsection (2)(b)(i) has resulted in a lien on the property in accordance with ~~[this section]~~ Subsection (1)(b).

(c) The treasurer of the county shall provide the notice required by this Subsection (2) to a property owner on or before August 1.

(3) (a) If a local district certifies ~~[past due fees under]~~ an unpaid amount in accordance with Subsection (1)(a), the county treasurer shall include the unpaid amount on a property tax notice issued in accordance with Section 59-2-1317 ~~[an unpaid fee, administrative cost, or interest described in Subsection (1)(a)].~~

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (3)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the local district; and

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.

(4) A lien under Subsection (1) is not valid if the local district makes certification under Subsection ~~[(4) is made]~~ (1)(a) after the filing for record of a document conveying title of the customer's property to a new owner.

(5) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

(6) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Section 17. Section 17B-2a-506 is amended to read:

17B-2a-506. Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.

(1) An irrigation district may:

(a) divide the district into units and apply different use charges to the different units; and

(b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.

(2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:

(a) the assessor of the county in which the land is located shall assist the irrigation district in

ascertaining the identity of a parcel served by the district;

(b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and

(c) the treasurer of the county in which the land is located:

(i) shall:

(A) provide each landowner a notice of use charges as part of the annual tax notice required in Section 59-2-1317 as an additional charge separate from ad valorem taxes;

(B) collect, receive, and provide an accounting for all money belonging to the district from use charges; ~~and~~

(C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and

(D) collect any unpaid use charges in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes; and

(ii) may receive and account for use charges separately from taxes upon real estate for county purposes.

(3) (a) A use charge described in Subsection (2)(b) ~~[shall become a lien]~~ is a political subdivision lien, as that term is defined in Section 11-58-102, on the land served, as provided in ~~[Section 17B-1-902]~~ Subsection 17B-1-902(1), except that the certification described in Subsection 17B-1-902(1)(a) is not required if the district makes the notification to the county treasurer required in Subsection (2)(b).

(b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.

(c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.

(4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Section 18. Section 17B-2a-1007 is amended to read:

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy

district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution [~~or ordinance under~~], ordinance, or order, in accordance with Subsection (7)(a)(i)^[5]:

(i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a [~~perpetual lien~~] political subdivision lien, as that term is defined in Section 11-58-102, on the assessed land^[5], in accordance with Title 11, Chapter 58, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and

(ii) (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(c) (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(ii) If the amount of a contract assessment levied under this section is not paid in full in a given year:

(A) by September 15, the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) twice publish a notice, at least a week apart:

(A) [~~(I)~~] in a newspaper of general circulation in each county with assessed land included within the district boundaries[;] or [~~(II)~~], if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county; and

(B) that contains[~~:-~~(~~I~~)] a general description of the assessed land[;-(~~II~~)], the amount of the contract assessment[;], and [~~(III)~~] the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Section 19. Section 59-2-1301.5 is enacted to read:

59-2-1301.5. Definitions.

As used in this part:

(1) "Tax notice charge" means an amount that:

(a) a property owner owes to a tax notice charge entity in relation to real property; and

(b) the county treasurer lists on the property tax notice in accordance with Section 59-2-1317 or another statutory authorization allowing the item's inclusion on the property tax notice.

(2) "Tax notice charge entity" means the entity that certifies to the county treasurer an outstanding amount that:

(a) a property owner owes to the entity in relation to the property; and

(b) the county treasurer lists on the property tax notice as a tax notice charge.

Section 20. Section 59-2-1305 is amended to read:

59-2-1305. Entries of payments made -- Payments to county treasurer.

(1) The assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall note on the

assessment roll, opposite the names of each person against whom taxes have been assessed or tax notice charges have been listed, the amount of the taxes and tax notice charges paid.

(2) (a) The assessor or treasurer, as the case may be, shall require all checks to be made payable to the office of the county assessor or treasurer, respectively.

(b) If the assessor or treasurer receives checks made payable to a payee other than the office of the county assessor or treasurer, respectively, the assessor or treasurer, as the case may be, shall immediately endorse the check with a restrictive endorsement that makes the check payable to the office of the county treasurer.

(3) The assessor shall deposit all money the assessor collects into an account controlled by the county treasurer.

Section 21. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-58-102.

~~(4)~~ (2) Subject to the other provisions of this section, the county treasurer shall:

- (a) collect the taxes and tax notice charges; and
- (b) provide a notice to each taxpayer that contains the following:
 - (i) the kind and value of property assessed to the taxpayer;
 - (ii) the street address of the property, if available to the county;
 - (iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;
 - (iv) the amount of taxes levied;
 - (v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;
 - (vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;
 - (vii) any tax notice charges applicable to the property, including:
 - (A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;
 - (B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

~~(vii)~~ (D) if applicable, ~~the amount~~ a political subdivision lien for the unpaid portion of an assessment assessed in accordance with ~~Section 11-42-401;~~ Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

~~(viii)~~ (E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest ~~for a local district in accordance with Section 17B-1-902;~~

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506; and

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(viii) a statement that, due to potentially ongoing charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection ~~(47)~~ (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

[~~(2)~~] (4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection [~~(1)~~] (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

[~~(3)~~] (5) Except as provided in Subsection [~~(4)~~] (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

[~~(4)~~] (6) (a) Subject to the other provisions of this Subsection [~~(4)~~] (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection [~~(3)~~] (5), until a taxpayer makes a new election in accordance with this Subsection [~~(4)~~] (6), if:

(i) the taxpayer revokes an election in accordance with Subsection [~~(4)~~] (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection [~~(4)~~] (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

[~~(5)~~] (7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

[~~(6)~~] (8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

[~~(7)~~] (9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer,

direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments[; ~~(iii) the amount due for~~], past due local district fees[;], and other tax notice charges; and

[~~(iv)~~] (iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection [~~(7)~~] (9)(a).

(c) The provisions of this Subsection [~~(7)~~] (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection [~~(7)~~] (9)(c)(i).

Section 22. Section 59-2-1323 is amended to read:

59-2-1323. Undivided interests in real estate -- Interest of delinquent co-owner only to be sold.

(1) The county treasurer shall issue a receipt showing the interest on which taxes or tax notice charges are paid to any person paying taxes on an undivided interest in real estate.

(2) If any portion of the taxes or tax notice charges on the real estate ~~remains~~ remain unpaid, it is the duty of the treasurer to sell only the undivided interest in the real estate which belongs to the co-owners who have not paid their portion of the tax.

Section 23. Section 59-2-1324 is amended to read:

59-2-1324. Taxes and tax notice charges to be paid before distribution of estate of a deceased person.

(1) The district court shall require every administrator or executor to pay out of the funds of the estate all taxes and tax notice charges due from the estate.

(2) No order or decree for the distribution of any property of any decedent among the heirs or devisees may be made until all taxes and tax notice charges against the estate are paid.

Section 24. Section 59-2-1326 is amended to read:

59-2-1326. Illegal tax and tax notice charges -- Injunction to restrain collection.

(1) No injunction may be granted by any court to restrain the collection of any tax ~~or~~, any part of the tax, or any tax notice charge, nor to restrain the sale of any property for the nonpayment of the tax or tax notice charge, unless the tax or tax notice charge, or

some part of the tax or tax notice charge sought to be enjoined:

- (a) is not authorized by law; or
- (b) is on property which is exempt from taxation.

(2) If the payment of a part of a tax or tax notice charge is sought to be enjoined, the other part shall be paid or tendered before any action may be commenced.

Section 25. Section 59-2-1327 is amended to read:

59-2-1327. Payment of tax or tax notice charge under protest -- Circumstances where authorized -- Action to recover tax or tax notice charge paid.

(1) Where [~~a tax is demanded or enforced by~~] a taxing entity demands or enforces a tax or where an entity responsible for a tax notice charge demands or enforces the tax notice charge, and the person whose property is taxed or charged claims the tax or tax notice charge is unlawful, that person may pay the tax or tax notice charge under protest to the county treasurer.

(2) The person may then bring an action in the district court against the officer or taxing entity to recover the tax or tax notice charge or any portion of the tax or tax notice charge paid under protest.

Section 26. Section 59-2-1331 is amended to read:

59-2-1331. Property tax due date -- Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsections (1)(c) and (d), all property taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, and any tax notice charges, are due on November 30 of each year following the date of levy.

(b) If November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(c) If a property tax is paid or postmarked after the due date described in this Subsection (1) the property tax is delinquent.

(d) A county treasurer or other public official, public entity, or public employee may not require the payment of a property tax before the due date described in this Subsection (1).

(2) (a) Except as provided in [~~Subsection~~] Subsections (2)(e) and (f), for each parcel, all delinquent taxes and tax notice charges on each separately assessed parcel are subject to a penalty

of 2.5% of the amount of the delinquent taxes and tax notice charges or \$10, whichever is greater.

(b) Unless the delinquent taxes and tax notice charges, together with the penalty, are paid on or before January 31, the amount of taxes and tax notice charges and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

- (i) 6%; and
- (ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

- (i) less than 7%; or
- (ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes and tax notice charges or \$10, whichever is greater, if all delinquent taxes, all tax notice charges, and the penalty are paid on or before the January 31 immediately following the delinquency date.

(f) This section does not apply to the costs, charges, and interest rate accruing on any tax notice charge related to an assessment assessed in accordance with:

(i) Title 11, Chapter 42, Assessment Area Act; or

(ii) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(3) (a) If the delinquency exceeds one year, the amount of taxes, tax notice charges, and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale.

(b) The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes and tax notice charges becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

- (a) payments in amounts of not less than \$10; or
- (b) the full amount of the unpaid tax and tax notice charges.

(5) (a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes and tax notice charges becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section 27. Section 59-2-1332 is amended to read:

59-2-1332. Extension of date of delinquency.

(1) (a) The county legislative body may, upon a petition of not less than 100 taxpayers or upon its own motion for good cause, by proclamation, extend the property tax due date from November 30 to noon on December 30.

(b) If the county legislative body extends the property tax due date under Subsection (1)(a), the county legislative body shall publish a notice of the proclamation covering this extension:

(i) in a newspaper of general circulation in the county in at least two issues before November 1 of the year in which the taxes are to be paid; and

(ii) in accordance with Section 45-1-101 for two weeks before November 1.

(2) In all cases where the county legislative body extends the property tax due date under Subsection (1), the date for the selling of property to the county for delinquent taxes or tax notice charges shall be extended 30 days from the dates provided by law.

Section 28. Section 59-2-1332.5 is amended to read:

59-2-1332.5. Mailing notice of delinquency or publication of delinquent list -- Contents -- Notice -- Definitions.

(1) As used in this section, "business entity" means:

- (a) an association;
- (b) a corporation;
- (c) a limited liability company;
- (d) a partnership;
- (e) a trust; or
- (f) a business entity similar to Subsections (1)(a) through (e).

~~[(1)]~~ (2) The county treasurer shall provide notice of delinquency in the payment of property taxes and tax notice charges:

(a) except as provided in Subsection ~~[(4)]~~ (5), on or before December 31 of each calendar year; and

(b) in a manner described in Subsection ~~[(2)]~~ (3).

~~[(2) - A]~~ (3) The notice ~~[of delinquency in the payment of property taxes]~~ described in Subsection (2) shall be provided by:

(a) (i) mailing a written notice that includes the information described in Subsection ~~[(3)]~~ (4)(a), postage prepaid, to:

- (A) each delinquent taxpayer; and

(B) if the delinquent property taxes or tax notice charges are assessed on a base parcel, the record owner of each subdivided lot; and

(ii) making available to the public a list of delinquencies in the payment of property taxes:

(A) by electronic means; and

(B) that includes the information required by Subsection ~~[(3)]~~ (4)(b); or

(b) publishing a list of delinquencies in the payment of property taxes and tax notice charges:

(i) in one issue of a newspaper having general circulation in the county;

(ii) that lists each delinquency in alphabetical order by:

(A) the last name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity; and

(iii) that includes the information described in Subsection ~~[(3)]~~ (4)(b).

~~[(3)]~~ (4) (a) A written notice of delinquency ~~[in the payment of property taxes]~~ described in Subsection ~~[(2)]~~ (3)(a)(i) shall include:

(i) a statement that delinquent taxes and tax notice charges are due;

(ii) the amount of delinquent taxes and tax notice charges due, not including any penalties imposed in accordance with this chapter;

(iii) (A) the name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity;

(iv) (A) a description of the delinquent property; or

(B) the property identification number of the delinquent property;

(v) a statement that a penalty shall be imposed in accordance with this chapter; and

(vi) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:

(A) the delinquent taxes and tax notice charges; and

(B) the penalty.

(b) The list of delinquencies described in Subsection ~~[(2)]~~ (3)(a)(ii) or ~~[(2)]~~ (3)(b) shall include:

(i) the amount of delinquent taxes and tax notice charges due, not including any penalties imposed in accordance with this chapter;

(ii) (A) the name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity;

(iii) (A) a description of the delinquent property; or

(B) the property identification number of the delinquent property;

(iv) a statement that a penalty shall be imposed in accordance with this chapter; and

(v) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:

(A) the delinquent taxes and tax notice charges; and

(B) the penalty.

[~~(4)~~] (5) Notwithstanding Subsection [~~(1)~~] (2)(a), if the county legislative body extends the property tax due date under Subsection 59-2-1332(1), the notice of delinquency [~~in the payment of property taxes~~] described in Subsection (2) shall be provided on or before January 10.

[~~(5)~~] (6) (a) In addition to the notice of delinquency [~~in the payment of property taxes~~] required by Subsection [~~(1)~~] (2), a county treasurer may in accordance with this Subsection [~~(5)~~] (6) mail a notice that property taxes are delinquent:

(i) to:

(A) a delinquent taxpayer;

(B) an owner of record of the delinquent property;

(C) any other interested party that requests notice; or

(D) a combination of Subsections [~~(5)~~] (6)(a)(i)(A) through (C); and

(ii) at any time that the county treasurer considers appropriate.

(b) A notice mailed in accordance with this Subsection [~~(5)~~] (6):

(i) shall include the information required by Subsection [~~(3)~~] (4)(a); and

(ii) may include any information that the county treasurer finds is useful to the owner of record of the delinquent property in determining:

(A) the status of taxes and tax notice charges owed on the delinquent property;

(B) any penalty that is owed on the delinquent property;

(C) any interest charged under Section 59-2-1331 on the delinquent property; or

(D) any related matters concerning the delinquent property.

[~~(6)~~ As used in this section, "business entity" means:]

[~~(a) an association;~~

[~~(b) a corporation;~~

[~~(c) a limited liability company;~~

[~~(d) a partnership;~~

[~~(e) a trust; or~~

[~~(f) a business entity similar to Subsections (6)(a) through (e).]~~

Section 29. Section 59-2-1333 is amended to read:

59-2-1333. Errors or omissions -- In assessment book -- Authority to correct.

An omission, error, defect in form in the assessment roll, or clerical error, when it can be ascertained what was intended, may, with the consent of the county legislative body, be supplied or corrected by the assessor at any time [~~prior to~~] before the sale for delinquent taxes or tax notice charges and after the original assessment or tax notice charge listing was made.

Section 30. Section 59-2-1335 is amended to read:

59-2-1335. Abbreviations permitted in proceedings.

(1) (a) In all proceedings relating to assessment, levy, or collection of taxes or relating to the listing or collection of tax notice charges, the subsection of any property to a charge for taxes of any nature or for tax notice charges, or the advertisement and sale of any property for taxes or tax notice charges, the following initial letters, abbreviations, symbols, and figures may be used.

(b) The meaning of the initial letters, abbreviations, symbols, and figures is shown by the word or words placed opposite the initial letters, abbreviations, symbols, and figures:

- a., ac. acre, acres
- add..... addition
- ave..... avenue
- beg..... beginning
- blk. block
- bet..... between
- bdy., bdrs.boundary, boundaries
- ch., chs. chain, chains
- com..... commencing
- cont. containing
- deg. or degree symbol degree, degrees
- dist. distance
- E. east
- E'ly easterly
- ft. foot, feet
- frac. fractional
- in., ins. inch, inches
- lk., lks. link, links
- lt., lts. lot, lots
- m., min., or ' minute, minutes

m. or l. more or less
 N. north
 NE. northeast
 NE'ly. northeasterly
 N'ly. northerly
 NW. northwest
 NW'ly. northwesterly
 pt. point
 1/4 sec. quarter section
 r., rs. range, ranges
 rd., rds. rod, rods
 R. of W. right-of-way
 s. or " second, seconds
 S. south
 SE. southeast
 SE'ly. southeasterly
 S'ly. southerly
 St street
 sub. subdivision
 S.L.M. Salt Lake Meridian
 SW. southwest
 t., tp., tps. township, townships
 th. thence
 U.S. sur. United State Survey
 U.S.M. Uintah Special Meridian
 W. west
 W'ly. westerly

(2) Where the name of any railroad or railroad company is commonly referred to by the initial letters of the word constituting the name of the railroad, the initial letters may be used as an abbreviation for the full name of the railroad or railroad company in all cases where the name is used in the description of property.

(3) (a) Commonly accepted initial letters, abbreviations, symbols, and figures having local significance may be used.

(b) Any initial letters, abbreviations, symbols, and figures shall first be approved by the commission.

(c) A written or printed explanation of initial letters, abbreviations, symbols, and figures shall appear in each assessment roll in which they are used and shall be published with each separate advertisement and sale for taxes or tax notice charges in which they are used.

Section 31. Section 59-2-1338 is amended to read:

59-2-1338. Record of delinquent taxes -- Contents of record.

(1) The treasurer shall prepare the official record of delinquent taxes and tax notice charges in the same order as property appears on the assessment rolls.

(2) The record shall show:

(a) the name of the person to whom the property is assessed;

(b) the description of the delinquent parcel, and a reference to the parcel, serial, or account number under which the property was listed in the assessment roll;

(c) the amount of delinquent taxes and tax notice charges, penalties, and administrative costs; and

(d) the date of redemption and by whom the property is redeemed.

~~(2)~~ (3) The record shall also provide space for entering delinquent taxes assessed and tax notice charges listed in subsequent years against each parcel which remains unredeemed.

~~(3)~~ (4) Taxes levied only on a certain kind or class of property for a special purpose and tax notice charges shall be separately set out.

Section 32. Section 59-2-1339 is amended to read:

59-2-1339. Form of treasurer's certificate -- Contents of form.

(1) On or before March 15 the treasurer shall complete the official record of delinquent taxes and tax notice charges and attach the treasurer's certificate to the record.

(2) The certificate shall be substantially in the following form:

State of Utah)

ss.

County of)

I, ____, county treasurer of the county of ____, state of Utah, do certify that to the best of my knowledge the attached record is a full, true, and correct record and constitutes the official record of all properties which became delinquent for the year ____, and shows in the same order as the property appears on the assessment roll, the name of the person to whom the property is assessed, the description of the delinquent parcel and a reference to the parcel, serial, or account number under which the property was listed in the assessment roll, the amount of taxes, tax notice charges, penalties, administrative costs, the date of redemption, and by whom the property was redeemed if any redemption has been made.

Signature _____

County Treasurer of _____ County

~~[(2)]~~ (3) The official record shall be maintained in the treasurer's office and shall include any subsequent delinquent taxes, tax notice charges, penalties, administrative costs, and redemptions pertaining to the properties listed thereon.

Section 33. Section 59-2-1342 is amended to read:

59-2-1342. Assessment and sale of property after attachment of county tax lien and tax notice charges.

(1) Property against which a property tax delinquency exists shall be assessed in subsequent years for taxes in the same manner as if no delinquency existed.

(2) Property against which a delinquency exists for tax notice charges may still accrue tax notice charges as if no delinquency existed.

~~[(2)]~~ (3) The rights of any person purchasing the property from the county at tax sale provided under Section 59-2-1351.1 are subject to the right of the county under any subsequent assessment and of any tax notice charge entity.

Section 34. Section 59-2-1343 is amended to read:

59-2-1343. Tax sale listing.

(1) (a) If any property is not redeemed by March 15 following the lapse of four years from the date when ~~[the property tax]~~ any item in Subsection (1)(b) became delinquent, the county treasurer shall immediately file a listing with the county auditor of all properties whose redemption period is expiring in the nearest forthcoming tax sale to pay all outstanding property taxes and tax notice charges.

(b) A delinquency of any of the following triggers the tax sale process described in Subsection (1)(a):

(i) property tax; or

(ii) a tax notice charge.

(2) The listing is known as the "[Tax Sale Listing] tax sale listing."

Section 35. Section 59-2-1345 is amended to read:

59-2-1345. Daily statement of accounts -- Audits.

(1) Between March 15 and the date of the tax sale, the county treasurer shall transmit daily to the county auditor a statement of the amount of money received by the treasurer during the preceding business day on account of redemptions made on property listed for tax sale.

(2) The statement described in Subsection (1) shall set out in separate columns:

(a) the number of the redemption certificate or the receipt issued on account for redemption;

(b) the amount received for taxes, tax notice charges, penalties, and administrative costs accrued to the date of the making of the tax sale record;

(c) the amount received for administrative costs subsequently accruing; and

(d) the amount received as interest accrued.

~~[(2)]~~ (3) The county auditor shall audit the treasurer's tax sale records at least once a year and the treasurer shall account to the auditor for all money due the county by reason of any redemptions or payments on account for redemption made, including interest as required by law.

~~[(3)]~~ (4) Before the tax sale listing under Section 59-2-1343 is compiled, the auditor shall credit the treasurer upon the books of the county with the sums charged for delinquent taxes, tax notice charges, penalties, and administrative costs charged against all real estate upon which the period of redemption is expiring in the nearest forthcoming tax sale.

Section 36. Section 59-2-1346 is amended to read:

59-2-1346. Redemption -- Time allowed.

(1) Property may be redeemed on behalf of the record owner by any person at any time before the tax sale which shall be held in May or June as provided in Section 59-2-1351 following the lapse of four years from the date the property tax or tax notice charges became delinquent.

(2) A person may redeem property by paying to the county treasurer all delinquent taxes, tax notice charges, interest, penalties, and administrative costs that have accrued on the property.

(3) (a) Subject to Subsection (3)(d), a person may redeem a subdivided lot by paying the county treasurer the subdivided lot's proportional share of the delinquent taxes, tax notice charges, interest, penalties, and administrative costs accrued on the base parcel, calculated in accordance with Subsection (3)(b).

(b) The county treasurer shall calculate the amount described in Subsection (3)(a) by comparing:

(i) the amount of the value of the base parcel as described in Subsection (3)(b)(ii) that is attributable to the property that comprises the subdivided lot as the property existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed or tax notice charges on the base parcel were listed; and

(ii) the value of the base parcel as it existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed or tax notice charges on the base parcel were listed.

(c) If the county treasurer does not have sufficient information to calculate the amount described in Subsection (3)(a)(i), upon request from the county treasurer, the county assessor shall provide the county treasurer any information necessary to

calculate the amount described in Subsection (3)(a)(i).

(d) A person may redeem a subdivided lot under this Subsection (3) only if the record owner of the subdivided lot is a bona fide purchaser.

(4) (a) At any time before the expiration of the period of redemption the county treasurer shall accept and credit on account for the redemption of property, payments in amounts of not less than \$10, except for the final payment, which may be in any amount.

(b) For the purpose of computing the amount required for redemption and for the purpose of distributing the payments received on account, all payments shall be applied in the following order:

~~(a)~~ (i) against the interest and administrative costs accrued on the delinquent tax for the last year included in the delinquent account at the time of payment;

~~(b)~~ (ii) against the penalty charged on the delinquent tax for the last year included in the delinquent account at the time of payment;

~~(c)~~ (iii) against the delinquent tax for the last year included in the delinquent account at the time of payment;

~~(d)~~ (iv) against the interest and administrative costs accrued on the delinquent tax for the next to last year included in the delinquent account at the time of payment; and

~~(e) and~~ (v) so on until the full amount of the delinquent taxes, tax notice charges, penalties, administrative costs, and interest on the unpaid balances are paid within the period of redemption.

Section 37. Section 59-2-1349 is amended to read:

59-2-1349. Co-owners -- Procedures for redemption.

If two or more persons own an undivided interest in property on which a tax or tax notice charge delinquency exists, any owner may redeem the owner's interest in the property upon payment of that portion of the taxes, tax notice charges, interest, penalties, and administrative costs which the owner's interest bears to the whole, as determined by the county legislative body.

Section 38. Section 59-2-1351 is amended to read:

59-2-1351. Sales by county -- Notice of tax sale -- Entries on record.

(1) (a) Upon receiving the tax sale listing from the county treasurer, the county auditor shall select a date for the tax sale for all real property on which a tax or tax notice charge delinquency exists that was not previously redeemed and upon which the period of redemption is expiring in the nearest tax sale.

(b) The tax sale shall be conducted in May or June of the current year.

(2) Notice of the tax sale shall be provided as follows:

(a) sent by certified and first class mail to the last-known recorded owner, the occupant of any improved property, and all other interests of record, as of the preceding March 15, at their last-known address; and

(b) published:

(i) four times in a newspaper published and having general circulation in the county, once in each of four successive weeks immediately preceding the date of sale; and

(ii) in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale; and

(c) if no newspaper is published in the county, posted in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days prior to the date of sale.

(3) The notice shall be in substantially the following form:

NOTICE OF TAX SALE

Notice is hereby given that on _____ (month \ day \ year), at __ o'clock __. m., at the front door of the county courthouse in _____ County, Utah, I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, tax notice charges, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

(Here describe the real estate)

IN WITNESS WHEREOF I have hereunto set my hand and official seal on _____ (month \ day \ year).

County Auditor

County

(4) (a) The notice sent by certified mail in accordance with Subsection (2)(a) shall include:

(i) the name and last-known address of the last-known recorded owner of the property to be sold;

(ii) the parcel, serial, or account number of the delinquent property; and

(iii) the legal description of the delinquent property.

(b) The notice published in a newspaper in accordance with Subsection (2)(b) shall include:

(i) the name and last-known address of the last-known recorded owner of each parcel of property to be sold; and

(ii) the street address or the parcel, serial, or account number of the delinquent parcels.

Section 39. Section 59-2-1351.1 is amended to read:

59-2-1351.1. Tax sale -- Combining certain parcels -- Acceptable bids -- Deeds.

(1) (a) At the time specified in the notice the auditor shall:

(i) attend at the place appointed, offer for sale, and sell all real property for which an acceptable bid is made; and

(ii) refuse to offer a parcel of real property for sale if the description of the real property is so defective as to convey no title.

(b) The auditor may post at the place of sale a copy of the published list of real property to be offered and cry the sale by reference to the list rather than crying each parcel separately.

(2) (a) The tax commission shall establish, by rule, minimum procedural standards applicable to tax sales.

(b) For matters not addressed by commission rules, the county legislative body, upon recommendation by the county auditor, shall establish procedures, by ordinance, for the sale of the delinquent property that best protect the financial interest of the delinquent property owner and meet the needs of local governments to collect delinquent property taxes and tax notice charges due.

(3) The county governing body may authorize the auditor to combine for sale two or more contiguous parcels owned by the same party when:

(a) the parcels are a single economic or functional unit;

(b) the combined sale will best protect the financial interests of the delinquent property owner; and

(c) separate sales will reduce the economic value of the unit.

(4) The governing body may accept any of the following bids:

(a) the highest bid amount for the entire parcel of property, however, a bid may not be accepted for an amount which is insufficient to pay the taxes, tax notice charges, penalties, interest, and administrative costs; or

(b) a bid in an amount sufficient to pay the taxes, tax notice charges, penalties, interest, and administrative costs, for less than the entire parcel.

(i) The bid which shall be accepted shall be the bid of the bidder who will pay in cash the full amount of the taxes, tax notice charges, penalties, interest, and administrative costs for the smallest portion of the entire parcel.

(ii) The county auditor at the tax sale or the county legislative body following the tax sale shall reject a bid to purchase a strip of property around the entire perimeter of the parcel, or a bid to purchase a strip of the parcel which would prevent access to the remainder of the parcel by the redemptive owner or otherwise unreasonably diminish the value of that remainder.

(iii) If the bid accepted is for less than the entire parcel, the auditor shall note the fact, with a description of the property covered by the bid, upon the tax sale record and the balance of the parcel not affected by the bid shall be considered to have been redeemed by the owner.

(5) The county legislative body may decide that none of the bids are acceptable.

(6) (a) Once the county auditor has closed the sale of a particular parcel of property as a result of accepting a bid on the parcel, the successful bidder or purchaser of the property may not unilaterally rescind the bid.

(b) The county legislative body, after acceptance of a bid, may enforce the terms of the bid by obtaining a legal judgment against the purchaser in the amount of the bid, plus interest and attorney's fees.

(7) Any sale funds which are in excess of the amount required to satisfy the delinquent taxes, tax notice charges, penalties, interest, and administrative costs of the delinquent property shall be treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

(8) All money received upon the sale of property made under this section shall be paid into the county treasury, and the treasurer shall settle with the taxing entities and tax notice charge entities as provided in Section 59-2-1366.

(9) (a) The county auditor shall, after acceptance by the county governing body, and in the name of the county, execute deeds conveying in fee simple all property sold at the public sale to the purchaser and attest this with the auditor's seal.

(b) Deeds issued by the county auditor under this section shall recite the following:

(i) the total amount of all the delinquent taxes, tax notice charges, penalties, interest, and administrative costs which were paid in for the execution and delivery of the deed;

(ii) the year for which the property was assessed or a tax notice charge was listed, the year the property became delinquent, and the year the property was subject to tax sale;

(iii) a full description of the property; and

(iv) the name of the grantee.

~~(b)~~ (c) When the deed is executed and delivered by the auditor, it shall be prima facie evidence of the regularity of all proceedings subsequent to the date the taxes or tax notice charges initially became delinquent and of the conveyance of the property to the grantee in fee simple.

~~(e)~~ (d) The deed issued by the county auditor under this section shall be recorded by the county recorder.

~~(d)~~ (e) The fee for the recording shall be included in the administrative costs of the sale.

~~(e)~~ (f) The deed shall be substantially in the following form:

TAX DEED

___ County, a body corporate and politic of the state of Utah, grantor, hereby conveys to ___, grantee, of ___ the following described real estate in ___ County, Utah:

(Here describe the property conveyed)

This conveyance is made in consideration of payment by the grantee of \$___, representing the total amount owing for delinquent taxes, delinquent tax notice charges, penalties, interest, and administrative costs constituting a charge against the real property for nonpayment of general taxes assessed against it for the years ___ through ___ in the sum of \$___.

Dated _____(month \ day \ year).

(Auditor's Seal)

County _____
By _____
County Auditor

Section 40. Section 59-2-1351.5 is amended to read:

59-2-1351.5. Disposition of property struck off to county.

(1) (a) All property acquired by the county under this part may be disposed of for a price and upon terms determined by the county legislative body.

(b) If property is sold under a contract of sale and title remains in the county, the equity of the purchaser shall be subject to taxation as other taxable property.

(c) The county clerk may execute deeds for all property sold under this subsection in the name of the county and attest the same by seal, vesting in the purchaser all of the title of all taxing entities in the real estate so sold.

(d) (i) Money received from the sale of property under this section shall first be applied to the cost of administering and supervising the property.

(ii) Any remaining money shall be apportioned to:

(A) state and other taxing entities with an interest in the taxes last levied upon the property in proportion to their respective interests in the taxes[-]; and

(B) tax notice charge entities in proportion to the entities' respective tax notice charges.

(iii) The treasurer shall settle with the taxing entities and tax notice charge entities on funds remaining as provided in Section 59-2-1366.

(iv) Money in excess of claims under this subsection shall be paid to the state treasurer and treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

(2) (a) The county legislative body may rent or lease any property held in the name of the county any time after the tax sale for a price and upon terms determined by the governing body.

(b) Lands leased may be sold at the discretion of the county executive, with the approval of the county legislative body, during the term of the lease, but any sale shall be made subject to the lease.

(c) The county executive, with the approval of the county legislative body, may enter into leasehold terms for asphalt, oil, or gas that the county considers to be in the best interest of the county as long as:

(i) the mineral, asphalt, oil, or gas is produced from, or attributable to, the property leased; and

(ii) each lease for oil and gas reserves a royalty of not less than 12-1/2%.

(d) If considered to be in the best interests of the county, the county executive may:

(i) enter into agreements for the pooling or unitizing of acreage with others for unit operations for the production of oil or gas, or both, and for the apportionment of oil or gas royalties, or both, on an acreage or other equitable basis; and

(ii) with the consent of its lessee, change any and all terms of leases issued by it to facilitate the efficient and economic production of oil and gas from the property under its jurisdiction.

(e) All leases for mineral, asphalt, or oil and gas already entered into by county governing bodies are ratified.

(3) (a) Money received as rents from the rental or leasing of property held in the name of the county shall first be applied to the cost of administering and supervising the property.

(b) Any remaining money shall be apportioned to:

(i) state and other taxing entities with an interest in the taxes last levied upon the property in proportion to their respective interests in the taxes[-]; and

(ii) tax notice charge entities in proportion to the entities' respective tax notice charges.

(c) The treasurer shall settle with the taxing entities and tax notice charge entities on funds remaining as provided in Section 59-2-1366.

(d) Money in excess of these claims shall be paid to the state treasurer and treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

Section 41. Section 59-2-1352 is amended to read:

59-2-1352. Purchaser of invalid tax title -- Purchaser's lien -- Extent of lien -- Priority of lien -- Foreclosure of lien.

(1) Every person who has purchased or purchases any invalid tax title to any real property in this state shall, from the effective date of this part, have a lien against the property for the recovery of the amount of the purchase price paid to the county to the extent that the county would have a lien prior to the sale by the county, but in no event may the lien be greater

than the amount of taxes, tax notice charges, interest, and penalties, or the amount actually paid, whichever is smaller.

(2) Taxes and tax notice charges paid by the purchaser for subsequent years after the purchase from the county shall be included in the amount secured by the lien which has not already been recovered.

(3) The lien shall have the same priority against the property as the lien for the delinquent taxes and tax notice charges which were liquidated by the purchase except that it may not have preference over any right, title, interest in, or lien against, the property acquired since the purchase of the tax title for value and without notice, and the lien shall bear interest at the legal rate for a period of not to exceed four years.

(4) The lien shall be foreclosed in any action in which the invalidity of the tax title is determined.

(5) If the lien is not foreclosed at the time of the determination of the invalidity of the tax title, any later action to foreclose the lien shall be barred.

Section 42. Section 59-2-1353 is amended to read:

59-2-1353. Foreclosure of lien claimed by county -- Time -- Venue -- Parties -- Pleading.

(1) In all cases where any county claims a lien on real estate for delinquent general taxes or tax notice charges which have not been paid for a period of four years, the county may foreclose the lien by an action in the district court of the county in which the real estate is located.

(2) In this action all persons owning, having, or claiming an interest in or lien upon the real estate or any part of the real estate may be joined as defendants, and the complaint shall contain a description of the property, together with the amount claimed to be due on the property, including interest, penalties, and administrative costs.

(3) If the name of the owner of any real estate cannot be ascertained from the records of the county, the complaint shall state that the owner is unknown to the plaintiff.

(4) It is sufficient to allege in the complaint that a general tax has been duly levied upon or a tax notice charge has been listed for the described real estate, without stating any of the proceedings or steps leading up to the levy of the tax or the listing of the tax notice charge.

Section 43. Section 59-2-1355 is amended to read:

59-2-1355. Trial -- Findings -- Decree.

(1) The action described in Section 59-2-1353 shall be tried and determined as actions to foreclose mortgage liens, and the court shall determine and adjudge the amount of taxes, tax notice charges, interest, penalties, and costs on each parcel of property which has been separately assessed, and

shall enter its decree determining the rights, and priorities of liens, of all parties to the action.

(2) The court shall also in its decree direct the sheriff to advertise and sell, as in the case of sales on execution, each parcel of property, or so much as may be necessary for the payment of the total amount of the general taxes and tax notice charges due, with interest, penalties, and costs, unless the amount is paid within a time named in the decree, but not to exceed 30 days from the entry of the decree.

(3) The decree shall provide that any of the parties to the action may become purchasers at any sale, that if less than an entire parcel of property is sold, it shall be sold at foreclosure sale in such a manner as not to convey to the purchaser a strip of property around the entire perimeter of the parcel, or a strip of the parcel which, if conveyed, would prevent access to the remainder of the parcel by the redemptive owner or otherwise unreasonably diminish the value of that remainder, as determined by the county executive.

(4) The decree shall also provide that if all delinquent taxes and tax notice charges, together with interest, respectively levied on or listed for the parcel of property, and all penalties and costs, are paid within the time fixed in the decree for payment, then no sale may be made.

(5) After the time for redemption has expired, if no redemption has been made, the sheriff shall execute and deliver to the purchaser a deed conveying to the purchaser all the right, title, and interest of each and all the parties, but subject to the lien of any general or special taxes or tax notice charges which may have been respectively levied on or listed for the property conveyed, other than those for the payment of which the sale has been made.

Section 44. Section 59-2-1358 is amended to read:

59-2-1358. Foreclosure deemed a cumulative remedy.

The foreclosure may not deprive any county of any other method or means provided for the collection or enforcement of any taxes or tax notice charges, but is construed as providing an additional or cumulative remedy for the collection of general taxes levied and assessed and tax notice charges listed against the real estate in the county.

Section 45. Section 59-2-1359 is amended to read:

59-2-1359. Collection of taxes and tax notice charges -- Removal or destruction of property.

The tax commission may, under the conditions existing in this section, declare the taxes and tax notice charges to be immediately due and payable if it finds:

(1) that the owner or lessee of any real property, including improvements, subject to taxation within the state is removing, destroying, or is about to remove or destroy the property to such an extent as to render doubtful the payment of delinquent taxes,

tax notice charges, penalty, and interest, if any, and the payment of current taxes and tax notice charges; or

(2) that the continued operation and extraction of ores and minerals from mine or mining claims, or the method employed by the owner or lessee, contractor, or other person working upon or operating any mine or mining claim will render doubtful the payment of delinquent taxes, tax notice charges, penalty, and interest, if any, for past years or the current year.

Section 46. Section 59-2-1360 is amended to read:

59-2-1360. Proceedings before commission.

Proceedings to make findings under Section 59-2-1359 may be commenced before the commission upon its own initiative, the request of any taxing entity, the request of any tax notice charge entities, or the request of any taxpayer.

Section 47. Section 59-2-1361 is amended to read:

59-2-1361. Notice of findings -- Proceedings in district court -- Injunction -- Determining taxes and tax notice charges due -- Security during proceedings.

(1) (a) Notice that the commission has made a finding and declaration under Section 59-2-1359 shall be given to the owner of the property in the same manner as is provided by law for the giving of the notice of assessment by the commission.

(b) The notice required by this section shall include a notice of the location and time of the hearing in which the findings of the commission may be protested.

(c) (i) The hearing must be scheduled at least 10 days after the mailing of the notice.

(ii) The owner, lessee, contractor, or operator of the property shall be afforded the opportunity to protest the commission's findings at the hearing.

(2) After the scheduled hearing, the taxes shall become immediately due and payable if any of the following occur:

(a) the owner, contractor, lessee, or operator of the property fails to appear at the hearing; or

(b) the commission sustains the findings.

(3) If the taxes and tax notice charges are not paid within 10 days from the date due, the commission may commence a proceeding in court in its name, but for the benefit of the state ~~and~~, the taxing entities interested in the taxes, and the tax notice charge entities for the property, in the district court of the county in which the property is located to determine the ~~lien~~ liens of the taxes and tax notice charges and to foreclose the ~~lien~~ liens.

(4) In any proceeding the court may order any of the following:

(a) enjoin and restrain the destruction or removal of the property or any part of the property;

(b) appoint a receiver to operate the property; and

(c) order and direct that the proceeds from the property, or so much of it as may be necessary to pay the amount of the taxes and tax notice charges, be withheld and impounded or paid on account of the taxes and tax notice charges from time to time as the court may direct.

(5) In determining the amount of taxes due for any year for which the levy has not been fixed and for the purposes of the proceeding in court, the commission shall use the levy prevailing within the taxing entity where the property is located for the last preceding year.

(6) In any court proceeding brought to enforce the payment of taxes and tax notice charges made due and payable under this section, the findings of the commission shall be for all purposes presumptive evidence of the necessity for the action for the protection of the public revenues and of the amount of taxes and tax notice charges to be paid.

(7) (a) Payment of taxes and tax notice charges due under this section will not be enforced through the proceedings authorized by this section prior to the expiration of the time otherwise allowed for payment of taxes if the owner, lessee, contractor, or other person operating the property furnishes security approved by the commission that the person will timely submit all required returns and ~~tax payments~~ payment of taxes and tax notice charges.

(b) The commission may, from time to time, require additional security for the payment of taxes and tax notice charges.

(8) The commission may promulgate rules to implement this section.

Section 48. Section 59-2-1362 is amended to read:

59-2-1362. Certified copy of tax sale record prima facie evidence of regularity.

(1) A copy of the record of any tax sale duly certified by the official custodian of the record at the time of the certificate under the seal of office as a true copy of the entry in the official record showing the sale is prima facie evidence of the facts shown in the record.

(2) The regularity of all proceedings connected with the assessment, valuation, notice, equalization, levies, tax notices, advertisement, and sale of property described in the record is presumed, and the burden of showing any irregularity in any of the proceedings resulting in the sale of property for the nonpayment of delinquent taxes and tax notice charges shall be on the person who asserts it.

Section 49. Section 59-2-1363 is amended to read:

59-2-1363. Misnomer or mistake as to ownership does not affect sale.

If property is sold for correctly imposed taxes and tax notice charges as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to ownership, affects the sale or renders it void or voidable.

Section 50. Section 59-2-1365 is amended to read:

59-2-1365. Payment to taxing entities by county treasurer -- Investment of proceeds -- Transfer and receipt of money between taxing entities.

(1) Except as provided in Subsections (3) and (4), the county treasurer shall pay to the treasurer of each taxing entity and each tax notice charge entity in the county on or before the tenth day of each month:

(a) all money that the county treasurer received during the preceding month that is due to the ~~taxing~~ entity; and

(b) each ~~taxing~~ entity's proportionate share of money the county treasurer received during the preceding month for:

- (i) delinquent taxes and tax notice charges;
- (ii) interest;
- (iii) penalties; and
- (iv) costs on all tax sales and redemptions.

(2) Except as provided in Subsections (3) and (4), the county treasurer shall:

(a) adopt an appropriate procedure to account for the transfer and receipt of money between taxing entities and tax notice charge entities;

(b) make a final annual settlement on March 31 with each taxing entity and tax notice charge entity, including providing the ~~taxing~~ entity a written statement for the most recent calendar year of the amount of:

- (i) total taxes and tax notice charges charged;
- (ii) current taxes and tax notice charges collected;
- (iii) treasurer's relief;
- (iv) redemptions;
- (v) penalties;
- (vi) interest;
- (vii) in lieu fee collections on motor vehicles; and
- (viii) miscellaneous collections;

(c) invest the money it receives under Subsection (1); and

(d) pay annually to each taxing entity and tax notice charge entity in the county the interest earned on the invested money under Subsection (2)(c):

- (i) on or before March 31; and
- (ii) apportioned according to the proportion that the:

(A) taxing entity's tax receipts bear to the total tax receipts received by the county treasurer[.]; and

(B) tax notice charge entity's tax notice charge receipts bear to the total tax notice charge receipts that the county treasurer receives.

(3) Notwithstanding Subsections (1) and (2), a county may:

(a) negotiate with a taxing entity or tax notice charge entity a procedure other than the procedure provided in Subsection (2)(a) to account for the transfer and receipt of money between the county and the taxing entity or tax notice charge entity; and

(b) establish a date other than the tenth day of each month for the county treasurer to make payments required under Subsection (1).

(4) This section does not invalidate an existing contract between a county and a taxing entity or tax notice charge entity relating to the apportionment and payment of money or interest.

Section 51. Section 59-2-1366 is amended to read:

59-2-1366. Apportionment of redemption or assignment money.

(1) If property sold to the county under this title is redeemed, or the certificate of sale is assigned, the money received on account of the redemption or assignment shall be distributed as follows:

(a) the original and subsequent taxes, and 40% of interest, penalty, and costs of sale received shall be apportioned to the taxing entities interested, in proportion to their respective taxes~~, and~~;

(b) the original and subsequent tax notice charges, and 40% of interest, penalty, and costs of sale received shall be apportioned to the tax notice charge entities interested, in proportion to their respective tax notice charges; and

(c) the balance shall be paid to the county.

(2) If a sum less than the taxes, tax notice charges, interest, penalty, and costs is accepted in settlement, the proceeds of the settlement shall be applied, first to the payment of the original and subsequent taxes and tax notice charges, and the remainder, if any, to the payment of interest, penalty, and costs.

Section 52. Section 59-2-1372 is amended to read:

59-2-1372. Auditor duties -- Final settlement with treasurer -- Delinquent Tax Control Account.

(1) The auditor shall audit the books and records of the treasurer and make a final settlement with the treasurer.

(2) In making the settlement the auditor shall credit the treasurer with the amount of taxes and tax notice charges for the previous year which are found to be still unpaid and shall then charge the treasurer upon the books of the county in an account which shall be called the Delinquent Tax Control

Account with the full amount of delinquent taxes, tax notice charges, penalty, and costs found due the county for the previous year.

CHAPTER 198**H. B. 173**

Passed March 7, 2018

Approved March 19, 2018

Effective May 8, 2018

**OCCUPATIONAL LICENSING
REQUIREMENT AMENDMENTS**Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the responsibilities of the Division of Occupational and Professional Licensing (DOPL).

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the authority of DOPL to issue licenses to individuals who have been previously licensed in another state, district, or territory of the United States; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-302, as last amended by Laws of Utah 2016, Chapter 238

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

Section 1. Section 58-1-302 is amended to read:**58-1-302. License by endorsement.**

(1) As used in this section:

(a) "Domicile" means the place where an individual has a fixed permanent home.

(b) "Resident" means an individual who:

(i) has established a domicile in this state;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state; and

(iii) holds an unexpired Utah driver license issued under Title 53, Chapter 3, Part 2, Driver Licensing Act, or an unexpired Utah identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

~~[(4)] (2) [(a) The division may]~~ Subject to Subsections (3), (4), and (5), the division may issue a license without examination to a ~~[person]~~ resident who has been licensed in a state, district, or territory of the United States~~;~~ or in a foreign country~~;~~ ~~where~~ if:

(a) the division determines the education, experience, and examination requirements ~~[are, or were]~~ of the state, district, or territory of the United States or the foreign country, at the time the license was issued, were substantially equal to the current requirements of this state~~;~~; or

(b) after being licensed outside of this state, the resident has at least one year of experience in the state, district, or territory of the United States where the license was issued, and the division determines the resident has the education, experience, and skills necessary to demonstrate competency in the occupation or profession for which licensure is sought.

~~[(b)] (3)~~ The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the requirements of ~~[this]~~ Subsection ~~[(4)] (2)~~.

~~[(2)] (4)~~ Before a ~~[person]~~ resident may be issued a license under this section, the ~~[person]~~ resident shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the ~~[person's]~~ resident's identity, qualifications, and good standing in the occupation or profession for which licensure is sought.

(5) In accordance with Section 58-1-107, licensure endorsement provisions in this section may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

CHAPTER 199**H. B. 176**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**TEMPORARY REPLACEMENT
FOR COUNTY ELECTED OFFICIALS**

Chief Sponsor: Val K. Potter
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill provides for a temporary manager to fulfill the duties of a vacant county office until the county legislative body appoints an interim replacement.

Highlighted Provisions:

This bill:

- ▶ provides for a temporary manager to fulfill the duties of a vacant county office until the county legislative body appoints an interim replacement; and
- ▶ imposes limitations on the temporary manager's authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-508, as last amended by Laws of Utah 2017, Chapter 54

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

Section 1. Section 20A-1-508 is amended to read:**20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.**

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not [~~mean the offices of president and vice president of the United States, United States senators and representatives, members of the Utah Legislature, state constitutional officers, county attorneys, district attorneys, and judges~~] include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall

temporarily fill the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily fills a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily fills a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office that the temporary manager fills was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

[~~2~~] (3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection [~~2~~] (3).

(b) (i) To appoint an interim replacement, the county legislative body shall give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, within 30 days, submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person for the interim replacement appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection [~~2~~] (3)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison as an interim replacement to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed as interim replacement under this Subsection [~~2~~] (3) shall hold office until their successor is elected and has qualified.

[~~3~~] (4) (a) The requirements of this Subsection [~~3~~] (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the person was elected but before April 10 of the next even-numbered year.

(b) (i) When the conditions established in Subsection [~~3~~] (4)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if applicable.

(iii) An individual who is nominated as a party candidate for the vacant office or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, for the vacant office shall run in the regular general election.

[~~4~~] (5) (a) The requirements of this Subsection [~~4~~] (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75 days before the regular primary election.

(b) (i) When the conditions established in Subsection [~~4~~] (5)(a) are met, the county clerk shall notify the public and each registered political party that:

(A) the vacancy exists; and

(B) identifies the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(ii) An individual intending to become a candidate for a vacant office shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if applicable.

(iii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk at least 60 days before the regular primary election.

[~~5~~] (6) (a) The requirements of this Subsection [~~5~~] (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection ~~[(5)]~~ (6)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

~~[(6)]~~ (7) (a) The requirements of this Subsection ~~[(6)]~~ (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) (i) When the conditions established in Subsection ~~[(6)]~~ (7)(a) are met, the county legislative body shall give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, within 30 days, submit the name of the person to fill the vacancy to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person to fill the vacancy appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint a person to fill the vacancy in accordance with Subsection ~~[(6)]~~ (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed to fill the vacancy under this Subsection ~~[(6)]~~ (7) shall hold office until their successor is elected and has qualified.

~~[(7)]~~ (8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

~~[(8)]~~ (9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.

~~[(9)]~~ (10) (a) Each person elected under Subsection ~~[(3), (4), or (5)]~~ (4), (5), or (6) to fill a

vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

CHAPTER 200**H. B. 179**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**STATE TRAINING AND
 CERTIFICATION REQUIREMENTS**

Chief Sponsor: Ken Ivory
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill enacts requirements related to certain training and certification required of public officials, employees, and volunteers.

Highlighted Provisions:

This bill:

- ▶ requires that certain training and certification required of public officials, employees, and volunteers be presented or available in an online web-based format, unless certain exceptions apply; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-2-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 9-1-201, as last amended by Laws of Utah 2017, Chapter 48
- 11-13-225, as enacted by Laws of Utah 2015, Chapter 265
- 13-1-2, as last amended by Laws of Utah 2017, Chapter 139
- 17B-1-312, as last amended by Laws of Utah 2017, Chapter 70
- 19-1-201, as last amended by Laws of Utah 2015, Chapters 441 and 453
- 26-1-30, as last amended by Laws of Utah 2015, Chapter 73
- 31A-2-201, as last amended by Laws of Utah 2010, Chapter 68
- 32B-2-207, as last amended by Laws of Utah 2012, Chapter 365
- 34A-6-109, as renumbered and amended by Laws of Utah 1997, Chapter 375
- 35A-1-104, as last amended by Laws of Utah 2016, Chapters 133, 296, and 296
- 41-6a-303, as last amended by Laws of Utah 2010, Chapter 299
- 52-4-104, as enacted by Laws of Utah 2006, Chapter 263
- 53-1-106, as last amended by Laws of Utah 2013, Chapter 295
- 53B-1-103, as last amended by Laws of Utah 2017, Chapter 382
- 53D-1-303, as enacted by Laws of Utah 2014, Chapter 426
- 53E-3-401, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 59-2-702, as last amended by Laws of Utah 2001,

- Chapter 214
- 59-2-1001, as last amended by Laws of Utah 2013, Chapter 180
- 62A-1-111, as last amended by Laws of Utah 2017, Chapter 331
- 63F-1-104, as last amended by Laws of Utah 2017, Chapter 238
- 63G-6a-303, as repealed and reenacted by Laws of Utah 2016, Chapter 355
- 64-13-6, as last amended by Laws of Utah 2016, Chapter 243
- 67-3-1, as last amended by Laws of Utah 2017, Chapter 11
- 67-5-1, as last amended by Laws of Utah 2017, Chapters 295 and 387
- 67-5a-1, as last amended by Laws of Utah 2001, Chapter 131
- 67-5b-102, as last amended by Laws of Utah 2016, Chapter 290
- 67-19-6, as last amended by Laws of Utah 2015, Chapter 175
- 67-19e-110, as enacted by Laws of Utah 2016, Chapter 237
- 71-8-2, as last amended by Laws of Utah 2016, Chapters 68, 230, and 252
- 72-1-201, as last amended by Laws of Utah 2016, Chapter 137
- 76-9-907, as enacted by Laws of Utah 2009, Chapter 86
- 78A-2-107, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-6-204, as last amended by Laws of Utah 2011, Chapter 51
- 79-2-202, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:

- 7-1-212, Utah Code Annotated 1953
- 10-1-204, Utah Code Annotated 1953
- 17-50-108, Utah Code Annotated 1953
- 63A-1-117, Utah Code Annotated 1953
- 63G-22-101, Utah Code Annotated 1953
- 63G-22-102, Utah Code Annotated 1953
- 63G-22-103, Utah Code Annotated 1953

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

Section 1. Section 4-2-103 is amended to read:**4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.**

(1) The department shall:

- (a) inquire into and promote the interests and products of agriculture and allied industries;
- (b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;
- (c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and
- (ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) assist the Conservation Commission in the administration of Title 4, Chapter 18, Conservation Commission Act, and administer and disburse any funds available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation

program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands; ~~and~~

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

~~[(q)]~~ (r) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that all proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling its duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies; and

(d) accept and administer grants from the federal government and from other sources, public or private.

Section 2. Section 7-1-212 is enacted to read:

7-1-212. Compliance with training and certification requirements.

The department shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (1) under this title;
- (2) by the department; or
- (3) by an agency or division within the department.

Section 3. Section 9-1-201 is amended to read:

9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.

(1) There is created the Department of Heritage and Arts.

(2) The department shall:

(a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;

(b) perform heritage, arts, and cultural development planning for the state;

(c) coordinate the program plans of the various divisions within the department;

(d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;

(e) administer any other programs over which the department is given administrative supervision by the governor;

(f) submit an annual written report to the governor and the Legislature as described in Section 9-1-208; ~~and~~

(g) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department; and

~~(g)~~ (h) perform any other duties as provided by the Legislature.

(3) The department may solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use

those contributions for publicizing the exclusive interest of the donor.

(4) Money received under Subsection (3) shall be deposited in the General Fund as restricted revenues of the department.

(5) (a) For a pass-through funding grant of \$25,000 or more, the department shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the department receiving a quarterly progress report from the pass-through funding grant recipient.

(b) The department shall:

(i) provide the pass-through funding grant recipient with a progress report form for the reporting purposes described in Subsection (5)(a); and

(ii) include reporting requirement instructions with the form.

Section 4. Section 10-1-204 is enacted to read:

10-1-204. Training requirements.

A municipality shall ensure that any training that the municipality requires of a municipal officer or employee complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 5. Section 11-13-225 is amended to read:

11-13-225. Establishment of interlocal entity personnel system.

(1) An interlocal entity shall establish a system of personnel administration for the interlocal entity as provided in this section.

(2) The interlocal entity shall administer the system described in Subsection (1) in a manner that will effectively provide for:

(a) recruiting, selecting, and advancing employees on the basis of the employee's relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) equitable and adequate compensation;

(c) employee training as needed to assure high-quality performance;

(d) (i) retaining an employee on the basis of the adequacy of the employee's performance; and

(ii) separation of an employee whose inadequate performance cannot be corrected;

(e) fair treatment of an applicant or employee in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for the applicant's or employee's privacy and constitutional rights; and

(f) a formal procedure for processing the appeals and grievances of an employee without discrimination, coercion, restraint, or reprisal.

(3) An interlocal entity shall ensure that any employee training described in Subsection (2)(c)

complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 6. Section 13-1-2 is amended to read:

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

(1) (a) There is created the Department of Commerce.

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest[-]; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

(2) Within the department the following divisions are created:

(a) the Division of Occupational and Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for its approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed \$1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to

maintain the undesignated account balance at \$1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

Section 7. Section 17-50-108 is enacted to read:

17-50-108. Training requirements.

A county shall ensure that any training that the county requires of a county officer or employee complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 8. Section 17B-1-312 is amended to read:

17B-1-312. Training for board members.

(1) (a) Each member of a board of trustees of a local district shall, within one year after taking office, complete the training described in Subsection (2).

(b) For the purposes of Subsection (1)(a), a member of a board of trustees of a local district takes office each time the member is elected or appointed to a new term, including an appointment to fill a midterm vacancy in accordance with Subsection 17B-1-303(5) or (6).

(2) In conjunction with the Utah Association of Special Districts, the state auditor shall:

(a) develop a training curriculum for the members of local district boards; ~~and~~

(b) with the assistance of other state offices and departments the state auditor considers appropriate and at times and locations established by the state auditor, carry out the training of members of local district boards[-]; and

(c) ensure that any training required under this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) (a) A local district board of trustees may compensate each member of the board for each day of training described in Subsection (2) that the member completes, in accordance with Section 11-55-103.

(b) The compensation authorized under Subsection (3)(a) is in addition to all other amounts of compensation and expense reimbursement authorized under this chapter.

(c) A board of trustees may not pay compensation under Subsection (3)(a) to any board member more than once per year.

(4) The state auditor shall issue a certificate of completion to each board member that completes the training described in Subsection (2).

Section 9. Section 19-1-201 is amended to read:

19-1-201. Powers and duties of department -- Rulemaking authority -- Committee.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually; ~~and~~

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

- (A) board meeting attendance; and
- (B) conflicts of interest procedures; and
- (ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5[-]; and

(e) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department.

(2) The department shall establish a committee that consists of:

(a) the executive director or the executive director's designee;

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group of all the local health departments in the state.

(3) The committee established in Subsection (2) shall:

(a) review the allocation of environmental quality resources between the department and the local health departments;

(b) evaluate department policies that affect local health departments;

(c) consider policy changes proposed by the department or by local health departments;

(d) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

(e) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

(4) The committee shall create bylaws to govern the committee's operations.

(5) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) (i) establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-504; and

(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect the cost of services provided;

(j) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(k) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(l) upon the request of any board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the funds available to the department for the staff and services; and

(m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service in order to efficiently utilize department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(6) In providing service under Subsection (5)(m), the department may not provide service in a manner that impairs any other person's service from the department.

Section 10. Section 26-1-30 is amended to read:

26-1-30. Powers and duties of department.

The department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

(1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(3) promote and protect the health and wellness of the people within the state;

(4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

(10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(14) establish laboratory services necessary to support public health programs and medical services in the state;

(15) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(16) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(17) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(18) investigate the causes of maternal and infant mortality;

(19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the

examinations provided for in Subsection (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (20);

(21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), or 72-10-502(5)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

- (a) orphanages;
- (b) boarding homes;
- (c) summer camps for children;
- (d) lodging houses;
- (e) hotels;
- (f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;
- (g) tourist and trailer camps;
- (h) service stations;
- (i) public conveyances and stations;
- (j) public and private schools;
- (k) factories;
- (l) private sanatoria;
- (m) barber shops;
- (n) beauty shops;
- (o) physician offices;
- (p) dentist offices;
- (q) workshops;
- (r) industrial, labor, or construction camps;
- (s) recreational resorts and camps;
- (t) swimming pools, public baths, and bathing beaches;

(u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and

(v) any other facilities in public buildings or on public grounds;

- (24) conduct health planning for the state;

(25) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(27) license the provision of child care;

(28) accept contributions to and administer the funds contained in the Organ Donation Contribution Fund created in Section 26-18b-101;

(29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;

(30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve; [and]

(31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia[-]; and

(32) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 11. Section 31A-2-201 is amended to read:

31A-2-201. General duties and powers.

(1) The commissioner shall administer and enforce this title.

(2) The commissioner has all powers specifically granted, and all further powers that are reasonable and necessary to enable the commissioner to perform the duties imposed by this title.

(3) (a) The commissioner may make rules to implement the provisions of this title according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In addition to the notice requirements of Section 63G-3-301, the commissioner shall provide

notice under Section 31A-2-303 of hearings concerning insurance department rules.

(4) (a) The commissioner shall issue prohibitory, mandatory, and other orders as necessary to secure compliance with this title. An order by the commissioner is not effective unless the order:

- (i) is in writing; and
- (ii) is signed by the commissioner or under the commissioner's authority.

(b) On request of any person who would be affected by an order under Subsection (4)(a), the commissioner may issue a declaratory order to clarify the person's rights or duties.

(5) (a) The commissioner may hold informal adjudicative proceedings and public meetings, for the purpose of:

- (i) investigation;
- (ii) ascertainment of public sentiment; or
- (iii) informing the public.

(b) An effective rule or order may not result from informal hearings and meetings unless the requirement of a hearing under this section is satisfied.

(6) The commissioner shall inquire into violations of this title and may conduct any examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, that the commissioner considers proper to determine:

- (a) whether or not any person has violated any provision of this title; or
- (b) to secure information useful in the lawful administration of this title.

(7) The commissioner shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

Section 12. Section 32B-2-207 is amended to read:

32B-2-207. Department employees -- Requirements.

(1) "Upper management" means the director, a deputy director, or other Schedule AD, AR, or AS employee of the department, as defined in Section 67-19-15, except for the director of internal audits and auditors hired by the director of internal audits under Section 32B-2-302.5.

(2) (a) Subject to this title, including the requirements of Chapter 1, Part 3, Qualifications

and Background, the director may prescribe the qualifications of a department employee.

(b) The director may hire an employee who is upper management only with the approval of four commissioners voting in an open meeting.

(c) Except as provided in Section 32B-1-303, the executive director may dismiss an employee who is upper management after consultation with the chair of the commission.

(3) (a) A person who seeks employment with the department shall file with the department an application under oath or affirmation in a form prescribed by the commission.

(b) Upon receiving an application, the department shall determine whether the individual is:

- (i) of good moral character; and
- (ii) qualified for the position sought.

(c) The department shall select an individual for employment or advancement with the department in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(4) The following are not considered a department employee:

- (a) a package agent;
- (b) a licensee;
- (c) a staff member of a package agent; or
- (d) staff of a licensee.

(5) The department may not employ a minor to:

- (a) work in:
 - (i) a state store; or
 - (ii) a department warehouse; or

(b) engage in an activity involving the handling of an alcoholic product.

(6) The department shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

Section 13. Section 34A-6-109 is amended to read:

34A-6-109. Educational and training programs.

(1) The division, after consultation with other appropriate agencies, shall conduct, directly or by assistance:

- (a) educational programs to provide an adequate supply of qualified personnel to carry out the purpose of this chapter; and

(b) informational programs on the importance of adequate safety and health equipment.

(2) (a) The division is authorized to conduct, directly or by assistance, training for personnel engaged in work related to its responsibilities under this chapter.

(b) The division shall ensure that any training described in Subsection (2)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) The division shall:

(a) establish and supervise programs for the education and training of employers and employees for recognition, avoidance, and prevention of unsafe or unhealthful working conditions;

(b) consult and advise employers and employees about effective means for prevention of any work-related injury or occupational disease; and

(c) provide safety and health workplace surveys.

Section 14. Section 35A-1-104 is amended to read:

35A-1-104. Department authority.

Within all other authority or responsibility granted to it by law, the department may:

(1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(4) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;

(7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;

(9) accept and employ volunteer labor or services;

(10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(11) carry out the responsibility assigned by the State Workforce Services Plan developed by the State Workforce Development Board;

(12) (a) provide training and educational opportunities for [its] the department's staff; and

(b) ensure that any training or educational opportunity described in Subsection (12)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(14) accept and administer grants from the federal government and from other sources, public or private;

(15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as it considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients;

(20) carry out the responsibilities assigned to it by statute; and

(21) administer the Safety Net Initiative as described in Section 35A-3-802.

Section 15. Section 41-6a-303 is amended to read:

41-6a-303. Definition of reduced speed school zone -- Operation of warning lights -- School crossing guard requirements -- Responsibility provisions -- Rulemaking authority.

(1) As used in this section "reduced speed school zone" means a designated length of a highway extending from a school zone speed limit sign with warning lights operating to an end school zone sign.

(2) The Department of Transportation for state highways and local highway authorities for highways under their jurisdiction:

(a) shall establish reduced speed school zones at elementary schools after written assurance by a local highway authority that the local highway authority complies with Subsections (3) and (4); and

(b) may establish reduced speed school zones for secondary schools at the request of the local highway authority.

(3) For all reduced speed school zones on highways, including state highways within the jurisdictional boundaries of a local highway authority, the local highway authority shall:

(a) (i) provide shuttle service across highways for school children; or

(ii) provide, train, and supervise school crossing guards in accordance with this section;

(b) provide for the:

(i) operation of reduced speed school zones, including providing power to warning lights and turning on and off the warning lights as required under Subsections (4) and (5); and

(ii) maintenance of reduced speed school zones except on state highways as provided in Section 41-6a-302; and

(c) notify the Department of Transportation of reduced speed school zones on state highways that are in need of maintenance.

(4) While children are going to or leaving school during opening and closing hours all reduced speed school zones shall have:

(a) the warning lights operating on each school zone speed limit sign; and

(b) a school crossing guard present if the reduced speed school zone is for an elementary school.

(5) The warning lights on a school zone speed limit sign may not be operating except as provided under Subsection (4).

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules establishing criteria and specifications for the:

(i) establishment, location, and operation of school crosswalks, school zones, and reduced speed school zones;

(ii) training, use, and supervision of school crossing guards at elementary schools and secondary schools; and

(iii) content and implementation of child access routing plans under Section 53A-3-402.

(b) If a school crosswalk is established at a signalized intersection in accordance with the requirements of this section, a local highway authority may reduce the speed limit at the signalized intersection to 20 miles per hour for a highway under its jurisdiction.

(7) Each local highway authority shall pay for providing, training, and supervising school crossing guards in accordance with this section.

(8) Each local highway authority shall ensure that any training described in this section complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 16. Section 52-4-104 is amended to read:

52-4-104. Training.

(1) The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

(2) The presiding officer shall ensure that any training described in Subsection (1) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 17. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702; ~~and~~

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact~~[-]~~; and

(i) ensure that any training or certification required of a public official or public employee, as

those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department.

(2) (a) The department may establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) The fees shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 18. Section 53B-1-103 is amended to read:

53B-1-103. Establishment of State Board of Regents -- Powers, duties, and authority.

(1) There is established a State Board of Regents.

(2) (a) Except as provided in Subsection (2)(b), the board shall control, manage, and supervise the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to the board.

(b) The board may only exercise powers relating to the Utah System of Technical Colleges Board of Trustees, the Utah System of Technical Colleges, or a technical college that are specifically provided in this title.

(3) The board shall, for the Utah System of Higher Education:

(a) provide strategic leadership and link system capacity to the economy and workforce needs;

(b) enhance the impact and efficiency of the system;

(c) establish measurable goals and metrics and delineate the expected contributions of individual institutions of higher education toward these goals;

(d) evaluate presidents based on institutional performance;

(e) delegate to presidents the authority to manage the presidents' institutions of higher education;

(f) administer statewide functions including system data collection and reporting;

(g) establish unified budget, finance, and capital funding priorities and practices; and

(h) provide system leadership on issues that have a system-wide impact, including:

(i) statewide college access and college preparedness initiatives;

(ii) learning opportunities drawn from multiple campuses or online learning options, including new modes of delivery of content at multiple locations;

(iii) degree program requirement guidelines including credit hour limits, articulation agreements, and transfer across institutions;

(iv) alignment of general education requirements across institutions of higher education;

(v) incorporation of evidence-based practices that increase college completion; and

(vi) monitoring of workforce needs, with an emphasis on credentials that build upon one another.

(4) The board shall coordinate and support articulation agreements between the Utah System of Technical Colleges or a technical college and other institutions of higher education.

(5) The board shall prepare and submit an annual report detailing the board's progress and recommendations on career and technical education issues and addressing workforce needs to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(a) how the career and technical education needs of secondary students are being met by institutions of higher education described in Subsection 53B-1-102(1)(a), including the access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(6) The board may modify the name of an institution described in Subsection 53B-1-102(1)(a) to reflect the role and general course of study of the institution.

(7) The board may not conduct a feasibility study or perform another act relating to merging a technical college with another institution of higher education.

(8) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(9) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this

title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 19. Section 53D-1-303 is amended to read:

53D-1-303. Board authority and duties.

(1) The board has broad policymaking authority over the office and the trust fund.

(2) (a) The board shall establish policies for the management of:

(i) the office, including:

(A) an investment management code of conduct and associated compliance policy;

(B) a policy for the strategic allocation of trust fund assets;

(C) a soft dollar policy; and

(D) a policy articulating the board's investment philosophy for trust fund assets; and

(ii) the trust fund.

(b) Policies that the board adopts shall:

(i) be consistent with the enabling act, the Utah Constitution, and other applicable state law;

(ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;

(iii) be designed to prudently optimize trust fund returns and increase the value of the trust fund, consistent with the balancing of short-term and long-term interests, so that the fiduciary duty of intergenerational equity is met;

(iv) be designed to maintain the integrity of the trust fund and prevent the misapplication of money in the trust fund;

(v) enable the board to oversee the activities of the office; and

(vi) otherwise be in accordance with standard trust principles as provided by state law.

(3) The board shall:

(a) establish a conflict of interest policy for the office and board members;

(b) establish policies governing the evaluation, selection, and monitoring of independent custodial arrangements;

(c) ensure that the office is managed according to law;

(d) establish bylaws to govern the board;

(e) establish the compensation of the director;

(f) annually examine the compensation and performance of the director as part of the board's budget review process;

(g) annually report the director's compensation to the Legislature; and

(h) (i) adopt policies to provide for annual training of board members regarding their duties and responsibilities[-]; and

(ii) ensure that any training described in Subsection (3)(h)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(4) The board may:

(a) after conferring with the director:

(i) hire one or more consultants to advise the board, director, or office on issues affecting the management of the trust fund; and

(ii) pay compensation to any consultant hired under Subsection (4)(a)(i), subject to budgetary constraints; and

(b) submit to the director a written question or set of questions concerning policies and practices affecting the management of the trust fund.

Section 20. Section 53E-3-401 is amended to read:

53E-3-401. Powers of State Board of Education -- Adoption of rules -- Enforcement -- Attorney.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by the board under this public education code;

(ii) an entity that enters into a contract with the board to provide an educational good or service;

(iii) a school district; or

(iv) a charter school.

(c) "Educational good or service" means a good or service that is required or regulated under:

(i) this public education code; or

(ii) a rule authorized under this public education code.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.

(3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board

may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.

(b) The board may delegate the board's statutory duties and responsibilities to board employees.

(5) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.

(7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this public education code or rules authorized under this public education code, the board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty; or

(iv) require the education entity to reimburse specified state funds to the board.

(b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.

(10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this public education code; and

(b) board rule authorized under this public education code.

(11) (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

(12) The board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 21. Section 59-2-702 is amended to read:

59-2-702. Education and training of appraisers -- Continuing education for appraisers and county assessors.

(1) The commission shall conduct, at its own expense, a program of education and training of appraisal personnel preparatory to the examination of applicants for appraisers' and assessors' certification or licensure required by Section 59-2-701.

(2) To ensure that the assessment of property will be performed in a professional manner by competent personnel, meeting specified professional qualifications, the commission shall conduct a continuing program of in-service education and training for county assessors and property appraisers in the principles and practices of assessment and appraisal of property. For this purpose the commission may cooperate with educational institutions, local, regional, state, or national assessors' organizations, and with other appropriate professional organizations. The commission may reimburse the participation expenses incurred by assessors and other employees of the state or its subdivisions whose

attendance at in-service training programs is approved by the commission.

(3) The commission shall ensure that any training or continuing education required under this section complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 22. Section 59-2-1001 is amended to read:

59-2-1001. County board of equalization -- Public hearings -- Hearing officers -- Notice of decision -- Rulemaking.

(1) The county legislative body is the county board of equalization and the county auditor is the clerk of the county board of equalization.

(2) The county board of equalization shall adjust and equalize the valuation and assessment of the real and personal property within the county, subject to regulation and control by the commission, as prescribed by law. The county board of equalization shall meet and hold public hearings each year to examine the assessment roll and equalize the assessment of property in the county, including the assessment for general taxes of all taxing entities located in the county.

(3) (a) Except as provided in Subsection (3)(d), a county board of equalization may:

(i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness; or

(ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer, including competency in:

- (A) real estate;
- (B) finance;
- (C) economics;
- (D) public administration; or
- (E) law.

(b) Except as provided in Subsection (3)(d), beginning on January 1, 2014, a county board of equalization may only allow an individual to serve as a hearing officer for the purposes of examining an applicant or a witness if the individual has completed a course the commission:

(i) develops in accordance with Subsection (3)(c)(i); or

(ii) approves in accordance with Subsection (3)(c)(ii).

(c) (i) On or before January 1, 2014, the commission shall develop a hearing officer training

course that includes training in property valuation and administrative law.

(ii) In addition to the course the commission develops in accordance with Subsection (3)(c)(i), the commission may approve a hearing officer training course provided by a county or a private entity if the course includes training in property valuation and administrative law.

(iii) The commission shall ensure that any training described in this Subsection (3)(c) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(d) A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.

(e) A hearing officer shall transmit the hearing officer's findings to the board, where a quorum shall be required for final action upon any application for exemption, deferral, reduction, or abatement.

(4) The clerk of the board of equalization shall notify the taxpayer, in writing, of any decision of the board. The decision shall include any adjustment in the amount of taxes due on the property resulting from a change in the taxable value and shall be considered the corrected tax notice.

(5) During the session of the board, the assessor or any deputy whose testimony is needed shall be present and may make any statement or introduce and examine witnesses on questions before the board.

(6) The county board of equalization may make and enforce any rule which is consistent with statute or commission rule and necessary for the government of the board, the preservation of order, and the transaction of business.

Section 23. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for its services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for its staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court under Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed under Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to it by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services; ~~and~~

(22) within appropriations authorized by the Legislature, promote and develop a system of care, as defined in Section 62A-1-104:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions[-]; and

(23) ensure that any training or certification required of a public official or public employee, as

those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

Section 24. Section 63A-1-117 is enacted to read:

63A-1-117. Training and certification requirements.

The department shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (1) under this title;
- (2) by the department; or
- (3) by an agency or division within the department.

Section 25. Section 63F-1-104 is amended to read:

63F-1-104. Purposes.

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee on a semiannual basis regarding the status of information technology projects; ~~and~~

(12) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies[-]; and

(13) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 26. Section 63G-6a-303 is amended to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement unit without independent procurement authority or a state cooperative

contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations; ~~and~~

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter~~;~~ and

(j) ensure that any training described in this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section 63F-1-205, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement of information

technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105~~(2)~~(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit without independent procurement authority to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Section 27. Section 63G-22-101 is enacted to read:

CHAPTER 22. STATE TRAINING AND CERTIFICATION REQUIREMENTS

63G-22-101. Title.

This chapter is known as "State Training and Certification Requirements."

Section 28. Section 63G-22-102 is enacted to read:

63G-22-102. Definitions.

As used in this chapter:

(1) "Political subdivision" means:

(a) a county;

(b) a municipality, as defined in Section 10-1-104;

(c) a local district;

(d) a special service district;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency;

(g) a local building authority; or

(h) a conservation district.

(2) (a) "Public employee" means any individual employed by or volunteering for a state agency or a political subdivision who is not a public official.

(b) "Public employee" does not include an individual employed by or volunteering for a taxed interlocal entity.

(3) (a) "Public official" means:

(i) an appointed official or an elected official as those terms are defined in Section 67-19-6.7; or

(ii) an individual elected or appointed to a county office, municipal office, school board or school

district office, local district office, or special service district office.

(b) "Public official" does not include an appointed or elected official of a taxed interlocal entity.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(5) "Taxed interlocal entity" means the same as that term is defined in Section 11-13-602.

Section 29. Section 63G-22-103 is enacted to read:

63G-22-103. State training and certification requirements.

Each state agency or political subdivision that provides any training or certification that any state agency or political subdivision requires a public employee or public official to complete shall present the training or make the training available in an online web-based format, which may include a live webinar, unless:

(1) the training or certification:

(a) includes a physical or interactive component that, in the reasonable determination of the agency or political subdivision, the attendee can only complete in person; or

(b) takes place over consecutive full-day sessions; or

(2) no required attendee will travel more than 50 miles from the attendee's primary residence or place of employment, whichever is closer to the training site, to attend the training.

Section 30. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide program opportunities for offenders;

(d) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(e) provide the results of ongoing assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(f) manage programs that take into account the needs and interests of victims, where reasonable;

(g) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(i) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision; ~~and~~

(k) establish a case action plan for each offender as follows:

(i) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

(ii) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment~~[-]; and~~

(l) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) impose graduated sanctions, as established by the Utah Sentencing Commission under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Prior to investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).

Section 31. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is

performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all its fiscal affairs;

(ii) whether or not its administrators have faithfully complied with legislative intent;

(iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether or not its programs have been effective in accomplishing the intended objectives; and

(v) whether or not its management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; and

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; and

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) Notwithstanding Subsection (7)(g), (7)(h), (8)(b), or (8)(d) the state auditor:

(a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(11) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to

protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (11)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(12) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, ~~and~~ Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(13) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(14) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

- (i) designate how that work shall be audited; and
- (ii) provide additional funding for those audits, if necessary.

(15) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (15)(a) so that it continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (15)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(16) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (16)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (16) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (16)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (16)(d)(ii), as provided in Section 63G-2-404.

(17) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

Section 32. Section 67-5-1 is amended to read:

67-5-1. General duties.

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence

of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec.

1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes the status and progress of any lawsuits that challenge the constitutionality of state law that were pending at the time the attorney general submitted the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered; or

(iii) judgments issued; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee; ~~and~~

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website[-]; and

(24) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 33. Section 67-5a-1 is amended to read:

67-5a-1. Utah Prosecution Council -- Duties -- Membership.

(1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.

(2) The council shall:

(a) (i) provide training and continuing legal education for state and local prosecutors; and

(ii) ensure that any training or continuing legal education described in Subsection (2)(a)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(b) provide assistance to local prosecutors; and

(c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws.

(3) The council shall be composed of 10 members, selected as follows:

(a) the attorney general or a designated representative;

(b) the commissioner of public safety or a designated representative;

(c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties; a county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when he is no longer serving as a county attorney or district attorney, whichever occurs first;

(d) two city prosecutors designated by the Utah Municipal Attorneys Association; a city prosecutor's term expires when a successor is designated by the association or when he is no longer employed as a city prosecutor, whichever occurs first;

(e) the chair of the Board of Directors of the Statewide Association of Public Attorneys of Utah; and

(f) the chair of the governing board of the Utah Prosecutorial Assistants Association.

Section 34. Section 67-5b-102 is amended to read:

67-5b-102. Children's Justice Center -- Duties of center.

(1) (a) There is established a program, known as the Children's Justice Center Program, that provides a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center.

(b) The attorney general shall administer the program.

(c) The attorney general shall:

(i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;

(ii) administer applications for state and federal grants and subgrants;

(iii) staff the Advisory Board on Children's Justice;

(iv) assist in the development of new centers;

(v) coordinate services between centers;

(vi) contract with counties and other entities for the provision of services;

(vii) (A) provide training, technical assistance, and evaluation to centers; and

(B) ensure that any training described in Subsection (1)(c)(vii)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(viii) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.

(2) (a) The attorney general shall establish Children's Justice Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.

(b) The attorney general may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.

(3) The attorney general and each center shall:

(a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;

(b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;

(c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;

(d) obtain reliable and admissible information that can be used effectively in child abuse cases in the state;

(e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;

(f) hold regularly scheduled case reviews with the multidisciplinary team;

(g) coordinate and track:

(i) investigation of the alleged offense; and

(ii) preparation of prosecution;

(h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;

(i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;

(j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;

(k) enhance community understanding of child abuse cases; and

(l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases.

(4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

Section 35. Section 67-19-6 is amended to read:

67-19-6. Responsibilities of the executive director.

(1) The executive director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

- (l) conduct research and planning activities to:
- (i) determine and prepare for future state human resource needs;
 - (ii) develop methods for improving public human resource management; and
 - (iii) propose needed policy changes to the governor;
- (m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;
- (n) when requested by counties, municipalities, and other political subdivisions of the state, provide technical service and advice on human resource management at a charge determined by the executive director;
- (o) establish compensation policies and procedures for early voluntary retirement;
- (p) confer with the heads of other agencies about human resource policies and procedures;
- (q) submit an annual report to the governor and the Legislature; and
- (r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(2) (a) After consultation with the governor and the heads of other agencies, the executive director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection (2) shall have application to more than one agency.

(c) The department may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The department shall ensure that any training program described in this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) (a) (i) The department may collect fees for training as authorized by this Subsection (3).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 36. Section 67-19e-110 is amended to read:

67-19e-110. Required training.

(1) Each year that an administrative law judge receives a performance evaluation conducted by the department under this chapter, the administrative law judge shall complete the procedural fairness training program described in this section.

(2) The department shall establish a procedural fairness training program that includes training on how an administrative law judge's actions and behavior influence others' perceptions of the fairness of the adjudicative process.

(3) The procedural fairness training program shall include discussion of the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) unhurried and careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(4) The department may contract with a public or private person to develop or provide the procedural fairness training program.

(5) The department shall ensure that the procedural fairness training program complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 37. Section 71-8-2 is amended to read:

71-8-2. Department of Veterans' and Military Affairs created -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans' and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans' Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

(i) has served on active duty in the armed forces for more than 180 consecutive days;

(ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or

(iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and

(iv) was separated or retired under honorable conditions.

(b) Any veteran or veteran's group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies; ~~and~~

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title~~[-]; and~~

(f) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(4) Nothing in this chapter shall be construed as altering or preempting the provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.

Section 38. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable,

environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make policy and rules for the administration of the department, state transportation systems, and programs; ~~and~~

(i) annually report to the Transportation Interim Committee, by November 30 of each year, as to the:

(i) operation, maintenance, condition, and safety needs for highways; and

(ii) condition, safety, and mobility of the state transportation system jointly with the Transportation Commission~~[-]; and~~

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Section 39. Section 76-9-907 is amended to read:

76-9-907. Training for participating law enforcement officers.

The sheriff or chief of police implementing this part shall ensure that:

(1) all officers charged with enforcing this part successfully complete appropriate training on identification of gang members and criminal street gangs[-]; and

(2) any training described in this section complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 40. Section 78A-2-107 is amended to read:

78A-2-107. Court administrator -- Powers, duties, and responsibilities.

Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the council, the administrator shall:

- (1) organize and administer all of the nonjudicial activities of the courts;
- (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
- (3) implement the standards, policies, and rules established by the council;
- (4) formulate and administer a system of personnel administration, including in-service training programs;
- (5) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices' courts in their budgetary, fiscal, and accounting procedures;
- (6) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;
- (7) develop uniform procedures for the management of court business, including the management of court calendars;
- (8) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;
- (9) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;
- (10) establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court judges and set reasonable compensation for their services;
- (11) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;
- (12) (a) organize and administer a program of continuing education for judges and support staff, including training for justice court judges; and
 - (b) ensure that any training or continuing education described in Subsection (12)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements;
- (13) provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and
- (14) perform other duties as assigned by the presiding officer of the council.

Section 41. Section 78B-6-204 is amended to read:

78B-6-204. Dispute Resolution Programs -- Director -- Duties -- Report.

(1) Within the Administrative Office of the Courts, there shall be a director of Dispute Resolution Programs, appointed by the state court administrator.

(2) The director shall be an employee of the Administrative Office of the Courts and shall be responsible for the administration of all court-annexed Dispute Resolution Programs. The director shall have duties, powers, and responsibilities as the Judicial Council may determine. The qualifications for employment of the director shall be based on training and experience in the management, principles, and purposes of alternative dispute resolution procedures.

(3) In order to implement the purposes of this part, the Administrative Office of the Courts may employ or contract with ADR providers or ADR organizations on a case-by-case basis, on a service basis, or on a program basis. ~~[ADR providers and organizations shall be subject to the rules and fees set by the Judicial Council.]~~

(4) The Administrative Office of the Courts shall:

(a) establish programs for training ADR providers and orienting attorneys and their clients to ADR programs and procedures~~[-];~~ and

(b) ensure that any training described in Subsection (4)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(5) ~~ADR providers and organizations are subject to the rules and fees set by the Judicial Council.~~

~~[(4)]~~ (6) An ADR provider is immune from all liability when conducting proceedings under the rules of the Judicial Council and the provisions of this part, except for wrongful disclosure of confidential information, to the same extent as a judge of the courts in this state.

~~[(5)]~~ (7) (a) The director shall report annually to the Supreme Court, the Judicial Council, the governor, and the Utah State Bar on the operation of the Dispute Resolution Programs.

(b) The director shall provide the report to the Judiciary Interim Committee, if requested by the committee.

(c) Copies of the report shall be available to the public at the Administrative Office of the Courts.

(d) The report shall include:

(i) identification of participating judicial districts and the methods of alternative dispute resolution that are available in those districts;

(ii) the number and types of disputes received;

(iii) the methods of alternative dispute resolution to which the disputes were referred;

(iv) the course of the referral;

(v) the status of cases referred to alternative dispute resolution or the disposition of these disputes; and

(vi) any problems encountered in the administration of the program and the recommendations of the director as to the continuation or modification of any program.

(e) Nothing may be included in a report which would impair the privacy or confidentiality of any specific ADR proceeding.

Section 42. Section 79-2-202 is amended to read:

79-2-202. Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.

(1) (a) The chief administrative officer of the department is an executive director appointed by the governor with the consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the department and provide for coordination and cooperation among the boards, divisions, councils, and committees of the department;

(b) approve the budget of each board and division;

(c) participate in regulatory proceedings as appropriate for the functions and duties of the department;

(d) report at the end of each fiscal year to the governor on department, board, and division activities; ~~and~~

(e) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

~~[(e)]~~ (f) perform other duties as provided by statute.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director, may accept an executive or legislative provision that is enacted by the federal government, whereby the state may participate in the distribution, disbursement, or administration of a fund or service from the federal government for purposes consistent with the powers and duties of the department.

(4) (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

(b) The executive director shall submit any plan to the governor for review and approval.

**CHAPTER 201
H. B. 186**

Passed March 1, 2018
Approved March 19, 2018
Effective May 8, 2018

**LIMITED LIABILITY
COMPANY AMENDMENTS**

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Todd Weiler
Cosponsors: Patrice M. Arent
Joel K. Briscoe
Kay J. Christofferson
Ken Ivory
Brian S. King
Brad R. Wilson

LONG TITLE

General Description:

This bill enacts the Benefit Limited Liability Company Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the formation of a benefit company;
- ▶ addresses termination of a benefit company;
- ▶ requires a benefit company to adopt a purpose of creating general public benefit;
- ▶ establishes standards of conduct for a member, manager, or officer of a benefit company;
- ▶ creates a right of action; and
- ▶ requires a benefit company to prepare, distribute, and make public an annual benefit report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

48-4-101, Utah Code Annotated 1953
48-4-102, Utah Code Annotated 1953
48-4-103, Utah Code Annotated 1953
48-4-104, Utah Code Annotated 1953
48-4-105, Utah Code Annotated 1953
48-4-201, Utah Code Annotated 1953
48-4-301, Utah Code Annotated 1953
48-4-302, Utah Code Annotated 1953
48-4-303, Utah Code Annotated 1953
48-4-401, Utah Code Annotated 1953
48-4-402, Utah Code Annotated 1953

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

Section 1. Section 48-4-101 is enacted to read:

**CHAPTER 4. BENEFIT LIMITED
LIABILITY COMPANY ACT**

Part 1. General Provisions

48-4-101. Title.

This chapter is known as the "Benefit Limited Liability Company Act."

Section 2. Section 48-4-102 is enacted to read:

48-4-102. Application and effect of chapter.

(1) This chapter applies to a benefit company organized under this chapter.

(2) (a) The existence of a provision in this chapter does not itself create an implication that a contrary or different rule of law is applicable to a limited liability company that is not a benefit company.

(b) This chapter does not affect a statute or rule of law that is applicable to a limited liability company that is not a benefit limited liability company.

(3) (a) Except as otherwise provided in this chapter, Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, applies to a benefit company.

(b) The provisions of this chapter control over any inconsistent provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act.

(4) The operating agreement of a benefit company may not limit, be inconsistent with, or supersede a provision of this chapter.

Section 3. Section 48-4-103 is enacted to read:

48-4-103. Definitions.

As used in this chapter:

(1) "Benefit company" means a limited liability company:

(a) that elects to become subject to this chapter; and

(b) the status of which as a benefit company has not been terminated.

(2) "Benefit enforcement proceeding" means a proceeding in a court of competent jurisdiction for:

(a) failure of a benefit company to pursue or create general public benefit or a specific public benefit described in the benefit company's certificate of organization; or

(b) a violation of an obligation, duty, or standard of conduct under this chapter.

(3) "General public benefit" means a material positive impact on society and the environment:

(a) taken as a whole;

(b) assessed against a third-party standard; and

(c) from the business of a benefit company.

(4) "Immediate family member" means a parent, spouse, surviving spouse, child, or sibling.

(5) (a) "Independent person" means a person who has no material relationship with a benefit company or a subsidiary of the benefit company.

(b) "Independent person" does not include a person:

(i) who is, or has been within the last three years, an employee of the benefit company or a subsidiary of the benefit company;

(ii) whose immediate family member is, or has been within the last three years, an executive officer of the benefit company or a subsidiary of the benefit company;

(iii) who owns 5% or more of the outstanding interests of the benefit company, calculated as if all outstanding rights to acquire interests in the benefit company have been exercised; or

(iv) who owns 5% or more of the outstanding interests in an entity, calculated as if all outstanding rights to acquire interests in the entity have been exercised, that owns 5% or more of the outstanding interests of the benefit company, calculated as if all outstanding rights to acquire interests in the benefit company have been exercised.

(6) “Minimum status vote” means:

(a) in the case of a limited liability company, in addition to any other required approval or vote, the satisfaction of the following conditions:

(i) the members of every class or series may vote as a separate voting group on an action of the limited liability company regardless of a limitation state in the certificate of organization or operating agreement on the voting rights of any class or series; and

(ii) the action of the limited liability company is required to be approved by vote of the members of each class or series entitled to cast at least two-thirds of the votes that all members of the class or series are entitled to cast on the action; or

(b) in the case of a domestic entity other than a limited liability company, in addition to any other required approval, vote, or consent, the satisfaction of the following conditions:

(i) the holders of every class or series of interest in the entity that are entitled to receive a distribution of any kind from the entity may vote on or consent to the action regardless of any otherwise applicable limitation on voting or consent rights of the class or series; and

(ii) the action of the limited liability company is required to be approved by vote or consent of the holders described in Subsection (6)(b)(i) entitled to cast at least two-thirds of the votes or consents that all of those holders are entitled to cast on the action.

(7) “Owns” includes ownership as the owner of record or as a beneficial owner.

(8) “Specific public benefit” includes:

(a) providing low-income or underserved individuals or communities with beneficial products or services;

(b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(c) protecting or restoring the environment;

(d) improving human health;

(e) promoting the arts, sciences, or advancement of knowledge;

(f) increasing the flow of capital to entities with a purpose to benefit society or the environment; and

(g) conferring any other particular benefit on society or the environment.

(9) “Subsidiary” means, in relation to a person, an entity in which the person owns beneficially or of record, 50% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity have been exercised.

(10) “Third-party standard” means a standard for defining, reporting, and assessing overall social and environmental performance that:

(a) assesses the effect of a business and a business’s operations on the interests described in Subsections 48-4-301(1)(a)(ii) through (v);

(b) is developed by an entity:

(i) that is independent of the benefit company;

(ii) whose governing body is comprised of no more than one-third of members who are representatives of any of the following:

(A) an association of businesses that operate in a specific industry whose members are measured by the standard;

(B) businesses from a specific industry or an association of businesses in that industry; or

(C) businesses whose performance is assessed against the standard;

(iii) that is not materially financed by an association or business described in Subsection (10)(b)(ii);

(iv) that has access to necessary expertise to assess overall social and environmental performance;

(v) uses a balanced multistakeholder approach to develop the standard, including a public comment period of at least 30 days; and

(vi) makes the following information publically available:

(A) the criteria considered when measuring the overall social and environmental performance of a business;

(B) the relative weightings, if any, of the criteria described in Subsection (10)(b)(vi)(A);

(C) the identity of each director, officer, material owner, and governing body of the entity that developed and controls revisions to the standard;

(D) the process by which revisions to the standard and changes to the membership of the governing body are made; and

(E) an accounting of the revenue and sources of financial support for the entity, with sufficient detail to disclose a relationship that could

reasonably be considered to present a potential conflict of interest.

Section 4. Section 48-4-104 is enacted to read:

48-4-104. Benefit company status.

(1) A person may form a benefit company in accordance with Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, except the certificate of organization shall state that the limited liability company is a benefit company.

(2) (a) A limited liability company may elect to become a benefit company by amending, in accordance with Section 48-3a-202, the limited liability company's certificate of organization to contain a statement that the limited liability company is a benefit company.

(b) An amendment described in Subsection (2)(a) is not effective unless the amendment is adopted by at least the minimum status vote.

(3) If an entity that is not a benefit company is a party to a merger or is the exchanging entity in an interest exchange, and the surviving entity in the merger or interest exchange is a benefit company, the merger or interest exchange is not effective unless the merger or interest exchange is adopted by the entity by at least the minimum status vote.

(4) (a) A benefit company may terminate the benefit company's status as a benefit company and cease to be subject to this chapter by amending the benefit company's certificate of organization in accordance with Section 48-3a-202 to delete the provision described in Subsection (1) or (2) that states that the limited liability company is a benefit company.

(b) An amendment described in Subsection (4)(a) is not effective unless the amendment is adopted by at least the minimum status vote.

(5) (a) If a proposed merger or interest exchange would have the effect of terminating a benefit company's status as a benefit company, the merger or interest exchange is not effective unless the merger or interest exchange is adopted by at least the minimum status vote.

(b) Unless the transaction is in the usual and regular course of the benefit company's business, a sale, lease, exchange, or other disposition of all or substantially all of the assets of a benefit company is not effective unless the transaction is approved by at least the minimum status vote.

Section 5. Section 48-4-105 is enacted to read:

48-4-105. Benefit company name.

(1) The name of a benefit company may contain the words "benefit limited liability company," "benefit limited company," or "benefit company" or the abbreviation "B.L.L.C.," "BLLC," "B.L.C.," or "BLC." "Limited" may be abbreviated as "Ltd.," and "company" may be abbreviated as "Co."

(2) A benefit company that complies with Subsection (1) satisfies the requirement described in Subsection 48-3a-108(1).

Section 6. Section 48-4-201 is enacted to read:

Part 2. Company Purposes

48-4-201. Company purpose.

(1) In addition to the benefit company's purpose under Section 48-3a-104, a benefit company shall have a purpose of creating general public benefit.

(2) (a) A benefit company's certificate of organization may identify one or more specific public benefits that are the purposes of the benefit company to create.

(b) Identifying a specific public benefit in accordance with Subsection (2)(a) does not affect a benefit company's obligation to create general public benefit in accordance with Subsection (1).

(3) The creation of general public benefit and one or more specific public benefits is in the best interests of the benefit company.

(4) (a) A benefit company may amend the benefit company's certificate or organization to add, amend, or delete a specific public benefit.

(b) An amendment described in Subsection (4)(a) is not effective unless adopted by at least the minimum status vote.

Section 7. Section 48-4-301 is enacted to read:

Part 3. Accountability

48-4-301. Standard of conduct for members.

(1) When discharging a duty under this chapter, each member of a member-managed benefit company:

(a) shall consider the effect of any action or inaction on:

(i) the members of the benefit company;

(ii) the employees and workforce of the benefit company;

(iii) the interests of customers as beneficiaries of the benefit company's general public benefit purpose or specific public benefit purpose of the benefit company;

(iv) community and societal considerations, including those of each community in which offices or facilities of the benefit company or the benefit company's subsidiaries or suppliers are located;

(v) the local and global environment;

(vi) the short-term and long-term interests of the benefit company, including benefits that may accrue to the benefit company from the benefit company's long-term plans and the possibility that the interests may be best served by the continued independence of the benefit company; and

(vii) the ability of the benefit company to accomplish the benefit company's general public benefit purpose and any specific public benefit purpose; and

(b) may consider other pertinent factors or the interests of any other group that the member considers appropriate.

(2) A member is not required to prioritize the interests of a person or factor described in Subsection (1)(a) or (b) over the interests of any other person or factor, unless the benefit company's certificate of organization states an intention to give priority to certain interests related to the benefit company's accomplishment of the benefit company's general public benefit purpose or a specific public benefit purpose identified in the benefit company's certificate of organization.

(3) A member's consideration of interests and factors in accordance with Subsections (1) and (2) does not constitute a violation of Section 48-3a-409.

(4) A member of a member-managed limited liability company that is a benefit company does not have a duty to a person who is a beneficiary of the benefit company's general public benefit purpose or a specific public benefit purpose arising from the person's status as a beneficiary.

Section 8. Section 48-4-302 is enacted to read:

48-4-302. Standard of conduct for managers and officers.

(1) Each manager of a manager-managed benefit company shall consider the interests and factors described in Subsections 48-4-301(1) and (2) when discharging the manager's duties under this chapter and the operating agreement.

(2) If a benefit company has a person serving as an officer, the person shall consider the interests and factors described in Subsections 48-4-301(1) and (2) when discharging the person's duties under this chapter and the operating agreement if:

(a) the officer has discretion to act with respect to the matter; and

(b) it reasonably appears to the officer that the matter may have a material effect on the benefit company's creation of a general public benefit or a specific public benefit identified in the benefit company's certificate of organization.

(3) A manager's consideration of the interests and factors described in Subsections 48-4-301(1) and (2) does not constitute a violation of Section 48-3a-409.

(4) A manager or officer does not have a duty to a person who is a beneficiary of the benefit company's general public benefit purpose or a specific public benefit purpose arising from the person's status as a beneficiary.

Section 9. Section 48-4-303 is enacted to read:

48-4-303. Right of action.

(1) Except in a benefit enforcement proceeding, a person may not bring an action or assert a claim

against a benefit company or a benefit company's member, manager, or officer with respect to:

(a) failure to pursue or create general public benefit or a specific public benefit set forth in the benefit company's certificate of organization; or

(b) violation of a duty or standard of conduct under this chapter.

(2) A benefit company is not liable for monetary damages under this chapter for a failure of the benefit company to pursue or create general public benefit or a specific public benefit.

(3) Only the following may commence or maintain a benefit enforcement proceeding:

(a) the benefit company, directly; or

(b) one or more of the following, derivatively:

(i) a member that owned at least 2% of the total number of interests of a class or series outstanding at the time of the act or omission complained of;

(ii) a manager of a manager-managed benefit company;

(iii) a person or group of persons who own beneficially or of record at least 5% of the interests in an association of which the benefit company is a subsidiary at the time of the act or omission complained of; or

(iv) any person or group of persons specified in the benefit company's certificate of organization or operating agreement.

Section 10. Section 48-4-401 is enacted to read:

Part 4. Transparency

48-4-401. Annual benefit report.

(1) A benefit company shall prepare an annual benefit report that includes:

(a) a narrative description of:

(i) the ways in which the benefit company pursued the benefit company's general public benefit purpose during the year and the extent to which general public benefit was created;

(ii) the ways in which the benefit company pursued any specific public benefit that the benefit company's certificate of organization states is the purpose of the benefit company to create and the extent to which the specific public benefit was created;

(iii) any circumstances that have hindered the benefit company's creation of general public benefit or any specific public benefit; and

(iv) the process and rationale for selecting or changing the third-party standard used to prepare the benefit report;

(b) an assessment of the overall social and environmental performance of the benefit company against a third-party standard:

(i) applied consistently with any application of the standard in prior benefit reports; or

(ii) accompanied by an explanation of the reasons for any inconsistent application; and

(c) any connection between the organization that established the third-party standard, or the organization's directors or officers, or a holder of 5% or more of the governance interests in the organization, and the benefit company or the benefit company's members, managers, or officers or any holder of 5% or more of the outstanding interests in the benefit company, including any financial or governance relationship that might materially affect the credibility of the use of the third-party standard.

(2) The assessment described in Subsection (1)(b) does not need to be audited or certified by a third party.

Section 11. Section 48-4-402 is enacted to read:

48-4-402. Availability of annual benefit report.

(1) Each year, a benefit company shall send the benefit report described in Section 48-4-401 to each member:

(a) within 120 days after the day on which the benefit company's fiscal year ends; or

(b) the day on which the benefit company delivers any other annual report to the benefit company's members.

(2) (a) Within five days after the day on which a benefit company sends a benefit report to each member in accordance with Subsection (1), the benefit company shall:

(i) subject to Subsection (2)(b), post a copy of the benefit report on a public portion of the benefit company's website; and

(ii) deliver a copy of the benefit report to the division for filing.

(b) If a benefit company does not have a website, the benefit company shall provide a copy of the benefit report, without charge, to any person who requests a copy.

(c) The benefit company may omit any financial or proprietary information from a copy of a benefit report described in Subsection (2)(a) or (b).

(d) The division may charge a fee established by the division in accordance with Section 63J-1-504 for filing an annual benefit report in accordance with this section.

CHAPTER 202**H. B. 194**

Passed March 7, 2018

Approved March 19, 2018

Effective May 8, 2018

**HAZARDOUS MATERIALS
EMERGENCY AMENDMENTS**

Chief Sponsor: Kelly B. Miles

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends certain provisions of the Utah Public Safety Code relating to recovery of expenses incurred in response to a hazardous materials emergency.

Highlighted Provisions:

This bill:

- ▶ provides that the Hazardous Chemical Emergency Response Commission may recover from a negligent party expenses incurred by a political subdivision in a hazardous materials emergency; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-2a-703, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section 53-2a-703 is amended to read:**53-2a-703. Hazardous materials emergency -- Recovery of expenses.**

(1) (a) The Hazardous Chemical Emergency Response Commission may recover from those persons whose negligent actions caused the hazardous materials emergency, expenses ~~incurred by state agencies~~ directly associated with a response to a hazardous materials emergency taken under authority of this part, Title 53, Chapter 2a, Part 1, Emergency Management Act, or Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act[-], that are incurred by:

- (i) a state agency;
- (ii) a political subdivision as defined in Subsection 53-2a-203(3); or
- (iii) an interlocal entity, described in Section 11-13-203, providing emergency services to a political subdivision pursuant to written agreement.

(b) The payment of expenses under this Subsection (1) ~~does not constitute~~ is not an admission of liability or negligence in any legal action for damages.

(c) The Hazardous Chemical Emergency Response Commission may obtain assistance from the attorney general or a county attorney of the affected jurisdiction to assist in recovering expenses and legal fees.

(d) Any recovered costs shall be deposited in the General Fund as dedicated credits to be used by the division to reimburse ~~state and local government agencies or political subdivisions~~ for the costs they have incurred an entity described in Subsection (1)(a) for costs incurred by the entity.

(2) (a) If the cost directly associated with emergency response exceeds all available funds of the division within a given fiscal year, the division, with approval from the governor, may incur a deficit in its line item budget.

(b) The Legislature shall provide a supplemental appropriation in the following year to cover the deficit.

(c) The division shall deposit all costs associated with any emergency response that are collected in subsequent fiscal years into the General Fund.

(3) Any political subdivision may enact local ordinances pursuant to existing statutory or constitutional authority to provide for the recovery of expenses incurred by the political subdivision.

CHAPTER 203**H. B. 204**

Passed March 5, 2018
Approved March 19, 2018
Effective May 8, 2018

HEALTH CARE DEBT COLLECTION

Chief Sponsor: R. Curt Webb
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions regarding health claims practices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions requiring notification by a health care provider or a third party for any action that may result in a report to a credit bureau; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-21-11.1, as enacted by Laws of Utah 2017, Chapter 321
31A-26-301.5, as last amended by Laws of Utah 2017, Chapter 321
58-1-508, as enacted by Laws of Utah 2017, Chapter 321
62A-2-112, as last amended by Laws of Utah 2017, Chapter 321

ENACTS:

31A-26-313, Utah Code Annotated 1953

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

Section 1. Section 26-21-11.1 is amended to read:**26-21-11.1. Failure to follow certain health care claims practices -- Penalties.**

(1) The department may assess a fine of up to \$500 per violation against a health care facility that violates ~~[Subsection 31A-26-301.5(4)]~~ Section 31A-26-313.

(2) The department shall waive the fine described in Subsection (1) if:

(a) the health care facility demonstrates to the department that the health care facility mitigated and reversed any damage to the insured caused by the health care ~~[facility's]~~ facility or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care facility or third party makes a report to a credit bureau or ~~[uses the services of a collection agency]~~

takes an action in violation of ~~[Subsection 31A-26-301.5(4)]~~ Section 31A-26-313.

Section 2. Section 31A-26-301.5 is amended to read:**31A-26-301.5. Health care claims practices.**

~~[(1) As used in this section:]~~

~~[(a) "Health care provider" means:]~~

~~[(i) a health care facility as defined in Section 26-21-2; or]~~

~~[(ii) a person licensed to provide health care services under:]~~

~~[(A) Title 58, Occupations and Professions; or]~~

~~[(B) Title 62A, Chapter 2, Licensure of Programs and Facilities.]~~

~~[(b) "Text message" means a real time or near real time message that consists of text and is transmitted to a device identified by a telephone number.]~~

~~[(2)]~~ (1) (a) Except as provided in Section 31A-8-407, an insured retains ultimate responsibility for paying for health care services the insured receives.

(b) If a health care service is covered by one or more individual or group health insurance policies, all insurers covering the insured have the responsibility to pay valid health care claims in a timely manner according to the terms and limits specified in the policies.

~~[(3)]~~ (2) A health care provider may:

(a) except as provided in Section 31A-22-610.1, bill and collect for any deductible, copayment, or uncovered service; and

(b) bill an insured for services covered by health insurance policies or otherwise notify the insured of the expenses covered by the policies.

~~[(4) (a) Except as provided in Subsection (4)(c), a health care provider may not make any report to a credit bureau or use the services of a collection agency unless the health care provider:]~~

~~[(i) (A) after the expiration of the time afforded to an insurer under Section 31A-26-301.6 to determine the insurer's obligation to pay or deny the claim without penalty, sends a notice described in Subsection (4)(b) to the insured by certified mail with return receipt requested, priority mail, or text message; and]~~

~~[(B) makes the report to a credit bureau or uses the services of a collection agency after the date stated in the notice in accordance with Subsection (4)(b)(ii)(A); or]~~

~~[(ii) (A) in the case of a Medicare beneficiary or retiree 65 years of age or older, after the date Medicare determines Medicare's liability for the claim, sends a notice described in Subsection (4)(b) to the insured by certified mail with return receipt requested, priority mail, or text message; and]~~

~~[(B) makes the report to a credit bureau or uses the services of a collection agency after the date~~

~~stated in the notice in accordance with Subsection (4)(b)(i)(B).]~~

~~[(b) A notice described in Subsection (4)(a) shall state:]~~

~~[(i) the amount that the insured owes;]~~

~~[(ii) the date by which the insured must pay the amount owed that is:]~~

~~[(A) at least 45 days after the day on which the health care provider sends the notice; or]~~

~~[(B) if the insured is a Medicare beneficiary or retiree 65 years of age or older, at least 60 days after the day on which the health care provider sends the notice;]~~

~~[(iii) that if the insured fails to timely pay the amount owed, the health care provider may make a report to a credit bureau or use the services of a collection agency; and]~~

~~[(iv) that each action described in Subsection (4)(b)(iii) may negatively impact the insured's credit score.]~~

~~[(c) A health care provider satisfies the requirements described in Subsections (4)(a) and (b) if the health care provider complies with the provisions of 26 C.F.R. Sec. 1.501(e)-6.]~~

~~[(5) (3) Beginning October 31, 1992, all insurers covering the insured shall notify the insured of payment and the amount of payment made to the health care provider.~~

~~[(6) (4) A health care provider shall return to an insured any amount the insured overpaid, including interest that begins accruing 90 days after the date of the overpayment, if:~~

~~(a) the insured has multiple insurers with whom the health care provider has contracts that cover the insured; and~~

~~(b) the health care provider becomes aware that the health care provider has received, for any reason, payment for a claim in an amount greater than the health care provider's contracted rate allows.~~

~~[(7) (5) (a) The commissioner shall make rules consistent with this chapter governing disclosure to the insured of customary charges by health care providers on the explanation of benefits as part of the claims payment process.~~

~~(b) These rules shall be limited to the form and content of the disclosures on the explanation of benefits, and shall include:~~

~~[(a) (i) a requirement that the method of determination of any specifically referenced customary charges and the range of the customary charges be disclosed; and~~

~~[(b) (ii) a prohibition against an implication that the health care provider is charging excessively if the health care provider is:~~

~~[(4) (A) a participating provider; and~~

~~[(ii) (B) prohibited from balance billing.~~

Section 3. Section 31A-26-313 is enacted to read:

31A-26-313. Health care collection actions -- Notification required.

(1) As used in this section:

(a) (i) "Collection action" means any action taken to recover funds that are past due or accounts that are in default:

(A) for health care services; and

(B) that directly results in an adverse report to a credit bureau.

(ii) "Collection action" includes using the services of a collection agency to engage in collection action.

(iii) "Collection action" does not include:

(A) billing or invoicing for funds that are not past due or accounts that are not in default; or

(B) providing the notice required in this section.

(b) "Credit bureau" means a consumer reporting agency as defined in 15 U.S.C. Sec. 1681a.

(c) "Text message" means a real time or near real time message that consists of text and is transmitted to a device identified by a telephone number.

(2) (a) Before engaging in a collection action, a health care provider:

(i) shall, after the day on which the period of time for an insurer to pay or deny a claim without penalty, described in Section 31A-26-301.6, expires, send a notice described in Subsection (3) to the insured by certified mail with return receipt requested, priority mail, or text message; and

(ii) for a Medicare beneficiary or retiree 65 years of age or older, shall, after the date that Medicare determines Medicare's liability for the claim, send a notice described in Subsection (3) to the insured by certified mail with return receipt requested, priority mail, or text message.

(b) A health care provider may not engage in a collection action before the date described in Subsection (3)(b) for that collection action.

(3) The notice described in Subsection (2)(a) shall state:

(a) the amount that the insured owes;

(b) the date by which the insured must pay the amount owed that is:

(i) at least 45 days after the day on which the health care provider sends the notice; or

(ii) if the insured is a Medicare beneficiary or retiree 65 years of age or older, at least 60 days after the day on which the health care provider sends the notice;

(c) that if the insured fails to timely pay the amount owed, the health care provider or a third

party may make a report to a credit bureau or use the services of a collection agency; and

(d) that each action described in Subsection (3)(c) may negatively impact the insured's credit score.

(4) A health care provider is not subject to the requirements described in Subsection (2) if the health care provider complies with the provisions of 26 C.F.R. Sec. 1.501(r)-6.

(5) A health care provider that contracts with a third party to engage in a collection action is not subject to the requirements described in Subsection (2) if:

(a) entering into the contract does not require a report to a credit bureau by either the health care provider or the third party; and

(b) the third party agrees to provide the notice in accordance with Subsection (2) before the third party may engage in any activity that directly results in a report to a credit bureau.

(6) If a third party fails to comply with the notice requirements described in this section, the health care provider that renders the health care service is liable for any penalty resulting from the noncompliance of the third party.

Section 4. Section 58-1-508 is amended to read:

58-1-508. Failure to follow certain health care claims practices -- Penalties.

(1) As used in this section, "health care provider" means an individual who is licensed to provide health care services under this title.

(2) The division may assess a fine of up to \$500 per violation against a health care provider ~~[who] that violates [Subsection 31A-26-301.5(4)]~~ Section 31A-26-313.

(3) The division shall waive the fine described in Subsection (2) if:

(a) the health care provider demonstrates to the division that the health care provider mitigated and reversed any damage to the insured caused by the health care ~~[provider's]~~ provider or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or ~~[uses the services of a collection agency]~~ takes an action in violation of [Subsection 31A-26-301.5(4)] Section 31A-26-313.

Section 5. Section 62A-2-112 is amended to read:

62A-2-112. Violations -- Penalties.

(1) As used in this section, "health care provider" means a person licensed to provide health care services under this chapter.

(2) The office may deny, place conditions on, suspend, or revoke a human services license, if it finds, related to the human services program:

(a) that there has been a failure to comply with the rules established under this chapter;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) The office may restrict or prohibit new admissions to a human services program, if it finds:

(a) that there has been a failure to comply with rules established under this chapter;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(4) (a) The office may assess a fine of up to \$500 per violation against a health care provider ~~[who] that violates [Subsection 31A-26-301.5(4)]~~ Section 31A-26-313.

(b) The office shall waive the fine described in Subsection (4)(a) if:

(i) the health care provider demonstrates to the office that the health care provider mitigated and reversed any damage to the insured caused by the health care ~~[provider's]~~ provider or third party's violation; or

(ii) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or ~~[uses the services of a collection agency]~~ takes an action in violation of [Subsection 31A-26-301.5(4)] Section 31A-26-313.

CHAPTER 204**H. B. 212**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**BUSINESS EXPANSION AND
 RETENTION INITIATIVE AMENDMENTS**

Chief Sponsor: Christine F. Watkins
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies provisions related to the Business Expansion and Retention Initiative and the Rural Fast Track Program.

Highlighted Provisions:

This bill:

- ▶ requires that a certain amount of money from the Industrial Assistance Account be available to the Rural Fast Track Program and the Business Expansion and Retention Initiative each year;
- ▶ requires the Governor's Office of Economic Development to consider a recommendation from the Governor's Rural Partnership Board when awarding financial assistance under the Rural Fast Track Program and the Business Expansion and Retention Initiative;
- ▶ describes the Business Expansion and Retention Initiative;
- ▶ defines terms; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63C-10-103, as last amended by Laws of Utah 2017, Chapter 252

63N-3-103, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-3-104, as last amended by Laws of Utah 2015, Chapter 115 and renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

63N-3-104.5, Utah Code Annotated 1953

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

Section 1. Section 63C-10-103 is amended to read:

63C-10-103. Duties.

- (1) The board shall:
- (a) serve as an advisory board to:
- (i) the governor on rural economic and planning issues; and
- (ii) the Governor's Office of Economic Development on rural economic development issues;

(b) prepare an annual strategic plan that:

(i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and

(ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i);

(c) identify local, regional, and statewide rural economic development and planning priorities;

(d) study and take input on issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration;

(e) advocate for rural needs, programs, policies, opportunities, and other issues relating to rural economic development and planning;

(f) review projects in enterprise zones proposed by nonprofit corporations headquartered in enterprise zones as described in Subsection 63N-2-213.5(6); ~~and~~

(g) review applications for cash awards, grants, loans, or other financial assistance under:

(i) the Rural Fast Track Program described in Section 63N-3-104; and

(ii) the Business Expansion and Retention Initiative described in Section 63N-3-104.5; and

~~[(g)]~~ (h) no later than October 1 of each year, submit to the governor ~~and to~~, the Legislature, and the Economic Development and Workforce Services Interim Committee an annual report, in accordance with Section 68-3-14, that provides:

(i) an overview of the rural economy in the state;

(ii) a summary of current issues and policy matters relating to rural economic development; and

(iii) a statement of the board's initiatives, programs, and economic development priorities.

(2) The board may engage in activities necessary to fulfill the board's duties, including:

(a) propose or support rural economic development legislation; and

(b) create one or more subcommittees.

Section 2. Section 63N-3-103 is amended to read:

63N-3-103. Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.

(1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account" of which:

(a) up to 50% may be used in economically disadvantaged rural areas; and

(b) up to 25% may be used to take timely advantage of economic opportunities as they arise; ~~and~~.

~~[(c) up to 4% may be used to promote business and economic development in rural areas of the state~~

with the Business Expansion and Retention Initiative.]

(2) The administrator shall administer~~[-(a)]~~ the restricted account created under Subsection (1)~~[-]~~ under the policy direction of the board~~[-and]~~.

~~[(b) the Business Expansion and Retention Initiative for the rural areas of the state.]~~

(3) The administrator may hire appropriate support staff to perform the duties required under this section.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

Section 3. Section 63N-3-104 is amended to read:

63N-3-104. Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.

(1) (a) There is created the Rural Fast Track Program.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection 63N-3-103(1)(a).

(2) [The purpose of the program is to] In awarding a grant, loan, or other financial assistance under this section, the administrator shall:

(a) consider whether the award will:

(i) provide an efficient way for small companies in rural areas of the state to receive incentives for ~~creating~~ capital investment; and

(ii) lead to the creation of high paying jobs in ~~those~~ rural areas of the state~~[-]~~; and

(b) request and consider a recommendation from the Governor's Rural Partnership Board created in Section 63C-10-102 regarding an applicant seeking a grant, loan, or other financial assistance under Subsection (5)(d).

(3) (a) ~~[Twenty percent of the unencumbered amount in] Subject to available funds in the restricted account, at least \$1,500,000 from the Industrial Assistance Account created in Subsection 63N-3-103(1) [at the beginning of each fiscal year]~~ shall be used to fund the program at the beginning of each fiscal year.

(b) The [20%] amount referred to in Subsection (3)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection 63N-3-103(1)(a).

(c) If any of the [20% allocation] funding referred to in Subsection (3)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other

loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(4) (a) To qualify for participation in the program a company:

(i) shall complete and file with the office an application for participation in the program, signed by an officer of the company;

(ii) shall be located and conduct its business operations in a county in the state of the third, fourth, fifth, or sixth class as described in Section 17-50-501;

(iii) ~~[which]~~ that is located and conducts its business operations in a county of the third class ~~[county]~~ as described in Section 17-50-501, may not be located and conduct its business operations within a city that has a:

(A) population of more than 20,000; or

(B) median household income of more than \$70,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;

(iv) shall have been in business in the state for at least two years; and

(v) shall have at least two employees.

(b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

(ii) The application must be approved by the administrator in order for a company to receive an incentive or other assistance under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (4)(a)(i);

(ii) who qualifies as an employee under Subsection (4)(a)~~(iv)~~(v); and

(iii) the verification procedure referred to in Subsection (4)(b).

(5) (a) The administrator shall make incentive cash awards to small companies under this section based on the following criteria:

(i) \$1,000 for each new incremental job that pays over 110% of the county's median annual wage;

(ii) \$1,250 for each incremental job that pays over 115% of the county's median annual wage; and

(iii) \$1,500 for each incremental job that pays over 125% of the county's median annual wage.

(b) The administrator shall make a cash award under Subsection (5)(a) when a new incremental job has been in place for at least 12 months.

(c) The creation of a new incremental job by a company is based on the number of employees at the company during the previous 24 months.

(d) ~~(i)~~ A small company may also apply for grants, loans, or other financial assistance under

the program for capital investment to help develop its business in rural Utah and may receive:

(i) up to \$50,000 under the program if approved by the administrator[-]; or

~~(ii) The board must approve a distribution that exceeds the \$50,000 cap under Subsection (5)(d)(i).~~

(ii) over \$50,000 under the program if approved by the administrator and the board.

(6) The administrator shall make ~~a quarterly~~ an annual report to the board of the awards made by the administrator under this section and submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section 63N-1-301.

Section 4. Section 63N-3-104.5 is enacted to read:

63N-3-104.5. Business Expansion and Retention Initiative -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.

(1) As used in this section:

(a) "Business resource centers" means the same as that term is defined in Section 63N-3-303.

(b) "Rural economic development entity" means a public, nonprofit, or private organization primarily engaged in economic development efforts in a rural area of the state, and may include:

(i) county, city, or tribal economic development offices;

(ii) associations of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(iii) business resource centers; or

(iv) small business development centers, established under the United States Small Business Administration's small business development center program.

(2) (a) There is created the Business Expansion and Retention Initiative.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection 63N-3-103(1)(a).

(3) In awarding a grant under this section, the administrator shall:

(a) consider whether the grant will:

(i) assist new and existing rural businesses;

(ii) influence rural job creation; and

(iii) diversify Utah's rural economies; and

(b) request and consider a recommendation from the Governor's Rural Partnership Board created in Section 63C-10-102 regarding an applicant seeking financial assistance under this section.

(4) (a) Subject to available funds in the restricted account, at least \$350,000 from the Industrial Assistance Account created in Subsection 63N-3-103(1) shall be used to fund the program at the beginning of each fiscal year.

(b) The amount referred to in Subsection (4)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection 63N-3-103(1)(a).

(c) If any of the funding referred to in Subsection (4)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(5) (a) To qualify for participation in the program a rural economic development entity:

(i) shall complete and file with the office an application for participation in the program;

(ii) shall be located and conduct its operations in a county in the state of the third, fourth, fifth, or sixth class as described in Section 17-50-501; and

(iii) that is located and conducts its operations in a county of the third class as described in Section 17-50-501, may not be located and conduct its operations within a city that has a:

(A) population of more than 20,000; or

(B) median household income of more than \$70,000 as reflected in the most recently available data collected and reported by the United States Census Bureau.

(b) (i) The office shall verify an applicant's qualifications under Subsection (5)(a).

(ii) The application must be approved by the administrator in order for a rural economic development entity to receive a grant under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (5)(a)(i); and

(ii) the verification procedure referred to in Subsection (5)(b).

(6) The board may issue a grant of no more than \$30,000 to a single rural economic development entity under this section in any calendar year.

(7) A rural economic development entity shall use a grant awarded under this section to:

(a) conduct outreach and information gathering efforts to better understand the needs of local businesses; or

(b) engage in other activity approved by the administrator that is intended to expand or retain businesses in a rural area of the state.

(8) The administrator shall make an annual report to the board of the awards made by the

administrator under this section and submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section 63N-1-301.

CHAPTER 205**H. B. 217**

Passed March 6, 2018
 Approved March 19, 2018
 Effective May 8, 2018

PERSONAL DELIVERY DEVICES

Chief Sponsor: Stewart E. Barlow
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies the traffic code to address personal delivery devices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for when and where a personal delivery device may be operated;
- ▶ imposes limitations on a personal delivery device operator;
- ▶ imposes the rights and obligations applicable to a pedestrian on a personal delivery device with exceptions;
- ▶ provides for the responsibility of an eligible entity; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-102, as last amended by Laws of Utah 2016, Chapters 40 and 173

ENACTS:

41-6a-1119, Utah Code Annotated 1953

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

Section 1. Section 41-6a-102 is amended to read:**41-6a-102. Definitions.**

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) "Full-sized all-terrain vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width that, when measured at the widest point of the vehicle:

(A) is not less than 55 inches; or

(B) does not exceed 92 inches;

(iii) having an unladen dry weight of 6,500 pounds or less;

(iv) having a maximum seat height of 50 inches when measured at the forward edge of the seat bottom; and

(v) having a steering wheel for control.

(b) "Full-sized all-terrain vehicle" does not include:

(i) all-terrain type I vehicle;

(ii) a utility type vehicle;

(iii) a motorcycle; or

(iv) a snowmobile as defined in Section 41-22-2.

(24) "Gore area" means the area delineated by two solid white lines that is between a continuing

lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(25) “Gross weight” means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(26) “Highway” means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(27) “Highway authority” means the same as that term is defined in Section 72-1-102.

(28) (a) “Intersection” means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) “Intersection” does not include the junction of an alley with a street or highway.

(29) “Island” means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(30) “Law enforcement agency” means the same as that term is as defined in Section 53-1-102.

(31) “Limited access highway” means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(32) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(33) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

(34) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(35) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(36) “Mobile home” means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (36)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(37) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) “Moped” includes a motor assisted scooter.

(d) “Moped” does not include an electric assisted bicycle.

(38) (a) “Motor assisted scooter” means a self-propelled device with:

- (i) at least two wheels in contact with the ground;
- (ii) a braking system capable of stopping the unit under typical operating conditions;
- (iii) a gas or electric motor not exceeding 40 cubic centimeters;
- (iv) either:
 - (A) a deck design for a person to stand while operating the device; or
 - (B) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and
- (v) a design for the ability to be propelled by human power alone.

(b) “Motor assisted scooter” does not include an electric assisted bicycle.

(39) “Motorcycle” means:

- (a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or
- (b) an auticycle.

(40) (a) “Motor-driven cycle” means every motorcycle, motor scooter, moped, motor assisted scooter, and every motorized bicycle having:

- (i) an engine with less than 150 cubic centimeters displacement; or
 - (ii) a motor that produces not more than five horsepower.
- (b) “Motor-driven cycle” does not include:
- (i) an electric personal assistive mobility device; or
 - (ii) an electric assisted bicycle.

(41) (a) “Motor vehicle” means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) “Motor vehicle” does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assistive mobility device, [ø] an electric assisted bicycle, or a personal delivery device, as defined in Section 41-6a-1119.

(42) “Off-highway implement of husbandry” means the same as that term is defined under Section 41-22-2.

(43) “Off-highway vehicle” means the same as that term is defined under Section 41-22-2.

(44) “Operator” means a person who is in actual physical control of a vehicle.

(45) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.

(b) “Park” or “parking” does not include the standing of a vehicle temporarily for the purpose of

and while actually engaged in loading or unloading property or passengers.

(46) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(47) “Pedestrian” means a person traveling:

- (a) on foot; or
- (b) in a wheelchair.

(48) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.

(49) “Person” means every natural person, firm, copartnership, association, or corporation.

(50) “Pole trailer” means every vehicle without motive power:

- (a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and
- (b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(51) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(52) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.

(53) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(54) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(55) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(56) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(57) “Safety zone” means the area or space officially set apart within a roadway for the

exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(58) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(59) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(60) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(61) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(62) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(63) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(64) "Stop" when required means complete cessation from movement.

(65) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(66) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, utility type vehicle, or full-sized all-terrain vehicle that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(67) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(68) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(69) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(70) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(71) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

(72) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(73) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(74) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

(75) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(76) (a) "Utility type vehicle" means any recreational vehicle designed for and capable of travel over unimproved terrain:

(i) traveling on four or more tires;

(ii) having a width that, when measured at the widest point of the vehicle:

(A) is not less than 30 inches; or

(B) does not exceed 70 inches;

(iii) having an unladen dry weight of 2,200 pounds or less;

(iv) having a seat height of 20 to 40 inches when measured at the forward edge of the seat bottom; and

(v) having side-by-side seating with a steering wheel for control.

(b) “Utility type vehicle” does not include:

(i) an all-terrain type I vehicle;

(ii) a motorcycle; or

(iii) a snowmobile as defined in Section 41-22-2.

(77) “Vehicle” means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1119 is enacted to read:

41-6a-1119. Personal delivery device.

(1) As used in this section:

(a) “Eligible entity” means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(b) “Hazardous material” means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(c) “Personal delivery device” means an electrically powered device to which all of the following apply:

(i) the device is intended primarily to transport property on a sidewalk or crosswalk;

(ii) the device weighs less than 150 pounds excluding any property being carried in the device, except that a local highway authority may allow a device within the local highway authority’s jurisdiction to exceed this weight limit through a local permit or local ordinance;

(iii) the device has a maximum speed of 10 miles per hour; and

(iv) the device is equipped with technology that enables the operation of the device:

(A) with active control or monitoring by a person;

(B) without active control or monitoring by a person; or

(C) both with or without active control or monitoring by a person.

(d) (i) “Personal delivery device operator” means an employee or agent of an eligible entity who exercises active physical control over, or monitoring of, the navigation and operation of a personal delivery device.

(ii) “Personal delivery device operator” does not include:

(A) with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(B) a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(2) An eligible entity may operate a personal delivery device on a sidewalk or crosswalk so long as all of the following requirements are met:

(a) the personal delivery device is operated in accordance with the local ordinances, if any, established by the local highway authority governing where the personal delivery device is operated;

(b) a personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device;

(c) the eligible entity maintains an insurance policy that includes general liability coverage of not less than \$100,000 for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity; and

(d) the personal delivery device is equipped with all of the following:

(i) a marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;

(ii) a braking system that enables the personal delivery device to come to a controlled stop; and

(iii) if the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible on all sides of the personal delivery device in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(3) A personal delivery device operator may not allow a personal delivery device to do any of the following:

(a) fail to comply with traffic or pedestrian control devices and signals;

(b) unreasonably interfere with pedestrians or traffic;

(c) transport hazardous material; or

(d) operate on a street or highway, except when crossing the street or highway within a crosswalk.

(4) A personal delivery device has the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk.

(5) A person may not operate a personal delivery device unless the person complies with this section.

(6) An eligible entity is responsible for both of the following:

(a) a violation of this section that is committed by a personal delivery device operator operated for the benefit of the eligible entity; and

(b) any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by Subsection (3).

(7) A violation of this section is an infraction.

CHAPTER 206**H. B. 218**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

MODIFICATIONS TO ELECTION LAW

Chief Sponsor: Rebecca Chavez-Houck
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions of the Election Code.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides that an otherwise eligible voter may register to vote, and vote, by casting a provisional ballot on election day or during the early voting period;
- ▶ amends provisions relating to voter registration deadlines and the information provided to applicants for voter registration;
- ▶ changes the deadline for filing an absentee ballot application and for casting an absentee ballot in person;
- ▶ amends provisions for removing a voter from the absentee ballot list;
- ▶ requires the lieutenant governor to report to the Government Operations Interim Committee regarding implementation of the provisions of this bill;
- ▶ simplifies the process by which an individual may register to vote when the individual applies for or renews the individual's driver license or state identification card;
- ▶ allows an individual to register as an absentee voter when the individual applies for or renews the individual's driver license or state identification card;
- ▶ allows any individual to request that the individual's voter registration record be classified as a private record;
- ▶ allows certain information in a driver license or state identification card application form to be used for voter registration purposes;
- ▶ amends provisions relating to the process by which a voter may request that the voter's voter registration record be classified as a private record;
- ▶ requires a county clerk to send certain information to an individual who registers to vote;
- ▶ provides certain requirements for conducting an election by absentee ballot;
- ▶ requires a county that conducts an election by absentee ballot to provide a certain number of polling places on the date of an election; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 20A-2-102.5, as last amended by Laws of Utah 2014, Chapters 98 and 231
- 20A-2-104, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-108, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-201, as last amended by Laws of Utah 2015, Chapters 130 and 394
- 20A-2-202, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-204, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-205, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-206, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-304, as last amended by Laws of Utah 2017, Chapter 91
- 20A-2-306, as last amended by Laws of Utah 2017, Chapter 52
- 20A-2-307, as last amended by Laws of Utah 2015, Chapter 79
- 20A-3-302, as last amended by Laws of Utah 2017, Chapters 235, 327 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 327
- 20A-3-304, as last amended by Laws of Utah 2015, Chapter 394
- 20A-3-306, as last amended by Laws of Utah 2015, Chapter 124
- 20A-3-601, as last amended by Laws of Utah 2017, Chapter 58
- 20A-3-605, as last amended by Laws of Utah 2013, Chapter 320
- 20A-4-107, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231
- 20A-6-105, as last amended by Laws of Utah 2014, Chapter 373
- 63G-2-302, as last amended by Laws of Utah 2017, Chapters 168 and 282

ENACTS:

20A-2-207, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

- 20A-3-601, as last amended by Laws of Utah 2017, Chapter 58
- 20A-4-107, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

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

Section 1. Section 20A-2-102.5 is amended to read:**20A-2-102.5. Voter registration deadline.**

(1) Except as provided in Section 20A-2-201, 20A-2-204, 20A-2-206, 20A-2-207, or 20A-4-107, or Chapter 16, Uniform Military and Overseas Voters Act, a person who fails to submit a correctly completed voter registration form on or before the voter registration deadline may not vote in the election.

(2) The voter registration deadline is 30 calendar days before the date of the election.

Section 2. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America?
Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day?
Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote?
Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox) Unaffiliated (no political party preference)

Other (Please specify) _____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately

before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn _____
Voter's Signature

(month/day/year).

"The portion of a voter registration form that lists a person's driver license or identification card number, Social Security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you]~~ You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____
Voting Precinct _____
Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party; or

(vi) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the date of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vi)(A), to whom a date of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the date of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i) or (v), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the date of birth of a registered voter that is

obtained from the list of registered voters, will only use the date of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth for a political purpose.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the dates of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the dates of birth;

(D) a list of the purposes for which the date of birth of a registered voter that is obtained from the list of registered voters may be used;

(E) a statement that the date of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the date of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the date of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the date of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the date of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(~~k~~)(j); or

(ii) will provide or use the date of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person,

or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(f) to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(e) A person is guilty of a class A misdemeanor if the person:

(i) obtains the date of birth of a registered voter from the list of registered voters under false pretenses; or

(ii) uses or provides the date of birth of a registered voter that is obtained from the list of registered voters, in a manner that is not permitted by law.

(f) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter submits ~~:(i)~~ a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private ~~;~~ and ~~].~~

~~[(ii) provides evidence to the lieutenant governor or a county clerk establishing that release of the information on the voter's voter registration record is likely to put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a member of the voter's household at risk of being stalked or harassed.]~~

~~[(g) The evidence described in Subsection (4)(f) may include:]~~

~~[(i) a protective order;]~~

~~[(ii) a police report; or]~~

~~[(iii) other evidence designated by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor.]~~

~~[(h) (g) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who obtains the date of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses a date of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law, in an amount equal to the greater of:~~

~~(i) the product of 30 and the square root of the total number of dates of birth obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or~~

~~(ii) \$200.~~

~~[(i) (h) A qualified person may not obtain, provide, or use the date of birth of a registered voter, if the date of birth is obtained from the list of registered voters or from a voter registration record, unless the person:~~

~~(i) is a government official or government employee who obtains, provides, or uses the date of~~

birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the date of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) and obtains, provides, or uses the date of birth for a political purpose; or

(iv) is a qualified person described in Subsection (4)(a)(vi) and obtains, provides, or uses the date of birth to provide the date of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

~~[(j) (i) A person who is not a qualified person may not obtain, provide, or use the date of birth of a registered voter, if the date of birth is obtained from the list of registered voters or from a voter registration record, unless the person:~~

~~(i) is a candidate for public office and uses the date of birth only for a political purpose; or~~

~~(ii) obtains the date of birth from a political party or a candidate for public office and uses the date of birth only for the purpose of assisting the political party or candidate for public office to fulfill a political purpose.~~

~~[(k) (j) The lieutenant governor or a county clerk may provide a date of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.~~

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 3. Section 20A-2-108 is amended to read:

20A-2-108. Driver license or state identification card registration form -- Transmittal of information.

(1) As used in this section, "qualifying form" means:

- (a) a driver license application form; or
- (b) a state identification card application form.

~~[(4)] (2) The lieutenant governor and the Driver License Division shall design [the driver license application and renewal forms to include the following questions:] each qualifying form to include:~~

(a) the following question, which an applicant is required to answer: "Do you authorize the use of information in this form for voter registration purposes? YES ___ NO ___";

(b) the following question, which an applicant is required to answer if the applicant answers "yes" to the question described in Subsection (2)(a): "Any voter may register as an absentee voter to receive ballots by mail. A voter may change this designation at any time. Would you like to be registered as an absentee voter to receive your ballots by mail? YES ___ NO ___"; and

(c) the following statement: "You may request that your voter registration record be classified as a private record by indicating here: ___ Yes, I would like to request that my voter registration record be classified as a private record."

~~[(a) "If you are not registered to vote where you live now, would you like to register to vote today?"; and]~~

~~[(b) "If you are 16 or 17 years of age, and will not be 18 years of age before the date of the next election, would you like to preregister to vote today?"]~~

~~[(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.]~~

~~[(b) Each driver license application and renewal form shall contain:]~~

~~[(i) a place for the applicant to decline to register or preregister to vote;]~~

~~[(ii) an eligibility statement in substantially the following form:]~~

~~["I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election.][Signed and sworn]~~

~~[_____]
Voter's Signature]~~

~~[_____(month\day\year)";]~~

~~[(iii) a citizenship affidavit in substantially the following form:]~~

~~["CITIZENSHIP AFFIDAVIT][Name:][Name at birth, if different:][Place of birth:][Date of birth:][Date and place of naturalization (if applicable):]~~

~~[I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.]~~

~~[_____
[Signature of Applicant]~~

~~[In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500;]~~

~~(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:~~

~~(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;~~

~~(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;~~

~~[(iv)] (c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;~~

~~[(v)] (d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and~~

~~(e) if the applicant answers "yes" to the question described in Subsection (2)(a), a space where an individual may, if desired:~~

~~(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;~~

~~(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or~~

~~(iii) indicate that the individual does not wish to affiliate with a political party.~~

~~[(vi) the following statement:]~~

~~["The portion of a voter registration form that lists a person's driver license or identification card number, Social Security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.]~~

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your~~

household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."]

[~~(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:~~

~~(a) review the voter registration form for completeness and accuracy; and]~~

~~(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.]~~

Section 4. Section 20A-2-201 is amended to read:

20A-2-201. Registering to vote at office of county clerk.

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If an individual who is registering to vote submits a registration form in person at the office of the county clerk during designated office hours, during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept the form if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform the individual that the individual will be registered to vote in the pending election.

(3) If an individual who is registering to vote and who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) (i) if ~~[it is]~~ the individual submits the registration form seven or more calendar days before the date of an election, inform the individual that:

(A) ~~[inform the individual that]~~ the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election [and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting] or by provisional ballot, under Section 20A-2-207, during the early voting period

described in Section 20A-3-601, because the individual registered ~~[too] late; or~~

(ii) ~~[except as provided in Subsection 20A-4-108(5), if it is]~~ if the individual submits the registration form on the date of an election or during the six calendar days before an election, inform the individual [that the individual]:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (3)(b)(ii)(A), the individual will be registered to vote but may not vote in the pending election because the individual registered ~~[too] late.~~

Section 5. Section 20A-2-202 is amended to read:

20A-2-202. Registration by mail.

(1) (a) A citizen who will be qualified to vote at the next election may register by mail.

(b) To register by mail, a citizen shall complete and sign the by-mail registration form and mail or deliver it to the county clerk of the county in which the citizen resides.

(c) In order to register to vote in a particular election, the citizen shall:

(i) address the by-mail voter registration form to the county clerk; and

(ii) ensure that ~~[it]~~ the by-mail voter registration form is postmarked on or before the voter registration deadline or is otherwise marked by the post office as received by the post office on or before the voter registration deadline.

(d) The citizen has effectively registered to vote under this section only when the county clerk's office has received a correctly completed by-mail voter registration form.

(2) Upon receipt of a correctly completed by-mail voter registration form, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) mail confirmation of registration to the newly registered voter after entering the applicant's voting precinct number on that copy.

(3) ~~[(a)]~~ If the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, and is not otherwise marked by the post office as received by the post office before the voter registration deadline, the county clerk shall[, unless]:

(a) if the individual named in the form is preregistering to vote~~[-(i)]~~, comply with Section 20A-2-101.1; or

(b) (i) unless the individual timely registers to vote in the current election in a manner that

permits registration after the voter registration deadline, register the [applicant] individual after the next election; and

(ii) if possible, promptly ~~[phone or]~~ mail a notice to, or otherwise notify, the [applicant] individual before the election, informing the ~~[applicant that his]~~ individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (3)(b)(ii)(A), the individual's registration will not be effective until after the election.

~~[(b)]~~ (4) When the county clerk receives a correctly completed by-mail voter registration form at least seven days before an election that is postmarked on or before the date of the voter registration deadline, or is otherwise marked by the post office as received by the post office on or before the voter registration deadline, the county clerk shall:

~~[(i)]~~ (a) process the by-mail voter registration form; and

~~[(ii)]~~ (b) record the new voter in the official register.

~~[(4)]~~ (5) If the county clerk determines that a registration form received by mail or otherwise is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the person attempting to register or preregister, stating that the person has not been registered or preregistered because of an error or because the form is incomplete.

Section 6. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means ~~[the driver license application/voter registration form and the driver license renewal/voter registration form required by Section 20A-2-108.],~~ when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) ~~[Any]~~ A citizen who is qualified to vote may register to vote, and ~~[any]~~ a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(3) The Driver License Division shall:

(a) assist [applicants] an individual in completing the voter registration form unless the [applicant] individual refuses assistance;

~~[(b)]~~ accept a completed voter registration form and transmit the form to the county clerk of the county in which the applicant resides within five days after the day on which the division receives the form;

~~[(e)]~~ (b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

~~[(d)]~~ transmit electronically to the lieutenant governor's office the name, address, birth date, and driver license number of each individual who answers "yes" to a question described in Subsection 20A-2-108(1), and indicate whether the individual is registering or preregistering to vote.]

~~[(4) (a)]~~ Upon receipt of a correctly completed voter registration form from an individual who is registering to vote, the county clerk shall:

~~[(i)]~~ enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and]

~~[(ii)]~~ notify the applicant of registration.]

~~[(b)]~~ Upon receipt of a correctly completed voter registration form from an individual who is preregistering to vote, the county clerk shall]

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; and

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(c).

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

~~[(5) (a) If the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall, unless]~~

~~[the individual named in the form is preregistering to vote: (i)]~~

~~[register the applicant after the next election; and]~~

~~[(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the applicant that his]~~

~~[registration will not be effective until after the election.]~~

~~[(b) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:]~~

~~[(i) process the voter registration form; and]~~

~~[(ii) record the new voter in the official register.]~~

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that the individual is registered to vote in the pending election.

(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(d) If the county clerk receives a correctly completed voter registration form under this section during the six calendar days before an election, the county clerk shall:

(i) accept the application for registration of the individual; and

(ii) unless the individual is preregistering to vote, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (7)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

~~[(6)] (7) (a) If the county clerk determines that [a] an individual's voter registration form received from the Driver License Division is incorrect because of an error [ø], because [it] the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual [attempting to register or preregister to vote,] stating that the individual has not been registered or preregistered because of an error [ø], because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote.~~

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 7. Section 20A-2-205 is amended to read:

20A-2-205. Registration at voter registration agencies.

(1) As used in this section:

(a) "Discretionary voter registration agency" means the same as that term is defined in Section 20A-2-300.5.

(b) "Public assistance agency" means each office in Utah that provides:

(i) public assistance; or

(ii) state funded programs primarily engaged in providing services to people with disabilities.

(2) An individual may obtain and complete a by-mail registration form at a public assistance agency or discretionary voter registration agency.

(3) Each public assistance agency and discretionary voter registration agency shall provide, either as part of existing forms or on a separate form, the following information in substantially the following form:

“REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register or preregister to vote here today? (The decision of whether to register or preregister to vote will not affect the amount of assistance that you will be provided by this agency.) Yes ___ No ___

IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER OR PREREGISTER TO VOTE AT THIS TIME. If you would like help in filling out the voter registration form, we will help you. The decision about whether to seek or accept help is yours. You may fill out the application form in private. If you believe that someone has interfered with your right to register or preregister or to decline to register or preregister to vote, your right to privacy in deciding whether to register or preregister, or in applying to register or preregister to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor).”

(4) Unless a person applying for service or assistance from a public assistance agency or discretionary voter registration agency declines, in writing, to register or preregister to vote, each public assistance agency and discretionary voter registration agency shall:

(a) distribute a by-mail voter registration form with each application for service or assistance provided by the agency or office;

(b) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(c) accept completed forms for transmittal to the appropriate election official; and

(d) transmit a copy of each voter registration form to the appropriate election official within five days after it is received by the division.

(5) A person in a public assistance agency or a discretionary voter registration agency that helps a person complete the voter registration form may not:

(a) seek to influence an applicant’s political preference or party registration;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action that has the purpose or effect of discouraging the applicant from registering to vote; or

(d) make any statement to an applicant or take any action that has the purpose or effect of leading the applicant to believe that a decision of whether to register or preregister has any bearing upon the availability of services or benefits.

(6) Upon receipt of a correctly completed voter registration form, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) enter the applicant’s name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) notify the applicant of registration.

(7) [~~(a)~~] If the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall [~~unless~~]:

(a) if the individual named in the form is preregistering to vote [~~or~~], comply with Section 20A-2-101.1; or

(b) (i) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, register the [applicant] individual after the next election; and

(ii) if possible, promptly phone or mail a notice to the [applicant] individual before the election, informing the [applicant that his] individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (7)(b)(ii)(A), the individual’s registration will not be effective until after the election.

[~~(b)~~] (8) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall:

[~~(i)~~] (a) process the voter registration form; and

[~~(ii)~~] (b) record the new voter in the official register.

[~~(8)~~] (9) If the county clerk determines that a voter registration form received from a public assistance agency or discretionary voter registration agency is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the individual attempting to register or preregister to vote, stating that the individual has not been registered or preregistered to vote because of an error or because the form is incomplete.

Section 8. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration -- Requests for absentee ballot application.

(1) The lieutenant governor may create and maintain an electronic system that is publicly

available on the Internet for an individual to apply for voter registration or preregistration and for an individual to request an absentee ballot.

(2) An electronic system for voter registration or preregistration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration or preregistration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(6) The lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) ~~(a)~~ If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall, unless the individual is preregistering to vote:

~~(i)~~ (a) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

~~(ii)~~ (b) inform the individual that the individual is registered to vote in the pending election.

~~(b)~~ (9) If an individual applies to register under this section during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election, the county clerk shall, unless the individual is preregistering to vote:

~~(i)~~ (a) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

~~(ii)~~ (b) inform the individual that:

~~(A)~~ (i) the individual is registered to vote in the pending election; and

~~(B)~~ (ii) for the pending election, the individual must vote on the day of the election ~~and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late~~ or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

~~(e)~~ (10) If an individual applies to register under this section during the six calendar days before an election, the county clerk shall ~~unless~~:

(a) if the individual is preregistering to vote ~~(i)~~, comply with Section 20A-2-101.1; or

(b) (i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, inform the individual ~~that the individual~~:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (10)(b)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered ~~late~~.

~~(9)~~ (11) (a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

Section 9. Section 20A-2-207 is enacted to read:

20A-2-207. Registration by provisional ballot.

(1) An individual who is not registered to vote may register to vote, and vote, on election day or during the early voting period described in Section 20A-3-601, by voting a provisional ballot, if:

(a) the individual is otherwise legally entitled to vote the ballot;

(b) the ballot is identical to the ballot for the precinct in which the individual resides;

(c) the information on the provisional ballot form is complete; and

(d) the individual provides valid voter identification and proof of residence to the poll worker.

(2) If a provisional ballot and the individual who voted the ballot comply with the requirements described in Subsection (1), the election officer shall:

(a) consider the provisional ballot a voter registration form;

(b) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(c) as soon as reasonably possible, register the individual to vote.

(3) Except as provided in Subsection (4), the election officer shall retain a provisional ballot form, uncounted, for the period specified in Section 20A-4-202, if the election officer determines that the individual who voted the ballot:

(a) is not registered to vote and is not eligible for registration under this section; or

(b) is not legally entitled to vote the ballot that the individual voted.

(4) Subsection (3) does not apply if a court orders the election officer to produce or count the provisional ballot.

(5) The lieutenant governor shall report to the Government Operations Interim Committee on or before October 31, 2018, and on or before October 31, 2020, regarding:

(a) implementation of registration by provisional ballot, as described in this section, on a statewide basis;

(b) any difficulties resulting from the implementation described in Subsection (5)(a);

(c) the effect of registration by provisional ballot on voter participation in Utah;

(d) the number of ballots cast by voters who registered by provisional ballot:

(i) during the early voting period described in Section 20A-3-601; and

(ii) on election day; and

(e) suggested changes in the law relating to registration by provisional ballot.

Section 10. Section 20A-2-304 is amended to read:

20A-2-304. County clerk's responsibilities -- Notice of disposition.

Each county clerk shall:

(1) register to vote each ~~applicant for registration~~ individual who meets the requirements for registration and who:

(a) submits a completed voter registration form to the county clerk ~~on or before the voter registration deadline~~;

(b) submits a completed voter registration form, as defined in Section 20A-2-204, to the Driver License Division^[,];

(c) submits a completed voter registration form to a public assistance agency^[,] or a discretionary voter registration agency ~~on or before the voter registration deadline~~; or

~~[(e)]~~ (d) mails a completed by-mail voter registration form to the county clerk ~~on or before the voter registration deadline~~; and

(2) within 30 days after the day on which the county clerk processes a voter registration ~~application~~ form, send a notice to the individual who submits the ~~application~~ form that:

(a) (i) informs the individual that the individual's ~~application for~~ voter registration form has been accepted and that the individual is registered to vote;

(ii) informs the individual of the procedure for designating or changing the individual's political affiliation; and

(iii) informs the individual of the procedure to cancel a voter registration;

(b) informs the individual that the individual's ~~application for~~ voter registration form has been rejected and the reason for the rejection; or

(c) (i) informs the individual that the ~~application for~~ individual's voter registration form is being returned to the individual for further action because the ~~application~~ form is incomplete; and

(ii) gives instructions to the individual on how to properly complete the ~~application~~ form.

Section 11. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

Street	City	County	State	Zip
--------	------	--------	-------	-----

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

Signature of Voter"

"The portion of a voter registration form that lists a person's driver license or identification card number, social security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to

government officials, government employees, political parties, or certain other persons.

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you]~~ You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

Section 12. Section 20A-2-307 is amended to read:

20A-2-307. County clerks' instructions to election judges.

(1) Each county clerk shall instruct election judges to allow a voter to vote a regular ballot if:

(a) the voter has moved from one address within a voting precinct to another address within the same voting precinct; and

(b) the voter affirms the change of address orally or in writing before the election judges.

(2) Each county clerk shall instruct election judges to allow ~~[a person]~~ an individual to vote a provisional ballot if:

(a) the individual is not registered to vote, but is otherwise legally entitled to vote under Section 20A-2-207;

~~[(a)]~~ (b) the voter's name does not appear on the official register; or

~~[(b)]~~ (c) the voter is challenged as provided in Section ~~20A-3-202~~.

Section 13. Section 20A-3-302 is amended to read:

20A-3-302. Conducting election by absentee ballot.

(1) (a) Notwithstanding Section 17B-1-306, an election officer may administer an election ~~[entirely]~~ by absentee ballot under this section.

(b) An election officer who administers an election ~~[entirely]~~ by absentee ballot, except for an election conducted under Section 20A-7-609.5, shall, before the following dates, notify the lieutenant governor that the election will be administered ~~[entirely]~~ by absentee ballot:

(i) February 1 of an even-numbered year if the election is a regular general election; or

(ii) May 1 of an odd-numbered year if the election is a municipal general election.

(2) ~~[If the]~~ An election officer ~~[decides to administer]~~ who administers an election ~~[entirely]~~ by absentee ballot~~[-, the election officer]:~~

(a) shall mail to each ~~[registered]~~ active voter within ~~[that]~~ a voting precinct:

~~[(a)]~~ (i) an absentee ballot;

~~[(b)]~~ (ii) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;

~~[(c)]~~ (iii) a courtesy reply mail envelope;

~~[(d)]~~ (iv) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

~~[(e)]~~ (v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election~~[-]; and~~

(b) may not mail an absentee ballot under this section to:

(i) an inactive voter; or

(ii) a voter whom the election officer is prohibited from sending an absentee ballot under Subsection (8)(c)(ii).

(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election ~~[entirely]~~ by absentee ballot shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(5) Upon receipt of a returned absentee ballot, the election officer shall review and process the ballot under Section 20A-3-308.

(6) A county that administers an election ~~[entirely]~~ by absentee ballot:

(a) shall provide at least one election day voting center in accordance with Title 20A, Chapter 3, Part 7, Election Day Voting Center, for every 5,000 active voters in the county who will not receive an absentee ballot, but not fewer than one election day voting center;

(b) shall ensure that ~~[an]~~ each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-6-301, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604;

~~[(e)]~~ (d) is not required to pay return postage for an absentee ballot; and

~~[(d)]~~ (e) is subject to an audit conducted under Subsection (7).

(7) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (7)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (7) on the lieutenant governor's website.

(8) (a) An individual in a jurisdiction that conducts an election by absentee ballot may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (8)(a) to the election officer

at least 60 days before an election if the individual does not wish to receive an absentee ballot in that election.

(c) An election officer who receives a request from an individual under Subsection (8)(a):

(i) shall remove the individual's name from the list of voters who will receive an absentee ballot; and

(ii) may not send the individual an absentee ballot for:

(A) the next election, if the individual submits the request described in Subsection (8)(a) before the deadline described in Subsection (8)(b); or

(B) an election after the election described in Subsection (8)(c)(ii)(A).

(d) An individual who submits a request under Subsection (8)(a) may resume the individual's receipt of an absentee ballot in an election conducted under this section by filing an absentee ballot request under Section 20A-3-304.

Section 14. Section 20A-3-304 is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) (a) ~~Any~~ A registered voter who wishes to vote an absentee ballot may ~~either:~~(i) file an absentee ballot application:

~~[(A)]~~ (i) on the electronic system maintained by the lieutenant governor under Section 20A-2-206; ~~or~~

~~[(B)]~~ (ii) with the appropriate election officer for an official absentee ballot as provided in this section; or

(iii) by answering "yes" to the question described in Subsection 20A-2-108(2)(a) when registering to vote while filing a driver license or state identification card application.

~~[(ii)]~~ (b) An absentee voter may vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.

~~[(b)]~~ (c) A person that collects a completed absentee ballot application from a registered voter shall file the completed absentee ballot application with the appropriate election official before the earlier of:

(i) 14 days after the day on which the registered voter signed the absentee ballot form; or

(ii) the ~~Thursday~~ Tuesday before the next election.

(2) As it relates to an absentee ballot application to be filled out entirely by the voter:

(a) except as provided in Subsection (2)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, ____, a qualified elector, residing at ____ Street, ____ City, ____ County, Utah apply for an official absentee ballot to be voted by me at the election.

Date _____ (month \ day \ year)

Signed _____
Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

"I, ____, a qualified elector, residing at ____ Street, ____ City, ____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated _____ (month \ day \ year) ____

Signed _____
Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

(3) If requested by the applicant, the election officer shall:

(a) mail or fax the application form to the absentee voter; or

(b) deliver the application form to any voter who personally applies for it at the office of the election officer.

(4) As it relates to an absentee ballot application to be filled out for, and finished and signed by, a voter:

(a) except as provided in Subsection (4)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the [~~Thursday~~] Tuesday before the next election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Date _____ (month \ day \ year)

Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request. I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the [~~Thursday~~] Tuesday before the next primary election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Dated _____ (month \ day \ year) _____

Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

(5) The forms described in Subsections (2) and (4) shall contain instructions on how a voter may cancel an absentee ballot application.

(6) Except as provided in Subsection 20A-3-306(2)(a), a voter who wishes to vote by absentee ballot shall file the application for an absentee ballot with the lieutenant governor or appropriate election officer no later than the [~~Thursday~~] Tuesday before election day.

(7) (a) A county clerk shall establish an absentee voter list containing the name of each voter who:

(i) requests absentee voter status; and

(ii) meets the requirements of this section.

(b) A county clerk may not remove a voter's name from the list described in Subsection (7)(a) unless:

(i) the voter is no longer listed in the official register;

(ii) the voter cancels the voter's absentee status; ~~or~~

(iii) the voter's name is removed on the date specified by the voter on the absentee ballot application form[-]; or

(iv) the county clerk is required to remove the voter's name from the list under Subsection (7)(c) or 20A-3-302(8)(c)(ii).

(c) A county clerk shall remove a voter's name from the list described in Subsection (7)(a) if the voter fails to vote in two consecutive regular general elections.

~~(e)~~ (d) (i) Each year, the clerk shall mail a questionnaire to each voter whose name is on the absentee voter list.

(ii) The questionnaire shall allow the voter to:

(A) verify the voter's residence; or

(B) cancel the voter's absentee status.

~~(d)~~ (e) The clerk shall provide a copy of the absentee voter list to election officers for use in elections.

Section 15. Section 20A-3-306 is amended to read:

20A-3-306. Voting ballot -- Returning ballot.

(1) (a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the absentee voter shall:

(i) complete and sign the affidavit on the envelope;

(ii) mark the votes on the absentee ballot;

(iii) place the voted absentee ballot in the envelope;

(iv) securely seal the envelope; and

(v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit the envelope in the mail or deliver it in person to the election officer from whom the ballot was obtained.

(b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the office of the election officer, the absent voter shall:

(i) complete and sign the affidavit on the envelope;

(ii) mark the votes on the absent-voter ballot;

(iii) place the voted absent-voter ballot in the envelope;

(iv) securely seal the envelope; and

(v) give the ballot and envelope to the election officer.

(2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:

(a) in the case of an absentee ballot that is voted in person, the ballot is:

(i) applied for and cast in person at the office of the appropriate election officer no later than the ~~Thursday~~ Tuesday before election day; or

(ii) submitted on election day at a polling location in the political subdivision where the absentee voter resides;

(b) in the case of an absentee ballot that is submitted by mail, the ballot is:

(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and

(ii) received in the office of the election officer before noon on the day of the official canvass following the election; or

(c) in the case of a military-overseas ballot, the ballot is submitted in accordance with Section 20A-16-404.

(3) An absentee voter may submit a completed absentee ballot at a polling location in a political subdivision holding the election, if the absentee voter resides in the political subdivision.

(4) An absentee voter may submit an incomplete absentee ballot at a polling location for the voting precinct where the voter resides, request that the ballot be declared spoiled, and vote in person.

Section 16. Section 20A-3-601 is amended to read:

20A-3-601. Early voting.

(1) (a) An individual who is registered to vote may vote before the election date in accordance with this section.

(b) An individual who is not registered to vote may register to vote and vote before the election date in accordance with this section if the individual:

(i) is otherwise legally entitled to vote the ballot ~~[in a jurisdiction that is approved by the lieutenant governor to participate in the pilot project described in Section 20A-4-108];~~ and

(ii) casts a provisional ballot in accordance with Section ~~[20A-4-108]~~ 20A-2-207.

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period shall:

(a) begin on the date that is 14 days before the date of the election; and

(b) continue through the Friday before the election if the election date is a Tuesday.

(3) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section 20A-3-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting shall be administered according to the requirements of this title.

Section 17. Section 20A-3-605 is amended to read:

20A-3-605. Exemptions from early voting.

(1) (a) This part does not apply to an election of a board member of a local district.

(b) Notwithstanding Subsection (1)(a), a local district may, at its discretion, provide early voting

in accordance with this part for an election of a board member.

(2) Notwithstanding the requirements of Section 20A-3-601, a municipality of the fifth class or a town as described in Section 10-2-301 may provide early voting as provided under this part for:

- (a) a municipal primary election; or
- (b) a municipal general election.

(3) A municipality [~~or county~~] that administers an election entirely by absentee ballot, in accordance with Section 20A-3-302, is not required to conduct early voting for the election.

Section 18. Section 20A-4-107 is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:

- (a) the person:
 - (i) is registered to vote in the state;
 - (ii) votes the ballot for the voting precinct in which the person resides; and
 - (iii) provides valid voter identification to the poll worker;
- (b) the person:
 - (i) is registered to vote in the state;
 - (ii) (A) provided valid voter identification to the poll worker; or
 - (B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

- (c) the person:
 - (i) is registered to vote in the state;
 - (ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of a provisional ballot [~~envelopes~~] form, the election officer shall review the affirmation on the [~~face of each~~] provisional ballot [~~envelope~~] form and determine if the person signing the affirmation is:

- (i) registered to vote in this state; and
- (ii) legally entitled to vote:
 - (A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) [~~If~~] Except as provided in Section 20A-2-207, if the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot [~~envelope, unopened~~] form, uncounted, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall [~~remove the ballot from the provisional ballot envelope and~~] place the provisional ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, or if the voter registers to vote in accordance with Section 20A-2-207, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot [~~envelope~~] form.

(4) [~~If~~] Except as provided in Section 20A-2-207, if the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot [~~envelope~~] form is complete, the election officer shall:

(a) consider the provisional ballot [~~envelope~~] form a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall [~~remove the ballot from~~] place a provisional ballot [~~envelope and place the ballot~~] with the absentee ballots to be counted with those ballots at the canvass, if:

(a) (i) the election officer determines, in accordance with the provisions of this section, that

the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than ~~[eight]~~ seven days before the election;

(ii) ~~[eight]~~ seven or more days before the election, the individual who cast the provisional ballot:

(A) completed and signed the voter registration; and

(B) provided the voter registration to another person to file;

(iii) the late filing was made due to the person described in Subsection (5)(a)(ii)(B) filing the voter registration less than ~~[eight]~~ seven days before the election; and

(iv) the election officer receives the voter registration no later than one day before the day of the election; or

(b) the provisional ballot is cast on or before election day ~~[in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot]~~ and is not otherwise prohibited from being counted under the provisions of this chapter.

Section 19. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

“AFFIRMATION

Are you a citizen of the United States of America?
Yes No

Will you be 18 years old on or before election day?
Yes No

If you checked “no” in response to either of the two above questions, do not complete this form.

Name of Voter

First Middle Last

Driver License or Identification Card Number

State of Issuance of Driver License or Identification Card Number

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known) _____

I, _____ (please print your full name) _____ do solemnly swear or affirm:

That I ~~[am currently registered to vote in the state of Utah and]~~ am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____

In accordance with Section 20A-3-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.”

“The portion of a voter registration form that lists a person’s driver license or identification card number, social security number, and email address is a private record. The portion of a voter registration form that lists a person’s date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household’s life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you]~~ You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”

“CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are

not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.”

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section 20. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment

with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) [ø], 20A-2-101.1(5)(a), or 20A-2-204(4)(b);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission;

(u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat; and

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 21. Coordinating H.B. 218 with S.B. 17 -- Technical amendments.

If this H.B. 218 and S.B. 17, Election Law Modifications, both pass and become law, it is the intent of the Legislature that the amendments to Section 20A-4-107 in this H.B. 218 supersede the amendments to Section 20A-4-107 in S.B. 17, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication..

Section 22. Coordinating H.B. 218 with S.B. 116 -- Technical amendments.

If this H.B. 218 and S.B. 116, Revisor's Technical Corrections to Utah Code, both pass and become

law, it is the intent of the Legislature that the amendments to Sections 20A-3-601 and 20A-4-107 in this H.B. 218 supersede the amendments to Sections 20A-3-601 and 20A-4-107 in S.B. 116, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication..

Section 23. Coordinating H.B. 218 with H.B. 141 -- Technical amendments.

If this H.B. 218 and H.B. 141, Early Voting Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 20A-3-601(1) in this H.B. 218 supersede the amendments to Subsection 20A-3-601(1) in H.B. 141, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 207**H. B. 219**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

**STATE MONEY
MANAGEMENT ACT AMENDMENTS**

Chief Sponsor: Jefferson Moss
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies the Utah Labor Code and the State Money Management Act by amending provisions relating to the state treasurer's investment of certain public funds.

Highlighted Provisions:

This bill:

- ▶ enacts requirements for the state treasurer for investing the assets of the:
 - Employers' Reinsurance Fund; and
 - Uninsured Employers' Fund;
- ▶ exempts funds of the Employers' Reinsurance Fund and the Uninsured Employers' Fund from the requirements of the State Money Management Act;
- ▶ provides that the state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer;
- ▶ repeals certain investment requirements for the investment of the principal of the:
 - Employers' Reinsurance Fund; and
 - Uninsured Employers' Fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-702, as last amended by Laws of Utah 2017, Chapter 109
34A-2-704, as last amended by Laws of Utah 2013, Chapter 417
51-7-2, as last amended by Laws of Utah 2017, Chapters 343 and 363
51-7-11, as last amended by Laws of Utah 2017, Chapter 338

ENACTS:

34A-2-706, Utah Code Annotated 1953

REPEALS:

51-7-12.5, as last amended by Laws of Utah 2013, Chapter 204

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

Section 1. Section 34A-2-702 is amended to read:

34A-2-702. Employers' Reinsurance Fund
-- Injury causing death -- Burial expenses
-- Payments to dependents.

(1) (a) There is created an Employers' Reinsurance Fund for the purpose of making a payment for an industrial accident or occupational disease occurring on or before June 30, 1994. A payment made under this section shall be made in accordance with this chapter or Chapter 3, Utah Occupational Disease Act. The Employers' Reinsurance Fund has no liability for an industrial accident or occupational disease occurring on or after July 1, 1994.

(b) The Employers' Reinsurance Fund succeeds to all money previously held in the "Special Fund," the "Combined Injury Fund," or the "Second Injury Fund."

(c) The commissioner shall appoint an administrator of the Employers' Reinsurance Fund.

(d) The state treasurer shall be the custodian of the Employers' Reinsurance Fund.

(e) The administrator shall make provisions for and direct a distribution from the Employers' Reinsurance Fund.

(f) Reasonable costs of administering the Employers' Reinsurance Fund or other fees may be paid from the Employers' Reinsurance Fund.

(2) The state treasurer shall:

(a) receive workers' compensation premium assessments from the State Tax Commission; and

(b) invest the Employers' Reinsurance Fund to ensure maximum investment return for both long and short term investments in accordance with Section ~~51-7-12.5~~ 34A-2-706.

(3) (a) The administrator may employ, retain, or appoint counsel to represent the Employers' Reinsurance Fund in a proceeding brought to enforce a claim against or on behalf of the Employers' Reinsurance Fund.

(b) If requested by the commission, the attorney general shall aid in representation of the Employers' Reinsurance Fund.

(4) The liability of the state, its departments, agencies, instrumentalities, elected or appointed officials, or other duly authorized agents, with respect to payment of compensation benefits, expenses, fees, medical expenses, or disbursement properly chargeable against the Employers' Reinsurance Fund, is limited to the cash or assets in the Employers' Reinsurance Fund, and they are not otherwise, in any way, liable for the operation, debts, or obligations of the Employers' Reinsurance Fund.

(5) (a) If injury causes death within a period of 312 weeks from the date of the accident, the employer or insurance carrier shall pay:

(i) the burial expenses of the deceased as provided in Section 34A-2-418; and

(ii) benefits in the amount and to a person provided for in this Subsection (5).

(b) (i) If there is a wholly dependent person at the time of the death, the payment by the employer or the employer's insurance carrier shall be:

(A) subject to Subsections (5)(b)(i)(B) and (C), 66-2/3% of the decedent's average weekly wage at the time of the injury;

(B) not more than a maximum of 85% of the state average weekly wage at the time of the injury per week; and

(C) (I) not less than a minimum of \$45 per week, plus:

(Aa) \$20 for a dependent spouse; and

(Bb) \$20 for each dependent minor child under the age of 18 years, up to a maximum of four such dependent minor children; and

(II) not exceeding:

(Aa) the average weekly wage of the employee at the time of the injury; and

(Bb) 85% of the state average weekly wage at the time of the injury per week.

(ii) Compensation shall continue during dependency for the remainder of the period between the date of the death and the expiration of 312 weeks after the date of the injury.

(iii) (A) The payment by the employer or the employer's insurance carrier to a wholly dependent person during dependency following the expiration of the first 312-week period described in Subsection (5)(b)(ii) shall be an amount equal to the weekly benefits paid to the wholly dependent person during the initial 312-week period, reduced by 50% of the federal social security death benefits the wholly dependent person:

(I) is eligible to receive for a week as of the first day the employee is eligible to receive a Social Security death benefit; and

(II) receives.

(B) An employer or the employer's insurance carrier may not reduce compensation payable under this Subsection (5)(b)(iii) on or after May 5, 2008, to a wholly dependent person by an amount related to a cost-of-living increase to the social security death benefits that the wholly dependent person is first eligible to receive for a week, notwithstanding whether the employee is injured on or before May 4, 2008.

(C) For purposes of a wholly dependent person whose compensation payable is reduced under this Subsection (5)(b)(iii) on or before May 4, 2008, the reduction is limited to the amount of the reduction as of May 4, 2008.

(iv) The issue of dependency is subject to review at the end of the initial 312-week period and annually after the initial 312-week period. If in a review it is determined that, under the facts and circumstances existing at that time, the applicant is no longer a wholly dependent person, the applicant:

(A) may be considered a partly dependent or nondependent person; and

(B) shall be paid the benefits as may be determined under Subsection (5)(d)(iii).

(c) (i) For purposes of a dependency determination, a surviving spouse of a deceased employee is conclusively presumed to be wholly dependent for a 312-week period from the date of death of the employee. This presumption does not apply after the initial 312-week period.

(ii) (A) In determining the annual income of the surviving spouse after the initial 312-week period, there shall be excluded 50% of a federal social security death benefit that the surviving spouse:

(I) is eligible to receive for a week as of the first day the surviving spouse is eligible to receive a Social Security death benefit; and

(II) receives.

(B) An employer or the employer's insurance carrier may not reduce compensation payable under this Subsection (5)(c)(ii) on or after May 5, 2008, to a surviving spouse by an amount related to a cost-of-living increase to the social security death benefits that the surviving spouse is first eligible to receive for a week, notwithstanding whether the employee is injured on or before May 4, 2008.

(C) For purposes of a surviving spouse whose compensation payable is reduced under this Subsection (5)(c)(ii) on or before May 4, 2008, the reduction is limited to the amount of the reduction as of May 4, 2008.

(d) (i) If there is a partly dependent person at the time of the death, the payment shall be:

(A) subject to Subsections (5)(d)(i)(B) and (C), 66-2/3% of the decedent's average weekly wage at the time of the injury;

(B) not more than a maximum of 85% of the state average weekly wage at the time of the injury per week; and

(C) not less than a minimum of \$45 per week.

(ii) Compensation shall continue during dependency for the remainder of the period between the date of death and the expiration of 312 weeks after the date of injury. Compensation may not amount to more than a maximum of \$30,000.

(iii) The benefits provided for in this Subsection (5)(d) shall be in keeping with the circumstances and conditions of dependency existing at the date of injury, and any amount paid under this Subsection (5)(d) shall be consistent with the general provisions of this chapter and Chapter 3, Utah Occupational Disease Act.

(iv) Benefits to a person determined to be partly dependent under Subsection (5)(c):

(A) shall be determined in keeping with the circumstances and conditions of dependency existing at the time of the dependency review; and

(B) may be paid in an amount not exceeding the maximum weekly rate that a partly dependent person would receive if wholly dependent.

(v) A payment under this section shall be paid to a person during a person's dependency by the employer or the employer's insurance carrier.

(e) (i) Subject to Subsection (5)(e)(ii), if there is a wholly dependent person and also a partly dependent person at the time of death, the benefits may be apportioned in a manner consistent with Section 34A-2-414.

(ii) The total benefits awarded to all parties concerned may not exceed the maximum provided for by law.

(6) The Employers' Reinsurance Fund:

(a) shall be:

(i) used only in accordance with Subsection (1) for:

(A) the purpose of making a payment for an industrial accident or occupational disease occurring on or before June 30, 1994, in accordance with this section and Section 34A-2-703; and

(B) payment of:

(I) reasonable costs of administering the Employers' Reinsurance Fund; or

(II) fees required to be paid by the Employers' Reinsurance Fund;

(ii) expended according to processes that can be verified by audit; and

(b) may not be used for:

(i) administrative costs unrelated to the Employers' Reinsurance Fund; or

(ii) an activity of the commission other than an activity described in Subsection (6)(a).

Section 2. Section 34A-2-704 is amended to read:

34A-2-704. Uninsured Employers' Fund.

(1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers' Fund has the purpose of assisting in the payment of workers' compensation benefits to a person entitled to the benefits, if:

(i) that person's employer:

(A) is individually, jointly, or severally liable to pay the benefits; and

(B) (I) becomes or is insolvent;

(II) appoints or has appointed a receiver; or

(III) otherwise does not have sufficient funds, insurance, sureties, or other security to cover workers' compensation liabilities; and

(ii) the employment relationship between that person and the person's employer is localized within the state as provided in Subsection (20).

(b) The Uninsured Employers' Fund succeeds to money previously held in the Default Indemnity Fund.

(c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational Disease Act, with the exception of a penalty on those obligations.

(2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured Employers' Fund in accordance with this chapter, Subsection 59-9-101(2), and Subsection 34A-2-213(3).

(b) The commissioner shall appoint an administrator of the Uninsured Employers' Fund.

(c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

(ii) The administrator shall make provisions for and direct distribution from the Uninsured Employers' Fund.

(3) Reasonable costs of administering the Uninsured Employers' Fund or other fees required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured Employers' Fund.

(4) The state treasurer shall:

(a) receive workers' compensation premium assessments from the State Tax Commission; and

(b) invest the Uninsured Employers' Fund to ensure maximum investment return for both long and short term investments in accordance with Section ~~[51-7-12.5]~~ 34A-2-706.

(5) (a) The administrator may employ, retain, or appoint counsel to represent the Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of the Uninsured Employers' Fund.

(b) If requested by the commission, the following shall aid in the representation of the Uninsured Employers' Fund:

(i) the attorney general; or

(ii) the city attorney, or county attorney of the locality in which:

(A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah Occupational Disease Act, is pending;

(B) the employee resides; or

(C) an employer:

(I) resides; or

(II) is doing business.

(c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection, the administrator shall provide for the collection of money required to be deposited in the Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

(ii) To comply with Subsection (5)(c)(i), the administrator may:

(A) take appropriate action, including docketing an award in a manner consistent with Section 34A-2-212; and

(B) employ counsel and other personnel necessary to collect the money described in Subsection (5)(c)(i).

(6) To the extent of the compensation and other benefits paid or payable to or on behalf of an employee or the employee's dependents from the Uninsured Employers' Fund, the Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the employee or the employee's dependents against the employer failing to make the compensation payments.

(7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the Uninsured Employers' Fund.

(b) A court with jurisdiction shall grant a payment made under this section a priority equal to that to which the claimant would have been entitled in the absence of this section against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

(c) The expenses of the Uninsured Employers' Fund in handling a claim shall be accorded the same priority as the liquidator's expenses.

(8) (a) The administrator shall periodically file the information described in Subsection (8)(b) with the receiver, trustee, or liquidator of:

(i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

(ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a condition listed in Subsection (1)(a)(i)(B); or

(iii) an insolvent insurance carrier.

(b) The information required to be filed under Subsection (8)(a) is:

(i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

(ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

(c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers' Fund for claims against the assets of the employer that meets a condition listed in Subsection (1)(a)(i)(B).

(9) When an injury or death for which compensation is payable from the Uninsured Employers' Fund has been caused by the wrongful act or neglect of another person not in the same employment, the Uninsured Employers' Fund has the same rights as allowed under Section 34A-2-106.

(10) The Uninsured Employers' Fund, subject to approval of the administrator, shall discharge its obligations by:

(a) adjusting its own claims; or

(b) contracting with an adjusting company, risk management company, insurance company, or other company that has expertise and capabilities

in adjusting and paying workers' compensation claims.

(11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an administrative law judge, upon rendering a decision with respect to a claim for workers' compensation benefits in which an employer that meets a condition listed in Subsection (1)(a)(i)(B) is duly joined as a party, shall:

(i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

(ii) impose a penalty against the employer that meets a condition listed in Subsection (1)(a)(i)(B):

(A) of 15% of the value of the total award in connection with the claim; and

(B) that shall be deposited into the Uninsured Employers' Fund.

(b) An award under this Subsection (11) shall be collected by the administrator in accordance with Subsection (5)(c).

(12) The state, the commission, and the state treasurer, with respect to payment of compensation benefits, expenses, fees, or disbursement properly chargeable against the Uninsured Employers' Fund:

(a) are liable only to the assets in the Uninsured Employers' Fund; and

(b) are not otherwise in any way liable for the making of a payment.

(13) The commission may make reasonable rules for the processing and payment of a claim for compensation from the Uninsured Employers' Fund.

(14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers' Fund may assess all other self-insured employers amounts necessary to pay:

(A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed in Subsection (1)(a)(i)(B) occurring;

(B) the expenses of handling covered a claim subsequent to a condition listed in Subsection (1)(a)(i)(B) occurring;

(C) the cost of an examination under Subsection (15); and

(D) other expenses authorized by this section.

(ii) This Subsection (14) applies to benefits paid to an employee of:

(A) a self-insured employer, as defined in Section 34A-2-201.5, that meets a condition listed in Subsection (1)(a)(i)(B); or

(B) if the self-insured employer that meets a condition described in Subsection (1)(a)(i)(B) is a

public agency insurance mutual, a member of the public agency insurance mutual.

(b) The assessments of a self-insured employer shall be in the proportion that the manual premium of the self-insured employer for the preceding calendar year bears to the manual premium of all self-insured employers for the preceding calendar year.

(c) A self-insured employer shall be notified of the self-insured employer's assessment not later than 30 days before the day on which the assessment is due.

(d) (i) A self-insured employer may not be assessed in any year an amount greater than 2% of that self-insured employer's manual premium for the preceding calendar year.

(ii) If the maximum assessment does not provide in a year an amount sufficient to make all necessary payments from the Uninsured Employers' Fund for one or more self-insured employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be paid as soon as money becomes available.

(e) A self-insured employer is liable under this section for a period not to exceed three years after the day on which the Uninsured Employers' Fund first pays benefits to an employee described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in Subsection (1)(a)(i)(B).

(f) This Subsection (14) does not apply to a claim made against a self-insured employer that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection (1)(a)(i)(B) occurred before July 1, 1986.

(15) (a) The following shall notify the division of any information indicating that any of the following may be insolvent or in a financial condition hazardous to its employees or the public:

(i) a self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency insurance mutual.

(b) Upon receipt of the notification described in Subsection (15)(a) and with good cause appearing, the division may order an examination of:

(i) that self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency mutual.

(c) The cost of the examination ordered under Subsection (15)(b) shall be assessed against all self-insured employers as provided in Subsection (14).

(d) The results of the examination ordered under Subsection (15)(b) shall be kept confidential.

(16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on behalf of

the employee to whom or to whose dependents compensation and other benefits are paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or other party in interest objecting to the claim.

(b) A claim described in Subsection (16)(a) is presumed to be valid up to the full amount of workers' compensation benefits claimed by the employee or the employee's dependents.

(c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative proceeding under the authority of the commission.

(17) A partner in a partnership or an owner of a sole proprietorship may not recover compensation or other benefits from the Uninsured Employers' Fund if:

(a) the person is not included as an employee under Subsection 34A-2-104(3); or

(b) the person is included as an employee under Subsection 34A-2-104(3), but:

(i) the person's employer fails to insure or otherwise provide adequate payment of direct compensation; and

(ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission over which the person had or shared control or responsibility.

(18) A director or officer of a corporation may not recover compensation or other benefits from the Uninsured Employers' Fund if the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(19) The Uninsured Employers' Fund:

(a) shall be:

(i) used in accordance with this section only for:

(A) the purpose of assisting in the payment of workers' compensation benefits in accordance with Subsection (1); and

(B) in accordance with Subsection (3), payment of:

(I) reasonable costs of administering the Uninsured Employers' Fund; or

(II) fees required to be paid by the Uninsured Employers' Fund; and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used for:

(i) administrative costs unrelated to the Uninsured Employers' Fund; or

(ii) an activity of the commission other than an activity described in Subsection (19)(a).

(20) (a) For purposes of Subsection (1), an employment relationship is localized in the state if:

(i) (A) the employer who is liable for the benefits has a business premise in the state; and

(B) (I) the contract for hire is entered into in the state; or

(II) the employee regularly performs work duties in the state for the employer who is liable for the benefits; or

(ii) the employee is:

(A) a resident of the state; and

(B) regularly performs work duties in the state for the employer who is liable for the benefits.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define what constitutes regularly performing work duties in the state.

Section 3. Section 34A-2-706 is enacted to read:

34A-2-706. Investment of Employers' Reinsurance Fund and Uninsured Employers' Fund.

(1) The state treasurer shall invest the assets of the Employers' Reinsurance Fund created under Section 34A-2-702 and the Uninsured Employers' Fund created under Section 34A-2-704 with the primary goal of providing for the stability, income, and growth of the principal.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing fund assets from earnings before distributing the earnings.

(4) (a) The state treasurer may employ professional asset managers to assist in the investment of the assets of the funds.

(b) The treasurer may only provide compensation to asset managers from earnings generated by the funds' investments.

(5) (a) The state treasurer shall invest and manage the assets of the funds as a prudent investor would by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the funds; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(b) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets:

(A) not in isolation, but in the context of a fund portfolio as a whole; and

(B) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the funds.

Section 4. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions;

(5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund; ~~and~~

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account[-];

(11) the funds in the Employers' Reinsurance Fund; and

(12) the funds in the Uninsured Employers' Fund.

Section 5. Section 51-7-11 is amended to read:

51-7-11. Authorized deposits or investments of public funds.

(1) (a) Except as provided in Subsections (1)(b) ~~and (1)(c)~~ through (1)(d), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(d) The state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer under Subsection (1)(a).

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools; or

(v) other investments authorized by this section;

(d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:

(i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

(ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);

(e) bankers' acceptances that:

(i) are eligible for discount at a Federal Reserve bank; and

(ii) have a remaining term to maturity of 270 days or fewer;

(f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;

(g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(h) obligations other than mortgage pools and other mortgage derivative products that:

(i) are issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:

(A) Federal Farm Credit banks;

(B) Federal Home Loan banks;

(C) Federal National Mortgage Association;

(D) Federal Home Loan Mortgage Corporation;

(E) Federal Agriculture Mortgage Corporation; and

(F) Tennessee Valley Authority; and

(ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(A) five years or less;

(B) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(C) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(i) fixed rate corporate obligations that:

(i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(iii) are publicly traded; and

(iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102,

a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions; and

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

~~[(a) the Employers' Reinsurance Fund created in Section 34A-2-702;]~~

~~[(b) the Uninsured Employers' Fund created in Section 34A-2-704;]~~

~~[(e)]~~ (a) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

~~[(d)]~~ (b) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

(a) 15 days of the trade date for outstanding issues; and

(b) 30 days for new issues.

Section 6. Repealer.

This bill repeals:

Section 51-7-12.5, Deposit or investment of the Employers' Reinsurance Fund and Uninsured Employers' Fund -- Authorized deposits and investments -- Asset manager.

CHAPTER 208**H. B. 227**

Passed February 16, 2018

Approved March 19, 2018

Effective May 8, 2018

**MINIMUM SCHOOL PROGRAM
REPORTING MODIFICATIONS**Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore**LONG TITLE****General Description:**

This bill repeals reporting and planning requirements related to certain programs within the Minimum School Program.

Highlighted Provisions:

This bill:

- ▶ repeals requirements on local education boards related to class size reduction, including:
 - a requirement that a local education board submit a plan to the State Board of Education to qualify for class size reduction money; and
 - a requirement that a local education board report on the use of class size reduction money in the prior school year;
- ▶ repeals reporting requirements related to the K-3 Reading Improvement Program and federal Title I money;
- ▶ repeals an annual required report from the State Board of Education to the Public Education Appropriations Subcommittee related to class size; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-2-312, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-312 is amended to read:**53F-2-312. Appropriation for class size reduction.**

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through [the eighth] grade 8 in the state's public schools.

(2) [Each] A school district or charter school shall receive an allocation [based upon] for class size reduction based on the school district or charter school's prior year average daily membership plus growth in kindergarten through grade 8 [plus growth] as determined under Subsection 53F-2-302(3) [as] compared to the total prior year average daily membership plus growth in

kindergarten through grade 8 [plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8)] statewide.

(3) (a) A local education board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) [Each] A local education board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 students in [grades] kindergarten through grade 2, a local education board may petition the State Board of Education for, and the State Board of Education may grant, a waiver [to use an allocation under] of the requirement described in Subsection (3)(b)(i) [for class size reduction in the other grades].

(4) [Schools] A school may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) A local education board may use up to 20% of an allocation under [Subsection (4)] this section for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by at least 5% or at least 700 students from the previous school year, the local education board may use up to 50% of [any] an allocation received by the [respective] school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade [eight] 8.

[~~(8) (a) For a school district or charter school to qualify for class size reduction money, a local education board shall submit:~~

[~~(i) a plan for the use of the allocation of class size reduction money to the State Board of Education; and~~

[~~(ii) beginning with the 2014-15 school year, a report on the local education board's use of class size reduction money in the prior school year.]~~

[~~(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:~~

[~~(i) (A) the number of teachers employed using class size reduction money;~~

[~~(B) the amount of class size reduction money expended for teachers; and~~

~~[(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;]~~

~~[(ii) (A) the number of paraprofessionals employed using class size reduction money;]~~

~~[(B) the amount of class size reduction money expended for paraprofessionals; and]~~

~~[(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and]~~

~~[(iii) the amount of class size reduction money expended for capital facilities.]~~

~~[(e) In addition to submitting a plan and report on the use of class size reduction money, a local education board shall annually submit a report to the State Board of Education that includes the following information:]~~

~~[(i) the number of teachers employed using K-3 Reading Improvement Program money received pursuant to Sections 53F-2-503 and 53F-8-406;]~~

~~[(ii) the amount of K-3 Reading Improvement Program money expended for teachers;]~~

~~[(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;]~~

~~[(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and]~~

~~[(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.]~~

~~[(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.]~~

~~[(e) The State Board of Education may make rules specifying procedures and standards for the submission of:]~~

~~[(i) a plan and a report on the use of class size reduction money as required by this section; and]~~

~~[(ii) a report required under Subsection (8)(e).]~~

~~[(f) Based on the data contained in the class size reduction plans and reports submitted by local education boards, and data on average class size, the State Board of Education shall annually report to the Public Education Appropriations Subcommittee on the impact of class size reduction, K-3 Reading Improvement Program, and Title I money on class size.]~~

CHAPTER 209**H. B. 228**

Passed February 27, 2018

Approved March 19, 2018

Effective May 8, 2018

**CHILD SEXUAL ABUSE
PREVENTION TRAINING AMENDMENTS**

Chief Sponsor: Angela Romero

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions related to child sexual abuse prevention training and instruction.

Highlighted Provisions:

This bill:

- ▶ requires school districts and charter schools to provide:
 - every other year, certain child sexual abuse prevention training and instruction; and
 - upon request of the State Board of Education, certain evidence of compliance; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-9-207, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-9-207 is amended to read:**53G-9-207. Child sexual abuse prevention.**

(1) As used in this section, "school personnel" [is as] means the same as that term is defined in Section 53G-9-203.

(2) [~~On or before July 1, 2015, the~~] The State Board of Education shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) [~~Beginning in the 2016-17 school year, a~~] A school district or charter school shall provide, every other year, training and instruction on child sexual abuse prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(B) the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403; and

(ii) parents or guardians of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the State Board of Education under Subsection (2) to provide the training and instruction to school personnel and parents or guardians under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse prevention and awareness to elementary school students using age-appropriate curriculum.

(b) [~~Beginning in the 2016-17 school year, a~~] A school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent or guardian of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent or guardian's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent or guardian of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

~~[(7) (a) The State Board of Education shall report to the Education Interim Committee on the progress of the provisions of this section by the committee's November 2017 meeting.]~~

~~[(b) Upon request of the State Board of Education, a school district or charter school shall provide to the State Board of Education information that is necessary for the report required under Subsection (7)(a).]~~

(7) Upon request of the State Board of Education, a school district or charter school shall provide evidence of compliance with this section.

CHAPTER 210**H. B. 229**

Passed March 2, 2018

Approved March 19, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

**SURVIVING SPOUSE INSURANCE
DEATH BENEFIT AMENDMENTS**Chief Sponsor: Lee B. Perry
Senate Sponsor: Don L. Ipson**LONG TITLE****General Description:**

This bill modifies the Public Employees' Benefit and Insurance Program Act by amending provisions relating to insurance death benefits for certain employees' beneficiaries.

Highlighted Provisions:

This bill:

- ▶ repeals the provision that a surviving spouse of a covered individual who is employed by the state and has a line-of-duty death is eligible for group health coverage paid for by the state only until the surviving spouse remarries; and
- ▶ provides that a surviving spouse of a covered individual who is employed by the state and has a line-of-duty death is eligible for group health coverage paid for by the state as long as the surviving spouse continues coverage with the program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

49-20-406, as last amended by Laws of Utah 2013, Chapter 40

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

Section 1. Section 49-20-406 is amended to read:**49-20-406. Insurance benefits for employees' beneficiaries.**

(1) As used in this section:

(a) "Children" includes stepchildren and legally adopted children.

(b) (i) "Line-of-duty death" means a death resulting from:

(A) external force or violence occasioned by an act of duty as an employee; or

(B) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as an employee.

(ii) "Line-of-duty death" does not include a death that:

(A) occurs during an activity that is required as an act of duty as an employee if the activity is not a

strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature contributes to the employee's death;

(B) occurs during the commission of a crime committed by the employee;

(C) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(D) occurs in a manner other than as described in Subsection (1)(b)(i).

(c) (i) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(ii) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(2) The beneficiary of a covered individual who is employed by the state and who has a line-of-duty death shall receive:

(a) the proceeds of a \$50,000 group term life insurance policy paid for by the state and administered and provided as part of the group life insurance program under this chapter; and

(b) group health coverage paid for by the state that covers the covered individual's:

(i) surviving spouse until [~~remarriage or~~] becoming eligible for Medicare[~~, whichever comes first~~] as long as the surviving spouse continues coverage with the program; and

(ii) unmarried children up to the age of 26.

(3) A covered employer not required to provide the benefits under Subsection (2) may provide either or both of the benefits under Subsection (2) by paying rates established by the program.

(4) The benefit provided under Subsection (2)(a) is subject to the same terms and conditions as the group life insurance program provided under this chapter.

Section 2. Retrospective operation.

This bill has retrospective operation beginning on January 1, 2018.

CHAPTER 211**H. B. 231**

Passed March 7, 2018

Approved March 19, 2018

Effective May 8, 2018

**CHARTER SCHOOL
FUNDING AMENDMENTS**

Chief Sponsor: Bradley G. Last

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends provisions related to funding for charter students.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a charter school to include in a charter agreement the maximum number of students the charter school will serve;
- ▶ provides, if legislative appropriations are insufficient, for funding distribution to charter schools for charter students enrolled in a charter school that are below or exceed the charter school's maximum number of students; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-2-704, as enacted by Laws of Utah 2018, Chapter 2

53G-5-303, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53F-2-704 is amended to read:**53F-2-704. Charter school levy state guarantee.**

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-2-602, 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(3)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of

Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(3).

~~[(d) (i) If the appropriation provided under this Subsection (2) is less than the amount prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.]~~

~~[(ii) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53F-2-205, the allocation provided in Subsection (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.]~~

(d) (i) If the legislative appropriation described in Subsection (2)(a) is insufficient to provide an amount described in Subsection (2)(b) for each charter school student, the State Board of Education shall make an adjustment to Minimum School Program allocations as described in Section 53F-2-205.

(ii) Following an adjustment described in Subsection (2)(d)(i), if legislative appropriations remain insufficient to provide an amount described in Subsection (2)(b) for each student enrolled in a charter school, the State Board of Education shall:

(A) distribute to a charter school an amount described in Subsection (2)(b) for each student enrolled in the charter school under or equal to the maximum number of students the charter school serves, as described in the charter school's charter school agreement described in Section 53G-5-303; and

(B) distribute money remaining after the distributions described in Subsection (2)(d)(ii)(A) to a charter school based on the charter school's share of all students enrolled in charter schools who exceed the number of maximum students served by charter schools, as described in charter school agreements entered into under Section 53G-5-303.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(3), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 2. Section 53G-5-303 is amended to read:

53G-5-303. Charter agreement -- Content -- Modification.

(1) As used in this section, "satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.

~~[(4)] (2) A charter agreement:~~

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

~~[(2)] (3) A charter agreement shall include:~~

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels ~~[and number of students]~~ the charter school will serve;

(e) (i) subject to Section 53G-6-504, the maximum number of students a charter school will serve; or

(ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;

~~[(e)] (f) a description of the structure of the charter school governing board, including:~~

(i) the number of board members;

(ii) how members of the board are appointed; and

(iii) board members' terms of office;

~~[(f)] (g) assurances that:~~

(i) the charter school governing board will comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and State Board of Education rules;

(ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and

(iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

~~[(g)] (h) which administrative rules the State Board of Education will waive for the charter school;~~

~~[(h)] (i) minimum financial standards for operating the charter school;~~

~~[(i)] (j) minimum standards for student achievement; and~~

~~[(j)] (k) signatures of the charter school authorizer and the charter school governing board members.~~

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection ~~[(3)]~~ (4)(a) to include an enrollment preference described in Subsection 53G-6-502(4)(g).

CHAPTER 212**H. B. 233**

Passed March 7, 2018
 Approved March 19, 2018
 Effective July 1, 2018

**TEACHER SALARY
 SUPPLEMENT REVISIONS**

Chief Sponsor: Val K. Potter
 Senate Sponsor: Howard A. Stephenson
 Cosponsors: Patrice M. Arent
 Kay J. Christofferson
 Steve Eliason
 Jefferson Moss

LONG TITLE**General Description:**

This bill amends provisions of the Teacher Salary Supplement Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a salary supplement for a teacher who has a degree in special education and is assigned to teach special education;
- ▶ amends other provisions related to an individual's eligibility for a teacher salary supplement; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53F-2-504, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-504 is amended to read:

53F-2-504. Teacher Salary Supplement Program -- Appeal process.

- (1) As used in this section:
- (a) "Board" means the State Board of Education.
- (b) "Certificate teacher" means a teacher who holds a National Board certification.
- (c) "Eligible teacher" means a teacher who:
- (i) has an assignment to teach:
- (A) a secondary school level mathematics course;
- (B) integrated science in grade ~~[seven or eight]~~ 7 or 8;
- (C) chemistry;
- (D) physics; ~~[or]~~
- (E) computer science; or
- (F) special education;

(ii) holds the appropriate endorsement for the assigned course;

(iii) has qualifying educational background; and

(iv) (A) is a new employee; or

(B) received a satisfactory rating or above on the teacher's most recent evaluation.

(d) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(e) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(f) "License" means the same as that term is defined in Section 53E-6-102.

~~[(d)]~~ (g) "National Board certification" means the same as that term is defined in Section 53E-6-102.

~~[(e)]~~ (h) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade ~~[seven or eight]~~ 7 or 8 integrated science course, chemistry course, or physics course~~[_]~~:

(A) a bachelor's degree major, master's degree, or doctoral degree in~~[-]~~ a field of science; or

~~[(A)]~~ ~~integrated science~~;

~~[(B)]~~ ~~chemistry~~;

~~[(C)]~~ ~~physics~~;

~~[(D)]~~ ~~physical science~~;

~~[(E)]~~ ~~general science~~; or

~~[(F)]~~ (B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree ~~[listed in Subsections (1)(e)(ii)(A) through (E)]~~ described in Subsection (1)(h)(ii)(A);

(iii) for a teacher who is assigned a computer science course~~[_]~~:

(A) a bachelor's degree major, master's degree, or doctoral degree in~~[-]~~ a field of computer science; or

~~[(A)]~~ ~~computer science~~;

~~[(B) computer information technology; or]~~

~~[(C)] (B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree [listed in Subsections (1)(e)(iii)(A) and (B)-] described in Subsection (1)(h)(iii)(A); or~~

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

~~[(F)] (i) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.~~

~~[(G)] (j) "Title I school certificate teacher" means a certificate teacher who is assigned to teach at a Title I school.~~

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program[-] to maintain annual salary supplements provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) workers' compensation;
- (iii) Social Security; and
- (iv) Medicare.

(3) (a) (i) The annual salary supplement for an eligible teacher who is assigned full time to teach one or more courses listed in Subsections (1)(c)(i)(A) through ~~[(E)] (F)~~ is \$4,100 and funded through an appropriation described in Subsection (2).

(ii) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)(c)(i)(A) through ~~[(E)] (F)~~ shall receive a partial salary supplement based on the number of hours worked in [a] the course assignment ~~[that meets the requirements of Subsections (1)(e)(ii) and (iii)].~~

(b) The annual salary supplement for a certificate teacher is \$750.

(c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.

(ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b) and (c) may only receive the salary supplement that is greater in value.

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

(i) (A) is an eligible teacher; and

(B) has a course assignment as listed in Subsections (1)(c)(i)(A) through ~~[(E)] (F)~~;

(ii) is a certificate teacher; or

(iii) is a Title I school certificate teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers, certificate teachers, and Title I school certificate teachers.

(5) (a) An eligible teacher, a certificate teacher, or a Title I school certificate teacher shall apply with the board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher, a certificate teacher, or a Title I school certificate teacher may apply with the board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for ~~[the]~~ a salary supplement and ~~[is not certified under Subsection (4)]~~ does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree ~~[listed]~~ described in:

(A) Subsection (1)~~[(e)](h)(i)(A)~~;

~~[(B) Subsections (1)(e)(ii)(A) through (E); or]~~

~~[(C) Subsections (1)(e)(iii)(A) and (B)-]~~

(B) Subsection (1)(h)(ii)(A);

(C) Subsection (1)(h)(iii)(A); or

(D) Subsection (1)(h)(iv).

(ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

(A) Subsection (1)~~[(e)](h)(i)(A)~~;

~~[(B) Subsections (1)(e)(ii)(A) through (E); or]~~

~~[(C) Subsections (1)(e)(iii)(A) and (B)-]~~

(B) Subsection (1)(h)(ii)(A);

(C) Subsection (1)(h)(iii)(A); or

(D) Subsection (1)(h)(iv).

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.

(ii) A teacher shall provide to the board a certificate or other related documentation in order for the board to determine if the teacher holds a current certificate.

(d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a Title I school certificate teacher on the basis that the teacher:

(A) holds a current certificate; and

(B) is assigned to teach at a Title I school.

(ii) A teacher shall provide to the board:

(A) information described in Subsection (6)(c)(ii); and

(B) verification that the teacher is assigned to teach at a Title I school.

(7) (a) The board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement .

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher, certificate teacher, or Title I school certificate teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher, a certificate teacher, or a Title I school certificate teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board ~~[may limit or reduce the salary supplements]~~ shall distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

Section 2. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 213**H. B. 243**

Passed February 23, 2018

Approved March 19, 2018

Effective May 8, 2018

**DIVISION OF REAL
ESTATE AMENDMENTS**Chief Sponsor: Gage Froerer
Senate Sponsor: Daniel Hemmert**LONG TITLE****General Description:**

This bill amends provisions related to certain professions regulated by the Division of Real Estate.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the Utah Residential Mortgage Practices and Licensing Act regarding:
 - requirements for licensure;
 - record requirements; and
 - investigations;
- ▶ amends the Appraisal Management Company Registration and Regulation Act regarding:
 - registration requirements and qualifications;
 - fees charged by the Division of Real Estate for registration and services;
 - adherence to professional standards;
 - the Division of Real Estate's authority; and
 - the transmission of reports to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;
- ▶ amends the Real Estate Licensing and Practices Act regarding:
 - exemptions to licensure;
 - investigations; and
 - remedies and penalties;
- ▶ amends the Real Estate Appraiser and Licensing and Certification Act regarding:
 - the duties of the Real Estate Appraiser Licensing and Certification Board;
 - the Division of Real Estate's denial of licensure, certification, or registration; and
 - investigations; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

61-2-203, as last amended by Laws of Utah 2017, Chapter 182

61-2c-209, as last amended by Laws of Utah 2012, Chapter 166

61-2c-302, as last amended by Laws of Utah 2017, Chapter 182

61-2c-401, as last amended by Laws of Utah 2017, Chapter 182

61-2e-102, as last amended by Laws of Utah 2011, Chapter 289

61-2e-104, as last amended by Laws of Utah 2012, Chapter 166

61-2e-201, as last amended by Laws of Utah 2017, Chapter 182

61-2e-202, as last amended by Laws of Utah 2011, Chapter 289

61-2e-203, as last amended by Laws of Utah 2011, Chapters 289 and 342

61-2e-302, as enacted by Laws of Utah 2009, Chapter 269

61-2e-401, as last amended by Laws of Utah 2017, Chapter 182

61-2f-202, as last amended by Laws of Utah 2017, Chapter 182

61-2f-401, as last amended by Laws of Utah 2017, Chapter 182

61-2f-407, as renumbered and amended by Laws of Utah 2010, Chapter 379

61-2g-205, as last amended by Laws of Utah 2014, Chapter 350

61-2g-309, as renumbered and amended by Laws of Utah 2011, Chapter 289

61-2g-501, as last amended by Laws of Utah 2017, Chapter 182

ENACTS:

61-2e-205, Utah Code Annotated 1953

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

Section 1. Section 61-2-203 is amended to read:**61-2-203. Adjudicative proceedings -- Citation authority.**

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

(a) a citation, pursuant to Subsection (3);

(b) a notice of agency action; or

(c) a notice of formal or informal proceeding.

(3) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1), which requires licensure;

(b) Subsection 61-2c-201(4), which requires entity licensure;

(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;

(d) Subsection 61-2c-205(4), which requires notification of specified legal actions;

(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;

(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;

(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;

(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;

(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;

(j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a quarterly report of condition;

(k) Subsection 61-2e-201(1), which requires registration;

(l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;

(m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;

(n) Subsection 61-2e-401(1)(b)(c), which prohibits failure to respond to a request by the division;

(o) Subsection 61-2f-201(1), which requires licensure;

(p) Subsection 61-2f-206(1), which requires entity registration;

(q) Subsection 61-2f-301(1), which requires notification of a specified legal action;

(r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;

(s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;

(t) Subsection 61-2f-401(9), which prohibits failing to keep specified records for inspection by the division;

(u) Subsection 61-2f-401(13), which prohibits false, misleading, or deceptive advertising;

(v) Subsection 61-2f-401(20), which prohibits failing to respond to a division request;

(w) Subsection 61-2g-301(1), which requires licensure;

(x) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(y) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

(z) a rule made pursuant to any Subsection listed in this Subsection (3);

(aa) an order of the division; or

(bb) an order of the commission or board that oversees the person's profession.

(4) (a) In accordance with Subsection (9), the division may assess a fine against a person for a violation of a provision listed in Subsection (3), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (4)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (3).

(5) Except as provided in Subsection (7)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(6) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(7) (a) A citation becomes final:

(i) if within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The 20-day period to contest a citation may be extended by the division for cause.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(8) (a) The division may not issue a citation under this section after the expiration of one year following the occurrence of a violation.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

(9) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, \$1,000;

(b) for a second offense, \$2,000; and

(c) for each offense subsequent to a second offense, \$2,000 for each day of continued offense.

(10) (a) An action for a first or second offense for which the division has not issued final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(11) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county:

(A) where the person resides; or

(B) where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action brought by the division to enforce the provisions of this section.

Section 2. Section 61-2c-209 is amended to read:

61-2c-209. Sponsorship -- Affiliation.

(1) (a) The division may not license an individual, and an individual licensed under this chapter may not conduct the business of residential mortgage loans unless:

(i) if licensed as a mortgage loan originator, the individual:

(A) is sponsored by an entity licensed under this chapter; and

(B) is affiliated with the sponsoring entity's principal lending manager; or

(ii) if licensed as a lending manager, the individual is sponsored by an entity licensed under this chapter.

(b) The division may not license ~~any~~ an entity and an entity licensed under this chapter may not

conduct the business of residential mortgage loans unless the entity:

~~(i) conducts the entity's business of residential mortgage loans from a location within the United States;~~

~~(ii)~~ (ii) sponsors a principal lending manager;

~~(iii)~~ (iii) identifies at least one control person for the entity; and

~~(iv)~~ (iv) provides a list of the mortgage loan originators sponsored by the entity.

(2) (a) A mortgage loan originator's license automatically becomes inactive the day on which:

(i) the mortgage loan originator is not sponsored by an entity licensed under this chapter;

(ii) the license of the entity with which the mortgage loan originator is sponsored becomes inactive or terminates;

(iii) the mortgage loan originator is not affiliated with a principal lending manager; or

(iv) the license of the principal lending manager with whom the mortgage loan originator is affiliated becomes inactive or terminates.

(b) A lending manager's license automatically becomes inactive the day on which:

(i) the lending manager is not sponsored by an entity licensed under this chapter; or

(ii) the license of the entity with which the lending manager is sponsored becomes inactive or terminates.

(c) ~~[A] An~~ entity licensed under this chapter automatically becomes inactive the day on which the entity's sponsorship with ~~[its] the~~ entity's principal lending manager terminates.

(3) (a) A person whose license is inactive may not transact the business of residential mortgage loans.

(b) To activate an inactive mortgage loan originator license, an individual shall:

(i) provide evidence that the individual:

(A) is sponsored by an entity that holds an active license under this chapter; and

(B) is affiliated with a principal lending manager who holds an active license under this chapter; and

(ii) pay a fee to the division set in accordance with Section 63J-1-504.

(c) To activate an inactive lending manager license, an individual shall:

(i) provide evidence that the individual is sponsored by an entity that holds an active license under this chapter; and

(ii) pay a fee to the division set in accordance with Section 63J-1-504.

(d) To activate an inactive license held by an entity, an entity shall:

(i) provide evidence of the entity's sponsorship of a principal lending manager; and

(ii) pay a fee to the division set in accordance with Section 63J-1-504.

(4) (a) A mortgage loan originator shall conduct the business of residential mortgage loans only:

(i) through the entity by which the individual is sponsored; and

(ii) in the business name under which the sponsoring entity's principal lending manager is authorized by the division to do business.

(b) An individual licensed under this chapter may not:

(i) engage in the business of residential mortgage loans on behalf of more than one entity at the same time;

(ii) be sponsored by more than one entity at the same time;

(iii) transact the business of residential mortgage loans for the following at the same time:

(A) an entity licensed under this chapter; and

(B) an entity that is exempt from licensure under Section 61-2c-105; or

(iv) if the individual is a mortgage loan originator, receive consideration for transacting the business of residential mortgage loans from any person except the principal lending manager of the mortgage loan originator's sponsoring entity.

(c) This Subsection (4) does not restrict the number of:

(i) different lenders a person may use as a funding source for a residential mortgage loan; or

(ii) entities in which an individual may have an ownership interest, regardless of whether the entities are:

(A) licensed under this chapter; or

(B) exempt under Section 61-2c-105.

(5) ~~[The division by rule made in]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules that:

(a) define what constitutes:

(i) affiliation; ~~[or]~~

(ii) sponsorship; ~~[and]~~ or

(iii) conducting the business of residential mortgage loans from a location within the United States; and

(b) provide procedures by which:

(i) an individual who is licensed under this chapter may provide evidence of sponsorship by an entity that is licensed under this chapter;

(ii) a mortgage loan originator may provide evidence of affiliation with a principal lending manager; and

(iii) an entity licensed under this chapter may:

(A) provide evidence of its sponsorship of a principal lending manager;

(B) identify at least one control person for the entity; and

(C) provide a list of the one or more mortgage loan originators that the entity sponsors.

Section 3. Section 61-2c-302 is amended to read:

61-2c-302. Record requirements.

(1) For the time period specified in Subsection (2), a licensee shall make or possess any record required for that licensee by a rule made by the division.

(2) A licensee, or a person required to be licensed under this chapter, shall maintain and safeguard in ~~[its]~~ the licensee's or the person's possession a record described in Subsection (1) for four years from the last to occur of the following:

(a) the final entry on a residential mortgage loan is made by that licensee;

(b) if the residential mortgage loan is serviced by the licensee:

(i) the residential mortgage loan is paid in full; or

(ii) the licensee ceases to service the residential mortgage loan; or

(c) if the residential mortgage loan is not serviced by the licensee, the residential mortgage loan is closed.

(3) A licensee shall, upon the division's request:

(a) make available to the division for inspection and copying during normal business hours all records required to be maintained under this chapter; and

(b) produce all records described in Subsection (3)(a) that are related to an investigation being conducted by the division at the division office for inspection and copying by the division.

(4) A licensee who is an entity shall maintain and produce for inspection by the division a current list of all individuals whose licenses are sponsored by the entity.

(5) (a) A licensed entity shall:

(i) create, for each quarter of the fiscal year, a report of condition identifying all lending activities, including all loans closed by the entity's sponsored mortgage loan originators during the quarter;

(ii) provide each quarterly report of condition to the nationwide database no later than 75 days after the last day of the reporting quarter; and

(iii) maintain each report of condition submitted to the nationwide database as required by 12 U.S.C. Sec. 5104(e) for at least four years from the day on which the licensee submits the report of condition to the nationwide database.

(b) Upon request by the division, a mortgage loan originator shall produce a report of condition for inspection by the division.

Section 4. Section 61-2c-401 is amended to read:

61-2c-401. Investigations.

(1) The division may, either publicly or privately, investigate or cause to be investigated the actions of:

(a) (i) a licensee;

(ii) a person required to be licensed under this chapter; or

(iii) the following with respect to an entity that is a licensee or an entity required to be licensed under this chapter:

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(a)(iii);

(b) (i) an applicant for licensure or renewal of licensure under this chapter; or

(ii) the following with respect to an entity that has applied for a license or renewal of licensure under this chapter:

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(b)(ii); or

(c) a person who transacts the business of residential mortgage loans within this state.

(2) In conducting investigations, records inspections, and adjudicative proceedings, the division may:

(a) administer an oath or affirmation;

(b) issue a subpoena that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a record or information relevant to an investigation; and

(e) serve a subpoena by certified mail.

(3) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(4) A failure to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served is considered as a separate violation of this chapter, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce a record.

(5) The division may inspect and copy a record related to the business of residential mortgage loans by a licensee under this chapter, regardless of whether the record is maintained at a business location in Utah, in conducting:

(a) investigations of complaints; or

(b) inspections of the record required to be maintained under:

(i) this chapter; or

(ii) rules adopted by the division under this chapter.

(6) (a) If a licensee maintains a record required by this chapter and the rules adopted by the division under this chapter outside Utah, the licensee is responsible for all reasonable costs, including reasonable travel costs, incurred by the division in inspecting the record.

(b) Upon receipt of notification from the division that a record maintained outside Utah is to be examined in connection with an investigation or an examination, the licensee shall deposit with the division a deposit of \$500 to cover the division's expenses in connection with the examination of the record.

(c) If the deposit described in Subsection (6)(b) is insufficient to meet the estimated costs and expenses of examination of the record, the licensee shall make an additional deposit to cover the estimated costs and expenses of the division.

(d) (i) A deposit under this Subsection (6) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection (6)(a).

(ii) The division, with the concurrence of the executive director, may use a deposit as a dedicated credit for the records inspection costs under Subsection (6)(a).

(iii) A deposit under this Subsection (6) shall be refunded to the licensee to the extent it is not used, together with an itemized statement from the division of all amounts it has used.

(7) Failure to deposit with the division a deposit required to cover the costs of examination of a record that is maintained outside Utah shall result in automatic suspension of a license until the deposit is made.

(8) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a record required under this chapter, including the costs incurred to copy an electronic record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection (8)(a) when due, the person's license or certification is automatically suspended:

(i) beginning the day on which the payment of costs is due; and

(ii) ending the day on which the costs are paid in full.

Section 5. Section 61-2e-102 is amended to read:

61-2e-102. Definitions.

As used in this chapter:

(1) "Applicable appraisal standards" means:

(a) the Uniform Standards for Professional Appraisal Practice:

(i) published by the Appraisal Foundation; and

(ii) as adopted under Section 61-2g-403;

(b) Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and

(c) rules made by the board under Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) "Appraisal" is as defined in Section 61-2g-102.

(3) "Appraisal foundation" is as defined in Section 61-2g-102.

(4) "Appraisal management company" means [an entity that serves as a third party broker of an appraisal service between a client and an appraiser by:] a third party authorized by one of the following persons to broker an appraisal of a dwelling that is collateral for a residential mortgage loan:

~~[(a) administering a network of appraisers to perform real estate appraisal activities for one or more clients;]~~

~~[(b) (i) receiving a request for a real estate appraisal activity from a client; and]~~

~~[(ii) for a fee paid by the client, entering into an agreement with one or more appraisers to perform the real estate appraisal activity contained in the request; or]~~

~~[(c) any other means.]~~

(a) a creditor; or

(b) an underwriter of, or other principal in, a secondary mortgage market.

(5) "Appraisal management service" means [a process of]:

~~[(a) receiving a request for the performance of a real estate appraisal activity from a client; and]~~

~~[(b) for a fee paid by the client, entering into an agreement with one or more appraisers to perform the real estate appraisal activity contained in the request.]~~

(a) recruiting, selecting, or retaining an appraiser;

(b) contracting with an appraiser to perform a real estate appraisal activity for a client;

(c) managing the appraisal process, including one or more of the following administrative services:

(i) receiving an appraisal order or an appraisal report;

(ii) submitting a completed appraisal report to a client;

(iii) collecting a fee from a client for a service provided; or

(iv) paying an appraiser for a real estate appraisal activity; or

(d) reviewing or verifying the work of an appraiser.

(6) "Appraisal report" is as defined in Section 61-2g-102.

(7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

~~[(7)]~~ (8) "Appraiser" means an individual who engages in a real estate appraisal activity.

~~[(8)]~~ (9) (a) "Appraiser panel" means ~~[a group of appraisers that are selected by an appraisal management company to perform real estate appraisal activities for the appraisal management company.]~~ a network, list, or roster of appraisers who are:

(i) licensed or certified in a state, territory, or the District of Columbia; and

(ii) approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company.

(b) "Appraiser panel" includes an appraiser whom the appraisal management company has:

(i) accepted for consideration for a future appraisal assignment:

(A) in a residential mortgage loan transaction; or

(B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction; or

(ii) engaged to perform an appraisal:

(A) in a residential mortgage loan transaction; or

(B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction.

~~[(9)]~~ (10) "Board" means the Real Estate Appraiser Licensing and Certification Board that is created in Section 61-2g-204.

~~[(10)]~~ (11) "Client" means a person that enters into an agreement with an appraisal management company for the performance of a real estate appraisal activity.

[(41)] (12) “Concurrence” means that the entities that are given a concurring role must jointly agree before an action may be taken.

[(42)] (13) “Controlling person” means:

(a) an owner, officer, or director of an entity seeking to offer appraisal management services;

(b) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:

(i) enter into a contractual relationship with a client for the performance of an appraisal management service; and

(ii) enter into an agreement with an appraiser for the performance of a real estate appraisal activity; or

(c) [an individual] a person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(14) “Creditor” means:

(a) a person who regularly extends credit that, under a written agreement, is subject to a finance charge or is payable in more than four installments, not including any down payment; and

(b) a person to whom the obligation described in Subsection (14)(a) is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

[(43)] (15) “Director” means the director of the division.

[(44)] (16) “Division” means the Division of Real Estate, created in Section 61-2-201, of the Department of Commerce.

(17) “Dwelling” means a residential structure that contains up to four units, regardless of whether the structure is attached to real property, including:

(a) an individual condominium unit;

(b) a cooperative unit;

(c) a mobile home; or

(d) a trailer, if the trailer is used as a residence.

[(45)] (18) “Entity” means:

(a) a corporation;

(b) a partnership;

(c) a sole proprietorship;

(d) a limited liability company;

(e) another business entity; or

(f) a subsidiary or unit of an entity described in Subsections [(45)] (18)(a) through (e).

(19) “Federally regulated appraisal management company” means an appraisal management company that is:

(a) owned and controlled by an insured depository institution, as defined in 12 U.S.C. Sec. 1813; and

(b) regulated by:

(i) the Office of the Comptroller of the Currency;

(ii) the Board of Governors of the Federal Reserve System; or

(iii) the Federal Deposit Insurance Corporation.

(20) “Independent contractor” means an appraiser whom an appraisal management company treats as an independent contractor for purposes of federal income taxation.

(21) “National Registry” means the database maintained by the Appraisal Subcommittee containing information regarding appraisal management companies that are:

(a) licensed or certified by a state, territory, or the District of Columbia; or

(b) federally regulated appraisal management companies.

[(46)] (22) “Person” means an individual or an entity.

(23) “Person who regularly extends credit” means a person who:

(a) extends credit, other than credit subject to the requirements of 12 C.F.R. Sec. 1026.32, to a person who has been extended credit for transactions secured by a dwelling more than five times in:

(i) the preceding calendar year; or

(ii) the current calendar year;

(b) originates two or more credit extensions that are subject to the requirements of 12 C.F.R. Sec. 1026.32; or

(c) originates through a mortgage broker a credit extension that is subject to the requirements of 12 C.F.R. Sec. 1026.32.

[(47)] (24) “Real estate appraisal activity” is as defined in Section 61-2g-102.

(25) “Residential mortgage loan” means the same as that term is defined in Section 61-2c-102.

(26) (a) “Secondary mortgage market participant” means:

(i) a guarantor or insurer of a mortgage-backed security; or

(ii) an underwriter or insurer of a mortgage-backed security.

(b) “Secondary mortgage market participant” includes an individual investor in a mortgage-backed security, if the investor is also the guarantor, insurer, underwriter, or issuer of the mortgage-backed security.

(27) “Territory” means any of the following United States territories:

(a) Guam;

(b) Northern Mariana Islands;

- (c) Puerto Rico; or
- (d) United States Virgin Islands.

Section 6. Section 61-2e-104 is amended to read:

61-2e-104. Exemption.

This chapter does not apply to:

- (1) an entity that:
 - (a) exclusively employs an individual on an employer-employee basis for the performance of a real estate appraisal activity in the normal course of the entity's business;
 - (b) is responsible for ensuring that the real estate appraisal activity being performed by an employee is performed in accordance with applicable appraisal standards; and
 - (c) is ~~[an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency]~~ a federally regulated appraisal management company;
- (2) an individual who:
 - (a) is an appraiser; and
 - (b) in the normal course of business enters into an agreement, whether written or otherwise, with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including:
 - (i) competency;
 - (ii) work load;
 - (iii) schedule; or
 - (iv) geographic location; or
- (3) an individual who:
 - (a) in the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of a real estate appraisal activity; and
 - (b) under the agreement, cosigns the report of the appraiser performing the real estate appraisal activity upon the completion of the real estate appraisal activity.

Section 7. Section 61-2e-201 is amended to read:

61-2e-201. Registration required -- Qualification for registration.

- (1) Unless exempted under Section 61-2e-104, an appraisal management company is required to register under this chapter ~~if, in a calendar year,~~ the company:
 - (a) contracts with one or more appraisers for the performance of 10 or more appraisals in the state ~~[in a calendar year; or];~~
 - (b) oversees ~~[a network of]~~ an appraiser panel of more than 15 appraisers certified or licensed in the

state[;] in accordance with Title 61, Chapter 2g, Part 3, Licensure, Certification, or Registration; or

(c) oversees an appraiser panel of 25 or more certified or licensed appraisers, including:

(i) at least one appraiser certified or licensed in the state in accordance with Title 61, Chapter 2g, Part 3, Licensure, Certification, or Registration; and

(ii) at least one appraiser certified or licensed in a state other than Utah, a territory, or the District of Columbia.

(2) (a) For the purposes of Subsection (1):

(i) an appraiser is considered part of an appraisal management company's appraiser panel as of the earlier of the day on which the appraisal management company:

(A) accepts the appraiser for the appraisal management company's consideration for future appraisal assignments; or

(B) engages the appraiser to perform an appraisal on behalf of a client; and

(ii) an appraiser who is part of the appraisal management company's appraiser panel under Subsection (2)(a)(i) remains a part of the appraiser panel until the earlier of the day on which the appraisal management company:

(A) sends written notice to the appraiser removing the appraiser from the appraiser panel, in accordance with Section 61-2e-306;

(B) receives written notice from the appraiser asking to be removed from the appraiser panel; or

(C) receives notice of the death or incapacity of the appraiser.

(b) An appraisal management company shall consider an appraiser as never having been removed from the appraisal management company's appraiser panel under Subsection (2)(a)(ii) if, within 12 months after the day on which the appraisal management company removes the appraiser, the appraisal management company:

(i) accepts the appraiser for consideration for a future assignment; or

(ii) engages the appraiser to perform an appraisal on behalf of a client.

~~[(2)]~~ (3) Unless registered under this chapter or exempt under Section 61-2e-104, an entity may not with regard to a real estate appraisal activity for real estate located in this state:

(a) directly or indirectly engage or attempt to engage in business as an appraisal management company;

(b) directly or indirectly engage or attempt to perform an appraisal management service; or

(c) advertise or hold itself out as engaging in or conducting business as an appraisal management company.

~~[(3)]~~ (4) To qualify to be registered or to have registration renewed as an appraisal management company under this chapter:

(a) the appraisal management company may not have had a license or registration revoked by a government regulatory body at any time, unless the revocation is subsequently vacated or converted;

(b) the appraisal management company may not be owned, in whole or in part, directly or indirectly, by an individual who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked by any state, territory, or the District of Columbia, unless the state, territory, or District of Columbia:

(i) refused, denied, canceled, surrendered in lieu of revocation, or revoked the license or certificate for a nonsubstantive cause, as determined by the board; and

(ii) reinstated the individual's license or certificate;

~~[(b)]~~ (c) each individual who owns, directly or indirectly, more than 10% of the appraisal management company shall:

(i) be of good moral character, as determined by the board; and

(ii) not have had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in ~~[this state or in another]~~ any state, territory, or the District of Columbia; and

~~[(e)]~~ (d) the appraisal management company shall designate a main contact for communication between the appraisal management company and either the board or division who:

(i) is a controlling person;

(ii) is of good moral character, as determined by the board; and

(iii) has not had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in ~~[this state or in another]~~ any state, territory, or the District of Columbia.

~~[(4)]~~ (5) This section applies without regard to whether the entity uses the term:

(a) "appraisal management company";

(b) "mortgage technology company"; or

(c) another name.

Section 8. Section 61-2e-202 is amended to read:

61-2e-202. Initial registration process.

(1) (a) To register under this chapter as an appraisal management company, an entity shall:

(i) file with the division a registration application in a form prescribed by the division;

(ii) pay to the division a fee determined in accordance with Section 63J-1-504;

(iii) if the entity is not a resident of this state, submit an irrevocable consent for service of process meeting the requirements of Subsection (3); and

(iv) have the application for registration approved by the division.

(b) The division shall approve an application if the division finds that the entity:

(i) complies with this Subsection (1); and

(ii) meets the qualifications under Section 61-2e-201.

(c) The division may, upon compliance with Title 63G, Chapter 4, Administrative Procedures Act, deny the issuance of a registration to an applicant on any ground enumerated in this chapter.

(d) If an entity pays a fee or costs to the division with a negotiable instrument or other method that is not honored for payment:

(i) the transaction for which the payment is submitted is voidable by the division;

(ii) the division may reverse the transaction if payment of the applicable fee or costs is not received in full; and

(iii) the entity's registration is automatically suspended:

(A) beginning the day on which the payment is due; and

(B) ending the day on which payment is made in full.

(2) A registration application shall include the following:

(a) the name of the entity seeking registration;

(b) a business address of the entity seeking registration;

(c) telephone contact information of the entity seeking registration;

(d) if the entity is not an entity domiciled in this state, the name and contact information for the entity's agent for service of process in this state;

(e) for each individual who owns 10% or more of the entity:

(i) the individual's name, address, and contact information;

(ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and

(iii) (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the

Federal Bureau of Investigation regarding the application;

(f) the name, address, and contact information for each controlling person;

(g) for the controlling person designated as the contact as required by Section 61-2e-201:

(i) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in this state or in another state, territory, or the District of Columbia; and

(ii) (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;

(h) provide an explanation required by:

(i) Section 61-2e-301, related to adding an individual to an appraiser panel;

(ii) Section 61-2e-302, related to the review of the work of an appraiser; and

(iii) Section 61-2e-303, related to recordkeeping; and

(i) any other information required by the board.

(3) An irrevocable consent for service of process required to be filed under Subsection (1) shall provide that process may be served on the entity by delivering the process to the director if:

(a) the service of process is for an action:

(i) in a court of this state against an entity; and

(ii) arising out of an act governed by this chapter; and

(b) a plaintiff cannot, in the exercise of due diligence, obtain personal service upon the entity.

Section 9. Section 61-2e-203 is amended to read:

61-2e-203. Criminal background check -- Conditional registration -- Changes in ownership or controlling person.

(1) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an individual described in Subsection 61-2e-202(2)(e) or (g) through the national criminal history system or any successor system.

(2) (a) The entity filing the application under Section 61-2e-202 shall pay the cost of the criminal background check and the fingerprinting.

(b) Money paid to the division by an entity for the cost of a criminal background check is nonlapsing.

(3) (a) A registration issued under Section 61-2e-202 is conditional, pending completion of a criminal background check.

(b) (i) A registration shall be immediately and automatically revoked if a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history involving:

(A) the appraisal industry;

(B) the appraisal management industry; or

(C) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.

(ii) If a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history other than that described in Subsection (3)(b)(i), the division shall review the application, and in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(A) place a condition on a registration;

(B) place a restriction on a registration;

(C) revoke a registration; or

(D) refer the application to the board for a decision.

(c) An entity whose conditional registration is revoked under Subsection (3)(b)(i) or whose license is conditioned, restricted, or revoked under Subsection (3)(b)(ii) is entitled to a post-revocation hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to challenge the revocation.

(d) The board shall decide whether relief from the revocation of a registration under this Subsection (3) will be granted, except that relief from an automatic revocation under Subsection (3)(b)(i) may be granted only if:

(i) the criminal history upon which the revocation is based:

(A) did not occur; or

(B) is the criminal history of another individual;

(ii) (A) the revocation is based on a failure to accurately disclose a criminal history; and

(B) the entity has a reasonable good faith belief at the time of application that there is no criminal history to be disclosed; or

(iii) the division fails to follow the prescribed procedure for the revocation.

(e) The board may delegate to the division the authority to conduct a post-revocation hearing under Subsection (3)(d).

(f) If a registration is revoked or a revocation under this Subsection (3) is upheld after a post-revocation hearing, the entity may not apply for a new registration until at least 12 months after the day on which the registration is revoked.

(4) (a) An appraisal management company shall comply with this Subsection (4) if there is a change in:

(i) an individual who owns 10% or more of the entity; or

(ii) the controlling person designated as the contact as required by Section 61-2e-201.

(b) If there is a change in an individual described in Subsection (4)(a), within 30 days of the day on which the change occurs, the appraisal management company shall file with the division:

(i) the individual's name, address, and contact information;

(ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in this state or in another state, territory, or the District of Columbia; and

(iii) (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

Section 10. Section 61-2e-205 is enacted to read:

61-2e-205. Division service fees -- Federal registry fees.

(1) The division, with the concurrence of the board, shall establish and collect fees, in accordance with Section 63J-1-504, for services the division renders to carry out this chapter.

(2) The division shall:

(a) collect the annual registry fee established by the Appraisal Subcommittee from:

(i) each appraisal management company registered under this chapter; and

(ii) each federally regulated appraisal management company; and

(b) transfer the fees collected under Subsection (2)(a) to the Appraisal Subcommittee on a monthly basis.

(3) If an appraisal management company pays a fee or cost to the division with a negotiable instrument or any other payment method that is not honored, the division:

(a) may void the transaction for which the payment is submitted;

(b) may reverse the transaction, if the division does not receive full payment of the applicable fee or cost; and

(c) shall suspend the appraisal management company's registration:

(i) beginning the day on which the payment is due; and

(ii) ending the day on which payment is made in full.

Section 11. Section 61-2e-302 is amended to read:

61-2e-302. Adherence to standards.

(1) An appraisal management company required to be registered under this chapter shall have a system in place to:

(a) ensure that the appraisal management company only selects for a real estate appraisal activity an appraiser who:

(i) is independent of the transaction; and

(ii) has the requisite education, expertise, and experience necessary to competently complete the real estate appraisal activity for the particular market and property type;

~~[(1)] (b) [An appraisal management company required to be registered under this chapter shall have a system in place to] review the work of an appraiser who performs a real estate appraisal activity for the appraisal management company on a periodic basis to ensure that a real estate appraisal activity is conducted in accordance with applicable appraisal standards[-]; and~~

(c) ensure that the appraisal management company conducts appraisal management services in accordance with the requirements of the Truth in Lending Act, 15 U.S.C. Sec. 1639e(a)-(i), and the regulations thereunder.

(2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of [the] each system described in Subsection (1) in the form prescribed by the division.

Section 12. Section 61-2e-401 is amended to read:

61-2e-401. Division authority -- Immunity -- Transmission of reports to Appraisal Subcommittee.

(1) (a) In addition to a power or duty expressly provided in this chapter, the division may:

(i) examine any book or record of an appraisal management company registered or required to be registered under this chapter and require the appraisal management company to submit any report, information, or document to the division;

~~[(4)]~~ (ii) receive and act on a complaint including:

(A) taking action designed to obtain voluntary compliance with this chapter, including the issuance of a cease and desist order if the person against whom the order is issued is given the right to petition the board for review of the order; or

(B) commencing an administrative or judicial proceeding on the division's own initiative;

~~[(4)]~~ (iii) conduct a public or private investigation of an entity required to be registered under this

chapter, regardless of whether the entity is located in Utah;

~~[(iii)]~~ (iv) employ one or more investigators, clerks, or other employees or agents if:

- (A) approved by the executive director; and
- (B) within the budget of the division; and

~~[(iv)]~~ (v) issue a subpoena that requires:

- (A) the attendance and testimony of a witness; or
- (B) the production of evidence.

(b) (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(c) A failure to respond to a request by the division in an investigation under this chapter within 10 days after the day on which the request is served is considered to be a separate violation of this chapter, including:

- (i) failing to respond to a subpoena;
- (ii) withholding evidence; or
- (iii) failing to produce a document or record.

(2) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection (2)(a) when due, the person's registration is automatically suspended:

- (i) beginning the day on which the payment of costs is due; and
- (ii) ending the day on which the costs are paid in full.

(3) The division is immune from a civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act or participating in a disciplinary proceeding under this chapter if the division takes the action:

- (a) without malicious intent; and
- (b) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

(4) Upon the Appraisal Subcommittee's request, the division shall timely transmit a report to the Appraisal Subcommittee regarding the division's supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management

services, including any investigation the division initiates or disciplinary action the division takes.

Section 13. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) a person who as owner or lessor performs an act described in Subsection 61-2f-102~~(18)~~(20) with reference to real estate owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102~~(18)~~(20)(b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association; and

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding an unsolicited, duly executed power of attorney from a property owner;

~~(b) services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;~~

(b) subject to Subsection 61-2f-401(5), services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102~~(18)~~(20) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and

federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) As used in this section, "owner" does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

(5) The commission, with the concurrence of the division, may provide, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the circumstances under which a person or transaction qualifies for an exemption that is described in this section.

Section 14. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration, as defined by the commission, to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) being convicted, within five years of the most recent application for licensure, of a criminal offense involving moral turpitude regardless of whether:

(a) the criminal offense is related to real estate; or

(b) the conviction is based upon a plea of nolo contendere;

(12) having, within five years of the most recent application for a license under this chapter, entered any of the following related to a criminal offense involving moral turpitude:

(a) a plea in abeyance agreement;

(b) a diversion agreement;

(c) a withheld judgment; or

(d) an agreement in which a charge was held in suspense during a period of time when the licensee was on probation or was obligated to comply with conditions outlined by a court;

(13) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(14) in the case of a principal broker or a branch broker, failing to exercise reasonable supervision over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(15) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(16) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(17) any other conduct which constitutes dishonest dealing;

(18) unprofessional conduct as defined by statute or rule;

(19) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(20) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(21) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(22) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(23) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

(24) as a principal broker, placing a lien on real property, unless authorized by law; or

(25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services.

Section 15. Section 61-2f-407 is amended to read:

61-2f-407. Remedies and action for violations.

(1) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:

(i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and

(ii) it appears to the director that it would be in the public interest to stop the act.

(b) Within 10 days after [receiving] the day on which the order is served, the person upon whom the order is served may request a hearing.

(c) Pending a hearing requested under Subsection (1)(b), a cease and desist order shall remain in effect.

(d) If a request for a hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(2) (a) After a hearing requested under Subsection (1), if the commission and the director agree that an act of the person violates this chapter, the director:

(i) shall issue an order making the order issued under Subsection (1) permanent; and

(ii) may impose another disciplinary action under Section 61-2f-404.

(b) The director shall file suit in the name of the Department of Commerce and the Division of Real Estate, in the district court in the county in which an act described in Subsection (1) occurs or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter if:

(i) (A) a hearing is not requested under Subsection (1); and

(B) the person fails to cease the act described in Subsection (1); or

(ii) after discontinuing the act described in Subsection (1), the person again commences the act.

(c) A district court of this state has jurisdiction of an action brought under this section.

(d) Upon a proper showing in an action brought under this section or upon a conviction under Section 76-6-1203, the court may:

(i) issue a permanent or temporary, prohibitory or mandatory injunction;

(ii) issue a restraining order or writ of mandamus;

(iii) enter a declaratory judgment;

(iv) appoint a receiver or conservator for the defendant or the defendant's assets;

- (v) order disgorgement;
- (vi) order rescission;
- (vii) impose a civil penalty not to exceed the greater of:
 - (A) \$5,000 for each violation; or
 - (B) the amount of any gain or economic benefit derived from a violation; and
- (viii) enter any other relief the court considers just.

(e) The court may not require the division to post a bond in an action brought under this Subsection (2).

(3) A license, certificate, or registration issued by the division to any person convicted of a violation of Section 76-6-1203 is automatically revoked.

(4) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.

Section 16. Section 61-2g-205 is amended to read:

61-2g-205. Duties of board.

(1) (a) The board shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications.

(b) The board has the powers and duties listed in this section.

(2) The board shall:

(a) determine the experience and education requirements appropriate for a person licensed under this chapter;

(b) determine the experience and education requirements appropriate for a person certified under this chapter:

(i) in compliance with the minimum requirements of Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

(ii) consistent with the intent of this chapter;

(c) determine the appraisal related acts that may be performed by:

(i) a trainee on the basis of the trainee's education and experience;

(ii) clerical staff; and

(iii) a person who:

(A) does not hold a license or certification; and

(B) assists an appraiser licensed or certified under this chapter in providing appraisal services or consultation services;

(d) determine the procedures for a trainee to register and to renew a registration with the division; and

(e) develop one or more programs to upgrade and improve the experience, education, and examinations as required under this chapter.

(3) The experience and education requirements determined by the board for a person licensed or certified under this chapter shall meet or exceed the minimum criteria established by the Appraisal Qualification Board.

(4) The board shall:

(a) determine the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter that meet or exceed the minimum criteria established by the Appraisal Qualification Board;

(b) develop one or more programs to upgrade and improve continuing education; and

(c) recommend to the division one or more available continuing education courses that meet the requirements of this chapter.

(5) (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when:

(i) an interpretation or explanation is necessary in the enforcement of this chapter; and

(ii) the Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.

(b) If the conditions of Subsection (5)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.

(c) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for an activity engaged in on behalf of a governmental entity.

(6) (a) The board shall conduct an administrative hearing, not delegated by the board to an administrative law judge, in connection with a disciplinary proceeding under Section 61-2g-504 concerning:

(i) a person required to be licensed, certified, or registered under this chapter; and

(ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2g-403.

(b) The board, with the concurrence of the division, shall issue in an administrative hearing a decision that contains findings of fact and conclusions of law.

(c) When a determination is made that a person required to be licensed, certified, or registered under this chapter has violated this chapter, the

division shall implement disciplinary action determined through concurrence of the board and the division.

(7) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding concerning a person required to be registered, licensed, certified, or approved as an expert under this chapter if the action is taken without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

(8) (a) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community of an applicant for:

(i) original licensure, certification, or registration; and

(ii) renewal licensure, certification, or registration.

(b) The board may delegate to the division the authority to:

(i) review a class or category of applications for an original or renewed license, certification, or registration;

(ii) determine whether an applicant meets the qualifications for licensure, certification, or registration;

(iii) conduct any necessary hearing on an application for an original or renewed license, certification, or registration; and

(iv) approve, approve with condition or restriction, or deny an application for an original or renewed license, certification, or registration.

(c) Except as provided in Subsections (8)(d) and (e), and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is approved with a condition or restriction or denied licensure, certification, or registration under this chapter may submit a request for agency review to the executive director of the division within 30 days after the day on which the board issues the order approving with a condition or restriction, or denying, the applicant's application.

(d) If the board delegates to the division the authority to approve, approve with a condition or restriction, or deny an application without the concurrence of the board under Subsection (8)(b), and the division approves with a condition or restriction, or denies, an application for licensure, certification, or registration, the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the board for a de novo review of the application within 30 days after the day on which the division issues the order approving with a condition or restriction, or denying, the applicant's application.

(e) If the board approves with a condition or restriction, or denies, an applicant's application for

licensure, certification, or registration after a de novo review under Subsection (8)(d), the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the executive director for review of the board's approval with a condition or restriction, or denial, within 30 days after the day on which the board issues the order approving with a condition or restriction, or denying, the applicant's application.

Section 17. Section 61-2g-309 is amended to read:

61-2g-309. Approval with conditions or restrictions, or denial, of licensure, certification, or registration.

The division may, upon compliance with Title 63G, Chapter 4, Administrative Procedures Act, on any of the grounds described in this chapter:

(1) deny the issuance of a license, certification, or registration to an applicant [~~on any of the grounds enumerated in this chapter.~~]; or

(2) approve with one or more conditions or restrictions the issuance of a license, certification, or registration to an applicant.

Section 18. Section 61-2g-501 is amended to read:

61-2g-501. Enforcement -- Investigation -- Orders -- Hearings.

(1) (a) The division may conduct a public or private investigation of the actions of:

(i) a person registered, licensed, or certified under this chapter;

(ii) an applicant for registration, licensure, or certification;

(iii) an applicant for renewal of registration, licensure, or certification; or

(iv) a person required to be registered, licensed, or certified under this chapter.

(b) The division may initiate an agency action against a person described in Subsection (1)(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to:

(i) impose disciplinary action;

(ii) deny issuance to an applicant of:

(A) an original registration, license, or certification; or

(B) a renewal of a registration, license, or certification; or

(iii) issue a cease and desist order as provided in Subsection (3).

(2) (a) The division may:

(i) administer an oath or affirmation;

(ii) issue a subpoena that requires:

(A) the attendance and testimony of a witness; or

(B) the production of evidence;

- (iii) take evidence; and
- (iv) require the production of a book, paper, contract, record, document, information, or evidence relevant to the investigation described in Subsection (1).
- (b) The division may serve a subpoena by certified mail.
- (c) A failure to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served is considered to be a separate violation of this chapter, including:
- (i) failing to respond to a subpoena as a witness;
 - (ii) withholding evidence; or
 - (iii) failing to produce a book, paper, contract, document, information, or record.
- (d) (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.
- (ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.
- (e) (i) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, information, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, information, or record in a universally readable format.
- (ii) If a person fails to pay the costs described in Subsection (2)(e)(i) when due, the person's license, certification, or registration is automatically suspended:
- (A) beginning the day on which the payment of costs is due; and
 - (B) ending the day on which the costs are paid.
- (3) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:
- (i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and
 - (ii) it appears to the director that it would be in the public interest to stop the act.
- (b) Within 10 days after ~~receiving~~ the day on which the order is served, the person upon whom the order is served may request a hearing.
- (c) Pending a hearing requested under Subsection (3)(b), a cease and desist order shall remain in effect.
- (d) If a request for hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

- (4) (a) After a hearing requested under Subsection (3), if the board and division concur that an act of the person violates this chapter, the board, with the concurrence of the division:
- (i) shall issue an order making the cease and desist order permanent; and
 - (ii) may impose another disciplinary action under Section 61-2g-502.
- (b) The director shall commence an action in the name of the Department of Commerce and Division of Real Estate, in the district court in the county in which an act described in Subsection (3) occurs or where the individual resides or carries on business, to enjoin and restrain the individual from violating this chapter if:
- (i) (A) a hearing is not requested under Subsection (3); and
 - (B) the individual fails to cease the act described in Subsection (3); or
 - (ii) after discontinuing the act described in Subsection (3), the individual again commences the act.
- (5) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.
- (6) (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:
- (i) four years after the day on which the violation is reported to the division; or
 - (ii) 10 years after the day on which the violation occurred.
- (b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:
- (i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and
 - (B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or
 - (ii) the division and the individual subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

CHAPTER 214**H. B. 248**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**COMPENSATORY SERVICE
 IN LIEU OF FINE AMENDMENTS**

Chief Sponsor: Brian S. King
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill allows a defendant the option of performing compensatory service in lieu of a fine for a conviction of an infraction or misdemeanor.

Highlighted Provisions:

This bill:

- ▶ defines “compensatory service”;
- ▶ requires that a court provide a person convicted of an infraction, class B, or class C misdemeanor with the option to perform compensatory service in lieu of paying a fine; and
- ▶ sets reporting requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-3-205, as enacted by Laws of Utah 1973, Chapter 196

ENACTS:

76-3-301.7, Utah Code Annotated 1953

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

Section 1. Section 76-3-205 is amended to read:

76-3-205. Infraction conviction -- Fine, forfeiture, and disqualification.

(1) A person convicted of an infraction may not be imprisoned but may be subject to:

- (a) a fine, which may include compensatory service as a method to satisfy the fine;
- (b) forfeiture~~[, and]~~;
- (c) disqualification~~[,]~~; or
- (d) any combination of the above.

(2) Compensatory service shall be considered in accordance with Section 76-3-301.7.

~~[(2)]~~ (3) Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

Section 2. Section 76-3-301.7 is enacted to read:

76-3-301.7. Compensatory service.

(1) As used in this section, “compensatory service” means service or unpaid work performed by a person, in lieu of the payment of a criminal fine, for:

- (a) a state or local government agency;
- (b) an entity that is approved as a nonprofit organization under Section 501(c) of the Internal Revenue Code; or
- (c) any other entity or organization if prior approval is obtained from the court.

(2) When a defendant is sentenced to pay a fine for an infraction, class C or class B misdemeanor, the court shall consider allowing the defendant to complete compensatory service in lieu of the payment of the fine or account receivable, exclusive of any victim restitution imposed.

(3) A defendant who intends to forfeit bail or who is ordered to pay a fine by the court for an infraction, class C or class B misdemeanor, shall be informed by the court of the opportunity to perform compensatory service in lieu of the fine or bail amount.

(4) The court shall credit timely completed compensatory service reported in accordance with Subsection (5) against the fine or bail amount at the rate of \$10 per hour and shall allow the defendant a reasonable amount of time to complete the service.

(5) (a) The court shall provide the defendant with instructions that inform the organization:

- (i) about the requirements in Subsection (5)(b); and
- (ii) that making a written false statement to the court about the defendant’s compensatory service is punishable as a class B misdemeanor pursuant to Section 76-8-504.

(b) The defendant shall report compensatory service hours to the court in a letter that:

- (i) is on the organization’s official letterhead and includes contact information for the organization’s representative;
- (ii) specifies the number of hours for which the defendant provided service;
- (iii) contains a brief description of what the service involved; and
- (iv) is signed by an authorized representative of the organization; or
- (v) is in a form otherwise acceptable to the court.

(6) The court may refuse to accept compensatory service:

- (a) completed prior to the date of sentencing;
- (b) that has been submitted to another court for credit; or
- (c) completed at an agency or organization or is a type of service that is specifically prohibited by the court.

CHAPTER 215**H. B. 250**

Passed March 1, 2018
Approved March 19, 2018
Effective May 8, 2018

**BUILDING PERMIT AND
IMPACT FEES AMENDMENTS**

Chief Sponsor: Mike Schultz
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions of Title 11, Chapter 36a, Impact Fees Act.

Highlighted Provisions:

This bill:

- ▶ allows a claimant to challenge whether a local political subdivision spent or encumbered an impact fee in accordance with law;
- ▶ establishes a time by which a claimant may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with law;
- ▶ transmits a portion of the surcharge on building permits to the Office of the Property Rights Ombudsman to provide certain land use education and training; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-36a-603, as last amended by Laws of Utah 2017, Chapter 190
11-36a-701, as enacted by Laws of Utah 2011, Chapter 47
11-36a-702, as enacted by Laws of Utah 2011, Chapter 47
13-43-203, as last amended by Laws of Utah 2015, Chapter 75
15A-1-209, as last amended by Laws of Utah 2012, Chapter 278

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

Section 1. Section 11-36a-603 is amended to read:**11-36a-603. Refunds.**

(1) A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:

- (a) the developer does not proceed with the development activity and has filed a written request for a refund;
 - (b) the fee has not been spent or encumbered; and
 - (c) no impact has resulted.
- (2) (a) As used in this Subsection (2):

(i) "Affected lot" means the lot or parcel with respect to which a local political subdivision collected an impact fee that is subject to a refund under this Subsection (2).

(ii) "Claimant" means:

(A) the original owner; ~~or~~

(B) the person who paid an impact fee; or

~~[(4B)]~~ (C) another person who, under Subsection (2)(d), submits a timely notice of the person's valid legal claim to an impact fee refund.

(iii) "Original owner" means the record owner of an affected lot at the time the local political subdivision collected the impact fee.

(iv) "Unclaimed refund" means an impact fee that:

(A) is subject to refund under this Subsection (2); and

(B) the local political subdivision has not refunded after application of Subsections (2)(b) and (c).

(b) If an impact fee is not spent or encumbered ~~[within the time specified in Subsection 11-36a-602(2)]~~ in accordance with Section 11-36a-602, the local political subdivision shall, subject to Subsection (2)(c):

(i) refund the impact fee to:

(A) the original owner, if the original owner is the sole claimant; or

(B) to the claimants, as the claimants agree, if there are multiple claimants; or

(ii) interplead the impact fee refund to a court of competent jurisdiction for a determination of the entitlement to the refund, if there are multiple claimants who fail to agree on how the refund should be paid to the claimants.

(c) If the original owner's last known address is no longer valid at the time a local political subdivision attempts under Subsection (2)(b) to refund an impact fee to the original owner, the local political subdivision shall:

(i) post a notice on the local political subdivision's website, stating the local political subdivision's intent to refund the impact fee and identifying the original owner;

(ii) maintain the notice on the website for a period of one year; and

(iii) disqualify the original owner as a claimant unless the original owner submits a written request for the refund within one year after the first posting of the notice under Subsection (2)(c)(i).

(d) (i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.

(ii) A notice under Subsection (2)(d)(i) shall:

(A) explain the person's valid legal claim to the refund; and

(B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.

(e) A local political subdivision:

(i) may retain an unclaimed refund; and

(ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

Section 2. Section 11-36a-701 is amended to read:

11-36a-701. Impact fee challenge.

(1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.

(2) (a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.

(b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.

(3) (a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that ~~was imposed by~~ a local political subdivision imposed may challenge:

(i) if the impact fee enactment was adopted on or after July 1, 2000:

(A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and

(B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and

(ii) except as limited by Subsection (3)(c), the impact fee.

(b) (i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.

(ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section

17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).

(c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.

(4) (a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:

(i) the substantially prevailing party on that cause of action:

(A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and

(B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the ~~government entity~~ local political subdivision had correctly calculated the impact fee; and

(ii) in accordance with Section 13-43-206, a ~~government entity~~ local political subdivision shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:

(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and

(B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the ~~government entity~~ local political subdivision within 30 days after the day on which the court issued the final ruling on the impact fee.

(b) A ~~government entity~~ local political subdivision subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the ~~government entity~~ local political subdivision had correctly calculated the impact fee.

(c) This Subsection (4) may not be construed to create a new cause of action under land use law.

(d) Subsection ~~[(3)]~~ (4)(a) does not apply unless the ~~resolution described in Subsection (3)(a) is final~~ cause of action described in Subsection (4)(a) is resolved and final.

(5) Subject to the time limitations described in Section 11-36a-702 and procedures described in Section 11-36a-703, a claimant, as defined in Section 11-36a-603, may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with Section 11-36a-602.

Section 3. Section 11-36a-702 is amended to read:

11-36a-702. Time limitations.

(1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:

(a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;

(b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee; ~~or~~

(c) for a challenge under Subsection 11-36a-701(5):

(i) if the local political subdivision has spent or encumbered the impact fee, one year after the expiration of the time specified in Subsection 11-36a-602(2); or

(ii) if the local political subdivision has not yet spent or encumbered the impact fee, two years after the expiration of the time specified in Subsection 11-36a-602(2); or

~~(e)~~ (d) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.

(2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Section 4. Section 13-43-203 is amended to read:

13-43-203. Office of the Property Rights Ombudsman -- Duties.

(1) ~~(a)~~ The Office of the Property Rights Ombudsman shall:

~~(i)~~ (a) develop and maintain expertise in and understanding of takings, eminent domain, and land use law;

~~(ii)~~ (b) clearly identify the specific information that is prepared for distribution to property owners whose land is being acquired under the provisions of Section 78B-6-505;

~~(iii)~~ (c) assist state agencies and local governments in developing the guidelines required by Title 63L, Chapter 4, Constitutional Taking Issues Act;

~~(iv)~~ (d) at the request of a state agency or local government, assist the state agency or local government, in analyzing actions with potential takings implications or other land use issues;

~~(v)~~ (e) advise real property owners who:

~~(A)~~ (i) have a legitimate potential or actual takings claim against a state or local government entity or have questions about takings, eminent domain, and land use law; or

~~(B)~~ (ii) own a parcel of property that is landlocked, as to the owner's rights and options with respect to obtaining access to a public street;

~~(vi)~~ (f) identify state or local government actions that have potential takings implications and, if appropriate, advise those state or local government entities about those implications; ~~and~~

~~(vii)~~ (g) provide information to private citizens, civic groups, government entities, and other interested parties about takings, eminent domain, and land use law and their rights, including a right to just compensation, and responsibilities under the takings, eminent domain, or land use laws through seminars and publications, and by other appropriate means[.];

~~(b) The Office of the Property Rights Ombudsman shall:~~

~~(h)~~ (i) provide the information described in Section 78B-6-505 on ~~its~~ the Office of the Property Rights Ombudsman's website in a form that is easily accessible; and

(ii) ensure that the information is current[.]; and

(i) (i) provide education and training regarding:

(A) the drafting and application of land use laws and regulations; and

(B) land use dispute resolution; and

(ii) use any money transmitted in accordance with Subsection 15A-1-209(5) to pay for any expenses required to provide the education and training described in Subsection (1)(i)(i), including grants to a land use training organization that:

(A) the Land Use and Eminent Domain Advisory Board, created in Section 13-43-202, selects and proposes; and

(B) the property rights ombudsman and the executive director of the Department of Commerce jointly approve.

(2) (a) Neither the Office of the Property Rights Ombudsman nor its individual attorneys may represent private parties, state agencies, local governments, or any other individual or entity in a legal action that arises from or relates to a matter addressed in this chapter.

(b) An action by an attorney employed by the Office of the Property Rights Ombudsman, by a neutral third party acting as mediator or arbitrator under Section 13-43-204, or by a neutral third party rendering an advisory opinion under Section 13-43-205 or 13-43-206, taken within the scope of the duties set forth in this chapter, does not create an attorney-client relationship between the Office of the Property Rights Ombudsman, or the office's attorneys or appointees, and an individual or entity.

(3) No member of the Office of the Property Rights Ombudsman nor a neutral third party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled to testify in a civil action filed concerning the subject matter of any review, mediation, or arbitration by, or arranged through, the office.

(4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.

(b) Subsection (4)(a) does not apply to:

(i) actions brought under authority of Title 78A, Chapter 8, Small Claims Courts;

(ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78B, Chapter 11, Utah Uniform Arbitration Act;

(iii) actions for de novo review of an arbitration award or issue brought under the authority of Subsection 13-43-204(3)(a)(i); or

(iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.

Section 5. Section 15A-1-209 is amended to read:

15A-1-209. Building permit requirements.

(1) As used in this section, "project" means a "construction project" as defined in Section 38-1a-102.

(2) (a) The division shall develop a standardized building permit numbering system for use by any compliance agency in the state that issues a permit for construction.

(b) The standardized building permit numbering system described under Subsection (2)(a) shall include a combination of alpha or numeric characters arranged in a format acceptable to the compliance agency.

(c) A compliance agency issuing a permit for construction shall use the standardized building permit numbering system described under Subsection (2)(a).

(d) A compliance agency may not use a numbering system other than the system described under Subsection (2)(a) to define a building permit number.

(3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt a standardized building permit form by rule.

(b) The standardized building permit form created under this Subsection (3) shall include fields for indicating the following information:

(i) the name and address of the owner of each parcel of property on which the project will occur;

(ii) the name and address of the contractor for the project;

(iii) (A) the address of the project; or

(B) a general description of the project;

(iv) the county in which the property on which the project will occur is located;

(v) the tax parcel identification number of each parcel of the property; and

(vi) whether the permit applicant is an original contractor or owner-builder.

(c) The standardized building permit form created under this Subsection (3) may include any other information the division considers useful.

(d) A compliance agency shall issue a permit for construction only on a standardized building permit form approved by the division.

(e) A permit for construction issued by a compliance agency under Subsection (3)(d) shall print the standardized building permit number assigned under Subsection (2) in the upper right-hand corner of the building permit form in at least 12-point font.

(f) (i) Except as provided in Subsection (3)(f)(ii), a compliance agency may not issue a permit for construction if the information required by Subsection (3)(b) is not completed on the building permit form.

(ii) If a compliance agency does not issue a separate permit for different aspects of the same project, the compliance agency may issue a permit for construction without the information required by Subsection (3)(b)(vi).

(g) A compliance agency may require additional information for the issuance of a permit for construction.

(4) A local regulator issuing a single-family residential building permit application shall include in the application or attach to the building permit the following notice prominently placed in at least 14-point font: "Decisions relative to this application are subject to review by the chief executive officer of the municipal or county entity issuing the single-family residential building permit and appeal under the International Residential Code as adopted by the Legislature."

(5) (a) A compliance agency shall:

(i) charge a 1% surcharge on a building permit ~~that~~ the compliance agency issues; and

(ii) transmit ~~[80%]~~ 85% of the amount collected to the division to be used by ~~the~~ the division in accordance with Subsection (5)(c).

(b) The portion of the surcharge transmitted to the division shall be deposited as a dedicated credit.

(c) (i) The division shall use 30% of the money received under ~~this~~ Subsection (5)(a)(ii) to provide education~~[-(4)]~~ to building inspectors regarding the codes and code amendments ~~that~~ that under Section 15A-1-204 that are adopted, approved, or being considered for adoption or approval~~[-and]~~.

~~(ii) to:~~

~~(A) building inspectors; and~~

~~(B) individuals engaged in construction-related trades or professions.]~~

(ii) The division shall use 10% of the money received under Subsection (5)(a)(ii) to provide

education to individuals licensed in construction trades or related professions through a construction trade association or a related professional association.

(iii) The division shall transmit 60% of the money received under Subsection (5)(a)(ii) to the Office of the Property Rights Ombudsman created in Title 13, Chapter 43, Property Rights Ombudsman Act, to provide education and training regarding:

(A) the drafting and application of land use laws and regulations; and

(B) land use dispute resolution.

CHAPTER 216**H. B. 257**

Passed March 6, 2018
 Approved March 19, 2018
 Effective May 8, 2018

SENTINEL LANDSCAPE DESIGNATION

Chief Sponsor: John Knotwell
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill establishes the West Traverse Sentinel Landscape Act.

Highlighted Provisions:

This bill:

- ▶ creates the West Traverse Sentinel Landscape Coordinating Committee;
- ▶ provides for membership of the committee;
- ▶ describes the purpose of the committee as facilitating a buffer zone around Camp Williams in order to maintain the mission of the base;
- ▶ requires an annual report to the governor and Legislature; and
- ▶ creates the West Traverse Sentinel Landscape Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

39-10-101, Utah Code Annotated 1953
 39-10-102, Utah Code Annotated 1953
 39-10-103, Utah Code Annotated 1953
 39-10-104, Utah Code Annotated 1953
 39-10-105, Utah Code Annotated 1953

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

Section 1. Section 39-10-101 is enacted to read:**CHAPTER 10. WEST TRAVERSE SENTINEL LANDSCAPE ACT****39-10-101. Title -- West Traverse Sentinel Landscape Act -- Purpose.**

(1) This chapter is known as "West Traverse Sentinel Landscape Act."

(2) The purpose of this act is to:

(a) identify lands adjacent to Camp Williams that are important to the nation's defense mission;

(b) preserve and enhance the relationship between adjacent landowners and Camp Williams; and

(c) create incentives to encourage adjacent landowners to adopt land management practices consistent with Camp Williams's military mission.

Section 2. Section 39-10-102 is enacted to read:**39-10-102. Area designation -- West Traverse Sentinel Landscape.**

(1) The compatible use buffer area surrounding Camp Williams shall be known as the West Traverse Sentinel Landscape.

(2) Lands designated by the committee established in Section 39-10-103 and lands acquired or encumbered through the Camp Williams Army Compatible Use Buffer (ACUB) Program shall be added to the buffer area.

Section 3. Section 39-10-103 is enacted to read:**39-10-103. West Traverse Sentinel Landscape Coordinating Committee.**

(1) There is created the West Traverse Sentinel Landscape Coordinating Committee.

(2) The committee shall be composed of the following members:

(a) the adjutant general of the Utah National Guard or another senior officer appointed by the adjutant general;

(b) the executive director of the Department of Veterans and Military Affairs or the director's designee;

(c) a landowner, selected by the chair, who owns property within the sentinel landscape area;

(d) a representative from a land conservation organization in Utah recognized as accredited under the standards and practices of the Land Trust Accreditation Commission;

(e) a representative from each municipality adjacent to Camp Williams, at the discretion of the municipality;

(f) one representative each from Salt Lake, Utah, and Tooele counties, at the discretion of the county governing body;

(g) a representative from a nongovernmental land management organization; and

(h) one member selected from a state agency that participates in land management activities.

(3) Committee members shall be selected and serve in accordance with this Subsection (3).

(a) The committee member representing Subsection (2)(c) shall be selected by the chair from a list of nominees presented by local officials.

(b) The committee members representing Subsections (2)(d) and (g) shall be invited to participate by the chair with the approval of a majority of the committee.

(c) Each incorporated municipality bordering Camp Williams shall, at its discretion no later than July 1 of each year, provide the chair with the name of the individual who will represent the municipality on the committee, as provided in

Subsection (2)(e). If the municipality declines to be represented on the committee, it shall send a letter to the chair on the municipality's letterhead stating that no individual will be appointed.

(d) If a county, as provided in Subsection (2)(f), declines to be represented on the committee, it shall send a letter to the chair on the county's letterhead not later than July 1 of each year stating that no individual will be appointed.

(e) The committee chair shall request the appointment of members representing Subsection (2)(h) from:

(i) the governor if the request is for a member from a state agency; or

(ii) the mayor or governing body of a local government entity if the request is for a member from a local government agency.

(4) The adjutant general or his appointee shall serve as chair of the committee.

(5) The committee shall meet at the call of the chair, but not less than twice each calendar year.

(6) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The Utah National Guard shall provide staff support for the committee.

Section 4. Section 39-10-104 is enacted to read:

39-10-104. Committee responsibilities.

(1) The committee shall:

(a) identify lands to be included in the designated sentinel landscape;

(b) develop strategies and recommendations to encourage landowners within the sentinel landscape to voluntarily participate in and begin or continue land uses compatible with Camp Williams's military mission; and

(c) publish any policies and procedures as administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) In designating sentinel lands, the coordinating committee shall include all working or natural lands that the coordinating committee believes contribute to the long-term sustainability of the military missions conducted at Camp Williams.

(3) The committee shall determine the appropriate level of state resources required to adequately protect Camp Williams's military mission and may apply for grants from the LeRay McAllister Critical Lands Conservation Program to aid in securing those resources.

(4) In determining lands to designate, the coordinating committee shall seek input from:

(a) the director of the Department of Defense Readiness and Environmental Protection Integration Program; and

(b) the director of the National Guard Bureau Army Compatible Use Buffer Program, as authorized under 10 U.S.C. Sec. 2684(a).

(5) The committee shall provide a written report of its activities if state funds are expended during the previous calendar year no later than July 31 annually to:

(a) the governor;

(b) the Government Operations Interim Committee; and

(c) the Executive Appropriations Committee.

Section 5. Section 39-10-105 is enacted to read:

39-10-105. West Traverse Sentinel Landscape Fund.

(1) As used in this section:

(a) "Committee" means the West Traverse Sentinel Landscape Coordinating Committee created in Section 39-10-103.

(b) "Fund" means the West Traverse Sentinel Landscape Fund.

(2) There is created a restricted account within the General Fund known as the West Traverse Sentinel Landscape Fund.

(3) The fund shall consist of:

(a) appropriations from the Legislature; and

(b) grants or donations from other public or private sources.

(4) The fund shall be administered by the Utah National Guard and the committee.

(5) The purpose of the fund shall be to provide:

(a) matching funds for established federal funding programs concerning sentinel landscapes;

(b) matching funds for local and private funding programs that assist with sentinel landscape designations; and

(c) incentives for landowners who voluntarily participate in land management practices that are consistent with Camp Williams's military missions.

(6) The committee may make an appropriation request through the Utah National Guard to the Legislature for necessary funds to carry out the committee's purpose.

(7) Upon appropriation, funds may only be used for landscapes that qualify under:

(a) the Army Compatible Use Buffer Program guidelines or similar regulations as a federal program whose purpose is to secure landscapes that serve to buffer military installations;

(b) Internal Revenue Code guidelines in 26 U.S.C. Sec. 170(h); or

(c) local municipal or county guidelines established through the committee and consistent with Camp Williams's military mission.

(8) Funds used for projects with matching federal funding may not exceed a 25% match with federal funds.

CHAPTER 217
H. B. 258

Passed March 2, 2018
Approved March 19, 2018
Effective May 8, 2018

**WOMEN'S CANCER SCREENING
NOTIFICATION AMENDMENTS**

Chief Sponsor: LaVar Christensen
Senate Sponsor: Curtis S. Bramble
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Kay J. Christofferson
Kim F. Coleman
James A. Dunnigan
Rebecca P. Edwards
Gage Froerer
Francis D. Gibson
Keith Grover
Stephen G. Handy
Gregory H. Hughes
Eric K. Hutchings
Ken Ivory
Bradley G. Last
A. Cory Maloy
Jefferson Moss
Merrill F. Nelson
Michael E. Noel
Derrin R. Owens
Lee B. Perry
Jeremy A. Peterson
Dixon M. Pitcher
Val K. Potter
Susan Pulsipher
Tim Quinn
Paul Ray
Scott D. Sandall
Mike Schultz
V. Lowry Snow
Keven J. Stratton
Christine F. Watkins
R. Curt Webb
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill amends provisions of the Mammogram Quality Assurance Act.

Highlighted Provisions:

This bill:

- ▶ requires a facility that performs screening or diagnostic mammography to provide a patient who has dense breast tissue with a notification regarding that report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-21a-203, as last amended by Laws of Utah 2012, Chapter 338
26-21a-205, as last amended by Laws of Utah 2009, Chapter 183

ENACTS:

26-21a-206, Utah Code Annotated 1953

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

Section 1. Section 26-21a-203 is amended to read:

26-21a-203. Department rulemaking authority.

The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (1) establishing quality assurance standards for all facilities performing screening or diagnostic mammography and developing mammogram x-ray films, including notification and procedures for clinical follow-up of abnormal mammograms;
- (2) providing for:
 - (a) collection and periodic reporting of mammography examinations and clinical follow-up data to the department;
 - (b) certification and revocation of certification of mammogram facilities;
 - (c) inspection of mammogram facilities, including entry of agents of the department into the facilities for inspections;
 - (d) setting fees for certification; and
 - (e) an appeal process regarding department certification decisions; and

~~[(3) the following information may be included in mammography results sent to a patient with dense breast tissue:]~~

~~["Mammography is the only breast cancer screening examination which has been shown in multiple randomized clinical trials to reduce death rate from breast cancer. However, it is not a perfect test, specifically in women with dense breast tissue. Because your mammogram demonstrates that you have dense breast tissue, you may benefit from supplementary screening tests, depending on your personal risk factors and family history. Although other screening tests may find additional cancers, they may not necessarily increase survival. Nevertheless, you should discuss your mammography results with your health care provider. A copy of your mammography report has been sent to your health care provider's office. Please contact your health care provider if you have any questions or concerns about this notice."]~~

(3) requiring a facility that is certified under Section 26-21a-204 to comply with the notification requirement described in Section 26-21a-206.

Section 2. Section 26-21a-205 is amended to read:

26-21a-205. Department duties.

The department shall:

- (1) enforce rules established under this part;
- (2) implement and enforce the notice requirement in Section 26-21a-206;

~~[(2)]~~ (3) authorize qualified department agents to conduct inspections of mammogram facilities under department rules;

~~[(3)]~~ (4) collect and credit fees for certification ~~[under]~~ established by the department in accordance with Section 63J-1-504; and

~~[(4)]~~ (5) provide necessary administrative and staff support to the committee.

Section 3. Section 26-21a-206 is enacted to read:

26-21a-206. Women's cancer screening notification requirement.

(1) As used in this section, "dense breast tissue" means heterogeneously dense tissue or extremely dense tissue as defined in the Breast Imaging and Reporting Data System established by the American College of Radiology.

(2) A facility that is certified under Section 26-21a-204 shall include the following notification and information with a mammography result provided to a patient with dense breast tissue:

"Your mammogram indicates that you have dense breast tissue. Dense breast tissue is common and is found in as many as half of all women. However, dense breast tissue can make it more difficult to fully and accurately evaluate your mammogram and detect early signs of possible cancer in the breast. This information is being provided to inform and encourage you to discuss your dense breast tissue and other breast cancer risk factors with your health care provider. Together, you can decide what may be best for you. A copy of your mammography report has been sent to your health care provider. Please contact them if you have any questions or concerns about this notice."

CHAPTER 218**H. B. 259**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

**MODERATE INCOME
HOUSING AMENDMENTS**

Chief Sponsor: Logan Wilde
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the Municipal Land Use, Development, and Management Act and the County Land Use, Development, and Management Act relating to moderate income housing.

Highlighted Provisions:

This bill:

- ▶ requires that the general plan of a county or municipality, other than a town, allow and plan for moderate income housing growth;
- ▶ modifies requirements relating to a general plan;
- ▶ repeals provisions requiring a county to conduct a biennial review of the moderate income housing element of a general plan;
- ▶ modifies biennial review and reporting requirements of a municipality in relation to the moderate income housing element of a general plan; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 10-9a-401, as renumbered and amended by Laws of Utah 2005, Chapter 254
10-9a-403, as last amended by Laws of Utah 2012, Chapter 212
10-9a-404, as renumbered and amended by Laws of Utah 2005, Chapter 254
10-9a-408, as last amended by Laws of Utah 2012, Chapter 212
17-27a-401, as last amended by Laws of Utah 2016, Chapter 265
17-27a-403, as last amended by Laws of Utah 2016, Chapter 265
17-27a-404, as last amended by Laws of Utah 2016, Chapter 265
17-27a-408, as last amended by Laws of Utah 2012, Chapter 212
35A-8-804, as last amended by Laws of Utah 2014, Chapter 371

Utah Code Sections Affected by Coordination Clause:

- 10-9a-408, as last amended by Laws of Utah 2012, Chapter 212

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

Section 1. Section 10-9a-401 is amended to read:**10-9a-401. General plan required -- Content.**

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before July 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class;

(iii) a metro township with a population of 5,000 or more; and

(iv) a metro township with a population of less than 5,000, if the metro township is located within a county of the first, second, or third class.

(c) The population figures described in Subsections (3)(b)(ii), (iii), and (iv) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Estimates Committee.

~~[(3)]~~ (4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 2. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated

with the population projections and the proposed land use element of the general plan; and

(iii) ~~[for cities, an estimate of the need for the development of additional moderate income housing within the city, and a plan to provide] for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use and development occur].~~~~

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that ~~[cities]~~ municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live ~~[there]~~ in the community; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) for a town, may include, and for other municipalities, shall include, an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within ~~[the planning horizon]~~ the next five years, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the city;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; ~~[and]~~

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services~~[-]~~; and

(H) consider utilization of programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 3. Section 10-9a-404 is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) The legislative body may make any revisions to the proposed general plan or amendment that it considers appropriate.

(4) (a) The municipal legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision that the municipal legislative body considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); and

(c) for ~~[all cities]~~ a municipality, other than a town, after considering the factors included in Subsection 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use and development occur]~~ within the next five years.

Section 4. Section 10-9a-408 is amended to read:

10-9a-408. Civil action regarding moderate income housing element of general plan.

(1) The legislative body of ~~[each city]~~ a municipality described in Subsection 10-9a-401(3)(b) shall biennially:

(a) review the moderate income housing plan element of ~~[its]~~ the municipality's general plan and ~~[its]~~ implementation~~[-, and]~~ of that element of the general plan;

(b) prepare a report ~~[setting forth]~~ on the findings of the review~~[-]~~ described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) ~~[Each report under]~~ The report described in Subsection (1) shall include a description of:

(a) efforts made by the ~~[city]~~ municipality to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(b) actions taken by the ~~[city]~~ municipality to encourage preservation of existing moderate income housing and development of new moderate income housing;

(c) progress made within the [city] municipality to provide moderate income housing, ~~as measured by permits issued for new units of moderate income housing; and~~ demonstrated by analyzing and publishing data on:

(i) the number of housing units in the municipality that are at or below:

(A) 80% of the adjusted median income for the municipality;

(B) 50% of the adjusted median income for the municipality; and

(C) 30% of the adjusted median income for the municipality;

(ii) the number of housing units in the municipality that are subsidized by the municipality, the state, or the federal government; and

(iii) the number of housing units in the municipality that are deed-restricted;

(d) all efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities[-] or associations of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(e) all efforts made by the municipality to utilize a moderate income housing set-aside from a redevelopment agency, a community development agency, or an economic development agency;

(f) money expended by the municipality to pay or waive construction-related fees required by the municipality; and

(g) programs of the Utah Housing Corporation that were utilized by the municipality.

(3) The legislative body of each city shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the city is located.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

~~[(f) the protection or promotion of moderate income housing;]~~

~~[(g)]~~ (f) the protection and promotion of air quality;

~~[(h)]~~ (g) historic preservation;

~~[(i)]~~ (h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

~~[(j)]~~ (i) an official map.

(3) (a) The general plan shall:

(i) allow and plan for moderate income housing growth; and

(ii) contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(b) On or before July 1, 2019, a county with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

~~[(b)]~~ (c) The resource management plan described in Subsection (3)(a)(ii) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

- (vii) noxious weeds;
- (viii) forest management;
- (ix) water rights;
- (x) ditches and canals;
- (xi) water quality and hydrology;
- (xii) flood plains and river terraces;
- (xiii) wetlands;
- (xiv) riparian areas;
- (xv) predator control;
- (xvi) wildlife;
- (xvii) fisheries;
- (xviii) recreation and tourism;
- (xix) energy resources;
- (xx) mineral resources;
- (xxi) cultural, historical, geological, and paleontological resources;
- (xxii) wilderness;
- (xxiii) wild and scenic rivers;
- (xxiv) threatened, endangered, and sensitive species;
- (xxv) land access;
- (xxvi) law enforcement;
- (xxvii) economic considerations; and
- (xxviii) air.

~~(e)~~ (d) For each item listed under Subsection (3)(~~b~~)(c), a county's resource management plan shall:

- (i) establish findings pertaining to the item;
- (ii) establish defined objectives; and
- (iii) outline general policies and guidelines on how the objectives described in Subsection (3)(~~e~~)(d)(ii) are to be accomplished.

(4) (a) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

- (i) the information identified in Section 19-3-305;
- (ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

- (i) comply with Subsection (4)(a) as soon as reasonably possible; and
- (ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan and takes precedence over a municipality's general plan for property located within the mountainous planning district.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Section 6. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

- (i) the unincorporated area within the county; or
- (ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan;

(iii) ~~[an estimate of the need]~~ a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use and development occur]~~; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) ~~may~~ shall include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

- (i) historic preservation;
- (ii) the diminution or elimination of blight; and
- (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;
- (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 7. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(5) (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

(b) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

(6) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use and development occur];~~ and

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 8. Section 17-27a-408 is amended to read:

17-27a-408. Civil action regarding moderate income housing element of general plan.

~~[(1) The legislative body of each county with a population over 25,000 shall biennially:]~~

~~[(a) review the moderate income housing plan element of its general plan and its implementation; and]~~

~~[(b) prepare a report setting forth the findings of the review.]~~

~~[(2) Each report under Subsection (1) shall include a description of:]~~

~~[(a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;]~~

~~[(b) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;]~~

~~[(c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and]~~

~~[(d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities.]~~

~~[(3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the county is located.]~~

~~[(4)] In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.~~

Section 9. Section 35A-8-804 is amended to read:

35A-8-804. Technical assistance to political subdivisions for housing plan.

(1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to ~~[meet the requirements of Section 10-9a-408]~~ comply with the moderate income housing requirements described in Section 10-9a-403 and counties to ~~[meet the requirements of Section 17-27a-408]~~ comply with the moderate income housing requirements described in Section 17-27a-403.

(2) Assistance under this section may include:

(a) financial assistance for the cost of developing a plan for low and moderate income housing;

(b) information on how to meet present and prospective needs for low and moderate income housing; and

(c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.

(3) The division shall submit an annual report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

Section 10. Coordinating H.B. 259 with H.B. 15 -- Superseding substantive and technical amendments.

If this H.B. 259 and H.B. 15, Community Reinvestment Agency Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 10-9a-408 in H.B. 259 supersede the amendments to Section 10-9a-408 in H.B. 15, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 219**H. B. 261**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

RENEWABLE ENERGY AMENDMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses the basis of setting rates for solar photovoltaic or thermal solar energy facilities.

Highlighted Provisions:

This bill:

- ▶ permits a qualified utility to apply to the commission regarding solar energy projects under certain circumstances;
- ▶ addresses exemptions from certain provisions;
- ▶ prescribes requirements for the application;
- ▶ imposes process requirements;
- ▶ requires public hearing and comments; and
- ▶ provides for rulemaking authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

54-17-807, Utah Code Annotated 1953

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

Section 1. Section 54-17-807 is enacted to read:**54-17-807. Solar photovoltaic or thermal solar energy facilities.**

(1) As used in this section, “acquire” means to purchase, construct, or purchase the output from a photovoltaic or thermal solar energy resource.

(2) (a) In accordance with this section, a qualified utility may file an application with the commission for approval to acquire a photovoltaic or thermal solar energy resource using rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

(b) A qualified utility may not, under this section, acquire a photovoltaic or thermal solar energy resource with a generating capacity that is two megawatts or less per meter if that resource is located on the customer’s side of the meter.

(3) The energy resource acquired pursuant to this section may be owned solely or jointly by a qualified utility or another entity:

(a) to provide renewable energy to a contract customer as provided in Section 54-17-803;

(b) to serve energy to a qualified utility customer as provided in Section 54-17-806;

(c) to serve energy to any customers of the qualified utility if the proposed energy resource’s nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity does not exceed 300 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary Request for Resource Decision Review; or

(d) to serve energy to any customers of the qualified utility if the proposed energy resource’s nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long as the qualified utility complies with this chapter.

(4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an application submitted under Subsection (2):

(a) Part 1, General Provisions;

(b) Part 2, Solicitation Process;

(c) Part 3, Resource Plans and Significant Energy Resource Approval;

(d) Part 4, Voluntary Request for Resource Decision Review; and

(e) Section 54-17-502.

(5) The application described in Subsection (2) shall include:

(a) a proposed solicitation process for the energy resource;

(b) the criteria proposed to be used to evaluate the responses to the solicitation:

(i) as determined by the customer, if the energy resource is sought to serve a customer pursuant to Subsection (3)(a) or (b); or

(ii) as proposed by the qualified utility, if the energy resource is sought to serve the customers of the qualified utility pursuant to Subsection (3)(c) or (d); and

(c) any other information the commission may require.

(6) (a) Before approving a solicitation process under this section for an energy resource to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission shall:

(i) hold a public hearing; and

(ii) provide an opportunity for public comment.

(b) The commission may approve a solicitation process under this section only if the commission determines that the solicitation and evaluation processes to be used will create a level playing field in which the qualified utility and other bidders can compete fairly, including with respect to interconnection and transmission requirements imposed on bidders by the solicitation within the control of the commission and the qualified utility, excluding its federally regulated transmission

function, and will otherwise serve the public interest.

(7) (a) Upon completion of the solicitation process approved under Subsection (6), the qualified utility may seek approval from the commission to acquire the energy resource identified through the solicitation process as the winning bid.

(b) Before approving acquisition of an energy resource acquired pursuant to this section, the commission shall:

(i) hold a public hearing;

(ii) provide an opportunity for public comment;

(iii) determine whether the solicitation and evaluation processes complied with this section, commission rules, and the commission's order approving the solicitation process; and

(iv) determine whether the acquisition of the energy resource is just and reasonable, and in the public interest.

(c) The commission may approve a qualified utility's ownership of an energy resource or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d) with rate recovery based on a competitive market price only if the commission determines that the qualified utility's bid is the lowest cost ownership option for the qualified utility.

(d) If the commission approves a qualified utility's acquisition of an energy resource under Subsection (3), including entering into a power purchase agreement containing a purchase option, using rate recovery based on a competitive market price:

(i) the prices approved by the commission shall constitute competitive market prices for purposes of this section; and

(ii) assets owned by the qualified utility and used to provide service as approved under this section are not public utility property.

(8) If upon completion of a solicitation process approved under Subsection (6) the qualified utility proposes not to acquire an energy resource, the qualified utility shall file with the commission a report explaining its reasons for not acquiring the lowest cost resource bid into the solicitation, along with any other information the commission requires.

(9) Within six months after a competitive market price for a solar energy resource acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such longer period as the commission may determine to be in the public interest, a qualified utility may file an application with the commission seeking approval to acquire another energy resource similar to the energy resource for which a competitive market price was established without going through a new solicitation process. The commission may approve the application if the qualified utility demonstrates

a need to acquire the energy resource, that the competitive market price remains reasonable, and that the acquisition is in the public interest.

(10) No later than 180 days before the end of the term approved by the commission for an energy resource acquired under this section and owned by the qualifying utility, the qualified utility shall file with the commission a request for determination of an appropriate disposition of the energy resource asset, except that the qualified utility is permitted to retain the benefits or proceeds and shall be required to assume the costs and risks of ownership of the energy resource.

(11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) addressing the content and filing of an application under this section;

(b) to establish the solicitation process and criteria to be used to identify the competitive market price and select an energy resource; and

(c) addressing other factors determined by the commission to be relevant to protect the public interest and to implement this section.

CHAPTER 220**H. B. 263**

Passed March 6, 2018
Approved March 19, 2018
Effective May 8, 2018

**ASSISTED LIVING
FACILITIES AMENDMENTS**

Chief Sponsor: Karen Kwan
Senate Sponsor: Curtis S. Bramble
Cosponsors: Patrice M. Arent
Joel K. Briscoe
Rebecca Chavez-Houck
Kim F. Coleman
Susan Duckworth
Gage Froerer
Sandra Hollins
Brian S. King
Derrin R. Owens
Val K. Potter
Marie H. Poulson
Tim Quinn
Mike Schultz
Elizabeth Weight
Mark A. Wheatley
Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts provisions related to the transfer or discharge of a resident from an assisted living facility.

Highlighted Provisions:

This bill:

- ▶ renames a part;
- ▶ provides notice requirements when an assisted living facility transfers or discharges a resident;
- ▶ requires the ombudsman to gather information regarding assisted living facility transfers or discharges and annually report that information to the Health and Human Services Interim Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-21-301, as enacted by Laws of Utah 2016, Chapter 141
26-21-302, as enacted by Laws of Utah 2016, Chapter 141
63I-1-262, as last amended by Laws of Utah 2017, Chapter 459

ENACTS:

26-21-305, Utah Code Annotated 1953
62A-3-209, Utah Code Annotated 1953

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

Section 1. Section 26-21-301 is amended to read:**Part 3. Assisted Living Facilities****26-21-301. Title.**

This part is known as ~~the~~ "Assisted Living ~~Facility Surveillance Act~~ Facilities."

Section 2. Section 26-21-302 is amended to read:**26-21-302. Definitions.**

As used in this part:

- (1) "Facility" means an assisted living facility.
- (2) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.
- (3) (a) "Monitoring device" means:
 - (i) a video surveillance camera; or
 - (ii) a microphone or other device that captures audio.
- (b) "Monitoring device" does not include:
 - (i) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or
 - (ii) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

(4) "Ombudsman" means the same as that term is defined in Section 62A-3-202.

~~[(4)]~~ (5) "Resident" means an individual who receives health care from a facility.

(6) "Responsible person" means an individual who:

- (a) is designated in writing by a resident to receive communication on behalf of the resident; or
- (b) a legal representative.

~~[(5)]~~ (7) "Room" means a resident's private or shared primary living space.

~~[(6)]~~ (8) "Roommate" means an individual sharing a room with a resident.

Section 3. Section 26-21-305 is enacted to read:**26-21-305. Transfer or discharge.**

When a facility initiates the transfer or discharge of a resident, the facility shall:

- (1) notify the resident and the resident's responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the resident and the resident's responsible person, of:
 - (a) the reasons for the transfer or discharge;
 - (b) the effective date of the transfer or discharge;
 - (c) the location to which the resident will be transferred or discharged, if known; and

(d) the name, address, email, and telephone number of the ombudsman;

(2) send a copy, in English, of the notice described in Subsection (1)(a) to the ombudsman on the same day on which the facility delivers the notice described in Subsection (1)(a) to the resident and the resident's responsible person;

(3) provide the notice described in Subsection (1)(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

(a) notice for a shorter period of time is necessary to protect:

(i) the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident; or

(ii) the health of individuals in the facility from endangerment due to the resident's continued residency;

(b) an immediate transfer or discharge is required by the resident's urgent medical needs; or

(c) the resident has not resided in the facility for at least 30 days;

(4) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

(5) orally explain to the resident:

(a) the services available through the ombudsman; and

(b) the contact information for the ombudsman;

(6) provide and document the provision of preparation and orientation, in a language and manner the resident is most likely to understand, for a resident to ensure a safe and orderly transfer or discharge from the facility; and

(7) in the event of a facility closure, provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's responsible person.

Section 4. Section 62A-3-209 is enacted to read:

62A-3-209. Assisted living facility transfers.

(1) After the ombudsman receives a notice described in Subsection 26-21-305(1)(a), the ombudsman shall:

(a) review the notice; and

(b) contact the resident or the resident's responsible person to conduct a voluntary interview.

(2) The voluntary interview described in Subsection (1)(b) shall:

(a) provide the resident with information about the services available through the ombudsman;

(b) confirm the details in the notice described in Subsection 26-21-305(1)(a), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;

(iii) the date of the transfer or discharge; and

(iv) a description of the resident's next living arrangement; and

(c) provide the resident an opportunity to discuss any concerns or complaints the resident may have regarding:

(i) the resident's treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted living facility transferred or discharged the resident.

(3) On or before November 1 of each year, the ombudsman shall provide a report to the Health and Human Services Interim Committee regarding:

(a) the reasons why assisted living facilities are transferring residents;

(b) where residents are going upon transfer or discharge; and

(c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge.

Section 5. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

[1] (2) Section 62A-4a-213 is repealed July 1, 2019.

[2] (3) Section 62A-4a-202.9 is repealed December 31, 2019.

[3] (4) Subsection 62A-15-1101(5) is repealed July 1, 2018.

CHAPTER 221**H. B. 269**

Passed March 6, 2018
Approved March 19, 2018
Effective May 8, 2018

**IDENTITY THEFT
PARAPHERNALIA PROVISIONS**

Chief Sponsor: Patrice M. Arent
Senate Sponsor: Todd Weiler
Cosponsors: Cheryl K. Acton
Rebecca P. Edwards
Sandra Hollins
Eric K. Hutchings
Kelly B. Miles
Carol Spackman Moss
Lee B. Perry
Paul Ray
Edward H. Redd
Angela Romero
Elizabeth Weight
Mike Winder

LONG TITLE**General Description:**

This bill amends provisions of the Utah Criminal Code relating to forgery and identity fraud.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the elements of a financial transaction card offense;
- ▶ increases the penalty for unlawful possession of the financial transaction card information of a certain number of individuals;
- ▶ increases the penalty for unlawful possession of the identifying documents of a certain number of individuals; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-502, as last amended by Laws of Utah 2001, Chapter 56
76-6-506.3, as last amended by Laws of Utah 2009, Chapter 166
76-6-1105, as enacted by Laws of Utah 2004, Chapter 227
78B-9-104, as last amended by Laws of Utah 2017, Chapter 447

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

Section 1. Section 76-6-502 is amended to read:**76-6-502. Possession of forged writing or device for writing -- Penalty.**

(1) As used in this section, "device" means any equipment, mechanism, material, or program.

(2) ~~Any person~~ An individual who, with intent to defraud, knowingly possesses ~~any writing that is a forgery~~ a writing, as defined in Section 76-6-501, that is a forgery under Section 76-6-501, or who with intent to defraud knowingly possesses ~~any~~ a device for making ~~any writing that is a forgery~~ a writing, as defined in Section 76-6-501, that is a forgery under Section 76-6-501, is guilty of a third degree felony.

Section 2. Section 76-6-506.3 is amended to read:**76-6-506.3. Financial transaction card offenses -- Unlawful acquisition, possession, or transfer of card.**

~~Any person~~ (1) Under circumstances that do not constitute a violation of Subsection (2), an individual is guilty of a third degree felony who:

~~(1)~~ (a) acquires a financial transaction card from another without the consent of the card holder or the issuer;

~~(2)~~ (b) receives a financial transaction card with intent to use ~~it~~ the financial transaction card in violation of Section 76-6-506.2;

~~(3)~~ (c) sells or transfers a financial transaction card to ~~another~~ a person with ~~the~~ knowledge that ~~it~~ the financial transaction card will be used in violation of Section 76-6-506.2;

~~(4)~~ ~~(a)~~ (d) (i) acquires a financial transaction card that the ~~person~~ individual knows was lost, mislaid, stolen, or delivered under a mistake as to the identity or address of the card holder; and

~~(b)~~ ~~(i)~~ (ii) (A) retains possession with intent to use ~~it~~ the financial transaction card in violation of Section 76-6-506.2; or

~~(ii)~~ (B) sells or transfers ~~a~~ the financial transaction card to ~~another~~ a person with ~~the~~ knowledge that ~~it~~ the financial transaction card will be used in violation of Section 76-6-506.2; or

~~(5)~~ (e) possesses, sells, or transfers any information necessary for the use of a financial transaction card, including the credit number of the card, the expiration date of the card, or the personal identification code related to the card:

~~(a)~~ ~~(i)~~ (i) (A) without the consent of the card holder or the issuer; or

~~(ii)~~ (B) with ~~the~~ knowledge that the information has been acquired without consent of the card holder or the issuer; and

~~(b)~~ (ii) with intent to use the information in violation of Section 76-6-506.2.

(2) An individual is guilty of a second degree felony who possesses, sells, or transfers any information necessary for the use of 100 or more financial transaction cards, including the credit number of a card, the expiration date of a card, or the personal identification code related to a card:

(a) with intent to use the information in violation of Section 76-6-506.2; or

(b) with knowledge that the information will be used by another in violation of Section 76-6-506.2.

Section 3. Section 76-6-1105 is amended to read:

76-6-1105. Unlawful possession of another's identification documents.

(1) ~~[For purposes of]~~ As used in this section ~~["identifying"]~~:

(a) (i) "Identifying document" means:

~~[(a)]~~ (A) a government issued ~~[identifying]~~ document commonly used for identification;

~~[(b)]~~ (B) a vehicle registration certificate; or

~~[(c)]~~ (C) any other document, image, data file, or medium containing personal identifying information as defined in Subsections 76-6-1102(1)(~~(d)~~) through ~~[(k)]~~ (m).

(ii) "Identifying document" includes:

(A) a counterfeit identifying document; or

(B) a document containing personal identifying information of a deceased individual.

(b) "Possess" means to have physical control or electronic access.

(2) (a) ~~[Notwithstanding the provisions of Subsection 76-6-1102(3), a person]~~ Under circumstances that do not constitute a violation of Section 76-6-1102 or Section 76-6-502, an individual is guilty of a class A misdemeanor if ~~[he]~~ the individual:

(i) obtains or possesses an identifying document:

(A) with knowledge that ~~[he]~~ the individual is not entitled to obtain or possess the identifying document; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing an identifying document:

(A) with knowledge that the person is not entitled to obtain or possess the identifying document~~[-];~~ or

(B) with knowledge that the person intends to use the identifying document to deceive or defraud.

(b) ~~[A person]~~ Under circumstances that do not constitute a violation of Section 76-6-1102, an individual is guilty of a third degree felony if ~~[he]~~ the individual:

(i) obtains or possesses ~~[multiple]~~ identifying documents of more than two, but fewer than 100, individuals:

(A) with knowledge that ~~[he]~~ the individual is not entitled to obtain or possess the ~~[multiple]~~ identifying documents; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing ~~[multiple]~~ identifying documents of more than two, but fewer than 100, individuals:

(A) with knowledge that the person is not entitled to obtain or possess the multiple identifying documents~~[-];~~ or

~~[(e) For purposes of Subsection (2)(b), "multiple identifying documents" means identifying documents of two or more people.]~~

(B) with knowledge that the person intends to use the identifying documents to deceive or defraud.

(c) Under circumstances that do not constitute a violation of Section 76-6-1102, an individual is guilty of a second degree felony if the individual:

(i) obtains or possesses identifying documents of 100 or more individuals:

(A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing identifying documents of 100 or more individuals:

(A) with knowledge that the person is not entitled to obtain or possess the identifying documents; or

(B) with knowledge that the person intends to use the identifying documents to deceive or defraud.

Section 4. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, a person who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for post-conviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or post-conviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received; or

(f) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted[-]; or

(g) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section 76-10-1304, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) Sections 76-6-602 through 76-6-608, retail theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-9-702, lewdness;

(ix) Section 76-10-1302, prostitution; or

(x) Section 76-10-1313, sexual solicitation.

(2) The court may not grant relief from a conviction or sentence unless the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome in light of the facts proved in the post-conviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing.

(3) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Title 78B, Chapter 9, Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence. Claims under Part 3, Postconviction Testing of DNA or Part 4, Postconviction Determination of Factual Innocence of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of

DNA or Part 4, Postconviction Determination of Factual Innocence.

CHAPTER 222**H. B. 279**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**DESIGN PROFESSIONALS
LIABILITY AMENDMENTS**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts provisions related to design professional liability.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a provision in a design professional services contract that requires a design professional to indemnify, hold harmless, or reimburse a person for attorney fees or other costs, except in the case of:
 - the design professional's breach of contract, negligence, recklessness, or intentional misconduct; or
 - the design professional's subconsultant's negligence;
- ▶ prohibits a provision in a design professional services contract that requires a design professional to defend a person against a claim alleging liability for damages;
- ▶ establishes a standard of care for design professionals; and
- ▶ prohibits a person from establishing a different standard of care for a design professional in a design professional services contract.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

13-8-7, Utah Code Annotated 1953

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

Section 1. Section 13-8-7 is enacted to read:**13-8-7. Contract for design professional services -- Agreements to indemnify.**

(1) As used in this section:

(a) "Design professional" means:

(i) an individual licensed under:

(A) Title 58, Chapter 3a, Architects Licensing Act;

(B) Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(C) Title 58, Chapter 53, Landscape Architects Licensing Act; or

(ii) a nongovernmental entity engaged in the business of providing services that require a license described in Subsection (1)(a)(i).

(b) "Design professional services" means:

(i) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(ii) professional engineering or professional land surveying as defined in Section 58-22-102; or

(iii) professional services within the scope of the practice of landscape architecture as defined in Section 58-53-102.

(c) (i) "Design professional services contract" means a contract under which a design professional agrees to provide design professional services:

(A) to a governmental entity; or

(B) for an improvement owned or to be owned by a governmental entity.

(ii) "Design professional services contract" does not include a construction contract, as defined in Section 13-8-1.

(d) "Indemnification provision" means a covenant, promise, agreement, or understanding in, in connection with, or collateral to, a design professional services contract that requires the design professional to:

(i) indemnify or hold harmless any person from or against liability for damages other than liability for damages to the extent caused by or resulting from:

(A) the design professional's breach of contract, negligence, recklessness, or intentional misconduct; or

(B) the design professional's subconsultant's negligence;

(ii) defend any person from or against a claim alleging liability for damages, including a claim alleging:

(A) the design professional's breach of contract, negligence, recklessness, or intentional misconduct; or

(B) the design professional's subconsultant's negligence; or

(iii) reimburse any person for attorney fees or other costs incurred by the person in defending against a claim alleging liability for damages, except to the extent the attorney fees or costs were incurred due to:

(A) the design professional's breach of contract, negligence, recklessness, or intentional misconduct; or

(B) the design professional's subconsultant's negligence.

(e) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

(f) "Improvement" means the same as that term is defined in Section 78B-2-225.

(g) “Subconsultant” means a person with whom a design professional contracts to provide a service related to or part of the design professional services that the design professional agrees to perform under a design professional services contract.

(2) An indemnification provision is void.

(3) (a) A design professional shall perform design professional services under a design professional services contract consistent with the professional skill and care ordinarily provided by other design professionals:

(i) with the same or similar professional license; and

(ii) providing the same or similar design professional service:

(A) in the same or similar locality;

(B) at the same or similar time; and

(C) under the same or similar circumstances.

(b) (i) Except as provided in Subsection (3)(b)(ii), a design professional services contract may not establish a standard of care different from the standard of care described in Subsection (3)(a).

(ii) A design professional services contract may require a design professional to perform design professional services consistent with a specialized design expertise if the nature of the project that is the subject of the design professional services contract reasonably requires the specialized design expertise.

(c) A provision in a design professional services contract that purports to waive or conflicts with a provision of Subsection (3)(b) is void.

(4) The provisions of this section apply to a design professional services contract executed on or after May 8, 2018.

CHAPTER 223**H. B. 281**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

VOTER ELIGIBILITY AMENDMENTS

Chief Sponsor: Joel K. Briscoe
 Senate Sponsor: Kevin T. Van Tassell
 Cosponsors: Rebecca P. Edwards
 Brian S. King
 Carol Spackman Moss
 Lee B. Perry
 Jeremy A. Peterson
 Marie H. Poulson
 Paul Ray
 Mike Schultz
 Elizabeth Weight
 Mike Winder

LONG TITLE**General Description:**

This bill modifies provisions of the Election Code relating to voter age requirements.

Highlighted Provisions:

This bill:

- ▶ provides that an individual who is 17 years of age may register for and vote in a primary election if the individual will be 18 years of age on or before the date of the general election;
- ▶ makes changes to the process of preregistering to vote to conform with the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-2-101, as last amended by Laws of Utah 2011, Chapter 395

20A-2-101.1, as enacted by Laws of Utah 2015, Chapter 130

ENACTS:

20A-3-101.5, Utah Code Annotated 1953

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

Section 1. Section 20A-2-101 is amended to read:**20A-2-101. Eligibility for registration.**

(1) Except as provided in Subsection (2), ~~[any person may apply to]~~ an individual may register to vote in an election who:

- (a) is a citizen of the United States;
- (b) has been a resident of Utah for at least the 30 days immediately before the election;
- (c) will be:
 - (i) at least 18 years ~~[old]~~ of age on the day of the election; ~~[and]~~ or

(ii) if the election is a regular primary election, a municipal primary election, or a Western States Presidential Primary:

(A) 17 years of age on or before the day of the regular primary election, municipal primary election, or Western States Presidential Primary; and

(B) 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or Western States Presidential Primary; and

(d) currently resides within the voting district or precinct in which the ~~[person]~~ individual applies to register to vote.

(2) (a) (i) ~~[A person]~~ An individual who is involuntarily confined or incarcerated in a jail, prison, or other facility within a voting precinct is not a resident of that voting precinct and may not register to vote in that voting precinct unless the ~~[person]~~ individual was a resident of that voting precinct before the confinement or incarceration.

(ii) ~~[A person]~~ An individual who is involuntarily confined or incarcerated in a jail or prison is a resident of the voting precinct in which the ~~[person]~~ individual resided before the confinement or incarceration.

(b) ~~[A person]~~ An individual who has been convicted of a felony or a misdemeanor for an offense under this title may not register to vote or remain registered to vote unless the ~~[person's]~~ individual's right to vote has been restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(c) ~~[A person]~~ An individual whose right to vote has been restored, as provided in Section 20A-2-101.3 or 20A-2-101.5, is eligible to register to vote.

(3) ~~[A person]~~ An individual who is eligible to vote and who resides within the geographic boundaries of the entity in which the election is held may register to vote in a:

- (a) regular general election;
- (b) regular primary election;
- (c) municipal general election;
- (d) municipal primary election;
- (e) statewide special election;
- (f) local special election;
- (g) local district election; ~~[and]~~
- (h) bond election[-]; and
- (i) Western States Presidential Primary.

Section 2. Section 20A-2-101.1 is amended to read:**20A-2-101.1. Preregistering to vote.**

(1) An individual may preregister to vote if the individual:

- (a) is 16 or 17 years of age;

~~(b) will not be 18 years of age before the next election;~~

(b) is not eligible to register to vote because the individual does not comply with the age requirements described in Subsection 20A-2-101(1)(c);

(c) is a citizen of the United States;

(d) has been a resident of Utah for at least 30 days; and

(e) currently resides within the voting district or precinct in which the individual preregisters to vote.

(2) An individual described in Subsection (1) may not vote in an election and is not registered to vote until:

(a) the individual ~~[is at least 18 years of age]~~ is otherwise eligible to register to vote because the individual complies with the age requirements described in Subsection 20A-2-101(1)(c); and

(b) the county clerk registers the individual to vote under Subsection (4).

(3) An individual who preregisters to vote shall:

(a) complete a voter registration form, including an indication that the individual is preregistering to vote; and

(b) submit the voter registration form to a county clerk in person, by mail, or in any other manner authorized by this chapter for the submission of a voter registration form.

(4) (a) A county clerk shall:

(i) retain the voter registration form of an individual who meets the qualifications for preregistration and who submits a completed voter registration form to the county clerk under Subsection (3)(b);

(ii) register the individual to vote in the next election in which the individual will be eligible to vote, before the voter registration deadline established in Section 20A-2-102.5 for that election; and

(iii) send a notice to the individual that:

(A) informs the individual that the individual's voter registration form has been accepted as an application for preregistration;

(B) informs the individual that the individual will be registered to vote in the next election in which the individual will be eligible to vote; and

(C) indicates in which election the individual will be registered to vote.

(b) An individual who the county clerk registers under Subsection (4)(a)(ii) is considered to have applied for voter registration on the earlier of:

(i) the day of the voter registration deadline immediately preceding the election day on which the individual will be at least 18 years of age; or

(ii) the day on which the individual turns 18 years of age.

(c) A county clerk shall refer a voter registration form to the county attorney for investigation and possible prosecution if the clerk or the clerk's designee believes the individual is attempting to preregister to vote in an election~~[(i) that will be held on or after the day on which the individual turns 18 years of age; and (ii)]~~ in which the individual will not be legally entitled to vote.

(5) (a) The lieutenant governor or a county clerk shall classify the voter registration record of an individual who preregisters to vote as a private record until the day on which the individual turns 18 years of age.

(b) On the day on which the individual described in Subsection (5)(a) turns 18 years of age, the lieutenant governor or county clerk shall classify the individual's voter registration record as a public record in accordance with Subsection 63G-2-301(2)(1).

(6) If an individual who is at least 18 years of age erroneously indicates on the voter registration form that the individual is preregistering to vote, the county clerk shall consider the form as a voter registration form and shall process the form in accordance with this chapter.

Section 3. Section 20A-3-101.5 is enacted to read:

20A-3-101.5. Age requirements for primary elections -- 17-year-olds may vote.

An individual who is 17 years of age may vote in a regular primary election, a municipal primary election, or a Western States Presidential Primary, if:

(1) the individual will be 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or Western States Presidential Primary;

(2) the individual is registered to vote in accordance with Chapter 2, Voter Registration;

(3) the individual's political party affiliation, or unaffiliated status, allows the individual to vote in the election; and

(4) the individual otherwise complies with the requirements to vote in the primary election.

CHAPTER 224**H. B. 286**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**REPRODUCTIVE
EDUCATION AMENDMENTS**

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends and enacts provisions related to instruction in health and sex education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies instruction in health to include instruction in refusal skills and the harmful effects of pornography;
- ▶ clarifies ambiguous language, updates outdated terminology, and repeals repetitive language;
- ▶ amends definitions for required parental consent; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-10-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-10-403, as enacted by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-10-402 is amended to read:**53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local school board" means:

(i) a local board of education elected in accordance with Section 53G-4-201; or

(ii) a charter school governing board, as defined in Section 53G-5-102.

(c) "Parent" means a parent or legal guardian.

(d) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

~~[(1)]~~ (2) (a) The ~~[State Board of Education]~~ board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene; ~~[and]~~

(iv) prevention of communicable disease~~[-]~~;

(v) refusal skills; and

(vi) the harmful effects of pornography.

(b) (i) That instruction shall stress:

(A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and

(B) personal skills that encourage individual choice of abstinence and fidelity.

(ii) (A) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(B) Subsection ~~[(1)]~~ (2)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(c) (i) The board shall recommend instructional materials for use in the curricula required under Subsection ~~[(1)]~~ (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(ii) A local school board may choose to adopt:

(A) the instructional materials recommended under Subsection ~~[(1)]~~ (2)(c)(i); or

(B) other instructional materials as provided in ~~[state]~~ board rule.

(iii) The ~~[state]~~ board rule made under Subsection ~~[(1)]~~ (2)(c)(ii)(B) shall include, at a minimum:

(A) that the materials adopted by a local school board under Subsection ~~[(1)]~~ (2)(c)(ii)(B) shall be based upon recommendations of the school district's or charter school's Curriculum Materials Review Committee that comply with state law and ~~[state]~~ board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:

(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(II) the advocacy of premarital or extramarital sexual activity; or

(III) the advocacy or encouragement of the use of contraceptive methods or devices;

~~[(IV) the advocacy of sexual activity outside of marriage;]~~

(B) that the adoption of instructional materials shall take place in an open and regular meeting of the local school board for which prior notice is given to parents ~~[and guardians]~~ of students attending the respective schools ~~[in the district]~~ and an opportunity for ~~[them]~~ parents to express their views and opinions on the materials at the meeting;

(C) provision for an appeal and review process of the local school board's decision; and

(D) provision for a report by the local school board to the ~~[State Board of Education]~~ board of the action taken and the materials adopted by the local school board under Subsections ~~[(1)]~~ (2)(c)(ii)(B) and ~~[(1)]~~ (2)(c)(iii).

~~[(2)]~~ (3) (a) [Instruction] A student shall receive instruction in the courses described in Subsection [(1) shall be consistent and systematic in grades eight through] (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

~~[(3)]~~ (4) (a) The board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent ~~[or legal guardian]~~ to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

~~[(4)]~~ (5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection ~~[(4)]~~ (5)(a) also apply to a school ~~[employees or volunteers acting outside of their]~~ employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) ~~[they]~~ the employee or volunteer knew or should have known that ~~[their]~~ the employee's or volunteer's action could result in a material and

substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) ~~[Neither the State Board of Education nor local school districts may]~~ The board or a local school board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The ~~[State Board of Education]~~ board shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the ~~[State Board of Education and]~~ board or a local school ~~[boards]~~ board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

~~[(5)]~~ (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

~~[(6)]~~ (7) (a) [Local school boards and their] A local school board and a local school board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) ~~[Each school district]~~ A local school board shall provide appropriate ~~[inservice training for its]~~ professional development for the local school board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the ~~[inservice training]~~ professional development.

(c) ~~[The written materials shall also be made]~~ A local school board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents ~~[and guardians]~~ of students.

(d) In order to assist ~~[school districts]~~ a local school board in providing the ~~[inservice training]~~ professional development required under Subsection ~~[(6)]~~ (7)(b), the ~~[State Board of Education]~~ board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection ~~[(6)]~~ (7)(b) to develop and disseminate model teacher ~~[inservice programs which districts]~~ professional development programs that a local school board may use to train the individuals referred to in Subsection ~~[(6)]~~ (7)(b) to effectively teach the values and qualities of character referenced in ~~[that subsection]~~ Subsection (7).

(e) In accordance with the provisions of Subsection ~~[(4)]~~ (5)(c), ~~[inservice training]~~

professional development may not support or encourage criminal conduct.

(8) A local school board shall review every two years:

(a) local school board policies on instruction described in this section;

(b) for a local board of education of a school district, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the local school board.

[~~(7)~~] (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 2. Section 53G-10-403 is amended to read:

53G-10-403. Required parental consent for sex education instruction.

(1) As used in this section:

(a) "Parent" means the same as that term is defined in Section 53G-10-205.

[~~(a)~~] (b) (i) "[~~Human sexuality~~] Sex education instruction" means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

(A) sexual abstinence;

(B) human sexuality;

(C) human reproduction;

(D) reproductive anatomy;

(E) physiology;

(F) pregnancy;

(G) marriage;

(H) childbirth;

(I) parenthood;

(J) contraception;

(K) HIV/AIDS; [~~or~~]

(L) sexually transmitted diseases[-]; or

(M) refusal skills, as defined in Section 53G-10-402.

(ii) "[~~Human sexuality~~] Sex education instruction" does not include child sexual abuse prevention instruction described in Section 53G-9-207.

[~~(b) "Parent" means the same as that term is defined in Section 53G-10-205.~~]

(c) "School" means the same as that term is defined in Section 53G-10-205.

(2) A school shall obtain prior written consent from a student's parent before the school may provide [~~human sexuality~~] sex education instruction to the student.

(3) If a student's parent chooses not to have the student participate in [~~human sexuality~~] sex education instruction, a school shall:

(a) waive the requirement for the student to participate in the [~~human sexuality~~] sex education instruction; or

(b) provide the student with a reasonable alternative to the [~~human sexuality~~] sex education instruction requirement.

(4) In cooperation with the student's teacher or school, a parent shall take responsibility for the parent's student's [~~human sexuality~~] sex education instruction if a school:

(a) waives the student's [~~human sexuality~~] sex education instruction requirement in Subsection (3)(a); or

(b) provides the student with a reasonable alternative to the [~~human sexuality~~] sex education instruction requirement described in Subsection (3)(b).

(5) A student's academic or citizenship performance may not be penalized if the student's parent chooses not to have the student participate in [~~human sexuality~~] sex education instruction as described in Subsection (3).

CHAPTER 225**H. B. 288**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**WORKERS' COMPENSATION
CLAIMS AMENDMENTS**

Chief Sponsor: Ken Ivory
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill enacts provisions related to claiming workers' compensation benefits.

Highlighted Provisions:

This bill:

- ▶ makes it unlawful for an employer to:
 - interfere with an employee's ability to seek workers' compensation benefits; or
 - retaliate against an employee for seeking workers' compensation benefits; and
- ▶ provides penalties for violating a provision of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34A-2-114, Utah Code Annotated 1953

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

Section 1. Section 34A-2-114 is enacted to read:**34A-2-114. Unlawful interference -- Penalties.**

(1) An employer may not knowingly or intentionally:

(a) impede or diminish an employee's efforts to make a claim or receive workers' compensation benefits under this chapter or Chapter 3, Utah Occupational Disease Act; or

(b) intimidate, coerce, or harass an employee with the intent of preventing the employee from making a claim or receiving workers' compensation benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

(2) An employer may not suspend, discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee solely because the employee:

(a) claims or attempts to claim workers' compensation benefits under this chapter or Chapter 3, Utah Occupational Disease Act;

(b) reports an employer's noncompliance with a provision of this chapter or Chapter 3, Utah Occupational Disease Act; or

(c) testifies or intends to testify in a workers' compensation proceeding.

(3) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division may impose a fine of up to \$5,000 against an employer for each violation of Subsection (1) or (2).

(4) The division shall deposit any money collected under this section into the Uninsured Employers' Fund created in Section 34A-2-704.

(5) This section does not affect the rights or obligations of an employee or employer under common law.

CHAPTER 226**H. B. 298**

Passed March 7, 2018

Approved March 19, 2018

Effective May 8, 2018

(Exception clause in Section 2)

**VICTIM ADVOCATE
CONFIDENTIALITY AMENDMENTS**

Chief Sponsor: Michael K. McKell

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill creates a task force.

Highlighted Provisions:

This bill:

- ▶ creates the Victim Advocate Confidentiality Task Force, including:
 - addressing membership;
 - providing quorum requirements;
 - addressing compensation; and
 - outlining task force duties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a repeal date.

Utah Code Sections Affected:**ENACTS:**

36-29-103, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 36-29-103 is enacted to read:****36-29-103. Victim Advocate Confidentiality Task Force.**

(1) There is created a task force known as the "Victim Advocate Confidentiality Task Force."

(2) The task force shall consist of the following members:

(a) two members of the Senate appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the state court administrator or the state court administrator's designee;

(e) the director of the Utah Office for Victims of Crime or the director's designee; and

(f) the attorney general or the attorney general's designee.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall study when and how communication or information provided to an individual who advocates for victims should be kept confidential, including:

(a) defining relevant terms such as "victim advocate" and what qualifications a victim advocate should have to have any confidentiality protections;

(b) what types of communication or information, if any, should be kept confidential;

(c) how to address issues such as:

(i) a victim advocate knowing that the victim will give or has given perjured testimony;

(ii) the communication or information containing exculpatory or inculpatory evidence; and

(iii) duties to disclose suspected cases of child abuse or neglect;

(d) whether the confidentiality requirements should be enacted by statute or court rules of procedure and evidence; and

(e) any other issue related to this Subsection (7).

(8) On or before the November 2018 Interim the task force shall report to the Judiciary Interim Committee, including presenting proposed legislation, if any.

Section 2. Repeal date.

Section 36-29-103 is repealed on November 30, 2018.

CHAPTER 227**H. B. 302**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

CULTIVATION OF INDUSTRIAL HEMP

Chief Sponsor: Brad M. Daw
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill deals with the licensing of cultivators and processors of industrial hemp and the registration of industrial hemp products.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the Department of Agriculture and Food to license a person who wishes to participate in an industrial hemp research pilot program;
- ▶ creates a process to register an industrial hemp product;
- ▶ prohibits a person from cultivating industrial hemp without a license;
- ▶ prohibits the distribution of an industrial hemp product without registration;
- ▶ authorizes rulemaking authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-41-102, as enacted by Laws of Utah 2014, Chapter 25

4-41-103, as last amended by Laws of Utah 2017, Chapter 345

ENACTS:

4-41-104, Utah Code Annotated 1953

4-41-105, Utah Code Annotated 1953

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

Section 1. Section 4-41-102 is amended to read:**4-41-102. Definitions.**

For purposes of this chapter:

(1) “Agricultural pilot program” means a program to study the growth, cultivation, or marketing of industrial hemp.

(1) (2) “Industrial hemp” means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(2) (3) “Industrial hemp certificate” means a certificate issued by the department to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(4) “Industrial hemp license” means a license issued by the department to a person for the purpose of participating in a research pilot program.

(5) “Industrial hemp product” means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(6) “Licensee” means an individual or business entity possessing a license issued by the department under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.

(7) “Person” means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

(8) “Research pilot program” means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

Section 2. Section 4-41-103 is amended to read:**4-41-103. Industrial hemp -- Agricultural and academic research.**

(1) The department and its licensee may grow [ø], cultivate, or process industrial hemp for the purpose of agricultural [ø], academic, or market research.

(2) The department shall certify a higher education institution to grow or cultivate industrial hemp for the purpose of agricultural or academic research if the higher education institution submits to the department:

(a) the location where the higher education institution intends to grow or cultivate industrial hemp;

(b) the higher education institution’s research plan; and

(c) the name of an employee of the higher education institution who will supervise the industrial hemp growth, cultivation, and research.

(3) The department shall maintain a list of each industrial hemp certificate holder and licensee.

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) ensure any industrial hemp project or research pilot project meets the standards of an agricultural pilot project, as defined by Section 7606 of the United States Agricultural Act of 2014[-];

(b) establish requirements for a license to participate in an industrial hemp research pilot program;

(c) set sampling and testing procedures for industrial hemp; and

(d) define a class or category of an industrial hemp product that is eligible for sale, transfer, or distribution to a member of the public.

(5) A person seeking to cultivate industrial hemp shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating any field or greenhouse used by the person to grow industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where industrial hemp is cultivated, processed, or stored for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(6) The following individuals are not eligible to obtain a license under this chapter:

(a) an individual who has been convicted of a felony; and

(b) an individual who has been convicted of a drug-related misdemeanor within the last 10 years.

[~~(5)~~] (7) The department may set a fee, pursuant to Subsection 4-2-103(2), for the application of an industrial hemp certificate and the application for an industrial hemp license.

Section 3. Section 4-41-104 is enacted to read:

4-41-104. Product registration required for distribution -- Application -- Fees -- Renewal.

(1) An industrial hemp product that is not registered with the department may not be distributed in this state.

(2) A person seeking registration for an industrial hemp product shall:

(a) apply to the department on forms provided by the department; and

(b) submit an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), for each industrial hemp product the person intends to distribute in this state.

(3) The department may conduct tests, or require test results, to ensure that any claim made by an applicant about an industrial hemp product is accurate.

(4) Upon receipt by the department of a proper application and payment of the appropriate fee, as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered hemp product in the state through June 30 of each year, subject to suspension or revocation for cause.

(5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30

days before the day on which the registrant's registration expires.

Section 4. Section 4-41-105 is enacted to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person who is not a licensee to cultivate, handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp.

(2) It is unlawful for any person to distribute or market an industrial hemp product that is not registered with the department pursuant to Section 4-41-104.

(3) The department may seize and destroy hemp plants or products that do not comply with this chapter, including cannabis plants or products that contain a concentration of 0.3% tetrahydrocannabinol or greater by weight.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

CHAPTER 228**H. B. 305**

Passed March 1, 2018
 Approved March 19, 2018
 Effective May 8, 2018

FIRE CODE AMENDMENTS

Chief Sponsor: Walt Brooks
 Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends provisions of the State Fire Code Act.

Highlighted Provisions:

This bill:

- ▶ replaces state fire code regulations regarding required access for fire fighting during construction or demolition of a structure;
- ▶ requires approved access for fire fighting to all construction or demolition sites;
- ▶ requires access within a set distance to fire department connections;
- ▶ permits required access by either temporary or permanent roads;
- ▶ provides requirements for temporary roads;
- ▶ permits certain reports;
- ▶ prohibits local jurisdictions from taking certain actions;
- ▶ requires maintenance of temporary roads; and
- ▶ requires functionality of required access before certain events occur.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

15A-5-205.6, Utah Code Annotated 1953

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

Section 1. Section 15A-5-205.6 is enacted to read:

15A-5-205.6. Amendments and additions to Chapter 33 of IFC.

(1) IFC, Chapter 33, Section 3310.1, Required access, is deleted and rewritten as follows:

“3310.1 Required access.

3310.1.1 Approved vehicle access. Approved vehicle access for fire fighting shall be provided as described in Chapter 5 of this code to all construction or demolition sites.

3310.1.2 Fire department connections. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections.

3310.1.3 Type of access. Vehicle access shall be provided by either temporary or permanent roads.

3310.1.3.1 Temporary road requirements. Temporary roads shall be constructed with a

minimum of site specific required structural fill for permanent roads and road base, or other approved material complying with local standards.

3310.1.3.2 Reports. Compaction reports may be required. An engineer’s review and certification of a temporary fire department access road is not required.

3310.1.3.3 Local jurisdictions. If an improvement completion assurance has been posted in accordance with Section 10-9a-604.5, a local jurisdiction may not require permanent roads, or asphalt or concrete on temporary roads, before final approval of the structure served by the road.

3310.1.4 Maintenance. Temporary roads shall be maintained until permanent fire apparatus access roads are available.

3310.1.5 Time line. Temporary or permanent fire department access roads shall be functional before construction above the foundation begins and before an appreciable amount of combustible construction materials are on site.”

(2) IFC, Chapter 33, Section 3310.2, Key boxes, is deleted.

CHAPTER 229**H. B. 310**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**PROFESSIONAL
 LICENSING AMENDMENTS**

Chief Sponsor: Mike Schultz
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill modifies provisions of the Residence Lien Restriction and Lien Recovery Fund Act, the Building Inspector and Factory Built Housing Licensing Act, and other related provisions.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to the Residence Lien Restriction and Lien Recovery Fund Act, the Building Inspector and Factory Built Housing Licensing Act, and other related provisions;
- ▶ discontinues assessments to provide money for the continuing operation of the Residence Lien Recovery Fund;
- ▶ requires certain reporting requirements from the Division of Occupational and Professional Licensing to the Legislature regarding the Residence Lien Recovery Fund, including providing the Legislature with a recommendation of when provisions related to the fund should be repealed due to insufficient money in the fund to pay claims; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 38-11-102, as last amended by Laws of Utah 2014, Chapter 108
 38-11-104, as last amended by Laws of Utah 2004, Chapter 42
 38-11-105, as last amended by Laws of Utah 2008, Chapter 382
 38-11-106, as last amended by Laws of Utah 2004, Chapter 42
 38-11-201, as last amended by Laws of Utah 2013, Chapter 400
 38-11-202, as last amended by Laws of Utah 2009, Chapter 183
 38-11-203, as last amended by Laws of Utah 2016, Chapter 238
 38-11-301, as last amended by Laws of Utah 2009, Chapter 183
 58-56-9, as last amended by Laws of Utah 2011, Chapter 14
 58-56-9.3, as last amended by Laws of Utah 2010, Chapter 310
 58-56-9.5, as last amended by Laws of Utah 2010, Chapter 278

63J-1-504, as last amended by Laws of Utah 2013, Chapter 310

ENACTS:

58-56-9.4, Utah Code Annotated 1953

REPEALS AND REENACTS:

38-11-206, as last amended by Laws of Utah 2011, Chapter 367

REPEALS:

38-11-302, as last amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 38-11-102 is amended to read:**38-11-102. Definitions.**

(1) "Board" means the Residence Lien Recovery Fund Advisory Board established under Section 38-11-104.

(2) "Certificate of compliance" means an order issued by the director to the owner finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a) and (4)(b) and is entitled to protection under Section 38-11-107.

(3) "Construction on an owner-occupied residence" means designing, engineering, constructing, altering, remodeling, improving, repairing, or maintaining a new or existing residence.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the Division of Occupational and Professional Licensing.

(6) "Division" means the Division of Occupational and Professional Licensing.

(7) "Duplex" means a single building having two separate living units.

(8) "Encumbered fund balance" means the aggregate amount of outstanding claims against the fund. The remainder of the money in the fund is unencumbered funds.

(9) "Executive director" means the executive director of the Department of Commerce.

(10) "Factory built housing" is as defined in Section 15A-1-302.

(11) "Factory built housing retailer" means a person that sells factory built housing to consumers.

(12) "Fund" means the Residence Lien Recovery Fund established under Section 38-11-201.

(13) "Laborer" means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence.

(14) "Licensee" means any holder of a license issued under Title 58, Chapter 3a, Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah Construction Trades Licensing Act.

(15) “Nonpaying party” means the original contractor, subcontractor, or real estate developer who has failed to pay the qualified beneficiary making a claim against the fund.

(16) “Original contractor” means a person who contracts with the owner of real property or the owner’s agent to provide services, labor, or material for the construction of an owner-occupied residence.

(17) “Owner” means a person who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property that the person:

(i) owns; or

(ii) purchases after the person enters into a contract described in this Subsection (17)(a) and before completion of the owner-occupied residence;

(b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or

(c) purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.

(18) “Owner-occupied residence” means a residence that is, or after completion of the construction on the residence will be, occupied by the owner or the owner’s tenant or lessee as a primary or secondary residence within 180 days after the day on which the construction on the residence is complete.

(19) “Qualified beneficiary” means a person who:

(a) provides qualified services;

(b) pays necessary fees [or assessments] required under this chapter; and

(c) registers with the division:

(i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or

(ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.

(20) (a) “Qualified services” means the following performed in construction on an owner-occupied residence:

(i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;

(iii) engineering and land surveying services provided by a professional engineer or land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(iv) landscape architectural services by a landscape architect licensed or exempt from licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

(v) design and specification services of mechanical or other systems;

(vi) other services related to the design, drawing, surveying, specification, cost estimation, or other like professional services;

(vii) providing materials, supplies, components, or similar products;

(viii) renting equipment or materials;

(ix) labor at the site of the construction on the owner-occupied residence; and

(x) site preparation, set up, and installation of factory built housing.

(b) “Qualified services” does not include the construction of factory built housing in the factory.

(21) “Real estate developer” means a person having an ownership interest in real property who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or

(b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act, who engages in the construction of a residence that is offered for sale to the public.

(22) (a) “Residence” means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with:

(i) a primary or secondary detached single-family dwelling; or

(ii) a multifamily dwelling up to and including duplexes.

(b) “Residence” includes factory built housing.

(23) “Subsequent owner” means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

Section 2. Section 38-11-104 is amended to read:

38-11-104. Board.

(1) There is created the Residence Lien Recovery Fund Advisory Board consisting of:

(a) three individuals licensed as a contractor who are actively engaged in construction on owner-occupied residences;

(b) three individuals who are employed in responsible management positions with major suppliers of materials or equipment used in the construction on owner-occupied residences; and

(c) one member from the general public who has no interest in the construction on owner-occupied residences, or supply of materials used in the construction on owner-occupied residences.

(2) The board shall be appointed and members shall serve their respective terms in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be to:

(a) advise the division with respect to informal adjudication of any claim for payment from the fund and any request for a certificate of compliance received by the division;

(b) act as the presiding officer, as defined by rule, in formal adjudicative proceedings held before the division with respect to any claim made for payment from the fund;

(c) advise the division with respect to:

(i) the general operation of the fund;

~~[(ii) the amount and frequency of any assessment under this chapter;]~~

~~[(iii)] (ii) the amount of any fees required under this chapter; and~~

~~[(iv) the availability and advisability of using funds for purchase of surety bonds to guarantee payment to qualified beneficiaries; and]~~

~~[(v)] (iii) the limitation on the fund balance under Section 38-11-206; and~~

(d) review the administrative expenditures made by the division pursuant to Subsection 38-11-201(4) and report its findings regarding those expenditures to the executive director on or before the first Monday of December of each year.

(4) The attorney general shall render legal assistance as requested by the board.

Section 3. Section 38-11-105 is amended to read:

38-11-105. Procedures established by rule.

In compliance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall establish procedures by rule by which claims for compensation from the fund and requests for certificates of compliance shall be adjudicated [and by which assessments shall be collected].

Section 4. Section 38-11-106 is amended to read:

38-11-106. State not liable.

The state and the state's agencies, instrumentalities, and political subdivisions are not liable for:

(1) issuance or denial of any certificate of compliance;

(2) any claims made against the fund; or

(3) failure of the fund to pay any amounts ordered by the director to be paid from the fund, including failure of the fund to pay any amounts ordered by the director to be paid because there is insufficient money in the fund.

Section 5. Section 38-11-201 is amended to read:

38-11-201. Residence Lien Recovery Fund.

(1) There is created an expendable special revenue fund called the "Residence Lien Recovery Fund."

~~[(2) (a) The fund consists of all amounts collected by the division in accordance with Section 38-11-202.]~~

~~[(b) (i) The division shall deposit the funds in an account with the state treasurer.]~~

~~[(ii) The division shall record the funds in the Residence Lien Recovery Fund.]~~

~~[(e)] (2) The fund shall earn interest.~~

(3) The division shall employ personnel and resources necessary to administer the fund and shall use fund money in accordance with Sections 38-11-203 and 38-11-204 and to pay the costs charged to the fund by the attorney general.

(4) Costs incurred by the division, on or after May 8, 2018, for administering the fund ~~[shall] may be paid out of fund money in an amount that may be no more than a total of \$300,000 for the remaining existence of the fund.~~

(5) (a) The Division of Finance shall report annually to the Legislature, the division, and the board.

(b) The report shall state:

~~[(a)] (i) amounts received by the fund;~~

~~[(b)] (ii) disbursements from the fund;~~

~~[(e)] (iii) interest earned and credited to the fund; and~~

~~[(d)] (iv) the fund balance.~~

~~[(6) (a) For purposes of establishing and assessing fees under Section 63J-1-504, the provisions of this chapter are considered a new program for fiscal year 1995-96.]~~

~~[(b) The department shall submit its fee schedule to the Legislature for its approval at the 1996 Annual General Session.]~~

Section 6. Section 38-11-202 is amended to read:

38-11-202. Payments to the fund.

~~[The] Beginning on May 8, 2018, the Residence Lien Recovery Fund ~~[shall be supported solely from] will no longer be supported by special assessments and will be solely supported by:~~~~

~~[(1) initial and special assessments collected by the division from licensed contractors registered as qualified beneficiaries in accordance with Subsections 38-11-301(1) and (2) and Section 38-11-206;]~~

~~[(2) initial and special assessments collected by the division from other qualified beneficiaries registering with the division in accordance with Subsection 38-11-301(3) and Section 38-11-206;]~~

~~[(3)] (1) fees determined by the division under Section 63J-1-504 collected from laborers under Subsection 38-11-204(7) when the laborers obtain a recovery from the fund;~~

~~[(4)] (2) amounts collected by subrogation under Section 38-11-205 on behalf of the fund following a payment from the fund;~~

~~[(5)] (3) application fees determined by the division under Section 63J-1-504 collected from:~~

~~(a) qualified beneficiaries or laborers under Subsection 38-11-204(1)(b) when qualified beneficiaries or laborers make a claim against the fund; or~~

~~(b) owners or agents of the owners seeking to obtain a certificate of compliance for the owner;~~

~~[(6)] (4) registration fees determined by the division under Section 63J-1-504 collected from other qualified beneficiaries registering with the department in accordance with Subsection 38-11-301(3)(a)(iii);~~

~~[(7)] (5) reinstatement fees determined by the division under Section 63J-1-504 collected from registrants in accordance with Subsection 38-11-302(5)(b);~~

~~[(8)] (6) civil fines authorized under Subsection 38-11-205(2) collected by the attorney general for failure to reimburse the fund; and~~

~~[(9)] (7) any interest earned by the fund.~~

Section 7. Section 38-11-203 is amended to read:

38-11-203. Disbursements from the fund -- Limitations.

(1) A payment of any claim upon the fund by a qualified beneficiary shall be made only upon an order issued by the director finding that:

(a) the claimant was a qualified beneficiary during the construction on a residence;

(b) the claimant complied with the requirements of Section 38-11-204;

(c) there is adequate money in the fund to pay the amount ordered; and

(d) the claimant provided the qualified services that are the basis of the claim.

(2) A payment of a claim upon the fund by a laborer shall be made only upon an order issued by the director finding that:

(a) the laborer complied with the requirements of Subsection 38-11-204(7); and

(b) there is adequate money in the fund to pay the amount ordered.

(3) (a) An order under this section may be issued only after the division has complied with the procedures established by rule under Section 38-11-105.

(b) The director shall order payment of the qualified services as established by evidence, or if the claimant has obtained a judgment, then in the amount awarded for qualified services in the judgment to the extent the qualified services are attributable to the owner-occupied residence at issue in the claim.

(c) The director shall order payment of interest on amounts claimed for qualified services based on the current prime interest rate at the time payment was due to the date the claim is approved for payment except for delays attributable to the claimant but not more than 10% per annum.

(d) The rate shall be the prime lending rate as published in the Wall Street Journal on the first business day of each calendar year adjusted annually.

(e) The director shall order payment of costs in the amount stated in the judgment. If the judgment does not state a sum certain for costs, or if no judgment has been obtained, the director shall order payment of reasonable costs as supported by evidence. The claim application fee as established by the division pursuant to Subsection 38-11-204(1)(b) is not a reimbursable cost.

(f) If a judgment has been obtained with attorneys' fees, notwithstanding the amount stated in a judgment, or if no judgment has been obtained but the contract provides for attorneys' fees, the director shall order payment of attorneys' fees not to exceed 15% of qualified services. If the judgment does not state a sum for attorneys' fees, no attorneys' fees will be paid by the director.

(4) (a) Payments made from the fund may not exceed \$75,000 per construction project to qualified beneficiaries and laborers who have claim against the fund for that construction project.

(b) If claims against the fund for a construction project exceed \$75,000, the \$75,000 shall be awarded proportionately so that each qualified beneficiary and laborer awarded compensation from the fund for qualified services shall receive an identical percentage of the qualified beneficiary's or laborer's award.

~~[(5) Subject to the limitations of Subsection (4), if on the day the order is issued there are inadequate funds to pay the entire claim and the director determines that the claimant has otherwise met the requirements of Subsection (1) or (2), the director shall order additional payments once the fund meets the balance limitations of Section 38-11-206.]~~

~~[(6)] (5) (a) A payment of any claim upon the fund may not be made to an assignee or transferee unless an order issued by the director finds that:~~

(i) the claim is assigned or transferred to a person who is a qualified beneficiary; and

(ii) the person assigning or transferring the claim:

(A) was a qualified beneficiary during the construction on a residence; and

(B) provided the qualified services that are the basis of the claim.

(b) A claimant who is an assignee or transferee of a claim upon the fund under this Subsection (6) does not have to meet the requirements of Subsections 38-11-203(1)(a) and (d).

Section 8. Section 38-11-206 is repealed and reenacted to read:

38-11-206. Limitations on fund balance.

By October 1 of each year, the division shall provide a written report to the Legislature and the Business and Labor Interim Committee that describes:

(1) the amount of money in the fund, including the encumbered fund balance;

(2) an estimate of when the fund will have insufficient money to continue to pay claims under this chapter; and

(3) a recommendation to the Legislature of whether the substantive provisions of this chapter should be repealed due to insufficient money in the fund.

Section 9. Section 38-11-301 is amended to read:

38-11-301. Registration as a qualified beneficiary -- Initial regular assessment -- Affidavit.

(1) A person licensed as of July 1, 1995, as a contractor under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that regularly engage in providing qualified services shall be automatically registered as a qualified beneficiary ~~[upon payment of the initial assessment].~~

(2) A person applying for licensure as a contractor after July 1, 1995, in license classifications that regularly engage in providing qualified services shall be automatically registered as a qualified beneficiary upon issuance of a license ~~[and payment of the initial assessment].~~

(3) (a) After July 1, 1995, any person providing qualified services as other than a contractor as provided in Subsection (1) or any person exempt from licensure under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, may register as a qualified beneficiary by:

(i) submitting an application in a form prescribed by the division;

(ii) demonstrating registration with the Division of Corporations and Commercial Code as required by state law; and

(iii) paying a registration fee determined by the division under Section 63J-1-504~~;~~ and~~].~~

~~[(iv) paying the initial assessment established under Subsection (4), and any special assessment determined by the division under Subsection 38-11-206(1).]~~

(b) A person who does not register under Subsection (1), (2), or (3)(a) shall be prohibited from recovering under the fund as a qualified beneficiary for work performed as qualified services while not registered with the fund.

~~[(4) (a) An applicant shall pay an initial assessment determined by the division under Section 63J-1-504.]~~

~~[(b) The initial assessment to qualified registrants under Subsection (1) shall be made not later than July 15, 1995, and shall be paid no later than November 1, 1995.]~~

~~[(c) The initial assessment to qualified registrants under Subsections (2) and (3) shall be paid at the time of application for license or registration, however, beginning on May 1, 1996, only one initial assessment or special assessments thereafter shall be required for persons having multiple licenses under this section.]~~

~~[(5) A person shall be considered to have been registered as a qualified beneficiary on January 1, 1995, for purposes of meeting the requirements of Subsection 38-11-204(1)(c)(ii) if the person:]~~

~~[(a) (i) is licensed on or before July 1, 1995, as a contractor under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that regularly engage in providing qualified services; or]~~

~~[(ii) provides qualified services after July 1, 1995, as other than a contractor as provided in Subsection (5)(a)(i) or is exempt from licensure under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act; and]~~

~~[(b) registers as a qualified beneficiary under Subsection (1) or (3) on or before November 1, 1995.]~~

Section 10. Section 58-56-9 is amended to read:

58-56-9. Qualifications of inspectors -- Contract for inspection services.

(1) An inspector employed by a local regulator, state regulator, or compliance agency to enforce the codes shall:

(a) (i) meet minimum qualifications as established by the division in collaboration with the commission;

(ii) be certified by a nationally recognized organization which promulgates construction codes; or

(iii) pass an examination developed by the division in collaboration with the commission;

(b) be currently licensed by the division as meeting those minimum qualifications; and

(c) be subject to revocation or suspension of the inspector's license or being placed on probation if found guilty of unlawful or unprofessional conduct.

(2) A local regulator, state regulator, or compliance agency may contract for the services of a licensed inspector not regularly employed by the regulator or agency.

(3) In accordance with Section 58-1-401, the division may:

- (a) refuse to issue a license to an applicant;
- (b) refuse to renew the license of a licensee;
- (c) revoke, suspend, restrict, or place on probation the license of a licensee;
- (d) issue a public or private reprimand;
- (e) issue a citation to a licensee; and
- (f) issue a cease and desist order.

Section 11. Section 58-56-9.3 is amended to read:

58-56-9.3. Unprofessional conduct.

Unprofessional conduct is as defined in Subsection 58-1-501(2) and includes:

(1) knowingly failing to inspect or issue correction notices for code violations which when left uncorrected would constitute a hazard to the public health and safety and knowingly failing to require that correction notices are complied with as a building inspector;

(2) the use of alcohol or the illegal use of drugs while performing duties as a building inspector or at any time to the extent that the inspector is physically or mentally impaired and unable to effectively perform the duties of an inspector;

(3) gross negligence in the performance of official duties as a building inspector;

(4) the personal use of information or knowingly revealing information to unauthorized persons when that information has been obtained by a building inspector as a result of the inspector's employment, work, or position as an inspector;

(5) unlawful acts or practices which are clearly unethical under generally recognized standards of conduct of a building inspector;

(6) engaging in fraud or knowingly misrepresenting a fact relating to the performance of duties and responsibilities as a building inspector;

(7) a building inspector knowingly failing to require that all plans, specifications, drawings, documents, and reports be stamped by architects, professional engineers, or both as established by law;

(8) a building inspector knowingly failing to report to the division an act or omission of a licensee under Title 58, Chapter 55, Utah Construction Trades Licensing Act, which when left uncorrected constitutes a hazard to public health and safety;

(9) a building inspector knowingly failing to report to the division unlicensed practice persons

who are required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(10) a building inspector's approval of work which materially varies from approved documents that have been stamped by an architect, professional engineer, or both unless authorized by the licensed architect, professional engineer, or both;

(11) a building inspector failing to produce verification of current licensure and current certifications for the codes upon request of the division, a compliance agency, or a contractor or property owner whose work is being inspected;

(12) a building inspector requiring work that materially varies from the building codes adopted by the state;

~~(12)~~ (13) nondelivery of goods or services by a registered dealer which constitutes a breach of contract by the dealer;

~~(13)~~ (14) the failure of a registered dealer to pay a subcontractor or supplier any amounts to which that subcontractor or supplier is legally entitled; and

~~(14)~~ (15) any other activity which is defined as unprofessional conduct by division rule in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 12. Section 58-56-9.4 is enacted to read:

58-56-9.4. Investigation of regulated activity.

(1) The division is responsible for the investigation of a person or an activity that violates the provisions of this chapter.

(2) An investigation by the division may include:

(a) a requirement that potential administrative appeals described in Section 15A-1-207 have been exhausted before conducting the investigation;

(b) an investigation of a person engaged in unlawful or unprofessional conduct; and

(c) a referral to the Uniform Building Code Commission to review a dispute involving an application or interpretation of a building code or construction law by a licensee.

Section 13. Section 58-56-9.5 is amended to read:

58-56-9.5. Penalty for unlawful conduct -- Citations.

(1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

(2) Grounds for immediate suspension of a licensee's license by the division under this chapter include:

(a) the issuance of a citation for violation of a provision of Section 58-56-9.1 or 58-56-9.3; and

(b) failure by a licensee to make application to, report to, or notify the division with respect to a matter for which application, notification, or reporting is required under this chapter or rules made under this chapter by the division.

(3) (a) If upon inspection or investigation, the division concludes that a person has violated a provision of Section 58-56-9.1 or 58-56-9.3, or a rule or order issued with respect to that section, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

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

(ii) attempt to negotiate a stipulated settlement; or

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

(b) (i) A person who violates a provision of Section 58-56-9.1 or 58-56-9.3, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or instead of the fine, be ordered by the division to cease from violating the provision.

(ii) Except as otherwise provided in Subsection (2)(a), the division may not assess licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

(c) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(e) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the

citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of the violation.

(i) The director or the director's designee may assess fines for violations of Section 58-56-9.1 or 58-56-9.3 as follows:

(i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

(ii) for a second offense, a fine of up to \$2,000; and

(iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued offense.

(j) For the purposes of issuing a final order under this section and assessing a fine under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

(i) the division previously issued a final order determining that a person committed a first or second offense in violation of a provision of Section 58-56-9.1; or

(ii) (A) the division initiated an action for a first or second offense;

(B) no final order has been issued by the division in the action initiated under Subsection (3)(j)(ii)(A);

(C) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent violation of a provision of Section 58-56-9.1; and

(D) after determining that the person committed a second or subsequent offense under Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under Subsection (3)(j)(ii)(A).

(k) In issuing a final order for a second or subsequent offense under Subsection (3)(j), the division shall comply with the requirements of this section.

(4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the Commerce Service Account created by Section 13-1-2.

(b) The director may collect an unpaid fine by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county in which the person resides or in the county where the director's office is located.

(c) (i) The state's attorney general or a county attorney shall provide legal assistance and advice to the director in an action brought under Subsection (4)(b).

(ii) Reasonable attorney fees and costs shall be awarded in an action brought to enforce the provisions of this section.

Section 14. Section 63J-1-504 is amended to read:

63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not mean the Legislature or its committees.

(b) "Fee agency" means any agency that is authorized to establish fees.

(c) "Fee schedule" means the complete list of fees charged by a fee agency and the amount of those fees.

(2) Each fee agency shall adopt a schedule of fees assessed for services provided by the fee agency that are:

(a) reasonable, fair, and reflect the cost of services provided; and

(b) established according to a cost formula determined by the executive director of the Governor's Office of Management and Budget and the director of the Division of Finance in conjunction with the agency seeking to establish the fee.

(3) Except as provided in Subsection (6), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection (6), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) where necessary, modify the fee schedule to implement the Legislature's actions.

(5) (a) Each fee agency shall submit its fee schedule or special assessment amount to the Legislature for its approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency.

(6) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner; or

~~[(b) the Division of Occupational and Professional Licensing makes a special assessment against qualified beneficiaries under the Residence Lien Restriction and Lien Recovery Fund Act as provided in Subsection 38-11-206(1); or]~~

~~[(e)]~~ (b) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

(7) (a) Each fee agency that wishes to change any fee shall submit to the governor as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue change that will result from the change in the fee;

(vi) the account or fund into which the fee will be deposited; and

(vii) the reason for the change in the fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection (7)(a), with any modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

(8) (a) Except as provided in Subsection (8)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

Section 15. Repealer.

This bill repeals:

Section 38-11-302, Effective date and term of registration -- Penalty for failure to pay assessments -- Reinstatement.

CHAPTER 230**H. B. 318**

Passed March 1, 2018
Approved March 19, 2018
Effective May 8, 2018

**STRAY CURRENT OR
VOLTAGE REMEDIATION ACT**

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses stray current and voltage.

Highlighted Provisions:

This bill:

- ▶ enacts the Stray Current or Voltage Remediation Act, including:
 - providing legislative findings;
 - defining terms;
 - establishing the scope of the act;
 - addressing filing of a notice, testing, and reporting related to stray current and voltage;
 - providing for remediation of stray current and voltage under certain circumstances;
 - addressing liability;
 - requiring review by an interim committee; and
 - addressing resolution of disputes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

54-21-101, Utah Code Annotated 1953
54-21-102, Utah Code Annotated 1953
54-21-103, Utah Code Annotated 1953
54-21-201, Utah Code Annotated 1953
54-21-202, Utah Code Annotated 1953
54-21-203, Utah Code Annotated 1953
54-21-204, Utah Code Annotated 1953
54-21-205, Utah Code Annotated 1953

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

Section 1. Section 54-21-101 is enacted to read:**CHAPTER 21. STRAY CURRENT OR
VOLTAGE REMEDIATION ACT****Part 1. General Provisions****54-21-101. Title -- Legislative findings.**

(1) This chapter is known as the "Stray Current or Voltage Remediation Act."

(2) The Legislature finds that:

(a) to protect livestock and livestock operations, it is necessary and appropriate to establish an actionable level of stray current and voltage that is safely below any level that is capable of harming

livestock or adversely affecting the behavior, health, or productivity of livestock;

(b) the efficient, effective, and safe generation, transmission, and distribution of electrical energy by electric entities is critical to the well-being of the citizens and the economy of the state;

(c) permitting an electric entity to face liability based on a level of stray current or voltage that is incapable of adversely affecting livestock seriously threatens the efficient, effective, and safe generation, transmission, and distribution of electrical energy in the state, as well as the continuing viability of economic activity that depends on electrical energy;

(d) to guarantee the sufficient availability of efficient, effective, and safe electrical energy in the state, which requires the continuing operation of electric entities, it is necessary and appropriate for the Legislature to establish a uniform actionable level for an electric entity with respect to stray current and voltage and livestock; and

(e) because the actionable level is set sufficiently below any level that is capable of adversely affecting the behavior, health, or productivity of livestock, any potential of harm to livestock from stray current or voltage below this level is highly remote and unexpected.

Section 2. Section 54-21-102 is enacted to read:**54-21-102. Definitions.**

(1) "Actionable level" means stray current or voltage that is:

(a) a steady-state, root mean square, alternating current (AC) of 2.0 milliamps or more through a 500 ohm resistor connected between livestock contact points, as measured by a digital true root mean square meter;

(b) a steady-state, root mean square AC voltage of 1.0 volt or more across, in parallel with, a 500 ohm resistor connected between livestock contact points, as measured by a true root mean square meter;

(c) a steady-state direct current (DC) of 2.8 milliamps or more through a 500 ohm resistor connected between livestock contact points, as measured by a digital meter; or

(d) a steady-state DC voltage of 1.4 volts or more across a 500 ohm resistor connected between livestock contact points, as measured by a digital meter.

(2) "Electric entity" means:

(a) an electrical corporation, independent energy producer, qualifying power producer, interlocal entity, public agency, or person engaged in generating, furnishing, transmitting, distributing, or marketing electrical power for public or private use; and

(b) an agent, affiliate, employee, or independent contractor of a person described in Subsection (2)(a).

(3) "Interlocal entity" means the same as that term is defined in Section 11-13-103.

(4) “Livestock” means cattle, swine, sheep, equine, or poultry.

(5) “Livestock contact points” means two electrically conductive points that livestock may simultaneously contact.

(6) “Livestock operator” means a person who through an agreement with the owner of livestock has authority and is responsible to oversee the care and well being of the livestock.

(7) “Public agency” means the same as that term is defined in Section 11-13-103.

(8) “Qualified testing professional” means an electrical engineer who has:

(a) graduated with an engineering degree from an accredited university;

(b) completed no fewer than 40 hours of relevant stray current or voltage training, with electric utility experience; and

(c) been involved in at least one prior investigation involving the measurement or testing of stray current or voltage.

(9) “Root mean square” means:

(a) a measure of the effective energy value of a wave or cycle; and

(b) for regularly shaped alternating current sine waves, a value of 0.707 multiplied by the peak value of the sine wave.

(10) “Steady-state” means:

(a) for alternating current and AC voltage, a one minute average of root mean square amperage or voltage values, excluding transients; and

(b) for direct current and DC voltage, a one minute average of amperage or voltage values excluding transients.

(11) “Transient” means a current or voltage impulse:

(a) lasting less than five thousandths of a second; and

(b) found on all types of electrical, data, and communications circuits.

Section 3. Section 54-21-103 is enacted to read:

54-21-103. Scope of chapter.

This chapter does not expand or affect the jurisdiction of the commission. An electric entity is not subject to the jurisdiction of the commission unless made subject to the jurisdiction of the commission under a statute other than this chapter.

Section 4. Section 54-21-201 is enacted to read:

Part 2. Notice and Remedies

54-21-201. Notice -- Testing -- Reporting -- Access to property.

(1) A livestock owner or livestock operator shall file a notice with an electric entity as provided in

Subsection (2) if the livestock owner or livestock operator believes that the livestock owner’s or livestock operator’s livestock is affected by stray current or voltage that may be attributable to an electric entity and is seeking a remedy from the electric entity.

(2) To file a notice, a livestock owner or livestock operator shall provide written notice to the electric entity that documents:

(a) the address of the livestock owner or livestock operator and the location of the potential stray current or voltage; and

(b) a description of the claimed impacts of the potential stray current or voltage.

(3) Within 30 days of receipt of notice under Subsection (1), the electric entity shall provide for testing for stray current or voltage at the location that is the subject of the notice required by Subsection (2) by a qualified testing professional.

(4) (a) Within 60 days after completion of the tests required to be performed under this chapter, a qualified testing professional shall prepare a written report. The written report shall include:

(i) a summary of the tests performed; and

(ii) the data and results from the tests.

(b) The electric entity shall provide a copy of the written report to the livestock owner or livestock operator who provided notice under Subsection (2).

(5) A livestock owner or livestock operator who provides written notice under Subsection (2) shall provide reasonable access to the property where alleged stray current or voltage has occurred to allow testing to be conducted as directed under this section.

Section 5. Section 54-21-202 is enacted to read:

54-21-202. Plan to reduce or eliminate stray current or voltage.

(1) The procedure described in Subsection (2) shall be followed if, through testing by a qualified testing professional as described in Section 54-21-201, it is determined that the electric entity’s contribution to any stray current or voltage is 50% or more of the actionable level.

(2) If the conditions of Subsection (1) are met, the electric entity shall diligently pursue remediation to the electric entity’s contribution to any stray current or voltage to less than 50% of the actionable level within 90 days.

(3) The livestock owner or livestock operator who provides written notice under Subsection 54-21-201(2) shall provide reasonable access for remediation.

Section 6. Section 54-21-203 is enacted to read:

54-21-203. Liability limitations.

(1) An electric entity may not be held liable for damages or other relief if the claim for damages or

other relief is based on livestock contact with any kind of stray current or voltage contributed by the electric entity below the actionable level.

(2) There is no presumption of liability if the stray current or voltage is equal to or greater than the actionable level.

(3) A claim for nuisance may not be asserted against an electric entity for damages due to stray current or voltage. Claims for stray current or voltage shall be limited to claims of negligence. The electric entity's conduct shall be evaluated using a standard of ordinary care under the circumstances.

Section 7. Section 54-21-204 is enacted to read:

54-21-204. Committee review requirements.

By November 2020 and in three year intervals thereafter, the Public Utilities, Energy, and Technology Interim Committee shall review industry standards and peer reviewed research regarding levels of stray current and voltage and impacts to livestock.

Section 8. Section 54-21-205 is enacted to read:

54-21-205. Disputes.

A dispute under this chapter involving an electric entity shall be resolved as follows:

(1) if the electric entity is a public utility, in accordance with Section 54-7-9; and

(2) if the electric entity is not a public utility, by filing an action with the district court.

CHAPTER 231**H. B. 324**

Passed March 7, 2018

Approved March 19, 2018

Effective July 1, 2018

TOBACCO REGULATIONS AMENDMENTS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill establishes new requirements for the licensing of a tobacco retailer and amends the definition of smoking.

Highlighted Provisions:

This bill:

- ▶ amends municipal and county business license practices for a retail tobacco specialty business;
- ▶ amends the definition of smoking in the Utah Indoor Clean Air Act;
- ▶ requires a tobacco retailer to obtain a permit from the local health department;
- ▶ establishes requirements for a tobacco retail permit application;
- ▶ establishes the standards that a local health department shall apply when determining whether to issue a permit to a tobacco retailer;
- ▶ incorporates civil penalties for tobacco sales to underage persons into the provisions relating to a tobacco retail permit;
- ▶ provides penalties for violations of tobacco permitting requirements; and
- ▶ changes the fee provisions for certain tax commission licenses for cigarettes, tobacco products, and electronic cigarette products.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 10-8-41.6, as enacted by Laws of Utah 2012, Chapter 154
17-50-333, as enacted by Laws of Utah 2012, Chapter 154
26-38-2, as last amended by Laws of Utah 2017, Chapter 455
59-14-201, as last amended by Laws of Utah 2013, Chapter 148
59-14-803, as enacted by Laws of Utah 2015, Chapter 132
76-10-105.1, as last amended by Laws of Utah 2015, Chapters 66 and 132
77-39-101, as last amended by Laws of Utah 2010, Chapters 114 and 276

ENACTS:

- 26-62-301, Utah Code Annotated 1953
26-62-303, Utah Code Annotated 1953
26-62-201, Utah Code Annotated 1953
26-62-202, Utah Code Annotated 1953
26-62-203, Utah Code Annotated 1953
26-62-204, Utah Code Annotated 1953
26-62-205, Utah Code Annotated 1953

26-62-301, Utah Code Annotated 1953

26-62-303, Utah Code Annotated 1953

26A-1-128, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 26-62-102, (Renumbered from 26-42-102, as last amended by Laws of Utah 2015, Chapter 132)
26-62-302, (Renumbered from 26-42-104, as last amended by Laws of Utah 2008, Chapter 382)
26-62-304, (Renumbered from 26-42-105, as enacted by Laws of Utah 1998, Chapter 319)
26-62-305, (Renumbered from 26-42-103, as last amended by Laws of Utah 2015, Chapter 132)
26-62-306, (Renumbered from 26-42-106, as enacted by Laws of Utah 1998, Chapter 319)
26-62-307, (Renumbered from 26-42-107, as last amended by Laws of Utah 2015, Chapter 132)

REPEALS:

- 26-42-101, as enacted by Laws of Utah 1998, Chapter 319
59-14-203.5, as last amended by Laws of Utah 2011, Chapter 96
59-14-301.5, as last amended by Laws of Utah 2011, Chapter 96

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

Section 1. Section 10-8-41.6 is amended to read:**10-8-41.6. Regulation of retail tobacco specialty business.**

- (1) As used in this section:
- (a) "Community location" means:
 - (i) a public or private kindergarten, elementary, middle, junior high, or high school;
 - (ii) a licensed child-care facility or preschool;
 - (iii) a trade or technical school;
 - (iv) a church;
 - (v) a public library;
 - (vi) a public playground;
 - (vii) a public park;
 - (viii) a youth center or other space used primarily for youth oriented activities;
 - (ix) a public recreational facility; ~~or~~
 - (x) a public arcade~~[-]~~; or
 - (xi) for a new license issued on or after July 1, 2018, a homeless shelter.
 - (b) "Department" means the Department of Health, created in Section 26-1-4.
 - (c) "Local health department" means the same as that term is defined in Section 26A-1-102.
 - (d) "Permittee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

~~[(b)]~~ (e) “Retail tobacco specialty business” means a commercial establishment in which:

(i) the sale of tobacco products accounts for more than 35% of the total ~~[annual]~~ quarterly gross receipts for the establishment;

~~[(ii) food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and]~~

~~[(iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.]~~

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products; or

(iv) the retail space features a self-service display for tobacco products.

(f) “Self-service display” means the same as that term is defined in Section 76-10-105.1.

[(e)] (g) “Tobacco product” means:

(i) any cigar, cigarette, or electronic cigarette, as those terms are defined in Section 76-10-101;

(ii) a tobacco product, as that term is defined in Section 59-14-102, including:

(A) chewing tobacco; or

(B) any substitute for a tobacco product, including flavoring or additives to tobacco; and

(iii) tobacco paraphernalia, as that term is defined in Section 76-10-104.1.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, and through delegation, to other governmental entities.

~~[(3) (a) Except as provided in Subsection (7), and beginning July 1, 2012, a municipality shall require an entity to be licensed as a retail tobacco specialty business to conduct business as a retail tobacco specialty business in a municipality.]~~

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to [an entity] a person if the [entity] person complies with the provisions of [Subsection] Subsections (4) and (5).

~~[(4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business in a municipality shall be licensed by the municipality as a retail tobacco specialty business.]~~

~~[(5)]~~ (4) (a) [A] Except as provided in Subsection (7), a municipality may not issue a license ~~[to]~~ for a person to conduct business as a retail tobacco specialty business if ~~[(it)]~~ the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection ~~[(5)]~~ (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of ~~[the community location, or agricultural or residential use]~~ a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(ii) a valid license to sell tobacco products from the State Tax Commission.

(b) A person that was licensed to conduct business as a retail tobacco specialty business in a municipality before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a [business license to a] retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business [than provided for in this section].

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; [or]

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco Retail Permit; or

~~(iii)~~ (iv) under any other ~~[provisions]~~ provision of state law or local ordinance.

(7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has a business license and is operating ~~[lawfully]~~ in a municipality in accordance with all applicable laws except for the requirement in Subsection (4), on or before ~~[May 8, 2012]~~ December 31, 2015, is exempt from ~~[Subsections (4) and (5)]~~ Subsection (4).

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the retail tobacco specialty business license is renewed continuously without ~~[relapse]~~ lapse or permanent revocation;

(ii) the retail tobacco specialty business ~~[is]~~ does not ~~[closed]~~ close for business or otherwise ~~[suspends]~~ suspend the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or ~~[its]~~ business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances~~;~~;

(C) building codes~~;~~; and ~~[the]~~

(D) the requirements of a retail tobacco specialty business license issued ~~[prior to May 8, 2012]~~ before December 31, 2015.

Section 2. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility; ~~[or]~~

(x) a public arcade~~[-];~~ or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(d) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~[(b)]~~ (e) "Retail tobacco specialty business" means a commercial establishment in which:

(i) the sale of tobacco products accounts for more than 35% of the total ~~[annual]~~ quarterly gross receipts for the establishment;

~~[(ii) food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and]~~

~~[(iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.]~~

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products; or

(iv) the retail space features a self-service display for tobacco products.

(f) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

~~[(e)]~~ (g) "Tobacco product" means:

(i) any cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;

(ii) a tobacco product as that term is defined in Section 59-14-102, including:

(A) chewing tobacco; or

(B) any substitute for a tobacco product, including flavoring or additives to tobacco; and

(iii) tobacco paraphernalia as that term is defined in Section 76-10-104.1.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state, and through delegation, to other governmental entities.

~~[(3) (a) Except as provided in Subsection (7), and beginning July 1, 2012, a county shall require an entity to be licensed as a retail tobacco specialty business to conduct business as a retail tobacco specialty business in a county.]~~

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to ~~[an entity]~~ a person if the ~~[entity]~~ person complies with the provisions of ~~[Subsection]~~ Subsections (4) and (5).

~~[(4) Except as provided in Subsection (7), and beginning July 1, 2012, a business entity that conducts a retail tobacco specialty business in a county shall be licensed by the county as a retail tobacco specialty business.]~~

~~[(5)] (4) (a) [A] Except as provided in Subsection (7), a county may not issue a license [to] for a person to conduct business as a retail tobacco specialty business if [it] the retail tobacco specialty business is located within:~~

~~(i) 1,000 feet of a community location;~~

~~(ii) 600 feet of another retail tobacco specialty business; or~~

~~(iii) 600 feet from property used or zoned for:~~

~~(A) agriculture use; or~~

~~(B) residential use.~~

~~(b) For purposes of Subsection [(5)] (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of [the community location, or agricultural or residential use] a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.~~

~~(5) (a) Except as provided in Subsection (5)(b), beginning July 1, 2018, a county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:~~

~~(i) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and~~

~~(ii) a valid license to sell tobacco products from the State Tax Commission.~~

~~(b) A person that was licensed to conduct business as a retail tobacco specialty business in a county before July 1, 2018, shall obtain a permit from a local health department under Title 26, Chapter 62, Tobacco Retail Permit, on or before January 1, 2019.~~

~~(6) (a) Nothing in this section:~~

~~(i) requires a county to issue a [business license to a] retail tobacco specialty business license; or~~

~~(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business [than provided for in this section].~~

~~(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:~~

~~(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~

(ii) if a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; ~~or~~

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco Retail Permit; or

~~[(iii)] (iv) under any other [provisions] provision of state law or local ordinance.~~

(7) (a) In accordance with Subsection (7)(b), a retail tobacco specialty business that has a business license and is operating [lawfully] in a county in accordance with all applicable laws except for the requirement in Subsection (4), on or before ~~[May 8, 2012] December 31, 2015~~, is exempt from ~~[Subsections (4) and (5)] Subsection (4).~~

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the retail tobacco specialty business license is renewed continuously without ~~[relapse] lapse~~ or permanent revocation;

(ii) the retail tobacco specialty business [is] does not ~~[closed] close~~ for business or otherwise ~~[suspends] suspend~~ the sale of tobacco products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or ~~[its] business operation; and~~

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

~~(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;~~

~~(B) zoning ordinances~~;~~;~~

~~(C) building codes~~;~~;~~ and ~~[the]~~

~~(D) the requirements of a retail tobacco specialty business license issued [prior to May 8, 2012] before December 31, 2015.~~

Section 3. Section 26-38-2 is amended to read:

26-38-2. Definitions.

As used in this chapter:

(1) "E-cigarette":

(a) means any electronic oral device:

(i) that provides an aerosol or a vapor of nicotine or other substance; and

(ii) which simulates smoking through its use or through inhalation of the device; and

(b) includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) e-cigar;

(C) e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (1)(a).

(2) “Non-tobacco shisha” means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~[(2)]~~ (3) “Place of public access” means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, “bed and breakfast” lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

(j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

(ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating “no smoking”, “thank you for not smoking”, or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

~~[(3)]~~ (4) “Publicly owned building or office” means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(5) “Shisha” means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~[(4)]~~ (6) “Smoking” means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or ~~[heating a substance containing tobacco or nicotine intended for inhalation through a]~~ carrying any lighted or heated cigar, cigarette, pipe, or hookah[;] that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

~~(c) [except as provided in Section 26-38-2.6,]~~ using an e-cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

Section 4. Section 26-62-101 is enacted to read:

CHAPTER 62. TOBACCO RETAIL PERMIT

Part 1. General Provisions

26-62-101. Title.

This chapter is known as “Tobacco Retail Permit.”

Section 5. Section 26-62-102, which is renumbered from Section 26-42-102 is renumbered and amended to read:

[26-42-102]. 26-62-102. Definitions.

As used in this chapter:

~~[(1) “Commission” means the Utah State Tax Commission.]~~

~~(1) “Community location” means the same as that term is defined:~~

~~(a) as it relates to a municipality, in Section 10-8-41.6; and~~

~~(b) as it relates to a county, in Section 17-50-333.~~

~~(2) “Employee” means an employee of a [licensee] tobacco retailer.~~

~~(3) “Enforcing agency” means the state Department of Health, or any local health department enforcing the provisions of this chapter.~~

~~[(4) “Licensee” means a person licensed:]~~

~~[(a) under Section 59-14-201 to sell cigarettes at retail;]~~

~~[(b) under Section 59-14-301 to sell tobacco products at retail; or]~~

~~[(c) under Section 59-14-803 to sell an electronic cigarette product.]~~

~~(4) “General tobacco retailer” means a tobacco retailer that is not a retail tobacco specialty business.~~

~~(5) “Local health department” means the same as that term is defined in Section 26A-1-102.~~

~~(6) “Permit” means a tobacco retail permit issued under this chapter.~~

~~(7) “Retail tobacco specialty business” means the same as that term is defined:~~

~~(a) as it relates to a municipality, in Section 10-8-41.6; and~~

~~(b) as it relates to a county, in Section 17-50-333.~~

~~[(5)] (8) [“License to sell tobacco” or “license”] “Tax commission license” means a license issued by the State Tax Commission under:~~

~~(a) [under] Section 59-14-201 to sell cigarettes at retail;~~

~~(b) [under] Section 59-14-301 to sell tobacco products at retail; or~~

~~(c) [under] Section 59-14-803 to sell an electronic cigarette product.~~

~~[(6) “Tobacco” means:]~~

~~[(a) a cigarette or a tobacco product, as defined in Section 59-14-102; or]~~

~~[(b) an electronic cigarette product, as defined in Section 59-14-802.]~~

~~(9) “Tobacco product” means:~~

~~(a) a cigar, cigarette, or electronic cigarette as those terms are defined in Section 76-10-101;~~

~~(b) a tobacco product as that term is defined in Section 59-14-102, including:~~

~~(i) chewing tobacco; or~~

~~(ii) any substitute for a tobacco product, including flavoring or additives to tobacco; or~~

~~(c) tobacco paraphernalia as that term is defined in Section 76-10-104.1.~~

~~(10) “Tobacco retailer” means a person that is required to obtain a tax commission license.~~

Section 6. Section 26-62-103 is enacted to read:

26-62-103. Regulation of tobacco retailers.

The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities.

Section 7. Section 26-62-201 is enacted to read:

Part 2. Permit Requirements

26-62-201. Permitting requirement.

(1) (a) Beginning July 1, 2018, a tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this chapter by the local health department with jurisdiction over the physical location where the tobacco retailer operates.

(b) A tobacco retailer without a valid permit may not:

(i) place tobacco products in public view;

(ii) display any advertisement related to tobacco products that promotes the sale, distribution, or use of those products; or

(iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco or tobacco products.

(2) A local health department may issue a permit under this chapter for a tobacco retailer in the classification of:

(a) a general tobacco retailer; or

(b) a retail tobacco specialty business.

(3) A permit under this chapter is:

(a) valid only for one physical location, including a vending machine;

(b) valid only at one fixed business address; and

(c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer.

(4) Notwithstanding the requirement in Subsection (1), a person that holds a tax commission license that was valid on July 1, 2018:

(a) may operate without a permit under this chapter until December 31, 2018; and

(b) shall obtain a permit from a local health department under this chapter before January 1, 2019.

Section 8. Section 26-62-202 is enacted to read:

26-62-202. Permit application.

(1) A local health department shall issue a permit under this chapter for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this chapter.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26-62-203.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this chapter;

(ii) Chapter 38, Utah Indoor Clean Air Act;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the person obtained a license to operate the retail tobacco specialty business before December 31, 2015, from:

(a) a municipality under Section 10-8-41.6; or

(b) a county under Section 17-50-333.

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section 9. Section 26-62-203 is enacted to read:

26-62-203. Permit term and fees.

(1) (a) The term of a permit issued under this chapter to a retail tobacco specialty business is one year.

(b) The term of a permit issued under this chapter to a general tobacco retailer is two years.

(2) (a) A local health department may not issue a permit under this chapter until the applicant has paid a permit fee to the local health department of:

(i) \$30 for a new permit;

(ii) \$20 for a permit renewal; or

(iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.

(b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer the permit requirements under this chapter.

(c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.

(3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.

(4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:

(a) the information required in Subsection 26-62-202(3) and, if applicable, Subsection 26-62-202(4);

(b) the fee for the reinstatement of a permit; and

(c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection 26-62-201(1)(b) after the permit expired.

Section 10. Section 26-62-204 is enacted to read:

26-62-204. Permit nontransferable.

(1) A permit is nontransferable.

(2) If the information described in Subsection 26-62-202(3) changes, a tobacco retailer:

(a) may not renew the permit; and

(b) shall apply for a new permit no later than 15 days after the information in Subsection 26-62-202(3) changes.

Section 11. Section 26-62-205 is enacted to read:

26-62-205. Permit requirements for a retail tobacco specialty business.

A retail tobacco specialty business shall:

(1) except as provided in Subsection 76-10-105.1(4), prohibit any individual under 19 years of age from entering the business; and

(2) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates the prohibition in Subsection 76-10-105.1(4).

Section 12. Section 26-62-301 is enacted to read:

Part 3. Enforcement

26-62-301. Permit violation.

A person is in violation of the permit issued under this chapter if the person violates:

(1) a provision of this chapter;

(2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

(3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products.

Section 13. Section 26-62-302, which is renumbered from Section 26-42-104 is renumbered and amended to read:

[26-42-104]. 26-62-302. Enforcement by state and local health departments.

The [state Department of Health and the] department and local health departments shall enforce this chapter under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

(1) notifying [licensees] a tobacco retailer of alleged violations of [Section 26-42-103] this chapter;

(2) conducting hearings;

(3) determining violations of this chapter; and

(4) imposing civil [monetary] administrative penalties.

Section 14. Section 26-62-303 is enacted to read:

26-62-303. Inspection of retail tobacco businesses.

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

(1) continues to meet the qualifications for the permit issued under this chapter;

(2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;

(3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(5) has violated any other provision of state law or local ordinance.

Section 15. Section 26-62-304, which is renumbered from Section 26-42-105 is renumbered and amended to read:

[26-42-105]. 26-62-304. Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section [26-42-104] 26-62-302, evidence of the final criminal conviction of a [licensee] tobacco retailer or employee for violation of Section 76-10-104 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of [Section 26-42-103] this chapter for sale of tobacco products to a person under the age of 19 is prima facie evidence of a violation of [Section 26-42-103] this chapter.

(2) If the [licensee has been] tobacco retailer is convicted of violating Section 76-10-104 [prior to a finding of a violation of Section 26-42-103, the licensee], the enforcing agency:

~~(a) may not [be assessed a] assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained[-]; and~~

~~(b) may revoke or suspend a permit in accordance with Section 26-62-305.~~

Section 16. Section 26-62-305, which is renumbered from Section 26-42-103 is renumbered and amended to read:

[26-42-103]. 26-62-305. Penalties.

~~(1) (a) If, following an inspection by an enforcing agency, or an investigation or issuance of a citation or information under Section 77-39-101, an enforcing agency determines [under Section 26-42-104 that a licensee or any employee has sold tobacco to a person younger than 19 years of age, as prohibited by Section 76-10-104,] that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose [upon the licensee the following administrative penalties:] the penalties described in this section.~~

~~(b) If multiple violations are found in a single inspection or investigation, only one violation shall count toward the penalties described in this section.~~

~~[(a) upon the first violation, a penalty of not more than \$300;]~~

~~[(b) upon a second violation at the same retail location, and within 12 months of the first violation, a penalty of not more than \$750; and]~~

~~[(c) upon a third or subsequent violation at the same retail location and within 12 months of the first violation, a penalty of not more than \$1,000.]~~

~~[(2) The enforcing agency shall notify the commission in writing of any order or order of default finding a violation of Subsection (1) which is a third or fourth violation.]~~

~~[(3) The commission, upon receipt of the written notification under Subsection (2), shall take action under Section 59-14-203.5 or 59-14-301.5 against the license to sell tobacco:]~~

~~[(a) by suspending the licensee's license to sell tobacco at that location for not more than 30 days, upon receipt of notification of a third violation under Subsection (1)(c); and]~~

~~[(b) by revoking the license to sell tobacco at that location held by the licensee, including any license under suspension, upon receipt of notification of a fourth violation under Subsection (1)(c).]~~

~~[(4) When the commission revokes a license under Subsection (3)(b), the commission may not issue to the licensee, or to the business entity using the license that is revoked, a license under Section 59-14-202, 59-14-301, or 59-14-803 to sell tobacco at the location for which the license was issued for one year after:]~~

~~[(a) the day on which the time for filing an appeal of the revocation ends; or]~~

~~[(b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.]~~

~~[(5) This section does not prevent any bona fide purchaser of the business, who is not a sole proprietor, director, corporate officer, or partner or other holder of significant interest in the entity selling the business, from immediately applying for and obtaining a license to sell tobacco.]~~

~~(2) (a) The administrative penalty for a first violation at a retail location is a penalty of not more than \$500.~~

~~(b) The administrative penalty for a second violation at the same retail location that occurs within one year of a previous violation is a penalty of not more than \$750.~~

~~(c) The administrative penalty for a third or subsequent violation at the same retail location that occurs within two years after two or more previous violations is:~~

~~(i) a suspension of the retail tobacco business permit for 30 consecutive business days within 60 days after the day on which the third or subsequent violation occurs; or~~

~~(ii) a penalty of not more than \$1,000.~~

~~(3) The department or a local health department may:~~

~~(a) revoke a permit if a fourth violation occurs within two years of three previous violations;~~

~~(b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit if the violation is due to a sale of tobacco products to a person under 19 years of age; and~~

~~(c) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.~~

~~(4) (a) Except when a transfer described in Subsection (5) occurs, a local health department may not issue a permit to:~~

~~(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3); or~~

~~(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (3).~~

~~(b) A person whose permit:~~

~~(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and~~

~~(ii) is revoked may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.~~

~~(5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco~~

retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 17. Section 26-62-306, which is renumbered from Section 26-42-106 is renumbered and amended to read:

[26-42-106]. 26-62-306. Recognition of tobacco retailer training program.

(1) In determining the amount of the monetary penalty to be imposed for an employee's violation of [Section 26-42-103, the] this chapter, a hearing officer shall reduce the civil penalty [by at least 50% if he] by at least 50% if the hearing officer determines that:

(a) the [licensee] tobacco retailer has implemented a documented employee training program; and

(b) the [employee has] employees have completed that training program within 30 days [of commencing] after the day on which each employee commences the duties of selling tobacco products.

(2) (a) [If] For the first offense at a location, if the hearing officer determines under Subsection (1), regarding a first offense at a location, that the tobacco retailer licensee has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the [monetary penalty, contingent upon the licensee's initiating a training program for employees at that location within 30 days after the hearing date.] penalty if:

(i) the tobacco retailer agrees to initiate a training program for employees at that location; and

(ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).

(b) If the hearing officer determines at a subsequent hearing that the [licensee] tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty [shall be promptly imposed], unless the [licensee] tobacco retailer demonstrates good cause for [granting] an extension of time for implementation of the training program.

Section 18. Section 26-62-307, which is renumbered from Section 26-42-107 is renumbered and amended to read:

[26-42-107]. 26-62-307. Allocation of civil penalties.

Civil monetary penalties collected under this chapter shall be allocated as follows:

(1) if a local health department conducts an adjudicative proceeding under Section [26-42-104] 26-62-302, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to [(a)] the local health department [if it conducts a civil hearing under Section 26-42-104 alone; or]; and

[(b) in equal portions to the local health department and the other agencies that participated in the hearing process;]

(2) if the [state Department of Health] department conducts a civil hearing under Section [26-42-104] 26-62-302, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the [state Department of Health] department for use in enforcement of this chapter[; and].

[(3) if the civil penalty involves suspension or revocation of a license to sell tobacco under Section 59-14-203.5, 59-14-301.5, or 59-14-803, half of the penalty shall be paid to the commission, and the other half shall be allocated under Subsection (1) or (2), as appropriate.]

Section 19. Section 26A-1-128 is enacted to read:

26A-1-128. Tobacco permits -- Enforcement.

A local health department:

(1) shall enforce the requirements of Title 26, Chapter 62, Tobacco Retail Permit;

(2) may enforce licensing requirements for entities that hold a business license to sell tobacco products under Section 10-8-41.6 or Section 17-50-333; and

(3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section 17-50-333, or Title 26, Chapter 62, Tobacco Retail Permit.

Section 20. Section 59-14-201 is amended to read:

59-14-201. License -- Application of part -- Fee -- Bond -- Exceptions.

(1) It is unlawful for any person in this state to manufacture, import, distribute, barter, sell, exchange, or offer cigarettes for sale without first having obtained a license issued by the commission under Section 59-14-202.

(2) Except for the tax rates described in Subsection 59-14-204(2), this part does not apply to a cigarette produced from a cigarette rolling machine.

(3) (a) A license may not be issued for the sale of cigarettes until the applicant has paid a license fee of \$30 or a license renewal fee of \$20, as appropriate.

(b) The fee for reinstatement of a license that has been revoked, suspended, or allowed to expire is \$30.

(c) Notwithstanding Subsections (3)(a) and (b), the commission may not charge a fee for a license

under this section for a retailer, as defined in Section 59-14-102.

(4) (a) A license may not be issued until the applicant files a bond with the commission. The commission shall determine the form and the amount of the bond, the minimum amount of which shall be \$500. The bond shall be executed by the applicant as principal, with a corporate surety, payable to the state and conditioned upon the faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations.

(b) An applicant is not required to post a bond if the applicant:

(i) purchases during the license year only products that have the proper state stamp affixed as required by this chapter; and

(ii) files an affidavit with the applicant's application attesting to this fact.

Section 21. Section 59-14-803 is amended to read:

59-14-803. License to sell electronic cigarette products.

(1) Except as provided in Subsection (2), a person may not sell, offer to sell, or distribute an electronic cigarette product in Utah without first obtaining a license to sell an electronic cigarette product from the commission under this section.

(2) A person that holds a valid license to sell cigarettes under Section 59-14-201, or a person that holds a valid license to sell tobacco products under Section 59-14-301, may, without obtaining a separate license to sell an electronic cigarette product under this part, sell, offer to sell, or distribute an electronic cigarette product in Utah in accordance with this part.

(3) ~~Except as provided in Subsection (6), the~~ The commission shall issue a license to sell an electronic cigarette product to a person that ~~:(a)~~ submits an application, on a form created by the commission, that includes:

~~(i)~~ (a) the person's name;

~~(ii)~~ (b) the address of the facility where the person will sell an electronic cigarette product; and

~~(iii)~~ (c) any other information the commission requires to implement this chapter ~~;~~ and ~~].~~

~~(b) pays a fee;~~

~~(i) in the amount of \$30; or]~~

~~(ii) if renewing the person's license, in the amount of \$20.]~~

(4) A license described in Subsection (3) is:

(a) valid only at one fixed business address;

(b) valid for three years;

(c) valid only for a physical location; and

(d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

~~[(5) The commission shall, after notifying a licensee, revoke a license described in Subsection (3) if an enforcing agency determines the licensee has violated a provision of:]~~

~~[(a) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons; or]~~

~~[(b) Title 26, Chapter 57, Electronic Cigarette Regulation Act.]~~

~~[(6) If the commission revokes a person's license to sell an electronic cigarette product under Subsection (5), the commission may not issue a license to sell an electronic cigarette product, a license to sell cigarettes under Section 59-14-201, or a license to sell tobacco under Section 59-14-301 to the person until one year after:]~~

~~[(a) the day on which the time for filing an appeal of the revocation ends, as determined by the enforcing agency; or]~~

~~[(b) if the person appeals the enforcing agency's decision to revoke the license to sell an electronic cigarette product, the day on which the enforcing agency's decision to uphold the revocation is final.]~~

~~[(7) If the commission revokes a person's license under Subsection (5), the commission shall also revoke the person's license to sell cigarettes under Section 59-14-201, if any, and the person's license to sell tobacco under Section 59-14-301, if any.]~~

~~[(8) (5) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)]~~~~[(a)(iii)]~~(c) that a person must provide in the application described in Subsection (3)~~[(a)].~~

~~[(9) (6) It is a class B misdemeanor for a person to violate Subsection (1).]~~

~~(7) The commission may not charge a fee for a license under this section.~~

Section 22. Section 76-10-105.1 is amended to read:

76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.

(1) As used in this section:

(a) "Cigarette" means the same as that term is defined in Section 59-14-102.

(b) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

(c) "Retailer" means a person who:

(i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal consumption; or

(ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an electronic cigarette.

(d) “Self-service display” means a display of a cigarette, tobacco, or an electronic cigarette to which the public has access without the intervention of a retailer or retailer’s employee.

(e) “Tobacco” means any product, except a cigarette, made of or containing tobacco.

(f) “Tobacco specialty shop” means ~~[a retailer with a physical location that derives at least 80% of its total sales from the sale of cigarettes, tobacco, or electronic cigarettes.]~~ a “retail tobacco specialty business” as that term is defined:

(i) as it relates to a municipality, in Section 10-8-41.6; and

(ii) as it relates to a county, in Section 17-50-333.

(2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an electronic cigarette only in a face-to-face exchange.

(3) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer’s facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a tobacco specialty shop.

(4) An individual who is less than 19 years old may not enter or be present at a tobacco specialty shop unless the individual is:

(a) accompanied by a parent or legal guardian;

(b) present at the tobacco shop for a bona fide commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette; or

(c) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.

(5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.

(6) A violation of Subsection (2) or (4) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on the third and all subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor under Section 76-10-104.

(8) (a) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.

(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

Section 23. Section 77-39-101 is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco, and electronic cigarettes to underage persons.

(1) As used in this section, “electronic cigarette” is as defined in Section 76-10-101.

(2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer Classifications, may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under the age of 21 years to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

(ii) Section 76-10-104 by requesting an individual under the age of 19 years to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a cigar;

(B) a cigarette;

(C) tobacco in any form; or

(D) an electronic cigarette.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol; or

(ii) (A) a cigar;

(B) a cigarette;

(C) tobacco in any form; or

(D) an electronic cigarette.

(d) If a citation or information is issued, it shall be issued within seven days of the purchase.

(3) (a) If an individual under the age of 18 years old is requested to attempt a purchase, a written consent of that individual’s parent or guardian shall be obtained prior to that individual participating in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco, or an electronic cigarette.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may not during the attempted purchase misrepresent the age of the individual by false or misleading identification documentation in attempting the purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic cigarette if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted:

(i) on a random basis; and

(ii) within a 12-month period at any one retail establishment location not more often than:

(A) ~~four~~ two times for the attempted purchase of:

(I) a cigar;

(II) a cigarette;

(III) tobacco in any form; or

(IV) an electronic cigarette; and

(B) four times for the attempted purchase of alcohol.

(b) Nothing in this section shall prohibit an investigation or an attempt to purchase tobacco under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a cigar, a cigarette, tobacco in any form, or an electronic cigarette to an individual under the age established by Section 32B-4-403 or 76-10-104; and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

Section 24. Repealer.

This bill repeals:

Section 26-42-101, Title.

Section 59-14-203.5, Commission action to suspend or revoke license.

Section 59-14-301.5, Commission action to suspend or revoke license.

Section 25. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 232**H. B. 326**

Passed March 6, 2018
Approved March 19, 2018
Effective May 8, 2018

**INTERGENERATIONAL
POVERTY INITIATIVE**

Chief Sponsor: Edward H. Redd
Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill establishes a pilot program to address intergenerational poverty.

Highlighted Provisions:

This bill:

- ▶ establishes a pilot program in the Department of Workforce Services to address intergenerational poverty; and
- ▶ defines terms.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Workforce Services -- Intergenerational Poverty Plan Implementation Pilot Program a one-time appropriation:
 - from the General Fund, One-time, \$1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-235, as last amended by Laws of Utah 2017, Chapters 128 and 469

ENACTS:

35A-9-501, Utah Code Annotated 1953

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

Section 1. Section 35A-9-501 is enacted to read:**Part 5. Intergenerational Poverty Plan Implementation Pilot Program****35A-9-501. Intergenerational Poverty Plan Implementation Pilot Program.**

(1) As used in this section:

(a) "Commission" means the Utah Intergenerational Welfare Reform Commission created in Section 35A-9-301.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(c) "Program" means the Intergenerational Poverty Plan Implementation Pilot Program created in this section.

(2) There is created the Intergenerational Poverty Plan Implementation Pilot Program to provide funding for counties to implement local solutions to address intergenerational poverty.

(3) (a) A county or a group of contiguous counties may submit a proposal to the department to participate in the program.

(b) A proposal described in Subsection (3)(a) shall:

(i) specify:

(A) outcomes that will address intergenerational poverty that the funding would be used to achieve;

(B) indicators that would be used to measure progress toward the specified outcomes;

(C) baseline measurements for each specified outcome and indicator against which progress will be measured; and

(D) the total amount of money needed to achieve the specified outcomes;

(ii) align with the goals of the commission's five- and ten-year plan described in Subsection 35A-9-303(2)(e); and

(iii) include any other information requested by the department.

(4) The department may:

(a) specify the format for a proposal;

(b) set a deadline for a county or group of counties to submit a proposal;

(c) define criteria for selecting a county or group of counties to participate in the program, which may include:

(i) a significant number of individuals within the county or group of counties experiencing intergenerational poverty;

(ii) an established strategic plan to address intergenerational poverty;

(iii) evidence of strong engagement and leadership;

(iv) partnerships with agencies overseeing:

(A) human services;

(B) early childhood services;

(C) public health;

(D) public education;

(E) workforce development;

(F) economic development;

(G) higher education;

(H) behavioral health; and

(I) juvenile justice; and

(v) partnerships with organizations representing families experiencing poverty.

(5) During fiscal year 2019, the department shall:

(a) (i) except as provided in Subsection (5)(a)(ii), select at least one county of the second class and at least one county or group of counties of the third, fourth, fifth, or sixth class to receive a grant; or

(ii) if the department receives an appropriation for the program that is not sufficient to have a significant impact on reducing intergenerational poverty in more than one region, as determined by the department, select one county or group of counties to receive a grant;

(b) award grants under this Subsection (5):

(i) on a competitive basis;

(ii) using criteria described in Subsection (4)(c); and

(iii) upon considering recommendations from the commission regarding grant applicants; and

(c) subject to legislative appropriations, determine the value of each grant awarded under this Subsection (5).

(6) During fiscal year 2020, if funding allows, the department may select additional counties to participate in the program.

(7) A county or group of counties that receives a grant under the program shall:

(a) provide a cash or in-kind match that is equal to at least 25% of the amount of the grant;

(b) use the funds provided by the program and the cash or in-kind match for purposes described in Subsection (3)(b)(i) and approved by the department; and

(c) report quarterly to the department on progress regarding the indicators and outcomes described in Subsection (3)(b)(i).

(8) The department shall include, in the department's annual report described in Section 35A-1-109, a description of the program, including the number and amounts of grants awarded, the recipients of the grants, and an evaluation of the progress grant recipients have made toward the indicators and outcomes described in Subsection (3)(b)(i).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to administer this section.

Section 2. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-4-312(5)(p) is repealed July 1, 2019.

(2) Section 35A-9-501 is repealed January 1, 2021.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To the Department of Workforce Services -- Intergenerational Poverty Plan Implementation Pilot Program

<u>From General Fund, One-time</u>	<u>\$1,000,000</u>
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Schedule of Programs:

<u>Intergenerational Poverty Plan Implementation Pilot Program</u>	<u>\$1,000,000</u>
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CHAPTER 233**H. B. 331**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**AIR POLLUTION MITIGATION
EDUCATION PROGRAM**

Chief Sponsor: Michael S. Kennedy
 Senate Sponsor: Todd Weiler
 Cosponsor: Mike Winder

LONG TITLE**General Description:**

This bill requires the Driver License Division and the State Board of Education to each create rules regarding the creation and dissemination of educational information to students in driver education and applicants for a driver license on ways drivers can help improve air quality and the harmful effects of vehicle emissions.

Highlighted Provisions:

This bill:

- ▶ requires the Driver License Division and the State Board of Education to each create rules requiring the development and dissemination of educational information regarding:
 - ways drivers can help improve air quality; and
 - the harmful effects of vehicle emissions;
- ▶ requires the educational information to be:
 - based on data and information provided by the Division of Air Quality;
 - provided to applicants for a driver license;
 - included in the driver education curriculum of a commercial driver training school; and
 - included in the curriculum of a driver education program in a public school; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-104, as last amended by Laws of Utah 2014, Chapter 85
 53-3-505, as last amended by Laws of Utah 2008, Chapter 382
 53G-10-502, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53-3-104 is amended to read:**53-3-104. Division duties.**

The division shall:

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

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter; ~~and~~

(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

(f) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53A-13-208, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of a person who is an applicant for voter registration under Section 20A-2-206; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Section 2. Section 53-3-505 is amended to read:

53-3-505. School license -- Contents of rules.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules regarding the requirements for:

(a) a school license, including requirements concerning:

(i) locations;

(ii) equipment;

(iii) courses of instruction;

(iv) curriculum on air quality, based on data and information provided by the Division of Air Quality, including:

(A) instruction on ways drivers can improve air quality; and

(B) the harmful effects of vehicle emissions;

~~[(iv)]~~ (v) instructors;

~~[(v)]~~ (vi) previous records of the school and instructors;

~~[(vi)]~~ (vii) financial statements;

~~[(vii)]~~ (viii) schedule of fees and charges;

~~[(viii)]~~ (ix) character and reputation of the operators and instructors;

~~[(ix)]~~ (x) insurance as the commissioner determines necessary to protect the interests of the public; and

~~[(x)]~~ (xi) other provisions the commissioner may prescribe for the protection of the public; and

(b) an instructor's license, including requirements concerning:

(i) moral character;

(ii) physical condition;

(iii) knowledge of the courses of instruction;

(iv) motor vehicle laws and safety principles and practices;

(v) previous personnel and employment records; and

(vi) other provisions the commissioner may prescribe for the protection of the public;

(c) applications for licenses; and

(d) minimum standards for:

(i) driving simulation devices that are fully interactive under Subsection 53-3-505.5(2)(b); and

(ii) driving simulation devices that are not fully interactive under Subsection 53-3-505.5(2)(c).

(2) Rules made by the commissioner shall require that a commercial driver training school offering motorcycle rider education meet or exceed the standards established by the Motorcycle Safety Foundation.

(3) Rules made by the commissioner shall require that an instructor of motorcycle rider education meet or exceed the standards for certification established by the Motorcycle Safety Foundation.

(4) The commissioner may call upon the state superintendent of public instruction for assistance in formulating appropriate rules.

Section 3. Section 53G-10-502 is amended to read:

53G-10-502. Driver education established by school districts.

(1) As used in this part:

(a) "Driver education" includes classroom instruction and driving and observation in a dual-controlled motor vehicle.

(b) "Driving" or "behind-the-wheel driving" means operating a dual-controlled motor vehicle under the supervision of a certified instructor.

(2) (a) Local school districts may establish and maintain driver education for pupils.

(b) A school or local school district that provides driver education shall provide an opportunity for each pupil enrolled in that school or local school district to take the written test when the pupil is 15 years and nine months of age.

(c) Notwithstanding the provisions of Subsection (2)(b), a school or local school district that provides driver education may provide an opportunity for each pupil enrolled in that school or school district to take the written test when the pupil is 15 years of age.

(3) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules for driver education offered in the public schools.

(5) The rules under Subsection (4) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil; ~~and~~

(b) require instruction, based on data and information provided by the Division of Air Quality,
on:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions; and

~~(b)~~ (c) establish minimum standards for approved driving ranges under Section 53-3-505.5.

(6) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

CHAPTER 234**H. B. 336**

Passed March 7, 2018
 Approved March 19, 2018
 Effective July 1, 2019

FINE AMENDMENTS

Chief Sponsor: Daniel McCay
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions relating to fines.

Highlighted Provisions:

This bill:

- ▶ imposes limits on penalties for failure to pay fines when due; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

76-3-301, as last amended by Laws of Utah 1995, Chapter 291

78B-6-310, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

11-58-101, Utah Code Annotated 1953

11-58-102, Utah Code Annotated 1953

11-58-201, Utah Code Annotated 1953

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

Section 1. Section 11-58-101 is enacted to read:**CHAPTER 58. IMPOSITION OF FINES BY A COUNTY, CITY, OR TOWN****Part 1. General Provisions****11-58-101. Title.**

This chapter is known as the "Imposition of Fines by a County, City, or Town."

Section 2. Section 11-58-102 is enacted to read:**11-58-102. Definition.**

As used in this chapter, "parking citation, civil citation, or administrative fine" means a citation or other action by a county, city, or town that under a law other than this chapter authorizes the county, city, or town to impose a fine against an individual.

Section 3. Section 11-58-201 is enacted to read:**Part 2. Limitations on Fines****11-58-201. Limits on penalties for failure to pay a fine.**

An individual assessed a parking citation, civil citation, or administrative fine may not be charged:

(1) by the original jurisdiction that imposes the fine, late fees and interest in the aggregate that are more than 25% of the initial fine amount; and

(2) by a court, interest in the aggregate that is more than 25% of the initial fine amount.

Section 4. Section 76-3-301 is amended to read:**76-3-301. Fines of individuals.**

(1) [A person] An individual convicted of an offense may be sentenced to pay a fine, not exceeding:

(a) \$10,000 for a felony conviction of the first degree or second degree;

(b) \$5,000 for a felony conviction of the third degree;

(c) \$2,500 for a class A misdemeanor conviction;

(d) \$1,000 for a class B misdemeanor conviction;

(e) \$750 for a class C misdemeanor conviction or infraction conviction; and

(f) any greater amounts specifically authorized by statute.

(2) (a) An individual convicted of a misdemeanor or infraction and sentenced to pay a fine may not be charged:

(i) notwithstanding Section 15-1-4, interest on the judgment that in the aggregate is more than 25% of the initial fine; or

(ii) by a court that issues an order to show cause under Section 78B-6-317 for failure to pay the fine, interest that is more than 25% of the initial fine.

(b) An individual convicted of an infraction and sentenced to pay a fine may not be charged:

(i) by the Office of State Debt Collection, late fees and interest that in the aggregate are more than 25% of the initial fine; or

(ii) by a third-party debt collector, late fees and interest in the aggregate that are more than 25% of the initial fine.

(3) Subsection (2) does not apply to an offense that includes:

(a) victim restitution; or

(b) a felony conviction.

[~~2~~] (4) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

Section 5. Section 78B-6-310 is amended to read:**78B-6-310. Contempt -- Action by court.**

(1) The court shall determine whether the person proceeded against is guilty of the contempt charged. If the court finds the person is guilty of the contempt, the court may impose a fine not exceeding \$1,000, order the person incarcerated in the county jail not exceeding 30 days, or both. However, a justice court judge or court

commissioner may punish for contempt by a fine not to exceed \$500 or by incarceration for five days or both.

(2) A fine imposed under this section is subject to the limitations of Subsection 76-3-301(2).

Section 6. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 235**H. B. 343**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**YOUTH AND CHILD
WELFARE AMENDMENTS**

Chief Sponsor: Walt Brooks
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions relating to the welfare of children and minors.

Highlighted Provisions:

This bill:

- ▶ amends and defines terms;
- ▶ amends the definition of sexual abuse;
- ▶ amends provisions related to runaway children;
- ▶ requires a court or the Division of Child and Family Services to take into consideration a child's wishes for placement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-4a-209, as last amended by Laws of Utah 2017, Chapter 181
 62A-4a-501, as last amended by Laws of Utah 2014, Chapter 312
 78A-6-105, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
 78A-6-307, as last amended by Laws of Utah 2015, Chapter 142
 78A-6-307.5, as enacted by Laws of Utah 2008, Chapter 17

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

Section 1. Section 62A-4a-209 is amended to read:**62A-4a-209. Emergency placement.**

- (1) As used in this section:
- (a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1)(a).
- (b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.
- (c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1)(c).
- (2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:
- (a) the case worker has made the determination that:
- (i) the child's home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the person that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;

(b) a person, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the person described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the person meets the criteria for an emergency placement under Subsection (3);

(ii) the person agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the person agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the person agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the person has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the person is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the person.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the person identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative [~~of the child~~], shall comply with the

background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with a person other than a noncustodial parent or a relative, shall comply with the background check provisions described in Subsection (8) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the person with whom a child will be placed in an emergency placement described in this section, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section 78A-6-307;

(ii) a relative ~~[of the child];~~

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent [or], guardian [of the child], or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) a shelter facility, former foster placement, or other foster placement designated by the division.

~~[(b) Unless the division agrees otherwise, the custodial parent or guardian described in Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.]~~

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(ii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iii) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section 62A-4a-202.1 is sexual abuse of the child.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited

investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, pursuant to Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section 78A-6-307; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether a person passes the background check described in this Subsection (7) pursuant to the provisions of Subsection 62A-2-120(14).

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

(8) (a) The background check described in Subsection (3)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether a person passes the background checks described in this Subsection (8) pursuant to the provisions of Subsection 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the person contests that denial, the person shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days of the name-based background checks, the division shall require a person to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If a person fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

Section 2. Section 62A-4a-501 is amended to read:

62A-4a-501. Harboring a runaway -- Reporting requirements -- Division to provide assistance -- Affirmative defense -- Providing shelter after notice.

(1) As used in this section:

(a) "Harbor" means to provide shelter in:

(i) the home of the person who is providing the shelter; or

(ii) any structure over which the person providing the shelter has any control.

(b) "Receiving center" [is as] means the same as that term is defined in Section 62A-7-101.

(c) "Runaway" means a [minor] child, other than an emancipated minor, who is absent from the home or lawfully prescribed residence of the parent or legal guardian of the [minor] child without the permission of the parent or legal guardian.

(d) "Temporary homeless youth shelter" means a facility that:

(i) provides temporary shelter to a runaway; and

(ii) is licensed by the Office of Licensing, created in Section 62A-1-105, as a residential support program.

(e) "Youth services center" means a center established by, or under contract with, the Division of Juvenile Justice Services, created in Section

62A-1-105, to provide youth services, as defined in Section 62A-7-101.

(2) Except as provided in Subsection (3), a person, including a temporary homeless youth shelter, is guilty of a class B misdemeanor if the person:

(a) knowingly and intentionally harbors a [minor] child;

(b) knows at the time of harboring the [minor] child that the [minor] child is a runaway;

(c) fails to notify one of the following, by telephone or other reasonable means, of the location of the [minor] child:

(i) the parent or legal guardian of the [minor] child;

(ii) the division; or

(iii) a youth services center; and

(d) fails to notify a person described in Subsection (2)(c) within eight hours after the later of:

(i) the time that the person becomes aware that the [minor] child is a runaway; or

(ii) the time that the person begins harboring the [minor] child.

(3) A person described in Subsection (2), including a temporary homeless youth shelter, is not guilty of a violation of Subsection (2) and is not required to comply with Subsections (2)(c) and (d), if:

(a) a court order is issued authorizing a peace officer to take the [minor] child into custody; and

(b) the person notifies a peace officer or the nearest detention center, as defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the [minor] child, within eight hours after the later of:

(i) the time that the person becomes aware that the [minor] child is a runaway; or

(ii) the time that the person begins harboring the [minor] child.

~~[(4) Nothing in this section limits the obligation of a person to report child abuse or neglect in accordance with Section 62A-4a-403.]~~

~~[(5) Except as provided in Subsection (6), a temporary homeless youth shelter shall notify:]~~

~~[(a) the parent or legal guardian of a minor within eight hours after the later of:]~~

~~[(i) the time that the temporary homeless youth shelter becomes aware that the minor is a runaway; or]~~

~~[(ii) the time that the temporary homeless youth shelter begins harboring the minor; and]~~

~~[(b) the division or a youth services center, within 48 hours after the later of:]~~

~~[(i) the time that the temporary homeless youth shelter becomes aware that a minor is a runaway; or]~~

~~[(ii) the time that the temporary homeless youth shelter begins harboring the minor.]~~

~~[(6) A temporary homeless youth shelter is not required to comply with Subsection (5) if:]~~

~~[(a) a court order is issued authorizing a peace officer to take the minor into custody; and]~~

~~[(b) the temporary homeless youth shelter notifies a peace officer or the nearest detention center, as defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the minor, within eight hours after the later of:]~~

~~[(i) the time that the person becomes aware that the minor is a runaway; or]~~

~~[(ii) the time that the person begins harboring the minor.]~~

(4) A person described in Subsection (2), including a temporary homeless youth shelter, shall provide a report to the division:

(a) if the person has an obligation under Section 62A-4a-403 to report child abuse or neglect; or

(b) if, within 48 hours after the person begins harboring the child:

(i) the person continues to harbor the child; and

(ii) the person does not make direct contact with:

(A) a parent or legal guardian of the child;

(B) the division;

(C) a youth services center; or

(D) a peace officer or the nearest detention center, as defined in Section 62A-7-101, if a court order is issued authorizing a peace officer to take the minor into custody.

[(7)] (5) It is an affirmative defense to the crime described in Subsection (2) that:

(a) the person failed to provide notice as described in Subsection (2) or (3) due to circumstances beyond the control of the person providing the shelter; and

(b) the person provided the notice described in Subsection (2) or (3) as soon as it was reasonably practicable to provide the notice.

[(8)] (6) Upon receipt of a report that a runaway is being harbored by a person:

(a) a youth services center shall:

(i) notify the parent or legal guardian that a report has been made; and

(ii) inform the parent or legal guardian of assistance available from the youth services center; or

(b) the division shall:

(i) determine whether the runaway is abused, neglected, or dependent; and

(ii) if appropriate, make a referral for services for the runaway.

[(9)] (7) A parent or legal guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway. The local law enforcement agency may assist the parent or legal guardian in retrieving the runaway.

[(10)] (8) Nothing in this section prohibits a person [ø], including a temporary homeless youth shelter, from continuing to provide shelter to a runaway, after giving the notice described in Subsections (2) through [(6)] (4), if:

(a) a parent or legal guardian of the [minor] child consents to the continued provision of shelter; or

(b) a peace officer or a parent or legal guardian of the [minor] child fails to retrieve the runaway.

[(11)] (9) Nothing in this section prohibits a person or a temporary homeless youth shelter from providing shelter to a [non-emancipated minor] child whose parents or legal guardians have intentionally:

(a) ceased to maintain physical custody of the [minor] child;

(b) failed to make reasonable arrangements for the safety, care, and physical custody of the [minor] child; and

(c) failed to provide the [minor] child with food, shelter, or clothing.

[(12)] (10) Nothing in this section prohibits:

(a) a receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of Title 62A, Chapter 7, Juvenile Justice Services, and the rules relating to a receiving center or a youth services center; or

(b) a government agency from taking custody of a [minor] child as otherwise provided by law.

Section 3. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

- (b) "Abuse" does not include:
- (i) reasonable discipline or management of a child, including withholding privileges;
 - (ii) conduct described in Section 76-2-401; or
 - (iii) the use of reasonable and necessary physical restraint or force on a child:
 - (A) in self-defense;
 - (B) in defense of others;
 - (C) to protect the child; or
 - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.
- (4) "Adult" means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.
- (5) "Board" means the Board of Juvenile Court Judges.
- (6) "Child" means a person under 18 years of age.
- (7) "Child placement agency" means:
- (a) a private agency licensed to receive a child for placement or adoption under this code; or
 - (b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.
- (8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- (9) "Commit" means, unless specified otherwise:
- (a) with respect to a child, to transfer legal custody; and
 - (b) with respect to a minor who is at least 18 years of age, to transfer custody.
- (10) "Court" means the juvenile court.
- (11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.
- (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.
- (13) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
- (14) "Deprivation of custody" means transfer of legal custody by the court from a parent or the

parents or a previous legal custodian to another person, agency, or institution.

(15) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(16) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(17) "Division" means the Division of Child and Family Services.

(18) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(19) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(20) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court's jurisdiction and that a case must be reviewed.

(21) "Group rehabilitation therapy" means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(22) "Guardianship of the person" includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another person, agency, or institution.

(23) "Habitual truant" means the same as that term is defined in Section 53A-11-101.

(24) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(25) (a) "Incest" means engaging in sexual intercourse with a person whom the perpetrator

knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (25)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(26) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(27) "Intellectual disability" means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person's effectiveness in meeting the standards expected for the person's age by the person's cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(28) "Legal custody" means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(29) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss;

(c) lost wages; or

(d) medical expenses.

(30) "Mental disorder" means a serious emotional and mental disturbance that severely limits a

minor's development and welfare over a significant period of time.

(31) "Minor" means:

(a) a child; or

(b) a person who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

(32) "Mobile crisis outreach team" means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(33) "Molestation" means that a person, with the intent to arouse or gratify the sexual desire of any person:

(a) touches the anus or any part of the genitals of a child;

(b) takes indecent liberties with a child; or

(c) causes a child to take indecent liberties with the perpetrator or another.

(34) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(35) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused; or

(v) abandonment of a child through an unregulated custody transfer.

(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect

unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(36) "Neglected child" means a child who has been subjected to neglect.

(37) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(38) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(39) "Physical abuse" means abuse that results in physical injury or damage to a child.

(40) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(41) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(42) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(43) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(44) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

(45) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(46) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(47) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (25);

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children; ~~or~~

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7[-]; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a

sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(48) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(49) “Shelter” means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(50) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(51) “Substance abuse” means the misuse or excessive use of alcohol or other drugs or substances.

(52) “Substantiated” means the same as that term is defined in Section 62A-4a-101.

(53) “Supported” means the same as that term is defined in Section 62A-4a-101.

(54) “Termination of parental rights” means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(55) “Therapist” means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(56) “Unregulated custody transfer” means the placement of a child:

(a) with a person who is not the child’s parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is

familiar, or a member of the child’s federally recognized tribe;

(b) with the intent of severing the child’s existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the person taking custody of the child.

(57) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

(58) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

(59) “Without merit” means the same as that term is defined in Section 62A-4a-101.

Section 4. Section 78A-6-307 is amended to read:

78A-6-307. Shelter hearing -- Placement -- DCFS custody.

(1) As used in this section:

(a) “Friend” means an adult the child knows and is comfortable with.

(b) (i) “Natural parent,” notwithstanding the provisions of Section 78A-6-105, means:

(A) a biological or adoptive mother of the child;

(B) an adoptive father of the child; or

(C) a biological father of the child who:

(I) was married to the child’s biological mother at the time the child was conceived or born; or

(II) has strictly complied with the provisions of Sections 78B-6-120 through 78B-6-122, prior to removal of the child or voluntary surrender of the child by the custodial parent.

(ii) The definition of “natural parent” described in Subsection (1)(b)(i) applies regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(c) “Relative” means:

(i) an adult who is [a] the child’s grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling [~~of a child, or~~];

(ii) a first cousin of the child’s parent;

[~~(ii)~~] (iii) an adult who is an adoptive parent of the child’s sibling; or

[~~(iii)~~] (iv) in the case of a child defined as an “Indian” under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, “relative” also means an “extended family member” as defined by that statute.

(2) (a) At the shelter hearing, when the court orders that a child be removed from the custody of the child's parent in accordance with the requirements of Section 78A-6-306, the court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the court's jurisdiction occurred, who desires to assume custody of the child.

(b) If another natural parent requests custody under Subsection (2)(a), the court shall place the child with that parent unless it finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The provisions of this Subsection (2) are limited by the provisions of Subsection (18)(b).

(d) (i) The court shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement.

(ii) The court shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 78A-6-308, and check the division's management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue.

(iii) The court may order the division to conduct any further investigation regarding the safety and appropriateness of the placement.

(iv) The division shall report its findings in writing to the court.

(v) The court may place the child in the temporary custody of the division, pending its determination regarding that placement.

(3) If the court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the court;

(b) the court may order:

(i) that the parent assume custody subject to the supervision of the court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed in the custody of a relative, pursuant to Subsections (7) through (12); or

(d) the child should be placed in the custody of the division.

(5) The time limitations described in Section 78A-6-312 with regard to reunification efforts, apply to children placed with a previously noncustodial parent in accordance with Subsection (2).

(6) Legal custody of the child is not affected by an order entered under Subsection (2) or (3). In order to affect a previous court order regarding legal custody, the party must petition that court for modification of the order.

(7) If, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the court:

(a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e), there is a relative ~~[of the child]~~ or a friend ~~[of a parent of the child]~~ who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether, subject to Subsections (18)(c) through (e), there are relatives ~~[of the child]~~ or friends ~~[of a parent of the child]~~ who are willing and appropriate, in accordance with the requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to, subject to Subsections (18)(c) through (e), provide information regarding relatives ~~[of the child]~~ or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the custody of the division pending the determination under Subsection (7)(a).

(8) This section may not be construed as a guarantee that an identified relative or friend will receive custody of the child.

(9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if it is in the best interest of the child, and the provisions of this section are satisfied.

(10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with that relative or friend.

(b) In order to be considered a "willing relative or friend" under this section, the relative or friend

shall be willing to cooperate with the child's permanency goal.

(11) (a) In making the finding described in Subsection (10)(a), the court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative [~~of the child~~], conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(b), of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent [~~of the child~~], complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(b), of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative [~~of the child~~], conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 78A-6-308;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the court; and

(vii) provide sufficient information so that the court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(b) The division may determine to conduct, or the court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement.

(c) The division shall complete and file its assessment regarding placement with a relative or friend as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(12) (a) The court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation pursuant to Subsections (10) and (11), and the court's determination regarding the appropriateness of that placement.

(b) The court shall ultimately base its determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(13) When the court awards custody and guardianship of a child with a relative or friend:

(a) the court shall order that:

(i) the relative or friend assume custody, subject to the continuing supervision of the court; and

(ii) any necessary services be provided to the child and the relative or friend;

(b) the child and any relative or friend with whom the child is placed are under the continuing jurisdiction of the court;

(c) the court may enter any order that it considers necessary for the protection and best interest of the child;

(d) the court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

(14) No later than 12 months after placement with a relative or friend, the court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(15) The time limitations described in Section 78A-6-312, with regard to reunification efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

(16) (a) If the court awards custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 78A-6-308; and

(ii) if the results of the criminal background check described in Subsection (16)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after taking the child into physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the proceedings, of the division's action.

(b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a relative, pending the results of the background check described in Subsection (16)(a) on the relative.

(17) When the court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the court shall order that the child be placed in the temporary custody of the Division of Child and Family Services, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

(18) (a) Any preferential consideration that a relative or friend is initially granted pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the court.

(b) When the time period described in Subsection (18)(a) has expired, the preferential consideration, which is initially granted to a natural parent in accordance with Subsection (2), is limited. After that time the court shall base its custody decision on the best interest of the child.

(c) Prior to the expiration of the 120-day period described in Subsection (18)(a), the following order of preference shall be applied when determining the person with whom a child will be placed, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (18)(d), a friend ~~[of a parent of the child]~~, if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) (i) In determining whether a friend is a willing and appropriate placement for a child, neither the court, nor the division, is required to consider more than one friend designated by each parent of the child~~[-]~~ and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement.

(ii) The court or the division may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement.

(iii) The court and the division shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 78A-6-306 is sexual abuse of the child.

(e) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:

(i) the department shall fully cooperate to expedite the licensing process for the friend; and

(ii) if the friend becomes licensed as a foster parent within the time frame described in Subsection (18)(a), the court shall determine whether it is in the best interests of the child to place the child with the friend.

(19) If, following the shelter hearing, the child is placed with a person who is not a parent ~~[of the child]~~, a relative ~~[of the child]~~, a friend ~~[of a parent of the child]~~, or a former foster parent of the child, priority shall be given to a foster placement with a man and a woman who are married to each other, unless it is in the best interests of the child to place the child with a single foster parent.

(20) In determining the placement of a child, neither the court, nor the division, may take into account, or discriminate against, the religion of a person with whom the child may be placed, unless the purpose of taking religion into account is to place the child with a person or family of the same religion as the child.

Section 5. Section 78A-6-307.5 is amended to read:

78A-6-307.5. Post-shelter hearing placement of a child who is in division custody.

(1) If the court awards custody of a child to the division under Section 78A-6-307, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

(2) In placing a child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (d), shall comply with the applicable background check provisions described in Section 78A-6-307;

(b) is not required to receive approval from the court prior to making the placement;

(c) shall, within three days, excluding weekends and holidays, after making the placement, give written notice to the court, and all parties to the proceedings, that the placement has been made; ~~and~~

(d) may place the child with a noncustodial parent ~~[or]~~, relative ~~[of the child]~~, or friend, using the same criteria established for an emergency placement under Section 62A-4a-209, pending the results of:

(i) the background check described in Subsection 78A-6-307(16)(a); and

(ii) evaluation with the noncustodial parent ~~[or]~~, relative, or friend to determine the ~~[noncustodial parent's or relative's]~~ individual's capacity to provide ongoing care to the child~~[-]~~; and

(e) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.

CHAPTER 236**H. B. 346**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**LOCAL GOVERNMENT
PLAN REVIEW AMENDMENTS**Chief Sponsor: Mike Schultz
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill addresses the review of construction project plans by local governments.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes repeal dates related to construction project plan reviews;
- ▶ clarifies the scope of a plan review;
- ▶ allows an applicant to waive a plan review time requirement;
- ▶ under certain circumstances, prohibits a local government from requiring an applicant to redraft a plan; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-5-132, as last amended by Laws of Utah 2017, Chapter 313

10-6-160, as last amended by Laws of Utah 2017, Chapter 313

17-36-55, as last amended by Laws of Utah 2017, Chapter 313

63I-1-210, as last amended by Laws of Utah 2017, Chapter 313

63I-1-217, as enacted by Laws of Utah 2017, Chapter 313

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

Section 1. Section 10-5-132 is amended to read:**10-5-132. Fees collected for construction approval -- Approval of plans.**

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

- (i) a bed and breakfast establishment;
- (ii) a boarding house;
- (iii) a dormitory;
- (iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

~~(b)~~ (d) (i) "[Initial plan] Plan review" means all of the reviews and approvals of a plan that ~~are required by~~ a town requires to obtain a building permit from the town~~[-]~~ with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

~~(ii)~~ "[Initial plan] (ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

~~[(c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:]~~

~~[(i) a bed and breakfast establishment;]~~

~~[(ii) a boarding house;]~~

~~[(iii) a hotel;]~~

~~[(iv) an inn;]~~

~~[(v) a lodging house;]~~

~~[(vi) a motel;]~~

~~[(vii) a resort; or]~~

~~[(viii) a rooming house.]~~

(e) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(e)(i), a review that a licensed engineer conducts.

(f) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(b) If a town cannot provide a building inspection within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

(3) (a) A town shall complete ~~[an initial]~~ a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the town.

(b) A town shall complete ~~[an initial]~~ a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the town.

(c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires,

an applicant may request that the town complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the town's consent, establish an alternative plan review time requirement.

[(e)] (4) (a) A town may not enforce a requirement to have ~~[an initial plan reviewed by the town]~~ a plan review if:

(i) the town does not complete the ~~[initial]~~ plan review within the time period described in Subsection (3)(a) or (b); and

(ii) ~~[the plan is stamped by]~~ a licensed architect or structural engineer~~[-]~~, or both when required by law, stamps the plan.

(b) A town may attach to a reviewed plan a list that includes:

(i) items with which the town is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

Section 2. Section 10-6-160 is amended to read:

10-6-160. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) “Planning review” means a review to verify that a city has approved the following elements of a construction project:

- (i) zoning;
- (ii) lot sizes;
- (iii) setbacks;
- (iv) easements;
- (v) curb and gutter elevations;
- (vi) grades and slopes;
- (vii) utilities;
- (viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

- (x) subdivision.

[~~(b)~~] (d) (i) “[Initial plan] Plan review” means all of the reviews and approvals of a plan that [are required by] a city requires to obtain a building permit from the city[-] with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

- (D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review; and

(H) the total square footage for each building level of finished, garage, and unfinished space.

[(ii) “Initial plan] (ii) “Plan review” does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document’s technical nature or on the request of the applicant, is reviewed by a third party.

[(e) “Lodging establishment” means a place providing temporary sleeping accommodations to the public, including any of the following:]

- [(i) a bed and breakfast establishment;]

[(ii) a boarding house;]

[(iii) a hotel;]

[(iv) an inn;]

[(v) a lodging house;]

[(vi) a motel;]

[(vii) a resort; or]

[(viii) a rooming house.]

(e) “Structural review” means:

(i) a review that verifies that a construction project complies with the following:

- (A) footing size and bar placement;
- (B) foundation thickness and bar placement;
- (C) beam and header sizes;
- (D) nailing patterns;
- (E) bearing points;
- (F) structural member size and span; and
- (G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(e)(i), a review that a licensed engineer conducts.

(f) “Technical nature” means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.

(b) If a city cannot provide a building inspection within three business days, the city shall promptly engage an independent inspector with fees collected from the applicant.

(3) (a) A city shall complete [an initial] a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the city.

(b) A city shall complete [an initial] a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the city.

(c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the city's consent, establish an alternative plan review time requirement.

[(e)] (4) (a) A city may not enforce a requirement to have [an initial plan reviewed by the city] a plan review if:

(i) the city does not complete the [initial] plan review within the time period described in Subsection (3)(a) or (b); and

(ii) [the plan is stamped by] a licensed architect or structural engineer[-], or both when required by law, stamps the plan.

(b) A city may attach to a reviewed plan a list that includes:

(i) items with which the city is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A city may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 3. Section 17-36-55 is amended to read:

17-36-55. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) "Planning review" means a review to verify that a county has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[(b)] (d) (i) "[Initial plan] Plan review" means all of the reviews and approvals of a plan that [are required by] a county requires to obtain a building permit from the county[-] with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review; and

(H) the total square footage for each building level of finished, garage, and unfinished space.

[(ii)] (ii) "[Initial plan] Plan review" does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[(c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:]

[(i) a bed and breakfast establishment;]

[(ii) a boarding house;]

[(iii) a hotel;]

[(iv) an inn;]

[(v) a lodging house;]

~~[(vi) a motel;]~~

~~[(vii) a resort; or]~~

~~[(viii) a rooming house.]~~

(e) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(e)(i), a review that a licensed engineer conducts.

(f) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days, the county shall promptly engage an independent inspector with fees collected from the applicant.

(3) (a) A county shall complete ~~[an initial]~~ a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the county.

(b) A county shall complete ~~[an initial]~~ a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the county.

(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

~~[(e)]~~ (4) (a) A county may not enforce a requirement to have ~~[an initial plan reviewed by the county]~~ a plan review if:

(i) the county does not complete the ~~[initial]~~ plan review within the time period described in Subsection (3)(a) or (b); and

(ii) ~~[the plan is stamped by]~~ a licensed architect or structural engineer~~[-]~~, or both when required by law, stamps the plan.

(b) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 4. Section 63I-1-210 is amended to read:

63I-1-210. Repeal dates, Title 10.

~~[(1) (a) Subsections 10-5-132(1)(b), (1)(c), and (3) are repealed July 1, 2018.]~~

~~[(b) When repealing the subsections listed in Subsection (1)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make other modifications necessary to ensure that the remaining subsections are complete sentences, grammatically correct, and have correct numbering and cross references to accurately reflect the office's perception of the Legislature's intent.]~~

~~[(2) (a) Subsections 10-6-160(1)(b), (1)(c), and (3) are repealed July 1, 2018.]~~

~~[(b) When repealing the subsections listed in Subsection (2)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make other modifications necessary to ensure that the remaining subsections are complete sentences, grammatically correct, and have correct numbering and cross references to accurately reflect the office's perception of the Legislature's intent.]~~

~~[(3)]~~ Section 10-9a-526 is repealed December 31, 2020.

Section 5. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates, Title 17.

[~~(1) Subsections 17-36-55(1)(b), (1)(c), and (3) are repealed July 1, 2018.~~]

[~~(2) When repealing the subsections listed in Subsection (1), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make other modifications necessary to ensure that the remaining subsections are complete sentences, grammatically correct, and have correct numbering and cross references to accurately reflect the office's perception of the Legislature's intent.~~]

CHAPTER 237**H. B. 347**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

LAW ENFORCEMENT AGREEMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies state and tribal jurisdiction provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a presidential townsite with Indian land may enter into an agreement with the local county sheriff, an Indian tribe, and the Bureau of Indian Affairs;
- ▶ provides that the agreement shall grant authority to individuals certified by the Bureau of Indian Affairs to enforce state and local misdemeanor and felony offenses on lands within the presidential townsite with Indian land;
- ▶ includes training requirements; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

9-9-214, Utah Code Annotated 1953

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

Section 1. Section 9-9-214 is enacted to read:**9-9-214. Law enforcement in presidential townsites.**

(1) As used in this section:

(a) “Agents of the Bureau of Indian Affairs” means individuals the Bureau of Indian Affairs has empowered to enforce federal statutes in Indian land under 25 U.S.C. Sec. 2802 or 25 U.S.C. Sec. 2804.

(b) “Bureau of Indian Affairs” means the Bureau of Indian Affairs within the United States Department of the Interior.

(c) “Indian land” means land that qualifies as “Indian country” under 18 U.S.C. Sec. 1151.

(d) “Indian tribe” or “tribe” means an Indian tribe included in the list of federally recognized Indian tribes under 25 U.S.C. Sec. 5131.

(e) “Non-Indian land” means land that does not qualify as “Indian country” under 18 U.S.C. Sec. 1151.

(f) “Presidential townsite with Indian land” means a municipality incorporated under the laws of the state:

(i) created by presidential proclamation pursuant to Sections 2380 and 2381 of the Revised Statutes of the United States, Act of Congress of March 3, 1863, 12 Stat. 754; and

(ii) encompassing Indian land and non-Indian land within its municipal boundaries.

(2) A presidential townsite with Indian land may enter into an agreement that grants authority to agents of the Bureau of Indian Affairs to enforce all applicable state and local misdemeanor and felony offenses on all lands within the presidential townsite with Indian land, provided that each of the following shall be party to the agreement:

(a) the presidential townsite with Indian land;

(b) the local county sheriff;

(c) the Indian tribe with jurisdiction over Indian lands within the presidential townsite with Indian land; and

(d) the Bureau of Indian Affairs.

(3) An agreement entered into under Subsection (2) may be for any period of time and shall state the period of time that the agreement lasts.

(4) Agents of the Bureau of Indian Affairs who are granted authority to enforce state and local criminal misdemeanor offenses and felonies under an agreement entered into under Subsection (2) shall successfully complete a course focusing on Utah criminal and constitutional law and process specifically approved by the director of the Peace Officer Standards and Training Division created under Section 53-6-103 to qualify the individual for cross-deputization pursuant to this section.

CHAPTER 238**H. B. 348**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**SECONDHAND MERCHANDISE
DEALERS AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the Pawnshop and Secondhand Merchandise Transaction Information Act.

Highlighted Provisions:

This bill:

- ▶ defines “children’s product” and “children’s product resale business”; and
- ▶ exempts children’s product resale businesses from requirements regarding secondhand merchandise dealers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-32a-102, as last amended by Laws of Utah 2016, Chapter 421
 13-32a-104, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 13-32a-102 is amended to read:**13-32a-102. Definitions.**

As used in this chapter:

(1) “Account” means the Pawnbroker and Secondhand Merchandise Operations Restricted Account created in Section 13-32a-113.

(2) “Antique item” means an item:

- (a) that is generally older than 25 years;
- (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
- (c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and
- (d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) “Antique shop” means a business operating at an established location and that offers for sale antique items.

(4) “Board” means the Secondhand Merchandise Advisory Board created by this chapter.

(5) “Central database” or “database” means the electronic database created and operated under Section 13-32a-105.

(6) “Children’s product” means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

(7) “Children’s product resale business” means a business operating at a commercial location and primarily selling children’s products.

(8) “Coin” means a piece of currency, usually metallic and usually in the shape of a disc that is:

- (a) stamped metal, and issued by a government as monetary currency; or
- (b) (i) worth more than its current value as currency; and
- (ii) worth more than its metal content value.

(9) “Coin dealer” means a person or business whose sole business activity is the selling and purchasing of coins and precious metals.

(10) “Commercial grade precious metals” or “precious metals” means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

- (a) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or
- (b) .925 fine sterling silver ingots, art bars, and medallions.

(11) “Division” means the Division of Consumer Protection in [Title 13,] Chapter 1, Department of Commerce.

(12) “Identification” means a valid United States federal or state-issued photo personal identification, including a United States passport, a United States passport card, [U.S.] United States military personal identification, and a driver license.

(13) “Local law enforcement agency” means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawnshop or secondhand business is located.

(14) “Misappropriated” means stolen, embezzled, converted, obtained by theft, or otherwise appropriated without authority of the lawful owner.

(15) “Original victim” means a victim who is not a party to the pawn or sale transaction and includes:

- (a) an authorized representative designated in writing by the original victim; and
- (b) an insurer who has indemnified the original victim for the loss of the described property.

(16) “Pawn and secondhand business” means any business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

[414] (17) "Pawnbroker" means a person whose business engages in the following activities:

(a) loans money on one or more deposits of personal property;

(b) deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor;

(c) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession, and who sells the unredeemed pledges;

(d) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; or

(e) engages in a licensed business enterprise as a pawnshop.

[416] (18) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.

[417] (19) "Pawn ticket" means a document upon which information regarding a pawn transaction is entered when the pawn transaction is made.

[418] (20) "Pawn transaction" means an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time.

[419] (21) "Pledgor" means a person who conducts a pawn transaction with a pawnshop.

[420] (22) "Property" means any tangible personal property.

[421] (23) "Register" means the record of information required under this chapter to be maintained by pawn and secondhand businesses. The register is an electronic record that is in a format that is compatible with the central database.

[422] (24) "Retail media item" means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.

[423] (25) "Scrap jewelry" means any item purchased solely:

- (a) for its gold, silver, or platinum content; and
- (b) for the purpose of reuse of the metal content.

[424] (26) (a) "Secondhand merchandise dealer" means an owner or operator of a business that:

(i) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; and

(ii) does not function as a pawnbroker.

(b) "Secondhand merchandise dealer" does not include:

- (i) the owner or operator of an antique shop;
- (ii) any class of businesses exempt by administrative rule under Section 13-32a-112.5;

(iii) any person or entity who operates auction houses, flea markets, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;

(iv) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," or "estate sales";

(v) the sale or receipt of secondhand books, magazines, or post cards;

(vi) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no compensation is paid;

(vii) the sale or receipt of secondhand clothing and shoes;

(viii) any person offering [his] the person's own personal property for sale, purchase, consignment, or trade via the Internet;

(ix) any person [~~or entity~~] offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person or entity does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

(x) any owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

(xi) an owner or operator of a business that contracts with other persons or entities to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

(xii) any dealer as defined in Section 76-6-1402, which concerns scrap metal and secondary metals; [~~or~~]

(xiii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale; or

(xiv) the owner or operator of a children's product resale business.

Section 2. Section 13-32a-104 is amended to read:

13-32a-104. Register required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.

(1) [~~Every~~] A pawnbroker or secondhand merchandise dealer shall keep a register of each article of property a person pawns or sells to the pawnbroker or secondhand merchandise dealer, except as provided in Subsection 13-32a-102[~~(23)~~](26)(b). [~~Every~~] A pawn and secondhand business owner or operator, or [his] the

owner's or operator's employee, shall enter the following information regarding every article pawned or sold to the owner or employee:

- (a) the date and time of the transaction;
- (b) the pawn transaction ticket number, if the article is pawned;
- (c) the date by which the article must be redeemed;
- (d) the following information regarding the person who pawns or sells the article:
 - (i) the person's name, residence address, and date of birth;
 - (ii) the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person;
 - (iii) the person's signature; and
 - (iv) a legible fingerprint of the person's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the person with a written notation identifying the fingerprint and the reason why the index finger's print was unavailable;
- (e) the amount loaned on or paid for the article, or the article for which it was traded;
- (f) the identification of the pawn or secondhand business owner or the employee, whoever is making the register entry; and
- (g) an accurate description of the article of property, including available identifying marks such as:
 - (i) names, brand names, numbers, serial numbers, model numbers, color, manufacturers' names, and size;
 - (ii) metallic composition, and any jewels, stones, or glass;
 - (iii) any other marks of identification or indicia of ownership on the article;
 - (iv) the weight of the article, if the payment is based on weight;
 - (v) any other unique identifying feature;
 - (vi) gold content, if indicated; and
 - (vii) if multiple articles of a similar nature are delivered together in one transaction and the articles do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) A pawn or secondhand business may not accept any personal property if, upon inspection, it

is apparent that serial numbers, model names, or identifying characteristics have been intentionally defaced on that article of property.

(3) (a) A person may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

CHAPTER 239**H. B. 361**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

BILLBOARD AMENDMENTS

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Jacob L. Anderregg

LONG TITLE**General Description:**

This bill amends provisions related to billboards in municipalities and counties.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a municipality or a county's acquisition of a billboard and associated rights through eminent domain;
- ▶ permits a municipality or county to require a billboard owner to remove a billboard under certain conditions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-511, as last amended by Laws of Utah 2015, Chapter 205
10-9a-512, as renumbered and amended by Laws of Utah 2005, Chapter 254
10-9a-513, as last amended by Laws of Utah 2009, Chapters 170 and 233
17-27a-510, as last amended by Laws of Utah 2009, Chapter 170
17-27a-511, as renumbered and amended by Laws of Utah 2005, Chapter 254
17-27a-512, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 10-9a-511 is amended to read:**10-9a-511. Nonconforming uses and noncomplying structures.**

(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in [its] the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.

(ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within [90] 180 days after the day on which the owner submits a written request to relocate the billboard, [the provisions of Subsection 10-9a-513(2)(a)(iv) apply] the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).

(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily

demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and ~~[shall have]~~ has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not ~~[in fact]~~ occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 2. Section 10-9a-512 is amended to read:

10-9a-512. Termination of a billboard and associated rights.

(1) A municipality may only require termination of a billboard and associated ~~[property]~~ rights through:

- (a) gift;
- (b) purchase;
- (c) agreement;
- (d) exchange; or
- (e) eminent domain.

(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

(3) A termination under Subsection (1)(e) requires the municipality to:

(a) acquire the billboard and associated rights through eminent domain, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections 10-9a-513(2)(f) and (h); and

(b) after acquiring the rights under Subsection (3)(a), terminate the billboard and associated rights.

Section 3. Section 10-9a-513 is amended to read:

10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

- (1) As used in this section:

(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.

(b) "Highest allowable height" means:

(i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or

(ii) (A) for a noninterstate billboard:

(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and

(B) for an interstate billboard:

(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.

(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.

(d) "Interstate height" means a height that is the higher of:

- (i) 65 feet above the ground; and
- (ii) 25 feet above the grade of the interstate.

(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.

(f) "Visibility area" means the area on a street or highway that is:

(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(A) perpendicular to the street or highway; and

(B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

(II) for a noninterstate billboard, 300 feet from the base of the billboard.

~~[(2) (a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:]~~

(2) (a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:

(i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:

(A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and

(B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;

(ii) denies the request in accordance with Subsection (2)(d); or

(iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).

(b) Subject to Subsection (2)(a), a billboard owner may:

(i) [rebuilding, maintaining, repairing, or restoring] rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) [except as provided in Subsection (2)(e), relocating or rebuilding] relocate or rebuild a billboard structure, or [taking other measures] take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality [has] issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally [modifying or upgrading] modify or upgrade a billboard;

(iv) [relocating] relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if [-(A)] the relocated billboard is:

[-(I)] (A) within 5,280 feet of [its] the billboard's previous location; and

[-(II)] (B) no closer than [-(Aa)] 300 feet from an off-premise sign existing on the same side of the street or highway [;], or [-(Bb)] if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; [and] or

[-(B)] (I) the billboard owner has submitted a written request under Subsection 10-9a-511(3)(e); and

[-(II)] the municipality and billboard owner are unable to agree, within the time provided in

Subsection 10-9a-511(3)(e), to a mutually acceptable location; or

(v) [making] make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally [modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv)] altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:

(A) [erecting] erect the billboard:

(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; [and] or

(B) [installing] install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before [its] the billboard's relocation.

[-(b)] (c) A modification under Subsection (2)[-(a)](b)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

[-(e)] (d) A [municipality's denial of] municipality may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard [does not constitute the initiation of acquisition by eminent domain under Subsection (2)(a)] without acquiring the billboard and associated rights through eminent domain under Section 10-9a-512, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

[-(d)] If a municipality is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (2)(a) or any other provision of applicable law, the municipality

(e) A municipality that acquires a billboard and associated rights through eminent domain under Section 10-9a-512 shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard [structure that is acquired];

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):

(i) the provisions of Section 78B-6-510 do not apply; and

(ii) the municipality may not take possession of the billboard or the billboard's associated rights until:

(A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and

(B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).

(g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection (2)(a), if the municipality's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.

(h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).

(ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.

(3) Notwithstanding ~~Subsection (2) and~~ Section 10-9a-512, a municipality may ~~remove a billboard without providing compensation if~~ require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:

(a) the municipality determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the billboard owner fails to remedy the condition or conditions within:

(i) [except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of] 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, [following the] after the day on which the billboard [owner's receipt of] owner receives written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than [its] the billboard's owner, or the billboard's owner acting through [its contractors-] a contractor, within 500 feet of the nonconforming location.

(5) A permit [issued, extended, or renewed by a municipality] that a municipality issues, extends, or renews for a billboard remains valid [from the time] beginning on the day on which the municipality issues, extends, or renews the permit [until] and ending 180 days after the day on which a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the day on which the municipality issues, extends, or renews a permit for the billboard.

Section 4. Section 17-27a-510 is amended to read:

17-27a-510. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or a noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula

establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A county may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in [its] the county's zoning ordinance, a county may permit a billboard owner to relocate the billboard within the county's unincorporated area to a location that is mutually acceptable to the county and the billboard owner.

(ii) If the county and billboard owner cannot agree to a mutually acceptable location within [90] 180 days after the day on which the owner submits a written request to relocate the billboard, [the provisions of Subsection 17-27a-512(2)(a)(iv) apply] the billboard owner may relocate the billboard in accordance with Subsection 17-27a-512(2).

(4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and ~~[shall have]~~ has the burden of establishing that any claimed abandonment under Subsection (4)(c) has not ~~[in fact]~~ occurred.

(5) A county may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 5. Section 17-27a-511 is amended to read:

17-27a-511. Termination of a billboard and associated rights.

(1) A county may only require termination of a billboard and associated ~~[property]~~ rights through:

- (a) gift;
- (b) purchase;
- (c) agreement;
- (d) exchange; or
- (e) eminent domain.

(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

(3) A termination under Subsection (1)(e) requires the county to:

(a) acquire the billboard and associated rights through eminent domain, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections 17-27a-512(2)(f) and (h); and

(b) after acquiring the rights under Subsection (3)(a), terminate the billboard and associated rights.

Section 6. Section 17-27a-512 is amended to read:

17-27a-512. County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt or replaced -- Validity of county permit after issuance of state permit.

(1) As used in this section:

(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.

(b) "Highest allowable height" means:

(i) if the height allowed by the county, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the county; or

(ii) (A) for a noninterstate billboard:

(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and

(B) for an interstate billboard:

(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.

(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.

(d) "Interstate height" means a height that is the higher of:

(i) 65 feet above the ground; and

(ii) 25 feet above the grade of the interstate.

(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.

(f) "Visibility area" means the area on a street or highway that is:

(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(A) perpendicular to the street or highway; and

(B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

(II) for a noninterstate billboard, 300 feet from the base of the billboard.

~~[(2) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent domain if the county prevents a billboard owner from:]~~

(2) (a) If a billboard owner makes a written request to the county with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further county land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the county:

(i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 17-27a-511 for the purpose of terminating the billboard and associated rights:

(A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and

(B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;

(ii) denies the request in accordance with Subsection (2)(d); or

(iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).

(b) Subject to Subsection (2)(a), a billboard owner may:

(i) [~~rebuilding, maintaining, repairing, or restoring~~] rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) [~~except as provided in Subsection (2)(e), relocating or rebuilding~~] relocate or rebuild a billboard structure, or [~~taking other measures~~] take another measure, to correct a mistake in the placement or erection of a billboard for which the county [has] issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally [~~modifying or upgrading~~] modify or upgrade a billboard;

(iv) [~~relocating~~] relocate a billboard into any commercial, industrial, or manufacturing zone within the unincorporated area of the county, if: (A) the relocated billboard is:

[(4) (A) within 5,280 feet of [its] the billboard's previous location; and

[(4B) (B) no closer than[:(Aa)] 300 feet from an off-premise sign existing on the same side of the street or highway[:], or [(Bb)] if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; [and] or

[(B) (I) the billboard owner has submitted a written request under Subsection 17-27a-510(3)(e); and]

[(II) the county and billboard owner are unable to agree, within the time provided in Subsection 17-27a-510(3)(e), to a mutually acceptable location; or]

(v) [making] make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally [~~modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv)] altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:~~

(A) ~~[erecting]~~ erect the billboard:

(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; ~~[and]~~ or

(B) ~~[installing]~~ install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before ~~[its]~~ the billboard's relocation.

~~[(b)]~~ (c) A modification under Subsection (2)~~(a)~~~~(b)~~~~(v)~~ shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

~~[(e)]~~ (d) A ~~[county's denial of]~~ county may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard ~~[does not constitute the initiation of acquisition by eminent domain under Subsection (2)(a)]~~ without acquiring the billboard and associated rights through eminent domain under Section 17-27a-511, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

~~[(d) If a county is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (1)(a) or any other provision of applicable law, the county]~~

(e) A county that acquires a billboard and associated rights through eminent domain under Section 17-27a-511 shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard ~~[structure that is acquired];~~

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(f) If a county commences an eminent domain action under Subsection (2)(a)(i):

(i) the provisions of Section 78B-6-510 do not apply; and

(ii) the county may not take possession of the billboard or the billboard's associated rights until:

(A) completion of all appeals of a judgment allowing the county to acquire the billboard and associated rights; and

(B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).

(g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further county land use approval, to take an action requested under Subsection (2)(a), if the county's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the county to acquire the billboard and associated rights.

(h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the county takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).

(ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the county's eminent domain action to acquire the billboard or associated rights.

(3) Notwithstanding ~~[Subsection (2) and]~~ Section 17-27a-511, a county may ~~[remove a billboard without providing compensation if]~~ require an owner of a billboard to remove the billboard without acquiring a billboard and associated rights through eminent domain if:

(a) the county determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the county notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the billboard owner fails to remedy the condition or conditions within:

(i) ~~[except as provided in Subsection (3)(e)(ii), 90 days following the billboard owner's receipt of]~~ 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, ~~[following the]~~ after the day on which the billboard ~~[owner's receipt of]~~ owner receives written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of

proceedings and an opportunity for a hearing, the county finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than ~~its~~ the billboard's owner, or the billboard's owner acting through ~~its contractors~~ a contractor, within 500 feet of the nonconforming location.

(5) A permit ~~issued, extended, or renewed by a county~~ that a county issues, extends, or renews for a billboard remains valid ~~from the time~~ beginning on the day on which the county issues, extends, or renews the permit ~~until~~ and ending 180 days after the day on which a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the day on which the county issues, extends, or renews a permit for the billboard.

CHAPTER 240**H. B. 367**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

TRANSIENT ROOM TAX AMENDMENTS

Chief Sponsor: Michael E. Noel
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends provisions relating to the transient room tax.

Highlighted Provisions:

This bill:

- ▶ adds road repair and upgrade to the list of purposes for which counties of the fourth, fifth, or sixth class may spend revenue from the transient room tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-31-2, as last amended by Laws of Utah 2006, Chapter 328

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

Section 1. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenues -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) Any county legislative body may impose the transient room tax provided for in Section 59-12-301 for the purposes of:

(a) establishing and promoting recreation, tourism, film production, and conventions;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

- (i) convention meeting rooms;
- (ii) exhibit halls;
- (iii) visitor information centers;
- (iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas; and

(vi) related facilities;

(c) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes listed in Subsection (1)(b); and

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

- (i) solid waste disposal operations;
- (ii) emergency medical services;
- (iii) search and rescue activities; ~~and~~
- (iv) law enforcement activities~~[-];~~ and
- (v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104;
 or

(C) class D roads, as defined in Section 72-3-105.

(2) Except as provided in Subsection (4), a county may not expend more than 1/3 of the revenues generated by the transient room tax provided in Section 59-12-301 for any combination of the following purposes:

(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:

- (A) convention meeting rooms;
- (B) exhibit halls;
- (C) visitor information centers;
- (D) museums;

(E) sports and recreation facilities including practice fields, stadiums, and arenas; and

(F) related facilities; and

(ii) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes described in Subsection (2)(a)(i);

(b) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, to pay for:

- (i) solid waste disposal operations;
- (ii) emergency medical services;
- (iii) search and rescue activities; ~~and~~
- (iv) law enforcement activities; ~~or~~ and
- (v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104;
 or

(C) class D roads, as defined in Section 72-3-105;

(c) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds authorized under Subsection (3).

(3) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsection (2)(a) or (b) that are permitted to be paid from bond proceeds.

(b) Except as provided in Subsection (4), if the revenues generated by the transient room tax provided in Section 59-12-301 are not needed for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection (2)(c), the county legislative body shall expend those revenues as provided in Subsection (1), subject to the limitation of Subsection (2).

(4) If, on or after October 1, 2006, a county legislative body imposes a tax or increases the rate of a tax in accordance with Section 59-12-301 at a rate that exceeds 3%, the county legislative body:

(a) may expend revenues generated by the portion of the rate that exceeds 3% for any purpose described in Subsections (1) through (3); and

(b) is not subject to any limits on the amount of revenues that may be expended for a purpose described in Subsection (2).

CHAPTER 241**H. B. 373**

Passed March 7, 2018

Approved March 19, 2018

Effective July 1, 2018

WASTE MANAGEMENT AMENDMENTS

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Evan J. Vickers
 Cosponsors: Carl R. Albrecht
 Stewart E. Barlow
 Kay J. Christofferson
 Stephen G. Handy
 John R. Westwood

LONG TITLE**General Description:**

This bill deals with fees set by the Division of Waste Management and Radiation Control.

Highlighted Provisions:

This bill:

- ▶ creates the Division of Waste Management and Radiation Control Expendable Special Revenue Fund and describes the uses of the fund;
- ▶ requires the Division of Waste Management and Radiation Control to upgrade technology;
- ▶ states that the annual fee schedule set by the Division of Waste Management and Radiation Control shall be equitable and fair, though not necessarily equal or uniform;
- ▶ provides criteria in setting the annual fee schedule;
- ▶ authorizes a landfill to conduct a self-inspection with reporting to the Division of Waste Management and Radiation Control;
- ▶ provides a repeal date; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 19-1-108, as last amended by Laws of Utah 2013, Chapter 330
 19-6-109, as last amended by Laws of Utah 2012, Chapter 360
 19-6-119, as last amended by Laws of Utah 2017, Chapter 281
 19-6-307, as last amended by Laws of Utah 2013, Chapter 400
 63I-2-219, as last amended by Laws of Utah 2016, Chapter 369

ENACTS:

19-6-126, Utah Code Annotated 1953

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

Section 1. Section 19-1-108 is amended to read:

19-1-108. Creation of Environmental Quality Restricted Account -- Purpose of restricted account -- Sources of funds -- Uses of funds.

(1) There is created the Environmental Quality Restricted Account.

(2) The sources of money for the restricted account are:

(a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4 and other fees collected under Subsection 19-3-104(5);

(b) hazardous waste disposal fees collected under Section 19-6-118;

(c) PCB waste disposal fees collected under Section 19-6-118.5;

(d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and

(e) the investment income derived from money in the Environmental Quality Restricted Account.

(3) In each fiscal year^[5]:

(a) the first [~~\$400,000~~] \$200,000 collected from the waste disposal fees listed in Subsection (2), collectively, shall be deposited in the [~~General Fund as free revenue. The balance~~] Division of Waste Management and Radiation Control Expendable Special Revenue Fund created in Section 19-6-126; and

(b) the balance of the money collected from the waste disposal fees listed in Subsection (2), collectively, shall be deposited in the Environmental Quality Restricted Account.

(4) The Legislature may annually appropriate money from the Environmental Quality Restricted Account to the department for the costs of administering:

(a) [~~the department for the costs of administering~~] radiation control programs; and

(b) [~~the department for the costs of administering~~] solid and hazardous waste programs[; and].

[~~(c) subject to Subsection (6), the Hazardous Substances Mitigation Fund, up to \$400,000, to provide money to:~~]

(5) Each year beginning July 1, 2018, and ending on June 30, 2022, the Division of Finance shall transfer \$200,000 from the Environmental Quality Restricted Account to the Hazardous Substances Mitigation Fund, to provide money to:

[~~(i)~~] (a) meet the state's cost share requirements for cleanup under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq. as amended; and

[~~(ii)~~] (b) respond to an emergency as provided in Section 19-6-309.

[~~(5)~~] (6) After the requirements of Subsection (3) are met, sources of money for the restricted account described in Subsection (2)(a) may only be used for the purpose described in Subsection (4)(a).

[~~(6) An annual request for money to be appropriated from the Environmental Quality~~

~~Restricted Account to the Hazardous Substances Mitigation Fund may be made by the department only after the executive director's review of the Environmental Quality Restricted Account's or the Hazardous Substances Mitigation Fund's balance as of the end of the fiscal year immediately before the general session for which the request is made.]~~

(7) In order to stabilize funding for the radiation control program and the solid and hazardous waste program, the Legislature shall in years of excess revenues reserve in the Environmental Quality Restricted Account sufficient money to meet departmental needs in years of projected shortages.

(8) The Legislature may not appropriate money from the General Fund to the department as a supplemental appropriation to cover the costs of the radiation control program and the solid and hazardous waste program in an amount exceeding 25% of the amount of waste disposal fees collected during the most recent prior fiscal year.

(9) Money appropriated under this part that is not expended at the end of the fiscal year lapses into the Environmental Quality Restricted Account.

(10) (a) The balance in the Environmental Quality Restricted Account may not exceed \$4,000,000 above the anticipated revenue need for the money in the restricted account for the fiscal year.

(b) Excess funds under Subsection (10)(a) shall be credited on a proportionate basis to each person who paid money to the fund in the previous fiscal year.

Section 2. Section 19-6-109 is amended to read:

19-6-109. Inspections authorized -- Fines for a self-inspected facility.

~~[Any]~~ (1) A duly authorized officer, employee, or representative of the director may, at any reasonable time and upon presentation of appropriate credentials, enter upon and inspect any property, premise, or place on or at which solid or hazardous wastes are generated, transported, stored, treated, or disposed of, and have access to and the right to copy any records relating to the wastes, for the purpose of ascertaining compliance with this part and the rules of the board. ~~[These persons referred to in this section]~~

(2) An inspector may also inspect any waste and obtain waste samples, including samples from any vehicle in which wastes are being transported or samples of any containers or labels.

(3) Any person obtaining samples shall give to the owner, operator, or agent a receipt describing the sample obtained and, if requested, a portion of each sample of waste equal in volume or weight to the portion retained.

(4) If any analysis is made of those samples, a copy of the results of that analysis shall be furnished promptly to the owner, operator, or agent in charge.

(5) (a) Notwithstanding any other provision of this section, by January 1, 2019, the division shall ensure that an owner or operator of a solid waste management facility may elect to self-inspect the solid waste management facility.

(b) (i) The division shall create a training program to teach the owner or operator of a solid waste management facility how to self-inspect the owner or operator's solid waste management facility.

(ii) The training described in Subsection (5)(b)(i) shall be no longer than five hours total.

(c) An owner or operator that elects to self-inspect a solid waste management facility under Subsection (5)(a) shall:

(i) provide all information to the division that is required by this chapter and any rules issued by the board; and

(ii) conduct the self-inspection annually and send a self-inspection report, certified by an individual who completed the training described in Subsection (5)(b)(i), to the division upon completion.

(d) The division shall ensure that a solid waste management facility is inspected by an authorized division employee:

(i) every three to five years, if the solid waste management facility does not elect to self-inspect under Subsection (5)(a);

(ii) at least once every five years, regardless of whether the solid waste management facility elects to self-inspect under Subsection (5)(a);

(iii) promptly upon receipt of a credible complaint about the solid waste management facility; and

(iv) upon request by the solid waste management facility or upon issuance of a notice of violation.

(6) (a) The division shall ensure that a fine assessed against a solid waste management facility that elects to self-inspect for a violation of this chapter or a rule made by the board is higher than the fine that would be assessed against a solid waste management facility that does not elect to self-inspect.

(b) The division may determine that, upon a severe violation of this chapter or a rule made by the board by a facility that elects to self-inspect, that a facility is no longer eligible to self-inspect.

Section 3. Section 19-6-119 is amended to read:

19-6-119. Nonhazardous solid waste disposal fees.

(1) (a) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator shall pay the following fees for waste received for treatment or disposal at the facility if the facility or incinerator is required to have operation plan approval under Section 19-6-108 and primarily receives waste generated by off-site sources not owned, controlled, or operated by the facility or site owner or operator:

(i) 13 cents per ton on all municipal waste and municipal incinerator ash;

(ii) 50 cents per ton on the following wastes if the facility disposes of one or more of the following wastes in a cell exclusively designated for the waste being disposed:

(A) construction waste or demolition waste;

(B) yard waste, including vegetative matter resulting from landscaping, land maintenance, and land clearing operations;

(C) dead animals;

(D) waste tires and materials derived from waste tires disposed of in accordance with Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

(E) petroleum contaminated soils that are approved by the director; and

(iii) \$2.50 per ton on:

(A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

(B) (I) fly ash waste;

(II) bottom ash waste;

(III) slag waste;

(IV) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(V) waste from the extraction, beneficiation, and processing of ores and minerals; and

(VI) cement kiln dust wastes.

(b) A commercial nonhazardous solid waste disposal facility or incinerator subject to the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii) for those wastes described in Subsections (1)(a)(i) and (ii).

(c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.

(2) (a) Through December 31, 2018, and except as provided in Subsections (2)(c) and (4), a waste facility that is owned by a political subdivision shall pay the following annual facility fee to the department by January 15 of each year:

(i) \$800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal waste each year;

(ii) \$1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of municipal waste each year;

(iii) \$3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of municipal waste each year;

(iv) \$12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of municipal waste each year;

(v) \$14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of municipal waste each year;

(vi) \$33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of municipal waste each year; and

(vii) \$66,000 if the facility receives 500,000 or more tons of municipal waste each year.

(b) The fee identified in Subsection (2)(a) for 2018 shall be paid by January 15, 2019.

(c) Through December 31, 2018, and except as provided in Subsection (4), a waste facility that is owned by a political subdivision shall pay \$2.50 per ton for:

(i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year; and

(ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year.

(d) Waste received at a facility owned by a political subdivision under Subsection (2)(c) may not be counted as part of the total tonnage received by the facility under Subsection (2)(a).

(3) (a) As used in this Subsection (3):

(i) "Recycling center" means a facility that extracts valuable materials from a waste stream or transforms or remanufactures the material into a usable form that has demonstrated or potential market value.

(ii) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is used to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.

(b) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a transfer station or recycling center shall pay to the department the following fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that is not subject to a fee under this section:

(i) \$1.25 per ton on:

(A) all nonhazardous solid waste; and

(B) waste described in Subsection (1)(a)(iii)(B);

(ii) 10 cents per ton on all construction and demolition waste; and

(iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

(c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee required under Subsection (3)(b)(i).

(4) The owner or operator of a waste disposal facility that receives nonhazardous solid waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or reprocessing.

(5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility required to pay fees under this section shall:

(a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste received during the calendar month, computed to the first decimal place, by the required fee rate;

(b) pay the fees imposed by this section to the department by the 15th day of the month following the month in which the fees accrued; and

(c) with the fees required under Subsection (6)(b), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(6) (a) In accordance with Section 63J-1-504, on or before July 1, 2018, and each fiscal year thereafter, the department shall establish a fee schedule for the treatment, transfer, and disposal of all nonhazardous solid waste.

(b) The department shall, before establishing the annual fee schedule described in Subsection (6)(a), consult with industry and local government and complete a review of program costs and indirect costs of regulating nonhazardous solid waste in the state and use the findings of the review to create the fee schedule.

(c) The fee schedule described in Subsection (6)(a) shall:

(i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a regulatory burden to the department, based on the actual cost as described in Section 19-6-126, and taking into consideration whether the owner or operator of a facility elects to self-inspect under Section 19-6-109, except as provided in Subsection (6)(d);

(ii) cover the fully burdened costs of the program and provide for reasonable and timely oversight by the department;

(iii) adequately meet the needs of industry, local government, and the department, including enabling the department to employ the appropriate number of qualified personnel to appropriately oversee industry and local government regulation;

(iv) provide stable funding for the Environmental Quality Restricted Account created in Section 19-1-108; and

(v) ~~[give consideration to a fee differential regarding] for solid waste managed at a transfer facility, be no greater than [50 percent of the fee set for the treatment or disposal of the same solid waste] the cost of regulatory services provided to the transfer facility.~~

(d) Any person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or operated by that person may not be charged a fee under this section for the treatment, transfer, storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores and minerals that are generated:

(i) on-site by the person; or

(ii) by off-site sources owned, controlled, or operated by the person.

(e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on January 1, 2019.

(7) On and after January 1, 2019, a facility required to pay fees under this section shall:

(a) pay the fees imposed by this section to the department by the 15th day of the month following the quarter in which the fees accrued; and

(b) with the fees required under Subsection (7)(a), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(8) In setting the fee schedule described in Subsection (6)(a), the department shall ensure that a party is not charged multiple fees for the same solid waste, except the department may charge a separate fee for a transfer station.

(9) The department shall:

(a) deposit all fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108; and

(b) in preparing its budget for the governor and the Legislature, separately indicate the amount of the department's budget necessary to administer the solid and hazardous waste program established by this part.

(10) The department may contract or agree with a county to assist in performing nonhazardous solid waste management activities, including agreements for:

(a) the development of a solid waste management plan required under Section 17-15-23; and

(b) pass-through of available funding.

(11) This section does not exempt any facility from applicable regulation under the Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

(12) The department shall report to the Natural Resources, Agriculture, and Environment Interim

Committee by November 30, 2017, on the fee schedule described in Subsection (6)(a).

Section 4. Section 19-6-126 is enacted to read:

19-6-126. Division of Waste Management and Radiation Control Expendable Special Revenue Fund.

(1) There is created the Division of Waste Management and Radiation Control Expendable Special Revenue Fund.

(2) The fund consists of money deposited in the fund pursuant to Section 19-1-108.

(3) The Division of Waste Management and Radiation Control may expend money in the fund to upgrade technology for permitting and compliance purposes, and other expenditures that will result in increased efficiency and reduced cost, as described in this section.

(4) The technology upgrade authorized in this section shall be designed to assist the division in the following ways:

(a) allowing forms to be digitized and accessible online for:

(i) completion and submission by a division employee or the owner or operator of a facility that elects to self-inspect; and

(ii) review by a regulated facility;

(b) tracking expenses of a division employee, including travel time to inspected facilities; and

(c) increasing employee efficiency and government transparency.

(5) The Division of Waste Management and Radiation Control may use money in the fund to create training materials for the owner or operator of a solid waste management facility to learn how to self-inspect the solid waste management facility.

(6) (a) Once the technology described in this section is in place, the Division of Waste Management and Radiation Control shall implement a method for a solid waste management facility to use the technology to self-inspect as described in Section 19-6-109.

(b) Before the technology described in this section is in place, an owner or operator who elects to self-inspect shall use the standard form used by a Division of Waste Management and Radiation Control employee to conduct an inspection.

(7) In implementing this section, the Division of Waste Management and Radiation Control shall work with the Department of Technology Services.

(8) On December 31, 2019, the Division of Finance shall transfer any money remaining in the fund to the General Fund.

Section 5. Section 19-6-307 is amended to read:

19-6-307. Hazardous Substances Mitigation Fund -- Uses.

(1) There is created an expendable special revenue fund entitled the "Hazardous Substances Mitigation Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for the cleanup of hazardous substances facilities;

(b) appropriations made to the fund by the Legislature; [and]

(c) money received by the state under Section 19-6-310 and Section 19-6-316[-]; and

(d) money from waste disposal fees, as described in Section 19-1-108.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money to:

(a) take emergency action as provided in Sections 19-6-309 and 19-6-310;

(b) conduct remedial investigations as provided in Sections 19-6-314 through 19-6-316;

(c) pay the amount required by the federal government as the state's portion of the cost of cleanups under authority of CERCLA, as appropriated by the Legislature for that purpose; and

(d) pay the amount required by the federal government as the state's portion of the cost of cleanups under 42 U.S.C. 6991 et seq., the Leaking Underground Storage Tank Trust Fund, as appropriated by the Legislature for that purpose.

Section 6. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

[~~(1) Subsection 19-1-403(2)(e)(i), the language that states "minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.~~]

[~~(2) Subsection 19-1-403(2)(c)(ii), the language that states "minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.~~]

(1) (a) Subsection 19-1-108(3)(a) is repealed on June 30, 2019.

(b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 19-6-126 is repealed on January 1, 2020.

Section 7. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 242**H. B. 382**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**RADIOLOGY
PRACTITIONER AMENDMENTS**Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill allows physical therapists to order the use of certain radiologic technology.

Highlighted Provisions:

This bill:

- ▶ allows physical therapists to order the use of radiologic imaging.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-54-303, as renumbered and amended by Laws of Utah 2011, Chapter 61

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

Section 1. Section 58-54-303 is amended to read:**58-54-303. Supervision and prescription required -- Imaging ordered by physical therapists.**

(1) The practice of radiologic technology by a radiologic technologist licensed under this chapter shall be under the general supervision of a radiologist or radiology practitioner and may be performed only upon the order of a radiologist or radiology practitioner acting within the scope of the radiologist's or radiology practitioner's license and experience within the scope of practice of a radiology practitioner.

(2) (a) Notwithstanding Subsection (1), a physical therapist acting within the scope of the physical therapist's license and experience may order plain radiographs and magnetic resonance imaging if:

(i) the physical therapist designates a physician to receive the results of the plain radiographs or magnetic resonance imaging; and

(ii) the physician designated in Subsection (2)(a)(i) agrees to receive the results of the plain radiographs or magnetic resonance imaging.

(b) A physical therapist who orders plain radiographs or magnetic resonance imaging under Subsection (2)(a) shall:

(i) communicate with the patient's physician to ensure coordination of care; and

(ii) refer a patient to an appropriate provider when the findings of the imaging that was ordered by the physical therapist indicate that the services that are needed exceed the physical therapist's experience and scope of practice.

(c) A physical therapist is not subject to Subsection (2)(b)(i) if:

(i) a radiologist has read the image and has not identified a significant finding;

(ii) the patient does not have a primary care physician; and

(iii) the patient was not referred to the physical therapist for health care services by another health care provider.

CHAPTER 243**H. B. 389**

Passed March 5, 2018

Approved March 19, 2018

Effective May 8, 2018

MANUFACTURER LICENSE PLATES

Chief Sponsor: Justin L. Fawson

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions related to acceptable uses for a special manufacturer license plate.

Highlighted Provisions:

This bill:

- ▶ expands the allowable purposes for which a manufacturer may use a special manufacturer license plate to include testing and demonstration of a motor vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-3-501, as last amended by Laws of Utah 1994, Chapter 183

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

Section 1. Section 41-3-501 is amended to read:

**41-3-501. Special plates -- Dealers --
Dismantlers -- Manufacturers --
Remanufacturers -- Transporters --
Restrictions on use.**

(1) Except as provided under this chapter, a dealer may operate or move a motor vehicle displaying a dealer plate issued by the division upon the highways without registering it under Title 41, Chapter 1a, Motor Vehicle Act, if the dealer owns or possesses the motor vehicle by consignment for resale.

(2) A dismantler may operate or move a motor vehicle displaying a dismantler plate issued by the division without registering it as required under Title 41, Chapter 1a, Motor Vehicle Act, upon the highways solely to transport the motor vehicle:

(a) from the place of purchase or legal acquisition to the place of business for dismantling; or

(b) to the place of business of a licensed crusher for disposal.

(3) A manufacturer or remanufacturer may operate or move a manufactured or remanufactured motor vehicle displaying a manufacturer plate issued by the division upon the highways without registering it as required under Title 41, Chapter 1a, Motor Vehicle Act, solely to:

(a) deliver the motor vehicle to a dealer; [ø]

(b) demonstrate a motor vehicle to a dealer or prospective dealer[-]; or

(c) conduct manufacturer tests of a motor vehicle.

(4) (a) A transporter may operate or move a motor vehicle displaying a transporter plate issued by the division upon the highways without registering it as required under Title 41, Chapter 1a, Motor Vehicle Act, solely:

(i) from the point of repossession to a financial institution or to the place of storage, so that a financial institution may provide for operation of a repossessed motor vehicle by a prospective purchaser;

(ii) to and from a detail or repair shop for the purpose of detailing or repairing the motor vehicle; or

(iii) to a delivery point in, out, or through the state.

(b) This subsection does not include loaded motor vehicles subject to the gross laden weight provision of Title 41, Chapter 1a, Motor Vehicle Act.

(5) Dealer plates may not be used:

(a) (i) on a motor vehicle leased or rented for compensation; or

(ii) in lieu of registration, on a motor vehicle sold by the dealer; or

(b) on a loaded motor vehicle over 12,000 pounds gross laden weight unless a special loaded demonstration permit is obtained from the division.

CHAPTER 244**H. B. 402**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

PROBATE CODE AMENDMENTS

Chief Sponsor: Kelly B. Miles
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies the Utah Uniform Probate Code.

Highlighted Provisions:

This bill:

- ▶ excludes specific claims in intestacy cases under certain circumstances;
- ▶ addresses when a person refuses to accept the authority of a guardian;
- ▶ provides for a court to rescind or modify an order or issue a temporary order;
- ▶ addresses when a conservator may use the assets of the estate;
- ▶ modifies the provision regarding creation of power of appointment; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 75-3-107, as last amended by Laws of Utah 2014, Chapter 142
- 75-5-312, as last amended by Laws of Utah 2017, Chapter 403
- 75-5-312.5, as enacted by Laws of Utah 2016, Chapter 293
- 75-5-424, as last amended by Laws of Utah 2017, Chapters 181 and 403
- 75-10-201, as enacted by Laws of Utah 2017, Chapter 125

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

Section 1. Section 75-3-107 is amended to read:**75-3-107. Probate and testacy proceedings -- Ultimate time limit -- Presumption and order of intestacy.**

(1) ~~[No]~~ An informal probate proceeding or formal testacy proceeding, other than a proceeding to probate a will previously probated at the testator's domicile, may not be commenced more than three years after the decedent's death, except:

(a) ~~[If]~~ if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding[.];

(b) ~~[Appropriate]~~ appropriate probate or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the protected person[.]; or

(c) ~~[A]~~ a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or three years from the decedent's death.

(2) The limitations provided in Subsection (1) do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under Subsection (1)(a) or (b), the date on which a testacy proceeding is properly commenced shall be ~~[deemed]~~ considered to be the date of the decedent's death for purposes of other limitations provisions of this title which relate to the date of death.

(3) If no will is probated within three years from death, the presumption of intestacy is final and the court shall upon filing a proper petition enter an order to that effect.

(4) Notwithstanding the time restriction in Subsection (1), the court has continuing jurisdiction to:

(a) determine what property was owned by the decedent at the time of death; and

(b) appoint, formally or informally, a personal representative or special administrator to administer the decedent's estate[.], except the following may not be presented against the estate:

(i) a homestead allowance;

(ii) exempt property;

(iii) a family allowance;

(iv) a support allowance;

(v) an elective share of the surviving spouse; and

(vi) a claim other than expenses of administration.

Section 2. Section 75-5-312 is amended to read:**75-5-312. General powers and duties of guardian -- Penalties.**

(1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section 75-5-304.

(2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child.

(3) In particular, and without qualifying ~~[the foregoing]~~ Subsections (1) and (2), a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent

jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.

(b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends.

(e) If no conservator for the estate of the ward has been appointed, the guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward[;];

(A) but the guardian may not use funds from the ward's estate for room and board which the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult[~~-The~~]; and

(B) the guardian shall exercise care to conserve any excess for the ward's needs.

(f) (i) A guardian is required to report the condition of the ward and of the estate which has been subject to the guardian's possession or control, as required by the court or court rule.

(ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:

(A) the guardian's own observations; or

(B) information from the ward's physician or other medical care providers.

(iii) A guardian is required to immediately notify all interested persons of the ward's death.

(iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.

(v) (A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all estates in excess of \$50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis.

(B) For estates less than \$50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court.

(C) A report under Subsection (3)(f)(v)(A) or (B) shall include a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The guardian shall also report the physical conditions of the ward, the place of residence, and a list of others living in the same household. The court may require additional information.

(D) The forms for both the informal report for estates under \$50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council.

(E) An annual report shall be examined and approved by the court.

(F) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.

(vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.

(vii) The guardian shall also render an annual accounting of the status of the person to the court which shall be included in the petition or the informal annual report as required under this Subsection (3)(f). If a fee is paid for an accounting of an estate, ~~no fee shall~~ a fee may not be charged for an accounting of the status of a person.

(viii) If a guardian:

(A) makes a substantial misstatement on filings of annual reports;

(B) is guilty of gross impropriety in handling the property of the ward; or

(C) willfully fails to file the report required by this ~~subsection~~ Subsection (3)(f), after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed \$5,000.

(ix) The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.

~~(ix)~~ (x) The provisions and penalties in this Subsection (3)(f) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.

~~(ix)~~ (xi) For the purposes of Subsections (3)(f)(i), (ii), (iii), and (iv), “interested persons” means those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-309.

(g) If a conservator has been appointed:

(i) all of the ward’s estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and

(ii) the guardian shall account to the conservator for funds expended.

(4) (a) A court may, in the order of appointment, place specific limitations on the guardian’s power.

(b) A guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-312.5.

(c) A guardian is not liable to a third person for acts of the guardian’s ward solely by reason of the relationship described in Subsection (2).

(5) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward’s estate by payment to third persons or institutions for the ward’s care and maintenance.

(6) A person who refuses to accept the authority of a guardian ~~[with authority over financial decisions to transact business with the assets]~~ of the protected person after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

Section 3. Section 75-5-312.5 is amended to read:

75-5-312.5. Association between an adult ward and a relative of the adult ward.

(1) As used in this section:

(a) “Associate” or “association” means:

(i) visitation of an adult ward by a relative or qualified acquaintance; or

(ii) communication between an adult ward and a relative or qualified acquaintance in any form,

including by telephone, mail, or electronic communication.

(b) “Qualified acquaintance” means an individual, other than a relative of the adult ward, who:

(i) has established a significant, mutual friendship with the adult ward; or

(ii) is clergy in the adult ward’s religion or religious congregation.

(c) “Relative” means an adult ward’s spouse, parent, step-parent, child, step-child, sibling, step-sibling, half-sibling, grandparent, grandchild, uncle, aunt, nephew, niece, or first cousin.

(2) (a) Except as otherwise provided by court order, a guardian may not restrict or prohibit the right of an adult ward to associate with a relative or qualified acquaintance of the adult ward.

(b) If an adult ward is unable to express consent to visitation by a relative or a qualified acquaintance of the adult ward, the consent of the adult ward is presumed based on evidence of a prior relationship between the adult ward and the relative or qualified acquaintance of the adult ward.

(c) A guardian may not permit a relative or qualified acquaintance of an adult ward to associate with the adult ward:

(i) if a court order prohibits the association;

(ii) in a manner prohibited by court order; or

(iii) if the adult ward expresses a desire to not associate with the relative or qualified acquaintance.

(3) A guardian may, as part of the initial guardianship proceeding, petition the court to issue an order:

(a) prohibiting or placing conditions on association between an adult ward and a relative or qualified acquaintance of the adult ward; or

(b) granting the guardian the authority to prohibit or place conditions on association between an adult ward and a relative or qualified acquaintance of the adult ward.

(4) A guardian may, at any time after the initial guardianship proceeding~~[,]~~:

(a) petition the court to issue an order described in Subsection (3) or to rescind or modify an order described in Subsection (3); or

(b) petition, subject to notice, the court on an emergency basis to issue a temporary order until further order of the court described in Subsection (3) or to rescind or modify an order described in Subsection (3).

(5) An adult ward, a relative of an adult ward, or a qualified acquaintance of an adult ward may, at any time after the initial guardianship proceeding, petition the court to rescind or modify an order described in Subsection (3).

(6) If a guardian violates Subsection (2), the adult ward, a relative of the adult ward, or a qualified

acquaintance of the adult ward may do one or more of the following, as applicable:

(a) petition the court to issue an order to show cause why the guardian should not be held in contempt of court;

(b) seek an injunction to enforce compliance by the guardian with the law and any applicable court order; or

(c) petition the court to have the guardian removed as guardian of the adult ward.

(7) For a hearing on a petition filed under this section, a court:

(a) may appoint a court visitor to meet with the adult ward to determine the wishes of the adult ward regarding association;

(b) shall give notice and an opportunity to be heard to the guardian, the adult ward, and the relative or qualified acquaintance;

(c) shall preserve the right of the adult ward to be present at the hearing; and

(d) may order supervised visitation by the relative or qualified acquaintance before the hearing.

(8) A court may not enter an order prohibiting or placing restrictions on association between an adult ward and a relative or qualified acquaintance, unless the court finds by a preponderance of the evidence that:

(a) the adult ward desires the prohibition or restriction;

(b) if the adult ward had the capacity to make a knowing and intelligent decision regarding the association, the adult ward would prohibit the association or impose the restriction; or

(c) the prohibition or restriction is the least restrictive means necessary to protect the health or welfare of the adult ward.

(9) In making the determination described in Subsection (8), the court may consider any relevant evidence, including:

(a) the wishes of the adult ward, expressed during or before the guardianship;

(b) the history of the relationship between the adult ward and the relative or qualified acquaintance;

(c) any history of criminal activity, abuse, neglect, or violence by the relative or qualified acquaintance; or

(d) whether a protective order was ever issued against the relative or qualified acquaintance with respect to the adult ward.

(10) Except as provided in Subsection (11), the guardian shall have the burden of proof when:

(a) seeking an order prohibiting association or placing restrictions on association with a relative or qualified acquaintance of the adult ward;

(b) modifying an order to place additional prohibitions or restrictions on association with a relative or qualified acquaintance of the adult ward; or

(c) opposing an action described in Subsection (6)(a) or (b).

(11) The relative or qualified acquaintance shall have the burden of proof if the relative or qualified acquaintance is seeking to modify an order previously entered by a court under this section.

(12) (a) If, in a proceeding under this section, the court finds that the petition was filed frivolously or in bad faith, the court shall award attorney fees to a party opposing the petition.

(b) If, in a proceeding under this section, the court finds that the guardian is in contempt of court or has acted frivolously or in bad faith in prohibiting or restricting association, the court:

(i) may award attorney fees to the prevailing party; and

(ii) may impose a sanction, not to exceed \$1,000, against the guardian.

(c) A court shall prohibit attorney fees awarded under this section from being paid by the adult ward or the adult ward's estate.

Section 4. Section 75-5-424 is amended to read:

75-5-424. Powers of conservator in administration.

(1) A conservator has all of the powers conferred in this chapter and any additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in Section 75-5-209 until the minor attains majority or marries, but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by Part 2, Guardians of Minors.

(2) (a) A conservator has the power to compel the production of the protected person's estate documents, including the protected person's will, trust, power of attorney, and any advance health care directives.

(b) If a guardian is also appointed for the ward, the conservator shall share with the guardian the estate documents the conservator receives.

(3) A conservator has power without court authorization or confirmation to invest and reinvest funds of the estate as would a trustee.

(4) A conservator, acting reasonably in efforts to accomplish the purpose for which the conservator was appointed, may use the funds of the estate and act without court authorization or confirmation, to:

(a) collect, hold, and retain assets of the estate, including land in another state, until, in the conservator's judgment, disposition of the assets should be made, and the assets may be retained

even though they include an asset in which the conservator is personally interested;

(b) receive additions to the estate;

(c) continue or participate in the operation of any business or other enterprise;

(d) acquire an undivided interest in an estate asset in which the conservator, in any fiduciary capacity, holds an undivided interest;

(e) invest and reinvest estate assets in accordance with Subsection (3);

(f) deposit estate funds in a bank including a bank operated by the conservator;

(g) acquire or dispose of an estate asset, including land in another state, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(h) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, and raze existing or erect new party walls or buildings;

(i) (A) subdivide, develop, or dedicate land to public use;

(B) make or obtain the vacation of plats and adjust boundaries;

(C) adjust differences in valuation on exchange or partition by giving or receiving considerations; and

(D) dedicate easements to public use without consideration;

(j) enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship;

(k) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(l) grant an option involving disposition of an estate asset or take an option for the acquisition of any asset;

(m) vote a security, in person or by general or limited proxy;

(n) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(o) (i) sell or exercise stock subscription or conversion rights; and

(ii) consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(p) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery, but the conservator is liable for

any act of the nominee in connection with the stock so held;

(q) insure the assets of the estate against damage or loss and the conservator against liability with respect to third persons;

(r) (i) borrow money to be repaid from estate assets or otherwise; and

(ii) advance money for the protection of the estate or the protected person, and for all expenses, losses, and liabilities sustained in the administration of the estate or because of the holding or ownership of any estate assets, and the conservator has a lien on the estate as against the protected person for advances so made;

(s) (i) pay or contest any claim;

(ii) settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and

(iii) release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;

(t) pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration, and protection of the estate;

(u) allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;

(v) pay any sum distributable to a protected person or dependent without liability to the conservator, by paying the sum to the distributee or by paying the sum for the use of the distributee either to the distributee's guardian, or if none, to a relative or other person with custody of the person;

(w) (i) employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise or assist in the performance of administrative duties;

(ii) act upon a recommendation made by a person listed in Subsection (4)(w)(i) without independent investigation; and

(iii) instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of the conservator's duties;

(y) act as a qualified beneficiary of any trust in which the protected person is a qualified beneficiary; and

(z) execute and deliver the instruments that will accomplish or facilitate the exercise of the powers vested in the conservator.

Section 5. Section 75-10-201 is amended to read:

75-10-201. Creation of power of appointment.

(1) A power of appointment is created only if:

(a) the instrument creating the power~~[-(i)]~~ is valid under applicable law; and

~~[(ii) except as otherwise provided in Subsection (2), transfers the appointive property; and]~~

(b) the terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

(2) ~~[Subsection (1)(a)(ii) does not apply to the creation of a]~~ A power of appointment may be created by the exercise of a power of appointment.

(3) A power of appointment may not be created in a deceased individual.

(4) Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.

CHAPTER 245**H. B. 411**

Passed March 5, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**MOTOR VEHICLE
 FRANCHISE AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the New Automobile Franchise Act related to recall repairs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a franchisor from offsetting the cost of a recall repair;
- ▶ requires a franchisor to give reasonable compensation to a franchisee for a recall repair;
- ▶ requires a franchisor to compensate a franchisee for a used motor vehicle that is subject to a stop-sale or do-not-drive order under certain circumstances;
- ▶ provides alternative recall repair compensation;
- ▶ makes a recall repair subject to a franchisor audit;
- ▶ establishes deadlines for recall repair compensation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-14-102, as last amended by Laws of Utah 2015, Chapter 268
 13-14-201, as last amended by Laws of Utah 2012, Chapter 186
 13-14-204, as last amended by Laws of Utah 2016, Chapter 348

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

Section 1. Section 13-14-102 is amended to read:

13-14-102. Definitions.

As used in this chapter:

(1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.

(2) "Affected municipality" means an incorporated city or town:

(a) that is located in the notice area; and

(b) (i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of

the same line-make owned by another franchisee; or

(ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.

(3) "Affiliate" has the meaning set forth in Section 16-10a-102.

(4) "Aftermarket product" means any product or service not included in the franchisor's suggested retail price of the new motor vehicle, as that price appears on the label required by 15 U.S.C. Sec. 1232(f).

(5) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new motor vehicle dealer; and

(b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.

(6) "Department" means the Department of Commerce.

(7) "Do-not-drive order" means an order issued by a franchisor that instructs an individual not to operate a motor vehicle of the franchisor's line-make due to a recall.

[~~7~~](8) "Executive director" means the executive director of the Department of Commerce.

[~~8~~](9) (a) "Franchise" or "franchise agreement" means a written agreement, or in the absence of a written agreement, then a course of dealing or a practice for a definite or indefinite period, in which:

(i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

(b) "Franchise" or "franchise agreement" includes a sales and service agreement.

[~~9~~](10) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.

[~~10~~](11) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, assembled, represented, or distributed by the franchisor, and includes:

(a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

(b) an intermediate distributor; and

(c) an agent, officer, or field or area representative of the franchisor.

[41] (12) "Lead" means the referral by a franchisor to a franchisee of a potential customer whose contact information was obtained from a franchisor's program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor's vehicles.

[42] (13) "Line-make" means:

(a) for other than a recreational vehicle, the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor; or

(b) for a recreational vehicle, a specific series of recreational vehicle product that:

(i) is identified by a common series trade name or trademark;

(ii) is targeted to a particular market segment, as determined by decor, features, equipment, size, weight, and price range;

(iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;

(iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(v) a franchise agreement authorizes a dealer to sell.

[43] (14) "Mile" means 5,280 feet.

[44] (15) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

[45] (16) (a) "Motor vehicle" means:

(i) a travel trailer;

(ii) except as provided in Subsection [45] (16)(b), a motor vehicle as defined in Section 41-3-102;

(iii) a semitrailer as defined in Section 41-1a-102;

(iv) a trailer as defined in Section 41-1a-102; and

(v) a recreational vehicle.

(b) "Motor vehicle" does not include:

(i) a motorcycle as defined in Section 41-1a-102;

(ii) an off-highway vehicle as defined in Section 41-3-102; and

(iii) a small trailer as defined in Section 41-3-102.

[46] (17) "New motor vehicle" means a motor vehicle [as defined in Subsection (15)] that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles [unless the motor vehicle is a trailer,

travel trailer, or semitrailer, in which case the mileage limit does not apply].

[47] (18) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1)(a) to sell new motor vehicles.

[48] (19) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

[49] (20) "Notice area" means the geographic area that is:

(a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and

(b) located within a county with a population of at least 225,000.

[20] (21) "Primary market area" means:

(a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or

(b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.

(22) "Recall" means a determination by a franchisor or the National Highway Traffic Safety Administration that a motor vehicle has a safety-related defect or fails to meet a federal safety or emissions standard.

(23) "Recall repair" means any diagnostic work, labor, or part necessary to resolve an issue that is the basis of a recall.

[24] (24) (a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer;

(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a van.

[22] (25) (a) "Relevant market area," except with respect to recreational vehicles, means:

(i) as applied to an existing dealership that is located in a county with a population of less than 225,000:

(A) the county in which the existing dealership is located; and

(B) the area within a 15-mile radius of the existing dealership; or

(ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.

(b) “Relevant market area,” with respect to recreational vehicles, means:

(i) the county in which the dealership is to be established or relocated; and

(ii) the area within a 35-mile radius from the site of the existing dealership.

[(23)] (26) “Sale, transfer, or assignment” means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

[(24)] (27) “Serve” or “served,” unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

[(25)] (28) “Site-control agreement” means an agreement, however denominated and regardless of the agreement’s form or of the parties to the agreement, that has the effect of:

(a) controlling in any way the use and development of the premises upon which a franchisee’s business operations are located;

(b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee’s business operations are located; or

(c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee’s lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.

(29) “Stop-sale order” means an order issued by a franchisor that prohibits a franchisee from selling or leasing a certain used motor vehicle of the franchisor’s line-make, which then or thereafter is in the franchisee’s inventory, due to a recall.

[(26)] (30) “Travel trailer,” “camping trailer,” or “fifth wheel trailer” means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(31) “Used motor vehicle” means a motor vehicle that:

(a) has been titled and registered to a purchaser other than a franchisee; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

(32) “Value of a used motor vehicle” means the average trade-in value for a used motor vehicle of the same year, make, and model as reported in a recognized, independent third-party used motor vehicle guide.

[(27)] (33) “Written,” “write,” “in writing,” or other variations of those terms shall include all reliable forms of electronic communication.

Section 2. Section 13-14-201 is amended to read:

13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.

(1) A franchisor may not in this state:

(a) except as provided in Subsection (3), require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;

(b) require a franchisee to:

(i) participate monetarily in any advertising campaign; or

(ii) contest, or purchase any promotional materials, display devices, or display decorations or materials;

(c) require a franchisee to change the capital structure of the franchisee’s dealership or the means by or through which the franchisee finances the operation of the franchisee’s dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;

(d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

(i) maintains a reasonable line of credit for each make or line of vehicles; and

(ii) complies with reasonable capital and facilities requirements of the franchisor;

(e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:

(i) relieve a franchisor from any liability, including notice and hearing rights imposed on the franchisor by this chapter; or

(ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;

(f) require a franchisee to change the location of the principal place of business of the franchisee’s dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable or cause the franchisee to lose control of the premises or impose any other unreasonable requirement related to the facilities or premises;

(g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;

(h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or

prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing between the franchisor and franchisee;

(i) adopt, change, establish, enforce, modify, or implement a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to ~~its~~ the franchisor's franchisees so that the plan or system is not fair, reasonable, and equitable, including a plan or system that imposes a vehicle sales objective, goal, or quota on a franchisee, or that evaluates a franchisee's sales effectiveness or overall sales performance, without providing a reasonable opportunity for the franchisee to acquire the necessary vehicles in a timely manner from the franchisor on commercially reasonable terms;

(j) increase the price of any new motor vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made prior to the franchisee's receipt of an official written price increase notification;

(k) fail to indemnify and hold harmless ~~its~~ the franchisor's franchisee against any judgment for damages or settlement approved in writing by the franchisor:

(i) including court costs and attorney fees arising out of actions, claims, or proceedings including those based on:

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

(ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;

(l) threaten or coerce a franchisee to waive or forbear ~~its~~ the franchisee's right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

(m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;

(n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing dealer facility or facilities, including by:

(i) requiring or otherwise coercing a franchisee to exclude or remove from the franchisee's facility operations the selling or servicing of a line-make of vehicles for which the franchisee has a franchise agreement to utilize the facilities; or

(ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or line-make in an existing facility owned or occupied by the franchisee that includes the selling or servicing of another franchise or line-make at the facility provided that the franchisee gives the franchisor written notice of the franchise co-location;

(o) fail to include in any franchise agreement or other agreement governing a franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise the following language or language to the effect that: "If any provision in this agreement contravenes the laws or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force.";

(p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers who acquire the vehicle in this state except through a franchisee with whom the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;

(q) engage in the distribution or sale of a recreational vehicle that is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle;

(r) except as provided in Subsection (2), authorize or permit a person to perform warranty service repairs on motor vehicles, except warranty service repairs:

(i) by a franchisee with whom the franchisor has entered into a franchise agreement for the sale and service of the franchisor's motor vehicles; or

(ii) on owned motor vehicles by a person or government entity who has purchased new motor vehicles pursuant to a franchisor's fleet discount program;

(s) fail to provide a franchisee with a written franchise agreement;

(t) (i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other provisions of this chapter:

(A) unreasonably fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make;

- (B) unreasonably require a dealer to:
- (I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or
- (II) purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles;
- (ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle franchisor may split a line-make between motor home and travel trailer products;
- (u) except as provided in Subsection (6), directly or indirectly:
- (i) own an interest in a new motor vehicle dealer or dealership;
- (ii) operate or control a new motor vehicle dealer or dealership;
- (iii) act in the capacity of a new motor vehicle dealer, as defined in Section 13-14-102; or
- (iv) operate a motor vehicle service facility;
- (v) fail to timely pay for all reimbursements to a franchisee for incentives and other payments made by the franchisor;
- (w) directly or indirectly influence or direct potential customers to franchisees in an inequitable manner, including:
- (i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of the franchisee's products or services in an amount exceeding the actual cost of the referral;
- (ii) giving a customer referral to a franchisee on the condition that the franchisee agree to sell the vehicle at a price fixed by the franchisor; or
- (iii) advising a potential customer as to the amount that the potential customer should pay for a particular product;
- (x) fail to provide comparable delivery terms to each franchisee for a product of the franchisor, including the time of delivery after the placement of an order by the franchisee;
- (y) if a franchisor provides personnel training [~~is provided by the franchisor to its~~] to the franchisor's franchisees, unreasonably fail to make that training available to each franchisee on proportionally equal terms;
- (z) condition a franchisee's eligibility to participate in a sales incentive program on the requirement that a franchisee use the financing services of the franchisor or a subsidiary or affiliate of the franchisor for inventory financing;
- (aa) make available for public disclosure, except with the franchisee's permission or under subpoena or in any administrative or judicial proceeding in which the franchisee or the franchisor is a party, any confidential financial information regarding a franchisee, including:
- (i) monthly financial statements provided by the franchisee;
- (ii) the profitability of a franchisee; or
- (iii) the status of a franchisee's inventory of products;
- (bb) use any performance standard, incentive program, or similar method to measure the performance of franchisees unless the standard or program:
- (i) is designed and administered in a fair, reasonable, and equitable manner;
- (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample; and
- (iii) is, upon request by a franchisee, disclosed and explained in writing to the franchisee, including:
- (A) how the standard or program is designed;
- (B) how the standard or program will be administered; and
- (C) the types of data that will be collected and used in the application of the standard or program;
- (cc) other than sales to the federal government, directly or indirectly, sell, lease, offer to sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the franchisor, except through a franchised new motor vehicle dealer;
- (dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable operating requirements, except that this Subsection (1)(dd) may not be construed to limit the right of a financing subsidiary to engage in business practices in accordance with the usage of trade in retail and wholesale motor vehicle financing;
- (ee) condition the franchisor's participation in co-op advertising for a product category on the franchisee's participation in any program related to another product category or on the franchisee's achievement of any level of sales in a product category other than that which is the subject of the co-op advertising;
- (ff) except as provided in Subsections (7) through (9), discriminate against a franchisee in the state in favor of another franchisee of the same line-make in the state:
- (i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is made available by the franchisor to another franchisee in the state during a similar time period;
- (ii) except as provided in Subsection (8), by using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the franchisee or later, that results in the sale of or offer to sell a new motor vehicle to one franchisee in the state at a higher price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is made available by the franchisor to another franchisee in the state during a similar time period;

(iii) except as provided in Subsection (9), by failing to provide or direct a lead in a fair, equitable, and timely manner; or

(iv) if the franchisee complies with any reasonable requirement concerning the sale of new motor vehicles, by using or considering the performance of any of its franchisees located in this state relating to the sale of the franchisor's new motor vehicles in determining the:

(A) dealer's eligibility to purchase program, certified, or other used motor vehicles from the franchisor;

(B) volume, type, or model of program, certified, or other used motor vehicles the dealer is eligible to purchase from the franchisor;

(C) price of any program, certified, or other used motor vehicles that the dealer is eligible to purchase from the franchisor; or

(D) availability or amount of any discount, credit, rebate, or sales incentive the dealer is eligible to receive from the manufacturer for the purchase of any program, certified, or other motor vehicle offered for sale by the franchisor;

(gg) (i) take control over funds owned or under the control of a franchisee based on the findings of a warranty audit ~~[or]~~, sales incentive audit, or recall repair audit, unless the following conditions are satisfied:

(A) the franchisor fully identifies in writing the basis for the franchisor's claim or charge back arising from the audit, including notifying the franchisee that the franchisee has 20 days from the day on which the franchisee receives the franchisor's claim or charge back to assert a protest in writing to the franchisor identifying the basis for the protest;

(B) the franchisee's protest shall inform the franchisor that the protest shall be submitted to a mediator in the state who is identified by name and address in the franchisee's notice to the franchisor;

(C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no later than 30 days after the day on which the franchisor receives the franchisee's protest of a claim or charge back;

(D) if mediation does not lead to a resolution of the protest, the protest shall be set for binding arbitration in the same venue in which the mediation occurred;

(E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:

(I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and

(II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;

(F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair audits, and sales incentive audits;

(G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably believes that the amount of the claim or charge back is related to a fraudulent act by the franchisee; and

(H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall be shared equally by the franchisor and the franchisee; or

(ii) require a franchisee to execute a written waiver of the requirements of Subsection (1)(gg)(i);

(hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product manufactured by the franchisor, or obtained by the franchisor for resale from a third-party supplier and the franchisor or its affiliate derives a financial benefit from the franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential status from the franchisor;

(ii) through an affiliate, take any action that would otherwise be prohibited under this chapter;

(jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the cost of a warranty repair for which the ~~[franchisee is paid by the]~~ franchisor pays the franchisee;

(kk) except as provided by the audit provisions of this chapter, take an action designed to recover a cost related to a recall, including:

(i) imposing a fee, surcharge, or other charge on a franchisee;

(ii) reducing the compensation the franchisor owes to a franchisee;

(iii) removing the franchisee from an incentive program; or

(iv) reducing the amount the franchisor owes to a franchisee under an incentive program;

~~[(kk)]~~ (ll) directly or indirectly condition any of the following actions on the willingness of a franchisee, prospective new franchisee, or owner of an interest in a dealership facility to enter into a site-control agreement:

(i) the awarding of a franchise to a prospective new franchisee;

(ii) the addition of a line-make or franchise to an existing franchisee;

(iii) the renewal of an existing franchisee's franchise;

(iv) the approval of the relocation of an existing franchisee's dealership facility, unless the franchisor pays, and the franchisee voluntarily accepts, additional specified cash consideration to facilitate the relocation; or

(v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor pays, and the buyer voluntarily accepts, additional

specified cash consideration to facilitate the sale or transfer;

~~(ll)~~ (mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or accessories that:

(i) were specified for and sold to the franchisee under an automated ordering system required by the franchisor; and

(ii) (A) are in good, resalable condition; and

(B) (I) the franchisee received within the previous 12 months; or

(II) are listed in the current parts catalog;

~~(mm)~~ (nn) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's right, by threatening:

(i) to impose a detriment upon the franchisee's business; or

(ii) to withhold any entitlement, benefit, or service:

(A) to which the franchisee is entitled under a franchise agreement, contract, statute, rule, regulation, or law; or

(B) that has been granted to more than one other franchisee of the franchisor in the state;

~~(nn)~~ (oo) coerce a franchisee to establish, or provide by agreement, program, or incentive provision that a franchisee must establish, a price at which the franchisee is required to sell a product or service that is:

(i) sold in connection with the franchisee's sale of a motor vehicle; and

(ii) (A) in the case of a product, not manufactured, provided, or distributed by the franchisor or an affiliate; or

(B) in the case of a service, not provided by the franchisor or an affiliate;

~~(oo)~~ (pp) except as necessary to comply with a health or safety law, or to comply with a technology requirement compliance with which is necessary to sell or service a motor vehicle that the franchisee is authorized or licensed by the franchisor to sell or service, coerce or require a franchisee, through a penalty or other detriment to the franchisee's business, to:

(i) construct a new dealer facility or materially alter or remodel an existing dealer facility before the date that is 10 years after the date the construction of the new dealer facility at that location was completed, if the construction substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved; or

(ii) materially alter or remodel an existing dealer facility before the date that is 10 years after the date the previous alteration or remodeling at that location was completed, if the previous alteration or remodeling substantially complied with the

franchisor's brand image standards or plans that the franchisor provided or approved; or

~~(pp)~~ (qq) notwithstanding the terms of a franchise agreement providing otherwise and subject to Subsection (14):

(i) coerce or require a franchisee, including by agreement, program, or incentive provision, to purchase a good or service, relating to a facility construction, alteration, or remodel, from a vendor that a franchisor or its affiliate selects, identifies, or designates, without allowing the franchisee, after consultation with the franchisor, to obtain a like good or service of substantially similar quality from a vendor that the franchisee chooses; or

(ii) coerce or require a franchisee, including by agreement, program, or incentive provision, to lease a sign or other franchisor image element from the franchisor or an affiliate without providing the franchisee the right to purchase a sign or other franchisor image element of like kind and quality from a vendor that the franchisee chooses.

(2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to perform warranty service repairs on motor vehicles if the warranty services is for a franchisor of recreational vehicles.

(3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

(a) new motor vehicle models offered for sale by the franchisor; and

(b) parts to service the repair of the new motor vehicles.

(4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee maintain separate sales personnel or display space.

(5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

(6) (a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a period not to exceed 12 months if:

(i) (A) the person from whom the franchisor acquired the interest in or control of the new motor vehicle dealership was a franchised new motor vehicle dealer; and

(B) the franchisor's interest in the new motor vehicle dealership is for sale at a reasonable price and on reasonable terms and conditions; or

(ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose of broadening the diversity of its dealer body and facilitating the ownership of a new motor vehicle dealership by a person who:

(A) is part of a group that has been historically underrepresented in the franchisor's dealer body;

(B) would not otherwise be able to purchase a new motor vehicle dealership;

(C) has made a significant investment in the new motor vehicle dealership which is subject to loss;

(D) has an ownership interest in the new motor vehicle dealership; and

(E) operates the new motor vehicle dealership under a plan to acquire full ownership of the dealership within a reasonable period of time and under reasonable terms and conditions.

(b) After receipt of the advisory board's recommendation, the executive director may, for good cause shown, extend the time limit set forth in Subsection (6)(a) for an additional period not to exceed 12 months.

(c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in this state prior to May 1, 2000, may continue to engage in that activity, but may not expand that activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle service facilities after May 1, 2000.

(d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a new motor vehicle dealership trading in a line-make of motor vehicle if:

(i) as to that line-make of motor vehicle, there are no more than four franchised new motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;

(ii) the franchisor does not own directly or indirectly, more than a 45% interest in the dealership;

(iii) at the time the franchisor first acquires ownership or assumes operation or control of the dealership, the distance between the dealership thus owned, operated, or controlled and the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less than 150 miles;

(iv) all the franchisor's franchise agreements confer rights on the franchisee to develop and operate as many dealership facilities as the franchisee and franchisor shall agree are appropriate within a defined geographic territory or area; and

(v) as of January 1, 2000, no fewer than half of the franchisees of the line-make within the state own and operate two or more dealership facilities in the geographic area covered by the franchise agreement.

(7) Subsection (1)(ff) does not apply to recreational vehicles.

(8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is functionally available to all competing franchisees of the same line-make in the state on substantially comparable terms.

(9) Subsection (1)(ff)(iii) may not be construed to:

(a) permit provision of or access to customer information that is otherwise protected from

disclosure by law or by contract between a franchisor and a franchisee; or

(b) require a franchisor to disregard the preference volunteered by a potential customer in providing or directing a lead.

(10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business practices in accordance with the usage of trade in which the affiliate is engaged.

(11) (a) Subsection (1)(~~ll~~)(mm) does not apply to parts or accessories that the franchisee ordered and purchased outside of an automated parts ordering system required by the franchisor.

(b) In determining whether parts or accessories in a franchisee's inventory were specified and sold under an automated ordering system required by the franchisor, the parts and accessories in the franchisee's inventory are presumed to be the most recent parts and accessories that the franchisor sold to the franchisee.

(12) (a) Subsection (1)(~~mm~~)(nn) does not apply to a good faith settlement of a dispute, including a dispute relating to contract negotiations, in which the franchisee gives a waiver in exchange for fair consideration in the form of a benefit conferred on the franchisee.

(b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a waiver has been obtained in violation of Subsection (1)(~~mm~~)(nn).

(13) (a) As used in Subsection (1)(~~oo~~)(pp):

(i) "Materially alter":

(A) means to make a material architectural, structural, or aesthetic alteration; and

(B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition.

(ii) "Penalty or other detriment" does not include a payment under an agreement, incentive, or program that is offered to but declined or not accepted by a franchisee, even if a similar payment is made to another franchisee in the state that chooses to participate in the agreement, incentive, or program.

(b) Subsection (1)(~~oo~~)(pp) does not apply to:

(i) a program that provides a lump sum payment to assist a franchisee to make a facility improvement or to pay for a sign or a franchisor image element, if the payment is not dependent on the franchisee selling or purchasing a specific number of new vehicles;

(ii) a program that is in effect on May 8, 2012, with more than one franchisee in the state or to a renewal or modification of the program;

(iii) a program that provides reimbursement to a franchisee on reasonable, written terms for a substantial portion of the franchisee's cost of making a facility improvement or installing signage or a franchisor image element; or

(iv) a written agreement between a franchisor and franchisee, in effect before May 8, 2012, under which a franchisee agrees to construct a new dealer facility.

(14) (a) Subsection (1)(~~pp~~)(qq)(i) does not apply to:

(i) signage purchased by a franchisee in which the franchisor has an intellectual property right; or

(ii) a good used in a facility construction, alteration, or remodel that is:

(A) a moveable interior display that contains material subject to a franchisor's intellectual property right; or

(B) specifically eligible for reimbursement of over one-half its cost pursuant to a franchisor or distributor program or incentive granted to the franchisee on reasonable, written terms.

(b) Subsection (1)(~~pp~~)(qq)(ii) may not be construed to allow a franchisee to:

(i) impair or eliminate a franchisor's intellectual property right; or

(ii) erect or maintain a sign that does not conform to the franchisor's reasonable fabrication specifications and intellectual property usage guidelines.

Section 3. Section 13-14-204 is amended to read:

13-14-204. Franchisor's obligations related to service -- Franchisor audits -- Time limits.

(1) Each franchisor shall specify in writing to each of its the franchisor's franchisees licensed as a new motor vehicle dealer in this state:

(a) the franchisee's obligations for new motor vehicle preparation, delivery, and warranty service on its the franchisor's products;

(b) the schedule of compensation to be paid to the franchisee for parts, work, and service; and

(c) the time allowance for the performance of work and service.

(2) (a) The schedule of compensation described in Subsection (1) shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor.

(b) Time allowances described in Subsection (1) for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.

(3) (a) In the determination of what constitutes reasonable compensation under this section, the principal factor to be considered is the prevailing wage rates being paid by franchisees in the relevant market area in which the franchisee is doing business.

(b) (i) Compensation of the franchisee for warranty service or recall repair work may not be less than the amount charged by the franchisee for

like parts and service to retail or fleet customers, if the amounts are reasonable.

(ii) In the case of a recreational vehicle franchisee, reimbursement for parts used in the performance of warranty repairs, including those parts separately warranted directly to the consumer by a recreational vehicle parts supplier, may not be less than the franchisee's cost plus 20%.

(iii) For purposes of ~~this~~ Subsection (3)(b)(ii), the term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part when the part is purchased for a nonwarranty repair.

(4) A franchisor may not fail to:

(a) perform any warranty obligation;

(b) include in written notices of franchisor's recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or

~~(c) compensate any of the franchisees for repairs effected by the recall.]~~

(c) in accordance with Subsections (2) and (3), compensate a franchisee for all diagnostic work, labor, and parts the franchisor requires to perform a recall repair.

(5) If a franchisor disallows a franchisee's claim for a defective part, alleging that the part is not defective, the franchisor at ~~its~~ the franchisor's option shall:

(a) return the part to the franchisee at the franchisor's expense; or

(b) pay the franchisee the cost of the part.

(6) (a) A claim made by a franchisee pursuant to this section for diagnostic work, labor ~~and~~, or parts shall be paid within 30 days after ~~its~~ the claim's approval.

~~(b) [A claim shall be either approved or disapproved by the franchisor] The franchisor shall approve or disapprove a claim within 30 days after receipt of the claim on a form generally used by the franchisor and containing the generally required information. Any claim not specifically disapproved of in writing within 30 days after the receipt of the form is considered to be approved and payment shall be made within 30 days.~~

(7) [Warranty] A franchisor may conduct warranty service audits and recall repair audits of the franchisor's franchisee records [may be conducted by the franchisor] on a reasonable basis.

(8) A franchisor may deny a franchisee's claim for warranty compensation [may be denied] or recall repair compensation only if:

(a) the franchisee's claim is based on a nonwarranty repair or a nonrecall repair;

(b) the franchisee lacks material documentation for the claim;

(c) the franchisee fails to comply materially with specific substantive terms and conditions of the

franchisor's warranty compensation program or recall repair compensation program; or

(d) the franchisor has a bona fide belief based on competent evidence that the franchisee's claim is intentionally false, fraudulent, or misrepresented.

(9) (a) Any charge [~~backs for warranty parts~~] back for a warranty part or service compensation [~~and service incentives shall only be~~], recall repair compensation, or service incentive is only enforceable for the six-month period immediately following the [~~date the payment for warranty reimbursement was made by the franchisor~~] day on which the franchisor makes the payment compensating the franchisee for the warranty part or service, recall repair, or service incentive.

(b) Except as provided in Subsection (9)(e), all charge backs levied by a franchisor for sales compensation or sales incentives arising out of the sale or lease of a motor vehicle sold or leased by a franchisee shall be compensable only if written notice of the charge back is received by the franchisee within six months immediately following the sooner of:

(i) the [~~date when~~] day on which the sales incentive program terminates; or

(ii) the [~~date when~~] day on which the franchisor makes the payment for the sales compensation or sales incentive [~~was made by the franchisor~~] to the franchisee.

(c) (i) Upon an audit, the franchisor shall provide the franchisee automated or written notice explaining the amount of and reason for a charge back.

(ii) A franchisee may respond in writing within 30 days after the notice under Subsection (9)(c)(i) to:

(A) explain a deficiency; or

(B) provide materials or information to correct and cure compliance with a provision that is a basis for a charge back.

(d) A charge back:

(i) may not be based on a nonmaterial error that is clerical in nature; and

(ii) (A) shall be based on one or more specific instances of material noncompliance with the franchisor's warranty compensation program [~~or~~], sales incentive program, recall repair program, or recall compensation program; and

(B) may not be extrapolated from a sampling of warranty claims, recall repair claims, or sales incentive claims.

(e) The time limitations of this Subsection (9) do not preclude charge backs for any fraudulent claim that was previously paid.

(10) (a) If within 30 days after the day on which a franchisor issues an initial notice of recall a part or remedy is not reasonably available to perform the recall repair on a used motor vehicle, each calendar month thereafter the franchisor shall pay the

franchisee an amount equal to at least 1.35% of the value of the used motor vehicle, if:

(i) the franchisee holding the used motor vehicle for sale is authorized to sell and service a new vehicle of the same line-make;

(ii) after May 7, 2018, the franchisor issues a stop-sale or do-not-drive order on the used motor vehicle; and

(iii) (A) the used motor vehicle is in the franchisee's inventory at the time the franchisor issued the order described in Subsection (10)(a)(ii); or

(B) after the franchisor issues the order described in Subsection (10)(a)(ii), the franchisee takes the used motor vehicle into the franchisee's inventory at the termination of the consumer lease for the vehicle, as a consumer trade-in accompanying the purchase of a new vehicle from the franchisee, or for any other reason in the ordinary course of business.

(b) A franchisor shall pay the compensation described in Subsection (10)(a):

(i) beginning:

(A) 30 days after the day on which the franchisee receives the stop-sale or do-not-drive order; or

(B) if a franchisee obtains the used motor vehicle more than 30 days after the day on which the franchisee receives the stop-sale or do-not-drive order, the day on which the franchisee obtains the used motor vehicle; and

(ii) ending the earlier of the day on which:

(A) the franchisor makes the recall part or remedy available for order and prompt shipment to the franchisee; or

(B) the franchisee sells, trades, or otherwise disposes of the used motor vehicle.

(c) A franchisor shall prorate the first and last payment for a used motor vehicle to a franchisee under this Subsection (10).

(d) A franchisor may direct the manner in which a franchisee demonstrates the inventory status of an affected used motor vehicle to determine eligibility under this Subsection (10), if the manner is not unduly burdensome.

(11) (a) A franchisee that offsets recall repair compensation received from a franchisor under this section against recall repair compensation the franchisee receives under a state or federal recall repair compensation remedy may pursue any other available remedy against the franchisor.

(b) As an alternative to providing recall repair compensation under this section, a franchisor may compensate a franchisee for a recall repair:

(i) under a national recall repair compensation program, if the compensation is equal to or greater than the compensation provided under this section; or

(ii) as the franchisor and franchisee otherwise agree, if the compensation is equal to or greater than the compensation provided under this section.

(c) Nothing in this section requires a franchisor to provide compensation to a franchisee that exceeds the value of the used motor vehicle affected by a recall.

CHAPTER 246**H. B. 419**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

OIL AND GAS AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies provisions relating to the pooling of oil and gas interests.

Highlighted Provisions:

This bill:

- ▶ authorizes the Board of Oil, Gas, and Mining to make a pooling order retroactive under certain circumstances;
- ▶ allows existing pooling orders to apply to additional wells drilled in the same drilling unit under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

40-6-6.5, as last amended by Laws of Utah 2017, Chapter 220

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

Section 1. Section 40-6-6.5 is amended to read:

40-6-6.5. Pooling of interests for the development and operation of a drilling unit -- Board may order pooling of interests -- Payment of costs and royalty interests -- Monthly accounting.

(1) Two or more owners within a drilling unit may bring together their interests for the development and operation of the drilling unit.

(2) (a) In the absence of a written agreement for pooling, including a joint operating agreement, the board may enter an order pooling all interests in the drilling unit for the development and operation of the drilling unit.

(b) The order shall be made upon terms and conditions that are just and reasonable.

(c) The board may adopt terms appearing in [an] a joint operating agreement:

(i) for the drilling unit that is in effect between the consenting owners;

(ii) submitted by any party to the proceeding; or

(iii) submitted by its own motion.

(3) (a) Operations incident to the drilling of a well upon any portion of a drilling unit covered by a pooling order shall be deemed for all purposes to be

the conduct of the operations upon each separately owned tract in the drilling unit by the several owners.

(b) The portion of the production allocated or applicable to a separately owned tract included in a drilling unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from that tract by a well drilled on it.

(4) (a) (i) Each pooling order shall provide for the payment of just and reasonable costs incurred in the drilling and operating of the drilling unit, including:

(A) the costs of drilling, completing, equipping, producing, gathering, transporting, processing, marketing, and storage facilities;

(B) reasonable charges for the administration and supervision of operations; and

(C) other costs customarily incurred in the industry.

(ii) An owner is not liable under a pooling order for costs or losses resulting from the gross negligence or willful misconduct of the operator.

(b) Each pooling order shall provide for reimbursement to the consenting owners for any nonconsenting owner's share of the costs out of production from the drilling unit attributable to the nonconsenting owner's tract.

(c) Each pooling order shall provide that each consenting owner shall own and be entitled to receive, subject to royalty or similar obligations:

(i) the share of the production of the well applicable to the consenting owner's interest in the drilling unit; and

(ii) unless the consenting owner has agreed otherwise, the consenting owner's proportionate part of the nonconsenting owner's share of the production until costs are recovered as provided in Subsection (4)(d).

(d) (i) Each pooling order shall provide that each nonconsenting owner shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the nonconsenting owner's interest in the drilling unit after the consenting owners have recovered from the nonconsenting owner's share of production the following amounts less any cash contributions made by the nonconsenting owner:

(A) 100% of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including stock tanks, separators, treaters, pumping equipment, and piping;

(B) 100% of the nonconsenting owner's share of the estimated cost to plug and abandon the well as determined by the board;

(C) 100% of the nonconsenting owner's share of the cost of operation of the well commencing with first production and continuing until the consenting owners have recovered all costs; and

(D) an amount to be determined by the board but not less than 150% nor greater than 400% of the

nonconsenting owner's share of the costs of staking the location, wellsite preparation, rights-of-way, rigging up, drilling, reworking, recompleting, deepening or plugging back, testing, and completing, and the cost of equipment in the well to and including the wellhead connections.

(ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is that interest which would have been chargeable to the nonconsenting owner had the nonconsenting owner initially agreed to pay the nonconsenting owner's share of the costs of the well from commencement of the operation.

(iii) A reasonable interest charge may be included if the board finds it appropriate.

(e) If there is any dispute about costs, the board shall determine the proper costs.

(5) If a nonconsenting owner's tract in the drilling unit is subject to a lease or other contract for the development of oil and gas, the pooling order shall provide that the consenting owners shall pay any royalty interest or other interest in the tract not subject to the deduction of the costs of production from the production attributable to that tract.

(6) (a) If a nonconsenting owner's tract in the drilling unit is not subject to a lease or other contract for the development of oil and gas, the pooling order shall provide that the nonconsenting owner shall receive as a royalty:

(i) the acreage weighted average landowner's royalty based on each leased fee and privately owned tract within the drilling unit, proportionately reduced by the percentage of the nonconsenting owner's interest in the drilling unit; or

(ii) if there is no leased fee or privately owned tract within the drilling unit other than the one owned by the nonconsenting owner, 16-2/3% proportionately reduced by the percentage of the nonconsenting owner's interest in the drilling unit.

(b) The royalty shall be:

(i) determined prior to the commencement of drilling; and

(ii) paid from production attributable to each tract until the consenting owners have recovered the costs specified in Subsection (4)(d).

(7) Once the consenting owners have recovered the costs, as described in Subsection (6)(b)(ii), the royalty shall be merged back into the nonconsenting owner's working interest and shall be terminated.

(8) The operator of a well under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with monthly statements specifying:

(a) costs incurred;

(b) the quantity of oil or gas produced; and

(c) the amount of oil and gas proceeds realized from the sale of the production during the preceding month.

(9) Each pooling order shall provide that when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in Subsection (4)(d):

(a) the relinquished interest of the nonconsenting owner shall automatically revert to him;

(b) the nonconsenting owner shall from that time:

(i) own the same interest in the well and the production from it; and

(ii) be liable for the further costs of the operation as if he had participated in the initial drilling and operation; and

(c) costs are payable out of production unless otherwise agreed between the nonconsenting owner and the operator.

(10) Each pooling order shall provide that in any circumstance where the nonconsenting owner has relinquished his share of production to consenting owners or at any time fails to take his share of production in-kind when he is entitled to do so, the nonconsenting owner is entitled to:

(a) an accounting of the oil and gas proceeds applicable to his relinquished share of production; and

(b) payment of the oil and gas proceeds applicable to that share of production not taken in-kind, net of costs.

(11) (a) A pooling order may be made effective retroactively to the date of first production of a well to which ~~it~~ the pooling order applies, ~~even if~~ subject to Subsection (11)(b).

(b) If the retroactive date predates the board's order establishing the drilling unit, [if] the retroactive date is authorized only if:

(i) no party to the board's proceeding objects to the retroactive application[-]; or

(ii) an objection is received by the board and the board finds a party has engaged in inequitable conduct prejudicing another party's correlative right.

~~[(b)]~~ (c) A pooling order made retroactive under this section is binding upon a party owning an interest in the drilling unit who receives proper notice of the board's proceeding.

(12) Except as otherwise provided by a rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the terms and conditions of the board's initial order pooling all interests in a drilling unit, including the terms and conditions of a joint operating agreement as adopted by the board, shall apply to all subsequently drilled wells in the drilling unit, except as modified by:

(a) an accounting for actual costs incurred for each subsequently drilled well in the drilling unit;

(b) an accounting for the consenting or nonconsenting status of the owner of each subsequently drilled well in the drilling unit; and

(c) the board after the filing of and hearing upon a petition filed by an affected owner desiring a modification.

CHAPTER 247**H. B. 448**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**PODIATRIC PHYSICIAN
PRACTICE AMENDMENTS**

Chief Sponsor: Justin L. Fawson
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends provisions related to the scope of practice for a licensed podiatric physician.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the scope of practice for a licensed podiatric physician; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-5a-103, as enacted by Laws of Utah 2015, Chapter 230

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

Section 1. Section 58-5a-103 is amended to read:**58-5a-103. Scope of practice.**

(1) Subject to ~~[Subsections (4) and (5)]~~ the provisions of this section, an individual licensed as a podiatric physician under this chapter may perform a surgical procedure on a bone of the foot or ankle~~], except that the individual].~~

(2) Except as provided in Subsections (3) and (4), an individual licensed as a podiatric physician under this chapter may not perform:

- (a) an ankle fusion;
- (b) a massive ankle reconstruction; or
- (c) a reduction of a trimalleolar ankle fracture.

~~[(2) Notwithstanding Subsections (1)(a), (b), and (c), and subject to Subsections (4) and (5), an individual licensed as a podiatric physician under this chapter that meets the additional training requirements described in Subsection (3) may perform a surgical procedure that is related to the treatment of a foot or ankle condition, including the treatment of a foot or ankle condition that involves the soft tissues, including tendons, ligaments, and nerves, of the foot or ankle, except that the individual may only:]~~

(3) An individual licensed as a podiatric physician under this chapter who meets the requirements described in Subsection (4) may only:

(a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle joint;

(b) treat a foot or ankle condition using hardware, including screws, plates, staples, pins, and wires, if at least one portion of the hardware system is attached to a bony structure at or below the ankle mortise; and

(c) place hardware for the treatment of soft tissues in the foot or ankle no more proximal than the distal 10 centimeters of the tibia.

~~[(3) An]~~ (4) Subject to Subsection (3), an individual licensed as a podiatric physician under this chapter may ~~[not]~~ only perform ~~[the procedures]~~ a procedure described in Subsection (2) ~~[unless]~~ if the individual:

(a) (i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education; and

(ii) is board certified in reconstructive rearfoot and ankle surgery by the American Board of Foot and Ankle Surgery;

(b) (i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery; and

(iii) provides the division documentation that the podiatric physician has completed training or experience, which the division determines is acceptable, in standard or advanced ~~[midfoot,]~~ rearfoot~~],~~ and ankle procedures; or

(c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine and surgery that was at least two years in length and that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery;

(B) if the residency described in Subsection ~~[(3)]~~ (4)(c)(i) is a PSR-24 24-month podiatric surgical residency, provides proof that the individual completed the residency, to a hospital that is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot and ankle surgery; or

(C) in addition to the residency described in Subsection ~~[(3)]~~ (4)(c)(i), has completed a fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical Education at the time of completion; and

(iii) provides the division documentation that the podiatric physician has completed training and experience, which the division determines is acceptable, in standard or advanced ~~[midfoot,]~~ rearfoot~~],~~ and ankle procedures.

[44] (5) An individual licensed as a podiatric physician under this chapter may not perform an amputation proximal to Chopart's joint.

[45] (6) An individual licensed as a podiatric physician under this chapter may not perform a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle, or on a structure related to the foot or ankle above the ankle, unless the individual performs the surgical treatment:

(a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as defined in Section 26-21-2; and

(b) subject to review by a quality care review body that includes qualified, licensed physicians and surgeons.

CHAPTER 248**H. B. 452**

Passed March 7, 2018
Approved March 19, 2018
Effective May 8, 2018

**LEGISLATIVE FISCAL
ANALYST AMENDMENTS**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies the statutory duties of the legislative fiscal analyst.

Highlighted Provisions:

This bill:

- ▶ requires the legislative fiscal analyst to evaluate current and long-term trends relating to taxes and federal fund receipts;
- ▶ modifies fiscal estimate requirements;
- ▶ modifies revenue estimate review requirements; and
- ▶ requires the legislative fiscal analyst to prepare a three-year cycle of analysis on revenue volatility and budget matters.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-13, as last amended by Laws of Utah 2017, Chapters 255 and 466

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

Section 1. Section 36-12-13 is amended to read:**36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.**

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) (i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive

Appropriations Committee before each annual general session of the Legislature;

[~~(a)~~] (b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

[~~(b) to prepare cost estimates on all proposed bills that anticipate state government expenditures;]~~

[~~(c) to prepare cost estimates on all proposed bills that anticipate expenditures by county, municipal, local district, or special service district governments;]~~

[~~(d) to prepare cost estimates on all proposed bills that anticipate direct expenditures by any Utah resident or business, and the cost to the overall impacted Utah resident or business population;]~~

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, local district, or special service district governments; and

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses;

[~~(e)~~] (d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

[~~(f) to prepare a review and analysis of revenue estimates for existing and proposed revenue acts, which shall include a comparison of:~~

[~~(i) current estimates to 15-year trends by tax type; and]~~

[~~(ii) current federal fund receipt estimates to 15-year trends;]~~

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test comparing estimated future revenue to and expenditure from major funds and tax types under various potential economic conditions;

~~(g)~~ (f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

~~(h)~~ (g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

~~(i)~~ (h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

- (i) debt;
- (ii) long-term liabilities;
- (iii) contingent liabilities;
- (iv) General Fund borrowing;
- (v) reserves;
- (vi) fund and nonlapsing balances; and
- (vii) cash funded capital investments;

~~(j)~~ (i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

~~(k)~~ (j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

~~(l)~~ (k) to conduct organizational and management improvement studies;

~~(m)~~ (l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

~~(n)~~ (m) to recommend areas for research studies by the executive department or the interim committees;

~~(o)~~ (n) to appoint and develop a professional staff within budget limitations;

~~(p)~~ (o) to prepare and submit the annual budget request for the office;

~~(q)~~ (p) to develop a taxpayer receipt:

- (i) available to taxpayers through a website; and
- (ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

~~(r)~~ (q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

~~(3) The Office of the Legislative Fiscal Analyst shall report the review and analysis required under Subsection (2)(f) to the Executive Appropriations Committee of the Legislature before each upcoming annual general session of the Legislature.]~~

~~(4)~~ (3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

~~(5)~~ (4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

CHAPTER 249**H. B. 456**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

ALCOHOL AMENDMENTS

Chief Sponsor: Brad R. Wilson

Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies provisions related to the regulation of alcoholic beverages.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies defined terms;
- ▶ clarifies the appropriate measurement point for determining proximity to a community location;
- ▶ addresses the standard for demonstrating a previously approved variance for purposes of proximity to a community location;
- ▶ requires electronic age verification of certain individuals who are within 10 feet of a grandfathered bar structure;
- ▶ clarifies and amends labeling requirements for certain malted beverages;
- ▶ allows the Alcoholic Beverage Control Advisory Board to meet at the chair's discretion;
- ▶ modifies the days on which certain package agencies located at a manufacturing facility may operate;
- ▶ modifies the circumstances under which a retail licensee shall submit a responsible alcohol service plan to the department;
- ▶ addresses expungement of a record related to a violation of a provision of the Alcoholic Beverage Control Act;
- ▶ amends the requirements related to when a retail manager or an off-premise retail manager must complete a department training program;
- ▶ amends the requirements related to voting rights to obtain an equity license;
- ▶ modifies the circumstances under which a person may hold two retail licenses for the same premises or room;
- ▶ addresses the circumstances under which a hotel licensee or a resort licensee may have two sublicenses in the same room;
- ▶ allows a patron to transport beer between two adjacent licensed premises located in a sports center with a minimum seating capacity;
- ▶ provides that a restaurant licensee may employ a minor who is at least 18 years of age to bus tables;
- ▶ provides an exemption from certain dispensing area requirements for small restaurant licensees;
- ▶ repeals the requirement for restaurant licensees to display a sign stating the restaurant's license type;
- ▶ allows a dining club licensee to convert to a full-service restaurant license or a bar license before July 1, 2018;
- ▶ increases the number of airport lounge licenses the commission may issue;

- ▶ provides that the Department of Alcoholic Beverage Control shall study issues related to the use of banquet catering contracts and report to the Business and Labor Interim Committee;
- ▶ modifies the off-premise beer retailer state license fee for a person who operates an off-premise beer retailer on July 1, 2018;
- ▶ extends the time for a business entity to transfer a retail license following a change in ownership;
- ▶ modifies the operational requirements for a hotel license and for a sublicense related to calculating the percentage of gross receipts from the sale of food;
- ▶ addresses the grades in which an LEA may offer the Underage Drinking Prevention Program to students; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 32B-1-102, as last amended by Laws of Utah 2017, Chapter 455
- 32B-1-202, as last amended by Laws of Utah 2017, Chapters 455, 471 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 471
- 32B-1-407, as last amended by Laws of Utah 2017, Chapter 455
- 32B-1-606, as last amended by Laws of Utah 2017, Chapter 455
- 32B-2-210, as last amended by Laws of Utah 2017, Chapter 455
- 32B-2-605, as last amended by Laws of Utah 2016, Chapter 80
- 32B-3-102, as last amended by Laws of Utah 2017, Chapter 455
- 32B-3-205, as last amended by Laws of Utah 2017, Chapter 455
- 32B-4-415, as last amended by Laws of Utah 2017, Chapter 455
- 32B-5-202, as last amended by Laws of Utah 2017, Chapter 455
- 32B-5-207, as enacted by Laws of Utah 2017, Chapter 455
- 32B-5-307, as last amended by Laws of Utah 2017, Chapter 455
- 32B-5-308, as last amended by Laws of Utah 2011, Chapter 307
- 32B-5-405, as enacted by Laws of Utah 2017, Chapter 455
- 32B-5-406, as enacted by Laws of Utah 2017, Chapter 455
- 32B-6-202, as last amended by Laws of Utah 2017, Chapter 455
- 32B-6-205, as last amended by Laws of Utah 2017, Chapter 455
- 32B-6-205.2, as enacted by Laws of Utah 2017, Chapter 455
- 32B-6-302, as last amended by Laws of Utah 2017, Chapter 455
- 32B-6-305, as last amended by Laws of Utah 2017, Chapter 455
- 32B-6-305.2, as enacted by Laws of Utah 2017, Chapter 455

32B-6-403, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-404, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-404.1, as enacted by Laws of Utah 2017, Chapter 455
 32B-6-406, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-409, as enacted by Laws of Utah 2011, Chapter 334
 32B-6-503, as last amended by Laws of Utah 2011, Chapter 334
 32B-6-605, as last amended by Laws of Utah 2011, Chapters 307 and 334
 32B-6-902, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-905, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-905.1, as enacted by Laws of Utah 2017, Chapter 455
 32B-7-202, as last amended by Laws of Utah 2017, Chapter 455
 32B-7-401, as enacted by Laws of Utah 2017, Chapter 455
 32B-8a-202, as last amended by Laws of Utah 2016, Chapter 82
 32B-8a-203, as last amended by Laws of Utah 2016, Chapter 82
 32B-8b-102, as last amended by Laws of Utah 2017, Chapter 455
 32B-8b-301, as enacted by Laws of Utah 2016, Chapter 80
 32B-8b-302, as enacted by Laws of Utah 2016, Chapter 80
 53F-9-304, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53G-10-406, as renumbered and amended by Laws of Utah 2018, Chapter 3
 62A-15-401, as last amended by Laws of Utah 2017, Chapter 455
 63I-2-232, as last amended by Laws of Utah 2017, Chapter 455

ENACTS:

32B-6-205.4, Utah Code Annotated 1953
 32B-6-305.4, Utah Code Annotated 1953
 32B-6-605.1, Utah Code Annotated 1953
 32B-6-905.3, Utah Code Annotated 1953

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

Section 1. Section 32B-1-102 is amended to read:**32B-1-102. Definitions.**

As used in this title:

- (1) "Airport lounge" means a business location:
- (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- (b) that is located at an international airport with a United States Customs office on the premises of the international airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

- (3) "Alcoholic beverage" means the following:
- (a) beer; or
- (b) liquor.
- (4) (a) "Alcoholic product" means a product that:
- (i) contains at least .5% of alcohol by volume; and
- (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.
- (b) "Alcoholic product" includes an alcoholic beverage.
- (c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
- (i) except as provided in Subsection (4)(d), an extract;
- (ii) vinegar;
- (iii) cider;
- (iv) essence;
- (v) tincture;
- (vi) food preparation; or
- (vii) an over-the-counter medicine.
- (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.
- (5) "Alcohol training and education seminar" means a seminar that is:
- (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- (b) described in Section 62A-15-401.
- (6) "Banquet" means an event:
- (a) that is held at one or more designated locations approved by the commission in or on the premises of a:
- (i) hotel;
- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center;
- (b) for which there is a contract:
- (i) between a person operating a facility listed in Subsection (6)(a) and another person; and
- (ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and
- (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- (7) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

- (a) stored; or
- (b) dispensed.
- (8) (a) “Bar establishment license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- (b) “Bar establishment license” includes:
- (i) a dining club license;
- (ii) an equity license;
- (iii) a fraternal license; or
- (iv) a bar license.
- (9) “Bar license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- (10) (a) Subject to Subsection (10)(d), “beer” means a product that:
- (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and
- (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) “Beer” may or may not contain hops or other vegetable products.
- (c) “Beer” includes a product that:
- (i) contains alcohol in the percentages described in Subsection (10)(a); and
- (ii) is referred to as:
- (A) beer;
- (B) ale;
- (C) porter;
- (D) stout;
- (E) lager; or
- (F) a malt or malted beverage.
- (d) “Beer” does not include a flavored malt beverage.
- (11) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- (12) “Beer retailer” means a business that:
- (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
- (b) is licensed as:
- (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or
- (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.
- (13) “Beer wholesaling license” means a license:
- (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (14) “Billboard” means a public display used to advertise, including:
- (a) a light device;
- (b) a painting;
- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.
- (15) “Brewer” means a person engaged in manufacturing:
- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.
- (16) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (17) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.
- (18) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company’s tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.
- (19) “Church” means a building:
- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.
- (20) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.
- (21) “Commissioner” means a member of the commission.
- (22) “Community location” means:
- (a) a public or private school;
- (b) a church;
- (c) a public library;

- (d) a public playground; or
- (e) a public park.
- (23) “Community location governing authority” means:
- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (24) “Container” means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.
- (25) “Convention center” means a facility that is:
- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a “convention center” by the commission by rule.
- (26) (a) “Counter” means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
- (b) “Counter” does not include a dispensing structure.
- (27) “Department” means the Department of Alcoholic Beverage Control created in Section 32B-2-203.
- (28) “Department compliance officer” means an individual who is:
- (a) an auditor or inspector; and
- (b) employed by the department.
- (29) “Department sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (30) “Dining club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.
- (31) “Director,” unless the context requires otherwise, means the director of the department.
- (32) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:
- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.
- (33) (a) Subject to Subsection (33)(b), “dispense” means:

- (i) drawing [æf] an alcoholic product[;]; and
~~[(A) from an area where it is stored; or]~~

~~[(B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and]~~

(ii) using the alcoholic product ~~[described in Subsection (33)(a)(i) on the premises of the licensed premises]~~ at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of “dispense” in this Subsection (33) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; and
- (iv) a beer-only restaurant license.

(34) “Dispensing structure” means a surface or structure on a licensed premises:

(a) where an alcoholic product is ~~[stored or]~~ dispensed; or

(b) from which an alcoholic product is served.

(35) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(36) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(37) “Educational facility” includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

(38) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(39) “Event permit” means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(40) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(41) (a) “Flavored malt beverage” means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
- (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
- (iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and

Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(42) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(43) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(44) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(45) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(46) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(47) (a) "Heavy beer" means a product that:

(i) contains more than 4% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(48) "Hotel" is as defined by the commission by rule.

(49) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(50) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(51) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(52) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(53) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(54) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (54)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(55) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(56) "Invitee" means the same as that term is defined in Section 32B-8-102.

(57) "License" means:

(a) a retail license;

(b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or

(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(58) "Licensee" means a person who holds a license.

(59) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(60) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(61) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(62) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(63) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(64) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township.

(65) "Lounge or bar area" is as defined by rule made by the commission.

(66) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(67) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(68) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(69) "Minor" means an individual under the age of 21 years.

(70) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(71) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(72) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(73) "Off-premise beer retailer state license" means a state license issued in accordance with

Chapter 7, Part 4, Off-Premise Beer Retailer State License.

(74) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(75) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(76) "Opaque" means impenetrable to sight.

(77) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(78) "Package agent" means a person who holds a package agency.

(79) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

(80) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(81) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (81)(a) through (f); or

(ii) a package agent.

(82) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(83) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(84) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(85) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

- (D) has a picture affixed;
- (iii) a valid driver license certificate that:
- (A) includes date of birth;
- (B) has a picture affixed; and
- (C) is issued:
- (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- (II) in accordance with the laws of the state in which it is issued;
- (iv) a military identification card that:
- (A) includes date of birth; and
- (B) has a picture affixed; or
- (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.
- (86) (a) "Public building" means a building or permanent structure that is:
- (i) owned or leased by:
- (A) the state; or
- (B) a local government entity; and
- (ii) used for:
- (A) public education;
- (B) transacting public business; or
- (C) regularly conducting government activities.
- (b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.
- (87) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.
- (88) "Reception center" means a business that:
- (a) operates facilities that are at least 5,000 square feet; and
- (b) has as its primary purpose the leasing of the facilities described in Subsection (88)(a) to a third party for the third party's event.
- (89) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
- (90) (a) "Record" means information that is:
- (i) inscribed on a tangible medium; or
- (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- (b) "Record" includes:
- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.
- (91) "Residence" means a person's principal place of abode within Utah.
- (92) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.
- (93) "Resort" means the same as that term is defined in Section 32B-8-102.
- (94) "Resort facility" is as defined by the commission by rule.
- (95) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.
- (96) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:
- (a) over-serving alcoholic beverages to customers;
- (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
- (c) serving alcoholic beverages to minors.
- (97) "Restaurant" means a business location:
- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served [~~to the general public~~]; and
- (c) that is engaged primarily in serving meals [~~to the general public~~].
- (98) "Retail license" means one of the following licenses issued under this title:
- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a bar establishment license;
- (f) an airport lounge license;
- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license;
- (j) a beer-only restaurant license;
- (k) a resort license; or
- (l) a hotel license.
- (99) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.
- (100) (a) “School” means a building used primarily for the general education of minors.
- (b) “School” does not include an educational facility.
- (101) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.
- (102) “Serve” means to place an alcoholic product before an individual.
- (103) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:
- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
- (i) a bar licensee; or
- (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (103)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
- (i) an employee;
- (ii) an independent contractor;
- (iii) an agent of the licensee; or
- (iv) a different type of classification.
- (104) “Single event permit” means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.
- (105) “Small brewer” means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.
- (106) “Special use permit” means a permit issued in accordance with Chapter 10, Special Use Permit Act.
- (107) (a) “Spirituous liquor” means liquor that is distilled.
- (b) “Spirituous liquor” includes an alcoholic product defined as a “distilled spirit” by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- (108) “Sports center” is as defined by the commission by rule.
- (109) (a) “Staff” means an individual who engages in activity governed by this title:
- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
- (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
- (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.
- (b) “Staff” includes:
- (i) an officer;
- (ii) a director;
- (iii) an employee;
- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;
- (vi) an operator; or
- (vii) a representative.
- (110) “State of nudity” means:
- (a) the appearance of:
- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus; or
- (b) a state of dress that fails to opaquely cover:
- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus.
- (111) “State of seminudity” means a state of dress in which opaque clothing covers no more than:
- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
- (b) the human genitals, pubic area, and anus:
- (i) with no less than the following at its widest point:
- (A) four inches coverage width in the front of the human body; and
- (B) five inches coverage width in the back of the human body; and
- (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- (112) (a) “State store” means a facility for the sale of packaged liquor:
- (i) located on premises owned or leased by the state; and
- (ii) operated by a state employee.
- (b) “State store” does not include:
- (i) a package agency;
- (ii) a licensee; or

(iii) a permittee.

(113) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product ~~[from which a person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii)].~~

(114) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

(115) "Supplier" means a person who sells an alcoholic product to the department.

(116) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(117) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(118) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(119) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(120) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(121) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(122) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-202 is amended to read:

32B-1-202. Proximity to community location.

(1) As used in this section:

(a) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(b) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; or

(iii) a beer-only restaurant licensee.

(2) (a) The commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) The commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

~~(a)~~ (i) the outlet or restaurant changes ownership;

~~(b)~~ (ii) the property on which the outlet or restaurant is located changes ownership; or

~~(c)~~ (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection (4) apply regardless of when the outlet's or restaurant's license is issued.

(5) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 3. Section 32B-1-407 is amended to read:

32B-1-407. Verification of proof of age by applicable licensees.

(1) As used in this section, "applicable licensee" means:

(a) a dining club;

(b) a bar;

(c) a tavern;

(d) a full-service restaurant;

(e) a limited-service restaurant; or

(f) a beer-only restaurant.

(2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.

(3) An authorized person is required to verify proof of age under this section before an individual who appears to be 35 years of age or younger:

(a) gains admittance to the premises of a bar licensee or tavern;

(b) procures an alcoholic product on the premises of a dining club licensee; ~~or~~

(c) procures an alcoholic product in a dispensing area in the premises of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee~~[-];~~ or

(d) on or after July 1, 2018, procures an alcoholic product within 10 feet of a grandfathered bar structure.

(4) To comply with Subsection (3), an authorized person shall:

(a) request the individual present proof of age; and

(b) (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

(ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule.

(5) The commission shall establish by rule an electronic verification program that includes the following:

(a) the specifications for the technology used by the applicable licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:

(i) the name;

(ii) the age;

(iii) the number assigned to the individual's proof of age by the issuing authority;

(iv) the birth date;

(v) the gender; and

(vi) the status and expiration date of the individual's proof of age; and

(b) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:

(i) used by the applicable licensee only for purposes of verifying proof of age in accordance with this section; and

(ii) retained by the applicable licensee for seven days after the day on which the applicable licensee obtains the information.

(6) (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.

(b) Information obtained under this section is considered a record for any purpose under Chapter 5, Part 3, Retail Licensee Operational Requirements.

Section 4. Section 32B-1-606 is amended to read:

32B-1-606. Special procedure for certain malted beverages.

(1) A manufacturer of a malted beverage may not distribute or sell the malted beverage in the state until the day on which the manufacturer receives approval of the labeling and packaging from the department in accordance with:

(a) Sections 32B-1-604 and 32B-1-605; and

(b) this section, if the malted beverage is labeled or packaged in a manner that is:

(i) similar to a label or packaging used for a nonalcoholic beverage; or

(ii) likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.

(2) The department may not approve the labeling and packaging of a malted beverage described in Subsection (1) unless in addition to the requirements of Section 32B-1-604 the labeling and packaging complies with the following:

(a) the front of the label on the malted beverage bears a prominently displayed label or a firmly affixed sticker that provides the following information in a font that measures at least three millimeters high:

(i) the statement:

(A) “alcoholic beverage”; or

(B) “contains alcohol”; and

(ii) the alcohol content of the ~~flavored malt~~ malted beverage^[s], if the alcohol content is not otherwise provided:

(A) in a serving facts statement on the container; and

(B) in a format allowed by the Federal Alcohol and Tobacco Tax Trade Bureau;

(b) ~~the front of~~ the packaging of the malted beverage prominently includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging in a font that measures at least three millimeters high, the statement:

(i) “alcoholic beverage”; or

(ii) “contains alcohol”;

(c) a statement required by Subsection (2)(a) or (b) appears in a format required by rule made by the commission; and

(d) a statement of alcohol content required by Subsection (2)(a)(ii):

(i) states the alcohol content as a percentage of alcohol by volume or by weight; and

(ii) is in a format required by rule made by the commission.

(3) The department may reject a label or packaging that appears designed to obscure the information required by Subsection (2).

(4) To determine whether a malted beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:

(a) whether the coloring, carbonation, and packaging of the malted beverage:

(i) is similar to those of a nonalcoholic beverage or product; or

(ii) can be confused with a nonalcoholic beverage;

(b) whether the malted beverage possesses a character and flavor distinctive from a traditional malted beverage;

(c) whether the malted beverage:

(i) is prepackaged;

(ii) contains high levels of caffeine and other additives; and

(iii) is marketed as a beverage that is specifically designed to provide energy;

(d) whether the malted beverage contains added sweetener or sugar substitutes; or

(e) whether the malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Section 5. Section 32B-2-210 is amended to read:

32B-2-210. Alcoholic Beverage Control Advisory Board.

(1) There is created within the department an advisory board known as the “Alcoholic Beverage Control Advisory Board.”

(2) The advisory board shall consist of eight voting members and one nonvoting member as follows:

(a) four voting members appointed by the commission:

(i) one of whom represents the retail alcohol industry;

(ii) one of whom represents the wholesale alcohol industry;

(iii) one of whom represents the alcohol manufacturing industry; and

(iv) one of whom represents the restaurant industry;

(b) two voting members appointed by the commission, each of whom represents an organization that addresses alcohol or drug abuse prevention, alcohol or drug related enforcement, or alcohol or drug related education;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee who serves as a voting member;

(d) the chair of the Utah Substance Use and Mental Health Advisory Council, or the chair's designee, who serves as a voting member; and

(e) the chair of the commission or the chair's designee from the members of the commission, who serves as a nonvoting member.

(3) (a) Except as required by Subsection (3)(b), as terms of current voting members of the advisory board expire, the commission shall appoint each new member or reappointed member to a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of voting advisory board members are staggered so that approximately half of the advisory board is appointed every two years.

(c) No two members of the board may be employed by the same company or nonprofit organization.

(4) (a) When a vacancy occurs in the membership for any reason, the commission shall appoint a replacement for the unexpired term.

(b) The commission shall terminate the term of a voting advisory board member who ceases to be representative as designated by the member's original appointment.

(5) The advisory board shall meet [~~no more than quarterly~~] as called by the chair for the purpose of advising the commission and the department, with discussion limited to administrative rules made under this title.

(6) The chair of the commission or the chair's designee shall serve as the chair of the advisory board and call the necessary meetings.

(7) (a) Five members of the board constitute a quorum of the board.

(b) An action of the majority when a quorum is present is the action of the board.

(8) The department shall provide staff support to the advisory board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Section 32B-2-605 is amended to read:

32B-2-605. Operational requirements for package agency.

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, liquor may be provided by the department to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) A package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the closing; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer its operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday.

(ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license; ~~or~~

(D) a dining club license; or

(E) a bar license;

(iii) the restaurant ~~or~~, dining club, or bar is located at the manufacturing facility;

(iv) the restaurant ~~or~~, dining club, or bar sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

(A) owns the restaurant ~~or~~, dining club, or bar; or

(B) operates the restaurant ~~or~~, dining club, or bar;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant ~~or~~, dining club, or bar.

(c) (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room;

(B) staff of the package agency not leaving the liquor outside a guest room for retrieval by a guest; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) On or after October 1, 2011, a package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;
- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and

(h) any other matter considered appropriate by the commission.

Section 7. Section 32B-3-102 is amended to read:

32B-3-102. Definitions.

As used in this chapter:

(1) "Aggravating circumstances" means:

- (a) prior warnings about compliance problems;
- (b) a prior violation history;
- (c) a lack of written policies governing employee conduct;
- (d) multiple violations during the course of an investigation;
- (e) efforts to conceal a violation;
- (f) an intentional violation;
- (g) the violation involved more than one patron or employee; or
- (h) a violation that results in injury or death.

(2) "Final adjudication" means an adjudication for which a final judgment or order is issued that:

- (a) is not appealed, and the time to appeal the judgment has expired; or
- (b) is appealed, and is affirmed, in whole or in part, on appeal.

(3) "Mitigating circumstances" means:

- (a) no prior violation history for the licensee or permittee;
- (b) no prior violation history for the individual who committed the violation;
- (c) motive for the individual who engaged in or allowed the violation to retaliate against the licensee or permittee; or
- (d) extraordinary cooperation with the investigation of the violation that demonstrates

that the licensee or permittee and the individual who committed the violation accept responsibility for the violation.

Section 8. Section 32B-3-205 is amended to read:

32B-3-205. Penalties.

(1) If the commission is satisfied that a person subject to administrative action violates this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

- (a) suspend or revoke the person's license, permit, or certificate of approval;
- (b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;
- (c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or
- (d) take a combination of actions described in this Subsection (1).

(2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

- (i) a single notice of agency action; or
- (ii) a single action against a package agency.

(b) The commission shall by rule establish a schedule setting forth a range of fines for each violation.

(c) When a presiding officer imposes a fine, the presiding officer shall consider any aggravating circumstances or mitigating circumstances in deciding where within the applicable range to set the fine.

(3) The commission shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.

(4) (a) If a license or permit is suspended under this section, the licensee or permittee shall prominently display a sign provided by the department:

- (i) during the suspension; and
- (ii) at the entrance of the premises of the licensee or permittee.

(b) The sign required by this Subsection (4) shall:

- (i) read "The Utah Alcoholic Beverage Control Commission has suspended the alcoholic product license or permit of this establishment. An alcoholic product may not be sold, offered for sale, furnished, or consumed on these premises during the period of suspension."; and
- (ii) include the dates of the suspension period.

(c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to be displayed under this Subsection (4) during the suspension period.

(5) (a) If a license or permit is revoked, the commission may order the revocation of a bond posted by the licensee or permittee under this title.

(b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a licensee or permittee for money owed the department under this title without the commission first revoking the license or permit.

(6) A licensee or permittee whose license or permit is revoked may not reapply for a license or permit under this title for three years from the date on which the license or permit is revoked.

(7) If a staff member of a licensee, permittee, or certificate holder is found to have violated this title, in addition to imposing another penalty authorized by this title, the commission may prohibit the staff member from handling, selling, furnishing, distributing, manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as staff with a licensee, permittee, or certificate holder under this title for a period determined by the commission.

(8) (a) If the commission makes the finding described in Subsection (8)(b), in addition to other penalties prescribed by this title, the commission may order:

(i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's from the department's sales list; and

(ii) a suspension of the department's purchase of an alcoholic product described in Subsection (8)(a)(i) for a period determined by the commission.

(b) The commission may take the action described in Subsection (8)(a) if:

(i) a manufacturer, supplier, or importer of liquor or its staff or representative violates this title; and

(ii) the manufacturer, supplier, or importer:

(A) directly commits the violation; or

(B) solicits, requests, commands, encourages, or intentionally aids another to engage in the violation.

(9) If the commission makes a finding that the brewer holding a certificate of approval violates this title or rules of the commission, the commission may take an action against the brewer holding a certificate of approval that the commission could take against a licensee including:

(a) suspension or revocation of the certificate of approval; and

(b) imposition of a fine.

(10) Notwithstanding the other provisions of this title, the commission may not order a disciplinary action or fine in accordance with this section if the disciplinary action or fine is ordered on the basis of a violation:

(a) of a provision in this title related to intoxication or becoming intoxicated; and

(b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or service.

(11) The commission shall expunge each record that relates to an individual's violation of a provision of this title, if the individual does not violate a provision of this title for a period of 36 consecutive months from the day on which the individual's last violation was adjudicated.

Section 9. Section 32B-4-415 is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4) and Subsection 32B-5-307(4), a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;

(d) an establishment open to the general public; or

(e) the capitol hill complex.

(2) Except as provided in Subsection (4) and Subsection 32B-5-307(4), the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public;

(e) the State Capitol Preservation Board created in Section 63C-9-201; or

(f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

(a) a location from which the passenger departs in a private vehicle; or

(b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

- (i) a full-service restaurant licensee;
- (ii) a limited restaurant licensee;
- (iii) a bar establishment licensee; or
- (iv) a person operating under a resort spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

- (i) the travel of the limousine begins and ends at:
 - (A) the residence of the passenger;
 - (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
 - (C) the temporary domicile of the passenger;
- (ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and
- (iii) the limousine is not located on the capitol hill complex.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

- (i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or
- (B) if the travel of the chartered bus begins and ends at:
 - (I) the residence of the passenger;
 - (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
 - (III) the temporary domicile of the passenger;
- (ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and
- (iii) if the chartered bus is not located on the capitol hill complex.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

(7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

- (a) the boundary of a resort building or boundary of a hotel in an area that is open to the public; or
- (b) except as provided in Subsection (4), a sublicense premises.

Section 10. Section 32B-5-202 is amended to read:

32B-5-202. Renewal requirements.

(1) A retail license expires each year on the day specified in the relevant part under Chapter 6, Specific Retail License Act, for that type of retail license.

(2) (a) To renew a person's retail license, a retail licensee shall, by no later than the day specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed, submit:

~~[(a)] (i) a completed renewal application [that includes a responsible alcohol service plan to the department] in a form prescribed by the department; and~~

~~[(b)] (ii) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license that is being renewed.~~

(b) A retail licensee shall submit a responsible alcohol service plan as part of the retail licensee's renewal application if, since the retail licensee's most recent application or renewal, the retail licensee:

- (i) made substantial changes to the retail licensee's responsible alcohol service plan; or
- (ii) violated a provision of this chapter.

(c) The department may audit a retail licensee's responsible alcohol service plan.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the date the existing retail license expires.

Section 11. Section 32B-5-207 is amended to read:

32B-5-207. Multiple retail licenses on same premises.

(1) As used in this section, "sublicense premises" means the same as that term is defined in Sections 32B-8-102 and 32B-8b-102.

~~[(1) (a) (i)] (2) (a) The commission may not issue and one or more licensees may not hold more than one type of retail license for the same [room] premises.~~

~~[(ii) The commission may define "room" by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

(b) Notwithstanding Subsection ~~[(1)] (2)~~(a), the commission may issue and one or more licensees may hold more than one type of retail license for the same ~~[room]~~ premises if:

- (i) the applicant or licensee satisfies the requirements for each retail license;
- (ii) the types of retail licenses issued or held are two or more of the following:

- (A) a restaurant license;
- (B) an on-premise beer retailer license that is not a tavern; and
- (C) an on-premise banquet license or a reception center license; and

(iii) the retail licenses do not operate at the same time on the same day.

~~[(2)]~~ (3) When one or more licensees hold more than one type of retail license for the same ~~[room]~~ premises under Subsection ~~[(4)]~~ (2)(b), the one or more licensees shall post in a conspicuous location at the entrance of the room a sign that:

- (a) measures 8-1/2 inches by 11 inches; and
- (b) states whether the premises is currently operating as:
 - (i) a restaurant;
 - (ii) an on-premise beer retailer that is not a tavern; or
 - (iii) a banquet or a reception center.

(4) (a) The commission may not issue and one or more licensees may not hold a bar license or a tavern license in the same room as a restaurant license.

(b) For purposes of Subsection (4)(a), two licenses are not considered in the same room if:

(i) each shared permanent wall between the premises licensed as a bar or a tavern and the premises licensed as a restaurant measures at least eight feet high;

(ii) the premises for each license has a separate entryway that does not require a patron to pass through the premises licensed as a bar or a tavern to access the premises licensed as a restaurant; and

(iii) if a patron must pass through the premises licensed as a restaurant to access the entryway to the premises licensed as a bar or a tavern, a patron on the premises licensed as a restaurant cannot see a dispensing structure on the premises licensed as a bar or a tavern.

~~[(3)]~~ (5) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail license ~~[for the same room]~~ in violation of Subsection ~~[(4)]~~ (2) or (4), the one or more licensees may operate under the different types of retail licenses through June 30, 2018.

(b) A licensee may not operate in violation of Subsection ~~[(4)]~~ (2) or (4) on or after July 1, 2018.

(c) Before July 1, 2018, each licensee described in Subsection ~~[(3)]~~ (5)(a) shall notify the commission of each retail license that the licensee will surrender effective July 1, 2018, to comply with the provisions of Subsection ~~[(4)]~~ (2) or (4).

(d) The commission shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a procedure by which a licensee surrenders a retail license under this Subsection ~~[(3)]~~ (5).

(6) (a) The commission may issue more than one type of sublicense to a resort licensed under Chapter 8, Resort License Act, or a hotel licensed under Chapter 8b, Hotel License Act, for the same room if the sublicense premises are clearly delineated by one or more permanent physical

structures, such as a wall or other architectural feature, that separate the sublicense premises.

(b) A patron may not transport an alcoholic beverage between two sublicense premises located in the same room in accordance with Subsection ~~(6)~~(a).

(c) Notwithstanding any provision to the contrary, a minor may momentarily pass through a sublicense premises that is a bar to reach another location where a minor may lawfully be, if there is no practical alternative route to the location.

Section 12. Section 32B-5-307 is amended to read:

32B-5-307. Bringing alcoholic product onto or removing alcoholic product from premises.

(1) Except as provided in Subsection (3):

(a) A person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption.

(b) A retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee.

(c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or door to a location off the licensed premises or to a vehicular traffic area.

~~(2) Except as provided in [Subsection (3)] Subsections (3), (4), and 32B-4-415(5):~~

~~(a) a person may not carry from a licensed premises of a retail licensee an open container that:~~

~~(i) is used primarily for drinking purposes; and~~

~~(ii) contains an alcoholic product[-];~~

~~(b) a retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a)[-]; and~~

~~[(c) Except as provided in Subsection (3)(d) or Subsection 32B-4-415(5):]~~

~~(c) (i) a person may not carry from a licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and~~

~~(ii) a retail licensee may not permit a patron to carry from the licensed premises a sealed container of liquor that has been purchased from the retail licensee.~~

~~(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:~~

~~(i) permitted by the retail licensee; and~~

~~(ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.~~

~~(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron~~

shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

(4) A patron may transport beer between the premises of an on-premise banquet license and an on-premise beer retailer license that is not a tavern, and consume the beer on either licensed premises, if the licensed premises are:

- (a) immediately adjacent to one another; and
- (b) located in a sports center that has a seating capacity of at least 6,500.

Section 13. Section 32B-5-308 is amended to read:

32B-5-308. Requirements on staff or others on premises -- Employing a minor.

(1) Staff of a retail licensee, while on duty, may not:

- (a) consume an alcoholic product; or
- (b) be intoxicated.

(2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or dispense an alcoholic product.

(b) Notwithstanding Subsection (2)(a), unless otherwise prohibited in the provisions related to the specific type of retail license, a retail licensee may employ a minor who is at least 16 years of age to enter the sale at a cash register or other sales recording device.

(3) A full-service restaurant licensee, limited-service restaurant licensee, or beer-only restaurant licensee may employ a minor who is at least 18 years of age to bus tables, including containers that contain an alcoholic product.

Section 14. Section 32B-5-405 is amended to read:

32B-5-405. Department training programs.

(1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers that addresses:

(i) the statutes and rules that govern alcohol sales and consumption in the state;

(ii) the requirements for operating as a retail licensee;

(iii) using compliance assistance from the department; and

(iv) any other topic the department determines beneficial to a retail manager; and

(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail manager.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

(4) (a) Except as provided in Subsection (5), each retail manager shall~~[-(4)]~~ complete the training described in Subsection (1)(a) no later than the earlier of:

~~[(A)]~~ (i) 30 days after the day on which the retail manager is hired; or

~~[(B)]~~ (ii) before the day on which the retail licensee obtains a retail license under this chapter~~;~~ and~~].~~

~~[(ii) retake the training program described in Subsection (1)(a) once every three years.]~~

(b) Except as provided in Subsection (5), each off-premise retail manager shall ~~[-(i)]~~ complete the training described in Subsection (2) no later than the earlier of:

~~[(A)]~~ (i) 30 days after the day on which the off-premise retail manager is hired; or

~~[(B)]~~ (ii) before the day on which the off-premise beer retailer obtains an off-premise beer retailer state license; ~~and~~.

~~[(ii) retake the training program described in Subsection (2) once every three years.]~~

(c) (i) If the commission finds that ~~[an individual employed by]~~ a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time ~~[while employed by the same retail licensee]~~ within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).

(ii) If the commission finds that ~~[an individual employed by]~~ an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time ~~[while employed by the same off-premise beer retailer]~~ within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

(5) (a) For a person who holds a retail license on January 1, 2018, each retail manager shall complete the training program described in Subsection (1)(a) for the first time as a condition of renewing the licensee's retail license in 2018.

(b) For a person who holds an off-premise beer retailer state license on January 1, 2019, each off-premise retail manager shall complete the training program described in Subsection (1)(b) for the first time as a condition of renewing the licensee's off-premise beer retailer state license in 2019.

(6) If an individual fails to complete a required training program under this section:

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town, metro township, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 15. Section 32B-5-406 is amended to read:

32B-5-406. Tracking certain enforcement actions.

(1) For each violation of a provision of this title involving the sale of an alcoholic product to a minor that staff of a retail licensee commits, the commission shall:

(a) maintain a record of the violation until the record is expunged in accordance with Subsection (3);

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who committed the violation;

(ii) the name of the retail licensee; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days after the day on which the violation is adjudicated.

(2) (a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public Safety receives in accordance with Subsection (1).

(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist the commission in assessing penalties under this title; and

(ii) inform a retail licensee of an individual who has a violation history in the system.

(3) The commission and the Department of Public Safety shall expunge each record in the system described in Subsection (2) that relates to an individual if the individual does not violate a provision of this title related to the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the ~~[individual was last found to have violated a provision of this title related to the sale of an alcoholic product to a minor]~~ individual's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Section 16. Section 32B-6-202 is amended to read:

32B-6-202. Definitions.

As used in this part:

(1) (a) "Dining area" means an area in the licensed premises of a full-service restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(b) "Dining area" does not include a dispensing area.

(2) (a) "Dispensing area" means an area in the licensed premises of a full-service restaurant

licensee where a dispensing structure is located and that:

(i) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of alcoholic product;

(ii) except as provided in Subsection (2)(b), measures at least 10 feet from ~~[any area where alcoholic product is dispensed to]~~ the dining area and any waiting area ~~[, measured from the point of the area where alcoholic product is dispensed that is closest to the dining area or waiting area]~~ to the nearest edge of the dispensing structure; or

(iii) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures:

(A) at least 42 inches high; and

(B) at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

(3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a full-service restaurant licensee that:

(i) as of May 11, 2009, has:

(A) patron seating at the bar structure;

(B) a partition at one or more locations on the bar structure that is along:

(I) the width of the bar structure; or

(II) the length of the bar structure; and

(C) facilities for the dispensing or storage of an alcoholic product:

(I) on the portion of the bar structure that is separated by the partition described in Subsection (3)(a)(i)(B); or

(II) if the partition as described in Subsection (3)(a)(i)(B)(II) is adjacent to the bar structure in a manner visible to a patron sitting at the bar structure;

(ii) is not operational as of May 12, 2009, if:

(A) a person applying for a full-service restaurant license:

(I) has as of May 12, 2009, a building permit to construct the restaurant;

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued the full-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure described in Subsection (3)(a)(i);

(iii) as of May 12, 2009, has no patron seating at the bar structure; or

(iv) is not operational as of May 12, 2009, if:

(A) a person applying for a full-service restaurant license:

(I) has as of May 12, 2009, a building permit to construct the restaurant;

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued a full-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure with no patron seating.

(b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (3)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(c) Subject to Subsection (3)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

(4) "Seating grandfathered bar structure" means:

(a) a grandfathered bar structure described in Subsection (3)(a)(i) or (ii); or

(b) a bar structure grandfathered under Section 32B-6-409.

(5) "Small full-service restaurant licensee" means a converted full-service restaurant licensee as defined in Section 32B-6-404.1 or a full-service restaurant licensee that has a grandfathered bar structure, whose dispensing area includes more than 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(a) when measured in accordance with Subsection (2)(a)(ii); and

(b) based on the licensee's floor plan on file with the department on July 1, 2017.

[45] (6) "Waiting area" includes a lobby.

Section 17. Section 32B-6-205 is amended to read:

32B-6-205. Specific operational requirements for a full-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements,

a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall ~~[(a)]~~ display in a prominent place in the restaurant a list of the types and brand names of liquor being furnished through the full-service restaurant licensee's calibrated metered dispensing system ~~]; and].~~

~~[(b) display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:]~~

~~[(i) measures at least 8 1/2 inches long and 11 inches wide; and]~~

~~[(ii) clearly states that the full-service restaurant licensee is a restaurant and not a bar.]~~

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

(4) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include:

- (a) mix for an alcoholic product; or
- (b) a service charge.

(8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after the full-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) A patron may consume an alcoholic product only:

- (a) at:
 - (i) the patron's table;
 - (ii) a counter; or
 - (iii) a seating grandfathered bar structure; and
- (b) where food is served.

(11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished an alcoholic product; and
- (iii) consume an alcoholic product.

(c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a full-service restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a full-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the full-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's premises in which the minor is permitted to be.

(12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the full-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (12)(a); or

(ii) in an area not described in Subsection (12)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container; (B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and (C) once opened, the container is stored in an area described in Subsection (12)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a).

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

(15) Except as provided in Subsection 32B-6-205.2~~(18)~~(16) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section 18. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

~~[(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:]~~

~~[(a) measures at least 8 1/2 inches long and 11 inches wide; and]~~

~~[(b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.]~~

~~[(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).]~~

[(4)] (2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection [(4)] (2) shall state the type and amount of each alcoholic product ordered or consumed.

[(5)] (3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

~~[(6)]~~ (4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7)]~~ (5) A full-service restaurant licensee shall maintain at least 70% of the full-service restaurant licensee's total restaurant business from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a service charge.

~~[(8)]~~ (6) (a) A full-service restaurant licensee may not ~~[sell, offer for sale, or]~~ furnish an alcoholic product except after:

(i) the patron to whom the full-service restaurant licensee ~~[sells, offers for sale, or]~~ furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection ~~[(8)]~~ (6)(b), consume the food at the same location where the patron is seated and ~~[sold, offered for sale, or]~~ furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection ~~[(8)]~~ (6)(b)(i) a single portion of wine is 5 ounces or less.

(c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (7) A patron may consume an alcoholic product only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

~~[(10)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(10)]~~ (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(10)]~~ (8)(a).

~~[(11)]~~ (9) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

~~[(12)]~~ (10) (a) Except as provided in Subsection ~~[(12)]~~ (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the full-service restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

~~[(13)]~~ (11) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the ~~storage or~~ dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a lobby or waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee; and

~~(b) the full-service restaurant licensee uses an alcoholic product that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and~~

~~(e)~~ (b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(13)]~~ (11)(a).

~~[(14)]~~ (12) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(15)]~~ (13) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

~~[(16)]~~ (14) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

~~[(17)]~~ (15) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once each calendar year.

~~[(18)]~~ (16) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(18)]~~ (16)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

Section 19. Section 32B-6-205.4 is enacted to read:

32B-6-205.4. Small full-service restaurant licensee -- Exemption.

(1) Notwithstanding the provisions of Section 32B-6-205 or 32B-6-205.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small full-service restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small full-service restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small full-service restaurant licensee demonstrates that the small full-service restaurant licensee meets the requirements described in Subsection 32B-6-202(5); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section 20. Section 32B-6-302 is amended to read:

32B-6-302. Definitions.

As used in this part:

(1) (a) “Dining area” means an area in the licensed premises of a limited-service restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(b) “Dining area” does not include a dispensing area.

(2) (a) “Dispensing area” means an area in the licensed premises of a limited-service restaurant licensee where a dispensing structure is located and that:

(i) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of alcoholic product;

(ii) except as provided in Subsection (2)(b), measures at least 10 feet from ~~[any area where alcoholic product is dispensed to]~~ the dining area and any waiting area~~[-, measured from the point of the area where alcoholic product is dispensed that is closest to the dining area or waiting area]~~ to the nearest edge of the dispensing structure; or

(iii) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures:

(A) at least 42 inches high; and

(B) at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(b) “Dispensing area” does not include any area described in Subsection (2)(a)(ii) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

(3) (a) “Grandfathered bar structure” means a bar structure in a licensed premises of a limited-service restaurant licensee that:

(i) as of May 11, 2009, has:

(A) patron seating at the bar structure;

(B) a partition at one or more locations on the bar structure that is along:

(I) the width of the bar structure; or

(II) the length of the bar structure; and

(C) facilities for the dispensing or storage of an alcoholic product:

(I) on the portion of the bar structure that is separated by the partition described in Subsection (3)(a)(i)(B); or

(II) if the partition as described in Subsection (3)(a)(i)(B)(II) is adjacent to the bar structure in a manner visible to a patron sitting at the bar structure;

(ii) is not operational as of May 12, 2009, if:

(A) a person applying for a limited-service restaurant license:

(I) has as of May 12, 2009, a building permit to construct the restaurant;

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued the limited-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure described in Subsection (3)(a)(i);

(iii) as of May 12, 2009, has no patron seating at the bar structure; or

(iv) is not operational as of May 12, 2009, if:

(A) a person applying for a limited-service restaurant license:

(I) has as of May 12, 2009, a building permit to construct the restaurant;

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued a limited-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure with no patron seating.

(b) “Grandfathered bar structure” does not include a grandfathered bar structure described in Subsection (3)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(c) Subject to Subsection (3)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

(4) “Seating grandfathered bar structure” means:

(a) a grandfathered bar structure described in Subsection (3)(a)(i) or (ii); or

(b) a bar structure grandfathered under Section 32B-6-409.

(5) “Small limited-service restaurant licensee” means a limited-service restaurant licensee that has a grandfathered bar structure whose dispensing area includes more than 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(a) when measured in accordance with Subsection (2)(a)(ii); and

(b) based on the licensee’s floor plan on file with the department on July 1, 2017.

~~{5}~~ (6) “Waiting area” includes a lobby.

~~{6}~~ (7) “Wine” includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic

beverages made in the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:

- (a) sparkling and carbonated wine;
- (b) wine made from condensed grape must;
- (c) wine made from other agricultural products than the juice of sound, ripe grapes;
- (d) imitation wine;
- (e) compounds sold as wine;
- (f) vermouth;
- (g) cider;
- (h) perry; and
- (i) sake.

Section 21. Section 32B-6-305 is amended to read:

32B-6-305. Specific operational requirements for a limited-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a limited-service restaurant licensee;
- (ii) individual staff of a limited-service restaurant licensee; or
- (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of:

- (i) spirituous liquor; or
- (ii) a flavored malt beverage.

(b) A product listed in Subsection (2)(a) may not be on the premises of a limited-service restaurant licensee except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

(4) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a limited-service restaurant licensee.

(6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (ii) on a weekend or state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A limited-service restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.

(8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after the limited-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) A patron may consume an alcoholic product only:

- (a) at:
 - (i) the patron's table;
 - (ii) a counter; or
 - (iii) a seating grandfathered bar structure; and
- (b) where food is served.

(11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years of age or older may:

- (i) sit;
 - (ii) be furnished an alcoholic product; and
 - (iii) consume an alcoholic product.
- (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a limited-service restaurant licensee:

- (A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant licensee's premises in which the minor is permitted to be.

(12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

- (a) the alcoholic product is dispensed from:

- (i) a grandfathered bar structure;
- (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or
- (iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

- (I) not readily visible to a patron; and
 - (II) not accessible by a patron; and
- (B) apart from an area used:
- (I) for dining;
 - (II) for staging; or
 - (III) as a lobby or waiting area;

(b) the limited-service restaurant licensee uses an alcoholic product that is:

- (i) stored in an area described in Subsection (12)(a); or
- (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (12)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a).

(13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

~~[(14) In addition to complying with Subsection 32B-5-301(3), a limited-service restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:]~~

~~[(a) measures at least 8-1/2 inches long and 11 inches wide; and]~~

~~[(b) clearly states that the limited-service restaurant licensee is a restaurant and not a bar.]~~

~~[(15) (14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:~~

- (a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and
- (b) the minor is accompanied by an individual who is 21 years of age or older.

~~[(16) (15) Except as provided in Subsection 32B-6-305.2[(18)](16) and Section 32B-6-305.3, the provisions of this section apply before July 1, 2018.~~

Section 22. Section 32B-6-305.2 is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a limited-service restaurant licensee;
- (ii) individual staff of a limited-service restaurant licensee; or
- (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

~~[(2) In addition to complying with Subsection 32B-5-301(3), a limited-service restaurant licensee shall display in a conspicuous place at the~~

entrance to the licensed premises a sign approved by the commission that:]

~~[(a) measures at least 8 1/2 inches long and 11 inches wide; and]~~

~~[(b) clearly states that the limited-service restaurant licensee is a restaurant and not a bar.]~~

~~[(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).]~~

~~[(4)] (2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.~~

~~(b) A beverage tab described in this Subsection [(4)] (2) shall state the type and amount of each alcoholic product ordered or consumed.~~

~~[(5)] (3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.~~

~~[(6)] (4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:~~

~~(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or~~

~~(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.~~

~~(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:~~

~~(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or~~

~~(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.~~

~~[(7)] (5) A limited-service restaurant licensee shall maintain at least 70% of the limited-service restaurant licensee's total restaurant business from the sale of food, which does not include a service charge.~~

~~[(8)] (6) (a) A limited-service restaurant licensee may not [sell, offer for sale, or] furnish an alcoholic product except after:~~

~~(i) the patron to whom the limited-service restaurant licensee [sells, offers for sale, or] furnishes the alcoholic product is seated at:~~

~~(A) a table that is located in a dining area or a dispensing area;~~

~~(B) a counter that is located in a dining area or a dispensing area; or~~

~~(C) a dispensing structure that is located in a dispensing area; and~~

~~(ii) the limited-service restaurant licensee confirms that the patron intends to:~~

~~(A) order food prepared, sold, and furnished at the licensed premises; and~~

~~(B) except as provided in Subsection [(8)] (6)(b), consume the food at the same location where the patron is seated and [sold, offered for sale, or] furnished the alcoholic product.~~

~~(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:~~

~~(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and~~

~~(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.~~

~~(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.~~

~~(iii) For purposes of Subsection [(8)] (6)(b)(i) a single portion of wine is 5 ounces or less.~~

~~(c) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.~~

~~[(9)] (7) A patron may consume an alcoholic product only if the patron is seated at:~~

~~(a) a table that is located in a dining area or a dispensing area;~~

~~(b) a counter that is located in a dining area or a dispensing area; or~~

~~(c) a dispensing structure located in a dispensing area.~~

~~[(10)] (8) (a) Subject to the other provisions of this Subsection [(10)] (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.~~

~~(b) An individual portion of wine is considered to be one alcoholic product under Subsection [(10)] (8)(a).~~

~~[(11)] (9) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.~~

~~[(12)] (10) (a) Except as provided in Subsection [(12)] (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.~~

(b) (i) A minor may be in a dispensing area if the minor is employed by the limited-service restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

~~[(13)]~~ (11) Except as provided in Subsection 32B-5-~~307~~(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the ~~[storage or]~~ dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a lobby or waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant licensee; and

~~[(b) the limited-service restaurant licensee uses an alcoholic product that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and]~~

~~[(e)]~~ (b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(13)]~~ (11)(a).

~~[(14)]~~ (12) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(15)]~~ (13) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by

moving a cart or similar device around the licensed premises.

~~[(16)]~~ (14) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

~~[(17)]~~ (15) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

~~[(18)]~~ (16) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(18)]~~ (16)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-305.

Section 23. Section 32B-6-305.4 is enacted to read:

32B-6-305.4. Small limited-service restaurant licensee -- Exemption.

(1) Notwithstanding the provisions of Section 32B-6-305 or 32B-6-305.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small limited-service restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small limited-service restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small limited-service restaurant licensee demonstrates that the small limited-service restaurant licensee meets the requirements described in Subsection 32B-6-302(5); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section 24. Section 32B-6-403 is amended to read:

32B-6-403. Commission's power to issue bar establishment license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a bar establishment licensee, the person shall first obtain a bar establishment license from the commission in accordance with this part.

(2) The commission may issue a bar establishment license to establish bar establishment licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a bar establishment licensee.

(3) Subject to Section 32B-1-201:

(a) (i) before July 1, 2018, the commission may not issue a total number of bar establishment licenses that at any time exceeds the number determined by dividing the population of the state by 7,850; and

(ii) beginning on July 1, 2018, the commission may not issue a total number of bar establishment licenses that at any time exceeds the number determined by dividing the population of the state by ~~10,538~~ 10,200;

(b) the commission may issue a seasonal bar establishment license in accordance with Section 32B-5-206 to:

(i) a dining club licensee; or

(ii) a bar licensee;

(c) (i) if the location, design, and construction of a hotel may require more than one dining club license or bar license location within the hotel to serve the public convenience, the commission may authorize as many as three bar establishment license locations within the hotel under one bar establishment license if:

(A) the hotel has a minimum of 150 guest rooms;

(B) all locations under the bar establishment license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the bar establishment licensee; and

(C) the locations under the bar establishment license operate under the same type of bar establishment license; and

(ii) a facility other than a hotel shall have a separate bar establishment license for each bar establishment license location where an alcoholic product is sold, offered for sale, or furnished;

(d) when a business establishment undergoes a change of ownership, the commission may issue a bar establishment license to the new owner of the business establishment notwithstanding that there is no bar establishment license available under Subsection (3)(a) if:

(i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

(ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a bar establishment license;

(iii) subject to Subsection (3)(e), the licensed premises of the bar establishment license issued under this Subsection (3)(d) is at the same location where the bar establishment license licensed premises was located before the change of ownership; and

(iv) the person who is the new owner of the business establishment qualifies for the bar establishment license, except for there being no bar establishment license available under Subsection (3)(a); and

(e) if a bar establishment licensee of a bar establishment license issued under Subsection (3)(d) requests a change of location, the bar establishment licensee may retain the bar establishment license after the change of location only if on the day on which the bar establishment licensee seeks a change of location a bar establishment license is available under Subsection (3)(a).

Section 25. Section 32B-6-404 is amended to read:

32B-6-404. Types of bar license.

(1) To obtain an equity license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) own, maintain, or operate a substantial recreational facility in conjunction with a club house such as:

(i) a golf course; or

(ii) a tennis facility;

(c) have at least 50% of the total membership having ~~[(i) full voting rights; and (ii)]~~ an equal share of the equity of the entity or a right to redemption or refund at the equal value; and

(d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to ~~[(i) full voting rights; and (ii)]~~ an equal share of the equity of the entity or a right to redemption or refund at the equal value.

(2) To obtain a fraternal license, in addition to meeting the other requirements of this part, a person shall:

(a) whether incorporated or unincorporated:

(i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;

(ii) have members;

(iii) limit access to its licensed premises to a member or a guest of the member; and

(iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

(b) have no capital stock;

(c) exist solely for:

(i) the benefit of its members and their beneficiaries; and

(ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;

(d) have a representative form of government;

(e) have a lodge system in which:

(i) there is a supreme governing body;

(ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;

(iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and

(iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and

(f) own or lease a building or space in a building used for lodge activities.

(3) To obtain a dining club license, in addition to meeting the other requirements of this part, a person shall:

(a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:

(i) for a dining club license that is issued as an original license on or after July 1, 2011, 60%; and

(ii) for a dining club license that is issued on or before June 30, 2011:

(A) 50% on or before June 30, 2012; and

(B) 60% on and after July 1, 2012; and

(b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:

(i) the square footage and seating capacity of the premises;

(ii) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;

(iii) whether full meals including appetizers, main courses, and desserts are served;

(iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(v) whether the entertainment provided at the premises is suitable for minors; and

(vi) the club management's ability to manage and operate a dining club license including:

(A) management experience;

(B) past dining club licensee or restaurant management experience; and

(C) the type of management scheme used by the dining club license.

(4) To obtain a bar license, a person is required to meet the requirements of this part except those listed in Subsection (1), (2), or (3).

(5) (a) At the time that the commission issues a bar establishment license, the commission shall designate the type of bar establishment license for which the person qualifies.

(b) If requested by a bar establishment licensee, the commission may approve a change in the type of bar establishment license in accordance with rules made by the commission.

(6) To the extent not prohibited by law, this part does not prevent a dining club licensee or bar

licensee from restricting access to the licensed premises on the basis of an individual:

- (a) paying a fee; or
- (b) agreeing to being on a list of individuals who have access to the licensed premises.

(7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining club license.

(ii) ~~Effective~~ No later than July 1, 2018, the department shall convert each dining club license to a full-service restaurant license or a bar license in accordance with the provisions of this Subsection (7).

(b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the department no later than May 31, 2018, whether ~~effective July 1, 2018,~~ the person elects to be licensed as a full-service restaurant or a bar.

(B) ~~Effective~~ No later than July 1, 2018, the department shall convert a dining club license to a full-service restaurant license or a bar license in accordance with the dining club licensee's election under Subsection (7)(b)(i)(A).

(ii) If a dining club licensee fails to timely notify the department in accordance with Subsection (7)(b)(i), the dining club license is automatically converted to a full-service restaurant license on July 1, 2018.

(c) Subject to Section 32B-6-404.1, after a dining club license converts to a full-service restaurant license or a bar license, the retail licensee shall operate under the provisions that govern the full-service restaurant license or the bar license, as applicable.

(d) After a dining club license converts to a full-service restaurant license or a bar license in accordance with this Subsection (7):

- (i) the full-service restaurant license is not considered in determining the total number of full-service restaurant licenses available under Section 32B-6-203; or
- (ii) the bar license is not considered in determining the total number of bar establishment licenses available under Section 32B-6-403.

(e) ~~Before~~ Except as provided in Subsections (7)(a) and (b), before July 1, 2018, the commission may not issue a full-service restaurant license, a limited-service restaurant license, or a beer-only restaurant license to a person who holds a dining club license on May 9, 2017, for the same premises.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing a procedure by which a dining club licensee elects and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

Section 26. Section 32B-6-404.1 is amended to read:

32B-6-404.1. Transition from dining club license to full-service restaurant license.

(1) As used in this section:

(a) "Converted full-service restaurant licensee" means a dining club licensee that converts to a full-service restaurant licensee on or before July 1, 2018, in accordance with Subsection 32B-6-404(7).

(b) "Grandfathered bar structure" means the same as that term is defined in Section 32B-6-202.

(2) (a) Except as provided in Subsection (2)(c)[, ~~beginning on July 1, 2018~~] and subject to the provisions of this section, a converted full-service restaurant licensee shall operate under the provisions that govern a full-service restaurant licensee that has a grandfathered bar structure.

(b) For purposes of applying the provisions that govern a full-service restaurant licensee with a grandfathered bar structure, a converted full-service restaurant licensee's bar structure is considered a grandfathered bar structure.

(c) The provisions of Section 32B-6-205.3 do not apply to a converted full-service restaurant licensee.

(3) (a) A converted full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the converted full-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or dining area; or

(iii) the date on which the converted full-service restaurant licensee experiences a change of ownership described in Subsection 32B-8a-202(1).

(b) Before a converted full-service restaurant licensee changes the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the converted full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(c) A converted full-service restaurant licensee that cannot comply with the provisions of Section 32B-6-205.2 without a change to the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption shall submit an application for approval described in Subsection (3)(b) on or before May 1, 2022.

(4) (a) Notwithstanding any provision to the contrary, a converted full-service restaurant licensee shall maintain at least the following percentage of the converted full-service restaurant licensee's total restaurant business from the sale of food:

(i) beginning ~~[July 1, 2018]~~ the day on which the licensee becomes a converted full-service restaurant licensee, and ending June 30, 2019, 64%;

(ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and

(iii) on and after July 1, 2021, 70%.

(b) For purposes of Subsection (4)(a), a converted full-service restaurant licensee's restaurant business from the sale of food does not include:

(i) mix for an alcoholic product; or

(ii) a service charge.

Section 27. Section 32B-6-406 is amended to read:

32B-6-406. Specific operational requirements for a bar establishment license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a bar establishment licensee and staff of the bar establishment licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a bar establishment licensee;

(ii) individual staff of a bar establishment licensee; or

(iii) both a bar establishment licensee and staff of the bar establishment licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a bar licensee shall display in a conspicuous place at the entrance to the licensed premises a sign [~~approved by the commission~~] that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the bar licensee is a bar and [~~not a restaurant~~] that no one under 21 years of age is allowed.

(3) (a) In addition to complying with Section 32B-5-302, a bar establishment licensee shall maintain for a minimum of three years:

(i) a record required by Section 32B-5-302; and

(ii) a record maintained or used by the bar establishment licensee, as the department requires.

(b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).

(c) The department shall audit the records of a bar establishment licensee at least once annually.

(4) (a) A bar establishment licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A bar establishment licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.

(c) (i) Notwithstanding Subsections (4)(a) and (b), a bar establishment licensee shall keep its licensed premises open for one hour after the bar establishment licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the bar establishment licensee may finish consuming:

(A) a single drink containing spirituous liquor;

(B) a single serving of wine not exceeding five ounces;

(C) a single serving of heavy beer;

(D) a single serving of beer not exceeding 26 ounces; or

(E) a single serving of a flavored malt beverage.

(ii) A bar establishment licensee is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(5) (a) A minor may not be admitted into, use, or be in:

(i) a lounge or bar area of the premises of:

(A) an equity licensee;

(B) a fraternal licensee; or

(C) a dining club licensee; or

(ii) the premises of:

(A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or

(B) a bar licensee, except to the extent provided for under Section 32B-6-406.1.

(b) Notwithstanding Section 32B-5-308, a bar establishment licensee may not employ a minor to:

(i) work in a lounge or bar area of an equity licensee, fraternal licensee, or dining club licensee; or

(ii) handle an alcoholic product.

(c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a bar licensee.

(d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a bar establishment licensee.

(6) A bar establishment licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than

two alcoholic products of any kind at a time before the patron.

(b) A patron may not have two spirituous liquor drinks before the bar establishment licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) A bar establishment licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the bar establishment licensee including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:

(a) the person to whom the bar establishment licensee rents or leases the premises agrees in writing to comply with this title as if the person is the bar establishment licensee, except for a requirement related to making or maintaining a record; and

(b) the bar establishment licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).

(10) If a bar establishment licensee is an equity licensee or fraternal licensee, the bar establishment licensee shall comply with Section 32B-6-407.

(11) If a bar establishment licensee is a dining club licensee or bar licensee, the bar establishment licensee shall comply with Section 32B-1-407.

(12) (a) A bar establishment licensee shall own or lease premises suitable for the bar establishment licensee's activities.

(b) A bar establishment licensee may not maintain licensed premises in a manner that barricades or conceals the bar establishment licensee's operation.

Section 28. Section 32B-6-409 is amended to read:

32B-6-409. Conversion from dining club license to different type of retail license.

(1) In accordance with this section, a dining club licensee may convert its dining club license to a different type of retail license, including a different type of club license during the time period:

- (a) beginning on July 1, 2011; and
- (b) ending on June 30, 2013.

(2) A dining club licensee may convert its dining license only to a retail license for which the dining club licensee qualifies.

(3) The commission shall provide a procedure for a dining club to convert to a different type of retail license as provided in this section by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) After a dining club license is converted to another type of retail license, the retail licensee shall operate under the provisions relevant to the type of retail license held by the retail licensee[~~, except that, in accordance with Section 32B-1-201, the retail license is not considered in determining the total number of licenses available for that type of retail license~~].

(5) If a dining club license is converted to full-service restaurant license, limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining club is considered:

- (a) a seating grandfathered bar structure for purposes of a full-service restaurant license or a limited-service restaurant license; or
- (b) a grandfathered bar structure for purposes of a beer-only restaurant license.

Section 29. Section 32B-6-503 is amended to read:

32B-6-503. Commission's power to issue airport lounge license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain an airport lounge license from the commission in accordance with this part.

(2) The commission may issue an airport lounge license to establish airport lounge licensed premises beyond the security point at an international airport and in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on licensed premises operated as an airport lounge.

(3) (a) The commission may not issue a total number of airport lounge licenses for an international airport that at any time exceed one airport lounge license for each ~~[2,500,000]~~ 1,750,000 of total passengers at the international airport.

(b) Notwithstanding Subsection (3)(a), the commission may not reduce the total number of airport lounge licenses unless:

- (i) the commission determines that the number of total passengers is reduced by more than 25% from the last day on which the commission determined the total number of airport lounge licenses allowed for that international airport under this Subsection (3); and
- (ii) the reduction can be accomplished without the international airport terminating a lease for an airport lounge before:

- (A) the expiration of the lease;
- (B) the airport lounge undergoes a change of ownership; or
- (C) the airport lounge ceases operations.

Section 30. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) an on-premise banquet licensee;
- (ii) individual staff of an on-premise banquet licensee; or
- (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, or convention center that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

- (i) an authorized representative of the commission or the department; or
- (ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) [A] Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding ~~Section 32B-5-307~~ Subsection 32B-5-307(3) and except as provided in Subsection 32B-5-307(4), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(a) begins at 1 a.m.; and

(b) ends at 9:59 a.m.

(9) An on-premise banquet licensee shall maintain at least 50% of its total annual banquet gross receipts from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the furnishing of an alcoholic product.

(10) (a) Subject to the other provisions of this Subsection (10), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(12) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(13) (a) Room service of an alcoholic product to a guest room of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room.

(b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

Section 31. Section 32B-6-605.1 is enacted to read:

32B-6-605.1. Department study -- Rulemaking authority.

(1) The department shall:

(a) study the use of banquet catering contracts and the operation of on-premise banquet licenses under the provisions of this part; and

(b) no later than November 30, 2018, submit a written report to the Business and Labor Interim Committee that:

(i) identifies any issues the department discovers during the study described in Subsection (1)(a); and

(ii) recommends possible legislative solutions to the issues, if any.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing:

(a) required terms in a contract between the host of a banquet and an on-premise banquet licensee; and

(b) size requirements for a location of a banquet.

Section 32. Section 32B-6-902 is amended to read:

32B-6-902. Definitions.

(1) As used in this part:

(a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(ii) "Dining area" does not include a dispensing area.

(b) (i) "Dispensing area" means an area in the licensed premises of a beer-only restaurant licensee where a dispensing structure is located and that:

(A) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of beer;

(B) except as provided in Subsection (1)(b)(ii), measures at least 10 feet from ~~any area where beer is dispensed to~~ the dining area and any waiting area, ~~measured from the point of the area where beer is dispensed that is closest to the dining area or waiting area~~ to the nearest edge of the dispensing structure; or

(C) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures at least 42 inches high, and at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(ii) "Dispensing area" does not include any area described in Subsection (1)(b)(i)(B) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

(c) "Grandfathered bar structure" means a bar structure in a licensed premises of a beer-only restaurant licensee that:

(i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August 1, 2011:

(A) is operational;

(B) has facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii); and

(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or

(ii) is a bar structure grandfathered under Section 32B-6-409.

(d) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(e) "Small beer-only restaurant licensee" means a beer-only restaurant licensee that has a grandfathered bar structure whose dispensing area includes more than 45% of the available seating for patrons on the licensed premises, excluding outdoor seating;

(i) when measured in accordance with Subsection (1)(b)(i)(B); and

(ii) based on the licensee's floor plan on file with the department on July 1, 2017.

([e]) (f) "Waiting area" includes a lobby.

(2) Subject to Subsection (1)(d), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

Section 33. Section 32B-6-905 is amended to read:

32B-6-905. Specific operational requirements for a beer-only restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a beer-only restaurant licensee;
- (ii) individual staff of a beer-only restaurant licensee; or
- (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (12)(a).

(4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of beer ordered or consumed.

(5) A person's willingness to serve beer may not be made a condition of employment as a server with a beer-only restaurant licensee.

(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.

(8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after the beer-only restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A beer-only restaurant shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(9) A patron may not have more than two beers at a time before the patron.

(10) A patron may consume a beer only:

- (a) at:
 - (i) the patron's table;
 - (ii) a grandfathered bar structure; or
 - (iii) a counter; and
- (b) where food is served.

(11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to a patron, and a patron may not consume an alcoholic product at a bar structure.

(b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished a beer; and
- (iii) consume a beer.

(c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a beer-only restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the beer-only restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in which the minor is permitted to be.

(12) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from an area that is:

- (i) a grandfathered bar structure; or
- (ii) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the beer-only restaurant licensee uses a beer that is:

(i) stored in an area described in Subsection (12)(a); or

(ii) in an area not described in Subsection (12)(a) on the licensed premises and:

(A) immediately before the beer is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (12)(a); and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (12)(a).

~~[(13) In addition to complying with Subsection 32B-5-301(3), a beer-only restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:]~~

~~[(a) measures at least 8 1/2 inches long and 11 inches wide; and]~~

~~[(b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.]~~

[(44)] (13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

[(45)] (14) Except as provided in Subsection 32B-6-905.1[(48)](16) and Section 32B-6-905.2, the provisions of this section apply before July 1, 2018.

Section 34. Section 32B-6-905.1 is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert.

~~[(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (13)(a).]~~

~~[(4)] (3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.~~

(b) A beverage tab described in this Subsection ~~[(4)] (3)~~ shall state the type and amount of each alcoholic product ordered or consumed.

~~[(5)] (4)~~ A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

~~[(6)] (5)~~ A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7)] (6)~~ A beer-only restaurant licensee shall maintain at least 70% of the beer-only restaurant licensee's total restaurant business from the sale of food, which does not include a service charge.

~~[(8)] (7) (a) A beer-only restaurant licensee may not sell, offer for sale, or~~ furnish beer except after:

(i) the patron to whom the beer-only restaurant licensee ~~sells, offers for sale, or~~ furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection ~~[(8)] (7)(b)~~, consume the food at the same location where the

patron is seated and ~~[sold, offered for sale, or]~~ furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (8) A patron may consume a beer only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

~~[(10)]~~ (9) A patron may not have more than two beers at a time before the patron.

~~[(11)]~~ (10) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

~~[(12)]~~ (11) (a) Except as provided in Subsection ~~[(12)]~~ (11)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

~~[(13)]~~ (12) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the ~~[storage or]~~ dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a lobby or waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee; and

~~[(b) the beer-only restaurant licensee uses a beer that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and]~~

~~[(e)]~~ (b) any instrument or equipment used to dispense the beer is located in an area described in Subsection ~~[(13)]~~ (12)(a).

~~[(14)]~~ (13) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection ~~[32B-6-202]~~ 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(15)]~~ (14) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

~~[(16)]~~ (15) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once each calendar year.

~~[(17) A beer-only restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:]~~

~~[(a) measures at least 8 1/2 inches long and 11 inches wide; and]~~

~~[(b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.]~~

~~[(18)]~~ (16) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection [(18)] (16)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-905.

Section 35. Section 32B-6-905.3 is enacted to read:

32B-6-905.3. Small beer-only restaurant licensee -- Exemption.

(1) Notwithstanding the provisions of Section 32B-6-905 or 32B-6-905.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small beer-only restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small beer-only restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small beer-only restaurant licensee demonstrates that the small beer-only restaurant licensee meets the requirements described in Subsection 32B-6-902(1)(e); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section 36. Section 32B-7-202 is amended to read:

32B-7-202. General operational requirements for off-premise beer retailer.

(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4) (a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

[(4)] (b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

[(a)] (i) the sale is done under the supervision of a person 21 years of age or older who is on the licensed premises; and

[(b)] (ii) the minor is at least 16 years of age.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

[(5)] (6) (a) Subject to the other provisions of this Subsection [(5)] (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door

from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection ~~[(5)]~~ (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection ~~[(5)]~~ (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection ~~[(5)]~~ (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection ~~[(5)]~~ (6) is an infraction.

(e) (i) Except as provided in Subsection ~~[(5)]~~ (6)(e)(ii), the provisions of Subsection ~~[(5)]~~ (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection ~~[(5)]~~ (6)(a)(i) apply on and after August 1, 2017.

~~[(6)]~~ (7) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

(i) full name;

(ii) address; and

(iii) (A) driver license number; or

(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection ~~[(6)]~~ (7) for immediate inspection by:

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to \$250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection ~~[(6)]~~ (7).

Section 37. Section 32B-7-401 is amended to read:

32B-7-401. Commission's power to issue off-premise beer retailer state license.

(1) Beginning on July 1, 2018, and except as provided in Subsection (3), before a person may purchase, store, sell, or offer for sale beer for consumption off the person's premises, the person shall obtain an off-premise beer retailer state license in accordance with this part.

(2) The commission may issue an off-premise beer retailer state license for the retail sale of beer for consumption off the beer retailer's premises.

(3) (a) A person who operates as an off-premise beer retailer on July 1, 2018, shall ~~[obtain]~~ submit an application for an off-premise beer retailer state license on or before March 1, 2019.

~~[(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish a deadline for each off-premise beer retailer described in Subsection (3)(a) to submit to the department an application for an off-premise beer retailer state license.]~~

~~[(ii) The commission shall act upon each timely application submitted in accordance with this Subsection (3) on or before February 28, 2019.]~~

~~[(c) An off-premise beer retailer described in Subsection (3)(a) may continue to operate without an off-premise beer retailer state license through February 28, 2019.]~~

Section 38. Section 32B-8a-202 is amended to read:

32B-8a-202. Effect of transfer of ownership of business entity.

(1) (a) When the ownership of 51% or more of the shares of stock of a corporation is acquired by or transferred to one or more persons who did not hold the ownership of 51% of those shares of stock on the date a retail license is issued to the corporation, the corporation shall comply with this chapter to transfer the retail license to the corporation as if the corporation is newly constituted.

(b) When there is a new general partner or when the ownership of 51% or more of the capital or

profits of a limited partnership is acquired by or transferred to one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the date a retail license is issued to the limited partnership, the limited partnership shall comply with this chapter to transfer the retail license to the limited partnership as if the limited partnership is newly constituted.

(c) When the ownership of 51% or more of the interests in a limited liability company is acquired by or transferred to one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the date a retail license is issued to the limited liability company, the limited liability company shall comply with this chapter to transfer the retail license to the limited liability company as if the limited liability company is newly constituted.

(2) ~~[If a]~~ A business entity ~~[fails to]~~ shall comply with this section within ~~[30]~~ 60 days ~~[of]~~ after the day on which the event described in Subsection (1) occurs~~[-, the business entity's retail license is automatically forfeited].~~

Section 39. Section 32B-8a-203 is amended to read:

32B-8a-203. Operational requirements for transferee.

(1) (a) A transferee shall begin operations of the retail license within 30 days from the day on which a transfer is approved by the commission, except that:

(i) the department may grant an extension of this time period not to exceed 30 days; and

(ii) after the extension is authorized by the department under Subsection (1)(a)(i), the commission may grant one or more additional extensions not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee can demonstrate to the commission that the transferee:

(A) cannot begin operations because the transferee is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection (1)(a)(ii)(A); and

(C) is working expeditiously to complete the improvements to the licensed premises.

(b) A transferee is considered to have begun operations of the retail license if the transferee:

(i) has a licensed premises that is open ~~[to the public]~~ for business;

(ii) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed premises described in Subsection (1)(b)(i); and

(iii) has a valid business license.

(2) If a transferee fails to begin operations of the retail license within the time period required by

Subsection (1), the following are automatically forfeited effective immediately:

(a) the retail license; and

(b) the retail license fee.

(3) A transferee shall begin operations of the retail license at the location to which the transfer applies before the transferee may seek a transfer of the retail license to a different location.

(4) Notwithstanding Subsection (1), the commission may not issue a conditional license unless the requirements of Section 32B-5-205 are met, except that the time periods required by this section supersede the time period provided in Section 32B-5-205.

Section 40. Section 32B-8b-102 is amended to read:

32B-8b-102. Definitions.

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of ~~[the]~~ one or more contiguous parcels of real estate owned or managed by the same person and on which a hotel is located ~~[one or more buildings and any structure or improvement to that real estate as determined by the commission].~~

(2) "Hotel" means one or more buildings that:

(a) ~~[constitute]~~ comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in ~~[and]~~ or can direct or exercise control over the management or policy of the person who owns or manages any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

(d) provide room service within the boundary of the hotel meeting the requirements of this title;

(e) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

(f) have a restaurant or bar establishment within the boundary of the hotel meeting the requirements of this title; and

(g) have at least 40 guest rooms.

(3) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer Retailer License; and

(f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant License.

(4) "Sublicense" means:

- (a) a full-service restaurant sublicense;
- (b) a limited-service restaurant sublicense;
- (c) a bar establishment sublicense;
- (d) an on-premise banquet sublicense;
- (e) an on-premise beer retailer sublicense; and
- (f) a beer-only restaurant sublicense.

(5) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission, ~~except that sublicense premises may have only one sublicense within a room or an enclosure that is separate from a room.~~

Section 41. Section 32B-8b-301 is amended to read:

32B-8b-301. Specific operational requirements for hotel license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a hotel licensee;
- (ii) individual staff of a hotel licensee;
- (iii) a person otherwise operating under a sublicense;
- (iv) individual staff of a person otherwise operating under a sublicense; or
- (v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

- (i) on a sublicense premises;
- (ii) pursuant to a permit issued under this title; or
- (iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

- (i) except as provided in Section 32B-8b-302, if on a sublicense premises, in accordance with the

operational requirements under the provisions applicable to the sublicense;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(c) Notwithstanding the other provisions of this Subsection (2), a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall comply with Subsections 32B-5-301(4) and (5) within the boundary of the hotel.

(4) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(5) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be provided in person by staff of a hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(6) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel licensee's sublicenses is from the sale of food, not including:

- (a) mix for an alcoholic product; and
- (b) a charge in connection with the service of an alcoholic product.

Section 42. Section 32B-8b-302 is amended to read:

32B-8b-302. Specific operational requirements for a sublicense.

(1) [A] Except as provided in Subsection (2), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) A person operating under a sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent the gross receipts for the sublicense are included in calculating the percentages under Subsection 32B-8-401(4).

~~[(2)]~~ (3) For purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

- (a) a requirement imposed on a person operating under a sublicense applies to the hotel licensee; and
- (b) a requirement imposed on staff of a person operating under a sublicense applies to staff of the hotel licensee.

Section 43. Section 53F-9-304 is amended to read:

53F-9-304. Underage Drinking Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Control ~~remits~~ deposits any portion of the markup collected under Section 32B-2-304 ~~to the State Tax Commission, the department~~ into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the ~~department~~ Department of Alcoholic Beverage Control deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year ~~[2017]~~.

(b) For purposes of this Subsection (3), the department shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The State Board of Education shall use money in the account for the Underage Drinking Prevention Program described in Section 53G-10-406.

Section 44. Section 53G-10-406 is amended to read:

53G-10-406. Underage Drinking Prevention Program -- State Board of Education rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Board" means the State Board of Education.

(c) "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Program" means the Underage Drinking Prevention Program created in this section.

(e) "School-based prevention ~~presentation~~ program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention ~~presentation~~ program for students in grade 7 or 8; and

(b) a school-based prevention ~~presentation~~ program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the board under Subsection (6) to offer the program.

(4) The board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent of public instruction or the state superintendent of public instruction's designee; and

(g) two members of the State Board of Education, appointed by the chair of the State Board of Education.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

(7) (a) The board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; and

(b) establish criteria for the board to use in selecting a provider described in Subsection (6).

Section 45. Section 62A-15-401 is amended to read:

62A-15-401. Alcohol training and education seminar.

(1) As used in this part:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to:

(i) a retail manager as defined in Section 32B-5-402;

(ii) retail staff as defined in Section 32B-5-402; and

(iii) an individual who, as defined by division rule:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in ~~[Subsections]~~ Subsection (2)(a)(i) ~~through (iii)~~ or (ii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired; or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-5-404(1) if the individual is described in ~~[Subsections (2)(a)(iv) and (v)]~~ Subsection (2)(a)(iii)(A) or (B); and

(ii) pay a fee:

(A) to the seminar provider; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i)~~;~~ or (ii)~~;~~ or (iii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)~~[(iv) or (v)]~~ (ii)(A) or (B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate

completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-5-403.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Control;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Control;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of

the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 46. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

~~[(2) Subsection 32B-1-102(33) (a)(i)(B), the language that states "32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii)," and " , or 32B-6-905(12)(b)(ii)" is repealed July 1, 2022.]~~

~~[(3) Subsection 32B-1-102(114)(b), the language that states "32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii)," and " , or 32B-6-905(12)(b)(ii)" is repealed July 1, 2022.]~~

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

~~[(4) (3) Subsection 32B-1-604(4) is repealed June 1, 2018.~~

~~[(5) (4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.~~

~~[(6) (5) Section 32B-6-205 is repealed July 1, 2022.~~

~~[(7) (6) Subsection 32B-6-205.2[(17)](15) is repealed July 1, 2022.~~

~~[(8) (7) Section 32B-6-205.3 is repealed July 1, 2022.~~

~~[(9) (8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.~~

~~[(10) (9) Section 32B-6-305 is repealed July 1, 2022.~~

~~[(11) (10) Subsection 32B-6-305.2[(17)](15) is repealed July 1, 2022.~~

~~[(12) (11) Section 32B-6-305.3 is repealed July 1, 2022.~~

~~[(13) (12) Section 32B-6-404.1 is repealed July 1, 2022.~~

~~[(14)]~~ (13) Section 32B-6-409 is repealed July 1, 2022.

(14) Section 32B-6-605.1 is repealed July 1, 2019.

(15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

(16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

(17) Section 32B-6-905 is repealed July 1, 2022.

(18) Subsection 32B-6-905.1~~[(17)]~~(16) is repealed July 1, 2022.

(19) Section 32B-6-905.2 is repealed July 1, 2022.

(20) Section 32B-7-303 is repealed March 1, 2019.

(21) Section 32B-7-304 is repealed March 1, 2019.

(22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

CHAPTER 250**H. B. 458**

Passed March 7, 2018

Approved March 19, 2018

Effective May 8, 2018

JAIL BEDS AMENDMENTSChief Sponsor: Michael E. Noel
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill increases the daily rate for treatment beds in county facilities.

Highlighted Provisions:

This bill:

- ▶ increases the daily rate from 89% to 91.75% for treatment beds for state inmates in county facilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-103, as last amended by Laws of Utah 2017, Chapter 302

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

Section 1. Section 64-13e-103 is amended to read:**64-13e-103. Contracts for housing state inmates.**

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) [~~89%~~] 91.75% of the final state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program to state inmates, if the treatment program is approved by the department under Subsection (3)(c); and

(ii) 73% of the final state daily incarceration rate for beds in a county other than the beds described in Subsection (3)(a)(i).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county

receiving payment based on the rate described in Subsection (3)(a)(i); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(a) the approximate number of beds to be contracted;

(b) the final state daily incarceration rate;

(c) the approximate amount of the county's long-term debt; and

(d) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

CHAPTER 251**H. B. 462**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

HOMELESS SERVICES AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: Todd Weiler
 Cosponsors: Joel K. Briscoe
 Walt Brooks
 Rebecca Chavez-Houck
 Susan Duckworth
 Rebecca P. Edwards
 Gage Froerer
 Francis D. Gibson
 Sandra Hollins
 Gregory H. Hughes
 Eric K. Hutchings
 Brian S. King
 Karen Kwan
 Bradley G. Last
 Michael E. Noel
 Jeremy A. Peterson
 Dixon M. Pitcher
 Angela Romero
 Douglas V. Sagers
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove
 Elizabeth Weight
 John R. Westwood
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill amends provisions related to the Housing and Community Development Division.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to how money in the Olene Walker Housing Loan Fund may be used;
- ▶ amends provisions related to how money in the Homeless to Housing Reform Restricted Account may be used;
- ▶ amends reporting requirements of the Housing and Community Development Division; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the General Fund Restricted -- Homeless to Housing Reform Restricted Account, as an ongoing appropriation:
 - from the General Fund, \$6,600,000;
- ▶ to the Department of Workforce Services -- Housing and Community Development, as an ongoing appropriation:
 - from the General Fund Restricted -- Homeless to Housing Reform Restricted Account, \$6,600,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-505, as last amended by Laws of Utah 2016, Chapter 131
 35A-8-601, as last amended by Laws of Utah 2016, Chapter 278
 35A-8-604, as last amended by Laws of Utah 2017, Chapter 21
 35A-8-605, as enacted by Laws of Utah 2016, Chapter 278

ENACTS:

35A-8-805, Utah Code Annotated 1953

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

Section 1. Section 35A-8-505 is amended to read:**35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.**

At the direction of the board, the executive director may:

- (1) provide fund money to any of the following activities:
 - (a) the acquisition, rehabilitation, or new construction of low-income housing units;
 - (b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;
 - (c) the development and construction of accessible housing designed for low-income persons;
 - (d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation; ~~and~~
 - (e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing; and
 - ~~[(e)]~~ (f) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons;

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 2. Section 35A-8-601 is amended to read:

35A-8-601. Creation.

(1) There is created within the division the Homeless Coordinating Committee.

(2) (a) The committee shall consist of the following members:

(i) the lieutenant governor or the lieutenant governor's designee;

(ii) the state planning coordinator or the coordinator's designee;

(iii) the state superintendent of public instruction or the superintendent's designee;

(iv) the chair of the board of trustees of the Utah Housing Corporation or the chair's designee;

(v) the executive director of the Department of Workforce Services or the executive director's designee;

(vi) the executive director of the Department of Corrections or the executive director's designee;

(vii) the executive director of the Department of Health or the executive director's designee;

(viii) the executive director of the Department of Human Services or the executive director's designee;

(ix) the mayor of Salt Lake City~~[; and]~~ or the mayor's designee;

(x) the mayor of Salt Lake County~~[;]~~ or the mayor's designee;

(xi) the mayor of Ogden or the mayor's designee;

(xii) the mayor of Midvale or the mayor's designee;

(xiii) the mayor of St. George or the mayor's designee; and

(xiv) the mayor of South Salt Lake or the mayor's designee.

(b) (i) The lieutenant governor shall serve as the chair of the committee.

(ii) The lieutenant governor may appoint a vice chair from among committee members, who shall conduct committee meetings in the absence of the lieutenant governor.

(3) The governor may appoint as members of the committee:

(a) representatives of local governments, local housing authorities, local law enforcement agencies;

(b) representatives of federal and private agencies and organizations concerned with the homeless, persons with a mental illness, the elderly, single-parent families, persons with a substance use disorder, and persons with a disability; and

(c) a resident of Salt Lake County.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members appointed under Subsection (3) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A member appointed under Subsection (3) may not be appointed to serve more than three consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 3. Section 35A-8-604 is amended to read:

35A-8-604. Uses of Homeless to Housing Reform Restricted Account.

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the ~~[Homeless to Housing Reform Restricted Account]~~ restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the ~~[Homeless to Housing Reform Restricted Account]~~ restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter; and

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults; and

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(6) In accordance with Subsection (5), and subject to the approval of the Homeless Coordinating Committee with the concurrence of the division, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the Homeless Coordinating Committee with the concurrence of the division; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(7) Subject to the requirements of Subsections (5) and (6), on or before March 30, 2017, the county executive of a county of the first class shall make a recommendation to the Homeless Coordinating Committee identifying a site location for one facility within the county of the first class that will provide shelter for the homeless in a location other than Salt Lake City.

(8) (a) As used in this Subsection (8) and in Subsection (9), "homeless shelter" means a facility that:

- (i) is located within a municipality;
- (ii) provides temporary shelter year-round to homeless individuals; and
- (iii) has the capacity to provide temporary shelter to at least 50 individuals per night.

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

- (i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and
- (ii) to a municipality to hire one or more peace officers to provide greater safety to homeless individuals.

(9) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection (9), the Homeless Coordinating Committee, with the concurrence of the division, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (9), the Homeless Coordinating Committee, with the concurrence of the division, shall:

- (i) give priority to a homeless shelter located in a county of the first class that has the capacity to provide temporary shelter to at least 200 individuals per night; and
- (ii) consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

~~[(9)]~~ (10) The division may expend money from the ~~[Homeless to Housing Reform Restricted Account]~~ restricted account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.

Section 4. Section 35A-8-605 is amended to read:

35A-8-605. Homeless to Housing Reform Restricted Account.

(1) There is created a restricted account within the General Fund known as the Homeless to Housing Reform Restricted Account.

(2) The restricted account shall be administered by the division for the purposes described in Section 35A-8-604.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

(4) The restricted account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations, grants, gifts, bequests, or money made available from any other source to implement this section and Section 35A-8-604.

(5) Subject to appropriation, the director shall use restricted account money as described in Section 35A-8-604.

(6) The Homeless Coordinating Committee, in cooperation with the division, shall submit an annual written report to the department that gives a complete accounting of the use of money from the restricted account for inclusion in the annual report described in Section 35A-1-109.

Section 5. Section 35A-8-805 is enacted to read:

35A-8-805. Reporting requirements.

(1) As used in this section:

(a) "Affordable housing" means, as determined by the department, the number of housing units within a county or municipality where a household whose income is at or below 50% of area median income is able to live in a unit without spending more than 30% of their income on housing costs.

(b) "County" means the unincorporated area of a county.

(c) "Low-income housing" means, as determined by the department, the number of Section 42, Internal Revenue Code, housing units within a county or municipality.

(d) "Municipality" means a city, town, or metro township.

(2) (a) On or before October 1 of each year, the division shall provide a report to the department for inclusion in the department's annual report described in Section 35A-1-109.

(b) The report shall include:

(i) an estimate of how many affordable housing units and how many low-income housing units are available in each county and municipality in the state;

(ii) a determination of the percentage of affordable housing available in each county and municipality in the state as compared to the statewide average;

(iii) a determination of the percentage of low-income housing available in each county and

municipality in the state as compared to the statewide average; and

(iv) a description of how information in the report was calculated.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Fund and Account Transfers -- General Fund Restricted -- Homeless to Housing Reform Restricted Account

<u>From General Fund</u>	<u>\$6,600,000</u>
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Schedule of Programs:

<u>General Fund Restricted —</u>	
<u>Homeless to Housing</u>	
<u>Reform Restricted Account</u>	<u>\$6,600,000</u>

ITEM 2

To Department of Workforce Services -- Housing and Community Development

<u>From General Fund Restricted —</u>	
<u>Homeless to Housing Reform</u>	
<u>Restricted Account</u>	<u>\$6,600,000</u>

Schedule of Programs:

<u>Homeless to Housing</u>	
<u>Reform Program</u>	<u>\$6,600,000</u>

The Legislature intends that:

(1) under Section 63J-1-603 appropriations provided under this section not lapse at the close of fiscal year 2019; and

(2) the appropriation to the Homeless to Housing Reform Restricted Account be used for the purposes described in Subsection 35A-8-604(9).

CHAPTER 252**H. B. 468**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

RESIDENTIAL VOCATIONAL AND LIFE SKILLS PROGRAM AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill creates a registration process for a residential, vocational and life skills program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a registration process within the Department of Commerce for a residential, vocational and life skills program;
- ▶ regulates the operations of a residential, vocational and life skills program; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-2-1, as last amended by Laws of Utah 2017, Chapter 98
62A-2-101, as last amended by Laws of Utah 2017, Chapters 29, 148, and 209

ENACTS:

13-53-101, Utah Code Annotated 1953
13-53-102, Utah Code Annotated 1953
13-53-103, Utah Code Annotated 1953
13-53-104, Utah Code Annotated 1953
13-53-105, Utah Code Annotated 1953
13-53-106, Utah Code Annotated 1953
13-53-107, Utah Code Annotated 1953
13-53-108, Utah Code Annotated 1953
13-53-109, Utah Code Annotated 1953
13-53-110, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 is amended to read:**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 39, Child Protection Registry;

(p) Chapter 41, Price Controls During Emergencies Act;

(q) Chapter 42, Uniform Debt-Management Services Act;

(r) Chapter 49, Immigration Consultants Registration Act; [and]

(s) Chapter 51, Transportation Network Company Registration Act[-]; and

(t) Chapter 53, Residential, Vocational and Life Skills Program Act.

Section 2. Section 13-53-101 is enacted to read:**CHAPTER 53. RESIDENTIAL, VOCATIONAL AND LIFE SKILLS PROGRAM ACT****13-53-101. Title.**

This chapter is known as the "Residential, Vocational and Life Skills Program Act."

Section 3. Section 13-53-102 is enacted to read:**13-53-102. Definitions.**

As used in this chapter:

(1) "Division" means the Division of Consumer Protection.

(2) "Human services program" means the same as that term is defined in Section 62A-2-101.

(3) "Participant" means an individual who:

(a) resides at a residential, vocational and life skills program facility;

(b) receives from the residential, vocational and life skills program:

- (i) vocational training; or
- (ii) life skills training; and
- (c) does not receive monetary compensation from the residential, vocational and life skills program.
- (4) "Proprietary school" means the same as that term is defined in Section 13-34-102.
- (5) "Residential, vocational and life skills program" means a program that:
 - (a) is operated by a nonprofit corporation, as defined in Section 16-6a-102;
 - (b) does not accept local, state, or federal government funding, government grant money, or any other form of government assistance to operate or provide services or training;
 - (c) operates on a mutually voluntary basis with each participant;
 - (d) houses at a program facility in this state participants who are unrelated to an owner or a manager of the program facility without charging money for lodging, food, clothing, or training;
 - (e) may house transitional graduates for a fee;
 - (f) provides vocational training to participants;
 - (g) provides life skills training to participants;
 - (h) maintains a director or senior staff member at a program facility at all times when the facility is in use;
 - (i) does not provide mental health services;
 - (j) does not provide substance use disorder treatment;
 - (k) does not accept payment from an insurance provider for a participant;
 - (l) does not award a degree, diploma, or other educational credential commensurate with a degree or diploma;
 - (m) does not hold itself out as a human services program; and
 - (n) does not hold itself out as a proprietary school.
- (6) "Transitional graduate" means an individual who:
 - (a) graduated from a residential, vocational and life skills program;
 - (b) continues to reside at the residential, vocational and life skills program facility; and
 - (c) is employed by an entity not directly affiliated with the residential, vocational and life skills program.
- (7) "Vocational training entity" is a commercial entity where a participant receives vocational training.

Section 4. Section 13-53-103 is enacted to read:

13-53-103. Registration of a residential, vocational and life skills program.

- (1) An owner or a manager of a residential, vocational and life skills program shall annually register the residential, vocational and life skills program with the division.
- (2) An application for registration shall be on a form approved by the division and shall require:
 - (a) the name, address, telephone number, email address, website, and facsimile number, if any, of the nonprofit corporation operating the residential, vocational and life skills program;
 - (b) the name and address of the registered agent of the corporation operating the residential, vocational and life skills program;
 - (c) the name, address, telephone number, email address, website, and facsimile number, if any, of the residential, vocational and life skills program;
 - (d) the name and address of any entity that controls, is controlled by, or is affiliated with the residential, vocational and life skills program;
 - (e) the name and residential address of any officer, director, manager, or administrator of the residential, vocational and life skills program;
 - (f) the name, address, telephone number, email address, website, and facsimile number, if any, of any vocational training entity affiliated with the residential, vocational and life skills program;
 - (g) a disclosure indicating whether any officer, director, or administrator of the residential, vocational and life skills program has been the subject of an administrative action by the division;
 - (h) a disclosure indicating whether any officer, director, or administrator of the residential, vocational and life skills program has been convicted of a felony or a crime of moral turpitude within the previous 10 years;
 - (i) if the organization is a charitable organization, as defined by Section 13-22-2, a copy of the charitable organization's registration or exemption;
 - (j) financial information described in Subsection 13-53-108(1);
 - (k) proof of a commercial general liability and umbrella insurance policy providing at least a \$1,000,000 per occurrence limit of liability;
 - (l) a copy of the disclosure required under Section 13-53-106;
 - (m) evidence that the applicant meets the description of a residential, vocational and life skills program under Subsection 13-53-102(5); and
 - (n) additional information that the division requires, as provided in administrative rule.
- (3) A residential, vocational and life skills program is registered on the day that the division issues the registration.

(4) The division's issuance of a registration for a residential, vocational and life skills program does not constitute the state's or the division's endorsement or approval of the residential, vocational and life skills program.

(5) An applicant for the registration of a residential, vocational and life skills program shall file a separate application and pay a separate application fee for each residential, vocational and life skills program location.

(6) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the registration application process.

(7) The division may set fees in accordance with Section 63J-1-504 for a residential, vocational and life skills program registration application.

Section 5. Section 13-53-104 is enacted to read:

13-53-104. Registration denial, suspension, or revocation.

(1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate proceedings to deny, suspend, or revoke the registration of a residential, vocational and life skills program, if:

(a) the entity holding the registration fails to meet the description of a residential, vocational and life skills program under Subsection 13-53-102(5);

(b) the operation of the residential, vocational and life skills program creates a serious risk to public safety or welfare;

(c) the registration application or any supplemental information required by the division is incomplete, false, misleading, or filed in an untimely manner;

(d) the residential, vocational and life skills program or an individual described in Subsection 13-53-103(2)(e) causes or allows to occur a violation of any provision of municipal, state, or federal law, including an administrative rule made under this chapter;

(e) (i) an individual described in Subsection 13-53-103(2)(e) is convicted of a felony or a crime of moral turpitude within the previous 10 years; and

(ii) the residential, vocational and life skills program does not have adequate controls to minimize associated risks to the participants of the residential, vocational and life skills program and to the public; or

(f) the residential, vocational and life skills program fails to pay an administrative fine that the division lawfully imposes on the residential, vocational and life skills program.

(2) The division may place reasonable limits upon a residential, vocational and life skills program's operations, if:

(a) the division has reasonable concerns about the residential, vocational and life skills program's ability to comply with this chapter; and

(b) the limitation is reasonably calculated to protect the interests of the public or the participants of the residential, vocational and life skills program.

(3) When the demands of public safety permit, the division shall allow a residential, vocational and life skills program a reasonable amount of time to remedy a violation under this chapter before the division suspends or revokes a registration.

(4) The division may require an individual described in Subsection 13-53-103(2)(e) to submit to a criminal background check, at the individual's expense or the expense of the residential, vocational and life skills program.

Section 6. Section 13-53-105 is enacted to read:

13-53-105. Prohibited acts.

A residential, vocational and life skills program may not:

(1) operate without a registration issued under Section 13-53-103;

(2) utilize any behavioral intervention that is not peer-led or that uses the services of any professional or any person purporting to be a professional;

(3) accept a participant before providing to the participant the disclosure described in Section 13-53-106; or

(4) use physical force or permit the use of physical force.

Section 7. Section 13-53-106 is enacted to read:

13-53-106. Disclosure to participants.

(1) Before accepting a participant, a residential, vocational and life skills program shall provide to the prospective participant a written disclosure.

(2) The written disclosure shall include:

(a) a statement that the program is a registered residential, vocational and life skills program, but that the residential, vocational and life skills program is not endorsed by the state or the division;

(b) a statement that the prospective participant's continuation in the program is voluntary and that a participant may leave at any time;

(c) the conditions under which a participant is removed from the residential, vocational and life skills program or required to leave a program facility;

(d) a statement that the residential, vocational and life skills program will contact Adult Probation and Parole, if required by law; and

(e) a description of:

(i) the lodging, food, clothing, and other resources that are available to a participant;

(ii) the nature and scope of the residential, vocational and life skills program, including any activities or work that a participant is required to perform;

(iii) the scope and substance of peer-led activities;

(iv) the types of vocational training available to a participant, including the limitations on availability;

(v) the nature and extent of possible exposure to profanity, accusation, confrontation, nonphysical threats, or nonphysical corrective interaction;

(vi) the terms of any prohibition from contact with a participant's family, friends, or associates; and

(vii) any crimes committed within the previous two years at the residential, vocational and life skills program facility or at a vocational training entity affiliated with the residential, vocational and life skills program.

Section 8. Section 13-53-107 is enacted to read:

13-53-107. Participant screening.

(1) A residential, vocational and life skills program shall interview and screen all prospective participants for medical prescriptions, physical and mental health history, and recent alcohol or drug use.

(2) Unless an individual obtains a medical clearance from a physician, a residential, vocational and life skills program may not have as a participant an individual who:

(a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or

(b) has an active prescription for medication for a mental, social, psychiatric, or psychological illness.

(3) A residential, vocational and life skills program may not admit a minor.

Section 9. Section 13-53-108 is enacted to read:

13-53-108. Financial requirements.

(1) When applying for registration under Subsection 13-53-103(2), an applicant shall demonstrate fiscal responsibility by providing evidence to the division that the residential, vocational and life skills program:

(a) is financially sound; and

(b) reasonably has the fiscal ability to fulfill commitments and obligations to the participants of the residential, vocational and life skills program.

(2) Evidence acceptable to satisfy the requirement described in Subsection (1) includes:

(a) for a residential, vocational and life skills program that has been in operation less than one fiscal year:

(i) pro forma financial statements until further information described in Subsection (2)(b) is available; and

(ii) a commercial credit report for the residential, vocational and life skills program; or

(b) for a residential, vocational and life skills program that has completed a fiscal year, and as soon as the residential, vocational and life skills program completes its first fiscal year:

(i) a current financial statement, with all applicable footnotes, for the most recent fiscal year, including a balance sheet, a statement of income, a statement of retained earnings, and a statement of cash flow; and

(ii) a certified fiscal audit of the residential, vocational and life skills program's financial statement, performed by a certified or licensed public accountant.

(3) In evaluating a residential, vocational and life skills program's fiscal responsibility, the division may consider:

(a) any judgment, tax lien, collection action, bankruptcy schedule, or history of late payments to creditors;

(b) documentation showing the resolution of a matter described in Subsection (3)(a);

(c) the residential, vocational and life skills program's explanation for a matter described in Subsection (3)(a);

(d) a guarantee agreement provided for the residential, vocational and life skills program; and

(e) history of a prior entity that:

(i) is owned or operated by any individual who is an officer, a director, or an administrator of the residential, vocational and life skills program; and

(ii) has failed to maintain fiscal responsibility.

(4) The division may require evidence of financial status at other times when it is in the best interest of the program participants to require the information.

(5) The division may perform a fiscal audit of a residential, vocational and life skills program.

(6) A residential, vocational and life skills program shall develop and maintain adequate internal controls for receipt, management, and disbursement of money that are reasonable in light of the residential, vocational and life skills program's organizational complexity.

Section 10. Section 13-53-109 is enacted to read:

13-53-109. Discontinuance of operations.

(1) A residential, vocational and life skills program that is closing shall adopt a plan for the provision of food, shelter, and clothing for at least 30 days from the date of closure to participants displaced by the closure.

(2) At least 30 days before the day on which the residential, vocational and life skills program will close, the residential, vocational and life skills program shall provide written notice to the division of:

- (a) the intended date of closure; and
- (b) the plan described in Subsection (1).

Section 11. Section 13-53-110 is enacted to read:

13-53-110. Enforcement.

(1) The division may investigate facilities and enforce this chapter under the authority described in Chapter 2, Division of Consumer Protection.

(2) To monitor the welfare of participants and transitional graduates, if any, and to monitor the safe operation of a residential, vocational and life skills program, the division shall:

(a) annually perform an on-site inspection of a registered residential, vocational and life skills program;

(b) refer each concern that the division identifies during the on-site inspection to the state or municipal entity responsible for the area of concern; and

(c) coordinate with each relevant state and municipal entity to monitor the residential, vocational and life skills program's compliance with the entity's relevant health and safety regulations.

(3) In addition to penalties established by this chapter and in addition to the enforcement authority described in Chapter 2, Division of Consumer Protection, the division may:

- (a) issue a cease and desist order;
- (b) impose an administrative fine of up to \$2,500 for each violation of this chapter; and
- (c) seek injunctive relief in a court of competent jurisdiction.

(4) All money received from fines imposed under this section shall be deposited into the Consumer Protection Education and Training Fund, created in Section 13-2-8.

Section 12. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (29)(a); or

(B) provides the treatment or services described in Subsection (29)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (29)(a) on a limited basis if:

(A) the treatment or services described in Subsection (29)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (29)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (29)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means a person under 18 years of age.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

- (a) finding a person to adopt the child;
- (b) placing the child in a home for adoption; or
- (c) foster home placement.

(7) "Child-placing agency" means a person that engages in child placing.

(8) "Client" means an individual who receives or has received services from a licensee.

(9) "Day treatment" means specialized treatment that is provided to:

- (a) a client less than 24 hours a day; and
- (b) four or more persons who:
 - (i) are unrelated to the owner or provider; and
 - (ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(10) "Department" means the Department of Human Services.

(11) "Department contractor" means an individual who:

- (a) provides services under a contract with the department; and
- (b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(12) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(13) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(14) "Director" means the director of the Office of Licensing.

(15) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(16) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(17) "Elder adult" means a person 65 years of age or older.

(18) "Executive director" means the executive director of the department.

(19) "Foster home" means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.

(20) (a) "Human services program" means a:

- (i) foster home;
- (ii) therapeutic school;
- (iii) youth program;
- (iv) resource family home;
- (v) recovery residence; or
- (vi) facility or program that provides:

- (A) secure treatment;
- (B) inpatient treatment;
- (C) residential treatment;
- (D) residential support;
- (E) adult day care;
- (F) day treatment;
- (G) outpatient treatment;
- (H) domestic violence treatment;
- (I) child-placing services;
- (J) social detoxification; or

(K) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

- (i) a boarding school[-]; or
- (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(21) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(22) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(23) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(24) "Licensee" means an individual or a human services program licensed by the office.

(25) "Local government" means a city, town, metro township, or county.

(26) "Minor" has the same meaning as "child."

(27) "Office" means the Office of Licensing within the Department of Human Services.

(28) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(29) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance abuse disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance abuse disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(30) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(31) (a) "Residential support" means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support" includes providing a supervised living environment for persons with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) "Residential support" does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(32) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(33) "Residential treatment program" means a human services program that provides:

(a) residential treatment; or

(b) secure treatment.

(34) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

(35) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(36) "Substance abuse treatment program" means a program:

- (a) designed to provide:
 - (i) specialized drug or alcohol treatment;
 - (ii) rehabilitation; or
 - (iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (36)(a) to persons with:

- (i) a diagnosed substance abuse disorder; or
- (ii) chemical dependency disorder.

(37) “Therapeutic school” means a residential group living facility:

(a) for four or more individuals that are not related to:

- (i) the owner of the facility; or
- (ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and

(c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to:

- (I) a disability;
- (II) emotional development;
- (III) behavioral development;
- (IV) familial development; or
- (V) social development.

(38) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(39) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(40) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
 - (ii) charges a fee for its services;
 - (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
 - (iv) may or may not provide all or part of its services in the outdoors;
 - (v) may or may not limit or censor access to parents or guardians; and
 - (vi) prohibits or restricts a minor’s ability to leave the program at any time of the minor’s own free will.
- (b) “Youth program” does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

CHAPTER 253**H. B. 484**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

WINTER SPORTS VENUES

Chief Sponsor: Eric K. Hutchings
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill establishes the “Winter Sports Venue Grant Fund.”

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the “Winter Sports Venue Grant Fund” to provide grants to certain entities to assist in funding improvements to winter sports venues in the state;
- ▶ establishes certain application and reporting requirements relating to the fund money; and
- ▶ requires the Division of Facilities Construction and Management to review grant proposals and distribute grant money.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

51-11-101, Utah Code Annotated 1953
51-11-102, Utah Code Annotated 1953
51-11-201, Utah Code Annotated 1953

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

Section 1. Section 51-11-101 is enacted to read:**CHAPTER 11. WINTER SPORTS VENUE GRANT FUND****Part 1. General Provisions****51-11-101. Title.**

This chapter is known as the “Winter Sports Venue Grant Fund.”

Section 2. Section 51-11-102 is enacted to read:**51-11-102. Definitions.**

As used in this chapter:

(1) “Division” means the Division of Facilities Construction and Management created in Section 63A-5-201.

(2) “Fund” means the Winter Sports Venue Grant Fund.

(3) “Improve” or “improvements” means the replacement or addition to infrastructure, buildings, building components, or facility equipment.

(4) “Venue” means a facility:

(a) designed and currently approved under standards developed by a generally recognized sports federation to host world-class level, international winter sports competitions; and

(b) used for recreational, developmental, and competitive athletic training.

(5) “Venue operator” means a person who:

(a) (i) operates a venue; and

(ii) the venue is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) owns a venue or operates a venue under contract with the public owner of the venue.

Section 3. Section 51-11-201 is enacted to read:**Part 2. Winter Sports Venue Grant Fund**
51-11-201. Winter Sports Venue Grant Fund.

(1) (a) There is created an expendable special revenue fund known as the “Winter Sports Venue Grant Fund.”

(b) The fund shall consist of:

(i) money appropriated to the fund by the Legislature;

(ii) money donated to the fund from public or private individuals or entities; and

(iii) interest on fund money.

(2) The division shall award grants from the fund to a venue operator to provide funding for construction, repairs, and improvements to a venue.

(3) A venue operator’s application for a grant under this section shall include:

(a) the number of venues the venue operator plans to construct, repair, or improve;

(b) the venue operator’s proposed improvements, repairs, or construction plans for a venue;

(c) the estimated cost of the venue operator’s proposed improvements, repairs, or construction plans for a venue;

(d) any plan to use funding sources in addition to a grant under this section to improve, repair, or construct a venue;

(e) the amount of grant money requested to fund the improvements, repairs, or construction for each venue; and

(f) existing or planned contracts or partnerships between the venue operator and other individuals or entities to complete venue improvements, repairs, or construction.

(4) The division may only award and distribute fund money to a venue operator that submits an application in accordance with Subsection (3).

(5) (a) As a condition of an award of grant money, the venue operator shall sign an agreement with the division governing:

(i) the venue operator's responsibilities for expending the grant money; and

(ii) the division's and state's right to review and audit the venue operator's use of grant money and the venue operator's performance under the grant.

(b) The division shall ensure that the agreement contains:

(i) a requirement for an annual report and the required contents of that report in accordance with Subsection (6)(b);

(ii) a right for the division or its designee to visit and inspect the venue as often as needed before, during, and after construction, repairs, or improvements begin or are complete; and

(iii) an absolute right for the division, the state auditor, and the legislative auditor to access and audit all financial records relevant to the grant.

(6) (a) A venue operator that receives fund money under this section may only use the grant money to improve, repair, or construct a venue.

(b) A venue operator that receives fund money under this section shall file a report with the division before October 1, 2019, and each year thereafter, that details for the immediately preceding calendar year:

(i) the construction, improvements, and repairs, in process or completed, that were wholly or partially funded by a grant under this section;

(ii) the total dollar amount expended from the grant;

(iii) an itemized accounting that describes how the venue operator expended the grant money;

(iv) the intended use for grant money that has not been expended; and

(v) the results of any evaluations of venue construction, improvements, or repairs.

CHAPTER 254**S. B. 18**

Passed February 14, 2018

Approved March 19, 2018

Effective May 8, 2018

SUBCOMMITTEE ON OVERSIGHT DUTIES

Chief Sponsor: Gene Davis

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to the duties of the Legislative Management Committee's Subcommittee on Oversight.

Highlighted Provisions:

This bill:

- ▶ provides that the Subcommittee on Oversight shall conduct a performance review of the legislative general counsel alongside the legislative office directors; and
- ▶ clarifies the yearly schedule for performance of the Subcommittee on Oversight's duties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-8.1, as enacted by Laws of Utah 2000, Chapter 165

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

Section 1. Section 36-12-8.1 is amended to read:**36-12-8.1. Legislative Management Committee -- Subcommittee on Oversight -- Members -- Duties -- Meetings.**

(1) There is created within the Legislative Management Committee a Subcommittee on Oversight comprised of the following members:

- (a) from the Senate:
 - (i) the president;
 - (ii) the majority leader;
 - (iii) the minority leader; and
 - (iv) the minority whip;
- (b) from the House of Representatives:
 - (i) the speaker;
 - (ii) the majority leader;
 - (iii) the minority leader; and
 - (iv) the minority whip.

(2) The Subcommittee on Oversight shall:

(a) review and approve the budget for the Office of Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Office of Legislative Auditor General; and

(b) provide an annual performance review for the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, the legislative general counsel, and the legislative auditor general.

(3) (a) This subcommittee shall meet no later than:

(i) June 1st of each year to ~~conduct~~ receive and evaluate the results of the annual performance ~~review~~ reviews; and ~~no later than~~

(ii) November 1st of each year to review and approve the ~~budget of these offices~~ budgets of the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Office of the Legislative Auditor General.

(b) This subcommittee may meet at other times as often as necessary to perform its duties.

CHAPTER 255**S. B. 27**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**RELATIONSHIP VIOLENCE
 AND OFFENSES AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Angela Romero

LONG TITLE**General Description:**

This bill modifies provisions related to domestic violence, dating violence, and stalking.

Highlighted Provisions:

This bill:

- ▶ modifies definition of “crime victim” as it relates to dating violence;
- ▶ addresses violation of specified protective orders;
- ▶ modifies definitions;
- ▶ amends provisions for forms of petitions and protective orders;
- ▶ addresses duties of law enforcement officers;
- ▶ addresses when and how a court may act ex parte;
- ▶ modifies provisions related to mutual protective orders or stalking injunctions;
- ▶ amends continuing duty to inform court of other proceedings;
- ▶ addresses dismissal or expiration of protective orders; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 57-22-5.1, as last amended by Laws of Utah 2011, Chapter 279
- 76-5-106.5, as last amended by Laws of Utah 2017, Chapter 380
- 76-5-108, as last amended by Laws of Utah 2013, Chapter 196
- 77-36-1, as last amended by Laws of Utah 2017, Chapters 289 and 332
- 77-36-2.1, as last amended by Laws of Utah 2017, Chapters 289 and 332
- 78B-7-102, as last amended by Laws of Utah 2017, Chapter 332
- 78B-7-105, as last amended by Laws of Utah 2017, Chapter 332
- 78B-7-106, as last amended by Laws of Utah 2014, Chapter 267
- 78B-7-107, as last amended by Laws of Utah 2010, Chapter 34
- 78B-7-108, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-7-109, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-7-115, as last amended by Laws of Utah 2017, Chapter 332

ENACTS:

- 77-3a-101.1, Utah Code Annotated 1953
- 78B-7-115.5, Utah Code Annotated 1953
- 78B-7-408, Utah Code Annotated 1953
- 78B-7-409, Utah Code Annotated 1953

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

Section 1. Section 57-22-5.1 is amended to read:

57-22-5.1. Crime victim’s right to new locks -- Domestic violence victim’s right to terminate rental agreement -- Limits an owner relating to assistance from public safety agency.

(1) As used in this section:

(a) “Crime victim” means a victim of:

- (i) domestic violence, as defined in Section 77-36-1;
- (ii) stalking, as defined in Section 76-5-106.5;
- (iii) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;
- (iv) burglary or aggravated burglary under Section 76-6-202 or 76-6-203;
- (v) dating violence, ~~[consisting of verbal, emotional, psychological, physical, or sexual abuse of one person by another in a dating relationship]~~ as defined in Section 78B-7-402.

(b) “Public safety agency” means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.

(2) An acceptable form of documentation of an act listed in Subsection (1) is:

(a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act; or

(b) a copy of a police report documenting an act listed in Subsection (1).

(3) (a) A renter who is a crime victim may require the renter’s owner to install a new lock to the renter’s residential rental unit if the renter:

(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and

(ii) pays for the cost of installing the new lock.

(b) An owner may comply with Subsection (3)(a) by:

(i) rekeying the lock if the lock is in good working condition; or

(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.

(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.

(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the perpetrator of the act listed in Subsection (1).

(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:

(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or

(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.

(4) A renter who is a victim of domestic violence, as defined in Section 77-36-1, may terminate a rental agreement if the renter:

(a) is in compliance with:

(i) all provisions of Section 57-22-5; and

(ii) all obligations under the rental agreement;

(b) provides the owner:

(i) written notice of termination; and

(ii) a protective order protecting the renter from a domestic violence perpetrator or a copy of a police report documenting that the renter is a victim of domestic violence and did not participate in the violence; and

(c) no later than the date that the renter provides a notice of termination under Subsection (4)(b)(i), pays the owner the equivalent of 45 days' rent for the period beginning on the date that the renter provides the notice of termination.

(5) An owner may not:

(a) impose a restriction on a renter's ability to request assistance from a public safety agency; or

(b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.

Section 2. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1) As used in this section:

(a) "Conviction" means:

(i) a verdict or conviction;

(ii) a plea of guilty or guilty and mentally ill;

(iii) a plea of no contest; or

(iv) the acceptance by the court of a plea in abeyance.

(b) "Course of conduct" means two or more acts directed at or toward a specific person, including:

(i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property:

(A) directly, indirectly, or through any third party; and

(B) by any action, method, device, or means; or

(ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(A) approaches or confronts a person;

(B) appears at the person's workplace or contacts the person's employer or coworkers;

(C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person;

(D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person;

(E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or

(F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

[(d)] (c) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

[(e)] (d) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months.

(e) "Reasonable person" means a reasonable person in the victim's circumstances.

(f) "Stalking" means an offense as described in Subsection (2) or (3).

(g) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.

(2) A person is guilty of stalking who intentionally or knowingly engages in a course of

conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person:

(a) to fear for the person's own safety or the safety of a third person; or

(b) to suffer other emotional distress.

(3) A person is guilty of stalking who intentionally or knowingly violates:

(a) a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions; or

(b) a permanent criminal stalking injunction issued pursuant to this section.

(4) In any prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6) Stalking is a class A misdemeanor:

(a) upon the offender's first violation of Subsection (2); or

(b) if the offender violated a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions.

(7) Stalking is a third degree felony if the offender:

(a) has been previously convicted of an offense of stalking;

(b) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(c) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(d) violated a permanent criminal stalking injunction issued pursuant to Subsection (9); or

(e) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(8) Stalking is a second degree felony if the offender:

(a) used a dangerous weapon as defined in Section 76-1-601 or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(b) has been previously convicted two or more times of the offense of stalking;

(c) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(d) has been convicted two or more times, in any combination, of offenses under Subsection (7)(a), (b), or (c);

(e) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(f) has been previously convicted of an offense under Subsection (7)(d) or (e).

(9) (a) The following serve as an application for a permanent criminal stalking injunction limiting the contact between the defendant and the victim:

(i) a conviction for:

(A) stalking; or

(B) attempt to commit stalking; or

(ii) a plea to any of the offenses described in Subsection (9)(a)(i) accepted by the court and held in abeyance for a period of time.

(b) A permanent criminal stalking injunction shall be issued by the court at the time of the conviction. The court shall give the defendant notice of the right to request a hearing.

(c) If the defendant requests a hearing under Subsection (9)(b), it shall be held at the time of the conviction unless the victim requests otherwise, or for good cause.

(d) If the conviction was entered in a justice court, a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance shall be filed by the victim in the district court as an application and request for a hearing for a permanent criminal stalking injunction.

(10) A permanent criminal stalking injunction shall be issued by the district court granting the following relief where appropriate:

(a) an order:

(i) restraining the defendant from entering the residence, property, school, or place of employment of the victim; and

(ii) requiring the defendant to stay away from the victim, except as provided in Subsection (11), and to stay away from any specified place that is named in the order and is frequented regularly by the victim;

(b) an order restraining the defendant from making contact with or regarding the victim, including an order forbidding the defendant from personally or through an agent initiating any communication, except as provided in Subsection (11), likely to cause annoyance or alarm to the victim, including personal, written, or telephone contact with or regarding the victim, with the victim's employers, employees, coworkers, friends, associates, or others with whom communication would be likely to cause annoyance or alarm to the victim; and

(c) any other orders the court considers necessary to protect the victim and members of the victim's immediate family or household.

(11) If the victim and defendant have minor children together, the court may consider provisions regarding the defendant's exercise of custody and parent-time rights while ensuring the safety of the victim and any minor children. If the court issues a permanent criminal stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered and that court may modify the injunction to balance the parties' custody and parent-time rights.

(12) Except as provided in Subsection (11), a permanent criminal stalking injunction may be modified, dissolved, or dismissed only upon application of the victim to the court which granted the injunction.

(13) Notice of permanent criminal stalking injunctions issued pursuant to this section shall be sent by the court to the statewide warrants network or similar system.

(14) A permanent criminal stalking injunction issued pursuant to this section has effect statewide.

(15) (a) Violation of an injunction issued pursuant to this section constitutes a third degree felony offense of stalking under Subsection (7).

(b) Violations may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

(16) This section does not preclude the filing of a criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions, or a permanent criminal stalking injunction.

(17) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services

available to victims of stalking, in accordance with Subsection (17)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 77, Chapter 3a, Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (17), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 3. Section 76-5-108 is amended to read:

76-5-108. Protective orders restraining abuse of another -- Violation.

(1) Any person who is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, or ex parte child protective order issued under the following who intentionally or knowingly violates that order after having been properly served or having been present, in person or through court video conferencing, when the order was issued, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act:

(a) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act;

(b) Title 78A, Chapter 6, Juvenile Court Act;

(c) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

(d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act~~], who intentionally or knowingly violates that order after having been properly served, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act].~~

(2) Violation of an order as described in Subsection (1) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

Section 4. Section 77-3a-101.1 is enacted to read:

77-3a-101.1. Mutual civil stalking injunctions.

(1) A court may not grant a mutual order or mutual civil stalking injunction to opposing parties, unless each party:

(a) files an independent petition against the other for a civil stalking injunction, and both petitions are served;

(b) makes a showing at an evidentiary hearing on the civil stalking injunction that stalking has occurred by the other party; and

(c) demonstrates the alleged act did not occur in self-defense.

(2) If the court issues mutual civil stalking injunctions, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court orders.

(3) A court may not grant a civil stalking injunction to a civil petitioner who is the respondent or defendant subject to a civil stalking injunction, protective order, child protective order, or ex parte child protective order:

(a) issued under:

(i) Chapter 3a, Stalking Injunctions;

(ii) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;

(iii) Chapter 36, Cohabitant Abuse Procedures Act;

(iv) Title 78A, Chapter 6, Juvenile Court Act; or

(v) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act; and

(b) unless the court determines that the requirements of Subsection (1) are met, and:

(i) the same court issued the order for protection against the respondent; or

(ii) if the matter is before a subsequent court, the subsequent court:

(A) determines it would be impractical for the original court to consider the matter; or

(B) confers with the court that issued the order for protection.

Section 5. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving

violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(m) possession of a deadly weapon with criminal intent [~~to assault~~], as described in Section 76-10-507;

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4)[~~Conviction~~], except that a conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from [~~the provisions of~~] the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.; [~~or~~]

(p) child abuse, as described in Section 76-5-109.1[-];

(q) threatening use of a dangerous weapon, as described in Section 76-10-506;

(r) threatening violence, as described in Section 76-5-107;

(s) tampering with a witness, as described in Section 76-8-508;

(t) retaliation against a witness or victim, as described in Section 76-8-508.3;

(u) unlawful distribution of an intimate image, as described in Section 76-5b-203;

(v) sexual battery, as described in Section 76-9-702.1;

(w) voyeurism, as described in Section 76-9-702.7;

(x) damage to or interruption of a communication device, as described in Section 76-6-108; or

(y) an offense described in Section 77-20-3.5.

(5) “Jail release agreement” means the same as that term is defined in Section 77-20-3.5.

(6) “Jail release court order” means the same as that term is defined in Section 77-20-3.5.

(7) “Marital status” means married and living together, divorced, separated, or not married.

(8) “Married and living together” means a ~~man and a woman~~ couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) “Not married” means any living arrangement other than married and living together, divorced, or separated.

(10) “Protective order” includes an order issued under Subsection 77-36-5.1(6).

(11) “Pretrial protective order” means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release pursuant to Subsection 77-20-3.5(3), Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

(12) “Sentencing protective order” means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals pursuant to Sections 77-36-5 and 77-36-5.1.

(13) “Separated” means a ~~man and a woman~~ couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) “Victim” means a cohabitant who has been subjected to domestic violence.

Section 6. Section 77-36-2.1 is amended to read:

77-36-2.1. Duties of law enforcement officers -- Notice to victims.

(1) A law enforcement officer who responds to an allegation of domestic violence shall use all

reasonable means to protect the victim and prevent further violence, including:

(a) taking the action that, in the officer’s discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(b) confiscating the weapon or weapons involved in the alleged domestic violence;

(c) making arrangements for the victim and any child to obtain emergency housing or shelter;

(d) providing protection while the victim removes essential personal effects;

(e) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; and

(f) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (2).

(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk’s office in the judicial district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections 77-20-3.5(10) and (11).

(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.

Section 7. Section 78B-7-102 is amended to read:

78B-7-102. Definitions.

As used in this chapter:

(1) “Abuse” means intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm.

(2) “Cohabitant” means an emancipated person pursuant to Section 15-2-1 or a person who is 16 years of age or older who:

(a) is or was a spouse of the other party;

(b) is or was living as if a spouse of the other party;

(c) is related by blood or marriage to the other party as the person's parent, grandparent, sibling, or any other person related to the person by consanguinity or affinity to the second degree;

(d) has or had one or more children in common with the other party;

(e) is the biological parent of the other party's unborn child; [øæ]

(f) resides or has resided in the same residence as the other party[-]; or

(g) is or was in a consensual sexual relationship with the other party.

(3) Notwithstanding Subsection (2), "cohabitant" does not include:

(a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years of age.

(4) "Court clerk" means a district court clerk.

(5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(6) "Ex parte protective order" means an order issued without notice to the ~~[defendant]~~ respondent in accordance with this chapter.

(7) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

(8) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(9) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classifications.

(10) "Protective order" means:

(a) an order issued pursuant to this chapter subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice in accordance with this chapter; or

(b) an order issued under Subsection 77-36-5.1(6).

Section 8. Section 78B-7-105 is amended to read:

78B-7-105. Forms for petitions and protective orders -- Assistance.

(1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to persons seeking to proceed under this chapter.

(b) The Administrative Office of the Courts shall develop and adopt uniform forms for petitions and orders for protection in accordance with the provisions of this chapter. That office shall provide the forms to the clerk of each court authorized to issue protective orders. The forms shall include:

(i) a statement notifying the petitioner for an ex parte protective order that knowing falsification of any statement or information provided for the purpose of obtaining a protective order may subject the petitioner to felony prosecution;

(ii) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation, as provided in Subsection 78B-7-106(5);

(iii) language in the criminal provision portion stating violation of any criminal provision is a class A misdemeanor, and language in the civil portion stating violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iv) a space for information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description;

(v) a space for the petitioner to request a specific period of time for the civil provisions to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for the requested extension of the length of time beyond 150 days;

(vi) a statement advising the petitioner that when a minor child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school where the child attends; ~~[and]~~

(vii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance[-]; and

(viii) a space for information the petitioner is able to provide related to a proceeding for an order for protection, civil litigation, a proceeding in juvenile court, and a criminal case involving either party, including:

(A) the case name;

(B) the file number;

(C) the county and state of the proceeding; and

(D) the judge's name.

(2) If the person seeking to proceed under this chapter is not represented by an attorney, it is the responsibility of the court clerk's office to provide:

(a) the forms adopted pursuant to Subsection (1);

(b) all other forms required to petition for an order for protection including, but not limited to, forms for service;

(c) clerical assistance in filling out the forms and filing the petition, in accordance with Subsection (1)(a), except that a court clerk's office may designate any other entity, agency, or person to provide that service, but the court clerk's office is responsible to see that the service is provided;

(d) information regarding the means available for the service of process;

(e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and

(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.

(3) ~~[No charges may be imposed by a]~~ A court clerk, constable, or law enforcement agency may not impose a charge for:

(a) filing a petition under this chapter;

(b) obtaining an ex parte protective order;

(c) obtaining copies, either certified or not certified, necessary for service or delivery to law enforcement officials; or

(d) fees for service of a petition, ex parte protective order, or protective order.

(4) A petition for an order of protection shall be in writing and verified.

(5) (a) An order for protection shall be issued in the form adopted by the Administrative Office of the Courts pursuant to Subsection (1).

(b) A protective order issued, except orders issued ex parte, shall include the following language:

“Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.[A-] Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.”

(c) A protective order issued in accordance with this part, including protective orders issued ex parte and except for a continuous protective order issued under Subsection 77-36-5.1(6), shall include the following language:

“NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent.”

Section 9. Section 78B-7-106 is amended to read:

78B-7-106. Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for an order for protection or a petition to modify an order for protection that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of an order for protection is required, a court may:

(a) without notice, immediately issue an order for protection ex parte or modify an order for protection ex parte as it considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue an order for protection or modify an order after a hearing, whether or not the respondent appears.

(2) A court may grant the following relief without notice in an order for protection or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit ~~[or] domestic violence or abuse, committing domestic violence or abuse [against the petitioner and], or harassing the petitioner or any designated family or household member;~~

(b) prohibit the respondent from ~~[harassing,] telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;~~

~~[(c) order that the respondent is excluded from the petitioner's residence and its premises, and order the respondent to stay away from the residence, school, or place of employment of the petitioner, and the premises of any of these, or]~~

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner [and] or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the

respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

~~(d)~~ (f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

~~(e)~~ (g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

~~(f)~~ (h) grant to the petitioner or someone other than the respondent temporary custody of ~~[any minor children]~~ a minor child of the parties;

~~(g)~~ (i) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;

~~(h)~~ (j) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

~~(i)~~ (k) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in an order for protection or a modification of an order after notice and hearing, whether or not the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) Following the protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement

agency or agencies designated by the petitioner; and

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.

(5) (a) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

(i) criminal offenses are those under Subsections (2)(a) through (e), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and

(ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a) as it refers to Subsections (2)(f), (h), and (i).

(b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.

(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.

(6) The protective order shall include:

(a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;

(b) information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description; and

(c) a statement advising the petitioner that:

(i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;

(ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and

(iii) the address provided by the petitioner will not be made available to the respondent.

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, pursuant to Subsection (5)(a), shall provide expedited service for orders for protection issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate an order of protection or any provisions in the order after notice and hearing, except that the criminal provisions of a protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

Section 10. Section 78B-7-107 is amended to read:

78B-7-107. Hearings on ex parte orders.

(1) (a) When a court issues an ex parte protective order the court shall set a date for a hearing on the petition to be held within 20 days after the ex parte order is issued.

(b) If at that hearing the court does not issue a protective order, the ex parte protective order shall expire, unless it is otherwise extended by the court. Extensions beyond the 20-day period may not be granted unless:

(i) the petitioner is unable to be present at the hearing;

(ii) the respondent has not been served;

(iii) the respondent has had the opportunity to present a defense at the hearing;

(iv) the respondent requests that the ex parte order be extended; or

(v) exigent circumstances exist.

(c) Under no circumstances may an ex parte order be extended beyond 180 days from the date of initial issuance.

(d) If at that hearing the court issues a protective order, the ex parte protective order remains in effect until service of process of the protective order is completed.

(e) A protective order issued after notice and a hearing is effective until further order of the court.

(f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 days of the entry of the recommended order and the assigned judge shall hold a hearing within 20 days of the filing of the objection.

(2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-106.

(3) When a court denies a petition for an ex parte protective order or a petition to modify an order for protection ex parte, upon the request of the petitioner, the court shall set the matter for hearing and notify the petitioner and serve the respondent.

(4) A respondent who has been served with an ex parte protective order may seek to vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a) by filing a verified motion to vacate. The respondent's verified motion to vacate and a notice of hearing on that motion shall be personally served on the petitioner at least two days prior to the hearing on the motion to vacate.

Section 11. Section 78B-7-108 is amended to read:

78B-7-108. Mutual protective orders.

(1) A court may not grant a mutual order or mutual orders for protection to opposing parties, unless each party:

(a) ~~[has filed]~~ files an independent petition against the other for a protective order, and both petitions ~~[have been]~~ are served;

(b) makes a showing at a due process protective order hearing of abuse or domestic violence committed by the other party; and

(c) demonstrates the abuse or domestic violence did not occur in self-defense.

(2) If the court issues mutual protective orders, ~~[the circumstances justifying those orders shall be documented in the case file.]~~ the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

(3) A court may not grant an order for protection to a civil petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:

(a) issued under:

(i) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;

(ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(iii) Title 78A, Chapter 6, Juvenile Court Act; or

(iv) Chapter 7, Part 1, Cohabitant Abuse Act; and

(b) unless the court determines that the requirements of Subsection (1) are met, and:

(i) the same court issued the order for protection against the respondent; or

(ii) if the matter is before a subsequent court, the subsequent court:

(A) determines it would be impractical for the original court to consider the matter; or

(B) confers with the court that issued the order for protection.

Section 12. Section 78B-7-109 is amended to read:

78B-7-109. Continuing duty to inform court of other proceedings -- Effect of other proceedings.

(1) ~~[At any hearing in a proceeding to obtain an order for protection, each]~~ Each party has a continuing duty to inform the court of each proceeding for an order for protection, any civil litigation, each proceeding in juvenile court, and each criminal case involving either party, including the case name, the file number, and the county and state of the proceeding, if that information is known by the party.

(2) (a) An order for protection issued pursuant to this chapter is in addition to and not in lieu of any other available civil or criminal proceeding.

(b) A petitioner is not barred from seeking a protective order because of other pending proceedings.

(c) A court may not delay granting relief under this chapter because of the existence of a pending civil action between the parties.

(3) A petitioner may omit ~~[his or her]~~ the petitioner's address from all documents filed with the court under this chapter, but shall separately provide the court with a mailing address that is not to be made part of the public record, but that may be provided to a peace officer or entity for service of process.

Section 13. Section 78B-7-115 is amended to read:

78B-7-115. Dismissal of protective order -- Expiration.

(1) Except as provided in Subsections (6) and (8), a protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of

future harm or abuse. In determining whether the petitioner no longer has a reasonable fear of future harm or abuse, the court shall consider the following factors:

(a) whether the respondent has complied with treatment recommendations related to domestic violence, entered at the time the protective order was entered;

(b) whether the protective order was violated during the time it was in force;

(c) claims of harassment, abuse, or violence by either party during the time the protective order was in force;

(d) counseling or therapy undertaken by either party;

(e) impact on the well-being of any minor children of the parties, if relevant; and

(f) any other factors the court considers relevant to the case before it.

(2) Except as provided in Subsections (6) and (8), the court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if it finds that:

(a) the basis for the issuance of the protective order no longer exists;

(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order;

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and

(d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges involving violent conduct still on file with the court.

(3) The court shall enter sanctions against either party if the court determines that either party acted:

(a) in bad faith; or

(b) with intent to harass or intimidate either party.

(4) Notice of a motion to dismiss a protective order shall be made by personal service on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil Procedure.

(5) Except as provided in Subsection (8), if a divorce proceeding is pending between parties to a protective order action, the protective order shall be dismissed when the court issues a decree of divorce for the parties if:

~~[(a) the petitioner in the protective order action is present or has been given notice in both the divorce and protective order action of the hearing; and]~~

~~[(b) the court specifically finds that the order need not continue, and, as provided in Subsection (1), the~~

~~petitioner no longer has a reasonable fear of future harm or abuse.]~~

~~(a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and~~

~~(b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or~~

~~(ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm or abuse after considering the factors listed in Subsections (1)(a) through (f).~~

~~(6) (a) Notwithstanding Subsection (1) or (2) and subject to Subsection (8), a protective order that has been entered under this chapter concerning a petitioner and a respondent who are divorced shall automatically expire, subject to [Subsections (6)(b) and (e)] Subsection (6)(b), 10 years from the day on which [one of the following occurs: (i) the decree of divorce between the petitioner and respondent became absolute; or (ii)] the protective order [was] is entered.~~

~~(b) The protective order shall automatically expire, as described in Subsection (6)(a), unless [(i)] the petitioner files a motion before expiration of the protective order and demonstrates that:~~

~~(i) the petitioner has a reasonable fear of future harm or abuse, as described in Subsection (1); or~~

~~(ii) the respondent has been convicted of a protective order violation or any crime of domestic violence subsequent to the issuance of the protective order.~~

~~[(e) The 10 years described in Subsection (6)(a) is tolled for any period of time that the respondent is incarcerated.]~~

~~(c) If the court grants the motion under Subsection (6)(b), the court shall set a new date on which the protective order expires. The protective order will expire unless the petitioner files a motion described in Subsection (6)(b) to extend the protective order.~~

~~(7) When the court dismisses a protective order, the court shall immediately:~~

~~(a) issue an order of dismissal to be filed in the protective order action; and~~

~~(b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.~~

~~(8) Notwithstanding the other provisions of this section, a continuous protective order may not be modified or dismissed except as provided in Subsection 77-36-5.1(6).~~

Section 14. Section 78B-7-115.5 is enacted to read:

78B-7-115.5. Expiration of protective order.

~~(1) Subject to the other provisions of this section, a civil protective order issued under this part~~

~~automatically expires 10 years from the day on which the protective order is entered.~~

~~(2) The protective order automatically expires as described in Subsection (1), unless the petitioner files a motion before expiration of the protective order and demonstrates that:~~

~~(a) the petitioner has a current reasonable fear of future harm or abuse, as described in Subsection 78B-7-115(1); or~~

~~(b) the respondent has been convicted of a protective order violation or any crime of domestic violence subsequent to the issuance of the protective order.~~

~~(3) If the court grants the motion under Subsection (2), the court shall set a new date on which the protective order expires. The protective order will expire unless the petitioner files a motion described in Subsection (2) to extend the protective order.~~

Section 15. Section 78B-7-408 is enacted to read:

78B-7-408. Duties of law enforcement officers -- Notice to victims.

~~(1) A law enforcement officer who responds to an allegation of dating violence shall use all reasonable means to protect the victim and prevent further violence, including:~~

~~(a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;~~

~~(b) confiscating the weapon or weapons involved in the alleged dating violence;~~

~~(c) making arrangements for the victim and any child to obtain emergency housing or shelter;~~

~~(d) providing protection while the victim removes essential personal effects;~~

~~(e) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and~~

~~(f) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of dating violence, in accordance with Subsection (2).~~

~~(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter.~~

~~(b) The written notice shall also include:~~

~~(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and~~

~~(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.~~

~~(3) If a weapon is confiscated under this section, the law enforcement agency shall return the~~

weapon to the individual from whom the weapon is confiscated if a dating protective order is not issued or once the dating protective order is terminated.

Section 16. Section 78B-7-409 is enacted to read:

78B-7-409. Mutual protective orders.

(1) A court may not grant a mutual order or mutual orders for protection to opposing parties, unless each party:

(a) files an independent petition against the other for a protective order, and both petitions are served;

(b) makes a showing at a due process protective order hearing of abuse or dating violence committed by the other party; and

(c) demonstrates the abuse or dating violence did not occur in self-defense.

(2) If the court issues mutual protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

(3) A court may not grant an order for protection to a civil petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:

(a) issued under:

(i) this chapter;

(ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(iii) Title 78A, Chapter 6, Juvenile Court Act;

(iv) Chapter 7, Part 1, Cohabitant Abuse Act; or

(v) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act; and

(b) unless the court determines that the requirements of Subsection (1) are met, and:

(i) the same court issued the order for protection against the respondent; or

(ii) if the matter is before a subsequent court, the subsequent court:

(A) determines it would be impractical for the original court to consider the matter; or

(B) confers with the court that issued the order for protection.

CHAPTER 256**S. B. 28**

Passed February 2, 2018
Approved March 19, 2018
Effective May 8, 2018

LOCAL GOVERNMENT AND LIMITED PURPOSE ENTITY REGISTRY

Chief Sponsor: Deidre M. Henderson
House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill provides for the creation of a registry of local government and limited purpose entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires local government entities and limited purpose entities to register with the lieutenant governor;
- ▶ requires the lieutenant governor to:
 - create a registry of local government entities and limited purpose entities;
 - establish registration and renewal fees to create, administer, and maintain the registry; and
 - send certain notices regarding compliance with registry requirements;
- ▶ allows the state auditor to:
 - withhold certain state funds and property tax disbursements if an entity does not comply with registry requirements; and
 - prohibit access to certain money if an entity does not comply with registry requirements;
- ▶ increases the state auditor's enforcement authority; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-13-203, as last amended by Laws of Utah 2015, Chapter 265
17B-1-103, as last amended by Laws of Utah 2014, Chapter 377
17B-1-641, as last amended by Laws of Utah 2017, Chapter 11
17D-1-103, as last amended by Laws of Utah 2014, Chapter 357
17D-2-103, as enacted by Laws of Utah 2008, Chapter 360
17D-3-103, as enacted by Laws of Utah 2008, Chapter 360
26A-1-108, as last amended by Laws of Utah 2002, Chapter 249
35A-8-402, as renumbered and amended by Laws of Utah 2012, Chapter 212
51-2a-201.5, as last amended by Laws of Utah 2017, Chapter 11
51-2a-401, as enacted by Laws of Utah 2004, Chapter 206

53G-3-202, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-5-404, as renumbered and amended by Laws of Utah 2018, Chapter 3
62A-3-104.1, as last amended by Laws of Utah 2012, Chapter 347
63G-2-502, as last amended by Laws of Utah 2017, Chapter 11
67-3-1, as last amended by Laws of Utah 2017, Chapter 11
67-3-3, Utah Code Annotated 1953
67-4-1, as last amended by Laws of Utah 2017, Chapter 11

ENACTS:

10-1-204, Utah Code Annotated 1953
11-13a-105, Utah Code Annotated 1953
17-15-31, Utah Code Annotated 1953
17-43-205, Utah Code Annotated 1953
17-43-310, Utah Code Annotated 1953
17C-1-608, Utah Code Annotated 1953
63E-1-103, Utah Code Annotated 1953
67-1a-15, Utah Code Annotated 1953

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

Section 1. Section 10-1-204 is enacted to read:**10-1-204. Registration as a local government entity.**

(1) Each municipality shall register and maintain the municipality's registration as a local government entity, in accordance with Section 67-1a-15.

(2) A municipality that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 2. Section 11-13-203 is amended to read:**11-13-203. Interlocal entities -- Agreement to approve the creation of an interlocal entity -- Electric interlocal entity or energy services interlocal entity -- Registration as a limited purpose entity.**

(1) An interlocal entity is:

- (a) separate from the public agencies that create it;
- (b) a body politic and corporate; and
- (c) a political subdivision of the state.

(2) (a) Any two or more Utah public agencies may enter into an agreement to approve the creation of a Utah interlocal entity to accomplish the purpose of their joint or cooperative action, including undertaking and financing a facility or improvement to provide the service contemplated by that agreement.

(b) The creation, operation, governance, and fiscal procedures of an interlocal entity and its governing authority are governed by this chapter and are not subject to the statutes applicable to its members or other entities.

(3) (a) A Utah public agency and one or more public agencies may enter into an agreement to

approve the creation of an electric interlocal entity to accomplish the purpose of their joint or cooperative action if that purpose is to participate in the undertaking or financing of:

- (i) facilities to provide additional project capacity;
 - (ii) common facilities under Title 54, Chapter 9, Electric Power Facilities Act; or
 - (iii) electric generation or transmission facilities.
- (b) By agreement with one or more public agencies that are not parties to the agreement creating it, a Utah interlocal entity may be reorganized as an electric interlocal entity if:

(i) the public agencies that are parties to the agreement creating the Utah interlocal entity authorize, in the same manner required to amend the agreement creating the Utah interlocal entity, the Utah interlocal entity to be reorganized as an electric interlocal entity; and

(ii) the purpose of the joint or cooperative action to be accomplished by the electric interlocal entity meets the requirements of Subsection (3)(a).

(4) (a) Two or more Utah public agencies may enter into an agreement with one another or with one or more public agencies to approve the creation of an energy services interlocal entity to accomplish the purposes of their joint and cooperative action with respect to facilities, services, and improvements necessary or desirable with respect to the acquisition, generation, transmission, management, and distribution of electric energy for the use and benefit of the public agencies that enter into the agreement.

(b) (i) A Utah interlocal entity that was created to facilitate the transmission or supply of electric power may, by resolution adopted by its governing board, elect to become an energy services interlocal entity.

(ii) Notwithstanding Subsection (4)(b)(i), a Utah interlocal entity that is also a project entity may not elect to become an energy services interlocal entity.

(iii) An election under Subsection (4)(b)(i) does not alter, limit, or affect the validity or enforceability of a previously executed contract, agreement, bond, or other obligation of the Utah interlocal entity making the election.

(5) (a) Each interlocal entity shall register and maintain the interlocal entity's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An interlocal entity that fails to comply with Subsection (5)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 3. Section 11-13a-105 is enacted to read:

11-13a-105. Registration as a limited purpose entity.

(1) Each governmental nonprofit corporation shall register and maintain the governmental

nonprofit corporation's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A governmental nonprofit corporation that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 4. Section 17-15-31 is enacted to read:

17-15-31. Registration as a local government entity.

(1) Each county shall register and maintain the county's registration as a local government entity, in accordance with Section 67-1a-15.

(2) A county that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 5. Section 17-43-205 is enacted to read:

17-43-205. Registration as a limited purpose entity.

(1) Each local substance abuse authority shall register and maintain the authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A local substance abuse authority that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 6. Section 17-43-310 is enacted to read:

17-43-310. Registration as a limited purpose entity.

(1) Each local mental health authority shall register and maintain the authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A local mental health authority that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 7. Section 17B-1-103 is amended to read:

17B-1-103. Local district status and powers -- Registration as a limited purpose entity.

(1) A local district:

- (a) is:
 - (i) a body corporate and politic with perpetual succession;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
- (b) may sue and be sued.

(2) A local district may:

(a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right

necessary or convenient to the full exercise of the district's powers;

(b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);

(d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;

(e) borrow money and incur indebtedness for any lawful district purpose;

(f) issue bonds, including refunding bonds:

(i) for any lawful district purpose; and

(ii) as provided in and subject to Part 11, Local District Bonds;

(g) levy and collect property taxes:

(i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and

(ii) as provided in and subject to Part 10, Local District Property Tax Levy;

(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

(j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

(A) maintaining and operating the district;

(B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

(C) issuing bonds and paying debt service on district bonds; and

(D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the local district board of trustees considers necessary, convenient,

or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes;

(r) (i) except for a local district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a local district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public;

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration

or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) (A) with ~~[-(A)]~~ another political subdivision of the state; or

(B) with a public or private owner of property ~~[-(B)]~~ on which the district has a right-of-way ~~[-(B)]~~ or ~~[(B)]~~ adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way; and

(u) if the local district receives, as determined by the local district board of trustees, adequate monetary or nonmonetary consideration in return:

(i) provide services or nonmonetary assistance to a nonprofit entity;

(ii) waive fees required to be paid by a nonprofit entity; or

(iii) provide monetary assistance to a nonprofit entity, whether from the local district's own funds or from funds the local district receives from the state or any other source.

(3) With respect to a local district's use of a street or highway, as provided in Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

(i) an excavation and the refilling of an excavation;

(ii) the relaying of pavement; and

(iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

(i) may not require the district to pay a license or permit fee or file a bond; and

(ii) may require the district to pay a reasonable inspection fee.

(4) (a) A local district may:

(i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's ~~[-(A)]~~ operation of a project or facilities that the district is authorized to operate ~~[-(A)]~~ or ~~[(A)]~~ from the district providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii) (A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A local district may adopt and, after adoption, alter a corporate seal.

(6) (a) Each local district shall register and maintain the local district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local district that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

~~[(6)] (7) (a) As used in this Subsection ~~[(6)] (7)~~, "knife" means a cutting instrument that includes a sharpened or pointed blade.~~

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district.

(c) Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife.

Section 8. Section 17B-1-641 is amended to read:

17B-1-641. Local district may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), a local district may expand the uniform accounting, budgeting, and reporting procedure prescribed in the Uniform Accounting Manual for Local Districts prepared by the state auditor under Subsection 67-3-1~~[(15)](16)~~, to better serve the needs of the district.

(2) A local district may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts set forth in the Uniform Accounting Manual for Local Districts.

Section 9. Section 17C-1-608 is enacted to read:

17C-1-608. Registration as a limited purpose entity.

(1) Each community reinvestment agency shall register and maintain the community reinvestment

agency's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A community reinvestment agency that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 10. Section 17D-1-103 is amended to read:

17D-1-103. Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.

- (1) A special service district:
 - (a) is:
 - (i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;
 - (ii) a quasi-municipal corporation; and
 - (iii) a political subdivision of the state; and
 - (b) may sue and be sued.
- (2) A special service district may:
 - (a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;
 - (b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:
 - (i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a local district, another special service district, or any other political subdivision of the state; or
 - (ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;
 - (c) acquire or construct facilities;
 - (d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;
 - (e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;
 - (f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;
 - (g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the

special service district's property or assets, including water and water rights;

- (h) accept a government grant or loan and comply with the conditions of the grant or loan;
- (i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (3);
- (j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;
- (k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;
- (l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;
- (m) borrow money and incur indebtedness;
- (n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:
 - (i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;
 - (ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;
 - (iii) bonds payable from both taxes and revenues;
 - (iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;
 - (v) tax anticipation notes;
 - (vi) bond anticipation notes;
 - (vii) refunding bonds;
 - (viii) special assessment bonds; and
 - (ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;
 - (o) except as provided in Subsection [(4)] (5), impose fees or charges or both for commodities, services, or facilities that the special service district provides;
 - (p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;
 - (q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and
 - (r) adopt an official seal for the special service district.

(3) (a) Each special service district shall register and maintain the special service district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

~~[(3)]~~ (4) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

~~[(4)]~~ (5) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection ~~[(4)]~~ (5)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection ~~[(4)]~~ (5)(b)(i).

Section 11. Section 17D-2-103 is amended to read:

17D-2-103. Status and authority of a local building authority -- Registration as a limited purpose entity.

(1) A local building authority:

~~[(1)]~~ (a) is a public entity and an instrumentality of the state, created by a local entity solely for the purpose of constructing, acquiring, improving, or extending, and financing the costs of, one or more projects on behalf of the local entity;

~~[(2)]~~ (b) shall be known as the "Local Building Authority of (name of the creating local entity)"; and

~~[(3)]~~ (c) may:

~~[(a)]~~ (i) as provided in this chapter, construct, acquire, improve, or extend, and finance the costs of, one or more projects on behalf of the creating local entity, in order to accomplish the public purposes for which the creating local entity exists; and

~~[(b)]~~ (ii) as provided in Part 5, Local Building Authority Bonds, issue and sell its bonds for the purpose of paying the costs of constructing, acquiring, improving, or extending a project.

(2) (a) Each local building authority shall register and maintain the local building authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local building authority that fails to comply with Subsection (2)(a) or Section 67-1a-15 is

subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 12. Section 17D-3-103 is amended to read:

17D-3-103. Conservation district status, authority, and duties -- Registration as a limited purpose entity.

(1) A conservation district created under this chapter:

- (a) is a body corporate and politic;
- (b) is a political subdivision of the state; and
- (c) may sue and be sued.

(2) (a) A conservation district may:

(i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;

(ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;

(iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;

(iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;

(v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;

(vi) enter into a contract in the name of the conservation district;

(vii) receive money from:

(A) a federal or state agency;

(B) a county, municipality, or other political subdivision of the state; or

(C) a private source;

(viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

(A) the observance of particular methods of cultivation;

(B) the use of specific crop programs and tillage practices;

(C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;

(D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and

(E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;

(ix) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;

(x) employ clerical and other staff personnel, including legal staff, subject to available funds; and

(xi) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.

(b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:

(i) the land occupier; and

(ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.

(c) (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.

(ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.

(3) (a) Each conservation district shall annually submit to the commission, no later than the date that the commission prescribes:

(i) a copy of the minutes of each conservation district meeting;

(ii) a copy of the conservation district's annual work plan; and

(iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).

(b) The accounting required under Subsection (3)(a)(iii) shall:

(i) be prepared by a disinterested person; and

(ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

(4) (a) Each conservation district shall register and maintain the conservation district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A conservation district that fails to comply with Subsection (4)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 13. Section 26A-1-108 is amended to read:

26A-1-108. Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.

(1) A local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

(2) (a) Each local health department shall register and maintain the local health department's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 14. Section 35A-8-402 is amended to read:

35A-8-402. Creation of housing authority authorized -- Procedure -- Registration as a limited purpose entity.

(1) The governing body of each public body of the state, except the state itself, may create an authority, corporate and politic, to be known as a "housing authority."

(2) The governing body of a city or county shall give consideration to the need for an authority:

(a) on its own motion; or

(b) upon the filing of a petition signed by 25 electors of the city or county asserting that there is need for an authority to function in the city or county and requesting that its governing body make a declaration to that effect.

(3) The governing body shall adopt a resolution declaring there is need for an authority and creating an authority in the city or county if it finds:

(a) that unsanitary or unsafe inhabited dwelling accommodations exist in the city or county; or

(b) that there is a shortage of safe and sanitary dwelling accommodations in the city or county available to persons of medium and low income at rentals or prices they can afford.

(4) (a) In any suit, action, or proceeding involving the validity or enforcement of a contract of the authority, an authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of the resolution prescribed in Subsection (3).

(b) A copy of the resolution duly certified by the clerk shall be admissible in evidence in a suit, action, or proceeding.

(5) In counties of the third, fourth, fifth, and sixth class, the governing body of each public body of the state, except the state itself, may contract with or

execute an interlocal agreement for services to be provided by an existing housing authority established in another political subdivision.

(6) (a) Each housing authority shall register and maintain the housing authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A housing authority that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 15. Section 51-2a-201.5 is amended to read:

51-2a-201.5. Accounting reports required -- Reporting to state auditor -- Registration as a limited purpose entity.

(1) As used in this section:

(a) (i) "Federal pass through money" means federal money received by a nonprofit corporation through a subaward or contract from the state or a political subdivision.

(ii) "Federal pass through money" does not include federal money received by a nonprofit corporation as payment for goods or services purchased by the state or political subdivision from the nonprofit corporation.

(b) (i) "Local money" means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues.

(ii) "Local money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the political subdivision.

(c) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fee or tax revenues.

(ii) "State money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the state agency.

(2) (a) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is \$1,000,000 or more shall cause an audit to be made of its accounts by an independent certified public accountant.

(b) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$350,000 but less than \$1,000,000 shall cause a review to be made of its accounts by an independent certified public accountant.

(c) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$100,000 but less than \$350,000 shall cause a compilation to be made of its accounts by an independent certified public accountant.

(d) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is less than \$100,000 but greater than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

(3) A nonprofit corporation described in ~~Subsection~~ Section 51-2a-102~~(6)(f)~~ shall provide the state auditor a copy of an accounting report prepared under this section within six months of the end of the nonprofit corporation's fiscal year.

(4) (a) A state agency that disburses federal pass through money or state money to a nonprofit corporation shall enter into a written agreement with the nonprofit corporation that requires the nonprofit corporation to annually disclose whether:

(i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection (2) in the previous fiscal year of the nonprofit corporation; or

(ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed in Subsection (2) in the fiscal year the money is disbursed.

(b) If the nonprofit corporation discloses to the state agency that the nonprofit corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state agency shall notify the state auditor.

(5) This section does not apply to a nonprofit corporation that is a charter school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act. A charter school is subject to the requirements of Section 53A-1a-507.

(6) A nonprofit corporation is exempt from Section 51-2a-201.

(7) (a) Each nonprofit corporation that receives an amount of money requiring an accounting report under this section shall register and maintain the nonprofit corporation's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A nonprofit corporation described in Subsection (7)(a) that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 16. Section 51-2a-401 is amended to read:

51-2a-401. Prohibiting access to and withholding funds from an entity that does not comply with the accounting report requirements.

(1) If a political subdivision, interlocal organization, or other local entity does not comply

with the accounting report requirements of Section 51-2a-201, the state auditor may:

(a) withhold allocated state funds to pay the cost of the accounting report, in accordance with Subsection (2); or

(b) prohibit financial access, in accordance with Subsection (3).

~~[(1) The]~~ (2) (a) If the state auditor does not prohibit financial access in accordance with Subsection (3), the state auditor ~~[shall]~~ may withhold allocated state funds sufficient to pay the cost of the accounting report from any ~~[political subdivision, interlocal organization, or other local entity that does not comply with the accounting report requirements of Section 51-2a-201]~~ local entity described in Subsection (1).

~~[(2) (a)]~~ (b) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

~~[(b)]~~ (c) The state auditor shall release the withheld funds ~~[when]~~ if the local entity meets the accounting report requirements ~~[are met]~~ either voluntarily or by action under Section 51-2a-402.

(3) (a) If the state auditor does not withhold funds in accordance with Subsection (2), the state auditor may prohibit any local entity described in Subsection (1) from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to the account.

(b) The state auditor shall remove the prohibition on accessing funds described in Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

Section 17. Section 53G-3-202 is amended to read:

53G-3-202. School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district.

(3) (a) Each school district shall register and maintain the school district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A school district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 18. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this public education code, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an

attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 19. Section 62A-3-104.1 is amended to read:

62A-3-104.1. Powers and duties of area agencies -- Registration as a limited purpose entity.

(1) An area agency that provides services to an aged person, or a high risk adult shall within the area agency's respective jurisdiction:

(a) advocate by monitoring, evaluating, and providing input on all policies, programs, hearings, and levies that affect a person described in this Subsection (1);

(b) design and implement a comprehensive and coordinated system of services within a designated planning and service area;

(c) conduct periodic reviews and evaluations of needs and services;

(d) prepare and submit to the division plans for funding and service delivery for services within the designated planning and service area;

(e) establish, either directly or by contract, programs licensed under Chapter 2, Licensure of Programs and Facilities;

(f) (i) appoint an area director;

(ii) prescribe the area director's duties; and

(iii) provide adequate and qualified staff to carry out the area plan described in Subsection (1)(d);

(g) establish rules not contrary to policies of the board and rules of the division, regulating local services and facilities;

(h) operate other services and programs funded by sources other than those administered by the division;

(i) establish mechanisms to provide direct citizen input, including an area agency advisory council with a majority of members who are eligible for services from the area agency;

(j) establish fee schedules; and

(k) comply with the requirements and procedures of:

(i) Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) Before disbursing any public funds, an area agency shall require that all entities receiving any public funds agree in writing that:

(a) the division may examine the entity's program and financial records; and

(b) the auditor of the local area agency may examine and audit the entity's program and financial records, if requested by the local area agency.

(3) An area agency on aging may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section 62A-3-104.3.

(4) (a) For the purpose of providing services pursuant to this part, a local area agency may receive:

(i) property;

(ii) grants;

(iii) gifts;

(iv) supplies;

(v) materials;

(vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v); and

(vii) contributions.

(b) If a gift is conditioned upon the gift's use for a specified service or program, the gift shall be used for the specific service or program.

(5) (a) Area agencies shall award all public funds in compliance with:

(i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

(ii) a county procurement ordinance that requires procurement procedures similar to those described in Subsection (5)(a)(i).

(b) (i) If all initial bids on a project are rejected, the area agency shall publish a new invitation to bid.

(ii) If no satisfactory bid is received by the area agency described in Subsection (5)(b)(i), when the bids received from the second invitation are opened the area agency may execute a contract without requiring competitive bidding.

(c) (i) An area agency need not comply with the procurement provisions of this section when it disburses public funds to another governmental entity.

(ii) For purposes of this Subsection (5)(c), "governmental entity" means any political subdivision or institution of higher education of the state.

(d) (i) Contracts awarded by an area agency shall be for a:

- (A) fixed amount; and
- (B) limited period.

(ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in available funding for the same contract purpose without competition.

(6) Local area agencies shall comply with:

(a) applicable state and federal:

- (i) statutes;
- (ii) policies; and
- (iii) audit requirements; and

(b) directives resulting from an audit described in Subsection (6)(a)(iii).

(7) (a) Each area agency shall register and maintain the area agency's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An area agency that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 20. Section 63E-1-103 is enacted to read:

63E-1-103. Registration as a limited purpose entity.

(1) Each independent entity shall register and maintain the independent entity's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) An independent entity that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 21. Section 63G-2-502 is amended to read:

63G-2-502. State Records Committee -- Duties.

(1) The records committee shall:

- (a) meet at least once every three months;
- (b) review and approve schedules for the retention and disposal of records;
- (c) hear appeals from determinations of access as provided by Section 63G-2-403;

(d) determine disputes submitted by the state auditor under Subsection 67-3-1[(46)](17)(d); and

(e) appoint a chairman from among its members.

(2) The records committee may:

(a) make rules to govern its own proceedings as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with this chapter.

(3) The records committee shall annually appoint an executive secretary to the records committee. The executive secretary may not serve as a voting member of the committee.

(4) Five members of the records committee are a quorum for the transaction of business.

(5) The state archives shall provide staff and support services for the records committee.

(6) If the records committee reassigns the classification or designation of a record or record series under Subsection (2)(b), any affected governmental entity or any other interested person may appeal the reclassification or redesignation to the district court. The district court shall hear the matter de novo.

(7) The Office of the Attorney General shall provide counsel to the records committee and shall review proposed retention schedules.

Section 22. Section 67-1a-15 is enacted to read:

67-1a-15. Local government and limited purpose entity registry.

(1) As used in this section:

(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) local districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53G, Chapter 3, School District Creation and Change;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) “Local government and limited purpose entity registry” or “registry” means the registry of local government entities and limited purpose entities created under this section.

(d) “Local government entity” means:

(i) a county, as that term is defined in Section 17-50-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

(e) “Notice of failure to register” means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) “Notice of failure to renew” means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) “Notice of noncompliance” means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) “Notice of non-registration” means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) “Notice of registration or renewal” means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) “Registered entity” means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor’s website or otherwise publicly available; and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity’s registration in accordance with Subsection (5); and

(c) within 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity’s registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity’s lawful creation;

(b) a map or plat establishing the geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the boundaries of the entity, conclusive proof of the entity’s geographic boundaries;

(c) the entity’s name;

(d) the entity’s type of local government entity or limited purpose entity;

(e) the entity’s governmental function;

(f) the entity’s physical address and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) names of the members of the entity’s governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

(h) the entity’s sources of revenue; and

(i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

(5) Each entity shall include the following information in the entity’s renewal submission:

(a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or

(b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.

(6) Within 30 days of receiving an entity’s registration or renewal submission, the lieutenant governor shall:

(a) review the submission to determine compliance with Subsection (4) or (5);

(b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):

(i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:

(A) the registering or renewing entity;

(B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;

(C) the Division of Archives and Records Service; and

(D) the Office of the Utah State Auditor; and

(ii) publish the information from the submission on the registry; and

(c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:

(i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;

(ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:

(i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant

governor shall send a notice of failure to renew to the registered entity that:

(i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

(a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);

(b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and

(c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

(i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;

(ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or

(iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

Section 23. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

- (a) the condition of the state's finances;
- (b) the revenues received or accrued;
- (c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

- (A) honesty and integrity in fiscal affairs;
- (B) accuracy and reliability of financial statements;
- (C) effectiveness and adequacy of financial controls; and
- (D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to

reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

- (i) the honesty and integrity of all its fiscal affairs;
- (ii) whether or not its administrators have faithfully complied with legislative intent;
- (iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;
- (iv) whether or not its programs have been effective in accomplishing the intended objectives; and
- (v) whether or not its management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

- (i) has an elected auditor; and
- (ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:

- (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
- (ii) all debtors of the state;
- (b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; ~~and~~

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1[-]; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; and

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district

court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

[40] (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), [øø] (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

~~[(41)]~~ (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection ~~[(41)]~~ (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

~~[(42)]~~ (13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

~~[(43)]~~ (14) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

~~[(44)]~~ (15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

~~[(45)]~~ (16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (15)(a) so that it continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

~~[(46)]~~ (17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections ~~[(46)]~~ (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection ~~[(46)]~~ (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection ~~[(46)]~~ (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records

Committee determination under Subsection ~~[(46)]~~ (17)(d)(ii), as provided in Section 63G-2-404.

~~[(47)]~~ (18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

Section 24. Section 67-3-3 is amended to read:

67-3-3. Disbursements of public funds -- Suspension of disbursements -- Procedure upon suspension.

(1) The state auditor ~~[shall have the power to]~~ may suspend any disbursement of public funds whenever, in ~~[his]~~ the state auditor's opinion ~~[such]~~, the disbursement is contrary to law~~[, and if]~~.

(2) (a) If the validity of ~~[any such]~~ a disbursement ~~[be]~~ described in Subsection (1) is not established within six months from the date of original suspension ~~[then]~~, the state auditor shall refer the matter ~~[shall be referred]~~ to the attorney general for appropriate action ~~[and if]~~.

(b) If, in ~~[his]~~ the attorney general's opinion, the suspension described in Subsection (2)(a) was justified ~~[he]~~, the attorney general shall immediately notify the state auditor, who shall ~~[forthwith]~~ immediately make demand upon the surety of the disbursing or certifying officer~~[, and it shall be mandatory upon]~~.

(c) If the state auditor makes a demand under Subsection (2)(b), the surety shall immediately ~~[to]~~ meet the demand and ~~[to]~~ pay into the state treasury by certified check or legal tender any amount or amounts disbursed and involved in the suspension.

~~[All suspensions shall be]~~ (3) (a) The state auditor shall ensure that each suspension is in writing ~~[and the]~~.

(b) The state auditor shall:

(i) prepare a form to be known as the notice of suspension~~[. The]~~;

(ii) ensure that the form ~~[shall contain]~~ contains complete information as to:

(A) the payment suspended~~[,]~~;

(B) the reason for the suspension ~~[and]~~;

(C) the amount of money involved; and

(D) any other information that will clearly establish identification of the payment~~[. The]~~;

(iii) retain the original of the suspension notice ~~[shall be retained by the state auditor and]~~;

(iv) serve one copy ~~[shall be served]~~ of the suspension notice upon:

(A) the disbursing or certifying officer~~[, one copy upon]~~;

(B) any member of the finance commission~~[, one copy upon]; and~~

(C) the surety of the disbursing or certifying officer, ~~[and one copy shall be attached]~~ except that mailing the copy to the surety company constitutes legal service;

(v) attach one copy of the suspension notice to the document under suspension~~[, Receipts]; and~~

(vi) take receipts entered upon the original suspension notice held by the state auditor ~~[shall be taken]~~ from the disbursing or certifying officer, the finance commission, and the surety~~[, except that the copy to the surety company may be mailed in which case so doing will constitute legal service].~~

(4) (a) Immediately upon any suspension becoming final, the finance commission shall:

(i) cause an entry to be made debiting the disbursing or certifying officer with the amount of money involved in any suspension notice; and [shall]

(ii) credit the account originally charged by the payment.

(b) Upon release of final suspension by the state auditor, the finance commission shall make a reversing entry ~~[shall be made]~~, crediting the disbursing or certifying officer, and like credit shall be given in all recoveries from the surety.

(5) (a) In accordance with this Subsection (5), the state auditor may prohibit the access of a state or local taxing or fee-assessing unit to money held by the state or in an account of a financial institution, if the state auditor determines that the local taxing or fee-assessing unit is not in compliance with state law regarding budgeting, expenditures, financial reporting of public funds, and transparency.

(b) The state auditor may not withhold funds under Subsection (5)(a) until the state auditor:

(i) sends formal notice of noncompliance to the state or local taxing or fee-assessing unit; and

(ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:

(A) make the specified corrections; or

(B) demonstrate to the state auditor that the specified corrections are not legally required.

(c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing unit does not make the specified corrections and the state auditor does not agree with any demonstration under Subsection (5)(b)(ii)(B), the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) shall provide a recommended timeline for corrective actions;

(iii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iv) may prohibit the taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(d) The state auditor shall remove the prohibition on accessing funds described in Subsections (5)(c)(iii) and (iv) if:

(i) the state or local taxing or fee-assessing unit makes the specified corrections described in Subsection (5)(b); or

(ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).

Section 25. Section 67-4-1 is amended to read:

67-4-1. Duties.

(1) The state treasurer shall:

(a) receive and maintain custody of all state funds;

(b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(c) pay warrants drawn by the Division of Finance as they are presented;

(d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;

(e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;

(f) account for all money received and disbursed;

(g) keep separate account of the different funds;

(h) keep safe all bonds, warrants, and securities delivered into his custody;

(i) at the request of either house of the Legislature, or of any legislative committee, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;

(j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;

(k) authenticate and validate documents when necessary;

(l) adopt a seal and file a description and an impression of it with the Division of Archives; and

(m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah.

(2) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.

(3) The state treasurer may take temporary custody of public funds if ordered by a court to do so under Subsection 67-3-1(~~11~~)(12).

CHAPTER 257**S. B. 29**

Passed January 31, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**COUNTY LISTING OF LOCAL
 GOVERNMENT AND LIMITED
 PURPOSE ENTITIES**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill requires each county to publish certain information on the county's website regarding each local government entity and limited purpose entity within the county.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires each county to publish certain information on the county's website regarding each local government entity and limited purpose entity within the county.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

17-15-31, Utah Code Annotated 1953

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

Section 1. Section 17-15-31 is enacted to read:

17-15-31. County website listing of local government entities.

(1) As used in this section:

(a) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) local districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(M) school districts under Title 53G, Chapter 3, School District Creation and Change; and

(N) special service districts, as that term is defined in Section 17D-1-102.

(b) "Local government entity" means a municipality, as that term is defined in Section 10-1-104.

(2) Beginning on July 1, 2019, each county shall list on the county's website any of the following information that the lieutenant governor publishes in a registry of local government entities and limited purpose entities regarding each limited purpose entity and local government entity that operates, either in whole or in part, within the county or has geographic boundaries that overlap or are contained within the boundaries of the county:

(a) the entity's name;

(b) the entity's type of local government entity or limited purpose entity;

(c) the entity's governmental function;

(d) the entity's physical address and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(e) names of the members of the entity's governing board or commission, managing officers, or other similar managers;

(f) the entity's sources of revenue; and

(g) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

CHAPTER 258**S. B. 36**

Passed February 12, 2018

Approved March 19, 2018

Effective May 8, 2018

**LOCAL OPTION SALES AND USE TAX
DISTRIBUTION FORMULA AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions relating to the distribution of certain local option sales and use tax revenue.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ repeals and amends provisions relating to the distribution of sales and use tax revenue for certain fiscal years; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-205, as last amended by Laws of Utah 2017, Chapters 230 and 385

59-12-302, as last amended by Laws of Utah 2016, Chapter 364

59-12-354, as last amended by Laws of Utah 2016, Chapter 364

59-12-403, as last amended by Laws of Utah 2016, Chapter 364

59-12-603, as last amended by Laws of Utah 2017, Chapter 178

59-12-703, as last amended by Laws of Utah 2017, Chapters 181 and 422

59-12-802, as last amended by Laws of Utah 2017, Chapter 422

59-12-804, as last amended by Laws of Utah 2017, Chapter 422

59-12-1102, as last amended by Laws of Utah 2016, Chapter 364

59-12-1302, as last amended by Laws of Utah 2017, Chapter 422

59-12-1402, as last amended by Laws of Utah 2017, Chapter 422

59-12-2103, as last amended by Laws of Utah 2017, Chapter 422

59-12-2206, as last amended by Laws of Utah 2017, Chapter 160

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

Section 1. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) [through (6)] and (4) and subject to Subsection [(7)] (5):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for

one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

~~[(4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.]~~

~~[(b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.]~~

~~[(5) (a) As used in this Subsection (5):]~~

~~[(i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or more in tax~~

~~revenue distributions in accordance with Subsection (4) for each of the following fiscal years:]~~

~~[(A) fiscal year 2002-03;]~~

~~[(B) fiscal year 2003-04; and]~~

~~[(C) fiscal year 2004-05.]~~

~~[(ii) "Minimum tax revenue distribution" means the greater of:]~~

~~[(A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or]~~

~~[(B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.]~~

~~[(b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:]~~

~~[(A) the payment required by Subsection (2); or]~~

~~[(B) the minimum tax revenue distribution.]~~

~~[(ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).]~~

~~[(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:]~~

~~[(i) the minimum tax revenue distribution; and]~~

~~[(ii) .90.]~~

~~[(6) (4) (a) As used in this Subsection [(6)] (4):~~

~~(i) "Eligible county, city, or town" means a county, city, or town that:~~

~~[(A) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2002-03;]~~

~~[(B) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2003-04;]~~

~~[(C) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2004-05;]~~

~~[(D) for a fiscal year beginning with fiscal year 2012-13 and ending with fiscal year 2015-16, does not receive a tax revenue distribution described in Subsection (5) equal to the amount described in~~

~~Subsection (5)(b)(i)(A) for three consecutive fiscal years; and]~~

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

~~[(E)] (B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.~~

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town ~~receives~~ received from a tax imposed in accordance with this part for fiscal year 2004-05.

~~(b) [Beginning with fiscal year 2016-17, an] An~~ eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

- (i) the payment required by Subsection (2); or
- (ii) the minimum tax revenue distribution.

~~[(7)] (5) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.~~

(b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 2. Section 59-12-302 is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in Subsection (2) or (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

- (a) the same procedures used to administer, collect, and enforce the tax under:
 - (i) Part 1, Tax Collection; or
 - (ii) Part 2, Local Sales and Use Tax Act; and
 - (b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~[(7)] (5)~~.

- (4) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 3. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

- (a) the same procedures used to administer, collect, and enforce the tax under:
 - (i) Part 1, Tax Collection; or
 - (ii) Part 2, Local Sales and Use Tax Act; and
 - (b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

- (b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to the municipality within which the revenue was collected; and

(ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~[(7)] (5)~~.

Section 4. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

- (1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

- (i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(4)~~ (5).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 5. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term

leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

- (A) alcoholic beverages;
- (B) food and food ingredients; or
- (C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

- (i) financing tourism promotion; and
- (ii) the development, operation, and maintenance of:

- (A) an airport facility;
- (B) a convention facility;
- (C) a cultural facility;
- (D) a recreation facility; or
- (E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

- (i) promote tourism in ski areas within the county by persons that do not reside within the state; and
- (ii) combine the sale of:
 - (A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town

under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- (a) an airport facility;
- (b) a convention facility;
- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~(7)~~ (5).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 6. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [(7)] (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 7. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county of the third or fourth class, rural county health care facilities in that county; or

(ii) for a county of the fifth or sixth class:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

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

(E) rural health clinics in that county; or

(F) a combination of Subsections (1)(b)(ii)(A) through (E).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used to fund:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county; or

(iv) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through ~~(47)~~ (5).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 8. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through [(4)] (5).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 9. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each

county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(4)~~ (5).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) \$6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 10. Section 59-12-1302 is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as

provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

- (a) distribute the revenue generated by the tax under this section to the town imposing the tax; and
- (b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:
 - (i) the same procedures used to administer, collect, and enforce the tax under:

- (A) Part 1, Tax Collection; or
- (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through ~~(7)~~ (5).

Section 11. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

- (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or
- (ii) provide funding for a botanical organization, cultural organization, or zoological organization to

pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

- (i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;
- (ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
- (iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

- (a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;
- (b) to finance ongoing operating expenses of:
 - (i) recreational facilities described in Subsection (3)(a) within the city or town or within the

geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through [(7)] (5).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and

use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county’s registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county’s registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county’s registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city’s or town’s residents.

Section 12. Section 59-12-2103 is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) As used in this section, “eligible city or town” means a city or town that imposed a tax under this part on July 1, 2016.

~~(1)(a) (b) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), [beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have~~

received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town) the legislative body of an eligible city or town may impose a sales and use tax of up to .20% on the transactions:

- (i) described in Subsection 59-12-103(1); and
- (ii) within the city or town.

~~[(b)]~~ (c) A city or town legislative body that imposes a tax under Subsection (1)~~[(a)]~~(b) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

~~[(e)]~~ (d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

~~[(3)(a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.]~~

~~[(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.]~~

~~[(c)(i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.]~~

~~[(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the]~~

(3) An eligible city or town may impose ~~[the]~~ a tax under this part until no later than June 30, 2030.

(4) The commission shall transmit revenue collected within a city or town from a tax under this part:

- (a) to the city or town legislative body;
- (b) monthly; and
- (c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

- (A) Part 1, Tax Collection; or
- (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~[(7)]~~ (5).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax

rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

Section 13. Section 59-12-2206 is amended to read:

59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through ~~(7)~~ (5).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) (a) Subject to Section 59-12-2207, and except as provided in Subsection (5)(b), the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

(b) The commission shall transmit a portion of the revenue collected within a county, city, or town from a sales and use tax under this part that would be transferred to a public transit district or an eligible political subdivision under Subsection (5)(a) to the county, city, or town to fund public transit fixed guideway safety oversight under Section 72-1-214 if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) specifies the amount of revenue required to be transmitted to the county, city, or town.

CHAPTER 259**S. B. 38**

Passed February 23, 2018

Approved March 19, 2018

Effective May 8, 2018

LOCAL ELECTED OFFICER AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill establishes a process to remove a county elected officer from office for mental incapacity.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes a process to remove a county elected officer from office for mental incapacity;
- ▶ provides that the provisions of this bill apply only to a county, with at least five members on the county legislative body, that opts into the provisions of this bill;
- ▶ requires a county to determine whether the county elected officer has the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations;
- ▶ establishes a process for:
 - a voluntary mental capacity evaluation; or
 - if the county elected officer refuses to undergo a voluntary mental capacity evaluation, a court order to undergo the evaluation;
- ▶ provides certain exceptions to the Open and Public Meetings Act;
- ▶ permits the county legislative body to remove a county elected officer from office if the qualified medical professional who conducts the mental capacity evaluation determines that the county elected officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations;
- ▶ requires the county legislative body to provide reasonable accommodations under certain circumstances; and
- ▶ provides for the award of court costs, attorney fees, and sanctions under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-1-901, Utah Code Annotated 1953

20A-1-902, Utah Code Annotated 1953

20A-1-903, Utah Code Annotated 1953

20A-1-904, Utah Code Annotated 1953

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

Section 1. Section 20A-1-901 is enacted to read:**Part 9. Removal of County Elected Officer****20A-1-901. Definitions.**

As used in this part:

(1) “Applicable office” means the office held by the subject officer.

(2) “Mental capacity evaluation” means an evaluation by a qualified medical professional to determine whether the subject officer has the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(3) “Officer” means a county officer.

(4) “Results of the mental capacity evaluation” means a statement by the qualified medical professional who conducts the mental capacity evaluation that the subject officer:

(a) has the mental capacity to fulfill the essential functions of the applicable office, without reasonable accommodations;

(b) has the mental capacity to fulfill the essential functions of the applicable office, with specified reasonable accommodations; or

(c) lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(5) “Subject officer” means the officer who is subject to proceedings under this part to determine whether the officer has the mental capacity to fulfill the essential functions of the officer’s office, with or without reasonable accommodations.

(6) “Unanimous” means a vote of all members of a county legislative body where all members of the county legislative body, not including the subject officer, vote on the same side of the motion.

Section 2. Section 20A-1-902 is enacted to read:**20A-1-902. Removal of officer from office -- Initial determination.**

(1) (a) A county legislative body may remove an officer from office in accordance with this part if:

(i) the county legislative body adopts the provisions of this part by ordinance, without additions, deletions, or modifications;

(ii) the officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations; and

(iii) the county legislative body consists of at least five members.

(b) This section does not apply to a county, unless the county:

(i) has adopted the ordinance described in Subsection (1)(a)(i); and

(ii) has at least five members on the county legislative body.

(2) Before removing the subject officer from office under Subsection (1), the county legislative body shall hold a closed meeting, as authorized under Subsection 52-4-205(1)(a), to discuss whether the subject officer has the mental capacity to fulfill the

essential functions of the officer's office, with or without reasonable accommodations.

(3) At the meeting described in Subsection (2):

(a) the county legislative body shall give the subject officer the opportunity to discuss the subject officer's mental capacity to fulfill the essential functions of the applicable office and any reasonable accommodations that would enable the subject officer to continue to function in the applicable office; and

(b) the subject officer may bring one individual to the meeting to assist the subject officer in the discussion.

(4) (a) After the discussion described in Subsection (3), the county legislative body may exclude the subject officer and the individual described in Subsection (3)(b) from the closed portion of the meeting to discuss whether the subject officer has the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(b) If the subject officer is a member of the county legislative body:

(i) the county legislative body may exclude the subject officer and the individual described in Subsection (3)(b) from the portion of the closed meeting described in Subsection (4)(a); and

(ii) the subject officer is recused from voting on any decision, described in this part, of the county legislative body.

(c) Notwithstanding the provisions of Title 52, Chapter 4, Open and Public Meetings Act, the county legislative body shall meet in a closed meeting to vote on whether the subject officer has the ability to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(5) If the county legislative body reaches a unanimous preliminary conclusion that the subject officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations, the county legislative body shall:

(a) confidentially inform the subject officer of the vote; and

(b) allow the subject officer five calendar days, after the day on which the county legislative body makes the conclusion, to:

(i) resign from the applicable office;

(ii) (A) voluntarily agree to undergo a mental capacity evaluation at the expense of the county; and

(B) sign a waiver to disclose only the results of the mental capacity evaluation to the county legislative body; or

(iii) refuse to take any action.

(6) If the county legislative body does not reach a unanimous preliminary conclusion that the subject

officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations:

(a) the county legislative body shall:

(i) publicly announce that the vote failed, without disclosing the number of votes for or against and without disclosing the vote of individual members of the county legislative body; and

(ii) provide any necessary reasonable accommodations; and

(b) the subject officer may continue to function in the applicable office.

Section 3. Section 20A-1-903 is enacted to read:

20A-1-903. Voluntary evaluation.

(1) This section does not apply to a county, unless the county:

(a) has adopted the ordinance described in Subsection 20A-1-902(1)(a)(i); and

(b) has at least five members on the county legislative body.

(2) At the end of the five-day period described in Subsection 20A-1-902(5)(b), if the subject officer agrees to the voluntary mental capacity evaluation option described in Subsection 20A-1-902(5)(b)(ii):

(a) the county legislative body and the subject officer shall mutually agree on a qualified medical professional to conduct the mental capacity evaluation; and

(b) the subject officer shall undergo the mental capacity evaluation within 15 calendar days after the day on which the subject officer agrees to undergo the mental capacity evaluation, or longer if the county legislative body and the subject officer agree to an extended period.

(3) Notwithstanding the provisions of Title 52, Chapter 4, Open and Public Meetings Act, any action taken by the county legislative body under Subsection (2) shall occur in a closed meeting.

(4) If the qualified medical professional concludes that the subject officer has the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations:

(a) the county legislative body shall provide any necessary reasonable accommodations; and

(b) the subject officer may continue to function in the applicable office.

(5) (a) If the qualified medical professional concludes that the subject officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations, the subject officer may resign from office.

(b) If the subject officer does not resign from office within five calendar days after the day on which the qualified medical professional makes the conclusion described in Subsection (5)(a), the county legislative body may, in an open meeting by

unanimous vote, remove the subject officer from the applicable office.

Section 4. Section 20A-1-904 is enacted to read:

20A-1-904. Court order for involuntary evaluation.

(1) This section does not apply to a county, unless the county:

(a) has adopted the ordinance described in Subsection 20A-1-902(1)(a)(i); and

(b) has at least five members on the county legislative body.

(2) The county legislative body may file an action against the subject officer in district court for an order to undergo a mental capacity evaluation if:

(a) the county legislative body:

(i) unanimously concludes that the subject officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations, in accordance with the requirements of Section 20A-1-902; and

(ii) complies with the requirements of Subsections 20A-1-902(2) through (5); and

(b) (i) the subject officer does not, within the five-day period described in Subsection 20A-1-902(5)(b):

(A) resign from the applicable office; or

(B) agree to undergo a voluntary mental capacity evaluation and sign a waiver to disclose only the results of the mental capacity evaluation to the county legislative body;

(ii) the subject officer does not complete the mental capacity evaluation within the 15-day period described in Subsection 20A-1-903(2)(b), or any longer period agreed to between the subject officer and the county legislative body; or

(iii) the subject officer and the county legislative body cannot mutually agree on a qualified medical professional to conduct the mental capacity evaluation.

(3) The district court shall order the subject officer to undergo a mental capacity evaluation by a qualified medical professional appointed by the court, and shall provide only the results of the mental capacity evaluation to the county legislative body, if the court finds that there is reasonable cause to believe that the subject officer may lack the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations.

(4) If the qualified medical professional concludes that the subject officer has the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations:

(a) the county legislative body shall provide any necessary reasonable accommodations;

(b) the subject officer may continue to function in the applicable office; and

(c) the court shall order the county legislative body to pay the court costs and reasonable attorney fees of the subject officer.

(5) (a) If the qualified medical professional concludes that the subject officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodations, the subject officer may resign from office.

(b) If the subject officer does not resign from office within five calendar days after the day on which the qualified medical professional makes the conclusion described in Subsection (5)(a), the county legislative body may, in an open meeting by unanimous vote, remove the subject officer from the applicable office.

(6) The court shall dismiss an action filed under this section, and rescind any order to undergo a mental capacity evaluation, if the subject officer resigns from the applicable office.

(7) The court may order sanctions against the county legislative body if the court finds, by clear and convincing evidence, that the county legislative body filed or pursued an action described in this section in bad faith.

CHAPTER 260**S. B. 41**

Passed March 8, 2018
 Approved March 19, 2018
 Effective October 1, 2018

**SUPPORT SPECIAL GROUP
 HISTORICAL LICENSE PLATE**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill creates a support special group license plate to support the mission and purpose of the Utah State Historical Society.

Highlighted Provisions:

This bill:

- ▶ creates a support special group license plate to support the mission and purpose of the Utah State Historical Society;
- ▶ provides for the design of the historical support special group license plate;
- ▶ requires the Motor Vehicle Division to procure reflectorized materials for the historical support special group plate as soon as such materials are available at a reasonable cost;
- ▶ requires applicants for the plate to make a \$25 annual donation to the Utah State Historical Society;
- ▶ requires the donations to be deposited into the General Fund as a dedicated credit to the Utah State Historical Society; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 9-8-207, as renumbered and amended by Laws of Utah 1992, Chapter 241
 41-1a-401, as last amended by Laws of Utah 2016, Chapter 303
 41-1a-418, as last amended by Laws of Utah 2017, Chapters 107, 181, and 194
 41-1a-419, as last amended by Laws of Utah 2009, Chapter 183
 41-1a-422, as last amended by Laws of Utah 2017, Chapters 107, 194, and 383

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

Section 1. Section 9-8-207 is amended to read:**9-8-207. Historical society -- Donations -- Accounting.**

(1) (a) There is created the Utah State Historical Society.

(b) The society may:

(i) solicit memberships from persons interested in the work of the society and charge dues for

memberships commensurate with the advantages of membership and the needs of the society; and

(ii) receive gifts, donations, bequests, devises, and endowments of money or property, which shall then become the property of the state of Utah.

(2) (a) If the donor directs that money or property donated under Subsection (1)(b)(ii) be used in a specified manner, then the division shall use it in accordance with these directions. Otherwise, all donated money and the proceeds from donated property, together with the charges realized from society memberships, shall be deposited in the General Fund as restricted revenue of the society.

(b) Funds received from donations to the society under Section 41-1a-422 shall be deposited into the General Fund as a dedicated credit to achieve the mission and purpose of the society.

(3) The division shall keep a correct account of funds and property received, held, or disbursed by the society, and shall make reports to the governor as in the case of other state institutions.

Section 2. Section 41-1a-401 is amended to read:**41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.**

(1) (a) The division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) (i) All license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(ii) For a historical support special group license plate created under this part, the division shall procure reflective material to satisfy the requirement under Subsection (3)(a)(i) as soon as such material is available at a reasonable cost.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 3. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans' and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until

Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team; or

(viii) a current honorary consulate designated by the United States Department of State; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans' and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness;

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiv) programs that support children with heart disease;

(xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxvi) programs that provide assistance to children with cancer; [øø]

(xxvii) programs that promote leadership and career development through agricultural education[-]; or

(xxviii) the Utah State Historical Society.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new

support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 4. Section 41-1a-419 is amended to read:

41-1a-419. Plate design -- Vintage vehicle certification and registration -- Personalized special group license plates -- Rulemaking.

(1) (a) The design and maximum number of numerals or characters on special group license plates shall be determined by the division in

accordance with the requirements under Subsection (1)(b).

(b) ~~[Each]~~ (i) Except as provided in Subsection (1)(b)(ii), each special group license plate shall display:

~~(i)~~ (A) the word Utah;

~~(ii)~~ (B) the name or identifying slogan of the special group;

~~(iii)~~ (C) a symbol decal not exceeding two positions in size representing the special group; and

~~(iv)~~ (D) the combination of letters, numbers, or both uniquely identifying the registered vehicle.

(ii) The division, in consultation with the Utah State Historical Society, shall design the historical support special group license plate, which shall:

(A) have a black background;

(B) have white characters; and

(C) display the word Utah.

(2) (a) The division shall, after consultation with a representative designated by the special group, specify the word or words comprising the special group name and the symbol decal to be displayed upon the special group license plates.

(b) A special group license plate symbol decal may not be redesigned:

(i) unless the division receives a redesign fee established by the division under Section 63J-1-504; and

(ii) more frequently than every five years.

(c) (i) Except as provided in Subsection (2)(c)(ii), a special group license plate symbol decal may not be reordered unless the division receives a symbol decal reorder fee established by the division under Section 63J-1-504.

(ii) A recognition special group license plate symbol decal for a currently employed, volunteer, or retired firefighter issued in accordance with Subsection 41-1a-418(1)(d)(v) that is reordered on or after July 1, 2007, but on or before June 30, 2008, is exempt from the symbol decal reorder fee authorized under Subsection (2)(c)(i).

(3) The license plates issued for horseless carriages prior to July 1, 1992, are valid without renewal as long as the vehicle is owned by the registered owner and the license plates may not be recalled by the division.

(4) A person who meets the criteria established under Sections 41-1a-418 through 41-1a-422 for issuance of special group license plates may make application in the same manner provided in Sections 41-1a-410 and 41-1a-411 for personalized special group license plates.

(5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender special group license plates; and

(b) establish the maximum number of numerals or characters for special group license plates.

Section 5. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans' and Military Affairs for veterans' programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to

support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53A-1-304 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102; [ø]

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges[-]; or

(CC) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society.

(ii) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of

application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.
- (c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.
- (d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.
- (e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).
- (3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.
- (b) This contribution shall be:
- (i) unless collected by the named institution under Subsection (2), collected by the division;
- (ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;
- (iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and
- (iv) for a firefighter special group license plate, deposited into the appropriate account less:
- (A) the costs of reordering firefighter special group license plate decals; and
- (B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).
- (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.
- (d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:
- (i) snowmobile license plates; or
- (ii) conservation license plates.
- (4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 6. Effective date.

This bill takes effect on October 1, 2018.

CHAPTER 261**S. B. 42**

Passed February 22, 2018

Approved March 19, 2018

Effective May 8, 2018

**SUNSET AMENDMENTS
FOR STATE SERVICES AGREEMENTS**

Chief Sponsor: Karen Mayne

House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends the sunset date for certain state services agreements.

Highlighted Provisions:

This bill:

- ▶ amends the sunset date for certain state services agreements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-21-201, as enacted by Laws of Utah 2017, Chapter 205

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

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

Section 1. Section 63G-21-201 is amended to read:**63G-21-201. Limited authorization to provide state services at post office locations.**

(1) If allowed by federal law, a designated agency may negotiate and enter into an agreement with USPS that allows USPS to provide one or more state services at one or more post office locations within the state.

(2) The designated agency shall ensure that the agreement described in Subsection (1) includes:

(a) the term of the agreement, which may not extend beyond July 1, ~~[2023]~~ 2025;

(b) provisions to ensure the security of state data and resources;

(c) provisions to provide training to USPS employees on how to provide each state service in the agreement;

(d) except as provided in Subsection (2)(e), provisions authorizing compensation to USPS for at least 100% of attributable costs of all property and services that USPS provides under the agreement; and

(e) if the agreement is between USPS and the Division of Wildlife Resources to sell fishing, hunting, or trapping licenses, provisions requiring

compliance with Section 23-19-15 regarding wildlife license agents, including remuneration for services rendered.

(3) After one or more designated agencies enter into an agreement described in Subsection (1), the Governor's Office of Economic Development shall create a marketing campaign to advertise and promote the availability of state services at each selected USPS location.

Section 2. Section 63I-1-263 is amended to read:**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, ~~[2023]~~ 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the

expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

CHAPTER 262**S. B. 55**

Passed February 15, 2018

Approved March 19, 2018

Effective May 8, 2018

**MOTOR VEHICLE
REGISTRATION AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill requires a waiver of a fine for a violation for failure to display the decals if the vehicle was properly registered at the time of the citation.

Highlighted Provisions:

This bill:

- ▶ requires a waiver of a fine for a violation for failure to display license plates or registration decals if:
 - the vehicle was properly registered at the time of the citation; and
 - the person cited provides evidence, within 21 business days, that the license plates and decals have been properly displayed; and
- ▶ allows a year decal to be displayed over or in place of the previous year sticker.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-402, as last amended by Laws of Utah 2016, Chapter 102

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

Section 1. Section 41-1a-402 is amended to read:**41-1a-402. Required colors, numerals, and letters -- Expiration.**

(1) Each license plate shall have displayed on it:

(a) the registration number assigned to the vehicle for which it is issued;

(b) the name of the state; and

(c) a registration decal showing the date of expiration displayed in accordance with Subsection (6).

(2) If registration is extended by affixing a registration decal to the license plate, the expiration date of the decal governs the expiration date of the license plate.

(3) Except as provided in Subsection (4), each original license plate that is not one of the special group license plates issued under Section 41-1a-418 shall be:

(a) a statehood centennial license plate with the same color, design, and slogan as the plates issued in conjunction with the statehood centennial;

(b) a Ski Utah license plate; or

(c) an In God We Trust license plate.

(4) Beginning on the date that the division determines the existing inventories of statehood centennial license plates and Ski Utah license plates are exhausted, each license plate that is not one of the special group license plates issued under Section 41-1a-418 shall:

(a) (i) display the "Life Elevated" slogan; and

(ii) have a color and design approved by the 57th Legislature in the 2007 General Session that features:

(A) a skier with the "Greatest Snow on Earth" slogan; or

(B) Delicate Arch; or

(b) be an In God We Trust license plate.

(5) (a) Except as provided under Subsection 41-1a-215(2), license plates shall be renewed annually.

(b) (i) The division shall issue the vehicle owner a month decal and a year decal upon the vehicle's first registration with the division.

(ii) The division shall issue the vehicle owner only a year decal upon subsequent renewals of registration to validate registration renewal.

(6) The decals issued in accordance with Subsection (5) shall be applied as follows:

(a) for license plates issued beginning in 1974 through 1985, decals displayed on license plates with black lettering on a white background shall be applied to the lower left-hand corner of the rear of the license plate vehicles;

(b) decals displayed on statehood centennial license plates and on Ski Utah license plates issued in accordance with Subsection (3) shall be applied to the upper left-hand corner of the rear license plate;

(c) decals displayed on special group license plates issued in accordance with Section 41-1a-418 shall be applied to the upper right-hand corner of the license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

(d) decals displayed on license plates with the "Life Elevated" slogan issued in accordance with Subsection (4) shall be applied in the upper left-hand corner for the month decal and the upper right-hand corner for the year decal;

(e) decals displayed on license plates with the "In God We Trust" slogan issued in accordance with Subsection (4)(b) shall be applied in the upper right-hand corner of the rear license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

(f) decals issued for truck tractors shall be applied to the front license plate in the position described in Subsection (6)(a), (b), or (d);

(g) decals issued for motorcycles shall be applied to the upper corner of the license plate opposite the word "Utah"; and

(h) decals displayed on license plates issued under Section 41-1a-416 shall be applied as appropriate for the year of the plate.

(7) (a) The month decal issued in accordance with Subsection (5) shall be displayed on the license plate in the left position.

(b) The year decal issued in accordance with Subsection (5) shall be displayed on the license plate in the right position.

(8) The current year decal issued in accordance with Subsection (5) shall be placed over or in place of the previous year decal.

(9) If a license plate, month decal, or year decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(10) (a) A violation of this section is an infraction.

(b) A court shall waive a fine for a violation under this section if:

(i) the registration for the vehicle was current at the time of the citation; and

(ii) the person to whom the citation was issued provides, within 21 business days, evidence that the license plate and decals are properly displayed in compliance with this section.

CHAPTER 263**S. B. 56**

Passed February 14, 2018

Approved March 19, 2018

Effective May 8, 2018

VEHICLE PLATOONING AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE**General Description:**

This bill modifies provisions of the Traffic Code related to safe following distance.

Highlighted Provisions:

This bill:

- ▶ defines “connected platooning system”;
- ▶ provides an exemption to a minimum following distance requirement for the operator of a vehicle that is part of a connected platooning system; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-711, as last amended by Laws of Utah 2015, Chapters 277 and 412

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

Section 1. Section 41-6a-711 is amended to read:**41-6a-711. Following another vehicle -- Safe distance -- Exceptions -- Penalty.**

(1) As used in this section, “connected platooning system” means a system that uses vehicle-to-vehicle communication to electronically coordinate the speed and braking of a lead vehicle with the speed and braking of one or more following vehicles.

~~[(1)]~~ (2) The operator of a vehicle:

(a) may not follow another vehicle more closely than is reasonable and prudent, having regard for the:

- (i) speed of the vehicles;
- (ii) traffic upon the highway; and
- (iii) condition of the highway; and

(b) shall follow at a distance so that at least two seconds elapse before reaching the location of the vehicle directly in front of the operator’s vehicle.

~~[(2)]~~ (3) Subsection ~~[(1)]~~ (2)(b) does not apply to:

(a) funeral processions or to congested traffic conditions resulting in prevailing vehicle speeds of less than 35 miles per hour; or

~~[(b)]~~ a connected vehicle technology testing program that uses networked wireless

communication among vehicles, infrastructure, or communication devices that is:]

~~[(i)]~~ approved by the Department of Transportation in consultation with the Department of Public Safety; and]

~~[(ii)]~~ conducted outside of an urbanized boundary as defined by the United States Census Bureau.]

~~[(3)]~~ The Department of Transportation shall report the results of the testing program conducted under Subsection (2)(b) to the Transportation Interim Committee by no later than October 30 of any year that a testing program is conducted.]

(b) the operator of a vehicle that is:

- (i) part of a connected platooning system; and
- (ii) not the lead vehicle.

(4) A violation of Subsection ~~[(1)]~~ (2) is an infraction.

CHAPTER 264**S. B. 57**

Passed February 22, 2018

Approved March 19, 2018

Effective May 8, 2018

POLICE SERVICE ANIMAL AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill provides penalties for injuring or killing a police animal.

Highlighted Provisions:

This bill:

- ▶ makes it a second degree felony to intentionally or knowingly cause death to a police service canine; and
- ▶ makes it a third degree felony to intentionally or knowingly injure a police service canine.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-9-306, as last amended by Laws of Utah 2000, Chapter 192

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

Section 1. Section 76-9-306 is amended to read:**76-9-306. Police service canine -- Causing injury or interfering with handler -- Penalties.**

(1) As used in this section:

(a) "Handler" means a law enforcement officer who is specially trained, and uses a police service [animal] canine during the course of the performance of his law enforcement duties.

(b) "Police service [animal] canine" means any dog [or horse] used by a law enforcement agency, which is specially trained for law enforcement work, or any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.

(2) It is a [third] second degree felony for a person to intentionally[;] or knowingly cause death to a police service canine.

(3) It is a third degree felony for a person to intentionally or knowingly:

(a) cause bodily injury [or death] to a police service [animal] canine;

(b) engage in conduct likely to cause bodily injury or death to a police service [animal;] canine; or

(c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily

injury or death to a police service [animal; or] canine.

[~~(d)~~] (4) It is a class A misdemeanor for a person to intentionally or knowingly:

(a) taunt, torment, strike, or otherwise assault a police service [animal] canine;

(b) throw any object or substance at, or in the path of, a police service [animal] canine;

(c) interfere with or obstruct a police service [animal] canine, or attempt to, or interfere with the handler of the [animal] canine in a manner that inhibits, restricts, or deprives the handler of [his] control of the [animal] canine;

(d) release a police service [animal] canine from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or

(e) place any food, object, or substance into a police service [animal's] canine's area of control without the permission of the handler.

[~~(4)~~] (5) A police service [animal] canine is exempt from quarantine or other animal control ordinances if it bites any person while under proper police supervision or routine veterinary care. The law enforcement agency and the [animal's] canine's handler shall make the [animal] canine available for examination at any reasonable time and shall notify the local health officer if the [animal] canine exhibits any abnormal behavior.

[~~(5)~~] (6) In addition to any other penalty, a person convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service [animal] canine for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

CHAPTER 265**S. B. 59**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

THEFT AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends the Utah Criminal Code regarding the penalty for theft.

Highlighted Provisions:

This bill:

- ▶ removes certain provisions relating to circumstances when theft is classified as a third degree felony; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-412, as last amended by Laws of Utah 2017, Chapter 347

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

Section 1. Section 76-6-412 is amended to read:**76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

(1) Theft of property and services as provided in this chapter is punishable:

- (a) as a second degree felony if the:
 - (i) value of the property or services is or exceeds \$5,000;
 - (ii) property stolen is a firearm or an operable motor vehicle; or
 - (iii) property is stolen from the person of another;
- (b) as a third degree felony if:
 - (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;
 - (ii) the value of the property or services is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses [~~listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C)~~], if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or

(iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to [~~Section~~] Subsection 78B-3-108(4);

~~[(v) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and the value of the property stolen is or exceeds \$500 but is less than \$1,500; or]~~

~~[(vi)]~~ (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to [~~Section~~] Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(1) or [~~Section~~] Subsection 76-6-413(1), or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

CHAPTER 266**S. B. 62**

Passed March 9, 2018
 Approved March 19, 2018
 Effective May 8, 2018

EXPUNGEMENT AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill modifies provisions related to expungement.

Highlighted Provisions:

This bill:

- ▶ addresses expungement and fines, fees, or interest;
- ▶ addresses expungement and pending or previous infractions, traffic offenses, or minor regulatory offenses;
- ▶ provides for a certificate of eligibility if certain conditions are met after a case is dismissed without prejudice or condition;
- ▶ addresses when the court shall issue an order of expungement;
- ▶ provides for applying for a certificate of eligibility after a petition for expungement is denied; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 77-40-104, as last amended by Laws of Utah 2012, Chapter 136
 77-40-105, as last amended by Laws of Utah 2017, Chapters 282 and 356
 77-40-107, as last amended by Laws of Utah 2017, Chapter 356

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

Section 1. Section 77-40-104 is amended to read:**77-40-104. Eligibility for expungement of records of arrest, investigation, and detention -- Requirements.**

(1) A person who [has been] is arrested or formally charged with an offense may apply to the bureau for a certificate of eligibility to expunge [all] the records of arrest, investigation, and detention [which] that may have been made in the case, subject to the following conditions:

- (a) at least 30 days have passed since the day of the arrest for which a certificate of eligibility is sought;
- (b) there are no criminal proceedings pending against the petitioner; and

(c) one of the following [occurred] occurs:

(i) charges [were] are screened by the investigating law enforcement agency and the prosecutor [has made] makes a final determination that no charges will be filed in the case;

(ii) the entire case [was] is dismissed with prejudice;

(iii) the entire case is dismissed without prejudice or without condition and:

(A) the prosecutor consents in writing to the issuance of a certificate of eligibility; or

(B) at least 180 days have passed since the day on which the case is dismissed;

[(iii)] (iv) the person [was] is acquitted at trial on all of the charges contained in the case; or

[(iv)] (v) the statute of limitations [has expired] expires on all of the charges contained in the case.

(2) Notwithstanding Subsection (1)(a), the bureau shall issue a certificate of eligibility on an expedited basis to a petitioner seeking expungement under Subsection [(1)(c)(iii)] shall be issued a certificate of eligibility on an expedited basis] (1)(c)(iv).

Section 2. Section 77-40-105 is amended to read:**77-40-105. Eligibility for expungement of conviction -- Requirements.**

(1) A person convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

- (i) a capital felony;
- (ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony violation of Subsection 41-6a-501(2);

(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) all fines and interest ordered by the court related to the conviction for which expungement is sought have been paid in full;

(b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(4) The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or minor regulatory offenses, when determining expungement eligibility.

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.

(9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 3. Section 77-40-107 is amended to read:

77-40-107. Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.

(1) The petitioner shall file a petition for expungement and the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition[₁];

(ii) state that the victim has a right to object to the expungement[₁]; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a

recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) ~~[A]~~ The Division of Adult Probation and Parole shall provide a copy of the response [shall be provided] to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement [~~was~~] is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if ~~[it]~~ the court finds by clear and convincing evidence that:

(a) the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

~~[(e)]~~ (d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; and

~~[(d)]~~ (e) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to

refile charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

~~[(9)]~~ (10) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

CHAPTER 267**S. B. 63**

Passed March 6, 2018
 Approved March 19, 2018
 Effective March 19, 2018

CHARITY REGISTRATION AMENDMENTS

Chief Sponsor: Daniel Hemmert
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill amends provisions related to charitable solicitations.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a professional fund raiser;
- ▶ amends the definition of a professional fund raising counsel or consultant;
- ▶ amends the criteria for registration as a professional fund raiser or a professional fund raising counsel or consultant;
- ▶ exempts certain acts from registration under Title 13, Chapter 22, Charitable Solicitations Act;
- ▶ amends regulations on a solicitation for the relief of a named individual; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 13-22-2, as last amended by Laws of Utah 2017, Chapter 98
 13-22-5, as last amended by Laws of Utah 2005, Chapter 18
 13-22-8, as last amended by Laws of Utah 2017, Chapter 98
 13-22-9, as last amended by Laws of Utah 2013, Chapter 124
 13-22-21, as last amended by Laws of Utah 2017, Chapter 98

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

Section 1. Section 13-22-2 is amended to read:**13-22-2. Definitions.**

As used in this chapter:

(1) "Chapter" means a chapter, branch, area, office, or similar affiliate of a charitable organization.

(2) (a) "Charitable organization" or "organization" means any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

- (i) who is or holds itself out to be:

(A) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or

eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(B) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(C) established for any charitable purpose;

(ii) who solicits or obtains contributions solicited from the public for a charitable purpose; or

(iii) in any manner employs a charitable appeal as the basis of any solicitation or employs an appeal that reasonably suggests or implies that there is a charitable purpose to any solicitation.

(b) "Charitable organization" includes a chapter or a person who solicits contributions within the state for a charitable organization.

(3) "Charitable purpose" means any benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective or for the benefit of a public safety, law enforcement, or firefighter fraternal association.

(4) "Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit, in whole or in part, a charitable organization or purpose.

(5) (a) "Charitable solicitation" or "solicitation" means any request, directly or indirectly, for money, credit, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable purpose.

(b) "Charitable solicitation" or "solicitation" includes:

(i) any of the following done, or purporting to be done, for a charitable purpose:

~~(i)~~ (A) any oral or written request, including any request by telephone, radio, television, or other advertising or communications media;

~~(ii)~~ (B) the distribution, circulation, or posting of any handbill, written advertisement, or publication; or

~~(iii)~~ (C) an application or other request for a grant; or

~~(iv)~~ (ii) the sale of, offer or attempt to sell, or request of donations in exchange for any advertisement, membership, subscription, or other article in connection with which any appeal is made for any charitable purpose, or the use of the name of any charitable organization or movement as an inducement or reason for making any purchase donation, or, in connection with any sale or donation, stating or implying that the whole or any part of the proceeds of any sale or donation will go to or be donated to any charitable purpose.

(6) "Commercial co-venturer" means a person who for profit is regularly and primarily engaged in trade or commerce other than in connection with soliciting for a charitable organization or purpose.

(7) (a) “Contribution” means the pledge or grant for a charitable purpose of any money or property of any kind, including any of the following:

(i) a gift, subscription, loan, advance, or deposit of money or anything of value;

(ii) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for charitable purposes; or

(iii) fees, dues, or assessments paid by members, when membership is conferred solely as consideration for making a contribution.

(b) “Contribution” does not include:

(i) money loaned to a charitable organization by a financial institution in the ordinary course of business; or

(ii) fees, dues, or assessments paid by members when membership is not conferred solely as consideration for making a contribution.

(8) “Contributor” means a donor, pledgor, purchaser, or other person who makes a contribution.

(9) “Director” means the director of the Division of Consumer Protection.

(10) “Division” means the Division of Consumer Protection of the Department of Commerce.

(11) “Material fact” means information that a person of ordinary intelligence and prudence would consider relevant in deciding whether or not to make a contribution in response to a charitable solicitation.

(12) (a) “Professional fund raiser” means a person who:

(i) for compensation or any other consideration, ~~solicits contributions for charitable purposes, or plans or manages~~ for or on behalf of a charitable organization or any other person:

(A) solicits contributions; or

(B) promotes or sponsors the solicitation of contributions ~~for or on behalf of any charitable organization or any other person~~;

(ii) (A) for compensation or any other consideration, plans, manages, counsels, consults, or prepares material for, or with respect to, the solicitation of contributions for a charitable organization or any other person; and

(B) at any time has custody of a contribution for the charitable organization;

~~(iii)~~ (iii) engages in, or represents being independently engaged in, the business of soliciting contributions for a charitable organization;

~~(iii)~~ (iv) manages, supervises, or trains any solicitor whether as an employee or otherwise; or

~~(iv)~~ (v) uses a vending device or vending device decal for financial or other consideration that implies a solicitation of contributions or donations

for any charitable organization or charitable purposes.

(b) “Professional fund raiser” does not include:

(i) an individual acting in the individual’s capacity as a bona fide officer, director, volunteer, or full-time employee of a charitable organization[-];

(ii) an attorney, investment counselor, or banker who, in the conduct of that person’s profession, advises a client regarding legal, investment, or financial advice; or

(iii) a person who tangentially prepares materials, including a person who:

(A) makes copies;

(B) cuts or folds flyers; or

(C) creates a graphic design or other artwork without providing strategic or campaign-related input.

(13) (a) “Professional fund raising counsel or consultant” ~~[or other comparable designation or title]~~ means a person who:

(i) for compensation or any other consideration, plans, manages, ~~advises,~~ counsels, consults, or prepares material for, or with respect to, the solicitation ~~[in this state]~~ of contributions for a charitable organization ~~[-, whether or not at any time the person has custody of contributions from a solicitation]~~ or any other person;

(ii) does not solicit contributions; ~~and~~

(iii) does not at any time have custody of a contribution from solicitation; and

~~(iii)~~ (iv) does not employ, procure, or engage any compensated person to solicit or receive contributions.

(b) “Professional fund raising counsel or consultant” does not include:

(i) an individual acting in the individual’s capacity as a bona fide officer, director, volunteer, or full-time employee of a charitable organization;

(ii) an attorney, investment counselor, or banker who, in the conduct of that person’s profession, advises a client ~~[when actually engaged in the giving of]~~ regarding legal, investment, or financial advice[-]; or

(iii) a person who tangentially prepares materials, including a person who:

(A) makes copies;

(B) cuts or folds flyers; or

(C) creates a graphic design or other artwork without providing strategic or campaign-related input.

(14) (a) “Vending device” means a container used by a charitable organization or professional fund raiser, for the purpose of collecting a charitable solicitation, contribution, or donation whether or not the device offers a product or item in return for the contribution or donation.

(b) "Vending device" includes machines, boxes, jars, wishing wells, barrels, or any other container.

(15) "Vending device decal" means any decal, tag, or similar designation material that is attached to a vending device, whether or not used or placed by a charitable organization or professional fund raiser, that would indicate that all or a portion of the proceeds from the purchase of items from the vending device will go to a specific charitable organization.

Section 2. Section 13-22-5 is amended to read:

13-22-5. Registration or permit required.

(1) (a) ~~[It is unlawful for any]~~ An organization ~~[to]~~ may not engage in an activity described in Subsection (1)(b) unless the organization is:

- (i) exempt under Section 13-22-8; or
- (ii) registered with the division in accordance with this chapter.
- (b) Unless an organization meets the requirements of Subsection (1)(a), the organization may not knowingly solicit, ~~[request,]~~ promote, ~~[advertise,]~~ or sponsor a charitable solicitation if the charitable solicitation:
 - (i) originates in Utah;
 - (ii) is received in Utah; or
 - (iii) is caused to be made through business operations in Utah.

(2) Subsection (1) does not prohibit an organization from receiving an unsolicited contribution.

~~[(3) It is unlawful for any professional fund raiser to knowingly solicit, request, promote, advertise, or sponsor the solicitation in this state of any contribution for a charitable organization, whether or not the charitable organization is exempt under Section 13-22-8, unless the professional fund raiser and any nonexempt charitable organization that is benefitted are registered with the division.]~~

~~[(4) It is unlawful for any professional fund raising counsel or consultant to knowingly plan, manage, advise, counsel, consult, or prepare material for, or with respect to, the solicitation in this state of a contribution for a charitable organization, whether or not the charitable organization is exempt under Section 13-22-8, unless the professional fund raising counsel or consultant and any nonexempt charitable organization that is benefitted are registered with the division.]~~

(3) (a) Unless a person acting as a professional fund raiser obtains a permit in accordance with Section 13-22-9, the person may not:

- (i) make or facilitate a solicitation either directed toward the state or originating from the state; or
- (ii) maintain a place of business in the state or employ an individual located in the state.

(b) Subsection (3)(a) applies regardless of whether a charitable organization receiving the services of a professional fund raiser is required to register under this chapter.

(4) (a) Unless a person acting as a professional fund raising counsel or consultant obtains a permit in accordance with Section 13-22-9, the person may not:

- (i) maintain a place of business in the state or employ an individual located in the state; or
- (ii) provide any service of a professional fund raising counsel or consultant to or for a charitable organization, or any other person, over which the state has general jurisdiction.

(b) Subsection (4)(a) applies regardless of whether a charitable organization receiving the services of a professional fund raising counsel or consultant is required to register under this chapter.

(5) A person required to obtain a permit under Subsection (3) or (4) may not provide any service to or on behalf of an organization required to register under Subsection (1) if the organization is not registered in accordance with Section 13-22-6.

Section 3. Section 13-22-8 is amended to read:

13-22-8. Exemptions.

- (1) Section 13-22-5 does not apply to:
 - (a) a bona fide religious, ecclesiastical, or denominational organization if:
 - (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and
 - (ii) the organization is either:
 - (A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;
 - (B) a bona fide religious group:
 - (I) that does not maintain specific places of worship;
 - (II) that is not subject to federal income tax; and
 - (III) that is not required to file an IRS Form 990 under any circumstance; or
 - (C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside the group's or corporation's own membership or congregation;
 - (b) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;
 - ~~[(c) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or~~

~~injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;]~~

(c) subject to Subsection 13-22-21(1), an individual soliciting a contribution for the relief or benefit of another individual, who is specified by name at the time of the solicitation, if:

(i) all contributions are turned over to the named beneficiary after deducting actual expenses necessary for the cost of solicitation, if any; and

(ii) all individuals that carry out any fund-raising function for the benefit of the named individual are unpaid, directly or indirectly, for services rendered;

(d) a political party authorized to transact the political party's affairs within this state and any candidate and campaign worker of the political party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(e) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(f) (i) a public school;

(ii) a public institution of higher learning;

(iii) a school accredited by an accreditation body recognized within the state or the United States;

(iv) an institution of higher learning accredited by an accreditation body recognized within the state or the United States;

(v) an organization within, and authorized by, an entity described in Subsections (1)(f)(i) through (iv); or

(vi) a parent organization, teacher organization, or student organization authorized by an entity described in Subsection (1)(f)(i) or (iii) if:

(A) the parent organization, teacher organization, or student organization is a branch of, or is affiliated with, a central organization;

(B) the parent organization, teacher organization, or student organization is subject to the central organization's general control and supervision;

(C) the central organization holds a United States Internal Revenue Service group tax exemption that covers the parent organization, teacher organization, or student organization; and

(D) the central organization is registered with the division under this chapter;

(g) a public or higher education foundation established under Title 53A, State System of Public Education, or Title 53B, State System of Higher Education;

(h) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(i) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(j) any governmental unit of any state or the United States;

(k) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress;

(l) a solicitation by an applicant for a grant offered by a state agency if:

(i) the terms of the grant provide that the state agency monitors a grant recipient to ensure that grant funds are used in accordance with the grant's purpose; and

(ii) the sum of the amount available to the applicant under grants offered by a state agency that the applicant applies for in a calendar year is less than or equal to \$1,500; ~~and~~

(m) a chapter of a charitable organization or a person who solicits contributions for a charitable organization, if the charitable organization is registered with the division pursuant to Section 13-22-5 or is exempt from registration under this section, and:

(i) all contributions solicited by the chapter or person are delivered directly to the control of the charitable organization; or

(ii) (A) the charitable organization holds a United States Internal Revenue Service group tax exemption that covers the chapter;

(B) the charitable organization provides a list of its chapters to the division with its registration or renewal of registration;

(C) the chapter is on the list provided under Subsection (1)(m)(ii)(B);

(D) the chapter maintains the information required under Section 13-22-15 and provides the information to the division upon request; and

(E) solicitations by the chapter or the person are limited to the collection of membership-related

fees, dues, or assessments from new and existing members[.];

(n) a solicitation in an obituary; or

(o) a solicitation made exclusively to a family member of the individual making the solicitation.

(2) An organization claiming an exemption under this section bears the burden of proving the organization's eligibility for, or the applicability of, the exemption claimed.

(3) An organization exempt from registration pursuant to this section that makes a material change in the organization's legal status, officers, address, or similar changes shall file a report informing the division of the organization's current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

(4) The division may by rule:

(a) require an organization that is exempt from registration under this section to:

(i) file a notice of claim of exemption; and

(ii) file a renewal of a notice of claim of exemption;

(b) prescribe the contents of a notice of claim of exemption and a renewal of a notice of claim of exemption; and

(c) require a filing fee for a notice of claim of exemption and a renewal of a notice of claim of exemption as determined under Section 63J-1-504.

Section 4. Section 13-22-9 is amended to read:

13-22-9. Professional fund raiser's or fund raising counsel's or consultant's permit.

~~[(1) It is unlawful for any person or entity to act as a professional fund raiser or professional fund raising counsel or consultant, whether or not representing an organization exempt from registration under Section 13-22-8, without first obtaining a permit from the division by complying with all of the following application requirements:]~~

(1) A person applying for or renewing a permit as a professional fund raiser or a professional fund raising counsel or consultant shall:

(a) pay an application fee as determined under Section 63J-1-504; and

(b) submit a written application, verified under oath, on a form approved by the division that includes:

(i) the applicant's name, address, telephone number, facsimile number, if any;

(ii) the name and address of any organization or person controlled by, controlling, or affiliated with the applicant;

(iii) the applicant's business, occupation, or employment for the three-year period immediately preceding the date of the application;

(iv) whether it is an individual, joint venture, partnership, limited liability company, corporation, association, or other entity;

(v) the names and residence addresses of any officer or director of the applicant;

(vi) the name and address of the registered agent for service of process and a consent to service of process;

(vii) if a professional fund raiser:

(A) the purpose of the solicitation and use of the contributions to be solicited;

(B) the method by which the solicitation will be conducted and the projected length of time it is to be conducted;

(C) the anticipated expenses of the solicitation, including all commissions, costs of collection, salaries, and any other items;

(D) a statement of what percentage of the contributions collected as a result of the solicitation are projected to remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of the flat fee; and

(E) a statement of total contributions collected or received by the professional fund raiser within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;

(viii) if a professional fund raising counsel or consultant:

(A) the purpose of the plan, management, advice, counsel or preparation of materials for, or with respect to, the solicitation and use of the contributions solicited;

(B) the method by which the plan, management, advice, counsel, or preparation of materials for, or with respect to, the solicitation will be organized or coordinated and the projected length of time of the solicitation;

(C) the anticipated expenses of the plan, management, advice, counsel, or preparation of materials for, or with respect to, the solicitation, including all commissions, costs of collection, salaries, and any other items;

(D) a statement of total fees to be earned or received from the charitable organization declared in the application, and what percentage of the contributions collected as a result of the plan, management, advice, counsel, or preparation of materials for, or with respect to, the solicitation are projected after deducting the total fees to be earned or received remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization,

and if a flat fee is charged, documentation to support the reasonableness of such flat fee; and

(E) a statement of total net fees earned or received within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use of the net earned or received fees in the planning, management, advising, counseling, or preparation of materials for, or with respect to, the solicitation and use of the contributions solicited for the charitable organization;

(ix) disclosure of any injunction, judgment, or administrative order against the applicant or the applicant's conviction of any crime involving moral turpitude;

(x) a copy of any written agreements with any charitable organization;

(xi) the disclosure of any injunction, judgment, or administrative order or conviction of any crime involving moral turpitude with respect to any officer, director, manager, operator, or principal of the applicant;

(xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds;

(xiii) an acknowledgment that fund raising in the state will not commence until both the professional fund raiser or professional fund raising counsel or consultant and the charity, and its parent foundation, if any, are registered and in compliance with this chapter; and

(xiv) any additional information the division may require by rule.

(2) If any information contained in the application for a permit becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.

(3) In addition to the permit fee, an applicant failing to file a permit application or renewal by the due date or filing an incomplete permit application or renewal shall pay an additional fee of \$25 for each month or part of a month after the date on which the permit application or renewal were due to be filed.

Section 5. Section 13-22-21 is amended to read:

13-22-21. Appeal on behalf of individual.

(1) If a charitable campaign consisting of exempt solicitations for the relief or benefit of a named individual [~~sustaining a life-threatening illness or injury~~], as described in Subsection 13-22-8(1)(c), collects proceeds in excess of [~~\$1,000~~] \$5,000, the organizer of the campaign shall give the division written notice of the following:

(a) the organizer's name and address;

(b) the name[,], and whereabouts[, and present condition] of the person for whose relief or benefit the contributions are solicited [~~including a letter~~

~~from the person's attending physician detailing the illness or injury];~~

(c) the date the charitable campaign commenced; and

(d) the purpose to which the collected contributions are to be applied.

(2) Notice under Subsection (1) is due within 10 days after commencing the appeal or collecting in excess of [~~\$1,000~~] \$5,000, whichever is later.

(3) If the organizer fails to file timely notice, the division shall inform the organizer of the notice requirement and give the organizer 10 additional days as a grace period within which to file the notice. If the organizer fails to file the notice within the grace period, the division may issue a cease and desist order against the organizer.

(4) If, at any time, the division has reasonable cause to believe that the organizer is perpetrating a fraud against the public, or in any other way intends to profit from harming the public through the charitable campaign, it shall issue a cease and desist order against the organizer.

Section 6. Effective date.

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

CHAPTER 268**S. B. 64**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**WORKERS' COMPENSATION
HEALTH CARE AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill amends provisions of the Workers' Compensation Act related to health care providers.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the workers' compensation advisory council;
- ▶ amends a required report to the Business and Labor Interim Committee;
- ▶ authorizes the Labor Commission to use funds from the Industrial Accident Restricted Account for specific purposes;
- ▶ addresses the rate at which certain workers' compensation carriers and self-insured employers must reimburse a hospital for covered medical services; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-107, as last amended by Laws of Utah 2017, Chapters 18 and 363

34A-2-407, as last amended by Laws of Utah 2016, Chapter 242

34A-2-705, as last amended by Laws of Utah 2011, Chapter 328

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

Section 1. Section 34A-2-107 is amended to read:**34A-2-107. Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation.**

(1) The commissioner shall appoint a workers' compensation advisory council composed of:

- (a) the following voting members:
 - (i) five employer representatives; and
 - (ii) five employee representatives; and
- (b) the following nonvoting members:

(i) a representative of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001;

(ii) a representative of a workers' compensation insurance carrier different from the workers' compensation insurance carrier listed in Subsection (1)(b)(i);

(iii) a representative of health care providers;

(iv) the Utah insurance commissioner or the insurance commissioner's designee; ~~and~~

(v) the commissioner or the commissioner's designee~~[-];~~ and

(vi) a representative of hospitals.

(2) Employers and employees shall consider nominating members of groups who historically may have been excluded from the council, such as women, minorities, and individuals with disabilities.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the commissioner shall appoint each new member or reappointed member to a two-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The commissioner shall terminate the term of a council member who ceases to be representative as designated by the member's original appointment.

(5) The council shall confer at least quarterly for the purpose of advising the commission, the division, and the Legislature on:

(a) the Utah workers' compensation and occupational disease laws;

(b) the administration of the laws described in Subsection (5)(a); and

(c) rules related to the laws described in Subsection (5)(a).

(6) Regarding workers' compensation, rehabilitation, and reemployment of employees who acquire a disability because of an industrial injury or occupational disease the council shall:

(a) offer advice on issues requested by:

- (i) the commission;
- (ii) the division; and
- (iii) the Legislature; and

(b) make recommendations to:

- (i) the commission; and
- (ii) the division.

~~[(7) The council shall study how hospital costs may be reduced for purposes of medical benefits for~~

workers' compensation. By no later than November 30, 2017, the council shall submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee containing the council's recommendations.]

(7) (a) The council shall:

(i) study how to reduce hospital costs for purposes of medical benefits for workers' compensation;

(ii) study hospital billing and payment trends in the state;

(iii) study hospital fee schedules used in other states; and

(iv) collect information from third-party hospital bill review companies in the state or region, to identify an average reimbursement rate that represents the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services in the state.

(b) In accordance with Section 68-3-14, the council shall submit a written report to the Business and Labor Interim Committee no later than September 1, 2019, 2020, and 2021. Each written report shall include:

(i) recommendations on how to reduce hospital costs for purposes of medical benefits for workers' compensation;

(ii) aggregate data on hospital billing and payment trends in the state;

(iii) the results of the council's study of hospital fee schedules from other states; and

(iv) the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services, calculated in accordance with Subsection (7)(a)(iv).

(c) For each report described in Subsection (7)(b), the commission may contract with a third-party expert to assist with the council's duties described in Subsections (7)(a) and (b).

(8) The commissioner or the commissioner's designee shall serve as the chair of the council and call the necessary meetings.

(9) The commission shall provide staff support to the council.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 34A-2-407 is amended to read:

34A-2-407. Reporting of industrial injuries -- Regulation of health care providers.

(1) As used in this section, "physician" is as defined in Section 34A-2-111.

(2) (a) An employee sustaining an injury arising out of and in the course of employment shall provide notification to the employee's employer promptly of the injury.

(b) If the employee is unable to provide the notification required by Subsection (2)(a), the following may provide notification of the injury to the employee's employer:

(i) the employee's next of kin; or

(ii) the employee's attorney.

(c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational Disease Act, shall comply with rules adopted by the commission regarding disclosure of medical records of the employee medically relevant to the industrial accident or occupational disease claim.

(3) (a) An employee is barred for any claim of benefits arising from an injury if the employee fails to notify within the time period described in Subsection (3)(b):

(i) the employee's employer in accordance with Subsection (2); or

(ii) the division.

(b) The notice required by Subsection (3)(a) shall be made within:

(i) 180 days of the day on which the injury occurs; or

(ii) in the case of an occupational hearing loss, the time period specified in Section 34A-2-506.

(4) The following constitute notification of injury required by Subsection (2):

(a) an employer's report filed with:

(i) the division; or

(ii) the employer's workers' compensation insurance carrier;

(b) a physician's injury report filed with:

(i) the division;

(ii) the employer; or

(iii) the employer's workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report filed with the division; or

(d) the payment of any medical or disability benefits by:

(i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(5) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:

- (i) work-related fatality; or
- (ii) work-related injury resulting in:
 - (A) medical treatment;
 - (B) loss of consciousness;
 - (C) loss of work;
 - (D) restriction of work; or
 - (E) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required by Subsection (5)(a), and any subsequent reports of a previously reported injury as may be required by the commission, within the time limits and in the manner established by rule by the commission made after consultation with the workers' compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this Subsection (5)(b) shall:

- (i) be reasonable; and
- (ii) take into consideration the practicality and cost of complying with the rule.

(c) A report is not required to be filed under this Subsection (5) for a minor injury, such as a cut or scratch that requires first aid treatment only, unless:

- (i) a treating physician files a report with the division in accordance with Subsection (9); or
- (ii) a treating physician is required to file a report with the division in accordance with Subsection (9).

(6) An employer and its workers' compensation insurance carrier, if any, required to file a report under Subsection (5) shall provide the employee with:

- (a) a copy of the report submitted to the division; and
- (b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the industrial injury.

(7) An employer shall maintain a record in a manner prescribed by the commission by rule of all:

- (a) work-related fatalities; or
- (b) work-related injuries resulting in:
 - (i) medical treatment;
 - (ii) loss of consciousness;
 - (iii) loss of work;
 - (iv) restriction of work; or
 - (v) transfer to another job.

(8) (a) Except as provided in Subsection (8)(b), an employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report as required by this section is subject to a civil assessment:

(i) imposed by the division, subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) that may not exceed \$500.

(b) An employer or workers' compensation insurance carrier is not subject to the civil assessment under this Subsection (8) if:

(i) the employer or workers' compensation insurance carrier submits a report later than required by this section; and

(ii) the division finds that the employer or workers' compensation insurance carrier has shown good cause for submitting a report later than required by this section.

(c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in Section 34A-2-704.

(ii) The administrator of the Uninsured Employers' Fund shall collect money required to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance with Section 34A-2-704.

(9) (a) A physician attending an injured employee shall comply with rules established by the commission regarding:

(i) fees for physician's services;

(ii) disclosure of medical records of the employee medically relevant to the employee's industrial accident or occupational disease claim;

(iii) reports to the division regarding:

(A) the condition and treatment of an injured employee; or

(B) any other matter concerning industrial cases that the physician is treating; and

(iv) rules made under Section 34A-2-407.5.

(b) A physician who is associated with, employed by, or bills through a hospital is subject to Subsection (9)(a).

(c) A hospital providing services for an injured employee is not subject to the requirements of Subsection (9)(a) except for rules made by the commission that are described in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

(i) the severity of the employee's condition;

(ii) the nature of the treatment necessary; and

(iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (9) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:

- (a) the division;
- (b) the employee; and
- (c) (i) the employer; or
- (ii) the employer's workers' compensation insurance carrier.

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.

(iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May ~~[10, 2016]~~ 8, 2018, and ending on July 1, ~~[2018]~~ 2021, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital ~~[that has not entered into a contract described in Subsection (11)(b) shall reimburse the hospital]~~ for covered medical services ~~[at 85% of the billed hospital fees for the covered medical services.]~~ shall reimburse the hospital:

(i) in accordance with a contract described in Subsection (11)(b); or

(ii) (A) if the hospital is located in a county of the first, second, or third class, as classified in Section 17-50-501, at 75% of the billed hospital fees for the covered medical services; or

(B) if the hospital is located in a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501, at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Sections 31A-22-619.6 and 34A-2-213.

(12) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee are compensable pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

- (A) medical, nurse, or hospital services;
- (B) medicines; and
- (C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection (12)(a)(i); and

(iii) collection issues related to a good or service described in Subsection (12)(a)(i).

(b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or services described in Subsection (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

Section 3. Section 34A-2-705 is amended to read:

34A-2-705. Industrial Accident Restricted Account.

(1) As used in this section:

(a) "Account" means the Industrial Accident Restricted Account created by this section.

(b) "Advisory council" means the state workers' compensation advisory council created under Section 34A-2-107.

(2) There is created in the General Fund a restricted account known as the "Industrial Accident Restricted Account."

(3) (a) The account is funded from:

(i) .5% of the premium income remitted to the state treasurer and credited to the account pursuant to Subsection 59-9-101(2)(c)(iv); and

(ii) amounts deposited under Section 34A-2-1003.

(b) If the balance in the account exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to the Uninsured Employers' Fund created under Section 34A-2-704.

(4) (a) From money appropriated by the Legislature from the account to the commission and subject to the requirements of this section, the commission may fund:

(i) the activities of the Division of Industrial Accidents described in Section 34A-1-202;

(ii) the activities of the Division of Adjudication described in Section 34A-1-202; ~~and~~

(iii) the activities of the commission described in Section 34A-2-1005~~[-]; and~~

(iv) the activities of the commission described in Subsection 34A-2-107(7)(c), up to \$50,000 for each of the three reports described in Subsection 34A-2-107(7)(b).

(b) The money deposited in the account may not be used for a purpose other than a purpose described in this Subsection (4), including an administrative cost or another activity of the commission unrelated to the account.

(5) (a) Each year before the public hearing required by Subsection 59-9-101(2)(d)(i), the commission shall report to the advisory council regarding:

(i) the commission's budget request to the governor for the next fiscal year related to:

(A) the Division of Industrial Accidents; and

(B) the Division of Adjudication;

(ii) the expenditures of the commission for the fiscal year in which the commission is reporting related to:

(A) the Division of Industrial Accidents; and

(B) the Division of Adjudication;

(iii) revenues generated from the premium assessment under Section 59-9-101 on an admitted insurer writing workers' compensation insurance in this state and on a self-insured employer under Section 34A-2-202; and

(iv) money deposited under Section 34A-2-1003.

(b) The commission shall annually report to the governor and the Legislature regarding:

(i) the use of the money appropriated to the commission under this section;

(ii) revenues generated from the premium assessment under Section 59-9-101 on an admitted insurer writing workers' compensation insurance in this state and on a self-insured employer under Section 34A-2-202; and

(iii) money deposited under Section 34A-2-1003.

CHAPTER 269**S. B. 71**

Passed March 1, 2018
 Approved March 19, 2018
 Effective May 8, 2018

ROAD TOLLS PROVISIONS

Chief Sponsor: Wayne L. Niederhauser
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies provisions related to the imposition and collection of tolls on certain roads.

Highlighted Provisions:

This bill:

- ▶ allows the Department of Transportation to:
 - mail correspondence to inform the owner of a motor vehicle of an unpaid toll or penalty for failing to pay a toll;
 - impose a penalty for failure to pay a toll;
 - use camera and video technology to monitor a tollway; and
 - request a hold on the registration of a motor vehicle if the owner has failed to pay a toll or penalty associated with the motor vehicle;
- ▶ removes certain restrictions on the Department of Transportation's ability to establish a tollway on an existing highway;
- ▶ allows the Department of Transportation to establish a tollway on an existing highway if approved by the Transportation Commission;
- ▶ requires the Department of Transportation and the Division of Motor Vehicles to share information pertinent to registration and toll enforcement;
- ▶ requires the Department of Transportation to make rules related to tollways and the amount of a penalty for failure to pay a toll;
- ▶ allows the retention of license plate data for toll and penalty collection purposes;
- ▶ requires a study to develop strategies to collect a toll or penalty from the owner of a motor vehicle from outside this state or from the driver of a short term rental vehicle operated on a tollway; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-1a-203, as last amended by Laws of Utah 2017, Chapter 406
 41-6a-2004, as last amended by Laws of Utah 2014, Chapter 276
 72-2-120, as last amended by Laws of Utah 2011, Chapter 303
 72-6-118, as last amended by Laws of Utah 2010, Chapter 278

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

Section 1. Section 41-1a-203 is amended to read:**41-1a-203. Prerequisites for registration, transfer of ownership, or registration renewal.**

(1) Except as otherwise provided, before registration of a vehicle, an owner shall:

(a) obtain an identification number inspection under Section 41-1a-204;

(b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;

(c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;

(d) pay the automobile driver education tax required by Section 41-1a-208;

(e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

(f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

(g) pay the motor carrier fee under Section 41-1a-1219, if applicable;

(h) pay any applicable local emissions compliance fee under Section 41-1a-1223; and

(i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act.

(2) In addition to the requirements in Subsection (1), an owner of a vehicle that has not been previously registered or that is currently registered under a previous owner's name shall apply for a valid certificate of title in the owner's name before registration.

(3) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(4) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 41-22-3 for an off-highway vehicle that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(5) The division may not issue a registration renewal for a motor vehicle if the division has received a hold request as described in Section 72-6-118 involving the motor vehicle for which a registration renewal has been requested.

Section 2. Section 41-6a-2004 is amended to read:**41-6a-2004. Captured plate data -- Preservation and disclosure.**

(1) Captured plate data obtained for the purposes described in Section 41-6a-2003:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the captured plate data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in Section 41-6a-2003;

(c) except as provided in Subsection (3), may not be preserved for more than nine months by a governmental entity except pursuant to:

(i) a preservation request under Section 41-6a-2005;

(ii) a disclosure order under Subsection 41-6a-2005(2); or

(iii) a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202;

(ii) pursuant to a disclosure order under Subsection 41-6a-2005(2); or

(iii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(2) (a) A governmental entity that is authorized to use an automatic license plate reader system under this part may not sell captured plate data for any purpose.

(b) A governmental entity that is authorized to use an automatic license plate reader system under this part may not share captured plate data for a purpose not authorized under Subsection 41-6a-2003(2).

(c) Notwithstanding the provisions of this section, a governmental entity may preserve and disclose aggregate captured plate data for planning and statistical purposes if the information identifying a specific license plate is not preserved or disclosed.

(3) Plate data collected in accordance with Section 72-6-118 may be preserved so long as necessary to collect the payment of a toll or penalty imposed in accordance with Section 72-6-118 and the nine-month preservation limitation described in Subsection (1)(c) shall not apply.

Section 3. Section 72-2-120 is amended to read:

72-2-120. Tollway Special Revenue Fund -- Revenue.

(1) There is created a special revenue fund within the Transportation Fund known as the "Tollway Special Revenue Fund."

(2) The fund shall be funded from the following sources:

(a) tolls collected by the department under Section 72-6-118;

(b) funds received by the department through a tollway development agreement under Section 72-6-203;

(c) appropriations made to the fund by the Legislature;

(d) contributions from other public and private sources for deposit into the fund;

(e) interest earnings on cash balances; and

(f) money collected for repayments and interest on fund money.

(3) The Division of Finance [shall] may create a subaccount for each tollway as defined in Section 72-6-118.

(4) The commission may authorize the money deposited into the fund to be spent by the department to establish and operate tollways and related facilities and state transportation systems, including design, construction, reconstruction, operation, maintenance, enforcement, impacts from tollways, and the acquisition of right-of-way.

Section 4. Section 72-6-118 is amended to read:

72-6-118. Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.

(1) As used in this section:

(a) "High occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

(c) "Toll lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through the use of toll revenues.

(ii) "Tollway" includes a high occupancy toll lane and a toll lane.

(e) "Tollway development agreement" has the same meaning as defined in Section 72-6-202.

(2) Subject to the provisions of Subsection (3), the department may:

(a) establish, expand, and operate tollways and related facilities for the purpose of funding in whole or in part the acquisition of right-of-way and the design, construction, reconstruction, operation, enforcement, and maintenance of or impacts from a transportation route for use by the public;

(b) enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements to implement this section;

(c) impose and collect tolls on any tollway established under this section, including collection of past due payment of a toll or penalty; ~~and~~

(d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls pursuant to the terms and conditions of a tollway development agreement~~[-];~~

(e) use technology to automatically monitor a tollway and collect payment of a toll, including:

(i) license plate reading technology; and

(ii) photographic or video recording technology; and

(f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll or penalty imposed for usage of a tollway involving the motor vehicle for which registration renewal has been requested.

~~[(3) (a) Except as provided under Subsection (3)(d), the department or other entity may not establish or operate a tollway on an existing state highway, except as approved by the commission and the Legislature.]~~

~~[(b) Between sessions of the Legislature, a state tollway may be designated or deleted if:]~~

~~[(i) approved by the commission in accordance with the standards made under this section; and]~~

~~[(ii) the tollways are submitted to the Legislature in the next year for legislative approval or disapproval.]~~

~~[(c) In conjunction with a proposal submitted under Subsection (3)(b)(ii), the department shall provide a description of the tollway project, projected traffic, the anticipated amount of tolls to be charged, and projected toll revenue.]~~

~~[(d) If approved by the commission, the department may:]~~

~~[(i) establish high occupancy toll lanes on existing state highways; and]~~

~~[(ii) establish tollways on new state highways or additional capacity lanes.]~~

(3) (a) The department may establish or operate a tollway on an existing highway if approved by the commission in accordance with the terms of this section.

(b) To establish a tollway on an existing highway, the department shall submit a proposal to the commission including:

(i) a description of the tollway project;

(ii) projected traffic on the tollway;

(iii) the anticipated amount of the toll to be charged; and

(iv) projected toll revenue.

(4) (a) For a tollway established under this section, the department may:

(i) according to the terms of each tollway, impose the toll upon the owner of a motor vehicle using the tollway according to the terms of the tollway;

(ii) send correspondence to the owner of the motor vehicle to inform the owner of:

(A) an unpaid toll and the amount of the toll to be paid to the department;

(B) the penalty for failure to pay the toll timely; and

(C) a hold being placed on the owner's registration for the motor vehicle if the toll and penalty are not paid timely, which would prevent the renewal of the motor vehicle's registration;

(iii) require that the owner of the motor vehicle pay the toll to the department within 30 days of the date when the department sends written notice of the toll to the owner; and

(iv) impose a penalty for failure to pay a toll timely.

(b) The department shall mail the correspondence and notice described in Subsection (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

(5) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to a motor vehicle and tollway enforcement including:

(i) registration and ownership information pertaining to a motor vehicle;

(ii) information regarding the failure of a motor vehicle owner to timely pay a toll or penalty imposed under this section; and

(iii) the status of a request for a hold on the registration of a motor vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or penalty imposed under this section for usage of a tollway involving the motor vehicle for which registration renewal has been requested until the department withdraws the hold request.

~~[(4)] (6) (a) Except as provided in Subsection [(4)] (6)(b), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:~~

(i) set the amount of any toll imposed or collected on a tollway on a state highway; and

(ii) for tolls established under Subsection ~~[(4)] (6)(b)~~, set:

(A) an increase in a toll rate or user fee above an increase specified in a tollway development agreement; or

(B) an increase in a toll rate or user fee above a maximum toll rate specified in a tollway development agreement.

(b) A toll or user fee and an increase to a toll or user fee imposed or collected on a tollway on a state highway that is the subject of a tollway development agreement shall be set in the tollway development agreement.

~~[(5)]~~ (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(i) necessary to establish and operate tollways on state highways; ~~and~~

(ii) that establish standards and specifications for automatic tolling systems and automatic tollway monitoring technology; and

(iii) to set the amount of a penalty for failure to pay a toll under this section.

(b) The rules shall:

(i) include minimum criteria for having a tollway; and

(ii) conform to regional and national standards for automatic tolling.

~~[(6)]~~ (8) (a) The commission may provide funds for public or private tollway pilot projects or high occupancy toll lanes from General Fund money appropriated by the Legislature to the commission for that purpose.

(b) The commission may determine priorities and funding levels for tollways designated under this section.

~~[(7)]~~ (9) (a) Except as provided in Subsection ~~[(7)]~~ (9)(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for acquisition of right-of-way and the design, construction, reconstruction, operation, maintenance, enforcement of state transportation systems and facilities, including operating improvements to the tollway, and other facilities used exclusively for the operation of a tollway facility within the corridor served by the tollway.

(b) Revenue generated from a tollway that is the subject of a tollway development agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance with Subsection ~~[(7)]~~ (9)(a) unless:

(i) the revenue is to a private entity through the tollway development agreement; or

(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act,

if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(11) (a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

(12) Before November 1, 2018, the Driver License Division, the Division of Motor Vehicles, and the department shall jointly study and report findings and recommendations to the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers' License Compact, and other methods to collect a toll or penalty under this section from:

(a) an owner of a motor vehicle registered outside this state; or

(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.

CHAPTER 270
S. B. 74

Passed March 7, 2018
Approved March 19, 2018
Effective May 8, 2018

VOTER PRIVACY AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Rebecca P. Edwards

LONG TITLE

General Description:

This bill amends provisions related to a date of birth on a voter registration record.

Highlighted Provisions:

This bill:

- ▶ specifies that a qualified person may only obtain a voter’s month and year of birth from the list of registered voters instead of a voter’s entire date of birth;
- ▶ amends the voter registration form;
- ▶ allows any individual to request that the individual’s voter registration record be classified as a private record;
- ▶ amends provisions relating to the process by which a voter may request that the voter’s voter registration record be classified as a private record;
- ▶ specifies that a governmental entity may share a protected voter registration record with another governmental entity for a purpose related to voter registration or the administration of an election; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

- 20A-2-104, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-108, as last amended by Laws of Utah 2015, Chapter 130
- 20A-2-306, as last amended by Laws of Utah 2017, Chapter 52
- 20A-6-105, as last amended by Laws of Utah 2014, Chapter 373
- 63G-2-202, as last amended by Laws of Utah 2016, Chapter 348

Utah Code Sections Affected by Coordination Clause:

- 20A-2-104, as last amended by Laws of Utah 2015, Chapter 130

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

Section 1. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) An individual applying for voter registration, or an individual preregistering to vote, shall

complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America?
Yes No

If you checked “no” to the above question, do not complete this form.

Will you be 18 years of age on or before election day?
Yes No

If you checked “no” to the above question, are you 16 or 17 years of age and preregistering to vote?
Yes No

If you checked “no” to both of the prior two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number

Last former address at which I was registered to vote (if known)

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party’s name preceded by a checkbox)

- Unaffiliated (no political party preference)
- Other (Please specify) _____

You may request that your voter registration record be classified as a private record by indicating here: Yes, I would like to request that my voter registration record be classified as a private record.

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature

_____(month/day/year).

[~~“~~The portion of [a] your voter registration form that lists [~~a person's~~] your driver license or identification card number, social security number, [~~and~~] email address, and the day of your month of birth is a private record. The portion of [a] your voter registration form that lists [~~a person's date~~] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

[~~If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”~~]

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party; or

(vi) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the [date] month or year of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vi)(A), to whom a [date] month or year of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the [date] month or year of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i) or (v), to whom the person provides the [date] month or year of birth of a registered voter that is obtained from the list of registered voters, will only use the [date] month or year of birth to verify the accuracy of personal information submitted by an individual

or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the [date] month or year of birth of a registered voter that is obtained from the list of registered voters, will only use the [date] month or year of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v), to whom the person provides the [date] month or year of birth of a registered voter that is obtained from the list of registered voters, will only use the [date] month or year of birth for a political purpose.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the [dates] months and years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the [dates] months and years of birth;

(D) a list of the purposes for which the [date] qualified person may use the month or year of birth of a registered voter that is obtained from the list of registered voters ~~[may be used]~~;

(E) a statement that the [date] month or year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the [date] month or year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the [date] month or year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the [date] month or year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the [date] month or year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(~~k~~)(j); or

(ii) will provide or use the [date] month or year of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(f) to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(e) A person is guilty of a class A misdemeanor if the person:

(i) obtains the [date] month or year of birth of a registered voter from the list of registered voters under false pretenses; or

(ii) uses or provides the [date] month or year of birth of a registered voter that is obtained from the list of registered voters, in a manner that is not permitted by law.

(f) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter [submits]:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private; [and] or

~~[(ii) provides evidence to the lieutenant governor or a county clerk establishing that release of the information on the voter's voter registration record is likely to put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a member of the voter's household at risk of being stalked or harassed.]~~

~~[(g) The evidence described in Subsection (4)(f) may include:]~~

~~[(i) a protective order;]~~

~~[(ii) a police report; or]~~

~~[(iii) other evidence designated by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor.]~~

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record.

~~[(h)]~~ (g) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who obtains the [date] month or year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses a [date] month or year of birth of a registered voter that is

obtained from the list of registered voters in a manner that is not permitted by law, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of [date] months or years of birth obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) \$200.

~~(4)~~ (h) A qualified person may not obtain, provide, or use the [date] month or year of birth of a registered voter, if the [date] month or year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the [date] month or year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the [date] month or year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) and obtains, provides, or uses the [date] month or year of birth for a political purpose; or

(iv) is a qualified person described in Subsection (4)(a)(vi) and obtains, provides, or uses the [date] month or year of birth to provide the [date] month or year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

~~(4)~~ (i) A person who is not a qualified person may not obtain, provide, or use the [date] month or year of birth of a registered voter, if the [date] month or year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a candidate for public office and uses the [date] month or year of birth only for a political purpose; or

(ii) obtains the [date] month or year of birth from a political party or a candidate for public office and uses the [date] month or year of birth only for the purpose of assisting the political party or candidate for public office to fulfill a political purpose.

~~(4)~~ (j) The lieutenant governor or a county clerk may provide a [date] month or year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to

ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section 20A-2-108 is amended to read:

20A-2-108. Driver license registration form -- Transmittal of information.

(1) The lieutenant governor and the Driver License Division shall design the driver license application and renewal forms to include the following questions:

(a) "If you are not registered to vote where you live now, would you like to register to vote today?"; and

(b) "If you are 16 or 17 years of age, and will not be 18 years of age before the date of the next election, would you like to preregister to vote today?"

(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.

(b) Each driver license application and renewal form shall contain:

(i) a place for the applicant to decline to register or preregister to vote;

(ii) the following statement: "You may request that your voter registration record be classified as a private record by indicating here: Yes, I would like to request that my voter registration record be classified as a private record.";

~~(4)~~ (iii) an eligibility statement in substantially the following form:

"I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election.

Signed and sworn

 Voter's Signature
 _____(month \ day \ year)";

~~(4)~~ (iv) a citizenship affidavit in substantially the following form:

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth: Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500";

(4v) (v) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(4v) (vi) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(4v) (vii) the following statement:

"The portion of [a] your voter registration form that lists [~~a person's~~] your driver license or identification card number, social security number, [~~and~~] email address, and the day of your month of birth is a private record. The portion of [a] your voter registration form that lists [~~a person's date~~] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons."

[~~If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.~~"]

(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review the voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 3. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

Street City County State Zip

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

Signature of Voter”

“The portion of [a] your voter registration form that lists [a-person’s] your driver license or identification card number, social security number, [and] email address, and the day of your month of birth is a private record. The portion of [a] your voter registration form that lists [a-person’s date] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household’s life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you] You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

- (i) the voter requests, in writing, that the voter’s name be removed; or
(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

Section 4. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

“AFFIRMATION

Are you a citizen of the United States of America?
Yes No

Will you be 18 years old on or before election day?
Yes No

If you checked “no” in response to either of the two above questions, do not complete this form.

Name of Voter

First Middle Last

Driver License or Identification Card Number

State of Issuance of Driver License or Identification Card Number

Date of Birth

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional)

Last four digits of Social Security Number

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known)

I, (please print your full name) do solemnly swear or affirm:

That I am currently registered to vote in the state of Utah and am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed

Dated

In accordance with Section 20A-3-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.”

“The portion of [a] your voter registration form that lists [a-person’s] your driver license or identification card number, social security number, and email address, and the day of your month of birth, is a private record. The portion of [a] your voter registration form that lists [a-person’s date] your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government

~~employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you] You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."~~

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500."

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section 5. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) ~~[Upon request, and except]~~ Except as provided in Subsection (1)(a), a governmental entity ~~[shall]~~:

(a) shall, upon request, disclose a private record to:

~~[(a)]~~ (i) the subject of the record;

~~[(b)]~~ (ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

~~[(c)]~~ (iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

~~[(d)]~~ (iv) any other individual who:

~~[(4)]~~ (A) has a power of attorney from the subject of the record;

~~[(5)]~~ (B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

~~[(5)]~~ (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

~~[(e)]~~ (v) any person to whom the record must be provided pursuant to:

~~[(4)]~~ (A) court order as provided in Subsection (7); or

~~[(5)]~~ (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers~~[-];~~ and

(b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions

whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) [A] Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are

private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 6. Coordinating S.B. 74 with H.B.

218 -- Technical amendments.

If this S.B. 74 and H.B. 218, Modifications to Election Law, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 20A-2-104(4)(f) in this S.B. 74 supersede the amendments to Subsection 20A-2-104(4)(f) in H.B. 218, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 271**S. B. 84**

Passed March 8, 2018

Approved March 19, 2018

Effective May 1, 2018

**REAUTHORIZATION OF
ADMINISTRATIVE RULES**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- ▶ reauthorizes all state agency administrative rules except for the rule specifically listed in the bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Rules reauthorized.

All rules of Utah state agencies are reauthorized except for R708-14-9, Public Safety, Driver License, Adjudicative Proceedings for Driver License Actions Involving Alcohol and Drugs, Findings, Conclusions, Recommendations and Orders.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2018.

CHAPTER 272**S. B. 90**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

HIT AND RUN PENALTIES AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill amends provisions related to penalties for operators of a vehicle involved in a hit and run accident causing property damage.

Highlighted Provisions:

This bill:

- ▶ defines “knowledge” and “with knowledge” with respect to involvement in an accident;
- ▶ defines the penalty for an individual who has knowledge that the individual was involved in an accident causing property damage and flees the scene without complying with the requirements of the section, including exchange of information; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-401, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 41-6a-401 is amended to read:

41-6a-401. Accident involving property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) As used in this section[;]:

(a) “Knowledge” or “with knowledge” means, with respect to an individual’s own conduct or to circumstances surrounding an individual’s conduct, that the individual is aware of the nature of the conduct or the existing circumstances.

(b) [~~“reason”~~] “Reason to believe” means information from which a reasonable person would believe that the person may have been involved in an accident.

(2) (a) The operator of a vehicle with knowledge that the operator was involved in, or who has reason to believe that the operator may have been involved in, an accident resulting only in damage to another vehicle or other property:

(i) may move the vehicle as soon as possible off the roadway or freeway main lines, shoulders, medians,

or adjacent areas to the nearest safe location on an exit ramp shoulder, a frontage road, the nearest suitable cross street, or other suitable location that does not obstruct traffic; and

(ii) shall remain at the scene of the accident or the location described in Subsection (2)(a)(i) until the operator has fulfilled the requirements of this section.

(b) Moving a vehicle as required under Subsection (2)(a)(i) does not affect the determination of fault for an accident.

(c) If the operator has knowledge that the operator was involved in, or reason to believe that the operator may have been involved in, an accident resulting in damage to another vehicle or other property only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of this section.

(3) Except as provided under Subsection (6), if the vehicle or other property is operated, occupied, or attended by any person or if the owner of the vehicle or property is present, the operator of the vehicle involved in the accident shall:

(a) give to the persons involved:

(i) the operator’s name, address, and the registration number of the vehicle being operated; and

(ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider; and

(b) upon request and if available, exhibit the operator’s license to:

(i) any investigating peace officer present;

(ii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iii) the owner of property damaged in the accident, if present.

(4) The operator of a vehicle involved in an accident shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency if the accident resulted in property damage to an apparent extent of \$1,500 or more.

(5) Except as provided under Subsection (6), if the vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

(a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator’s name, address, and the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator’s name, address, and the registration number of the vehicle causing the damage.

(6) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

~~[(7) A violation of this section is a class C misdemeanor.]~~

(7) (a) An operator of a vehicle that has reason to believe that the operator may have been involved in an accident and fails to comply with the provisions of this section is guilty of a class C misdemeanor.

(b) An operator of a vehicle that has knowledge that the operator was involved in an accident and fails to comply with the provisions of this section is guilty of a class B misdemeanor.

CHAPTER 273**S. B. 92**

Passed February 14, 2018

Approved March 19, 2018

Effective May 8, 2018

**WORKERS' COMPENSATION
ATTORNEY FEES AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill modifies provisions of the Workers' Compensation Act related to attorney fees.

Highlighted Provisions:

This bill:

- ▶ provides that to the extent allowed by court rule, an employee may be awarded reasonable attorney fees in an adjudication of a workers' compensation claim where only medical benefits are at issue; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-413, as last amended by Laws of Utah 2016, Chapter 31

34A-2-801, as last amended by Laws of Utah 2016, Chapters 187 and 242

REPEALS AND REENACTS:

34A-1-309, as last amended by Laws of Utah 2009, Chapter 216

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

Section 1. Section 34A-1-309 is repealed and reenacted to read:**34A-1-309. Attorney fees.**

For an adjudication of a workers' compensation claim where only medical benefits are at issue, reasonable attorney fees may be awarded in accordance with and to the extent allowed by rule adopted by the Utah Supreme Court and implemented by the Labor Commission.

Section 2. Section 34A-2-413 is amended to read:**34A-2-413. Permanent total disability -- Amount of payments -- Rehabilitation.**

(1) (a) In the case of a permanent total disability resulting from an industrial accident or occupational disease, the employee shall receive compensation as outlined in this section.

(b) To establish entitlement to permanent total disability compensation, the employee shall prove by a preponderance of evidence that:

(i) the employee sustained a significant impairment or combination of impairments as a

result of the industrial accident or occupational disease that gives rise to the permanent total disability entitlement;

(ii) the employee has a permanent, total disability; and

(iii) the industrial accident or occupational disease is the direct cause of the employee's permanent total disability.

(c) To establish that an employee has a permanent, total disability the employee shall prove by a preponderance of the evidence that:

(i) the employee is not gainfully employed;

(ii) the employee has an impairment or combination of impairments that reasonably limit the employee's ability to do basic work activities;

(iii) the industrial or occupationally caused impairment or combination of impairments prevent the employee from performing the essential functions of the work activities for which the employee has been qualified until the time of the industrial accident or occupational disease that is the basis for the employee's permanent total disability claim; and

(iv) the employee cannot perform other work reasonably available, taking into consideration the employee's:

(A) age;

(B) education;

(C) past work experience;

(D) medical capacity; and

(E) residual functional capacity.

(d) Evidence of an employee's entitlement to disability benefits other than those provided under this chapter and Chapter 3, Utah Occupational Disease Act, if relevant:

(i) may be presented to the commission;

(ii) is not binding; and

(iii) creates no presumption of an entitlement under this chapter and Chapter 3, Utah Occupational Disease Act.

(e) In determining under Subsections (1)(b) and (c) whether an employee cannot perform other work reasonably available, the following may not be considered:

(i) whether the employee is incarcerated in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) whether the employee is not legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(2) For permanent total disability compensation during the initial 312-week entitlement, compensation is 66-2/3% of the employee's average weekly wage at the time of the injury, limited as follows:

(a) compensation per week may not be more than 85% of the state average weekly wage at the time of the injury;

(b) (i) subject to Subsection (2)(b)(ii), compensation per week may not be less than the sum of \$45 per week and:

(A) \$5 for a dependent spouse; and

(B) \$5 for each dependent child under the age of 18 years, up to a maximum of four dependent minor children; and

(ii) the amount calculated under Subsection (2)(b)(i) may not exceed:

(A) the maximum established in Subsection (2)(a); or

(B) the average weekly wage of the employee at the time of the injury; and

(c) after the initial 312 weeks, the minimum weekly compensation rate under Subsection (2)(b) is 36% of the current state average weekly wage, rounded to the nearest dollar.

(3) This Subsection (3) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or before June 30, 1994.

(a) The employer or the employer's insurance carrier is liable for the initial 312 weeks of permanent total disability compensation except as outlined in Section 34A-2-703 as in effect on the date of injury.

(b) The employer or the employer's insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The Employers' Reinsurance Fund shall for an overpayment of compensation described in Subsection (3)(b), reimburse the overpayment:

(i) to the employer or the employer's insurance carrier; and

(ii) out of the Employers' Reinsurance Fund's liability to the employee.

(d) After an employee receives compensation from the employee's employer, the employer's insurance carrier, or the Employers' Reinsurance Fund for any combination of disabilities amounting to 312 weeks of compensation at the applicable permanent total disability compensation rate, the Employers' Reinsurance Fund shall pay all remaining permanent total disability compensation.

(e) Employers' Reinsurance Fund payments shall commence immediately after the employer or the employer's insurance carrier satisfies its liability under this Subsection (3) or Section 34A-2-703.

(4) This Subsection (4) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or after July 1, 1994.

(a) The employer or the employer's insurance carrier is liable for permanent total disability compensation.

(b) The employer or the employer's insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The employer or the employer's insurance carrier may recoup the overpayment of compensation described in Subsection (4) by reasonably offsetting the overpayment against future liability paid before or after the initial 312 weeks.

(5) (a) A finding by the commission of permanent total disability is not final, unless otherwise agreed to by the parties, until:

(i) an administrative law judge reviews a summary of reemployment activities undertaken pursuant to Section 34A-2-413.5;

(ii) the employer or the employer's insurance carrier submits to the administrative law judge:

(A) a reemployment plan as prepared by a qualified rehabilitation provider reasonably designed to return the employee to gainful employment; or

(B) notice that the employer or the employer's insurance carrier will not submit a plan; and

(iii) the administrative law judge, after notice to the parties, holds a hearing, unless otherwise stipulated, to:

(A) consider evidence regarding rehabilitation; and

(B) review any reemployment plan submitted by the employer or the employer's insurance carrier under Subsection (5)(a)(ii).

(b) Before commencing the procedure required by Subsection (5)(a), the administrative law judge shall order:

(i) the initiation of permanent total disability compensation payments to provide for the employee's subsistence; and

(ii) the payment of any undisputed disability or medical benefits due the employee.

(c) Notwithstanding Subsection (5)(a), an order for payment of benefits described in Subsection (5)(b) is considered a final order for purposes of Section 34A-2-212.

(d) The employer or the employer's insurance carrier shall be given credit for any disability payments made under Subsection (5)(b) against its

ultimate disability compensation liability under this chapter or Chapter 3, Utah Occupational Disease Act.

(e) An employer or the employer's insurance carrier may not be ordered to submit a reemployment plan. If the employer or the employer's insurance carrier voluntarily submits a plan, the plan is subject to Subsections (5)(e)(i) through (iii).

(i) The plan may include, but not require an employee to pay for:

- (A) retraining;
- (B) education;
- (C) medical and disability compensation benefits;
- (D) job placement services; or

(E) incentives calculated to facilitate reemployment.

(ii) The plan shall include payment of reasonable disability compensation to provide for the employee's subsistence during the rehabilitation process.

(iii) The employer or the employer's insurance carrier shall diligently pursue the reemployment plan. The employer's or insurance carrier's failure to diligently pursue the reemployment plan is cause for the administrative law judge on the administrative law judge's own motion to make a final decision of permanent total disability.

(f) If a preponderance of the evidence shows that successful rehabilitation is not possible, the administrative law judge shall order that the employee be paid weekly permanent total disability compensation benefits.

(g) If a preponderance of the evidence shows that pursuant to a reemployment plan, as prepared by a qualified rehabilitation provider and presented under Subsection (5)(e), an employee could immediately or without unreasonable delay return to work but for the following, an administrative law judge shall order that the employee be denied the payment of weekly permanent total disability compensation benefits:

(i) incarceration in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) not being legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(6) (a) The period of benefits commences on the date the employee acquired the permanent, total disability, as determined by a final order of the commission based on the facts and evidence, and ends:

(i) with the death of the employee; or

(ii) when the employee is capable of returning to regular, steady work.

(b) An employer or the employer's insurance carrier may provide or locate for a permanently totally disabled employee reasonable, medically appropriate, part-time work in a job earning at least minimum wage, except that the employee may not be required to accept the work to the extent that it would disqualify the employee from social security disability benefits.

(c) An employee shall:

(i) fully cooperate in the placement and employment process; and

(ii) accept the reasonable, medically appropriate, part-time work.

(d) In a consecutive four-week period when an employee's gross income from the work provided under Subsection (6)(b) exceeds \$500, the employer or insurance carrier may reduce the employee's permanent total disability compensation by 50% of the employee's income in excess of \$500.

(e) If a work opportunity is not provided by the employer or the employer's insurance carrier, an employee with a permanent, total disability may obtain medically appropriate, part-time work subject to the offset provisions of Subsection (6)(d).

(f) (i) The commission shall establish rules regarding the part-time work and offset.

(ii) The adjudication of disputes arising under this Subsection (6) is governed by Part 8, Adjudication.

(g) The employer or the employer's insurance carrier has the burden of proof to show that medically appropriate part-time work is available.

(h) The administrative law judge may:

(i) excuse an employee from participation in any work:

(A) that would require the employee to undertake work exceeding the employee's:

(I) medical capacity; or

(II) residual functional capacity; or

(B) for good cause; or

(ii) allow the employer or the employer's insurance carrier to reduce permanent total disability benefits as provided in Subsection (6)(d) when reasonable, medically appropriate, part-time work is offered, but the employee fails to fully cooperate.

(7) When an employee is rehabilitated or the employee's rehabilitation is possible but the employee has some loss of bodily function, the award shall be for permanent partial disability.

(8) As determined by an administrative law judge, an employee is not entitled to disability compensation, unless the employee fully cooperates with any evaluation or reemployment plan under this chapter or Chapter 3, Utah Occupational Disease Act. The administrative law judge shall dismiss without prejudice the claim for benefits of an employee if the administrative law judge finds

that the employee fails to fully cooperate, unless the administrative law judge states specific findings on the record justifying dismissal with prejudice.

(9) (a) The loss or permanent and complete loss of the use of the following constitutes total and permanent disability that is compensated according to this section:

- (i) both hands;
- (ii) both arms;
- (iii) both feet;
- (iv) both legs;
- (v) both eyes; or

(vi) any combination of two body members described in this Subsection (9)(a).

(b) A finding of permanent total disability pursuant to Subsection (9)(a) is final.

(10) (a) An insurer or self-insured employer may periodically reexamine a permanent total disability claim, except those based on Subsection (9), for which the insurer or self-insured employer had or has payment responsibility to determine whether the employee continues to have a permanent, total disability.

(b) Reexamination may be conducted no more than once every three years after an award is final, unless good cause is shown by the employer or the employer's insurance carrier to allow more frequent reexaminations.

(c) The reexamination may include:

- (i) the review of medical records;
- (ii) employee submission to one or more reasonable medical evaluations;
- (iii) employee submission to one or more reasonable rehabilitation evaluations and retraining efforts;

(iv) employee disclosure of Federal Income Tax Returns;

(v) employee certification of compliance with Section 34A-2-110; and

(vi) employee completion of one or more sworn affidavits or questionnaires approved by the division.

(d) The insurer or self-insured employer shall pay for the cost of a reexamination with appropriate employee reimbursement pursuant to rule for reasonable travel allowance and per diem as well as reasonable expert witness fees incurred by the employee in supporting the employee's claim for permanent total disability benefits at the time of reexamination.

(e) If an employee fails to fully cooperate in the reasonable reexamination of a permanent total disability finding, an administrative law judge may order the suspension of the employee's permanent total disability benefits until the employee cooperates with the reexamination.

(f) (i) If the reexamination of a permanent total disability finding reveals evidence that reasonably raises the issue of an employee's continued entitlement to permanent total disability compensation benefits, an insurer or self-insured employer may petition the Division of Adjudication for a rehearing on that issue. The insurer or self-insured employer shall include with the petition, documentation supporting the insurer's or self-insured employer's belief that the employee no longer has a permanent, total disability.

(ii) If the petition under Subsection (10)(f)(i) demonstrates good cause, as determined by the Division of Adjudication, an administrative law judge shall adjudicate the issue at a hearing.

(iii) Evidence of an employee's participation in medically appropriate, part-time work may not be the sole basis for termination of an employee's permanent total disability entitlement, but the evidence of the employee's participation in medically appropriate, part-time work under Subsection (6) may be considered in the reexamination or hearing with other evidence relating to the employee's status and condition.

~~[(g) In accordance with Section 34A-1-309, the administrative law judge may award reasonable attorney fees to an attorney retained by an employee to represent the employee's interests with respect to reexamination of the permanent total disability finding, except if the employee does not prevail, the attorney fees shall be set at \$1,000. The attorney fees awarded shall be paid by the employer or the employer's insurance carrier in addition to the permanent total disability compensation benefits due.]~~

~~[(h) (g) During the period of reexamination or adjudication, if the employee fully cooperates, each insurer, self-insured employer, or the Employers' Reinsurance Fund shall continue to pay the permanent total disability compensation benefits due the employee.]~~

(11) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section is given effect without the invalid provision or application.

Section 3. Section 34A-2-801 is amended to read:

34A-2-801. Initiating adjudicative proceedings -- Procedure for review of administrative action.

(1) (a) To contest an action of the employee's employer or its insurance carrier concerning a compensable industrial accident or occupational disease alleged by the employee or a dependent any of the following shall file an application for hearing with the Division of Adjudication:

- (i) the employee;
- (ii) a representative of the employee, the qualifications of whom are defined in rule by the commission; or
- (iii) a dependent as described in Section 34A-2-403.

(b) To appeal the imposition of a penalty or other administrative act imposed by the division on the employer or its insurance carrier for failure to comply with this chapter or Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for hearing with the Division of Adjudication:

- (i) the employer;
- (ii) the insurance carrier; or

(iii) a representative of either the employer or the insurance carrier, the qualifications of whom are defined in rule by the commission.

(c) A person providing goods or services described in Subsections 34A-2-407(12) and 34A-3-108(13) may file an application for hearing in accordance with Section 34A-2-407 or 34A-3-108.

~~[(d) An attorney may file an application for hearing in accordance with Section 34A-1-309.]~~

(2) (a) Unless all parties agree to the assignment in writing, the Division of Adjudication may not assign the same administrative law judge to hear a claim under this section by an injured employee if the administrative law judge previously heard a claim by the same injured employee for a different injury or occupational disease.

(b) Unless all parties agree to the appointment in writing, an administrative law judge may not appoint the same medical panel or individual panel member to evaluate a claim by an injured employee if the medical panel or individual panel member previously evaluated a claim by the same injured employee for a different injury or occupational disease.

(3) Unless a party in interest appeals the decision of an administrative law judge in accordance with Subsection (4), the decision of an administrative law judge on an application for hearing filed under Subsection (1) is a final order of the commission 30 days after the day on which the decision is issued. An administrative law judge shall issue a decision by no later than 60 days from the day on which the hearing is held under this part unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 60-day period is impracticable.

(4) (a) A party in interest may appeal the decision of an administrative law judge by filing a motion for review with the Division of Adjudication within 30 days of the date the decision is issued.

(b) Unless a party in interest to the appeal requests under Subsection (4)(c) that the appeal be heard by the Appeals Board, the commissioner shall hear the review.

(c) A party in interest may request that an appeal be heard by the Appeals Board by filing the request with the Division of Adjudication:

- (i) as part of the motion for review; or

(ii) if requested by a party in interest who did not file a motion for review, within 20 days of the day on which the motion for review is filed with the Division of Adjudication.

(d) A case appealed to the Appeals Board shall be decided by the majority vote of the Appeals Board.

(5) The Division of Adjudication shall maintain a record on appeal, including an appeal docket showing the receipt and disposition of the appeals on review.

(6) Upon appeal, the commissioner or Appeals Board shall make its decision in accordance with Section 34A-1-303. The commissioner or Appeals Board shall issue a decision under this part by no later than 90 days from the day on which the motion for review is filed unless:

- (a) the parties agree to a longer period of time; or
- (b) a decision within the 90-day period is impracticable.

(7) The commissioner or Appeals Board shall promptly notify the parties to a proceeding before it of its decision, including its findings and conclusions.

(8) (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals Board is final unless within 30 days after the date the decision is issued further appeal is initiated under the provisions of this section or Title 63G, Chapter 4, Administrative Procedures Act.

(b) In the case of an award of permanent total disability benefits under Section 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the commission unless set aside by the court of appeals.

(9) (a) Within 30 days after the day on which the decision of the commissioner or Appeals Board is issued, an aggrieved party may secure judicial review by commencing an action in the court of appeals against the commissioner or Appeals Board for the review of the decision of the commissioner or Appeals Board.

(b) In an action filed under Subsection (9)(a):

(i) any other party to the proceeding before the commissioner or Appeals Board shall be made a party; and

(ii) the commission shall be made a party.

(c) A party claiming to be aggrieved may seek judicial review only if the party exhausts the party's remedies before the commission as provided by this section.

(d) At the request of the court of appeals, the commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the decision of the commissioner or Appeals Board.

(10) (a) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate timely completion of administrative actions under this part.

(b) The commission shall monitor the time from filing of an application for a hearing to issuance of a final order of the commission for cases brought under this part.

CHAPTER 274**S. B. 94**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

VOTING AMENDMENTS

Chief Sponsor: Margaret Dayton
House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill amends provisions related to voting.

Highlighted Provisions:

This bill:

- ▶ consolidates definitions associated with poll watchers and defines other terms;
- ▶ creates a process for an individual to register as a watcher;
- ▶ designates activities in which a watcher may engage;
- ▶ prohibits a watcher from taking certain actions;
- ▶ permits an election officer to take certain actions with regard to a watcher;
- ▶ establishes criminal penalties;
- ▶ modifies deadlines related to the challenge of an individual's eligibility to vote;
- ▶ removes obsolete ballot perforation and ballot stub provisions;
- ▶ modifies requirements for using a voting center ballot;
- ▶ modifies provisions relating to curing an invalid absentee ballot; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 20A-1-102, as last amended by Laws of Utah 2017, Chapter 52
- 20A-1-607, as enacted by Laws of Utah 1993, Chapter 1
- 20A-3-202, as last amended by Laws of Utah 2012, Chapter 251
- 20A-3-202.3, as last amended by Laws of Utah 2015, Chapter 19
- 20A-3-202.5, as enacted by Laws of Utah 2010, Chapter 83
- 20A-3-203, as enacted by Laws of Utah 1993, Chapter 1
- 20A-3-308, as last amended by Laws of Utah 2017, Chapter 235 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 327
- 20A-3-702, as last amended by Laws of Utah 2013, Chapter 198
- 20A-4-101, as last amended by Laws of Utah 2008, Chapter 225
- 20A-4-102, as last amended by Laws of Utah 2002, Chapter 177
- 20A-4-104, as last amended by Laws of Utah 2017, Chapter 327

- 20A-4-202, as last amended by Laws of Utah 2007, Chapters 75 and 97
- 20A-5-302, as last amended by Laws of Utah 2007, Chapters 256 and 329
- 20A-5-406, as last amended by Laws of Utah 2015, Chapter 392
- 20A-6-102, as last amended by Laws of Utah 2016, Chapter 66
- 20A-6-301, as last amended by Laws of Utah 2016, Chapter 66
- 20A-6-401, as last amended by Laws of Utah 2016, Chapter 176
- 20A-6-401.1, as last amended by Laws of Utah 2013, Chapter 320
- 20A-6-402, as last amended by Laws of Utah 2016, Chapter 176
- 20A-9-404, as last amended by Laws of Utah 2017, Chapter 91
- 20A-9-406, as last amended by Laws of Utah 2017, Chapter 91

REPEALS AND REENACTS:

- 20A-3-201, as last amended by Laws of Utah 2009, Chapter 388

REPEALS:

- 20A-15-105, as enacted by Laws of Utah 1995, Chapter 1

Utah Code Sections Affected by Coordination Clause:

- 20A-3-202, as last amended by Laws of Utah 2012, Chapter 251
- 20A-3-202.3, as last amended by Laws of Utah 2015, Chapter 19

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.
 - (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.
 - (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
 - (a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and
 - (b) are used in conjunction with ballot sheets that do not display that information.
 - (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

~~[(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.]~~

~~[(20)]~~ (19) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

~~[(21)]~~ (20) "County officers" means those county officers that are required by law to be elected.

~~[(22)]~~ (21) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

~~[(23)]~~ (22) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

~~[(24)]~~ (23) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

~~[(25)]~~ (24) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

~~[(26)]~~ (25) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

~~[(27)]~~ (26) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

~~[(28)]~~ (27) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

- (i) a county ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (c) the municipal clerk for:
- (i) a municipal ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (d) the local district clerk or chief executive officer for:
- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (e) the business administrator or superintendent of a school district for:
- (i) a school district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.
- [29] (28) "Election official" means any election officer, election judge, or poll worker.
- [30] (29) "Election results" means:
- (a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or
- (b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.
- [31] (30) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.
- [32] (31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.
- [33] (32) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- [34] (33) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- (b) "Electronic voting device" includes a direct recording electronic voting device.
- [35] (34) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

~~[36] "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.]~~

[37] (35) "Judicial office" means the office filled by any judicial officer.

[38] (36) "Judicial officer" means any justice or judge of a court of record or any county court judge.

[39] (37) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

[40] (38) "Local district officers" means those local district board members that are required by law to be elected.

[41] (39) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

[42] (40) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

[43] (41) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

[44] (42) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

[45] (43) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

[46] (44) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

[47] (45) "Municipal office" means an elective office in a municipality.

[48] (46) "Municipal officers" means those municipal officers that are required by law to be elected.

[49] (47) "Municipal primary election" means an election held to nominate candidates for municipal office.

[50] (48) "Municipality" means a city, town, or metro township.

[51] (49) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

[~~52~~] (50) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(~~b~~)(a)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(~~e~~)(b)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

[~~53~~] (51) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

[~~54~~] (52) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

[~~55~~] (53) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

[~~58~~] (54) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

[~~56~~] (55) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

[~~57~~] (56) "Polling place" means the building where voting is conducted.

[~~59~~] (57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

[~~60~~] (58) "Primary convention" means the political party conventions held during the year of the regular general election.

[~~61~~] (59) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

[~~62~~] (60) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election

officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

[~~63~~] (61) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[~~64~~] (62) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

[~~65~~] (63) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

[~~66~~] (64) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

[~~67~~] (65) "Registration form" means a book voter registration form and a by-mail voter registration form.

[~~68~~] (66) "Regular ballot" means a ballot that is not a provisional ballot.

[~~69~~] (67) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[~~70~~] (68) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[~~71~~] (69) "Resident" means a person who resides within a specific voting precinct in Utah.

[~~72~~] (70) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

[~~73~~] (71) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

[~~74~~] (72) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

[~~75~~] (73) "Special election" means an election held as authorized by Section 20A-1-203.

[~~76~~] (74) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

[(77)] (75) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

[(78)] (76) "Stub" means the detachable part of each ballot.

[(79)] (77) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

[(80)] (78) "Ticket" means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

[(81)] (79) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

[(82)] (80) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

[(83)] (81) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection [(83)] (81)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

[(84)] (82) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

[(85)] (83) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

[(86)] (84) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

[(87)] (85) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

[(88)] (86) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

[(89)] (87) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

[~~(90)~~ (88) “Voting machine” means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

[~~(91) “Voting poll watcher” means a person appointed as provided in this title to witness the distribution of ballots and the voting process.]~~

[~~(92)~~ (89) “Voting precinct” means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

[~~(93)~~ (90) “Watcher” means ~~[a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher]~~ an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.

[~~(94)~~ (91) “Western States Presidential Primary” means the election established in Chapter 9, Part 8, Western States Presidential Primary.

[~~(95)~~ (92) “Write-in ballot” means a ballot containing any write-in votes.

[~~(96)~~ (93) “Write-in vote” means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-1-607 is amended to read:

20A-1-607. Inducing attendance at polls -- Payment of workers.

(1) (a) It is unlawful for ~~[any]~~ a person to pay another for ~~[any]~~ a loss ~~[due to attendance at the polls or to registering]~~ incurred because an individual voted or registered to vote.

(b) ~~[This subsection]~~ Subsection (1)(a) does not permit an employer to make ~~[any]~~ a deduction from the usual salary or wages of ~~[any]~~ an employee who takes a leave of absence as authorized under Section 20A-3-103 for the purpose of voting.

(2) (a) A person may not pay for personal services performed or to be performed on the day of a caucus, primary, convention, or election, or for any purpose connected with a caucus, primary, convention, or election that directly or indirectly affect the result of the caucus, primary, convention, or election.

(b) Subsection (2)(a) does not prohibit ~~[the hiring of persons whose sole duty it is to act as challengers and watch the count of official ballots]~~ a person from hiring a person to act as a watcher.

Section 3. Section 20A-3-201 is repealed and reenacted to read:

Part 2. Watchers and Challenges to Voters

20A-3-201. Watchers.

(1) As used in this section, “administering election officer” means:

(a) the election officer; or

(b) if the election officer is the lieutenant governor, the county clerk of the county in which an individual will act as a watcher.

(2) (a) Any individual may become a watcher in an election at any time by registering as a watcher with the administering election officer.

(b) An individual who registers under Subsection (2)(a) is not required to be certified by a person under Subsection (3) in order to act as a watcher.

(c) An individual who registers as a watcher shall notify the administering election officer of the dates, times, and locations that the individual intends to act as a watcher.

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

(e) An administering election officer shall provide a copy of this section, or instructions on how to access an electronic copy of this section, to a watcher at the time the watcher registers under this Subsection (2).

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee may certify an individual as an official watcher for the person:

(i) by filing an affidavit with the administering election officer responsible to designate an individual as an official watcher for the certifying person; and

(ii) if the individual registers as a watcher under Subsection (2)(a).

(b) A watcher who is certified by a person under Subsection (3)(a) may not perform the same function described in Subsection (4) at the same time and in the same location as another watcher who is certified by that person.

(c) A watcher who is certified by a person under Subsection (3)(a) may designate another individual to serve in the watcher’s stead during the watcher’s temporary absence by filing with a poll worker an affidavit that designates the individual as a temporary replacement.

(4) A watcher may:

(a) observe the setup or takedown of a polling location;

(b) observe a voter checking in at a polling location;

(c) observe the collection, receipt, and processing of a ballot, including a provisional ballot or a ballot

cast by a covered voter as defined in Section 20A-16-102;

(d) observe the transport or transmission of a ballot that is in an election official's custody;

(e) observe the opening and inspection of a by-mail ballot;

(f) observe ballot duplication;

(g) observe the conduct of logic and accuracy testing described in Section 20A-5-802;

(h) observe ballot tabulation;

(i) observe the process of storing and securing a ballot;

(j) observe a post-election audit;

(k) observe a canvassing board meeting described in Title 20A, Chapter 4, Part 3, Canvassing Returns;

(l) observe the certification of the results of an election; or

(m) observe a recount.

(5) (a) A watcher may not:

(i) electronically record an activity described in Subsection (4) if the recording would reveal a vote or otherwise violate a voter's privacy or a voter's right to cast a secret ballot;

(ii) interfere with an activity described in Subsection (4), except to challenge an individual's eligibility to vote under Section 20A-3-202; or

(iii) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public.

(b) A person who violates Subsection (5)(a)(iii) is guilty of a third degree felony.

(6) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

(i) limit the number of watchers at a single location;

(ii) remove a watcher for violating a provision of this section;

(iii) remove a watcher for interfering with an activity described in Subsection (4);

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4); or

(v) ensure that a voter's ballot secrecy is protected throughout the watching process.

(b) If an administering election officer limits the number of watchers at a single location under Subsection (6)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

Section 4. Section 20A-3-202 is amended to read:

20A-3-202. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.

~~[(1) A person's right to vote may be challenged because:]~~

(1) A person may challenge an individual's eligibility to vote on any of the following grounds:

(a) the ~~[voter]~~ individual is not the ~~[person]~~ individual in whose name ~~[appears in the official register or under which name the right to vote is claimed]~~ the individual tries to vote;

(b) the ~~[voter]~~ individual is not a resident of Utah;

(c) the ~~[voter]~~ individual is not a citizen of the United States;

(d) the ~~[voter]~~ individual has not or will not have resided in Utah for 30 days immediately before the date of the election;

(e) the ~~[voter's]~~ individual's principal place of residence is not in the voting precinct ~~[claimed]~~ that the individual claims;

(f) the ~~[voter's]~~ individual's principal place of residence is not in the geographic boundaries of the election area;

(g) the ~~[voter]~~ individual has already voted in the election;

(h) the ~~[voter]~~ individual is not at least 18 years of age;

(i) the ~~[voter]~~ individual has been convicted of a misdemeanor for an offense under this title and the ~~[voter's]~~ individual's right to vote in an election has not been restored under Section 20A-2-101.3;

(j) the ~~[voter]~~ individual is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or

(k) in a regular primary election or in the Western States Presidential Primary, the ~~[voter]~~ individual does not meet the political party affiliation requirements for the ballot the ~~[voter]~~ individual seeks to vote.

(2) A person who challenges ~~[another person's]~~ an individual's right to vote ~~[at]~~ in an election shall ~~[do so according to the procedures and requirements of]~~ make the challenge in accordance with:

(a) Section 20A-3-202.3, for ~~[challenges issued in writing more than 21 days before the day on which voting commences]~~ a challenge that is not made in person at the time an individual votes; or

(b) Section 20A-3-202.5, for challenges ~~[issued]~~ made in person at the time ~~[of voting]~~ an individual votes.

Section 5. Section 20A-3-202.3 is amended to read:

20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.

(1) (a) A person may challenge ~~the right to vote of a person whose name appears on the official register by filing with the election officer, during regular business hours and not later than 21 days before the date that early voting commences,~~ an individual's eligibility to vote by filing a written statement with the election officer in accordance with Subsection (1)(b) that:

(i) lists the name and address of the person filing the challenge;

(ii) for each ~~voter~~ individual who is challenged:

(A) identifies the name of the challenged ~~voter~~ individual;

(B) lists the last known address or telephone number of the challenged ~~voter~~ individual;

(C) provides the basis for the challenge, as provided under Section 20A-3-202;

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3-202 for each challenged ~~voter~~ individual is valid.

(b) A person that files a written statement under Subsection (1)(a) shall file the written statement during the election officer's regular business hours:

(i) at least 45 days before the day of the election; or

(ii) if the challenge is to an individual who registered to vote between the day that is 45 days before the election and the day of the election:

(A) on or before the day of the election; and

(B) before the individual's ballot is removed from a ballot envelope or otherwise separated from any information that could be used to identify the ballot as the individual's ballot.

~~[(b)]~~ (c) The challenge may not be based on unsupported allegations or allegations by an anonymous person.

~~[(e) The]~~ (d) An election officer may [provide] require a person that files a challenge under this section to file the challenge on a form provided by the election officer that meets the requirements of this section [for challenges filed under this section].

(2) ~~[(a)]~~ If the challenge is not in the proper form, is incomplete, or if the basis for the challenge does not meet the requirements of this part, the election officer ~~[may]~~ shall dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

~~[(b) A challenge is not in the proper form if the challenge form is incomplete.]~~

(3) (a) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall~~;~~ attempt to notify each challenged individual in accordance with Subsection (3)(b):

(i) at least 14 days before the day on which early voting commences, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) within one business day, if the election officer receives the challenge under Subsection (1)(b)(ii).

(b) The election officer shall attempt to notify each challenged ~~voter~~ individual:

~~[(a)]~~ (i) that a challenge has been filed against the challenged ~~voter and~~ individual;

(ii) that the challenged ~~voter~~ individual may be required to cast a provisional ballot at the time ~~[of voting]~~ the individual votes if the individual votes in person;

(iii) if the election is being conducted entirely by absentee ballot or if the individual is otherwise registered to vote by absentee ballot, that if the individual votes by absentee ballot, the individual's ballot will be treated as a provisional ballot unless the challenge is resolved;

~~[(b)]~~ (iv) of the basis for the challenge, which may include providing a copy of the ~~[written statement to the challenged voter]~~ challenge the filer filed with the election officer; and

~~[(e)]~~ (v) that the challenged ~~voter~~ individual may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged ~~[voter's right]~~ individual's eligibility to vote in the election to the election officer no later than:

(A) seven days before the day on which early voting commences~~[-]~~, if the election officer receives the challenge under Subsection (1)(b)(i); or

(B) five days before the day on which the canvass is held, if the election officer receives the challenge under Subsection (1)(b)(ii).

(4) (a) ~~[Before the day on which early voting commences, the]~~ The election officer shall determine whether each challenged ~~voter~~ individual is eligible to vote~~[-]~~ before the day on which:

(i) early voting commences, if the election officer receives the challenge under Subsection (1)(b)(i); or

(ii) the canvass is held, if the election officer receives the challenge under Subsection (2)(b)(ii).

(b) (i) The filer ~~[of the challenge]~~ has the burden to prove, by clear and convincing evidence, that the basis for challenging the ~~[voter's right]~~ individual's eligibility to vote is valid.

(ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.

(5) A person who files a challenge [under] in accordance with the requirements of this section is subject to criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(6) (a) ~~[A decision of the election officer regarding a person's]~~ A challenged individual may appeal an election officer's decision regarding the individual's eligibility to vote ~~[may be appealed]~~ to the district court having jurisdiction over the location where the challenge was filed.

(b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.

(c) In making the district court's determination, the district court's review is limited to:

(i) the information [submitted] filed under Subsection (1)(a) by the [person challenging the voter's eligibility] filer;

(ii) the information submitted under Subsection (3)(c) by the challenged [voter] individual; and

(iii) any additional facts and information used by the election official to determine whether the challenged [voter] individual is eligible to vote, as indicated by the election official.

(7) A challenged [voter] individual may register to vote or change the location of the [voter's] individual's voter registration if otherwise [legally entitled to do so] permitted by law.

(8) ~~[All documents]~~ A document pertaining to a [voter] challenge ~~[are public records]~~ filed under this section is a public record.

Section 6. Section 20A-3-202.5 is amended to read:

20A-3-202.5. Challenges to a voter's eligibility at time of voting -- Procedure.

(1) (a) A poll worker ~~[or a person],~~ a watcher, or an individual who lives in the voting precinct may challenge ~~[a voter's right]~~ an individual's eligibility to vote in that voting precinct or in that election if:

(i) the [person] individual making the challenge and the challenged [voter] individual are both present at the polling place at the time the challenge is made; and

(ii) the challenge is made when the challenged [voter] individual applies for a ballot.

(b) ~~[A person]~~ An individual may make a challenge by orally stating the challenged [voter's] individual's name and the basis for the challenge, as provided under Section 20A-3-202.

(2) The poll worker shall record a challenge in the official register and on the challenge sheets in the pollbook, including:

(a) the name of the challenged [voter] individual;

(b) the name of the [person] individual making the challenge; and

(c) the basis ~~[asserted for the challenge]~~ upon which the challenge is made.

(3) If ~~[a voter's right]~~ an individual's eligibility to vote is challenged under this section, the poll worker shall follow the procedures and requirements of Section 20A-3-105.5.

Section 7. Section 20A-3-203 is amended to read:

20A-3-203. Election official or watcher revealing vote.

(1) It is unlawful for [any] an election official or watcher to reveal to [any other] another person the name of [any] a candidate or ballot proposition for whom a voter has voted or to communicate to another [his] person the election official or watcher's opinion, belief, or impression ~~[as to how or]~~ regarding for whom or what a voter has voted.

(2) [Any] A person who violates this section is guilty of a class A misdemeanor.

Section 8. Section 20A-3-308 is amended to read:

20A-3-308. Absentee ballots in the custody of poll workers -- Disposition -- Notice.

(1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots that are in their custody on election day at the polling places during the time the polls are open as provided in this Subsection (1).

(b) The poll workers shall:

(i) first, open the outer envelope only; and

(ii) compare the signature of the voter on the application with the signature on the affidavit.

(2) (a) The poll workers shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:

(i) the affidavit is sufficient;

(ii) the signatures correspond; and

(iii) the applicant is registered to vote in that voting precinct and has not voted in that election.

(b) If, after opening the absentee voter envelope, the poll worker finds that a provisional ballot envelope is enclosed, the poll worker shall:

(i) record, in the official register, whether:

(A) the voter included valid voter identification; or

(B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;

(ii) if any type of identification was included, record the type of identification provided by the voter in the appropriate space in the official register;

(iii) record the provisional ballot number on the official register; and

(iv) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.

(c) If the absentee ballot is not a provisional ballot, the poll workers shall:

(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;

(ii) initial the stub in the same manner as for other ballots;

(iii) remove the stub from the ballot;

(iv) deposit the ballot in the ballot box; and

(v) mark the official register and pollbook to show that the voter has voted.

(3) If the poll workers determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:

(a) disallow the vote; and

(b) without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or

(ii) "Rejected as not a registered voter."

(4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.

(5) (a) If the election officer rejects an individual's absentee ballot because the election officer determines that the signature on the ballot does not match the individual's signature that is maintained on file, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue;

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the absentee ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the ~~canvass has not concluded~~ election officer receives the affidavit no later than 5 p.m. the day before the canvass, count the individual's ballot.

(6) An election officer who rejects an individual's absentee ballot for any reason, other than the reason described in Subsection (5)(a), shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the absentee ballot before election day:

(i) one business day after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the absentee ballot, if the election officer gives the notice by postal mail or phone;

(b) seven days after election day if the election officer rejects the absentee ballot on election day; or

(c) seven days after the canvass if the election officer rejects the absentee ballot after election day and before the end of the canvass.

(8) An election officer may not count the absentee ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity.

(9) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Section 9. Section 20A-3-702 is amended to read:

20A-3-702. Election day voting center -- Hours of operation -- Compliance with Election Code.

(1) An election officer may operate an election day voting center in one or more locations designated under Section 20A-3-703.

(2) An election officer shall provide for voting at an election day voting center by:

(a) regular ballot if:

(i) (A) the election day voting center is designated under Section 20A-5-403 as the polling place for the voting precinct in which the voter resides; and

~~[(ii)] (B) the voter is eligible to vote using a regular ballot in accordance with this title; or~~

(ii) (A) the voter resides within the political subdivision holding the election;

(B) the voter is otherwise eligible to vote using a regular ballot in accordance with this title; and

(C) the jurisdiction holding the election uses a method that confirms that the voter has not voted previously in the election;

(b) voting center ballot if:

(i) the election day voting center is not designated under Section 20A-5-403 as the polling place for the voting precinct in which the voter resides;

(ii) the voter resides within the political subdivision holding the election; and

(iii) the voter is otherwise eligible to vote using a regular ballot in accordance with this title; or

(c) provisional ballot if the voter is only eligible to vote using a provisional ballot in accordance with this title.

(3) An election officer shall ensure that an election day voting center:

(a) is open on election day during the time period specified under Section 20A-1-302;

(b) allows an eligible voter to vote if the voter:

(i) resides within the political subdivision holding an election; and

(ii) arrives at the election day voting center by the designated closing time in accordance with Section 20A-1-302; and

(c) is administered according to the requirements of this title.

(4) A person may submit a completed absentee ballot at an election day voting center for the political subdivision in which the person resides.

(5) A person may submit an incomplete absentee ballot at an election day voting center for the political subdivision in which the person resides, request that the ballot be declared spoiled, and vote in person.

Section 10. Section 20A-4-101 is amended to read:

20A-4-101. Counting paper ballots during election day.

(1) Each county legislative body or municipal legislative body that has voting precincts that use paper ballots and each poll worker in those voting precincts shall comply with the requirements of this section.

(2) (a) Each county legislative body or municipal legislative body shall provide:

(i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and

(ii) a counting room for the use of the poll workers counting the ballots during the day.

(b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:

(i) close the first ballot box and deliver it to the counting judges; and

(ii) prepare and use another ballot box to receive voted ballots.

(c) Upon receipt of the ballot box, the counting judges shall:

(i) take the ballot box to the counting room;

(ii) count the votes on the regular ballots in the ballot box;

(iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and

(iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.

(d) (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and

(ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.

(e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.

~~[(3) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the count.]~~

~~[(4)] (3) The counting judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.~~

Section 11. Section 20A-4-102 is amended to read:

20A-4-102. Counting paper ballots after the polls close.

(1) (a) Except as provided in Subsection (2), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(b) The election judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall:

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;

(iii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iv) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(v) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(vi) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vii) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) Only ~~[election judges and counting poll watchers]~~ an election judge and a watcher may be present at the place where counting is conducted until the count is completed.

Section 12. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test at least 48 hours before the test in one or more daily or weekly newspapers of general circulation published in the county, municipality, or jurisdiction where the equipment is used.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballot sheets have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or [his] the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

~~[(d) (i) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the testing of equipment and actual counting of the ballots.]~~

~~[(ii) Those counting poll watchers may make independent tests of the equipment before or after the vote count as long as the testing does not interfere in any way with the official tabulation of the ballots.]~~

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) create a true duplicate copy of the ballot with an identifying serial number;

(b) substitute the duplicate ballot for the damaged or defective ballot;

(c) label the duplicate ballot "duplicate"; and

(d) record the duplicate ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any

valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or [his] the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 13. Section 20A-4-202 is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) ~~[(a)]~~ Upon receipt of the election returns from a poll worker, the election officer shall:

~~[(i)]~~ (a) ensure that the poll worker has provided all of the ballots and election returns;

~~[(ii)]~~ (b) inspect the ballots and election returns to ensure that they are sealed;

~~[(iii)-(A)]~~ (c) (i) for paper ballots, deposit and lock the ballots and election returns in a safe and secure place; or

~~[(B)]~~ (ii) for punch card ballots:

~~[(F)]~~ (A) count the ballots; and

~~[(H)]~~ (B) deposit and lock the ballots and election returns in a safe and secure place; and

~~[(iv)]~~ (d) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

~~[(b) Inspecting poll watchers appointed as provided in Section 20A-3-201 may be present and observe the election officer's receipt, inspection, and deposit of the ballots and election returns.]~~

(2) Each election officer shall:

(a) no later than 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

(c) package and seal a true copy of the ballot label used in each voting precinct;

(d) preserve all other official election returns for at least 22 months after an election; and

(e) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall:

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in [his] the election officer's custody without opening or examining them if the time for preserving them under this section has run.

Section 14. Section 20A-5-302 is amended to read:

20A-5-302. Automated voting system.

(1) (a) Any county or municipal legislative body or local district board may:

(i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any automated voting system that meets the requirements of this section; and

(ii) use that system in any election, in all or a part of the voting precincts within its boundaries, or in combination with paper ballots.

(b) Nothing in this title shall be construed to require the use of electronic voting devices in local special elections, municipal primary elections, or municipal general elections.

(2) (a) Each automated voting system shall:

(i) provide for voting in secrecy, except in the case of voters who have received assistance as authorized by Section 20A-3-108;

(ii) permit each voter at any election to:

(A) vote for all persons and offices for whom and for which that voter is lawfully entitled to vote;

(B) vote for as many persons for an office as that voter is entitled to vote; and

(C) vote for or against any ballot proposition upon which that voter is entitled to vote;

(iii) permit each voter, at presidential elections, by one mark or punch to vote for the candidates of that party for president, vice president, and for their presidential electors;

(iv) permit each voter, at any regular general election, to vote for all the candidates of one registered political party by making one mark or punch;

(v) permit each voter to scratch vote;

(vi) at elections other than primary elections, permit each voter to vote for the nominees of one or more parties and for independent candidates;

(vii) at primary elections:

(A) permit each voter to vote for candidates of the political party of [his] the voter's choice; and

(B) reject any votes cast for candidates of another party;

(viii) prevent the voter from voting for the same person more than once for the same office;

(ix) provide the opportunity for each voter to change the ballot and to correct any error before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub. L. No. 107-252;

(x) include automatic tabulating equipment that rejects choices recorded on a voter's ballot if the number of the voter's recorded choices is greater than the number which the voter is entitled to vote for the office or on the measure;

(xi) be of durable construction, suitably designed so that it may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

(xii) when properly operated, record correctly and count accurately each vote cast;

(xiii) for voting equipment certified after January 1, 2005, produce a permanent paper record that:

(A) shall be available as an official record for any recount or election contest conducted with respect to an election where the voting equipment is used;

(B) (I) shall be available for the voter's inspection prior to the voter leaving the polling place; and

(II) shall permit the voter to inspect the record of the voter's selections independently only if reasonably practicable commercial methods permitting independent inspection are available at the time of certification of the voting equipment by the lieutenant governor;

(C) shall include, at a minimum, human readable printing that shows a record of the voter's selections;

(D) may also include machine readable printing which may be the same as the human readable printing; and

(E) allows ~~[voting poll watchers and counting poll watchers]~~ a watcher to observe the election process to ensure ~~[its integrity]~~ the integrity of the election process; and

(xiv) meet the requirements of Section 20A-5-802.

(b) For the purposes of a recount or an election contest, if the permanent paper record contains a conflict or inconsistency between the human readable printing and the machine readable printing, the human readable printing shall precede the machine readable printing when determining the intent of the voter.

(c) Notwithstanding any other provisions of this section, the election officers shall ensure that the ballots to be counted by means of electronic or electromechanical devices are of a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

Section 15. Section 20A-5-406 is amended to read:

20A-5-406. Delivery of ballots.

(1) In elections using paper ballots or ballot sheets:

(a) Each election officer shall deliver ballots to the poll workers of each voting precinct in his jurisdiction in an amount sufficient to meet voting needs during the voting period.

(b) The election officer shall:

(i) package and deliver the ballots to the election judges;

(ii) clearly mark the outside of the package with:

(A) the voting precinct and polling place for which it is intended; and

(B) the number of each type of ballots enclosed;

(iii) ensure that each package is delivered before commencement of voting to a poll worker in each precinct; and

(iv) obtain a receipt for the ballots from the poll worker to whom they were delivered that identifies

the date and time when, and the manner in which, each ballot package was sent and delivered.

(c) The election officer shall prepare substitute ballots in the form required by this Subsection (1) if any poll worker reports that:

(i) the ballots were not delivered on time; or

(ii) after delivery, they were destroyed or stolen.

(d) The election officer shall:

(i) prepare the substitute ballots as nearly in the form prescribed for official ballots as practicable;

(ii) cause the word "substitute" to be printed in brackets:

(A) for a ballot prepared by an election officer other than a county clerk, immediately under the facsimile signature required by Subsection 20A-6-401(1)(~~(b)~~)(a)(iii); or

(B) for a ballot prepared by a county clerk, immediately under the words required by Subsection 20A-6-301(1)(~~(e)~~)(b)(iii);

(iii) place the ballots in two separate packages, each package containing 1/2 the ballots sent to that voting precinct; and

(iv) place a signed statement in each package certifying that the substitute ballots found in the package were prepared and furnished by the election officer, and that the original ballots were not received, were destroyed, or were stolen.

(2) In elections using electronic ballots:

(a) Each election officer shall:

(i) deliver the voting devices and electronic ballots prior to the commencement of voting;

(ii) ensure that the voting devices, equipment, and electronic ballots are properly secured before commencement of voting; and

(iii) when electronic ballots or voting devices containing electronic ballots are delivered to a poll worker, obtain a receipt from the poll worker to whom they were delivered that identifies:

(A) the name of the poll worker receiving delivery; and

(B) the date and time when the ballots or voting devices containing the electronic ballots were delivered.

(b) The election officer shall repair or provide substitute voting devices, equipment, or electronic ballots, if available, if any poll worker reports that:

(i) the voting devices or equipment were not delivered on time;

(ii) the voting devices or equipment do not contain the appropriate electronic ballot information;

(iii) the safety devices on the voting devices, equipment, or electronic ballots appear to have been tampered with;

(iv) the voting devices or equipment do not appear to be functioning properly; or

(v) after delivery, the voting devices, equipment, or electronic ballots were destroyed or stolen.

(c) If the election officer is unable to prepare and provide substitute voting devices, equipment, or electronic ballots, the election officer may elect to provide paper ballots or ballot sheets according to the requirements of Subsection (1).

Section 16. Section 20A-6-102 is amended to read:

20A-6-102. General requirements for machine counted ballots.

(1) Each election officer shall ensure that ballots and ballot labels are printed:

(a) to a size and arrangement that fits the construction of the voting device; and

(b) in plain, clear type in black ink on clear white stock; or

(c) in plain, clear type in black ink on stock of different colors if it is necessary to:

(i) identify different ballots or parts of the ballot; or

(ii) differentiate between political parties.

(2) Each election officer shall ensure that~~[-(a)]~~ ballot sheets are of a size, design, and stock suitable for processing by automatic data processing machines~~[-(c)]~~.

~~[(b) each ballot sheet has an attached perforated stub, on which is printed the words "Official Ballot, (initial) Poll Worker"; and]~~

~~[(c) ballot stubs are numbered consecutively.]~~

(3) For a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601, the election officer shall include a space on the ticket for a write-in candidate immediately following the last candidate listed on that ticket.

(4) Notwithstanding any other provisions of this section, the election officer may authorize any ballots that are to be counted by means of electronic or electromechanical devices to be printed to a size, layout, texture, and in any type of ink or combination of inks that will be suitable for use in the counting devices in which they are intended to be placed.

Section 17. Section 20A-6-301 is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its

candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).

~~[(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(e) (b) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:~~

~~(i) "Official Ballot for ____ County, Utah";~~

~~(ii) the date of the election; and~~

~~(iii) the words "Clerk of _____ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;~~

~~[(d) (c) the party name or title is printed in capital letters not less than one-fourth of an inch high;~~

~~[(e) (d) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title, and with a mark referencing the following statement at the bottom of the ticket: "This candidate is not affiliated with, or does not qualify to be listed on the ballot as affiliated with, a political party.";~~

~~[(f) (e) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;~~

~~[(g) (f) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;~~

~~[(h) (g) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and~~

~~[(i) (h) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:~~

~~(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or~~

~~(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot~~

includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other person, is placed on the ballot:

(i) under the registered political party's name, if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

Section 18. Section 20A-6-401 is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

~~[(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(b) immediately below the perforated ballot stub,]~~

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

~~[(e) (b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;~~

~~[(d) (c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;~~

~~[(e) (d) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;~~

~~[(f) (e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;~~

~~[(g) (f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and]~~

~~[(h) (g) the candidate groups are separated from each other by one light and one heavy line or rule.~~

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 19. Section 20A-6-401.1 is amended to read:

20A-6-401.1. Ballots for partisan municipal primary elections.

(1) If a municipality is using paper ballots, each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular primary election:

(i) ~~[are perforated to] separate the candidates of one political party from those of the other political parties [so that the voter may separate the part of the ballot containing the names of the political party of the voter's choice from the rest of the ballot]; and~~

~~[(ii) have sides that are perforated so that the outside sections of the ballot, when detached, are similar in appearance to the inside sections of the ballot when detached; and]~~

~~[(iii)] (ii) contain no captions or other endorsements except as provided in this section;~~

(b) the names of all candidates from each party are listed on the same ballot in one or more columns under their party name and emblem;

(c) the political parties are printed on the ballot in the order specified under Section 20A-6-305;

~~[(d) (i) the ballot contains a ballot stub that is at least one inch wide, placed across the top of the ballot;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initials ____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(e) immediately below the perforated ballot stub,]~~

(d) the following endorsements are printed in 18-point bold type:

(i) "Official Primary Ballot for ____ (name of municipality), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the municipal clerk or recorder and the words "municipal clerk" or "municipal recorder";

~~[(f)] (e) after the facsimile signature, the political party emblem and the name of the political party are printed;~~

~~[(g)] (f) after the party name and emblem, the ballot contains the following printed in not smaller than 10-point bold face, double leaded type: "Instructions to Voters: To vote for a candidate, place a cross (X) in the square immediately adjacent to the name of the person for whom you wish to vote and in no other place. Do not vote for any candidate listed under more than one party or group designation.", followed by two one-point parallel horizontal rules;~~

~~[(h)] (g) after the rules, the designation of the office for which the candidates seek nomination is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;~~

~~[(i)] (h) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;~~

~~[(j)] (i) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;~~

~~[(k)] (j) the candidate groups are separated from each other by one light and one heavy line or rule; and~~

~~[(l)] (k) the nonpartisan candidates are listed as follows:~~

(i) immediately below the listing of the party candidates, the word "NONPARTISAN" is printed in reverse type in an 18 point solid rule that extends the full width of the type copy of the party listing above; and

(ii) below "NONPARTISAN," the office, the number of candidates to vote for, the candidate's name, the voting square, and any other necessary information is printed in the same style and manner as for party candidates.

(2) (a) If a municipality is using ballot sheets or electronic ballots, the election officer may require that:

(i) the ballot, or ballot label in the case of a punch card ballot, for a regular primary election consist of several groups of pages or display screens, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups used to list candidates for other nonpartisan offices;

(ii) the separate groups of pages or display screens are identified by color or other suitable means; and

(iii) the ballot or ballot label contain instructions that direct the voter how to vote the ballot.

(b) If a municipality is using ballot sheets or electronic ballots, each election officer shall:

(i) for municipalities using punch card ballots, ensure that the ballot label provides a means for the voter to designate the political party in whose primary the voter is voting; and

(ii) determine the order for printing the names of the political parties on the ballot label in accordance with Section 20A-6-305.

Section 20. Section 20A-6-402 is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) When using a paper ballot at municipal general elections, each election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) When using a punch card ballot at municipal general elections, each election officer shall ensure that:

~~[(a) (i) the ballot contains a perforated ballot stub at least one inch wide, placed across the top of the ballot;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(b) immediately below the perforated ballot stub,]~~

~~(a) the following endorsements are printed in 18 point bold type:~~

~~(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";~~

~~(ii) the date of the election; and~~

~~(iii) a facsimile of the signature of the election officer and the election officer's title in eight-point type;~~

~~[(e) (b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;~~

~~[(d) (c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10-point bold type that states: "To vote for a candidate, place a cross (X) in the square following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;~~

~~[(e) (d) after the rules, the designation of the office for which the candidates seek election is printed flush with the left-hand margin and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" are printed to extend to the extreme right of the column in 10-point bold type, followed by a hair-line rule;~~

~~[(f) (e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;~~

~~[(g) (f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates;~~

~~[(h) (g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:~~

~~(i) a write-in space for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and~~

~~(ii) a square printed immediately adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and~~

~~[(i) (h) the candidate groups are separated from each other by one light and one heavy line or rule.~~

~~(3) When using a ballot sheet other than a punch card ballot at municipal general elections, each election officer shall ensure that:~~

~~[(a) (i) the ballot contains a perforated ballot stub placed across the top of the ballot;]~~

~~[(ii) the ballot number and the words "Poll Worker's Initial ____" are printed on the stub; and]~~

~~[(iii) ballot stubs are numbered consecutively;]~~

~~[(b) immediately below the perforated ballot stub,]~~

~~(a) the following endorsements are printed:~~

~~(i) "Official Ballot for ____ (City, Town, or Metro Township), Utah";~~

~~(ii) the date of the election; and~~

~~(iii) a facsimile of the signature of the election officer and the election officer's title;~~

~~[(e) (b) immediately below the election officer's title, a distinct border or line separates endorsements from the rest of the ballot;~~

[~~(d)~~] (c) immediately below the border or line, an “Instructions to Voters” section is printed that states: “To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office.” followed by another border or line;

[~~(e)~~] (d) after the border or line, the designation of the office for which the candidates seek election is printed and the words, “Vote for one” or “Vote for up to ____ (the number of candidates for which the voter may vote)” are printed, followed by a line or border;

[~~(f)~~] (e) after the line or border, the names of the candidates are printed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

[~~(g)~~] (f) an oval is printed adjacent to the names of the candidates;

[~~(h)~~] (g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains:

(i) a write-in space or blank line for each elective office in which a write-in candidate is qualified where the voter may enter the name of a valid write-in candidate; and

(ii) an oval printed adjacent to the write-in space or line where the voter may vote for a valid write-in candidate; and

[~~(i)~~] (h) the candidate groups are separated from each other by a line or border.

(4) When using an electronic ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first screen of the ballot:

(i) “Official Ballot for ____ (City, Town, or Metro Township), Utah”;

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer’s title;

(b) immediately below the election officer’s title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an “Instructions to Voters” section is displayed that states: “To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office.” followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, “Vote for one” or “Vote for up to ____ (the number of candidates for which the voter may vote)” are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified

under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(5) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate’s name on the ballot.

Section 21. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) If the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), “convention” means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate:

(A) an individual who has not submitted a declaration of candidacy, or has not been nominated by a nomination petition, under Section 20A-9-203; or

(B) more than one group of candidates, or have placed on the ballot more than one group of candidates, for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate an individual who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) The convention or committee shall prepare a certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk not later than 80 days before the municipal general election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder by May 31 of any odd-numbered year;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections 20A-6-401 and 20A-6-401.1;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation; and

(iv) every ballot ~~[is folded and perforated in a manner that] separates the candidates of one party from those of the other parties [and enables the voter to separate the part of the ballot containing the names of the party of the voter's choice from the remainder of the ballot; and].~~

~~[(v) the side edges of all ballots are perforated so that the outside sections of the ballots, when detached, are similar in appearance to inside sections when detached.]~~

(e) After marking a municipal primary ballot, the voter shall ~~[:]~~ deposit the ballot in the blank ballot box.

~~[(i) detach the part of the ballot containing the names of the candidates of the party the voter has voted from the rest of the ballot;]~~

~~[(ii) fold the detached part so that its face is concealed and deposit it in the ballot box; and]~~

~~[(iii) fold the remainder of the ballot containing the names of the candidates of the parties for whom the elector did not vote and deposit it in the blank ballot box.]~~

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 22. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on November 30 of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(~~g~~)(f), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

(a) under the qualified political party's name, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(d), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(e), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a

regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 23. Repealer.

This bill repeals:

Section 20A-15-105, Poll watchers.

Section 24. Coordinating S.B. 94 with H.B. 141 -- Superseding substantive and technical amendments.

If this S.B. 94 and H.B. 141, Early Voting Amendments, both pass and become law, it is the intent of the Legislature that, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Subsection 20A-3-202(2)(a) in S.B. 94 supersede the amendments to Subsection 20A-3-202(2)(a) in H.B. 141;

(2) the amendments to Subsection 20A-3-202.3(1)(a) in S.B. 94 supersede the amendments to Subsection 20A-3-202.3(1)(a) in H.B. 141; and

(3) the amendments to Subsection 20A-3-202.3(4)(a) in S.B. 94 supersede the amendments to Subsection 20A-3-202.3(4)(a) in H.B. 141.

CHAPTER 275**S. B. 98**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

**RATIFICATION OF THE
UTE INDIAN WATER COMPACT**

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Logan Wilde

LONG TITLE**General Description:**

This bill ratifies the Ute Indian Water Compact.

Highlighted Provisions:

This bill:

- ▶ ratifies the Ute Indian Water Compact;
- ▶ describes the purposes of the Ute Indian Water Compact; and
- ▶ references the tabulations on file with the state engineer's office.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

73-21-101, Utah Code Annotated 1953
73-21-102, Utah Code Annotated 1953
73-21-103, Utah Code Annotated 1953
73-21-104, Utah Code Annotated 1953
73-21-105, Utah Code Annotated 1953

REPEALS:

73-21-1, as enacted by Laws of Utah 1980, Chapter 74
73-21-2, as last amended by Laws of Utah 1995, Chapter 20

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

Section 1. Section 73-21-101 is enacted to read:**CHAPTER 21. UTE INDIAN WATER
COMPACT****73-21-101. Title.**

This chapter is known as the "Ute Indian Water Compact."

Section 2. Section 73-21-102 is enacted to read:**73-21-102. Approval of Ute Indian Water Compact.**

The Ute Indian Water Compact, located at Section 73-21-103, providing for the execution by the State of Utah, the Ute Indian Tribe of the Uintah and Ouray Reservations, Utah, and the United States of America, through their various representatives, is hereby authorized, confirmed, ratified, and approved for the State of Utah.

Section 3. Section 73-21-103 is enacted to read:**73-21-103. Text.****UTE INDIAN WATER COMPACT**

The State of Utah, the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and the United States of America, acting through their respective representatives agree to a Ute Indian Water Compact as follows:

ARTICLE I**Purpose of Compact**

The purpose of this Compact is to remove the causes of present and future controversy over the quantification, distribution, and use of all waters claimed by or through the Ute Indian Tribe.

ARTICLE II**Legal Basis for Compact**

This Compact is made in accordance with the Constitution and Laws of the United States, the State of Utah, and the Ute Indian Tribe.

ARTICLE III**Water**

There is hereby apportioned, confirmed, and recognized from the waters apportioned to the State of Utah from the Colorado River System to the United States of America in perpetuity, in trust, as Winters Doctrine water rights for the Ute Indian Tribe and others, the depletion of water in the amount of 248,943 acre-feet per annum, and the related gross diversion requirement of 470,594 acre-feet per annum, from all sources in accordance with and as more fully set out in the "Tabulation of Ute Indian Water Rights" attached hereto and on file with the Utah State Engineer. The priority date of October 3, 1861, is recognized for land groups 1 through 5, except for water supplied from storage in the Central Utah Project, and the priority date of January 5, 1882, is recognized for land groups 6 and 7, unless indicated otherwise in the Tabulation. Tables 1, 2, and 3 of the Tabulation list the total irrigable acreage, maximum allowable depletions and diversion requirements, respectively, for each of the land groups by stream. No water rights held in trust can be transferred from the lands listed in said groups without approval of the Secretary of the Interior.

As provided in the Tabulation attached to this Compact, the Tribe shall take from the Green River in lieu of other sources the 57,948 acre-foot depletion of water allocable to the Tribe's group 5 lands. The parties further agree to share the net income from any sale or lease of such Green River water to third parties. The net income will be 80% to the Ute Indian Tribe and 20% to the State of Utah. The payment to the State of Utah will be made promptly upon the receipt by the Ute Indian Tribe of its payment of net income, and will be deposited in the Utah Division of Water Resources' Conservation & Development Fund. Any dispute relating to the calculation of such amounts will be subject to binding arbitration with no right of judicial review. The priority of such water rights for group 5 lands shall be October 3, 1861.

In addition to the water allocated under the previous paragraphs, there is hereby apportioned,

confirmed, and recognized to the United States of America in perpetuity, in trust, for the Ute Indian Tribe the depletion of 10,000 acre-feet of water annually having a priority date of October 3, 1861, for municipal and industrial purposes, which shall be diverted from the Green River. To the extent that the Tribe or its members use water other than for irrigation purposes, the quantity so used shall be included within said 10,000 acre-feet unless a transfer of water from the land listed in the Tabulation is properly made.

No water allocated pursuant to this Compact shall be subject to loss or forfeiture under the laws of the State of Utah or otherwise. Further, the water allocated herein shall not be restricted to any particular use, but may be used for any purpose selected by the Tribe in accordance with the procedures provided for in this Compact.

The quantities of water apportioned hereby include all water rights of every nature and description derived from the reserved water rights doctrine, from all sources of water, both surface and underground, and includes all types and kinds of uses, whether municipal, industrial, recreational, in-stream uses, sale, exchange, lease, or any other use whatsoever, and encompasses all claims asserted by or through the Ute Indian Tribe, and all persons and entities other than the Tribe whose claims or rights are derived, directly or indirectly, from the reserved water rights of the Tribe. Thus, any water rights adjudicated or otherwise established in the future on behalf of any person or entity and based upon a claim, directly or indirectly, through any reserved water rights of the Tribe shall be included within and as a part of the water quantified by this Compact. Any state water rights acquired by the Tribe for land to which a reserved right is recognized herein shall be forfeited.

Included within the practicably irrigable acreages are (1) tribal lands and individual Indian allotments; (2) Uintah Indian Irrigation Project lands, which include tribal lands, allotments, and some private lands which were originally allotted lands, and (3) some few lands distributed to former tribal members terminated in accordance with the Ute Partition Act, approved August 27, 1954 (P.L. 83-671, 68 Stat. 868, 25 U.S.C. Sections 667-667aa). Nothing in this Compact shall enlarge or diminish the scope of or otherwise affect either the United States' trust responsibility, if any, or the Ute Indian Tribe's responsibility, if any, to those persons who have been designated as mixed-bloods under the Act of August 27, 1954 (68 Stat. 868). The total acreage under irrigation or susceptible to sustained production of agricultural crops by means of irrigation is recognized as 129,201 acres, reduced by 7% to 120,157 acres to reflect roads, yards, fences, rights-of-way, and other non-productive lands. All lands in the Uintah Indian Irrigation Project are designated assessable or non-assessable. The Secretary of the Interior is authorized to change the designation from one to the other.

Nothing contained herein shall be construed to preclude the United States as Trustee for the Ute

Indian Tribe, the Ute Indian Tribe, or any of its members from filing application with the Utah State Engineer for the appropriation of additional water under the laws of the State of Utah.

The diversion and depletion requirements for the water rights apportioned under this Compact are set forth in Tables 1, 2, and 3 of the Tabulation, consisting of acreage, diversion, and depletion schedules. These requirements shall be utilized in evaluating any application undertaken pursuant to Section 73-3-3, Utah Code Annotated. The delivery schedules set forth in Tables 4, 5, 6, and 7 of the Tabulation shall determine the distribution of the water allocated hereunder. The Utah State Engineer, in a manner consistent with the agreements and covenants contained herein, shall have general administrative supervision of all surface and ground waters apportioned to the United States in trust for the Ute Indian Tribe and others, including measurement, apportionment, and distribution thereof, to the points of diversion from the main sources. The United States and the Tribe shall have general administrative supervision of all water apportioned to the United States, including measurement, apportionment, and distribution thereof, within the canal distribution systems from the various points of river diversion.

The United States on behalf of the Tribe, or the Tribe shall comply with the provisions of Section 73-3-3, Utah Code Annotated 1953, with regard to any change in the point of diversion, place, or nature of use; except that neither the United States nor the Tribe need make application to the State Engineer for change of place of use when the new place of use is within the same canal system.

Pursuant to the congressional legislation required to ratify this Compact under Article V hereof, and solely as a compromise for the purposes of this Compact, the parties agree that the Tribe may, under the terms of this Compact, voluntarily elect to sell, exchange, lease, use, or otherwise dispose of the reserved water rights secured to the Tribe by this Compact, outside the boundaries of its reservation.

If the Tribe so elects to move any of its rights, or a portion thereof, off the reservation, as a condition precedent to such sale, exchange, lease, use or other disposition, that portion of the Tribe's water right shall be changed to a Utah State water right, but shall be such a State water right only during the use of that right off the reservation. Such right, during the period of use off the reservation, shall be fully subject to State laws, federal laws, interstate compact, and international treaties applicable to the Colorado River and its tributaries, including but not limited to the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of such waters.

None of the waters secured to the Ute Indian Tribe in this Compact may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado

River Basin in the State of Utah held by non-federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, federal law, interstate compacts, or international treaties pursuant to a final, non-appealable order of a federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact. Provided, however, that in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to State law.

Nothing in this Compact shall:

(1) constitute specific authority for the sale, exchange, lease, use or other disposition of any federal reserved water right off the reservation;

(2) constitute specific authority for the sale, exchange, lease, use, or other disposition of any tribal water right outside the State of Utah;

(3) be deemed or construed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah; or,

(4) be deemed or construed to establish, address, or prejudice whether, or the extent to which, or to prevent any party from litigating whether, or the extent to which, any of the aforementioned laws do or do not permit, govern or apply to the use of the Tribe's water outside the State of Utah.

This Article is not intended to relieve the responsibility of the parties involved in the Midview Exchange Agreement.

ARTICLE IV
Enforcement

For purposes of compelling compliance with the terms of this Compact, each party waives the defense of sovereign immunity as to actions brought by any other party, including any defense under the Eleventh Amendment to the United States Constitution. The United States District Court for the District of Utah is hereby granted jurisdiction to adjudicate any claim made by a party to this Compact that any other party, or its officials, are acting to impair or violate any right or privilege in this Compact. The federal court jurisdiction provided for herein shall not be diminished by reason of a related state court proceeding. While the parties agree that the primary responsibility for protecting and preserving the Ute Tribe's reserved water rights rests with the United States and the Tribe, the State of Utah, through the State Engineer, shall use its best efforts to see that the reserved water rights of the Ute Tribe secured in this Compact are protected from impairment; provided, however, that nothing herein shall subject the State of Utah or its officers or employees to a claim for monetary damages in its efforts to so protect tribal water rights.

ARTICLE V
Ratification and Amendment

Each party acknowledges that in order for this Compact to constitute a final and permanent

settlement of tribal reserved water rights, this Compact must be approved or ratified by the United States Congress, the Legislature of the State of Utah, and the Ute Indian Tribe through referendum of the Tribe's membership. The parties shall use their best efforts to have the approvals or ratifications undertaken as expeditiously as possible. The parties hereto agree that the terms of this Compact have the force and effect of law and agree to adopt all statutes, regulations and ordinances that are, or may be, necessary to harmonize existing statutes, regulations and ordinances with this Compact, and agree that this Compact may be included within any general stream adjudication. The Secretary of the Interior is authorized to take all actions necessary to implement this Compact.

This Compact is the result of a voluntary compromise agreement between the Ute Indian Tribe, the State of Utah, and the United States of America. Accordingly, no provision of this Compact or its adoption as part of any pending general stream adjudication shall be construed as altering or affecting the determination of any issues relating to the claimed reserved water rights which may belong to other Indian tribes.

DATED: _____ UTE INDIAN TRIBE
By _____
STATE OF UTAH
By _____
UNITED STATES
OF AMERICA
By _____

Section 4. Section 73-21-104 is enacted to read:

73-21-104. Tabulations.

The tabulations described in Sections 73-21-103 and 73-21-105 are on file and more fully described at the state engineer's office.

Section 5. Section 73-21-105 is enacted to read:

73-21-105. Tabulation of Ute Indian Water Rights.

PURPOSE

This tabulation of Ute Indian Water Rights is prepared pursuant to and in accordance with the Ute Indian Water Compact of 1990 between the Ute Indian Tribe of the Uintah and Ouray Indian Reservation, Utah, the State of Utah and the United States of America concerning the water rights of the Ute Indian Tribe. The purpose of this Tabulation is to fully identify and define all federal reserved water rights of the Ute Indian Tribe.

FORWARD

In December, 1960 the Ute Tribe submitted to the Utah State Engineer a report entitled Water Right Claims, Uintah and Ouray Indian Reservation, Utah, prepared by E.L. Decker, tribal engineer, and commonly referred to as the Decker Report. This report was prepared to identify both the Tribe's present irrigated acreage and also those lands that are susceptible to irrigation, for which a water right was claimed under the doctrine expressed in

Winters v. United States, 207, U.S. 546 (1908). The acreages listed in the Decker report, as amended, were used as a basis for this Tabulation.

The Decker Report divided the lands into seven different groups for identification purposes, which are incorporated herein:

Group (1): Lands included within the Uintah Indian Irrigation Project, the water right to which has been certificated by the State of Utah and included within Federal Court Decrees adjudicating water rights of the Lakefork, Yellowstone, Uinta and Whiterock Rivers.

Group (2): Lands included in the Uintah Indian Irrigation Project, the water right to which has been certificated by the State of Utah, served from the Duchesne River, including the townsites of Duchesne, Randlett and Myton.

Group (3): Lands that are or can be served from the Duchesne River through the facilities of the Uintah Indian Irrigation Project which lands have not been certificated by the State of Utah.

Group (4): Lands which have been found to be productive and economically feasible to irrigate from privately constructed ditch systems on the Duchesne River or its tributaries above the Pahcease Canal.

Group (5): Lands which have been found to be susceptible to irrigation and are proposed to be developed within the Central Utah Project.

Group (6): Lands lying east of the Green River served from the White River for which Applications to Appropriate Water were once filed with the State of Utah.

Group (7): Lands lying east of the Green River which have been found to be productive and economically feasible to irrigate from privately constructed ditch systems now in operation or to be constructed along the Green River, White River, Willow Creek, Bitter Creek, Sweet Water Creek and Hill Creek.

A summary of the Ute Indian Tribe's total irrigable acreage, maximum allowable depletion and diversion requirement for each of the land groups, by streams, are contained in tables 1, 2, and 3, respectively.

Delivery schedules specifying the quantity of water to be diverted from the various streams are shown in tables 4 through 7. The quantity of water to be diverted into the various canals and/or ditches shall be determined based on the irrigable acreage as shown in the acreage tabulation, times the flow rate per acre corresponding to the period of time on the appropriate delivery schedule. The delivery schedules may be modified by mutual consent of the Tribe, State and other affected water users or through the pending general adjudication process. No delivery of water shall be made to lands until the lands are developed or an appropriate change application is filed and approved. For the Group 1 lands the diversion requirement was established at 3.40 acre-feet per acre under the 1980 Ute Indian

Water Compact, of which 3.00 acre-feet per acre was to have been supplied from direct streamflow in accordance with the appropriate delivery schedule and the remaining 0.40 acre-feet per acre was to have been supplied from storage under the proposed Uintah and Upalco Units of the Central Utah Project. Such water delivered from storage (0.40 acre-feet per acre) was to assume, or if developed in the future will assume, the priority date of the Bureau of Reclamation water rights to accomplish the equitable allocation of water to all subscribers of the projects. Under the 1990 Compact such water will not be developed or delivered under the Upalco and Uintah Units. Nevertheless, this tabulation leaves in place the diversion and depletion quantities with respect to these Group 1 lands established under the 1980 Compact.

Within the group 1 lands there are 9,300 acres commonly referred to as Midview Exchange lands. As a result of this exchange these lands are now served from the Duchesne River and thus have a diversion requirement of 4.0 acre-feet per acre. Water for these lands shall be supplied in accordance with terms of the Midview Exchange Agreement.

The priority date of the group 1 through 5 lands is October 3, 1861. The source of supply for the group 5 lands has been transferred to the Green River, within the exterior reservation boundaries, and the Tribe waives any and all claims to develop the Group 5 lands in place as set forth in the Decker Report and identified in this tabulation. In transferring the Group 5 lands, 19,809 acres (which includes the 7 percent reduction) are transferred on an acre-per-acre bases, and 7,271 acres (which includes the 7 percent reduction) are transferred based upon depletion. In making the transfer based upon depletion the irrigable acreage is reduced by 1885.0 acres. The priority date of the group 6 and 7 lands is January 5, 1882, except those group 7 lands bearing the notation "To be determined" under the Priority Date. As to those certain group 7 lands the priority date shall be determined by mutual agreement, among the parties to the Compact on or before any call for such water is made or by binding arbitration using the following guidelines:

1. All matters are deemed resolved herein except the issue of the priority date for certain parcels of group 7 lands. That issue shall be submitted to an arbitrator who shall have the authority under Utah Revised Code Sections 78-31-1, et seq., to decide the unresolved factual issue as to the precise priority date for any parcel of group 7 lands specified in the Tabulation.

2. To reach a determination of the priority date, either the State of Utah or the Ute Tribe may request a panel of five water law experts. With the State of Utah striking first, the Ute Tribe and the State shall alternately strike names from the list until one name remains and such person shall be the arbitrator.

3. The decision of the arbitrator shall be final and shall conclusively determine the priority date in question.

4. The procedures of the American Arbitration Association shall govern any proceedings and the costs and expenses of the arbitrator shall be shared equally by the State and the Ute Tribe.

The acreage tabulations herein lists the land group, source of supply, canal or ditch (if applicable), point of diversion, irrigable acreage and place of use. The quantity of land to be irrigated is limited to the acreage listed as Irrigable Acreage and shall be located within the area described.

MUNICIPAL AND INDUSTRIAL WATER

In addition to the quantities of water set forth herein for the irrigable acreage of the Ute Indian Tribe, the United States of America in trust for the Ute Indian Tribe is allocated the depletion of 10,000 acre-feet of water annually for municipal, industrial and related purposes from the Green River. To the extent that the tribe or its members use water, other than for irrigation purposes, the quantity so used shall be included within said 10,000 acre feet unless a transfer of water from land listed in the tabulation is properly made. The priority date for the water provided under this paragraph is October 3, 1861. The Tribe and the State shall conduct a cooperative inventory to identify all existing non-irrigation water uses of the Tribe or its members to determine the remaining quantity of water available for diversion.

Section 6. Repealer.

This bill repeals:

Section 73-21-1, Approval of Ute Indian Water Compact.

Section 73-21-2, Text.

CHAPTER 276**S. B. 100**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies provisions related to consumer protection.

Highlighted Provisions:

This bill:

- ▶ clarifies and amends certain requirements related to the Division of Consumer Protection's enforcement powers;
- ▶ establishes a statute of limitations for an administrative or civil action filed under a chapter administered and enforced by the Division of Consumer Protection;
- ▶ modifies the definition of "educational credentials";
- ▶ addresses institutions that are exempt from the Utah Postsecondary Proprietary School Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-2-6, as last amended by Laws of Utah 2010, Chapter 378
- 13-11-17, as last amended by Laws of Utah 2017, Chapter 98
- 13-11-19, as last amended by Laws of Utah 2010, Chapter 378
- 13-34-103, as last amended by Laws of Utah 2014, Chapter 360
- 13-34-105, as last amended by Laws of Utah 2014, Chapter 360
- 13-42-137, as last amended by Laws of Utah 2012, Chapter 152

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

Section 1. Section 13-2-6 is amended to read:**13-2-6. Enforcement powers.**

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall have authority to convene administrative hearings, issue cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.

(2) Any person who intentionally violates a final cease and desist order entered by the division of which the person has notice is guilty of a third degree felony.

(3) If the division has reasonable cause to believe that any person ~~is engaged in~~ has violated or is

violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator a citation signed by the division's director or the director's designee.

(a) Each citation shall be in writing and shall:

(i) set forth with particularity the nature of the violation, including a reference to the statutory or administrative rule provision ~~being~~ violated;

(ii) state that any request for review of the citation shall be made in writing and be received by the division no more than ~~[10]~~ 20 calendar days following issuance;

(iii) state the consequences of failing to make a timely request for review; and

(iv) state all other information required by Subsection 63G-4-201(2).

(b) In computing any time period prescribed by this section, the following days may not be included:

(i) ~~the day on which the division issues a citation [is issued by the division]; and~~

(ii) ~~the day on which the division [received] receives a request for review of a citation[;].~~

~~[(iii) Saturdays and Sundays; and]~~

~~[(iv) a legal holiday set forth in Subsection 63G-1-301(1)(a).]~~

(c) If the recipient of a citation makes a timely request for review, within ~~[10]~~ 20 calendar days ~~[of]~~ after receiving the request, the division shall ~~[convene]~~ initiate an adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) (i) If the presiding officer finds that there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1 ~~[at the time the citation was issued]~~, the citation may not become final, and the division shall immediately vacate the citation and promptly notify the recipient in writing.

(ii) If the presiding officer finds that there is substantial evidence that the recipient violated a chapter listed in Section 13-2-1 ~~[at the time the citation was issued]~~, the citation shall become final and the division may enter a cease and desist order against the recipient.

(e) A citation issued under this chapter may be personally served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure. A citation also may be served by first-class mail, postage prepaid.

(f) If the recipient fails to make a timely request for review, the citation shall become the final order of the division. The period to contest the citation may be extended by the director for good cause shown.

(g) If the chapter violated allows for an administrative fine, after a citation becomes final, the director may impose the administrative fine.

(4) (a) A person ~~[violating]~~ who has violated, is violating, or has attempted to violate a chapter

identified in Section 13-2-1 is subject to the division's jurisdiction if:

(i) the violation or attempted violation is committed ~~[either]~~ wholly or partly within the state;

(ii) conduct committed outside the state constitutes an attempt to commit a violation within the state; or

(iii) transactional resources located within the state are used by the offender to directly or indirectly facilitate a violation or attempted violation.

(b) As used in this section, "transactional resources" means:

(i) any mail drop or mail box, regardless of whether ~~[or not]~~ the mail drop or mail box is located on the premises of a United States Post Office;

(ii) any telephone or facsimile transmission device;

(iii) any Internet connection by a resident or inhabitant of this state with ~~[either]~~ a resident- or nonresident-maintained internet site;

(iv) any business office or private residence used for a business-related purpose;

(v) any account with or services of a financial institution;

(vi) the services of a common or private carrier; or

(vii) the use of any city, county, or state asset or facility, including any road or highway.

(5) The director or the director's designee, for the purposes outlined in any chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, ~~[and]~~ or compel the production of papers, books, accounts, documents, ~~[and]~~ or evidence.

(6) (a) An administrative action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation occurs.

(b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than five years after the day on which the alleged violation occurs.

(c) The provisions of this Subsection (6) control over the provisions of Title 78B, Chapter 2, Statutes of Limitations.

Section 2. Section 13-11-17 is amended to read:

13-11-17. Actions by enforcing authority.

(1) The enforcing authority may bring an action in a court of competent jurisdiction to:

(a) obtain a declaratory judgment that an act or practice violates this chapter;

(b) enjoin, in accordance with the principles of equity, a supplier who has violated, is violating, or is otherwise likely to violate this chapter;

(c) recover, for each violation, actual damages, or obtain relief under Subsection (2)(b), on behalf of consumers who complained to the enforcing authority within a reasonable time after it instituted proceedings under this chapter; and

(d) obtain a fine in an amount determined after considering the factors in Subsection (6).

(2) (a) The enforcing authority may bring a class action on behalf of consumers for the actual damages caused by an act or practice specified as violating this chapter in a rule adopted by the enforcing authority under Subsection 13-11-8(2) before the consumer transactions on which the action is based, or declared to violate Section 13-11-4 or 13-11-5 by final judgment of courts of general jurisdiction and appellate courts of this state that was either reported officially or made available for public dissemination under Subsection 13-11-7(1)(c) by the enforcing authority 10 days before the consumer transactions on which the action is based, or, with respect to a supplier who agreed to it, was prohibited specifically by the terms of a consent judgment that became final before the consumer transactions on which the action is based.

(b) (i) On motion of the enforcing authority and without bond in an action under this Subsection (2), the court may make appropriate orders, including appointment of a master or receiver or sequestration of assets, but only if it appears that the defendant is threatening or is about to remove, conceal, or dispose of the defendant's property to the damage of persons for whom relief is requested. An appropriate order may include an order to:

(A) reimburse consumers found to have been damaged;

(B) carry out a transaction in accordance with consumers' reasonable expectations;

(C) strike or limit the application of unconscionable clauses of contracts to avoid an unconscionable result;

(D) impose a fine in an amount determined after considering the factors listed in Subsection (6); or

(E) grant other appropriate relief.

(ii) The court may assess the expenses of a master or receiver against a supplier.

(c) If an act or practice that violates this chapter unjustly enriches a supplier and damages can be computed with reasonable certainty, damages recoverable on behalf of consumers who cannot be located with due diligence shall be transferred to the state treasurer pursuant to Title 67, Chapter 4a, Unclaimed Property Act.

(d) If a supplier shows by a preponderance of the evidence that a violation of this chapter resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, recovery under this Subsection (2) is limited to the amount, if any, by which the supplier was unjustly enriched by the violation.

~~[(e) An action may not be brought by the enforcing authority under this Subsection (2) more than two~~

years after the occurrence of a violation of this chapter.]

(3) (a) The enforcing authority may terminate an investigation or an action other than a class action upon acceptance of the supplier's written assurance of voluntary compliance with this chapter. Acceptance of an assurance may be conditioned on a commitment to reimburse consumers or take other appropriate corrective action.

(b) An assurance is not evidence of a prior violation of this chapter. Unless an assurance has been rescinded by agreement of the parties or voided by a court for good cause, subsequent failure to comply with the terms of an assurance is prima facie evidence of a violation.

(4) (a) In addition to other penalties and remedies set out under this chapter, and in addition to its other enforcement powers under Chapter 2, Division of Consumer Protection, the division director may issue a cease and desist order and impose an administrative fine of up to \$2,500 for each violation of this chapter.

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

(5) (a) Within 30 days after agency or judicial review of a final division order imposing an administrative fine, the supplier on whom the fine is imposed shall pay the fine in full.

(b) The unpaid amount of a fine is increased by 10%:

(i) if the fine has not been paid in full within 60 days after the final division order imposing the fine; and

(ii) unless the division waives the 10% increase in a stipulated payment plan.

(6) A fine imposed under Subsection (1)(d) or Subsection (2)(b)(i)(D) shall be determined after considering the following factors:

(a) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(b) the harm to other persons resulting either directly or indirectly from the violation;

(c) cooperation by the supplier in an inquiry or investigation conducted by the enforcing authority concerning the violation;

(d) efforts by the supplier to prevent occurrences of the violation;

(e) efforts by the supplier to mitigate the harm caused by the violation, including a reimbursement made to a consumer injured by the act of the supplier;

(f) the history of previous violations by the supplier;

(g) the need to deter the supplier or other suppliers from committing the violation in the future; and

(h) other matters as justice may require.

Section 3. Section 13-11-19 is amended to read:

13-11-19. Actions by consumer.

(1) Whether he seeks or is entitled to damages or otherwise has an adequate remedy at law, a consumer may bring an action to:

(a) obtain a declaratory judgment that an act or practice violates this chapter; and

(b) enjoin, in accordance with the principles of equity, a supplier who has violated, is violating, or is likely to violate this chapter.

(2) A consumer who suffers loss as a result of a violation of this chapter may recover, but not in a class action, actual damages or \$2,000, whichever is greater, plus court costs.

(3) Whether a consumer seeks or is entitled to recover damages or has an adequate remedy at law, he may bring a class action for declaratory judgment, an injunction, and appropriate ancillary relief against an act or practice that violates this chapter.

(4) (a) A consumer who suffers loss as a result of a violation of this chapter may bring a class action for the actual damages caused by an act or practice specified as violating this chapter by a rule adopted by the enforcing authority under Subsection 13-11-8(2) before the consumer transactions on which the action is based, or declared to violate Section 13-11-4 or 13-11-5 by a final judgment of the appropriate court or courts of general jurisdiction and appellate courts of this state that was either officially reported or made available for public dissemination under Subsection 13-11-7(1)(c) by the enforcing authority 10 days before the consumer transactions on which the action is based, or with respect to a supplier who agreed to it, was prohibited specifically by the terms of a consent judgment which became final before the consumer transactions on which the action is based.

(b) If an act or practice that violates this chapter unjustly enriches a supplier and the damages can be computed with reasonable certainty, damages recoverable on behalf of consumers who cannot be located with due diligence shall be transferred to the state treasurer pursuant to Title 67, Chapter 4a, Unclaimed Property Act.

(c) If a supplier shows by a preponderance of the evidence that a violation of this chapter resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, recovery under this section is limited to the amount, if any, in which the supplier was unjustly enriched by the violation.

(5) Except for services performed by the enforcing authority, the court may award to the prevailing party a reasonable attorney's fee limited to the work reasonably performed if:

(a) the consumer complaining of the act or practice that violates this chapter has brought or maintained an action he knew to be groundless; or a supplier has committed an act or practice that violates this chapter; and

(b) an action under this section has been terminated by a judgment or required by the court to be settled under Subsection 13-11-21(1)(a).

(6) Except for consent judgment entered before testimony is taken, a final judgment in favor of the enforcing authority under Section 13-11-17 is admissible as prima facie evidence of the facts on which it is based in later proceedings under this section against the same person or a person in privity with him.

(7) When a judgment under this section becomes final, the prevailing party shall mail a copy to the enforcing authority for inclusion in the public file maintained under Subsection 13-11-7(1)(e).

~~[(8) An action under this section shall be brought within two years after occurrence of a violation of this chapter, or within one year after the termination of proceedings by the enforcing authority with respect to a violation of this chapter, whichever is later. When a supplier sues a consumer, he may assert as a counterclaim any claim under this chapter arising out of the transaction on which suit is brought.]~~

Section 4. Section 13-34-103 is amended to read:

13-34-103. Definitions.

As used in this chapter:

(1) "Agent" means any person who:

(a) owns an interest in or is employed by a proprietary school; and

(b) (i) enrolls or attempts to enroll a resident of this state in a proprietary school;

(ii) offers to award educational credentials for remuneration on behalf of a proprietary school; or

(iii) holds himself out to residents of this state as representing a proprietary school for any purpose.

(2) (a) "Certificate of registration" means approval from the division to operate a school or institution in compliance with this chapter and rules adopted under this chapter.

(b) "Certificate of registration" does not mean an endorsement of the school or institution by either the division or the state.

(3) "Division" means the Division of Consumer Protection.

(4) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words [which] that signify or appear to signify [enrollment, attendance, progress, or] satisfactory completion of [the requirements or prerequisites]

any requirement or prerequisite for any educational program.

(5) "Institution" means an individual, corporation, partnership, association, cooperative, or other legal entity.

(6) "Offer" means to advertise, publicize, solicit, or encourage any person directly or indirectly.

(7) "Operate" in this state means to:

(a) maintain a place of business in the state;

(b) solicit business in the state;

(c) conduct significant educational activities within the state; or

(d) offer or provide postsecondary instruction leading to a postsecondary degree or certificate to any number of Utah residents from a location outside the state by correspondence or any telecommunications or electronic media technology.

(8) "Ownership" means:

(a) the controlling interest in a school, institution, or college; or

(b) if an entity holds the controlling interest in the school, institution, or college, the controlling interest in the entity that holds the controlling interest in the school, institution, or college.

(9) "Postsecondary education" means education or educational services offered primarily to individuals who:

(a) have completed or terminated their secondary or high school education; or

(b) are beyond the age of compulsory school attendance.

(10) (a) "Proprietary school" means a private institution, including a business, modeling, paramedical, tax preparation, or trade or technical school, that offers postsecondary education:

(i) in consideration of the payment of tuition or fees; and

(ii) for the attainment of educational, professional, or vocational objectives.

(b) "Proprietary school" does not include an institution that is exempt from this chapter under Section 13-34-105.

(11) "Utah institution" means a school or institution that:

(a) offers postsecondary education; and

(b) is headquartered or primarily operates in Utah.

Section 5. Section 13-34-105 is amended to read:

13-34-105. Exempted institutions.

~~[(1) This chapter does not apply to:]~~

(1) The following institutions are exempt from the provisions of this chapter, if the institution

establishes an exemption with the division in accordance with Subsection 13-34-107(1)(b)(ii):

(a) a Utah institution directly supported, to a substantial degree, with funds provided by:

- (i) the state;
- (ii) a local school district; or
- (iii) any other Utah governmental subdivision;

~~[(b) an institution that offers instruction exclusively at or below the 12th grade level;]~~

~~[(e) (b) a lawful enterprise that offers only professional review programs, including C.P.A. and bar examination review and preparation courses;~~

~~[(d) (c) a private institution that:~~

- (i) provides postsecondary education; and
- (ii) is owned, controlled, operated, or maintained by a bona fide church or religious denomination, that is exempted from property taxation under the laws of this state;

~~[(e) (d) [a school or] an institution that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;~~

~~[(f) (e) subject to Subsection (4), a business organization, trade or professional association, fraternal society, or labor union that:~~

(i) sponsors or conducts courses of instruction or study predominantly for bona fide employees or members; and

(ii) does not advertise as a school;

~~[(g) (f) an institution that exclusively offers one or more of the following:~~

(i) ~~[(A) exclusively offers] general education [courses or instruction that are];~~

(A) that is remedial, avocational, nonvocational, or recreational in nature; and

(B) for which the institution does not advertise occupation objectives or grant [educational credentials; or] a degree, diploma, or other educational credential commensurate with a degree or diploma;

(ii) ~~[exclusively prepares] preparation for individuals to teach courses or instruction described in Subsection (1)[(g)](f)(i)(A);~~

(iii) courses in English as a second language;

(iv) instruction at or below the 12th grade level;

(v) nurse aide training programs that are approved by:

(A) the Bureau of Health Facility Licensing and Certification; or

(B) an entity authorized by the Bureau of Health Facility Licensing and Certification to approve nurse aide certification programs; or

(vi) content:

(A) that is exclusively available on the Internet;

(B) for which the institution charges \$1,000 or less in a 12-month period; and

(C) for which the institution does not grant educational credentials other than a certificate that indicates completion and that does not represent achievement or proficiency;

~~[(h) (g) an institution that offers only workshops or seminars:~~

(i) lasting no longer than three calendar days; and

(ii) for which academic credit is not awarded;

~~[(i) (h) an institution that offers programs:~~

(i) in barbering, cosmetology, real estate, or insurance; and

(ii) that are regulated and approved by a state or federal governmental agency;

~~[(j) (i) an education provider certified by the Division of Real Estate under Section 61-2c-204.1;~~

~~[(k) (j) an institution that offers aviation training if the institution:~~

(i) (A) is approved under Federal Aviation Regulations, 14 C.F.R. Part 141; or

(B) provides aviation training under Federal Aviation Regulations, 14 C.F.R. Part 61; and

~~[(ii) exclusively offers aviation training that a student fully receives within 24 hours after the student pays any tuition, fee, or other charge for the aviation training;]~~

(ii) does not collect tuition, fees, membership dues, or other payment more than 24 hours before the student receives the aviation training; and

~~[(4) (k) an institution that provides emergency medical services training if all of the institution's instructors, course coordinators, and courses are approved by the Department of Health; and]~~

~~[(m) an institution that exclusively conducts nurse aide training programs that are approved by the State Office of Vocational Education and are subject to the Nurse Aide Registry.]~~

~~[(2) If available evidence suggests that an exempt institution under this section is not in compliance with the standards of registration under this chapter and applicable division rules, the division shall contact the institution and, if appropriate, the state or federal government agency to request corrective action.]~~

(2) An institution that no longer qualifies for an exemption that the institution established with the division under Subsection 13-34-107(1)(b)(ii) shall comply with the other provisions of Section 13-34-107.

(3) An institution, branch, extension, or facility operating within the state that is affiliated with an institution operating in another state shall be separately approved by the affiliate's regional or national accrediting agency to qualify for the exemption described in Subsection (1)[(e)](d).

(4) For purposes of Subsection (1)(~~(f)~~)(e), a business organization, trade or professional association, fraternal society, or labor union is considered to be conducting the course predominantly for bona fide employees or members if ~~(it)~~ the entity hires a majority of the ~~(persons)~~ individuals who:

(a) successfully complete ~~(its)~~ the course of instruction or study with a reasonable degree of proficiency; and

(b) apply for employment with that same entity.

(5) If the United States Department of Education no longer recognizes an institution's accrediting agency, the institution remains exempt under Subsection (1)(d):

(a) during any grace period provided by the United States Department of Education for obtaining new accreditation, if the institution demonstrates to the division that the institution is within the grace period; or

(b) if the institution demonstrates to the division that the United States Department of Education otherwise considers the institution to have recognized accreditation.

Section 6. Section 13-42-137 is amended to read:

13-42-137. Statute of limitations -- Tolling.

~~[(1) An action or proceeding brought pursuant to Subsection 13-42-133(1), (2), or (3) shall be commenced no later than four years after the conduct that is the basis of the administrator's complaint.]~~

~~[(2) An action brought pursuant to Section 13-42-135 shall be commenced no later than two years after the latest of:]~~

~~[(a) the individual's last transmission of money to a provider;]~~

~~[(b) the individual's last transmission of money to a creditor at the direction of the provider;]~~

~~[(c) the provider's last disbursement to a creditor of the individual;]~~

~~[(d) the provider's last accounting to the individual pursuant to Subsection 13-42-127(1);]~~

~~[(e) the date on which the individual discovered or reasonably should have discovered the facts giving rise to the individual's claim; or]~~

~~[(f) termination of actions or proceedings by the administrator with respect to a violation of the chapter.]~~

~~[(3)]~~ The period prescribed in Subsection ~~[(2)(e)]~~ 13-2-6(6) is tolled during any period during which the provider or, if different, the defendant has materially and willfully misrepresented information required by this chapter to be disclosed to the individual, if the information so misrepresented is material to the establishment of the liability of the defendant under this chapter.

CHAPTER 277**S. B. 101**

Passed February 28, 2018

Approved March 19, 2018

Effective May 8, 2018

TAX AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill amends provisions related to property valuation adjustments made by the county board of equalization.

Highlighted Provisions:

This bill:

- ▶ defines “significant adjustment”;
- ▶ requires the county board of equalization to list separately a significant adjustment on an agenda for a public hearing and provide certain property information; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-1004, as last amended by Laws of Utah 2016, Chapter 98

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

Section 1. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer’s real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (2); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (2) if the county legislative body passes a resolution under Subsection (7) authorizing [applications to be made] a taxpayer to make an application by telephone or other electronic means.

(b) The county board of equalization shall make a rule describing the contents of the application [shall be prescribed by rule of the county board of equalization].

(2) (a) Except as provided in Subsection (2)(b)^[1] and for purposes of Subsection (1), a taxpayer shall

make an application to appeal the valuation or the equalization of the taxpayer’s real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) [Notwithstanding Subsection (2)(a), in] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

(3) The owner shall include in the application under Subsection (1)(a)(i) the owner’s estimate of the fair market value of the property and any evidence [which] that may indicate that the assessed valuation of the owner’s property is improperly equalized with the assessed valuation of comparable properties.

(4) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) (a) The county board of equalization shall meet and hold public hearings as [prescribed] described in Section 59-2-1001.

(b) (i) For purposes of this Subsection (5)(b), “significant adjustment” means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and \$1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (5)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

~~[(b)]~~ (c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within ~~[a 60-day period]~~ 60 days after the day on which the taxpayer makes an application ~~[is made]~~.

~~[(e)]~~ (d) The commission may approve the extension of a time period provided for in Subsection (5)(b) for a county board of equalization to make a decision on an appeal.

~~[(d)]~~ (e) Unless the commission approves the extension of a time period under Subsection (5)~~[(e)]~~(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (5)~~[(b)]~~(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting ~~[of]~~ the county legislative body ~~[that is held]~~ holds after the expiration of the time period described in Subsection (5)~~[(b)]~~(c); and

(ii) hear the appeal at the meeting described in Subsection (5)~~[(d)]~~(e)(i).

~~[(e)]~~ (f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value~~[,]~~; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

~~[(f)]~~ (g) If no evidence is presented before the county board of equalization, ~~[it will be presumed]~~ the county board of equalization shall presume that the equalization issue has been met.

~~[(g)]~~ (h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property ~~[shall be adjusted]~~ to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (5)~~[(g)]~~(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring ~~[them]~~ all comparable properties into conformity with full fair market value.

(6) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as ~~[prescribed]~~ described in Section 59-2-1006.

(7) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

CHAPTER 278**S. B. 106**

Passed March 6, 2018
 Approved March 19, 2018
 Effective July 1, 2018

COURT RECORDS AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Logan Wilde

LONG TITLE**General Description:**

This bill modifies provisions related to court records.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for delinking personal identifying information from court records under certain circumstances; and
- ▶ addresses scope of the provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

77-40-104.1, Utah Code Annotated 1953

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

Section 1. Section 77-40-104.1 is enacted to read:**77-40-104.1. Eligibility for removing the link between personal identifying information and court case dismissed.**

(1) As used in this section:

(a) “Domestic violence offense” means the same as that term is defined in Section 77-36-1.

(b) “Personal identifying information” means:

(i) a current name, former name, nickname, or alias; and

(ii) date of birth.

(2) A person whose criminal case is dismissed may move the court for an order to remove the link between the person’s personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts and the court shall grant that relief if:

(a) 30 days have passed from the day on which the case is dismissed;

(b) no appeal is filed for the dismissed case within the 30-day period described in Subsection (2)(a); and

(c) no charge in the case was a domestic violence offense.

(3) Removing the link to personal identifying information of a court record under Subsection (2)

does not affect a prosecuting, arresting, or other agency’s records.

(4) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

Section 2. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 279**S. B. 108**

Passed March 6, 2018

Approved March 19, 2018

Effective May 8, 2018

RAW MILK AMENDMENTS

Chief Sponsor: David P. Hinkins

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies provisions relating to the sale of raw milk.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the sale of raw milk from a mobile unit under certain conditions;
- ▶ allows the sale of a limited amount of raw milk to be exempt from certain regulations; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-3-503, as renumbered and amended by Laws of Utah 2017, Chapter 345

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

Section 1. Section 4-3-503 is amended to read:**4-3-503. Sale of raw milk -- Suspension of producer's permit -- Severability not permitted.**

(1) As used in this section:

(a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

(b) "Self-owned retail store" means a retail store:

(i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or

(ii) for which the producer has the power to vote at least 51% of any class of voting shares or ownership interest in the business entity that operates the retail store.

(2) [Raw] Except as provided in Subsection (5), raw milk may be manufactured, distributed, sold, delivered, held, stored, or offered for sale if:

(a) the producer obtains a permit from the department to produce milk under Subsection 4-3-301(5);

(b) the sale and delivery of the milk is made upon the premises where the milk is produced, except as provided by Subsection (3);

(c) the raw milk is sold to consumers for household use and not for resale;

(d) the raw milk is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the raw milk is produced;

(e) the raw milk is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts 101 and 131 and rules established by the department;

(f) the raw milk is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal;

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal; and

(iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is delivered to the consumer;

(g) the bacterial count of the raw milk does not exceed 20,000 colony forming units per milliliter;

(h) the coliform count of the raw milk does not exceed 10 colony forming units per milliliter;

(i) the production of the raw milk conforms to departmental rules for the production of grade A milk;

(j) all dairy animals on the premises are:

(i) permanently and individually identifiable; and

(ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

(k) any person on the premises performing any work in connection with the production, bottling, handling, or sale of the raw milk is free from communicable disease.

(3) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk at a self-owned retail store, which is properly staffed, or from a mobile unit where the raw milk is maintained through mechanical refrigeration at 41 degrees Fahrenheit or a lower temperature, if, in addition to the requirements of Subsection (2), the producer:

(a) transports the raw milk from the premises where the raw milk is produced to the self-owned retail store in a refrigerated truck where the raw milk is maintained at 41 degrees Fahrenheit or a lower temperature;

(b) retains ownership of the raw milk until it is sold to the final consumer, including transporting the raw milk from the premises where the raw milk is produced to the self-owned retail store without any:

(i) intervening storage;

(ii) change of ownership; or

(iii) loss of physical control;

(c) stores the raw milk at 41 degrees Fahrenheit or a lower temperature in a display case equipped

with a properly calibrated thermometer at the self-owned retail store;

(d) places a sign above each display case that contains raw milk at the self-owned retail store that:

(i) is prominent;

(ii) is easily readable by a consumer;

(iii) reads in print that is no smaller than .5 inches in bold type, "This milk is raw and unpasteurized. Please keep refrigerated"; and

(iv) meets any other requirement established by the department by rule;

(e) labels the raw milk with:

(i) a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;

(ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";

(iii) handling instructions to preserve quality and avoid contamination or spoilage;

(iv) by January 1, 2017, a specific colored label as determined by the department by rule; and

(v) any other information required by rule;

(f) refrains from offering the raw milk for sale until:

(i) the department or a third party certified by the department tests each batch of raw milk for standard plate count and coliform count; and

(ii) the test results meet the minimum standards established for those tests;

(g) (i) maintains a database of the raw milk sales; and

(ii) makes the database available to the Department of Health during the self-owned retail store's business hours for purposes of epidemiological investigation;

(h) ensures that the plant and retail store complies with Chapter 5, Utah Wholesome Food Act, and the rules governing food establishments enacted under Section ~~[4-5-404]~~ 4-5-301; and

(i) complies with all applicable rules adopted as authorized by this chapter.

(4) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk and pasteurized milk at the same self-owned retail store if:

(a) the self-owned retail store is properly staffed; and

(b) the producer:

(i) meets the requirements of Subsections (2) and (3);

(ii) operates the self-owned retail store on the same property where the raw milk is produced; and

(iii) maintains separate, labeled, refrigerated display cases for raw milk and pasteurized milk.

(5) A producer may, without meeting the requirements of Subsection (2), sell up to 120 gallons of raw milk per month if:

(a) the sale is directly to an end consumer, for household use and not for resale;

(b) the sale and delivery of the milk is made upon the premises where the milk is produced;

(c) the producer labels the raw milk with:

(i) the producer's name and address;

(ii) a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;

(iii) the statement "This raw milk has not been licensed or inspected by the state of Utah. Raw milk, no matter how carefully produced, may be unsafe."; and

(iv) handling instructions to preserve quality and avoid contamination or spoilage;

(d) the raw milk is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal; and

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal;

(e) the producer conducts a monthly test ensuring the coliform count of the raw milk does not exceed 10 colony-forming units per milliliter;

(f) all dairy animals on the producer's premises are free of tuberculosis, brucellosis, and other diseases carried through milk;

(g) the producer maintains records of tests and sales for a minimum of two years; and

(h) the producer notifies the department of the producer's intent to sell raw milk pursuant to this Subsection (5) and includes in the notification the producer's name and address.

~~[(5)]~~ (6) A person who conducts a test required by Subsection (3) shall send a copy of the test results to the department as soon as the test results are available.

~~[(6)]~~ (7) (a) The department shall adopt rules, as authorized by Section 4-3-201, governing the sale of raw milk at a self-owned retail store.

(b) The rules adopted by the department shall include rules regarding:

(i) permits;

(ii) building and premises requirements;

(iii) sanitation and operating requirements, including bulk milk tanks requirements;

(iv) additional tests;

(v) frequency of inspections, including random cooler checks;

- (vi) recordkeeping; and
- (vii) packaging and labeling.

(c) (i) The department shall establish and collect a fee for the tests and inspections required by this section and by rule in accordance with Section 63J-1-504.

(ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this section.

[(7)] (8) (a) The department shall suspend a permit issued under Section 4-3-301 if:

(i) two out of four consecutive samples or two samples in a 30-day period violate sample limits established under this section; or

(ii) a producer violates a provision of this section or a rule adopted as authorized by this section.

(b) The department may reissue a permit that has been suspended under Subsection [(7)] (8)(a) if the producer has complied with all of the requirements of this section and rules adopted as authorized by this section.

[(8)] (9) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of the section may not be given effect without the invalid subsection or application.

(b) The provisions of this section may not be severed.

(10) Nothing in this chapter shall be construed to impede the Department of Health or the Department of Agriculture and Food in investigation of foodborne illness.

(11) The department shall issue a cease and desist order to a producer linked to a foodborne illness and shall stop sale on milk currently being sold.

(12) The order shall remain in effect until the department verifies that the producer:

(a) adheres to all of the provisions of this section; and

(b) has three consecutive clean tests of the milk.

(13) In addition to the provisions of Subsections (11) and (12), if a producer's milk product has been linked to a foodborne illness outbreak, and the department finds that the producer has violated the applicable provisions of this section, the department may impose upon the producer the following administrative penalties:

(a) upon the first violation, a penalty of no more than \$300;

(b) upon a second violation, a penalty of no more than \$750; and

(c) upon a third or subsequent violation a penalty of no more than \$1,500.

CHAPTER 280**S. B. 110**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

BOND AUTHORIZATION AMENDMENTS

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

LONG TITLE**General Description:**

This bill modifies provisions relating to certain bond authorizations.

Highlighted Provisions:

This bill:

- ▶ amends language regarding the costs of issuance, capitalized interest, and debt service reserve requirements for certain highway general obligation bonds;
- ▶ amends the bonding authority for certain bonds and specifies how certain bond proceeds shall be used to provide funding for certain projects; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63B-25-101, as last amended by Laws of Utah 2017, Chapter 89
 63B-27-101, as enacted by Laws of Utah 2017, Chapter 436
 63B-27-102, as enacted by Laws of Utah 2017, Chapter 436

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

Section 1. Section 63B-25-101 is amended to read:**63B-25-101. General obligation bonds for prison project -- Maximum amount -- Use of proceeds.**

- (1) As used in this section:
- (a) "Prison project" means the same as that term is defined in Section 63C-16-102.
- (b) "Prison project fund" means the capital projects fund created in Subsection 63A-5-225(7).
- (2) The commission may issue general obligation bonds as provided in this section.
- (3) (a) The total amount of bonds to be issued under this section may not exceed \$570,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$575,700,000.
- (b) The maturity of bonds issued under this section may not exceed 10 years.

(4) The commission shall ensure that proceeds from the issuance of bonds under this section are deposited into the Prison Project Fund for use by the division to pay all or part of the cost of the prison project, including:

- (a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the prison project, plus a period of 12 months after the end of construction; and
- (b) all related engineering, architectural, and legal fees.

(5) (a) The division may enter into agreements related to the prison project before the receipt of proceeds of bonds issued under this section.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Prison Project Fund.

(c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the prison project.

(6) Before issuing bonds authorized under this section, the commission shall request and consider a recommendation from the Prison Development Commission, created in Section 63C-16-201, regarding the timing and amount of the issuance.

Section 2. Section 63B-27-101 is amended to read:**63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.**

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(5) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed one percent of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the

limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in ~~[Subsection]~~ Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) \$100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) ~~[Nineteen]~~ Thirty-nine million dollars of the bond proceeds issued under this section shall be provided to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, including the amounts as follows:

(a) ~~[\$10,000,000]~~ \$14,000,000 to the military installation development authority created in Section 63H-1-201; and

(b) \$5,000,000 for right-of-way acquisition and highway construction in ~~[Davis County; and]~~ Salt Lake County for roads in the northwest quadrant of Salt Lake City.

~~[(c)]~~ (4) (a) ~~[\$4,000,000 for pedestrian access and crossings by]~~ Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station [and] associated with or adjacent to an institution of higher education.

(b) Ten million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

~~[(4)]~~ (5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

~~[(5)]~~ (6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

~~[(6)]~~ (7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

~~[(7)]~~ (8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section 3. Section 63B-27-102 is amended to read:

63B-27-102. Highway bonds -- Maximum amount -- Use of proceeds for Salt Lake County highway projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$47,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$47,470,000.

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2), the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed one percent of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) (a) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to pay for or to provide funds to a municipality or county to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to

highways, transportation facilities, or multimodal transportation projects described in Subsection (2)(b).

(b) Bond proceeds described under Subsection (2)(a) shall be used to pay for state and local highway projects or transportation facilities or multimodal transportation projects described in Subsection 72-2-121(4)(c) in Salt Lake County prioritized by the county.

(c) The costs under this Subsection (2) may include the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(3) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(4) The Department of Transportation may enter into agreements related to the project before the receipt of proceeds of bonds issued under this chapter.

CHAPTER 281**S. B. 116**

Passed February 28, 2018

Approved March 19, 2018

Effective May 8, 2018

**REVISOR'S TECHNICAL
CORRECTIONS TO UTAH CODE**

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-1-810, as last amended by Laws of Utah 2013, Chapters 73, and 412
 7-3-10, as last amended by Laws of Utah 2013, Chapter 412
 7-8-3, as last amended by Laws of Utah 2013, Chapter 412
 10-2a-302.5, as enacted by Laws of Utah 2017, Chapter 452
 13-34-114, as last amended by Laws of Utah 2013, Chapter 412
 16-16-111, as last amended by Laws of Utah 2013, Chapter 412
 19-1-301, as last amended by Laws of Utah 2017, Chapter 206
 19-1-301.5, as last amended by Laws of Utah 2017, Chapter 206
 19-1-507, as enacted by Laws of Utah 2010, Chapter 170
 19-1-601, as enacted by Laws of Utah 2017, Chapter 246
 19-1-602, as enacted by Laws of Utah 2017, Chapter 246
 19-2-107, as last amended by Laws of Utah 2015, Chapter 154
 19-3-105, as last amended by Laws of Utah 2017, Chapter 360
 19-3-301, as last amended by Laws of Utah 2012, Chapter 212
 19-5-107, as last amended by Laws of Utah 2012, Chapter 360
 19-6-102.1, as last amended by Laws of Utah 2015, Chapter 451

19-6-105, as last amended by Laws of Utah 2017, Chapter 281
 19-6-402, as last amended by Laws of Utah 2015, Chapter 451
 19-6-503, as last amended by Laws of Utah 2008, Chapter 89
 19-6-706, as last amended by Laws of Utah 2015, Chapter 340
 20A-2-201, as last amended by Laws of Utah 2015, Chapters 130 and 394
 20A-3-601, as last amended by Laws of Utah 2017, Chapter 58
 20A-4-103, as last amended by Laws of Utah 2006, Chapter 326
 20A-4-107, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231
 20A-7-214, as last amended by Laws of Utah 2013, Chapter 310
 20A-9-405, as enacted by Laws of Utah 2014, Chapter 17
 26-7-8, as enacted by Laws of Utah 2016, Chapter 269
 26-10-10, as enacted by Laws of Utah 2013, Chapter 45
 26-18-3, as last amended by Laws of Utah 2017, Chapter 74
 26-38-2, as last amended by Laws of Utah 2017, Chapter 455
 31A-4-106, as last amended by Laws of Utah 2012, Chapter 50
 31A-27a-403, as enacted by Laws of Utah 2007, Chapter 309
 31A-30-206, as last amended by Laws of Utah 2011, Chapter 297
 31A-32a-107, as last amended by Laws of Utah 2008, Chapter 389
 32B-1-605, as last amended by Laws of Utah 2017, Chapter 455
 32B-3-102, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-205.2, as enacted by Laws of Utah 2017, Chapter 455
 32B-6-305.2, as enacted by Laws of Utah 2017, Chapter 455
 32B-6-902, as last amended by Laws of Utah 2017, Chapter 455
 32B-6-905.1, as enacted by Laws of Utah 2017, Chapter 455
 32B-6-905.2, as enacted by Laws of Utah 2017, Chapter 455
 36-23-106, as last amended by Laws of Utah 2017, Chapters 18, 133, 272 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 272
 49-11-609, as last amended by Laws of Utah 2017, Chapter 94
 49-20-401, as last amended by Laws of Utah 2016, Chapter 279
 53B-8-101, as last amended by Laws of Utah 2017, Chapter 382
 53B-8-202, as renumbered and amended by Laws of Utah 2017, Chapter 386
 53F-8-303, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-304, as renumbered and amended by Laws of Utah 2018, Chapter 3

55-12-116, as renumbered and amended by Laws of Utah 2005, Chapter 155

57-19-5, as last amended by Laws of Utah 2016, Chapter 255

58-37f-304, as last amended by Laws of Utah 2017, Chapters 181 and 237

58-55-102, as last amended by Laws of Utah 2017, Chapter 411

58-87-401, as renumbered and amended by Laws of Utah 2017, Chapter 225

59-2-1346, as last amended by Laws of Utah 2016, Chapter 368

59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

59-12-104.5, as last amended by Laws of Utah 2017, Chapter 268

59-13-301, as last amended by Laws of Utah 2017, Chapter 234

61-2g-103, as last amended by Laws of Utah 2013, Chapter 412

62A-4a-105, as last amended by Laws of Utah 2017, Chapters 209 and 330

62A-15-401, as last amended by Laws of Utah 2017, Chapter 455

63G-2-302, as last amended by Laws of Utah 2017, Chapters 168 and 282

63G-3-102, as last amended by Laws of Utah 2016, Chapter 193

63G-21-102, as enacted by Laws of Utah 2017, Chapter 205

63I-1-226, as last amended by Laws of Utah 2017, Chapters 177 and 443

63I-1-257, as last amended by Laws of Utah 2016, Chapter 325

63I-1-259, as last amended by Laws of Utah 2017, Chapters 166 and 201

63I-1-262, as last amended by Laws of Utah 2017, Chapter 459

63I-2-219, as last amended by Laws of Utah 2016, Chapter 369

63I-2-226, as last amended by Laws of Utah 2017, Chapters 126, 155, 413, and 419

63I-2-234, as last amended by Laws of Utah 2017, Chapter 116

63I-2-236, as last amended by Laws of Utah 2017, Chapter 90

63I-2-248, as enacted by Laws of Utah 2013, Chapter 412

63I-2-249, as enacted by Laws of Utah 2015, Chapter 455

63I-2-253, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381, 386, and 468

63I-2-278, as last amended by Laws of Utah 2015, Chapter 217

63N-2-104, as last amended by Laws of Utah 2017, Chapter 310

67-4a-501, as repealed and reenacted by Laws of Utah 2017, Chapter 371

70A-2-311, as last amended by Laws of Utah 2016, Chapter 348

70A-2-402, as last amended by Laws of Utah 2017, Chapter 204

70A-2-601, as last amended by Laws of Utah 2015, Chapter 258

70A-2-610, as last amended by Laws of Utah 2015, Chapter 258

72-2-118, as last amended by Laws of Utah 2016, Chapter 222

75-7-1011, as last amended by Laws of Utah 2013, Chapter 412

77-7-15, as enacted by Laws of Utah 1980, Chapter 15

77-10a-13, as last amended by Laws of Utah 2012, Chapter 22

77-15a-104, as last amended by Laws of Utah 2015, Chapter 258

77-20-3.5, as renumbered and amended by Laws of Utah 2017, Chapter 289

77-20-9, as last amended by Laws of Utah 2016, Chapter 234

77-23-210, as last amended by Laws of Utah 2015, Chapter 317

77-30-8, as enacted by Laws of Utah 1980, Chapter 15

77-30-18, as enacted by Laws of Utah 1980, Chapter 15

77-30-25, as last amended by Laws of Utah 2007, Chapter 306

77-32-603, as last amended by Laws of Utah 1998, Chapter 333

77-32a-102, as enacted by Laws of Utah 2017, Chapter 304

77-38a-401, as last amended by Laws of Utah 2011, Chapter 37

77-41-103, as last amended by Laws of Utah 2017, Chapter 450

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

Section 1. Section 7-1-810 is amended to read:

7-1-810. Limited liability companies.

(1) Notwithstanding any other provision of this title and subject to Subsection (8), if the conditions of this section are met, the following may be organized as or convert to a limited liability company under [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[, as appropriate pursuant to Section 48-3a-1405]:

(a) an industrial bank chartered under Chapter 8, Industrial Banks;

(b) an industrial loan company as defined in Section 7-8-21; or

(c) any of the following if the institution is an S Corporation, as defined in Section 1361, Internal Revenue Code, immediately before becoming a limited liability company:

(i) a bank chartered under Chapter 3, Banks; or

(ii) a depository institution holding company.

(2) (a) Before an institution described in Subsection (1) may organize as or convert to a limited liability company, the institution shall obtain approval of the commissioner.

(b) (i) To obtain the approval under this section from the commissioner, the institution shall file a request for approval with the commissioner at least 30 days before the day on which the institution becomes a limited liability company.

(ii) If the commissioner does not disapprove the request for approval within 30 days from the day on which the commissioner receives the request, the request is considered approved.

(iii) When taking action on a request for approval filed under this section, the commissioner may:

(A) approve the request;

(B) approve the request subject to terms and conditions the commissioner considers necessary; or

(C) disapprove the request.

(3) To approve a request for approval, the commissioner shall find:

(a) for an institution described in Subsection (1) that is required to be insured by a federal deposit insurance agency, that the institution:

(i) will operate in a safe and sound manner;

(ii) has the following characteristics:

(A) the institution is not subject to automatic termination, dissolution, or suspension upon the happening of some event other than the passage of time;

(B) the exclusive authority to manage the institution is vested in a board of managers or directors that:

(I) is elected or appointed by the owners;

(II) is not required to have owners of the institution included on the board;

(III) possesses adequate independence and authority to supervise the operation of the institution; and

(IV) operates with substantially the same rights, powers, privileges, duties, and responsibilities as the board of directors of a corporation;

(C) neither state law, nor the institution's operating agreement, bylaws, or other organizational documents provide that an owner of the institution is liable for the debts, liabilities, and obligations of the institution in excess of the amount of the owner's investment; and

(D) (I) neither state law, nor the institution's operating agreement, bylaws, or other organizational documents require the consent of any other owner of the institution in order for an owner to transfer an ownership interest in the institution, including voting rights; and

(II) the institution is able to obtain new investment funding if needed to maintain adequate capital; and

(iii) is able to comply with all legal and regulatory requirements for an insured depository institution under applicable federal and state law; and

(b) for an institution described in Subsection (1) that is not required to be insured by a federal deposit insurance agency, that the institution will operate in a safe and sound manner.

(4) An institution described in Subsection (3)(a) that is organized as a limited liability company shall maintain the characteristics listed in Subsection (3)(a)(ii) during such time as it is authorized to conduct business under this title as a limited liability company.

(5) (a) All rights, privileges, powers, duties, and obligations of an institution described in Subsection (1) that is organized as a limited liability company and its members and managers shall be governed by ~~[Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or]~~ Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, ~~[as appropriate pursuant to Section 48-3a-1405]~~ except:

~~[(i) the following do not apply to an institution that is described in Subsection (3)(a):]~~

~~[(A) Subsection 48-2e-402(2)(a)(ii);]~~

~~[(B) Section 48-2e-604;]~~

~~[(C) Section 48-2e-703;]~~

~~[(D) Section 48-2e-708;]~~

~~[(E) Subsection 48-2e-801(2);]~~

~~[(F) Section 48-2e-1102;]~~

~~[(G) Section 48-2e-1104; and]~~

~~[(H) Subsections 48-2e-1201(2) through (5);]~~

~~[(iii)] (i) the following do not apply to an institution that is described in Subsection (3)(a):~~

(A) Section 48-3a-111;

(B) Section 48-3a-113;

(C) Section 48-3a-201;

(D) Section 48-3a-401;

(E) Subsections 48-3a-407(1) and (3)(c);

(F) Section 48-3a-410;

(G) Subsection 48-3a-502(1)(c);

(H) Title 48, Chapter 3a, Part 6, Dissociation;

(I) Section 48-3a-701; and

(J) Title 48, Chapter 3a, Part 9, Foreign Limited Liability Companies; and

~~[(iii)] (ii) as otherwise provided in this title.~~

(b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection (3)(a):

(i) for purposes of transferring a member's interests in the institution, a member's interest in the institution shall be treated like a share of stock in a corporation; and

(ii) if a member's interest in the institution is transferred voluntarily or involuntarily to another person, the person who receives the member's interest shall obtain the member's entire rights associated with the member's interest in the institution including:

- (A) all economic rights; and
- (B) all voting rights.

(c) An institution described in Subsection (3)(a) may not by agreement or otherwise change the application of Subsection (5)(a) to the institution.

(6) Unless the context requires otherwise, for the purpose of applying this title to an institution described in Subsection (1) that is organized as a limited liability company:

(a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act, includes the equivalent citation to [~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as appropriate pursuant to Section 48-3a-1405~~];

(b) "articles of incorporation" includes a limited liability company's certificate of organization as that term is used in [~~Section 48-2e-403 or~~] Section 48-3a-201[~~, as appropriate pursuant to Section 48-3a-1405~~];

(c) "board of directors" includes one or more persons who have, with respect to an institution described in Subsection (1), authority substantially similar to that of a board of directors of a corporation;

(d) "bylaws" includes a limited liability company's operating agreement as that term is defined in [~~Section 48-2e-102 or~~] Section 48-3a-201[~~, as appropriate pursuant to Section 48-3a-1405~~];

(e) "corporation" includes a limited liability company organized under [~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as appropriate pursuant to Section 48-3a-1405~~];

(f) "director" includes any of the following of a limited liability company:

- (i) a manager;
- (ii) a director; or

(iii) other person who has with respect to the institution described in Subsection (1), authority substantially similar to that of a director of a corporation;

(g) "dividend" includes distributions made by a limited liability company under [~~Title 48, Chapter 2e, Part 10, Distributions, or~~] Title 48, Chapter 3a, Part 4, Relations of Members to Each Other and to Limited Liability Company[~~, as appropriate pursuant to Section 48-3a-1405~~];

(h) "incorporator" includes an organizer of a limited liability company as provided in [~~Title 48,~~

~~Chapter 2e, Part 4, Formation, or~~] Title 48, Chapter 3a, Part 2, Formation -- Certificate of Organization and Other Filings[~~, as appropriate pursuant to Section 48-3a-1405~~];

(i) "officer" includes any of the following of an institution described in Subsection (1):

- (i) an officer; or

(ii) other person who has with respect to the institution described in Subsection (1) authority substantially similar to that of an officer of a corporation;

(j) "security," "shares," or "stock" of a corporation includes:

(i) a membership interest in a limited liability company as provided in [~~Title 48, Chapter 2e, Part 7, Members, or~~] Title 48, Chapter 3a, Part 4, Relations of Members to Each Other and to Limited Liability Company[~~, as appropriate pursuant to Section 48-3a-1405~~]; and

(ii) a certificate or other evidence of an ownership interest in a limited liability company; and

(k) [~~"stockholder" or "shareholder"~~] "shareholder" or "stockholder" includes an owner of an interest in an institution described in Subsection (1) including a member as provided in [~~Title 48, Chapter 2e, Part 7, Members, or~~] Title 48, Chapter 3a, Part 4, Relations of Members to Each Other and to Limited Liability Company[~~, as appropriate pursuant to Section 48-3a-1405~~].

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules governing the form of a request for approval filed under this section.

(8) A depository institution organized under the laws of this state may not be organized as or converted to a series of transferable interests in a limited liability company as provided in [~~Section 48-2e-606, or~~] Title 48, Chapter 3a, Part 12, Series Limited Liability Companies[~~, as appropriate pursuant to Section 48-3a-1405~~].

Section 2. Section 7-3-10 is amended to read:

7-3-10. Organization -- Powers, rights, and privileges of banking corporation -- Other business activities.

(1) A bank chartered under this chapter shall be:

(a) a domestic corporation under Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

(b) subject to Section 7-1-810, including the requirement that the bank be an S Corporation immediately before becoming a limited liability company, a limited liability company created under [~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as appropriate pursuant to Section 48-3a-1405~~].

(2) A bank has all the rights, privileges, and powers necessary or incidental to carrying on the

business of banking in addition to the powers granted:

(a) if the bank is a corporation, under Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

(b) subject to Section 7-1-810, if the bank is a limited liability company, under [~~Title 48, Chapter 2e, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as appropriate pursuant to Section 48-3a-1405~~].

(3) The commissioner may, by rule or order, determine that necessary or incidental rights, privileges, and powers include:

(a) the rights, privileges, and powers held by national banks; or

(b) other business activities so long as the commissioner's determination is not inconsistent with the rules, regulations, or other actions of the board of governors of the Federal Reserve System under Section 4(c)(8) of the Bank Holding Company Act of 1956, 12 U.S.C. Sec. 1843(c)(8).

(4) The commissioner shall implement this section in a manner consistent with the purposes set forth in Section 7-1-102.

Section 3. Section 7-8-3 is amended to read:

7-8-3. Organization -- Authorization to conduct business -- Deposit insurance.

(1) Subject to Subsection (4), the commissioner may authorize a person described in Subsection (2) to conduct business as an industrial bank.

(2) (a) Each person organized to conduct the business of an industrial bank in this state shall be organized under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

(ii) in accordance with Section 7-1-810[~~, Title 48, Chapter 2e, Utah Revised Limited Liability Company Act,~~] or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as appropriate pursuant to Section 48-3a-1405~~].

(b) A person may not conduct business as an industrial bank authorized under this chapter to conduct business as an industrial bank in any form of entity other than those provided in Subsection (2)(a).

(3) (a) All rights, privileges, powers, duties, and obligations of a corporation authorized to conduct business as an industrial bank and its officers, directors, and stockholders shall be governed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, except as otherwise provided in this title.

(b) All rights, privileges, powers, duties, and obligations of a limited liability company authorized to conduct business as an industrial bank and its members and managers shall be governed by [~~Title 48, Chapter 2e, Utah Revised~~

~~Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, [as appropriate pursuant to Section 48-3a-1405,] except as otherwise provided in this title.

(4) (a) An industrial bank is authorized to receive and hold deposits.

(b) An industrial bank may not conduct business under this chapter as an industrial bank unless the industrial bank obtains insurance from the Federal Deposit Insurance Corporation or a successor federal deposit insurance entity for any deposits received or held by the industrial bank.

Section 4. Section 10-2a-302.5 is amended to read:

10-2a-302.5. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) (i) "Municipal services" means any of the following that are publicly provided:

- (A) culinary water;
- (B) secondary water;
- (C) sewer service;
- (D) law enforcement service;
- (E) fire protection;
- (F) roads;
- (G) refuse collection; or
- (H) weed control.

(ii) "Municipal services" includes the physical facilities required to provide a service described in Subsection (1)(b)(i).

(2) (a) This section applies to individuals who seek to initiate the process of incorporating a town on or after May 9, 2017.

(b) Individuals who reside in a contiguous area of a county that is not within a municipality may incorporate as a town as provided in this section if:

- (i) the area has a population of at least 100 people, but less than 1,000 people; and
- (ii) at least 50% of the voting eligible population in the area are registered voters.

(c) An area within a county of the first class is not contiguous for purposes of Subsection (2)(b) if:

- (i) the area includes a strip of land that connects geographically separate areas; and
- (ii) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(3) (a) Individuals described in Subsection (2) may initiate the process of incorporating a town by filing an application for an incorporation petition with the lieutenant governor that contains:

(i) the name and residential address of at least five sponsors of the petition who meet the qualifications described in Subsection (3)(b) for a sponsor and Subsection (7) for a petition signer;

(ii) a statement certifying that each of the sponsors:

(A) is a resident of the state; and

(B) has voted in a regular general election or municipal general election in the state within the last three years;

(iii) the signature of each sponsor, attested to by a notary public;

(iv) the name of a sponsor who is designated as the contact sponsor;

(v) consistent with the requirements described in Subsection (3)(c), an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(vi) a statement indicating whether persons may be paid for gathering signatures for the petition.

(b) Sponsors may not file a petition under this section if the cumulative private real property that the petition sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

(c) A map described in Subsection (3)(a)(v) may not include an area proposed for annexation in an annexation petition described in Section 10-2-403 that is pending on the day on which the application for the incorporation petition is filed.

(4) (a) If the lieutenant governor determines that an incorporation petition application complies with the requirements described in Subsection (3)(a), the lieutenant governor shall accept the application and mail or transmit written notification of the acceptance to:

(i) the contact sponsor; and

(ii) the Utah Population Estimates Committee.

(b) If the lieutenant governor determines that an application does not comply with the requirements described in Subsection (3)(a), the lieutenant governor shall reject the application and mail or transmit written notification of the rejection, including the reason for the rejection, to the contact sponsor.

(5) (a) Within 20 days after the day on which the lieutenant governor accepts an application under Subsection (4)(a), the Utah Population Estimates Committee shall:

(i) determine the population of the proposed town as of the date the application was filed under Subsection (3) for the proposed town; and

(ii) provide that determination to the lieutenant governor.

(b) If the Utah Population Estimates Committee determines that the population of the proposed town does not meet the requirements described in Subsection (2)(b)(i), the lieutenant governor shall rescind the acceptance described in Subsection (4)(a) and reject the application in accordance with Subsection (4)(b).

(6) Within 30 days after the day on which the lieutenant governor receives the determination described in Subsection (5)(b) but before collecting signatures under Subsection (7), the sponsors of the incorporation petition shall hold a public hearing at which the public may:

(a) review the map or plat of the proposed town described in Subsection (3)(a)(v);

(b) ask questions and receive information about the incorporation of the proposed town; and

(c) express views about the proposed incorporation, including views regarding the boundary of the proposed town.

(7) (a) If, after holding the public hearing described in Subsection (6), the sponsors wish to proceed with the proposed incorporation, the sponsors shall circulate an incorporation petition that, in order to be declared sufficient under Subsection (8)(b)(i), must be signed by:

(i) the owners of private real property that:

(A) is located within the boundaries of the proposed town; and

(B) is collectively greater than or equal to 20% of the assessed value of all private real property within the boundaries of the proposed town; and

(ii) 20% of the registered voters residing within the boundaries of the proposed town, as of the day on which the petition is filed.

(b) The petition sponsors shall ensure that the petition is:

(i) accompanied by and circulated with a copy of the map described in Subsection (3)(a)(v); and

(ii) printed in substantially the following form:

“PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable Lieutenant Governor:

We, the undersigned, respectfully petition the lieutenant governor to direct the county to submit to the registered voters residing within the area described in this petition, in an election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property located within, or is a registered voter residing within, the described area, and that the current residence address of each is correctly written after the signer's name. The area we propose for incorporation as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).”

(c) An individual who signs a petition described in this Subsection (7) may withdraw or reinstate the individual's signature by filing a written, signed statement with the lieutenant governor before the lieutenant governor certifies the petition signatures under Subsection (8).

(d) The petition sponsors shall submit a completed petition to the lieutenant governor no later than 316 days after the day on which the sponsors submit the application described in Subsection (3)(a) to the lieutenant governor.

(8) No later than 20 days after the day on which the sponsors submit the petition to the lieutenant governor under Subsection (7)(d), the lieutenant governor shall:

(a) determine whether the petition complies with the requirements described in Subsection (7); and

(b) (i) if the lieutenant governor determines that the petition complies with the requirements described in Subsection (7):

(A) certify the petition as sufficient; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the lieutenant governor determines that the petition does not comply with the requirements described in Subsection (7):

(A) reject the petition; and

(B) notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(9) (a) Petition sponsors may amend a petition that the lieutenant governor rejected under Subsection (8)(b)(ii) by:

(i) correcting the reason for which the lieutenant governor rejects the petition; and

(ii) submitting an amended petition to the lieutenant governor no later than the deadline described in Subsection (7)(d).

(b) A valid signature on a petition that the lieutenant governor rejects under Subsection (8)(b)(ii) is valid for an amended petition that the petition sponsors submit to the lieutenant governor under Subsection (9)(a).

(c) The lieutenant governor shall review an amended petition in accordance with Subsection (8).

(d) The sponsors of an incorporation petition may not amend the petition more than once.

(10) (a) If the lieutenant governor certifies an incorporation petition as sufficient under Subsection (8), the lieutenant governor shall, within seven days after the day on which the lieutenant governor certifies the petition, mail or transmit written notice of the proposed incorporation to each person who owns private real property that:

(i) is located within the boundaries of the proposed town; and

(ii) has a value that is greater than or equal to 1% of the assessed value of all private real property within the boundaries of the proposed town.

(b) A person described in Subsection (10)(a) may request that the lieutenant governor exclude all or part of the person's property from boundaries of the proposed town if:

(i) the property does not require, and is not expected to require, a municipal service that the proposed town will provide; and

(ii) exclusion of the property will not leave an unincorporated island within the proposed town.

(c) (i) To request exclusion under this Subsection (10), a person described in Subsection (10)(a) shall file a written request with the lieutenant governor within 10 days after the day on which the person receives the notice described in Subsection (10)(a).

(ii) The notice shall describe the property for which the person requests exclusion.

(d) (i) The lieutenant governor shall exclude property from the boundaries of the proposed town if the property is described in a written request filed under Subsection (10)(c) and meets the requirements described in Subsection (10)(b).

(ii) Within five days after the day on which the lieutenant governor excludes the property, the lieutenant governor shall mail or transmit written notice of the exclusion to the person who filed the request and to the contact sponsor.

(11) (a) If the lieutenant governor certifies an incorporation petition as sufficient under Subsection (8), the lieutenant governor shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procure the services of a feasibility consultant to conduct a financial feasibility study on the proposed incorporation.

(b) The lieutenant governor shall ensure that a feasibility consultant selected under Subsection (11)(a):

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with:

(A) a sponsor of the incorporation petition to which the feasibility study relates; or

(B) the county in which the proposed town is located.

(c) The lieutenant governor shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the lieutenant governor no later than 60 days after the day on which the lieutenant governor procures the services of the feasibility consultant.

(d) The financial consultant shall ensure that the financial feasibility study includes:

(i) an analysis of the population and population density within the boundaries of the proposed town and the surrounding area;

(ii) the current and projected five-year demographics of, and tax base within, the

boundaries of the proposed town and the surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (11)(e), the current and five-year projected cost of providing municipal services to the proposed town, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current municipal services providers, the present and five-year projected revenue for the proposed town;

(v) a projection of the tax burden per household of any new taxes that may be levied within the proposed town within five years of the town's incorporation; and

(vi) if the lieutenant governor excludes property from the proposed town under Subsection (10)(d), an update to the map and legal description described in Subsection (3)(a)(v).

(e) (i) For purposes of Subsection (11)(d)(iii), the feasibility consultant shall assume that the proposed town will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the proposed town at the time the feasibility consultant conducts the feasibility study.

(ii) In determining the present cost of municipal services, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide the municipal services for the first five years after the town's incorporation; and

(B) the current municipal services provider's present and five-year projected cost of providing the municipal services.

(iii) In calculating the costs described in Subsection (11)(d)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(f) If the five-year projected revenues described in Subsection (11)(d)(iv) exceed the five-year projected costs described in Subsection (11)(d)(iii) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(g) The lieutenant governor shall publish the feasibility study on the lieutenant governor's website and make a copy of the feasibility study available for public review at the Office of the Lieutenant Governor.

(12) After the lieutenant governor conducts the feasibility study, the lieutenant governor shall hold a public hearing in accordance with Section 10-2a-303.

Section 5. Section 13-34-114 is amended to read:

13-34-114. Consent to use of educational terms in business names.

(1) For purposes of this section:

(a) "Business name" means a name filed with the Division of Corporations and Commercial Code under:

(i) Section 16-6a-401;

(ii) Section 16-10a-401;

(iii) Section 16-11-16;

(iv) Section 42-2-6.6;

(v) Section ~~[48-2a-102 or]~~ 48-2e-108~~[-as appropriate pursuant to Section 48-3a-1405];~~ or

(vi) Section ~~[48-2e-106 or]~~ 48-3a-108~~[-as appropriate pursuant to Section 48-3a-1405].~~

(b) "Educational term" means the term:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution."

(2) If a statute listed in Subsection (1)(a) requires the written consent of the division to file a business name with the Division of Corporations and Commercial Code that includes an educational term, the division may consent to the use of an educational term in accordance with this statute.

(3) The division shall consent to the use of an educational term in a business name if the person seeking to file the name:

(a) is registered under this chapter;

(b) is exempt from the chapter under Section 13-34-105; or

(c) (i) is not engaged in educational activities; and

(ii) does not represent that it is engaged in educational activities.

(4) The division may withhold consent to use of an educational term in a business name if the person seeking to file the name:

(a) offers, sells, or awards a degree or any other type of educational credential; and

(b) fails to provide bona fide instruction through student-faculty interaction according to the standards and criteria established by the division under Subsection 13-34-104(5).

Section 6. Section 16-16-111 is amended to read:

16-16-111. Name.

(1) Use of the term "cooperative" or its abbreviation under this chapter is not a violation of the provisions restricting the use of the term under any other law of this state.

(2) (a) Notwithstanding Section ~~[48-2a-102 or]~~ 48-2e-108, as appropriate pursuant to Section

48-2e-1205, the name of a limited cooperative association shall contain:

(i) the words "limited cooperative association" or "limited cooperative"; or

(ii) the abbreviation "L.C.A." or "LCA".

(b) "Cooperative" may be abbreviated as "Co-op" or "Coop".

(c) "Association" may be abbreviated as "Assoc." or "Assn."

(d) "Limited" may be abbreviated as "Ltd."

(e) (i) Use of the term "cooperative" or its abbreviation as permitted by this chapter is not a violation of the provisions restricting the use of the term under any other law of this state.

(ii) A limited cooperative association or a member may enforce the restrictions on the use of the term "cooperative" under this chapter and any other law of this state.

(iii) A limited cooperative association or a member may enforce the restrictions on the use of the term "cooperative" under any other law of this state.

(3) Except as otherwise provided in Subsection (4), a limited cooperative association may use only a name that is available. A name is available if it is distinguishable in the records of the division from:

(a) the name of any entity organized or authorized to transact business in this state;

(b) a name reserved under Section 16-16-112; and

(c) an alternative name approved for a foreign cooperative authorized to transact business in this state.

(4) A limited cooperative association may apply to the division for authorization to use a name that is not available. The division shall authorize use of the name if:

(a) the person with ownership rights to use the name consents in a record to the use and applies in a form satisfactory to the division to change the name used or reserved to a name that is distinguishable upon the records of the division from the name applied for; or

(b) the applicant delivers to the division a certified copy of the final judgment of a court establishing the applicant's right to use the name in this state.

Section 7. Section 19-1-301 is amended to read:

19-1-301. Adjudicative proceedings.

(1) As used in this section, "dispositive action" means a final agency action that:

(a) the executive director takes following an adjudicative proceeding on a request for agency action; and

(b) is subject to judicial review under Section 63G-4-403.

(2) This section governs adjudicative proceedings that are not special adjudicative proceedings as defined in Section 19-1-301.5.

(3) (a) The department and its boards shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) The procedures for an adjudicative proceeding conducted by an administrative law judge are governed by:

(i) Title 63G, Chapter 4, Administrative Procedures Act;

(ii) this title;

(iii) rules adopted by the department under:

(A) Subsection 63G-4-102(6); or

(B) this title; and

(iv) the Utah Rules of Civil Procedure, in the absence of a procedure established under Subsection (3)(b)(i), (ii), or (iii).

(4) Except as provided in Section 19-2-113, an administrative law judge shall hear a party's request for agency action.

(5) The executive director shall appoint an administrative law judge who:

(a) is a member in good standing of the Utah State Bar;

(b) has a minimum of:

(i) 10 years of experience practicing law; and

(ii) five years of experience practicing in the field of:

(A) environmental compliance;

(B) natural resources;

(C) regulation by an administrative agency; or

(D) a field related to a field listed in Subsections (5)(b)(ii)(A) through (C); and

(c) has a working knowledge of the federal laws and regulations and state statutes and rules applicable to a request for agency action.

(6) In appointing an administrative law judge who meets the qualifications described in Subsection (5), the executive director may:

(a) compile a list of persons who may be engaged as an administrative law judge pro tempore by mutual consent of the parties to an adjudicative proceeding;

(b) appoint an assistant attorney general as an administrative law judge pro tempore; or

(c) (i) appoint an administrative law judge as an employee of the department; and

(ii) assign the administrative law judge responsibilities in addition to conducting an adjudicative proceeding.

- (7) (a) An administrative law judge:
- (i) shall conduct an adjudicative proceeding;
 - (ii) may take any action that is not a dispositive action; and
 - (iii) shall submit to the executive director a proposed dispositive action, including:
 - (A) written findings of fact;
 - (B) written conclusions of law; and
 - (C) a recommended order.
- (b) The executive director may:
- (i) approve, approve with modifications, or disapprove a proposed dispositive action submitted to the executive director under Subsection (7)(a); or
 - (ii) return the proposed dispositive action to the administrative law judge for further action as directed.
- (c) In making a decision regarding a dispositive action, the executive director may seek the advice of, and consult with:
- (i) the assistant attorney general assigned to the department; or
 - (ii) a special master who:
 - (A) is appointed by the executive director; and
 - (B) is an expert in the subject matter of the proposed dispositive action.
- (d) The executive director shall base a final dispositive action on the record of the proceeding before the administrative law judge.
- (8) To conduct an adjudicative proceeding, an administrative law judge may:
- (a) compel:
 - (i) the attendance of a witness; and
 - (ii) the production of a document or other evidence;
 - (b) administer an oath;
 - (c) take testimony; and
 - (d) receive evidence as necessary.
- (9) A party may appear before an administrative law judge in person, through an agent or employee, or as provided by department rule.
- (10) (a) Except as provided in Subsection (10)(b), an administrative law judge or the executive director may not participate in an ex parte communication with a party to an adjudicative proceeding regarding the merits of the adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties.
- (b) The executive director may discuss ongoing operational matters that require the involvement of a division director without violating Subsection (10)(a).

(c) Upon receiving an ex parte communication [with] from a party to a proceeding, an administrative law judge or the executive director shall place the communication in the public record of the proceeding and afford all parties to the proceeding with an opportunity to comment on the communication.

(d) If an administrative law judge or the executive director receives an ex parte communication, the person who receives the ex parte communication shall place the communication into the public record of the proceedings and afford all parties an opportunity to comment on the information.

(11) Nothing in this section limits a party's right to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

Section 8. Section 19-1-301.5 is amended to read:

19-1-301.5. Permit review adjudicative proceedings.

(1) As used in this section:

(a) "Dispositive action" means a final agency action that:

(i) the executive director takes as part of a special adjudicative proceeding; and

(ii) is subject to judicial review, in accordance with Subsection (16).

(b) "Dispositive motion" means a motion that is equivalent to:

(i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

(ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or

(iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

(c) "Financial assurance determination" means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the Division of Waste Management and Radiation Control.

(d) "Party" means:

(i) the director who issued the permit order or financial assurance determination that is being challenged in the special adjudicative proceeding under this section;

(ii) the permittee;

(iii) the person who applied for the permit, if the permit was denied;

(iv) the person who is subject to a financial assurance determination; or

(v) a person granted intervention by the administrative law judge.

(e) "Permit" means any of the following issued under this title:

- (i) a permit;
- (ii) a plan;
- (iii) a license;
- (iv) an approval order; or
- (v) another administrative authorization made by a director.

(f) (i) "Permit order" means an order issued by a director that:

- (A) approves a permit;
- (B) renews a permit;
- (C) denies a permit;
- (D) modifies or amends a permit; or
- (E) revokes and reissues a permit.

(ii) "Permit order" does not include an order terminating a permit.

(g) "Special adjudicative proceeding" means a proceeding under this section to resolve a challenge to a:

- (i) permit order; or
- (ii) financial assurance determination.

(2) This section governs special adjudicative proceedings.

(3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a special adjudicative proceeding under this section.

(4) If a public comment period was provided during the permit application process or the financial assurance determination process, a person who challenges an order or determination may only raise an issue or argument during the special adjudicative proceeding that:

(a) the person raised during the public comment period; and

(b) was supported with information or documentation that is cited with reasonable specificity and sufficiently enables the director to fully consider the substance and significance of the issue.

(5) (a) Upon request by a party, the executive director shall issue a notice of appointment appointing an administrative law judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a special adjudicative proceeding under this section.

(b) The executive director shall issue a notice of appointment within 30 days after the day on which a party files a request.

(c) A notice of appointment shall include:

(i) the agency's file number or other reference number assigned to the special adjudicative proceeding;

(ii) the name of the special adjudicative proceeding; and

(iii) the administrative law judge's name, title, mailing address, email address, and telephone number.

(6) (a) Only the following may file a petition for review of a permit order or financial assurance determination:

(i) a party; or

(ii) a person who is seeking to intervene under Subsection (7).

(b) A person who files a petition for review of a permit order or a financial assurance determination shall file the petition for review within 30 days after the day on which the permit order or the financial assurance determination is issued.

(c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b).

(d) A petition for review shall:

(i) be served in accordance with department rule;

(ii) include the name and address of each person to whom a copy of the petition for review is sent;

(iii) if known, include the agency's file number or other reference number assigned to the special adjudicative proceeding;

(iv) state the date on which the petition for review is served;

(v) include a statement of the petitioner's position, including, as applicable:

(A) the legal authority under which the petition for review is requested;

(B) the legal authority under which the agency has jurisdiction to review the petition for review;

(C) each of the petitioner's arguments in support of the petitioner's requested relief;

(D) an explanation of how each argument described in Subsection (6)(d)(v)(C) was preserved;

(E) a detailed description of any permit condition to which the petitioner is objecting;

(F) any modification or addition to a permit that the petitioner is requesting;

(G) a demonstration that the agency's permit decision is based on a finding of fact or conclusion of law that is clearly erroneous;

(H) if the agency director addressed a finding of fact or conclusion of law described in Subsection (6)(d)(v)(G) in a response to public comment, a citation to the comment and response that relates to the finding of fact or conclusion of law and an explanation of why the director's response was clearly erroneous or otherwise warrants review; and

(I) a claim for relief.

(e) A person may not raise an issue or argument in a petition for review unless the issue or argument:

(i) was preserved in accordance with Subsection (4); or

(ii) was not reasonably ascertainable before or during the public comment period.

(f) To demonstrate that an issue or argument was preserved in accordance with Subsection (4), a petitioner shall include the following in the petitioner's petition for review:

(i) a citation to where the petitioner raised the issue or argument during the public comment period; and

(ii) for each document upon which the petitioner relies in support of an issue or argument, a description that:

(A) states why the document is part of the administrative record; and

(B) demonstrates that the petitioner cited the document with reasonable specificity in accordance with Subsection (4)(b).

(7) (a) A person who is not a party may not participate in a special adjudicative proceeding under this section unless the person is granted the right to intervene under this Subsection (7).

(b) A person who seeks to intervene in a special adjudicative proceeding under this section shall, within 30 days after the day on which the permit order or the financial assurance determination being challenged was issued, file:

(i) a petition to intervene that:

(A) meets the requirements of Subsection 63G-4-207(1); and

(B) demonstrates that the person is entitled to intervention under Subsection (7)(d)(ii); and

(ii) a timely petition for review.

(c) In a special adjudicative proceeding to review a permit order, the permittee is a party to the special adjudicative proceeding regardless of who files the petition for review and does not need to file a petition to intervene under Subsection (7)(b).

(d) An administrative law judge shall grant a petition to intervene in a special adjudicative proceeding, if:

(i) the petition to intervene is timely filed; and

(ii) the petitioner:

(A) demonstrates that the petitioner's legal interests may be substantially affected by the special adjudicative proceeding;

(B) demonstrates that the interests of justice and the orderly and prompt conduct of the special adjudicative proceeding will not be materially impaired by allowing the intervention; and

(C) in the petitioner's petition for review, raises issues or arguments that are preserved in accordance with Subsection (4).

(e) An administrative law judge:

(i) shall issue an order granting or denying a petition to intervene in accordance with Subsection 63G-4-207(3)(a); and

(ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b) and (c).

(f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8) (a) Unless the parties otherwise agree, or the administrative law judge otherwise orders, a special adjudicative proceeding shall be conducted as follows:

(i) the director shall file and serve the administrative record within 40 days after the day on which the executive director issues a notice of appointment, unless otherwise ordered by the administrative law judge;

(ii) any dispositive motion shall be filed and served within 15 days after the day on which the administrative record is filed and served;

(iii) the petitioner shall file and serve an opening brief of no more than 30 pages:

(A) within 30 days after the day on which the director files and serves the administrative record; or

(B) if a party files and serves a dispositive motion, within 30 days after the day on which the administrative law judge issues a decision on the dispositive motion, including a decision to defer the motion;

(iv) each responding party shall file and serve a response brief of no more than 30 pages within 15 days after the day on which the petitioner files and serves the opening brief;

(v) the petitioner may file and serve a reply brief of not more than 15 pages within 15 days after the day on which the response brief is filed and served; and

(vi) if the petitioner files and serves a reply brief, each responding party may file and serve a surreply brief of no more than 15 pages within five business days after the day on which the petitioner files and serves the reply brief.

(b) (i) A reply brief may not raise an issue that was not raised in the response brief.

(ii) A surreply brief may not raise an issue that was not raised in the reply brief.

(9) (a) An administrative law judge shall conduct a special adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the petition for review, the administrative record consists of the following items, if they exist:

(i) (A) for review of a permit order, the permit application, draft permit, and final permit; or

(B) for review of a financial assurance determination, the proposed financial assurance determination from the owner or operator of the facility, the draft financial assurance determination, and the final financial assurance determination;

(ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(iii) the notice and record of each public comment period;

(iv) the notice and record of each public hearing, including oral comments made during the public hearing;

(v) written comments submitted during the public comment period;

(vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(vii) any information that is:

(A) requested by and submitted to the director; and

(B) designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(viii) any additional information specified by rule;

(ix) any additional documents agreed to by the parties; and

(x) information supplementing the record under Subsection (9)(c).

(c) (i) There is a rebuttable presumption against supplementing the record.

(ii) A party may move to supplement the record described in Subsection (9)(b) with technical or factual information.

(iii) The administrative law judge may grant a motion to supplement the record described in Subsection (9)(b) with technical or factual information if the moving party proves that:

(A) good cause exists for supplementing the record;

(B) supplementing the record is in the interest of justice; and

(C) supplementing the record is necessary for resolution of the issues.

(iv) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.

(10) (a) Except as otherwise provided by this section, the administrative law judge shall review and respond to a petition for review in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.

(b) The administrative law judge shall require the parties to file responsive briefs in accordance with Subsection (8).

(c) If an administrative law judge enters an order of default against a party, the administrative law judge shall enter the order of default in accordance with Section 63G-4-209.

(d) The administrative law judge, in conducting a special adjudicative proceeding:

(i) may not participate in an ex parte communication with a party to the special adjudicative proceeding regarding the merits of the special adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties; and

(ii) shall, upon receiving an ex parte communication, place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.

(e) In conducting a special adjudicative proceeding, the administrative law judge may take judicial notice of matters not in the administrative record, in accordance with Utah Rules of Evidence, Rule 201.

(f) An administrative law judge may take any action in a special adjudicative proceeding that is not a dispositive action.

(11) (a) A person who files a petition for review has the burden of demonstrating that an issue or argument raised in the petition for review has been preserved in accordance with Subsection (4).

(b) The administrative law judge shall dismiss, with prejudice, any issue or argument raised in a petition for review that has not been preserved in accordance with Subsection (4).

(12) In response to a dispositive motion, within 45 days after the day on which oral argument takes place, or, if there is no oral argument, within 45 days after the day on which the reply brief on the dispositive motion is due, the administrative law judge shall:

(a) submit a proposed dispositive action to the executive director recommending full or partial resolution of the special adjudicative proceeding, that includes:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order; or

(b) if the administrative law judge determines that a full or partial resolution of the special adjudicative proceeding is not appropriate, issue an order that explains the basis for the administrative law judge's determination.

(13) For each issue or argument that is not dismissed or otherwise resolved under Subsection (11)(b) or (12), the administrative law judge shall:

(a) provide the parties an opportunity for briefing and oral argument in accordance with this section;

(b) conduct a review of the director's order or determination, based on the record described in Subsections (9)(b), (9)(c), and (10)(e); and

(c) within 60 days after the day on which the reply brief on the dispositive motion is due, submit to the executive director a proposed dispositive action, that includes:

- (i) written findings of fact;
- (ii) written conclusions of law; and
- (iii) a recommended order.

(14) (a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:

(i) adopt, adopt with modifications, or reject the proposed dispositive action; or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based on the petitioner's marshaling of the evidence.

(c) In reviewing a proposed dispositive action during a special adjudicative proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.

(d) The executive director may use the executive director's technical expertise in making a determination.

(15) (a) Except as provided in Subsection (15)(b), the executive director may not participate in an ex parte communication with a party to a special adjudicative proceeding regarding the merits of the special adjudicative proceeding, unless notice and opportunity to be heard are afforded to all parties involved in the proceeding.

(b) The executive director may discuss ongoing operational matters that require the involvement of a division director without violating Subsection (15)(a).

(c) Upon receiving an ex parte communication [with] from a party to a proceeding, the executive director shall place the communication in the public record of the proceeding and afford all parties to the proceeding with an opportunity to comment on the communication.

(16) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a special adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.

(b) An appellate court shall limit its review of a dispositive action of a special adjudicative proceeding under this section to:

(i) the record described in Subsections (9)(b), (9)(c), (10)(e), and (14)(c); and

(ii) the record made by the administrative law judge and the executive director during the special adjudicative proceeding.

(c) During judicial review of a dispositive action, the appellate court shall:

(i) review all agency determinations in accordance with Subsection 63G-4-403(4), recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and

(ii) uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based upon the petitioner's marshaling of the evidence.

(17) (a) The filing of a petition for review does not:

(i) stay a permit order or a financial assurance determination; or

(ii) delay the effective date of a permit order or a portion of a financial assurance determination.

(b) A permit order or a financial assurance determination may not be stayed or delayed unless a stay is granted under this Subsection (17).

(c) The administrative law judge shall:

(i) consider a party's motion to stay a permit order or a financial assurance determination during a special adjudicative proceeding; and

(ii) within 45 days after the day on which the reply brief on the motion to stay is due, submit a proposed determination on the stay to the executive director.

(d) The administrative law judge may not recommend to the executive director a stay of a permit order or a financial assurance determination, or a portion of a permit order or a portion of a financial assurance determination, unless:

(i) all parties agree to the stay; or

(ii) the party seeking the stay demonstrates that:

(A) the party seeking the stay will suffer irreparable harm unless the stay is issued;

(B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(C) the stay, if issued, would not be adverse to the public interest; and

(D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.

(e) A party may appeal the executive director's decision regarding a stay of a permit order or a

financial assurance determination to the Utah Court of Appeals, in accordance with Section 78A-4-103.

(18) (a) Subject to Subsection (18)(c), the administrative law judge shall issue a written response to a non-dispositive motion within 45 days after the day on which the reply brief on the non-dispositive motion is due or, if the administrative law judge grants oral argument on the non-dispositive motion, within 45 days after the day on which oral argument takes place.

(b) If the administrative law judge determines that the administrative law judge needs more time to issue a response to a non-dispositive motion, the administrative law judge may issue a response after the deadline described in Subsection (18)(a) if, before the deadline expires, the administrative law judge gives notice to the parties that includes:

(i) the amount of additional time that the administrative law judge requires; and

(ii) the reason the administrative law judge needs the additional time.

(c) If the administrative law judge grants oral argument on a non-dispositive motion, the administrative law judge shall hold the oral argument within 30 days after the day on which the reply brief on the non-dispositive motion is due.

Section 9. Section 19-1-507 is amended to read:

19-1-507. Civil action.

(1) The attorney general or a person may bring a civil action in a court of competent jurisdiction to seek:

(a) an injunction to enforce ~~the~~ this part; and

(b) if the action is brought by the attorney general, a civil penalty not to exceed \$500 for each day ~~the~~ this part is violated.

(2) In an action brought under this section, a court may:

(a) order injunctive relief;

(b) impose a civil penalty to the extent provided in Subsection (1);

(c) award attorney fees and costs to the attorney general or person who brings the civil action, if the attorney general or person prevails; or

(d) take a combination of actions under this Subsection (2).

(3) A civil penalty imposed under this section shall be deposited into the General Fund.

Section 10. Section 19-1-601 is amended to read:

19-1-601. Title.

This ~~chapter~~ part is known as the "Environmental Mitigation and Response Act."

Section 11. Section 19-1-602 is amended to read:

19-1-602. Definitions.

As used in this ~~chapter~~ part:

(1) "Environmental mitigation" means an action or activity intended to remedy, reduce, or offset known negative impacts to the environment.

(2) "Environmental response action" means action taken to prevent, eliminate, minimize, investigate, monitor, clean up, or remove contaminants in the environment.

(3) "Financial assurance" means a mechanism or instrument intended to provide funds if necessary to the department to conduct closure, monitoring, or cleanup of a specific facility or site in accordance with the applicable environmental requirements provided in this title.

(4) "Funding source" means an individual or entity that provides a monetary contribution to the Environmental Mitigation and Response Fund.

(5) "Natural resource damage" means damages to land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other resources that are held in trust for the public or otherwise controlled by the United States, the state, or local government.

(6) "Unused funds" means the remaining funds from a specific funding source following the complete implementation of the environmental mitigation or response actions pursuant to the terms and conditions of the contribution.

Section 12. Section 19-2-107 is amended to read:

19-2-107. Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) (a) The director shall:

(i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;

(ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(iii) review plans, specifications, or other data relative to air pollution control equipment or any part of the air pollution control equipment;

(iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;

(v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

(viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(ix) monitor the effects of the emission of air pollutants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

(x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;

(xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;

(xii) comply with the requirements of federal air pollution laws;

(xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:

(A) prohibiting or abating discharges of wastes affecting ambient air;

(B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or

(C) adopting other remedial measures to prevent, control, or abate air pollution; and

(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

(b) The director may:

(i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;

(ii) subject to the provisions of this chapter, authorize an employee or representative of the department to enter at reasonable [time] times and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;

(iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;

(v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;

(vi) subject to Subsection (3), upon request, consult concerning the following with a person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:

(A) the efficacy of proposed air pollution control equipment for the source; or

(B) the air pollution problem that may be related to the source;

(vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; or

(ix) subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to state or federal authorities for tax purposes that air pollution control equipment has been certified in conformity with Title 19, Chapter 12, Pollution Control Act.

(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Section 13. Section 19-3-105 is amended to read:

19-3-105. Definitions -- Legislative and gubernatorial approval required for radioactive waste license -- Exceptions -- Application for new, renewed, or amended license.

(1) As used in this section:

(a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

(b) "Approval application" means an application by a radioactive waste facility regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license, registration, certification, or other authorization.

(c) (i) "Class A low-level radioactive waste" means:

(A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

(B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.

(ii) "Class A low-level radioactive waste" does not include:

(A) uranium mill tailings;

(B) naturally occurring radioactive materials; or

(C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:

(I) uranium-233; and

(II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:

(Aa) to ensure criticality safety for a radioactive waste facility in the state; and

(Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.

(d) (i) "Radioactive waste facility" or "facility" means a facility that decays radioactive waste in storage, treats radioactive waste, or disposes of radioactive waste:

(A) commercially for profit; or

(B) generated at locations other than the radioactive waste facility.

(ii) "Radioactive waste facility" does not include a facility that receives:

(A) alternate feed material for reprocessing; or

(B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).

(e) "Radioactive waste license" or "license" means a radioactive material license issued by the director [under ~~Subsection 19-3-108(2)(d),~~] to own, construct, modify, or operate a radioactive waste facility.

(2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.

(3) Subject to Subsection (8), a person may not own, construct, modify, or operate a radioactive waste facility without:

(a) having received a radioactive waste license for the facility;

(b) meeting the requirements established by rule under Section 19-3-104;

(c) the approval of the governing body of the municipality or county responsible for local planning and zoning where the radioactive waste is or will be located; and

(d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the approval of the governor and the Legislature.

(4) Subject to Subsection (8), a new radioactive waste license application, or an application to renew or amend an existing radioactive waste license, is subject to the requirements of

Subsections (3)(b) through (d) if the application, renewal, or amendment:

(a) specifies a different geographic site than a previously submitted application;

(b) would cost 50% or more of the cost of construction of the original radioactive waste facility or the modification would result in an increase in capacity or throughput of a cumulative total of 50% of the total capacity or throughput which was approved in the facility license as of January 1, 1990, or the initial approval facility license if the initial license approval is subsequent to January 1, 1990; or

(c) requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste having a higher radionuclide concentration limit than allowed, under an existing approved license held by the facility, for the specific type of waste to be decayed in storage, treated, or disposed of.

(5) The requirements of Subsection (4)(c) do not apply to an application to renew or amend an existing radioactive waste license if:

(a) the radioactive waste facility requesting the renewal or amendment has received a license prior to January 1, 2004; and

(b) the application to renew or amend its license is limited to a request to approve the receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level radioactive waste.

(6) A radioactive waste facility that receives a new radioactive waste license after May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license application, renewal, or amendment that requests approval to decay radioactive waste in storage, treat radioactive waste, or dispose of radioactive waste not previously approved under an existing license held by the facility.

(7) If the board finds that approval of additional radioactive waste license applications, renewals, or amendments will result in inadequate oversight, monitoring, or licensure compliance and enforcement of existing and any additional radioactive waste facilities, the board shall suspend acceptance of further applications for radioactive waste licenses. The board shall report the suspension to the Legislative Management Committee.

(8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(10) do not apply to:

(a) a radioactive waste license that is in effect on December 31, 2006, including all amendments to the license that have taken effect as of December 31, 2006;

(b) a license application for a facility in existence as of December 31, 2006, unless the license application includes an area beyond the facility boundary approved in the license described in Subsection (8)(a); or

(c) an application to renew or amend a license described in Subsection (8)(a), unless the renewal or

amendment includes an area beyond the facility boundary approved in the license described in Subsection (8)(a).

(9) (a) The director shall review an approval application to determine whether the application complies with the requirements of this chapter and the rules of the board.

(b) Within 60 days after the day on which the director receives an approval application described in Subsection (10)(a)(ii) or (iii), the director shall:

(i) determine whether the application is complete and contains all the information necessary to process the application for approval; and

(ii) (A) issue a notice of completeness to the applicant; or

(B) issue a notice of deficiency to the applicant and list the additional information necessary to complete the application.

(c) The director shall review information submitted in response to a notice of deficiency within 30 days after the day on which the director receives the information.

(10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) categorize approval applications as follows:

(i) approval applications that:

(A) are administrative in nature;

(B) require limited scrutiny by the director; and

(C) do not require public input;

(ii) approval applications that:

(A) require substantial scrutiny by the director;

(B) require public input; and

(C) are not described in Subsection (10)(a)(iii); and

(iii) approval applications for:

(A) the granting or renewal of a radioactive waste license;

(B) the granting or renewal of a groundwater permit issued by the director for a radioactive waste facility;

(C) an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell;

(D) an amendment to a radioactive waste license or groundwater discharge permit for a radioactive waste facility to eliminate groundwater monitoring; and

(E) a radioactive waste facility closure plan;

(b) provide time periods for the director to review, and approve or deny, an application described in Subsection (10)(a) as follows:

(i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day on which the director receives the application;

(ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the day on which the director receives the application;

(iii) for applications categorized under Subsection (10)(a)(iii), as follows:

(A) for a new radioactive waste license, within 540 days after the day on which the director receives the application;

(B) for a new groundwater permit issued by the director for a radioactive waste facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after the day on which the director receives the application;

(C) for a radioactive waste license renewal, within 365 days after the day on which the director receives the application;

(D) for a groundwater permit renewal issued by the director for a radioactive waste facility, within 365 days after the day on which the director receives the application;

(E) for an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell, within 365 days after the day on which the director receives the application;

(F) for an amendment to a radioactive waste license, or a groundwater discharge permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days after the day on which the director receives the application; and

(G) for a radioactive waste facility closure plan, within 365 days after the day on which the director receives the application;

(c) toll the time periods described in Subsection (10)(b):

(i) while an owner or operator of a facility responds to the director's request for information;

(ii) during a public comment period; or

(iii) while the federal government reviews the application; and

(d) require the director to prepare a detailed written explanation of the basis for the director's approval or denial of an approval application.

Section 14. Section 19-3-301 is amended to read:

19-3-301. Restrictions on nuclear waste placement in state.

(1) The placement, including transfer, storage, decay in storage, treatment, or disposal, within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste is prohibited.

(2) Notwithstanding Subsection (1) the governor, after consultation with the county executive and county legislative body of the affected county and

with concurrence of the Legislature, may specifically approve the placement as provided in this part, but only if:

(a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A. 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste; and

(ii) the authority of the federal Nuclear Regulatory Commission to grant a license under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent jurisdiction; or

(b) an agency of the federal government is transporting the waste, and all state and federal requirements to proceed with the transportation have been met.

(3) The requirement for the approval of a final court of competent jurisdiction shall be met in all of the following categories, in order for a state license proceeding regarding waste to begin:

(a) transfer or transportation, by rail, truck, or other mechanisms;

(b) storage, including any temporary storage at a site away from the generating reactor;

(c) decay in storage;

(d) treatment; and

(e) disposal.

(4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the governor, with the concurrence of the attorney general, shall certify in writing to the executive director of the Department of Environmental Quality that all of the requirements have been met, and that any necessary state licensing processes may begin.

(b) Separate certification under this Subsection (4) shall be given for each category in Subsection (3).

(5) (a) The department shall make, by rule, a determination of the dollar amount of the health and economic costs expected to result from a reasonably foreseeable accidental release of waste involving a transfer facility or storage facility, or during transportation of waste, within the exterior boundaries of the state. The department may initiate rulemaking under this Subsection (5)(a) on or after March 15, 2001.

(b) (i) The department shall also determine the dollar amount currently available to cover the costs as determined in Subsection (5)(a):

(A) under nuclear industry self-insurance;

(B) under federal insurance requirements; and

(C) in federal money.

(ii) The department may not include any calculations of federal money that may be appropriated in the future in determining the amount under Subsection (5)(b)(i).

(c) The department shall use the information compiled under Subsections (5)(a) and (b) to determine the amount of unfunded potential liability in the event of a release of waste from a storage or transfer facility, or a release during the transportation of waste.

(6) (a) State agencies may not, for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste, enter into any contracts or any other agreements prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application proceeding for a storage facility or transfer facility.

(b) Political subdivisions of the state may not enter into any contracts or any other agreements for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste.

(c) This Subsection (6) does not prohibit a state agency from exercising the regulatory authority granted to it by law.

(7) (a) Notwithstanding any other provision of law, any political subdivision may not be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to the satisfaction of the conditions in Subsection (4). These political subdivisions include:

(i) a cooperative;

(ii) a local district authorized by Title 17B, Limited Purpose Local Government Entities - Local Districts;

(iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

(iv) a limited purpose local governmental [entities] entity authorized by Title 17, Counties;

(v) any joint power agreement authorized by Title 11, Cities, Counties, and Local Taxing Units; and

(vi) the formation of a municipality, or any authority of a municipality authorized by Title 10, Utah Municipal Code.

(b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision authorized and formed under the laws of the state on or after March 15, 2001, which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility is formed in violation of Subsection (7)(a).

(ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political subdivision are considered to have knowingly violated a provision of this part, and the penalties of Section 19-3-312 apply.

(8) (a) An organization may not be formed for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(b) A foreign organization may not be registered to do business in the state for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

(i) the formation of a new organization or registration of a foreign organization within the state, any of whose purposes are to provide goods, services, or municipal-type services to a storage facility or transfer facility may not be licensed or registered in the state, and the local or foreign organization is void and does not have authority to operate within the state;

(ii) any organization which is formed or registered on or after March 15, 2001, and which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility has been formed or registered in violation of Subsection (8)(a) or (b) respectively; and

(iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the organization or the principals of the foreign organization, are considered to have knowingly violated a provision of this part, and are subject to the penalties in Section 19-3-312.

(9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type services to any organization engaging in, or attempting to engage in the placement of high-level nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility within the state are declared to be against the greater public interest, health, and welfare of the state, by promoting an activity which has the great potential to cause extreme public harm.

(ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or informal, are

declared to be void from inception, agreement, or execution as against public policy.

(b) (i) Any contract or other agreement to provide goods, services, or municipal-type services to storage or transfer facilities may not be executed within the state.

(ii) Any contract or other agreement, existing or executed on or after March 15, 2001, is considered void from the time of agreement or execution.

(10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual transaction fee of 75% of the gross value of the contract to the party providing the goods, services, or municipal-type services to the storage facility or transfer facility or transportation entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or before the last day of each month in accordance with rules established under Subsection (10)(d), and as follows:

(i) 25% of the gross value of the contract to the department; and

(ii) 50% of the gross value of the contract to the Department of Heritage and Arts, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).

(b) Contracts and agreements subject to the fee under Subsection (10)(a) are those contracts and agreements to provide goods, services, or municipal-type services to a storage or transfer facility, or to any organization engaged in the transportation of high-level nuclear waste or greater than class C radioactive waste to a transfer facility or storage facility, and which:

(i) are in existence on March 15, 2001; or

(ii) become effective notwithstanding Subsection (9)(a).

(c) Any governmental agency which regulates the charges to consumers for services provided by utilities or other organizations shall require the regulated utility or organization to include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods, services, or municipal-type services affected by Subsection (10)(b).

(d) (i) The department, in consultation with the State Tax Commission, shall establish rules for the valuation of the contracts and assessment and collection of the fees, and other rules as necessary to determine the amount of and collection of the fee under Subsection (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after March 15, 2001.

(ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and remit that amount to the department on or before July 31, 2001.

(11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to the Department of Heritage and Arts for use by the Utah Division of Indian Affairs shall be used for establishment of a statewide community and

economic development program for the tribes of Native American people within the exterior boundaries of the state who have by tribal procedure established a position rejecting siting of any nuclear waste facility on their reservation lands.

(b) The program under Subsection (11)(a) shall include:

- (i) educational services and facilities;
- (ii) health care services and facilities;
- (iii) programs of economic development;
- (iv) utilities;
- (v) sewer;
- (vi) street lighting;
- (vii) roads and other infrastructure; and
- (viii) oversight and staff support for the program.

(12) It is the intent of the Legislature that this part does not prohibit or interfere with a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a storage facility or transfer facility within the borders of the state for the placement of high-level nuclear waste or greater than class C radioactive waste.

Section 15. Section 19-5-107 is amended to read:

19-5-107. Discharge of pollutants unlawful -- Discharge permit required.

(1) (a) Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish, or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any [wastes] waste in a location where there is probable cause to believe it will cause pollution.

(b) For purposes of injunctive relief, any violation of this subsection is a public nuisance.

(2) (a) A person may not generate, store, treat, process, use, transport, dispose, or otherwise manage sewage sludge, except in compliance with this chapter and rules made under it.

(b) For purposes of injunctive relief, any violation of this subsection is a public nuisance.

(3) It is unlawful for any person, without first securing a permit from the director, to:

(a) make any discharge or manage sewage sludge not authorized under an existing valid discharge permit; or

(b) construct, install, modify, or operate any treatment works or part of any treatment works or any extension or addition to any treatment works, or construct, install, or operate any establishment

or extension or modification of or addition to any treatment works, the operation of which would probably result in a discharge.

Section 16. Section 19-6-102.1 is amended to read:

19-6-102.1. Treatment and disposal -- Exclusions.

As used in Subsections 19-6-104(3)(e)(ii)(B), 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B), and 19-6-119(1)(a), [and 19-3-103.5(2)(f)(i) and (ii),] the term "treatment and disposal" specifically excludes the recycling, use, reuse, or reprocessing of fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; waste from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other construction-related purposes.

Section 17. Section 19-6-105 is amended to read:

19-6-105. Rules of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) establishing minimum standards for protection of human health and the environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites;

(b) identifying wastes which are determined to be hazardous, including wastes designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Sec. 6921, et seq.;

(c) governing generators and transporters of hazardous wastes and owners and operators of hazardous waste treatment, storage, and disposal facilities, including requirements for keeping records, monitoring, submitting reports, and using a manifest, without treating high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling muds, and oil production brines in a manner more stringent than they are treated under federal standards;

(d) requiring an owner or operator of a treatment, storage, or disposal facility that is subject to a plan approval under Section 19-6-108 or which received waste after July 26, 1982, to take appropriate corrective action or other response measures for releases of hazardous waste or hazardous waste constituents from the facility, including releases beyond the boundaries of the facility;

(e) specifying the terms and conditions under which the director shall approve, disapprove, revoke, or review hazardous wastes operation plans;

(f) governing public hearings and participation under this part;

(g) establishing standards governing underground storage tanks, in accordance with Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

(h) relating to the collection, transportation, processing, treatment, storage, and disposal of infectious waste in health facilities in accordance with the requirements of Section 19-6-106;

(i) defining closure plans as major or minor;

(j) defining modification plans as major or minor; and

(k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or well.

(2) If any of the following are determined to be hazardous waste and are therefore subjected to the provisions of this part, the board shall, in the case of landfills or surface impoundments that receive the solid wastes, take into account the special characteristics of the wastes, the practical difficulties associated with applying requirements for other wastes to the wastes, and [site specific] site-specific characteristics, including the climate, geology, hydrology, and soil chemistry at the site, if the modified requirements assure protection of human health and the environment and are no more stringent than federal standards applicable to [wastes] waste:

(a) solid waste from the extraction, beneficiation, or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium;

(b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and

(c) cement kiln dust waste.

(3) The board shall establish criteria for siting commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators. Those criteria shall apply to any facility or incinerator for which plan approval is required under Section 19-6-108.

Section 18. Section 19-6-402 is amended to read:

19-6-402. Definitions.

As used in this part:

(1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:

(a) a release from an underground storage tank or petroleum storage tank; or

(b) the damage caused by that release.

(2) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(3) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a person.

(4) "Certificate of compliance" means a certificate issued to a facility by the director:

(a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and

(b) listing all tanks at the facility, specifying:

(i) which tanks may receive petroleum; and

(ii) which tanks have not met the requirements for compliance.

(5) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that an owner or operator of a facility containing one or more underground storage tanks has:

(a) registered the tanks; and

(b) paid the annual underground storage tank fee.

(6) (a) "Certified underground storage tank consultant" means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation;

(ii) has submitted an application to the director;

(iii) received a written statement of certification from the director; and

(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) "Certified underground storage tank consultant" does not include:

(i) (A) an employee of the owner or operator of the underground storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the underground storage tank, and markets petroleum products or manages underground storage tanks; or

(ii) a person licensed to practice law in this state who offers only legal advice on underground storage tank release:

(A) management;

(B) abatement;

- (C) investigation;
- (D) corrective action; or
- (E) evaluation.
- (7) "Closed" means an underground storage tank no longer in use that has been:
- (a) emptied and cleaned to remove all liquids and accumulated sludges; and
- (b) (i) removed from the ground; or
- (ii) filled with an inert solid material.
- (8) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:
- (a) cleanup or removal of the release;
- (b) containment or isolation of the release;
- (c) treatment of the release;
- (d) correction of the cause of the release;
- (e) monitoring and maintenance of the site of the release;
- (f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or
- (g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.
- (9) "Costs" means money expended for:
- (a) investigation;
- (b) abatement action;
- (c) corrective action;
- (d) judgments, awards, and settlements for bodily injury or property damage to third parties;
- (e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or
- (f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.
- (10) "Covered by the fund" means the requirements of Section 19-6-424 have been met.
- (11) "Director" means the director of the Division of Environmental Response and Remediation.
- (12) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).
- (13) "Dwelling" means a building that is usually occupied by a person lodging there at night.
- (14) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.

(15) "Facility" means all underground storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

(16) "Fund" means the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

(17) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of an underground storage tank that is in use for the storage, use, or dispensing of a regulated substance.

(18) "Owner" means:

(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance; and

(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance.

(19) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

(20) "Petroleum storage tank" means a tank that:

(a) (i) is underground;

(ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq.; and

(iii) contains petroleum; or

(b) the owner or operator voluntarily submits for participation in the Petroleum Storage Tank Trust Fund under Section 19-6-415.

(21) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

(22) "Program" means the Environmental Assurance Program under Section 19-6-410.5.

(23) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

(24) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(25) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from an underground storage tank or petroleum storage tank.

(b) A release of a regulated substance from an underground storage tank or petroleum storage tank is considered a single release from that tank system.

(26) (a) "Responsible party" means a person who:

- (i) is the owner or operator of a facility;
- (ii) owns or has legal or equitable title in a facility or an underground storage tank;
- (iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;
- (iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is an underground storage tank installation company.

(b) "Responsible party" is as defined in Subsections (26)(a)(i), (ii), and (iii) does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection (26)(b)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection (26)(b)(i)(B).

(27) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

(28) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

(29) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

(a) a petroleum storage tank;

(b) underground pipes and lines connected to a storage tank;

(c) underground ancillary equipment;

(d) a containment system; and

(e) each compartment of a multi-compartment storage tank.

(30) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization ~~who~~ that installs underground storage tanks.

(31) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.

(32) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified underground storage tank consultant to assist in carrying out the functions described in Subsection (6)(a).

Section 19. Section 19-6-503 is amended to read:

19-6-503. Powers and duties of public entities.

(1) Subject to the powers and rules of the department and except as provided by Section 19-6-507, a governing body of a public entity may:

(a) supervise and regulate the collection, transportation, and disposition of solid waste generated within its jurisdiction;

(b) provide a solid waste management facility to adequately handle solid waste generated or existing within or without its jurisdiction;

(c) assume, by agreement, responsibility for the collection and disposition of solid waste whether generated within or without its jurisdiction;

(d) enter into a short- or long-term interlocal agreement to provide for or operate a solid waste management facility with:

(i) another public entity;

(ii) a public agency, as defined in Section 11-13-103;

(iii) a private person; or

(iv) a combination of persons listed in Subsections (1)(d)(i) through (iii);

(e) levy and collect a tax, fee, or charge or require a license as may be appropriate to discharge its responsibility for the acquisition, construction, operation, maintenance, and improvement of a solid waste management facility, including licensing a private collector operating within its jurisdiction;

(f) require that solid waste generated within its jurisdiction be delivered to a solid waste management facility;

(g) control the right to collect, transport, and dispose of solid waste generated within its jurisdiction;

(h) agree that, according to Section 19-6-505, the exclusive right to collect, transport, and dispose of solid waste within its jurisdiction may be assumed by:

- (i) another public entity;
 - (ii) a private person; or
 - (iii) a combination of persons listed in Subsections (1)(h)(i) through (ii);
- (i) accept and disburse funds derived from a federal or state grant, a private source, or money that may be appropriated by the Legislature for the acquisition, construction, ownership, operation, maintenance, and improvement of a solid waste management facility;
- (j) contract for the lease or purchase of land, a facility, or a vehicle for the operation of a solid waste management facility;
- (k) establish one or more policies for the operation of a solid waste management facility, including:
- (i) hours of operation;
 - (ii) character and kind of wastes accepted at a disposal site; and
 - (iii) ~~another~~ any other policy necessary for the safety of the operating personnel;
- (l) sell or contract for the sale, according to a short or long-term agreement, of usable material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste in a solid waste management facility, on terms in its best interest;
- (m) pledge, assign, or otherwise convey as security for the payment of bonds, revenues and receipts derived from the sale or contract or from the operation and ownership of a solid waste management facility or an interest in it;
- (n) issue a bond according to Title 11, Chapter 14, Local Government Bonding Act;
- (o) issue industrial development revenue bonds according to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project consisting of a solid waste management facility on behalf of an entity that constitutes the users of a solid waste management facility project within the meaning of Section 11-17-2;
- (p) agree to construct and operate or to provide for the construction and operation of a solid waste management facility project, which project manages the solid waste of a public entity or private person, according to one or more contracts and other arrangements provided for in a proceeding according to which a bond is issued; and
- (q) issue a bond to pay the cost of establishing reserves to pay principal and interest on the bonds as provided for in the proceedings according to which the bonds are issued.

(2) The power to issue a bond under this section is in addition to the power to issue a bond under Title

11, Chapter 17, Utah Industrial Facilities and Development Act.

Section 20. Section 19-6-706 is amended to read:

19-6-706. Disposal of used oil -- Prohibitions.

(1) (a) Except as authorized by the director, or by rule of the board, or as exempted in this section, a person may not place, discard, or otherwise dispose of used oil:

(i) in any solid waste treatment, storage, or disposal facility operated by a political subdivision or a private entity, except as authorized for the disposal of used oil that is hazardous waste under state law;

(ii) in sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or any body of water; or

(iii) on the ground.

(b) A person who unknowingly disposes of used oil in violation of Subsection (1)(a)(i) is not guilty of a violation of this section.

(2) (a) A person may dispose of an item or substance that contains de minimis amounts of oil in disposal facilities under Subsection (1)(a)(i) if:

(i) to the extent reasonably possible all oil has been removed from the item or substance; and

(ii) no free flowing oil remains in the item or substance.

(b) (i) A nonterne plated used oil filter complies with this section if it is not mixed with hazardous waste and the oil filter has been gravity hot-drained by one of the following methods:

(A) puncturing the filter antidrain back valve or the filter dome end and gravity hot-draining;

(B) gravity hot-draining and crushing;

(C) dismantling and gravity hot-draining; or

(D) any other equivalent gravity hot-draining method that will remove used oil from the filter at least as effectively as the methods listed in this Subsection (2)(b)(i).

(ii) As used in this Subsection (2), "gravity hot-drained" means drained for not less than 12 hours near operating temperature but above 60 degrees Fahrenheit.

(iii) This Subsection (2) does not require a person who recycles an engine block to drain a used oil filter or remove a used oil filter from that engine block.

(3) A person may not mix or commingle used oil with the following substances, except as incidental to the normal course of processing, mechanical, or industrial operations:

(a) solid waste that is to be disposed of in any solid waste treatment, storage, or disposal facility, except as authorized by the director under this chapter; or

(b) any hazardous waste so the resulting mixture may not be recycled or used for ~~[other]~~ another beneficial purpose as authorized under this part.

(4) (a) This section does not apply to releases to land or water of de minimis quantities of used oil, except:

(i) the release of de minimis quantities of used oil is subject to any regulation or prohibition under the authority of the department; and

(ii) the release of de minimis quantities of used oil is subject to any rule made by the board under this part prohibiting the release of de minimis quantities of used oil to the land or water from tanks, pipes, or other equipment in which used oil is processed, stored, or otherwise managed by used oil handlers, except wastewater under Subsection 19-6-708(2)(j).

(b) As used in this Subsection (4), "de minimis quantities of used oil:"

(i) means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations; and

(ii) does not include used oil discarded as a result of abnormal operations resulting in substantial leaks, spills, or other releases.

(5) Used oil may not be used for road oiling, dust control, weed abatement, or other similar uses that have the potential to release used oil in the environment, except in compliance with Section 19-6-711 and board rule.

(6) (a) (i) Facilities in existence on July 1, 1993, and subject to this section may apply to the director for an extension of time beyond that date to meet the requirements of this section.

(ii) The director may grant an extension of time beyond July 1, 1993, upon a finding of need under Subsection (6)(b) or (c).

(iii) The total of all extensions of time granted to one applicant under this Subsection (6)(a) may not extend beyond January 1, 1995.

(b) The director upon receipt of a request for an extension of time may request from the facility any information the director finds reasonably necessary to evaluate the need for an extension. This information may include:

(i) why the facility is unable to comply with the requirements of this section on or before July 1, 1993;

(ii) the processes or functions which prevent compliance on or before July 1, 1993;

(iii) measures the facility has taken and will take to achieve compliance; and

(iv) a proposed compliance schedule, including a proposed date for being in compliance with this section.

(c) Additional extensions of time may be granted by the director upon application by the facility and a showing by the facility that:

(i) the additional extension is reasonably necessary; and

(ii) the facility has made a diligent and good faith effort to comply with this section within the time frame of the prior extension.

Section 21. Section 20A-2-201 is amended to read:

20A-2-201. Registering to vote at office of county clerk.

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If an individual who is registering to vote submits a registration form in person at the office of the county clerk during designated office hours, during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept the form if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform the individual that the individual will be registered to vote in the pending election.

(3) If an individual who is registering to vote and who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) (i) if it is seven or more calendar days before the date of an election:

(A) inform the individual that the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late; or

(ii) ~~[except as provided in Subsection 20A-4-108(5),]~~ if it is on the date of an election or during the six calendar days before an election, inform the individual that the individual will be registered to vote but may not vote in the pending election because the individual registered too late.

Section 22. Section 20A-3-601 is amended to read:

20A-3-601. Early voting.

(1) ~~[(a)]~~ An individual who is registered to vote may vote before the election date in accordance with this section.

~~[(b) An individual who is not registered to vote may register to vote and vote before the election~~

~~date in accordance with this section if the individual:]~~

~~[(i) is otherwise legally entitled to vote the ballot in a jurisdiction that is approved by the lieutenant governor to participate in the pilot project described in Section 20A-4-108; and]~~

~~[(ii) casts a provisional ballot in accordance with Section 20A-4-108.]~~

(2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period shall:

(a) begin on the date that is 14 days before the date of the election; and

(b) continue through the Friday before the election if the election date is a Tuesday.

(3) An election officer may extend the end of the early voting period to the day before the election date if the election officer provides notice of the extension in accordance with Section 20A-3-604.

(4) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting shall be administered according to the requirements of this title.

Section 23. Section 20A-4-103 is amended to read:

20A-4-103. Preparing ballot sheets for the counting center.

(1) (a) In voting precincts using ballot sheets, as soon as the polls have been closed and the last qualified voter has voted, the poll workers shall prepare the ballot sheets for delivery to the counting center as provided in this section.

(b) The poll workers, election officers, and other persons may not manually count any votes before delivering the ballots to the counting center.

(2) The poll workers shall:

(a) place all of the provisional ballot envelopes in the envelope or container provided for them for return to the counting center; and

(b) seal that envelope or container.

(3) (a) The poll workers shall check each secrecy envelope to see if ~~[either] the envelope~~ contains any write-in votes.

(b) If a secrecy envelope does not contain any write-in votes, the poll workers shall remove the ballot sheet from the secrecy envelope.

(c) If a secrecy envelope contains any write-in votes, the poll workers may not separate the ballot sheet from the secrecy envelope.

(4) The poll workers shall place:

(a) the voted ballot sheets and one copy of the statement of disposition of ballots in the transfer case;

(b) the other copy of the statement of disposition of ballots, the pollbook, any unprocessed absentee ballots, the poll workers' pay vouchers, the official register, and the spoiled ballot envelope in the carrier envelope provided; and

(c) the other election materials in the election supply box.

Section 24. Section 20A-4-107 is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:

(a) the person:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the person resides; and

(iii) provides valid voter identification to the poll worker;

(b) the person:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

(c) the person:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is:

- (i) registered to vote in this state; and
 - (ii) legally entitled to vote:
- (A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) If the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) If the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:

(a) [(i)] the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;

[(ii)] (b) eight or more days before the election, the individual who cast the provisional ballot:

[(A)] (i) completed and signed the voter registration; and

[(B)] (ii) provided the voter registration to another person to file;

[(iii)] (c) the late filing was made due to the person described in Subsection [(5)(a)(ii)(B)] (5)(b)(ii) filing the voter registration less than eight days before the election; and

[(iv)] (d) the election officer receives the voter registration no later than one day before the day of the election[; or].

~~(b) the provisional ballot is cast on or before election day in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot is not otherwise prohibited from being counted under the provisions of this chapter.]~~

Section 25. Section 20A-7-214 is amended to read:

20A-7-214. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 days after the date of an election in which the voters approve an initiative petition, the Governor's Office of Management and Budget shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-202.5(2); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the president of the Senate;

(ii) the minority leader of the Senate;

(iii) the speaker of the House of Representatives;

(iv) the minority leader of the House of Representatives; and

(v) the first five sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the initial fiscal impact estimate by 25% or more, the Legislature shall review the final fiscal impact statement and may, in any legislative session following the election in which the voters approved the initiative petition:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by passage of the initiative; or

(c) pass a joint or concurrent resolution informing the voters that they may file an initiative petition to repeal the law enacted by the passage of the initiative.

Section 26. Section 20A-9-405 is amended to read:

20A-9-405. Nomination petitions for regular primary elections.

(1) This section shall apply to the form and circulation of nomination petitions for regular primary elections described in Subsection 20A-9-403(3)(a).

(2) A candidate for elective office, and the agents of the candidate, may not circulate nomination petitions until the candidate has submitted a declaration of candidacy in accordance with Subsection 20A-9-202(1).

(3) The nomination petitions shall be in substantially the following form:

(a) the petition shall be printed on paper 8-1/2 inches long and 11 inches wide;

(b) the petition shall be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for purposes of binding;

(c) the petition shall be headed by a caption stating the purpose of the petition and the name of the proposed candidate;

(d) the petition shall feature the word "Warning" followed by the following statement in no less than eight-point, single leaded type: "It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before signatures are certified by a filing officer.;"

(e) the petition shall feature 10 lines spaced one-half inch apart and consecutively numbered one through 10;

(f) the signature portion of the petition shall be divided into columns headed by the following titles:

- (i) Registered Voter's Printed Name;
- (ii) Signature of Registered Voter;
- (iii) Party Affiliation of Registered Voter;
- (iv) Birth Date or Age (Optional);
- (v) Street Address, City, Zip Code; and
- (vi) Date of Signature; and

(g) a photograph of the candidate may appear on the nomination petition.

(4) If one or more nomination petitions are bound together, a page shall be bound to the nomination petition(s) that features the following printed verification statement to be signed and dated by the petition circulator:

"Verification

State of Utah, County of ____

I, ____, of ____, hereby state [~~under~~] that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were, to the best of my knowledge, signed by the persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet."

(5) The lieutenant governor shall prepare and make public model nomination petition forms and associated instructions.

(6) A nomination petition circulator must be at least 18 years old and a resident of the state, but may affiliate with any political party.

(7) It is unlawful for any person to:

(a) knowingly sign the nomination petition sheet described in Subsection (3):

(i) with any name other than the person's own name;

(ii) more than once for the same candidate; or

(iii) if the person is not registered to vote in this state and does not intend to become registered to vote in this state prior to 5 p.m. on the final day in March;

(b) sign the verification of a certificate of nomination signature sheet described in Subsection (4) if the person:

(i) does not meet the residency requirements of Section 20A-2-105;

(ii) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(iii) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state;

(c) pay compensation to any person to sign a nomination petition; or

(d) pay compensation to any person to circulate a nomination petition, if the compensation is based directly on the number of signatures submitted to a filing officer rather than on the number of signatures verified or on some other basis.

(8) Any person violating Subsection (7) is guilty of a class A misdemeanor.

(9) Withdrawal of petition signatures shall not be permitted.

Section 27. Section 26-7-8 is amended to read:

26-7-8. Syringe exchange and education.

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

- (a) a government entity, including:
 - (i) the department;
 - (ii) a local health department, as defined in Section 26A-1-102;
 - (iii) the Division of Substance Abuse and Mental Health within the Department of Human Services; or
 - (iv) a local substance abuse authority, as defined in Section 62A-15-102;
- (b) a nongovernment entity, including:
 - (i) a nonprofit organization; or
 - (ii) a for-profit organization; or
 - (c) any other entity that complies with Subsections (2) and ~~(3)~~ (4).

(2) An entity operating a syringe exchange program in the state shall:

- (a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;
- (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
 - (i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and
 - (ii) options for obtaining:
 - (A) services for the treatment of a substance use disorder;
 - (B) testing for a blood-borne disease; and
 - (C) an opiate antagonist under Chapter 55, Opiate Overdose Response Act; and
 - (c) report annually to the department the following information about the program's activities:
 - (i) the number of individuals who have exchanged syringes;
 - (ii) the number of used syringes exchanged for new syringes; and
 - (iii) the number of new syringes provided in exchange for used syringes.
- (3) No later than October 1, 2017, and every two years thereafter, the department shall report to the Legislature's Health and Human Services Interim Committee on:
 - (a) the activities and outcomes of syringe programs operating in the state, including:
 - (i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes;

(iii) the number of new syringes provided in exchange for used syringes;

(iv) the impact of the programs on blood-borne infection rates; and

(v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;

(b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;

(c) the potential for additional reductions in state and local government spending if the programs receive additional funding;

(d) whether the programs promote illicit use of drugs; and

(e) whether the programs should be continued, continued with modifications, or terminated.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

Section 28. Section 26-10-10 is amended to read:

26-10-10. Cytomegalovirus (CMV) public education and testing.

(1) As used in this section "CMV" means cytomegalovirus.

(2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:

- (a) the incidence of CMV;
- (b) the transmission of CMV to pregnant women and women who may become pregnant;
- (c) birth defects caused by congenital CMV;
- (d) methods of diagnosing congenital CMV; and
- (e) available preventative measures.

(3) The department shall provide the information described in Subsection (2) to:

- (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing Act, and their employees;
- (b) a person described in Subsection 26-39-403~~[(1)(e), (f), (g), (h), (j), or (k)]~~ (1)(c) or (f), or (2)(a), (b), (c), or (e);
- (c) a person serving as a school nurse under Section 53A-11-204;
- (d) a person offering health education in a school district;
- (e) health care providers offering care to pregnant women and infants; and

(f) religious, ecclesiastical, or denominational organizations offering children's programs as a part of worship services.

(4) If a newborn infant fails the newborn hearing screening test(s) under Subsection 26-10-6(1), a medical practitioner shall:

(a) test the newborn infant for CMV before the newborn is 21 days of age, unless a parent of the newborn infant objects; and

(b) provide to the parents of the newborn infant information regarding:

- (i) birth defects caused by congenital CMV; and
- (ii) available methods of treatment.

(5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection 26-10-6(1).

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Section 29. Section 26-18-3 is amended to read:

26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

- (i) the standards used by the department for determining eligibility for Medicaid services;
- (ii) the services and benefits to be covered by the Medicaid program;
- (iii) reimbursement methodologies for providers under the Medicaid program; and
- (iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

- (i) implements a change in the Medicaid State Plan;
- (ii) initiates a new Medicaid waiver;
- (iii) initiates an amendment to an existing Medicaid waiver;
- (iv) applies for an extension of an application for a waiver or an existing Medicaid waiver; or
- (v) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

- (i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and
- (ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section ~~[53B-8a-102]~~ 53B-8a-102.5.

Section 30. Section 26-38-2 is amended to read:

26-38-2. Definitions.

As used in this chapter:

- (1) “E-cigarette”:
- (a) means any electronic oral device:
- (i) that provides a vapor of nicotine or other substance; and
- (ii) which simulates smoking through its use or through inhalation of the device; and
- (b) includes an oral device that is:
- (i) composed of a heating element, battery, or electronic circuit; and
- (ii) marketed, manufactured, distributed, or sold as:
- (A) an e-cigarette;
- (B) e-cigar;
- (C) e-pipe; or
- (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (1)(a).
- (2) “Place of public access” means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:
- (a) buildings, offices, shops, elevators, or restrooms;
- (b) means of transportation or common carrier waiting rooms;
- (c) restaurants, cafes, or cafeterias;
- (d) taverns as defined in Section 32B-1-102, or cabarets;
- (e) shopping malls, retail stores, grocery stores, or arcades;
- (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;
- (g) barber shops, hair salons, or laundromats;
- (h) sports or fitness facilities;
- (i) common areas of nursing homes, hospitals, resorts, hotels, motels, “bed and breakfast” lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;
- (j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and
- (ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any

child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating “no smoking”, “thank you for not smoking”, or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

(3) “Publicly owned building or office” means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(4) “Smoking” means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine intended for inhalation through a cigar, cigarette, pipe, or hookah;

(c) ~~except as provided in Section 26-38-2.6,~~ using an e-cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

Section 31. Section 31A-4-106 is amended to read:

31A-4-106. Provision of health care.

(1) As used in this section, “health care provider” has the same definition as in Section 78B-3-403.

(2) Except under Subsection (3) or (4), unless authorized to do so or employed by someone authorized to do so under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers, a person may not:

(a) directly or indirectly provide health care;

- (b) arrange for health care;
- (c) manage or administer the provision or arrangement of health care;
- (d) collect advance payments for health care; or
- (e) compensate a provider of health care.

(3) Subsection (2) does not apply to:

(a) a natural person or professional corporation that alone or with others professionally associated with the natural person or professional corporation, and except as provided in Subsection (3)(f), without receiving consideration for services in advance of the need for a particular service, provides the service personally with the aid of nonprofessional assistants;

(b) a health care facility as defined in Section 26-21-2 that:

(i) is licensed or exempt from licensing under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(ii) does not engage in health care insurance as defined under Section 31A-1-301;

(c) a person who files with the commissioner a certificate from the United States Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of 1974 or other federal law;

(d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, who~~[(d)]~~ arranges for the insurance of all services under:

~~[(A)]~~ (i) Subsection (2) by an insurer authorized to do business in Utah; or

~~[(B)]~~ (ii) Section 31A-15-103; or

~~[(ii)]~~ works for an uninsured employer that complies with Chapter 13, Employee Welfare Funds and Plans;

~~[(c)]~~ an employer that self-funds its obligations to provide health care services or indemnity for its employees if the employer complies with Chapter 13, Employee Welfare Funds and Plans; or

~~[(f)]~~ (e) notwithstanding the provisions of Subsection (3)(a), a natural person or professional corporation that alone or with others professionally associated with the natural person or professional corporation enters into a medical retainer agreement in accordance with Section 31A-4-106.5.

(4) A person may not provide administrative or management services for another person subject to Subsection (2) and not exempt under Subsection (3) unless the person:

(a) is an authorized insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service

Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers; or

(b) complies with Chapter 25, Third Party Administrators.

(5) An insurer or person who provides, administers, or manages health care insurance under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers, may not enter into a contract that limits a health care provider's ability to advise the health care provider's patients or clients fully about treatment options or other issues that affect the health care of the health care provider's patients or clients.

Section 32. Section 31A-27a-403 is amended to read:

31A-27a-403. Continuance of coverage -- Health maintenance organizations.

(1) As used in this section:

(a) "Basic health care services" is as defined in Section 31A-8-101.

(b) "Enrollee" is as defined in Section 31A-8-101.

(c) "Health care" is as defined in Section 31A-1-301.

(d) "Health maintenance organization" is as defined in Section 31A-8-101.

(e) "Limited health plan" is as defined in Section 31A-8-101.

(f) (i) "Managed care organization" means an entity licensed by, or holding a certificate of authority from, the department to furnish health care services or health insurance.

(ii) "Managed care organization" includes:

(A) a limited health plan;

(B) a health maintenance organization;

(C) a preferred provider organization;

(D) a fraternal benefit society; or

(E) an entity similar to an entity described in Subsections (1)(f)(ii)(A) through (D).

(iii) "Managed care organization" does not include:

(A) an insurer or other person that is eligible for membership in a guaranty association under Chapter 28, Guaranty Associations;

(B) a mandatory state pooling plan;

(C) a mutual assessment company or an entity that operates on an assessment basis; or

(D) an entity similar to an entity described in Subsections (1)(f)(iii)(A) through (C).

(g) "Participating provider" means a provider who, under a contract with a managed care

organization authorized under Section 31A-8-407, agrees to provide health care services to enrollees with an expectation of receiving payment:

(i) directly or indirectly, from the managed care organization; and

(ii) other than a copayment.

(h) "Participating provider contract" means the agreement between a participating provider and a managed care organization authorized under Section 31A-8-407.

(i) "Preferred provider" means a provider who agrees to provide health care services under an agreement authorized under Subsection [~~31A-22-617(1)~~] 31A-45-303(2).

(j) "Preferred provider contract" means the written agreement between a preferred provider and a managed care organization authorized under Subsection [~~31A-22-617(1)~~] 31A-45-303(2).

(k) (i) Except as provided in Subsection (1)(k)(ii), "preferred provider organization" means a person that:

(A) furnishes at a minimum, through a preferred provider, basic health care services to an enrollee in return for prepaid periodic payments in an amount agreed to before the time during which the health care may be furnished;

(B) is obligated to the enrollee to arrange for the services described in Subsection (1)(k)(i)(A); and

(C) permits the enrollee to obtain health care services from a provider who is not a preferred provider.

(ii) "Preferred provider organization" does not include:

(A) an insurer licensed under Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) an individual who contracts to render professional or personal services that the individual performs.

(l) "Provider" is as defined in Section 31A-8-101.

(m) "Uncovered expenditure" means a cost of health care services that is covered by an organization for which an enrollee is liable in the event of the managed care organization's insolvency.

(2) The rehabilitator or liquidator may take one or more of the actions described in Subsections (2)(a) through (g) to assure continuation of health care coverage for enrollees of an insolvent managed care organization.

(a) (i) Subject to Subsection (2)(a)(ii), a rehabilitator or liquidator may require a participating provider or preferred provider to continue to provide the health care services the provider is required to provide under the provider's participating provider contract or preferred provider contract until the earlier of:

(A) 90 days after the day on which the following is filed:

(I) a petition for rehabilitation; or

(II) a petition for liquidation; or

(B) the day on which the term of the contract ends.

(ii) A requirement by the rehabilitator or liquidator under Subsection (2)(a)(i) that a participating provider or preferred provider continue to provide health care services under the provider's participating provider contract or preferred provider contract expires when health care coverage for all enrollees of the insolvent managed care organization is obtained from another managed care organization or insurer.

(b) (i) Subject to Subsection (2)(b)(ii), a rehabilitator or liquidator may reduce the fees a participating provider or preferred provider is otherwise entitled to receive from the managed care organization under the provider's participating provider contract or preferred provider contract during the time period in Subsection (2)(a)(i).

(ii) Notwithstanding Subsection (2)(b)(i), a rehabilitator or liquidator may not reduce a fee to less than 75% of the regular fee set forth in the provider's participating provider contract or preferred provider contract.

(iii) An enrollee shall continue to pay the same copayments, deductibles, and other payments for services received from a participating provider or preferred provider that the enrollee is required to pay before the day on which the following is filed:

(A) the petition for rehabilitation; or

(B) the petition for liquidation.

(c) A participating provider or preferred provider shall:

(i) accept the amounts specified in Subsection (2)(b) as payment in full; and

(ii) relinquish the right to collect additional amounts from the insolvent managed care organization's enrollee.

(d) Subsections (2)(b) and (c) apply to the fees paid to a provider who agrees to provide health care services to an enrollee but is not a preferred or participating provider.

(e) If the managed care organization is a health maintenance organization, Subsections (2)(e)(i) through (vi) apply.

(i) A solvent health maintenance organization licensed under Chapter 8, Health Maintenance Organizations and Limited Health Plans, shall extend to the enrollees of an insolvent health maintenance organization all rights, privileges, and obligations of being an enrollee in the accepting health maintenance organization:

(A) subject to Subsections (2)(e)(ii), (iii), and (v);

(B) upon notification from and subject to the direction of the rehabilitator or liquidator of an

insolvent health maintenance organization licensed under Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(C) if the solvent health maintenance organization operates within a portion of the insolvent health maintenance organization's service area.

(ii) Notwithstanding Subsection (2)(e)(i), the accepting health maintenance organization shall give credit to an enrollee for any waiting period already satisfied under the enrollee's contract with the insolvent health maintenance organization.

(iii) A health maintenance organization accepting an enrollee of an insolvent health maintenance organization under Subsection (2)(e)(i) shall charge the enrollee the premiums applicable to the existing business of the accepting health maintenance organization.

(iv) A health maintenance organization's obligation to accept an enrollee under Subsection (2)(e)(i) is limited in number to the accepting health maintenance organization's pro rata share of all health maintenance organization enrollees in this state, as determined after excluding the enrollees of the insolvent insurer.

(v) (A) The rehabilitator or liquidator of an insolvent health maintenance organization shall take those measures that are possible to ensure that no health maintenance organization is required to accept more than its pro rata share of the adverse risk represented by the enrollees of the insolvent health maintenance organization.

(B) If the methodology used by the rehabilitator or liquidator to assign an enrollee is one that can be expected to produce a reasonably equitable distribution of adverse risk, that methodology and its results are acceptable under this Subsection (2)(e)(v).

(vi) (A) Notwithstanding Section 31A-27a-402, the rehabilitator or liquidator may require all solvent health maintenance organizations to pay for the covered claims incurred by the enrollees of the insolvent health maintenance organization.

(B) As determined by the rehabilitator or liquidator, payments required under this Subsection (2)(e)(vi) may:

(I) begin as of the day on which the following is filed:

(Aa) the petition for rehabilitation; or

(Bb) the petition for liquidation; and

(II) continue for a maximum period through the time all enrollees are assigned pursuant to this section.

(C) If the rehabilitator or liquidator makes an assessment under this Subsection (2)(e)(vi), the rehabilitator or liquidator shall assess each solvent health maintenance organization its pro rata share of the total assessment based upon its premiums from the previous calendar year.

(D) (I) A solvent health maintenance organization required to pay for covered claims under this Subsection (2)(e)(vi) may file a claim against the estate of the insolvent health maintenance organization.

(II) Any claim described in Subsection (2)(e)(vi)(D)(I), if allowed by the rehabilitator or liquidator, shall share in any distributions from the estate of the insolvent health maintenance organization as a Class 3 claim.

(f) (i) A rehabilitator or liquidator may transfer, through sale or otherwise, the group and individual health care obligations of the insolvent managed care organization to one or more other managed care organizations or other insurers, if those other managed care organizations and other insurers:

(A) are licensed to provide the same health care services in this state that are held by the insolvent managed care organization; or

(B) have a certificate of authority to provide the same health care services in this state that is held by the insolvent managed care organization.

(ii) The rehabilitator or liquidator may combine group and individual health care obligations of the insolvent managed care organization in any manner the rehabilitator or liquidator considers best to provide for continuous health care coverage for the maximum number of enrollees of the insolvent managed care organization.

(iii) If the terms of a proposed transfer of the same combination of group and individual policy obligations to more than one other managed care organization or insurer are otherwise equal, the rehabilitator or liquidator shall give preference to the transfer of the group and individual policy obligations of an insolvent managed care organization as follows:

(A) from one category of managed care organization to another managed care organization of the same category, as follows:

(I) from a limited health plan to a limited health plan;

(II) from a health maintenance organization to a health maintenance organization;

(III) from a preferred provider organization to a preferred provider organization;

(IV) from a fraternal benefit society to a fraternal benefit society; and

(V) from an entity similar to an entity described in this Subsection (2)(f)(iii)(A) to a category that is similar;

(B) from one category of managed care organization to another managed care organization, regardless of the category of the transferee managed care organization; and

(C) from a managed care organization to a nonmanaged care provider of health care coverage, including insurers.

(g) If an insolvent managed care organization has required surplus, a rehabilitator or liquidator may

use the insolvent managed care organization's required surplus to continue to provide coverage for the insolvent managed care organization's enrollees, including paying uncovered expenditures.

Section 33. Section 31A-30-206 is amended to read:

31A-30-206. Minimum participation and contribution levels -- Premium payments.

An insurer who offers a health benefit plan for which an employer has established a defined contribution arrangement under the provisions of this part:

(1) may not:

(a) establish an employer minimum contribution level for the health benefit plan premium under Section 31A-30-112, or any other law; or

(b) discontinue or non-renew a policy under Subsection [~~31A-30-107(4)~~] 31A-22-618.6(2)(a) for failure to maintain a minimum employer contribution level;

(2) shall accept premium payments for an enrollee from multiple sources through the Internet portal, including:

(a) government assistance programs;

(b) contributions from a Section 125 Cafeteria plan, a health reimbursement arrangement, or other qualified mechanism for pre-tax payments established by any employer of the enrollee;

(c) contributions from a Section 125 Cafeteria plan, a health reimbursement arrangement, or other qualified mechanism for pre-tax payments established by an employer of a spouse or dependent of the enrollee; and

(d) contributions from private sources of premium assistance; and

(3) may require, as a condition of coverage, a minimum participation level for eligible employees of an employer, which for purposes of the defined contribution arrangement market may not exceed 75% participation.

Section 34. Section 31A-32a-107 is amended to read:

31A-32a-107. Penalties for noncompliance with tax provisions.

(1) An account administrator who fails to comply with a provision described in Subsection (2) is subject to:

(a) the civil penalties provided in Section 59-1-401; and

(b) interest at the rate and in the manner provided in Section 59-1-402.

(2) The following provisions apply to Subsection (1):

(a) a provision of this chapter relating to~~[(i)]~~ an addition to income made in accordance with Section 59-10-114; or

~~[(ii) a tax credit allowed by Section 59-10-1021; or]~~

(b) a provision of Title 59, Chapter 10, Individual Income Tax Act, relating to~~[(i)]~~ an addition to income made in accordance with Section 59-10-114~~[-or]~~.

~~[(ii) a tax credit allowed by Section 59-10-1021.]~~

Section 35. Section 32B-1-605 is amended to read:

32B-1-605. General procedure for approval.

(1) To obtain approval of the label and packaging of a malted beverage, the manufacturer of the malted beverage shall submit an application to the department for approval.

(2) The application described in Subsection (1) shall be on a form approved by the department and include the following for each brand and label for which the manufacturer seeks approval:

(a) (i) a copy of a federal certificate of label approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau; or

(ii) if the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau does not require label approval, a copy of formula approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

(b) a complete set of original labels for each size of container of the malted beverage;

(c) a description of the size of the container on which a label will be placed;

(d) a description of each type of container of the malted beverage; and

(e) a description of any packaging for the malted beverage.

(3) The department may assess a reasonable fee for reviewing a label and packaging for approval.

(4) (a) The department shall notify a manufacturer within 30 days after the day on which the manufacturer submits an application whether the label and packaging is approved or denied.

(b) If the department determines that an unusual circumstance requires additional time, the department may extend the time period described in Subsection (4)(a).

(5) A manufacturer shall obtain the approval of the department of a revision of a previously approved label and packaging before a malted beverage using the revised label and packaging may be distributed or sold in this state.

(6) (a) The department may revoke a label and packaging previously approved upon a finding that the label and packaging is not in compliance with this title or rules of the commission.

(b) The department shall notify the person who applies for the approval of a label and packaging at least five business days before the day on which a label and packaging approval is considered revoked.

(c) After receiving notice under Subsection (6)(b), a manufacturer may present written argument or evidence to the department on why the revocation should not occur.

(7) A manufacturer that applies for approval of a label and packaging may appeal a denial or revocation of a label and packaging approval to the commission.

Section 36. Section 32B-3-102 is amended to read:

32B-3-102. Definitions.

As used in this chapter:

(1) "Aggravating circumstances" means:

- (a) prior warnings about compliance problems;
- (b) a prior violation history;
- (c) a lack of written policies governing employee conduct;

(d) multiple violations during the course of an investigation;

(e) efforts to conceal a violation;

(f) an intentional violation;

(g) the violation involved more than one patron or employee; or

(h) a violation that results in injury or death.

(2) "Final adjudication" means an adjudication for which a final judgment or order is issued that:

(a) is not appealed, and the time to appeal the judgment has expired; or

(b) is appealed, and is affirmed, in whole or in part, on appeal.

(3) "Mitigating circumstances" means:

(a) no prior violation history for the licensee or permittee;

(b) no prior violation history for the individual who committed the violation;

(c) motive for the individual who engaged in or allowed the violation to retaliate against the licensee or permittee; or

(d) extraordinary cooperation with the investigation of the violation that demonstrates that the licensee or permittee and the individual who committed the violation accept responsibility for the violation.

Section 37. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant

license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

(4) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (4) shall state the type and amount of each alcoholic product ordered or consumed.

(5) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A full-service restaurant licensee shall maintain at least 70% of the full-service restaurant licensee's total restaurant business from the sale of food, which does not include:

- (a) mix for an alcoholic product; or
- (b) a service charge.

(8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after:

(i) the patron to whom the full-service restaurant licensee sells, offers for sale, or furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (8)(b), consume the food at the same location where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

(c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(9) A patron may consume an alcoholic product only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

(10) (a) Subject to the other provisions of this Subsection (10), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the full-service restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(13) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a ~~lobby or~~ waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee;

(b) the full-service restaurant licensee uses an alcoholic product that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (13)(a).

(14) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(15) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(16) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

(17) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

- (i) a record required by Section 32B-5-302; and
- (ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once each calendar year.

(18) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (18)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

Section 38. Section 32B-6-305.2 is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a limited-service restaurant licensee;
- (ii) individual staff of a limited-service restaurant licensee; or
- (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a limited-service restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the limited-service restaurant licensee is a restaurant and not a bar.

(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

(4) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (4) shall state the type and amount of each alcoholic product ordered or consumed.

(5) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A limited-service restaurant licensee shall maintain at least 70% of the limited-service restaurant licensee's total restaurant business from the sale of food, which does not include a service charge.

(8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after:

(i) the patron to whom the limited-service restaurant licensee sells, offers for sale, or furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (8)(b), consume the food at the same location where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to sell and serve

an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

(c) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(9) A patron may consume an alcoholic product only if the patron is seated at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(10) (a) Subject to the other provisions of this Subsection (10), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (10)(a).

(11) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the limited-service restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

(13) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not

readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a ~~lobby or~~ waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant licensee;

(b) the limited-service restaurant licensee uses an alcoholic product that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (13)(a).

(14) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(15) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(16) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(17) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

(18) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (18)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-305.

Section 39. Section 32B-6-902 is amended to read:

32B-6-902. Definitions.

(1) As used in this part:

(a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(ii) "Dining area" does not include a dispensing area.

(b) (i) "Dispensing area" means an area in the licensed premises of a beer-only restaurant licensee where a dispensing structure is located and that:

(A) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of beer;

(B) except as provided in Subsection (1)(b)(ii), measures at least 10 feet from any area where beer is dispensed to the dining area and any waiting area, measured from the point of the area where beer is dispensed that is closest to the dining area or waiting area; or

(C) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures at least 42 inches high, and at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(ii) "Dispensing area" does not include any area described in Subsection (1)(b)(i)(B) that is less than 10 feet from an area where ~~alcoholic product~~ beer is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of ~~alcoholic product~~ beer.

(c) "Grandfathered bar structure" means a bar structure in a licensed premises of a beer-only restaurant licensee that:

(i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August 1, 2011:

(A) is operational;

(B) has facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii); and

(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or

(ii) is a bar structure grandfathered under Section 32B-6-409.

(d) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(e) "Waiting area" includes a lobby.

(2) Subject to Subsection (1)(d), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

Section 40. Section 32B-6-905.1 is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; ~~and~~ or

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall

store beer in a storage area described in Subsection (13)(a).

(4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes ~~an alcoholic product~~ beer on the premises.

(b) A beverage tab described in this Subsection (4) shall state the type and amount of each ~~alcoholic product~~ beer ordered or consumed.

(5) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) A beer-only restaurant licensee shall maintain at least 70% of the beer-only restaurant licensee's total restaurant business from the sale of food, which does not include a service charge.

(8) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish beer except after:

(i) the patron to whom the beer-only restaurant licensee sells, offers for sale, or furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (8)(b), consume the food at the same location where the patron is seated and sold, offered for sale, or furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(9) A patron may consume a beer only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(10) A patron may not have more than two beers at a time before the patron.

(11) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

(12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only restaurant licensee:

(A) in accordance with Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

(13) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron[,] and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a [lobby or] waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee;

(b) the beer-only restaurant licensee uses a beer that is stored in an area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (13)(a).

(14) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection [~~32B-6-202(1)(b)(i)(A), (B), or (C)~~] 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(15) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

(16) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once each calendar year.

(17) A beer-only restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises a sign approved by the commission that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

(18) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the

latest applicable date described in Subsection (18)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-905.

Section 41. Section 32B-6-905.2 is amended to read:

32B-6-905.2. Transition process for beer-only restaurant licensees.

(1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only restaurant licensee shall comply with the provisions of Section 32B-6-905.1.

(2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only restaurant licensee changes the beer-only restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section ~~[32B-6-901.1]~~ 32B-6-905.1, the beer-only restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant license issued before July 1, 2017, shall comply with the provisions of Section ~~[32B-6-901.1]~~ 32B-6-905.1 on or before July 1, 2018.

(b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section ~~[32B-6-901.1]~~ 32B-6-905.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section ~~[32B-6-901.1]~~ 32B-6-905.1 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the beer-only restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the beer-only restaurant licensee experiences a change of ownership described in Subsection 32B-8a-202(1).

(b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section ~~[32B-6-901.1]~~ 32B-6-905.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 42. Section 36-23-106 is amended to read:

36-23-106. Duties -- Reporting.

(1) The committee shall:

(a) for each application submitted in accordance with Section 36-23-105, conduct a sunrise review in accordance with Section 36-23-107 before November 1:

(i) of the year in which the application is submitted, if the application is submitted on or before July 1; or

(ii) of the year following the year in which the application is submitted, if the application is submitted after July 1; and

(b) (i) conduct a sunset review for each statute regarding a regulated lawful occupation that is scheduled for termination under Title 63I, Chapter 1, Part 2, Repeal Dates Requiring Committee Review by Title;

(ii) conduct a sunset review under this Subsection (1)(b) before November 1 of the year prior to the last general session of the Legislature that is scheduled to meet before the scheduled termination date; and

(iii) conduct a review or study regarding any other occupational or professional licensure or other regulation matter referred to the committee by the Legislature, the Legislative Management Committee, or other legislative committee.

(2) (a) The committee may conduct a review or study regarding any occupational or professional regulation matter.

(b) In conducting a review or study under this Subsection (2), the committee shall consider if the committee's recommendations would negatively affect the interest of members of the regulated lawful occupation, including the effect on matters of reciprocity with other states.

(3) The committee shall submit, in accordance with Section 68-3-14, an annual written report before November 1 to:

(a) the Legislative Management Committee; and

(b) the Business and Labor Interim Committee.

(4) The written report required by Subsection (3) shall include:

(a) all findings and recommendations made by the committee in the calendar year; and

(b) a summary report of each review or study conducted by the committee stating:

(i) whether the review or study included a review of specific proposed or existing statutory language;

(ii) action taken by the committee as a result of the review or study; and

(iii) a record of the vote for each action taken by the committee.

Section 43. Section 49-11-609 is amended to read:

49-11-609. Beneficiary designations -- Revocation of beneficiary designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order established under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's expenses.

(1) As used in this section, "member" includes a member, retiree, participant, covered individual, a spouse of a retiree participating in the insurance benefits created by Sections 49-12-404, 49-13-404, 49-22-307, and 49-23-306, or an alternate payee under a domestic relations order dividing a defined contribution account.

(2) (a) Except as provided under Subsection (2)(b) or (c), the most recent beneficiary designations signed by the member and filed with the office, including electronic records, at the time of the member's death are binding in the payment of any benefits due under this title.

(b) (i) The divorce or annulment of a member's marriage shall revoke the member's former spouse as a beneficiary from any of the member's beneficiary designations.

(ii) A revocation of a former spouse as a beneficiary in accordance with Subsection (2)(b)(i) does not revoke any other beneficiaries named on the member's beneficiary designations.

(c) A former spouse whose beneficiary designation is revoked solely under Subsection (2)(b) shall be revived on the member's beneficiary designations by:

(i) the member's remarriage to the former spouse; or

(ii) a nullification of the divorce or annulment.

(d) A revocation under Subsection (2)(b) does not apply to a former spouse named as a beneficiary in a beneficiary designation signed by the member and filed with the office after the date of the divorce or annulment.

(e) The office is not liable for having made a payment of any benefits to a beneficiary designated in a beneficiary designation affected by a divorce, annulment, or remarriage before the office received written notice of the divorce, annulment, or remarriage.

(3) (a) Except where an optional continuing benefit is chosen, or the law makes a specific benefit designation to a dependent spouse, a member may revoke a beneficiary designation at any time and may execute and file a different beneficiary designation with the office.

(b) A beneficiary designation or change of beneficiary designation shall be completed on forms provided by the office.

(4) (a) All benefits payable by the office may be paid or applied to the benefit of the [descendent's] decedent's heirs in the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills, if:

(i) no beneficiary is designated or if all designated beneficiaries have predeceased the member;

(ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by the office within 12 months of the date a reasonable attempt is made by the office to locate the beneficiaries; or

(iii) the beneficiary has not completed the forms necessary to pay the benefits within six months of the date that beneficiary forms are sent to the beneficiary's last-known address.

(b) (i) A payment may not be made to a person included in any of the groups referred to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups preceding it.

(ii) Payment to a person in any group based upon receipt from the person of an affidavit in a form satisfactory to the office that:

(A) there are no living individuals in the group preceding it;

(B) the probate of the estate of the deceased has not been commenced; and

(C) more than 30 days have elapsed since the date of death of the decedent.

(5) Benefits paid under this section shall be:

(a) a full satisfaction and discharge of all claims for benefits under this title; and

(b) payable by reason of the death of the decedent.

Section 44. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the executive director of the state Department of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multiemployer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single employer risk pools;

(n) request proposals for provider networks or health and dental benefit plans administered by third party carriers at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical distribution of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter;

(t) (i) require state employees and their dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time; and

(u) provide services for drugs or medical devices at the request of a procurement unit, as that term is defined in Section [63G-6a-104] 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The Department of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 67-19-12(5)(a).

Section 45. Section 53B-8-101 is amended to read:

53B-8-101. Waiver of tuition.

(1) (a) The president of an institution of higher education described in Section 53B-2-101 may waive all or part of the tuition in behalf of meritorious or impecunious resident students to an amount not exceeding 10% of the total amount of tuition which, in the absence of the waivers, would have been collected from all Utah resident students at the institution of higher education.

(b) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set aside for members of the Utah National Guard. Waivers shall be preserved by the student at least 60 days before the beginning of an academic term.

(2) (a) A president of an institution of higher education listed in Subsections 53B-2-101(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a meritorious nonresident undergraduate student.

(b) In determining which students are meritorious for purposes of granting a tuition

waiver under Subsection (2)(a), a president shall consider students who are performing above the average at the institution of higher education, including having an admissions index higher than the average for the institution, if an admissions index is used.

(c) A president may continue to waive the nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher education.

(d) In addition to waiving the nonresident portion of tuition for a meritorious nonresident student under Subsection (2)(a), a president may waive the resident portion of tuition after the meritorious nonresident student completes a year of full-time study at the institution of higher education.

(3) To encourage students to enroll for instruction in occupations critical to the state for which trained personnel are in short supply, a president of an institution of higher education shall grant additional full or partial tuition waivers upon recommendation of:

(a) the board, for an institution of higher education described in Subsection 53B-1-102(1)(a); or

(b) the Utah System of Technical Colleges Board of Trustees, for a technical college.

(4) A president may waive all or part of the difference between resident and nonresident tuition in the case of:

- (a) meritorious graduate students; or
- (b) nonresident summer school students.

(5) (a) The board shall submit an annual budget appropriation request for each institution of higher education described in Subsections 53B-2-101(1)(a) through (h).

(b) The Utah System of Technical Colleges Board of Trustees shall submit an annual budget appropriation request for each technical college.

(c) A request described in Subsection (5)(a) or (b) shall include requests for funds sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all of the tuition waivers authorized by Subsection (2) were granted.

Section 46. Section 53B-8-202 is amended to read:

53B-8-202. Regents' Scholarship Program -- General provisions -- Board policies.

(1) This section only applies to a student who graduates from high school on or before July 1, 2018.

(2) The Regents' Scholarship Program is created to award merit scholarships to students who complete a rigorous core course of study in high school.

(3) (a) A student who is awarded the Base Regents' scholarship established in Section

53B-8-203 may also be awarded each of the supplemental awards established in Sections 53B-8-204 and 53B-8-205.

(b) A student may not receive both a Regents' scholarship and a New Century scholarship established in Section 53B-8-105.

(4) A Regents' scholarship may only be used at a:

(a) credit-granting higher education institution within the state system of higher education; or

(b) private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(5) (a) A scholarship holder shall enroll full-time at a higher education institution described in Subsection (4) by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(b) The board may grant a deferral or leave of absence to a scholarship holder, but the student may only receive scholarship money within five years of the student's high school graduation date.

(6) (a) The board shall annually report on the Regents' Scholarship Program at the beginning of each school year to the Higher Education Appropriations Subcommittee.

(b) The board shall ensure that the report includes the number of students in each school district and public high school who meet the academic criteria for the Base Regents' scholarship and for the Exemplary Academic Achievement Scholarship.

(c) The State Board of Education, school districts, and public high schools shall cooperate with the board to facilitate the collection and distribution of Regents' Scholarship Program data.

(7) The State Board of Education shall annually provide the board a complete list of directory information, including student name and address, for all grade 8 students in the state.

(8) The board shall adopt policies establishing:

(a) the high school and college course requirements described in Subsection [53B-2-203] 53B-8-203(2)(d)(i);

(b) the additional weights assigned to grades earned in certain courses described in Subsections 53B-8-203(5) and 53B-8-205(8);

(c) the regional accrediting bodies that may accredit a private high school described in Subsection 53B-8-203(2)(a)(ii);

(d) (i) the application process and an appeal process for a Regents' scholarship, including procedures to allow a student to apply for the scholarship on-line; and

(ii) a disclosure on all applications and related materials that the amount of the awards is subject to funding and may be reduced, in accordance with Subsection (9)(b); and

(e) how college credits correlate to high school units for purposes of Subsection 53B-8-203(2)(d)(i).

(9) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Education Fund to the board for the costs associated with the Regents' Scholarship Program authorized under this section and Sections 53B-8-203, 53B-8-204, and 53B-8-205.

(b) Notwithstanding the provisions of this section and Sections 53B-8-203, 53B-8-204, and 53B-8-205, if the appropriation under Subsection (9)(a) is insufficient to cover the costs associated with the Regents' Scholarship Program, the board may reduce the amount of the Base Regents' scholarships and supplemental awards.

(10) The board may set deadlines for receiving Regents' scholarship applications and supporting documentation.

Section 47. Section 53F-8-303 is amended to read:

53F-8-303. Capital local levy -- First class county required levy -- Allowable uses of collected revenue.

(1) (a) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

(i) a capital outlay levy imposed under Section 53F-8-401; and

(ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is budgeted for debt service or capital outlay; and

(b) revenue from eligible new growth as defined in Section 59-2-924.

~~[(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.]~~

~~[(b) If a local school board uses the proceeds described in Subsection (3)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes.]~~

~~[(i) before the local school board's budget hearing in accordance with the notification requirements described in Section 53G-7-303; and]~~

~~[(ii) at a budget hearing required in Section 53G-7-303.]~~

~~[(c) A local school board may not use the proceeds described in Subsection (3)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:]~~

~~[(i) 2300 Support Services -- General District Administration; or]~~

~~[(ii) 2500 Support Services -- Central Services.]~~

Section 48. Section 53G-3-304 is amended to read:

53G-3-304. Property tax levies in new district and remaining district -- Distribution of property tax revenue.

(1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section 53G-3-302 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic rate imposed under Section 53F-2-301;

(ii) a debt service levy imposed under Section 11-14-310; or

(iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) ~~[(a) Except as provided in Subsection (4)(b), the]~~ The county treasurer of the county in which a

property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

~~[(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section 53F-8-303 in accordance with the distribution method specified in Section 53A-16-114.]~~

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

- (i) the maximum rate, if any, allowed by law; or
- (ii) the maximum rate authorized by voters for a voted local levy under Section 53F-8-301.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Section 49. Section 55-12-116 is amended to read:

55-12-116. Financial arrangements.

The compact administrator, subject to the approval of the [Department] Division of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into.

Section 50. Section 57-19-5 is amended to read:

57-19-5. Registration -- Filing application.

(1) A person may apply for registration of a development by filing with the division:

- (a) an application in the form prescribed by the director;
- (b) the written disclosure described in Section 57-19-11; and

(c) financial statements and other information that the director may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require as being reasonably necessary to determine whether the requirements of this chapter have been met and whether any of the events specified in Subsection 57-19-13(4)(2)(g) have occurred.

(2) An interest in a development that is encumbered by a lien, mortgage, or other encumbrance may not be accepted for registration or offered to the public unless:

- (a) adequate release or nondisturbance clauses are contained in the encumbering instruments to reasonably assure that the purchaser's interest in the development will not be defeated; or
- (b) the division accepts other equivalent assurances that, in the division's opinion, meet the purposes of this Subsection (2).

(3) (a) A person who applies for a development registration shall include with the application a filing fee of \$500 for up to 100 interests, plus an additional \$3 per interest for each interest over 100, up to a maximum of \$2,500 for each application.

(b) If the division determines that an on-site inspection of the development is necessary, the development shall pay the division the actual amount of the costs and expenses incurred by the division in performing the on-site inspection.

(4) A person may add an additional site or interest to an approved development registration by:

- (a) filing an application for consolidation accompanied by an additional fee of \$200 plus \$3 for each additional interest, up to a maximum of \$1,250 for each application; and
- (b) providing the information required under Subsection (1) for each additional site or interest.

Section 51. Section 58-37f-304 is amended to read:

58-37f-304. Database utilization.

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, or the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

(2) (a) A prescriber shall substantially comply with this Subsection (2).

(b) Except as provided in Subsection (2)(b)(c), a prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

(c) A prescriber is not required to check the database under Subsection (2)(b) if:

(i) the prescription for a Schedule II opioid or a Schedule III opioid is for three days or fewer on the daily dosage instructions on the prescription;

(ii) the prescriber has prior knowledge of the patient's prescription history based on the prescriber's review of the patient's health record; or

(iii) the prescription for a Schedule II opioid or a Schedule III opioid is a post surgical prescription and the total duration of opioid written after the surgery has been for 30 days or fewer.

(d) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

(i) the database; or

(ii) other similar records of controlled substances the patient has filled.

(e) A prescriber may assign the access and review required under Subsections (2)(b) and (2)(c) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

(f) The division shall not take action against the license of a prescriber for failure to follow this Subsection (2) if the prescriber demonstrates substantial compliance with the requirements of this Subsection (2).

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

(4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

Section 52. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) (a) “Approved precicensure course provider” means a provider that is approved by the commission with the concurrence of the director, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) “Approved precicensure course provider” may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(8) “Board” means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(9) “Combustion system” means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider’s meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(10) “Commission” means the Construction Services Commission created under Section 58-55-103.

(11) “Construction trade” means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(12) “Construction trades instructor” means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(13) (a) “Contractor” means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person’s own property for the purpose of sale or who

builds any structure intended for public use on the person’s own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (13), by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of “construction trade”;

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) “Contractor” does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier’s products.

(14) (a) “Electrical trade” means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) “Electrical trade” does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring; or

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities.

(c) For purposes of Subsection (14)(b):

(i) no more than one unlicensed person may be so employed unless more than five licensed electricians are employed by the shop; and

(ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted by this Subsection (14)(c).

(15) “Elevator” means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(16) “Elevator contractor” means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting,

constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(17) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(18) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(19) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(20) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(21) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(22) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(23) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.

(b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.

(25) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(27) "Individual" means a natural person.

(28) "Journeyman electrician" means a person licensed under this chapter as a journeyman

electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(29) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(30) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(31) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(32) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

- (i) delivery of the water supply;
- (ii) discharge of liquid and water carried waste;
- (iii) building drainage system within the walls of the building; and
- (iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(34) (a) "Ratio of apprentices" means, for the purpose of determining compliance with the requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and commercial work, and one journeyman or master electrician to three apprentices on residential work.

(b) On-the-job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to three apprentices to one supervisor on residential projects.

(35) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(36) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(37) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(38) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(39) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(40) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(41) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training,

experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(42) (a) "Residential plumbing contractor" means a person licensed under this chapter as a [general] residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(44) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(45) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(46) "Unincorporated entity" means an entity that is not:

- (a) an individual;
- (b) a corporation; or
- (c) publicly traded.

(47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(48) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(49) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 53. Section 58-87-401 is amended to read:

58-87-401. Prohibited conduct.

(1) An athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

(a) give materially false or misleading information or make a materially false promise or representation;

(b) furnish anything of value to the athlete before the athlete enters into the contract; or

(c) furnish anything of value to an individual other than the athlete or another registered athlete agent.

(2) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

(a) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter into an agency contract unless registered under this chapter;

(b) fail to create or retain or to permit inspection of the records required by Section [58-87-305] 58-87-304;

(c) fail to register when required by Section 58-87-201;

(d) provide materially false or misleading information in an application for registration or renewal of registration;

(e) predate or postdate an agency contract; or

(f) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

Section 54. Section 59-2-1346 is amended to read:

59-2-1346. Redemption -- Time allowed.

(1) Property may be redeemed on behalf of the record owner by any person at any time before the tax sale which shall be held in May or June as provided in Section 59-2-1351 following the lapse of four years from the date the property tax became delinquent.

(2) A person may redeem property by paying to the county treasurer all delinquent taxes, interest, penalties, and administrative costs that have accrued on the property.

(3) (a) Subject to Subsection (3)(d), a person may redeem a subdivided lot by paying the county treasurer the subdivided lot's proportional share of the delinquent taxes, interest, penalties, and administrative costs accrued on the base parcel, calculated in accordance with Subsection (3)(b).

(b) The county treasurer shall calculate the amount described in Subsection (3)(a) by comparing:

(i) the amount of the value of the base parcel as described in Subsection (3)(b)(ii) that is attributable to the property that comprises the subdivided lot as the property existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed; and

(ii) the value of the base parcel as it existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed.

(c) If the county treasurer does not have sufficient information to calculate the amount described in Subsection (3)(a)(b)(i), upon request from the county treasurer, the county assessor shall provide the county treasurer any information necessary to calculate the amount described in Subsection (3)(a)(b)(i).

(d) A person may redeem a subdivided lot under this Subsection (3) only if the record owner of the subdivided lot is a bona fide purchaser.

(4) At any time before the expiration of the period of redemption the county treasurer shall accept and credit on account for the redemption of property, payments in amounts of not less than \$10, except for the final payment, which may be in any amount. For the purpose of computing the amount required for redemption and for the purpose of distributing the payments received on account, all payments shall be applied in the following order:

(a) against the interest and administrative costs accrued on the delinquent tax for the last year included in the delinquent account at the time of payment;

(b) against the penalty charged on the delinquent tax for the last year included in the delinquent account at the time of payment;

(c) against the delinquent tax for the last year included in the delinquent account at the time of payment;

(d) against the interest and administrative costs accrued on the delinquent tax for the next to last

year included in the delinquent account at the time of payment;

(e) and so on until the full amount of the delinquent taxes, penalties, administrative costs, and interest on the unpaid balances are paid within the period of redemption.

Section 55. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218; or

(x) Section 59-12-2219.

(7) "Aircraft" means the same as that term is defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) “Ancillary service” means a service associated with, or incidental to, the provision of telecommunications service.

(b) “Ancillary service” includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(13) “Area agency on aging” means the same as that term is defined in Section 62A-3-101.

(14) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is

used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on

the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a

majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

- (iv) handling;
- (v) crating; or
- (vi) packing.
- (33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.
- (34) “Dietary supplement” means a product, other than tobacco, that:
- (a) is intended to supplement the diet;
- (b) contains one or more of the following dietary ingredients:
- (i) a vitamin;
- (ii) a mineral;
- (iii) an herb or other botanical;
- (iv) an amino acid;
- (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
- (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);
- (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- (35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) “Direct mail” does not include multiple items of printed material delivered to a single address.
- (39) “Directory assistance” means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- (b) “Disposable home medical equipment or supplies” does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes medical equipment or supplies.

(41) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(44) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) “Employee” means the same as that term is defined in Section 59-10-401.

(47) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(50) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court

Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

- (F) plastic;
 - (G) textile; or
 - (H) rubber; and
- (ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or
- (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.
- (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:
- (i) tangible personal property; or
 - (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
- (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.
- (58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.
- (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
- (i) (A) a fixed term; or
 - (B) an indeterminate term; and
 - (ii) consideration.
- (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
- (c) "Lease" or "rental" does not include:
- (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
 - (A) upon completion of required payments; and
 - (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or

- (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
- (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
- (i) set-up of tangible personal property;
 - (ii) maintenance of tangible personal property; or
 - (iii) inspection of tangible personal property.
- (60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
 - (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
 - (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- (61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
- (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
- (63) "Local taxing jurisdiction" means a:
- (a) county that is authorized to impose an agreement sales and use tax;
 - (b) city that is authorized to impose an agreement sales and use tax; or
 - (c) town that is authorized to impose an agreement sales and use tax.
- (64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- (65) "Manufacturing facility" means:
- (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
 - (b) a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(68) "Mobile telecommunications service" ~~is as~~ means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

(74) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) “Modular home” means a modular unit as defined in Section 15A-1-302.

(76) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

(77) “Oil sands” means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) “Other fuels” means products that burn independently to produce heat or energy.

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) “Pawnbroker” means the same as that term is defined in Section 13-32a-102.

(83) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.

(84) (a) “Permanently attached to real property” means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) “Permanently attached to real property” includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) “Permanently attached to real property” does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) “Person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality,

district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, [is-as] means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

- (I) raw egg;
- (II) raw fish;
- (III) raw meat;
- (IV) raw poultry; or
- (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

- (I) by weight or volume; and
- (II) as a single item; or
- (C) a bakery item, including:
 - (I) a bagel;
 - (II) a bar;
 - (III) a biscuit;
 - (IV) bread;
 - (V) a bun;
 - (VI) a cake;
 - (VII) a cookie;
 - (VIII) a croissant;
 - (IX) a danish;
 - (X) a donut;
 - (XI) a muffin;
 - (XII) a pastry;
 - (XIII) a pie;
 - (XIV) a roll;
 - (XV) a tart;
 - (XVI) a torte; or
 - (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(97) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) "Rental" means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" means the same as that term is defined in Subsection (109).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" means the same as that term is defined in Subsection (99).

(114) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

- (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

- (A) other than a:
 - (I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to

organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

(115) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

- (A) is a:
 - (I) public school; or
 - (II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) “Seller” means a person that makes a sale, lease, or rental of:

- (a) tangible personal property;
- (b) a product transferred electronically; or
- (c) a service.

(117) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:
 - (Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:
 - (Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(126) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(129) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
 - (iii) a 900 service;
 - (iv) a fixed wireless service;
 - (v) a mobile wireless service;
 - (vi) a postpaid calling service;
 - (vii) a prepaid calling service;
 - (viii) a prepaid wireless calling service; or
 - (ix) a private communications service.
- (c) "Telecommunications service" does not include:
- (i) advertising, including directory advertising;
 - (ii) an ancillary service;
 - (iii) a billing and collection service provided to a third party;
 - (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
 - (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
 - (v) installation or maintenance of the following on a customer's premises:
 - (A) equipment; or
 - (B) wiring;
 - (vi) Internet access service;
 - (vii) a paging service;
 - (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;
 - (ix) a radio and television audio and video programming service:
 - (A) regardless of the medium; and
 - (B) including:
 - (I) furnishing conveyance, routing, or transmission of a television audio and video

programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to

an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) “Telecommunications transmission equipment, machinery, or software” means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.
- (b) The following apply to Subsection (132)(a):
 - (i) an amplifier;
 - (ii) a cable;
 - (iii) a closure;
 - (iv) a conduit;
 - (v) a controller;
 - (vi) a duplexer;
 - (vii) a filter;
 - (viii) an input device;
 - (ix) an input/output device;
 - (x) an insulator;
 - (xi) microwave machinery or equipment;
 - (xii) an oscillator;
 - (xiii) an output device;
 - (xiv) a pedestal;
 - (xv) a power converter;
 - (xvi) a power supply;
 - (xvii) a radio channel;
 - (xviii) a radio receiver;
 - (xix) a radio transmitter;
 - (xx) a repeater;
 - (xxi) software;
 - (xxii) a terminal;
 - (xxiii) a timing unit;
 - (xxiv) a transformer;
 - (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) “Textbook for a higher education course” means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
 - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) “Textbook for a higher education course” includes a textbook in electronic format.

(134) “Tobacco” means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) “Unassisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) “Use” means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) “Use” does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) “Value-added nonvoice data service” means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(138) (a) Subject to Subsection (138)(b), “vehicle” means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, “vehicle” includes:

- (i) a vehicle described in Subsection (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 56. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

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

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

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

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

- (i) food and food ingredients; or
- (ii) prepared food;

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

- (i) alcoholic beverages;
- (ii) food and food ingredients; or
- (iii) prepared food;

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

- (i) to a passenger;
- (ii) by a commercial airline carrier; and

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

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

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

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American

Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

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

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

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

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

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

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

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

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

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

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

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

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

(7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

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

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the commission may make rules:

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

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

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

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

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

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

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

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

(A) "syringe"; or

(B) "stoma supply";

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

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

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

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

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

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

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

- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
 - (i) food and food ingredients;
 - (ii) prepared food; or
 - (iii) alcoholic beverages;

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

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

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

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

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

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

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

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

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

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

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

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

(ii) a sale of tangible personal property or a product transferred electronically is one of a series

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

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

(14) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts with an economic life of three or more years by:

(a) a manufacturing facility, except as provided in Subsection (86), that:

- (i) is located in the state; and
- (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in the operation of the web search portal;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

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

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

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

(16) sales of newspapers or newspaper subscriptions;

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

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

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

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

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

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

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

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

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

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

- (19) sales of hay;
- (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:
- (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;
- (b) an employee of the producer described in Subsection (20)(a); or
- (c) a member of the immediate family of the producer described in Subsection (20)(a);
- (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;
- (23) a product stored in the state for resale;
- (24) (a) purchases of a product if:
- (i) the product is:
- (A) purchased outside of this state;
- (B) brought into this state:
- (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- (II) by a nonresident person who is not living or working in this state at the time of the purchase;
- (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- (D) not used in conducting business in this state; and
- (ii) for:
- (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
- (B) a boat, the boat is registered outside of this state; or
- (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
- (i) a lease or rental of a product; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
- (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
- (i) sold or leased to or used by an authorized carrier; and
- (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
- (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- (38) sales to a ski resort of:
- (a) snowmaking equipment;
- (b) ski slope grooming equipment;
- (c) passenger ropeways as defined in Section 72-11-102; or
- (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);
- (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
- (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement,

entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

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

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to

the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or
- (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

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

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

- (A) "commercial distribution";
- (B) "live musical performance";
- (C) "live news program"; or
- (D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the

state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

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

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

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

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

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

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

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

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

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

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

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

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

- (74) amounts paid or charged for:
- (a) a purchase or lease of machinery and equipment that:
- (i) are used in performing qualified research:
- (A) as defined in Section 41(d), Internal Revenue Code; and
- (B) in the state; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;
- (83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and

(ii) except for office:

(A) equipment; or

(B) supplies; and

(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:

(i) of 50% of the tax paid on the amounts paid or charged; and

(ii) in accordance with Section 59-1-1410;

(85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years; [and]

(86) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility that:

(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) is located in the state; and

(d) uses the machinery, equipment, or normal operating repair or replacement parts in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(87) amounts paid or charged for a purchase or lease of equipment or normal operating repair or replacement parts with an economic life of less than three years by a manufacturing facility that:

(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002 North American Industry Classification System of the

federal Executive Office of the President, Office of Management and Budget;

(c) is located in the state; and

(d) uses the equipment or normal operating repair or replacement parts to manufacture hydrogen;

(88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle; and

(89) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2).

Section 57. Section 59-12-104.5 is amended to read:

59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes.

The Revenue and Taxation Interim Committee shall:

(1) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program;

(2) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program; and

(3) on or before November 30:

(a) require the Governor's Office of Economic Development to provide the report described in Section 63N-1-302(2);

(b) review for each exemption described in [Subsection] Subsections 59-12-104(86) and (87):

- (i) the cost of the exemption;
- (ii) the purpose and effectiveness of the exemption; and
- (iii) the extent to which the state benefits from the exemption; and

(c) make recommendations concerning whether the exemptions described in Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.

Section 58. Section 59-13-301 is amended to read:

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances.

(1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section 59-13-304, a tax is imposed at the same [rates] rate imposed under Subsection 59-13-201(1)(a) on the:

- (i) removal of undyed diesel fuel from any refinery;
- (ii) removal of undyed diesel fuel from any terminal;
- (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;
- (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;
- (v) any untaxed special fuel blended with undyed diesel fuel; or
- (vi) use of untaxed special fuel other than propane or electricity.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

- (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or
- (ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

- (i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

- (iii) used in a vehicle off-highway;
- (iv) used to operate a power take-off unit of a vehicle;
- (v) used for off-highway agricultural uses;
- (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or
- (vii) used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or

(b) propane or electricity.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special

fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsection (9) and this Subsection (10).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

(11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

(b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (11)(f)(ii).

(ii) The notice described in Subsection (11)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;

(B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

(g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

(12) (a) A tax imposed under this section on compressed natural gas is imposed at a rate of:

(i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

(b) A tax imposed under this section on liquified natural gas is imposed at a rate of:

(i) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.

(c) A tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state is imposed at a rate of:

(i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

Section 59. Section 61-2g-103 is amended to read:

61-2g-103. Other law unaffected.

This chapter may not be considered to prohibit a person licensed, certified, or registered under this chapter from engaging in the practice of real estate

appraising as a professional corporation or a limited liability company in accordance with:

(1) Title 16, Chapter 11, Professional Corporation Act; or

(2) ~~[Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~, as appropriate pursuant to Section 48-3a-1405].

Section 60. Section 62A-4a-105 is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, neglected, and delinquent children;

(ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

- (c) establish standards for all:
- (i) contract providers of out-of-home care for minors and families;
- (ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and
- (iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);
- (d) have authority to:
- (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
- (ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;
- (e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;
- (f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;
- (g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;
- (h) cooperate with the Workforce Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;
- (i) compile relevant information, statistics, and reports on child and family service matters in the state;
- (j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;
- (k) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;
- (l) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

- (i) have a permanency goal of adoption; or
- (ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;
- (n) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and
- (o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(~~f~~)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 61. Section 62A-15-401 is amended to read:

62A-15-401. Alcohol training and education seminar.

(1) As used in this part:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to:

(i) a retail manager as defined in Section 32B-5-402;

(ii) retail staff as defined in Section 32B-5-402; and

(iii) an individual who, as defined by division rule:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsections (2)(a)(i) through (iii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired; or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(~~(iv)~~)(iii)(A) and [~~(v)~~](B); and

(ii) pay a fee:

(A) to the seminar provider; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i), (ii), or (iii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(~~(iv)~~)(iii)(A) or [~~(v)~~](B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-5-403.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Control;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Control;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 62. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) ~~[Social Security]~~ social security number, or last four digits of the ~~[Social Security]~~ social security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

(l) a record that:

(i) contains information about an individual;

- (ii) is voluntarily provided by the individual; and
- (iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

- (i) Subsection 31A-23a-115(3)(a);
- (ii) Subsection 31A-23a-302(4); or
- (iii) Subsection 31A-26-210(4);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission;

(u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat; ~~and~~

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201[-]; and

(w) a record described in Subsection 53-5a-104(7).

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 63. Section 63G-3-102 is amended to read:

63G-3-102. Definitions.

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

(a) the proposed rule, change in the proposed rule, and the rule analysis form;

(b) the public comment received and recorded by the agency during the public comment period;

(c) the agency's response to the public comment;

(d) the agency's analysis of the public comment; and

(e) the agency's report of its decision-making process.

(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the ~~division~~ office and entitled "Utah Administrative Code."

(6) "Department" means the Department of Administrative Services created in Section 63A-1-104.

(7) "Effective" means operative and enforceable.

(8) "Executive director" means the executive director of the department.

(9) (a) "File" means to submit a document to the office as prescribed by the department.

(b) "Filing date" means the day and time the document is recorded as received by the office.

(10) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

(11) "Office" means the Office of Administrative Rules created in Section 63G-3-401.

(12) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(13) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.

(14) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.

(15) "Publication date" means the inscribed date of the bulletin.

(16) "Register" may include an electronic database.

(17) (a) "Rule" means an agency's written statement that:

(i) is explicitly or implicitly required by state or federal statute or other applicable law;

(ii) implements or interprets a state or federal legal mandate; and

(iii) applies to a class of persons or another agency.

(b) "Rule" includes the amendment or repeal of an existing rule.

(c) "Rule" does not mean:

(i) orders;

(ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;

(iii) the governor's executive orders or proclamations;

(iv) opinions issued by the attorney general's office;

(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

(18) "Rule analysis" means the format prescribed by the department to summarize and analyze rules.

(19) "Small business" means a business employing fewer than 50 persons.

(20) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section 64. Section 63G-21-102 is amended to read:

63G-21-102. Definitions.

As used in this chapter:

(1) "Designated agency" means:

(a) the Governor's Office of Economic Development;

(b) the Division of Wildlife Resources;

(c) the Department of Public Safety;

(d) the Department of Technology Services; or

(e) the Department of Workforce Services.

(2) (a) "State service" means a service or benefit regularly provided to the public by a designated agency.

(b) "State service" includes:

(i) for the Governor's Office of Economic Development or the Department of Technology Services, public high-speed Internet access;

(ii) for the Division of Wildlife Resources, fishing, hunting, and trapping licenses;

(iii) for the Department of Public Safety, fingerprinting, an online driver license renewal, online appointment scheduling, an online motor vehicle record request, and an online change of address with the Driver License Division; and

(iv) for the Department of Workforce Services, online job searches, verification of submission for benefits administered by the Department of Workforce Services, online unemployment applications, online food stamp applications, and online appointment scheduling.

(3) "USPS" means the United States Postal Service.

Section 65. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

~~[(7) Section 26-38-2.5 is repealed July 1, 2017.]~~

~~[(8) Section 26-38-2.6 is repealed July 1, 2017.]~~

~~[(9)] (7) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.~~

Section 66. Section 63I-1-257 is amended to read:

63I-1-257. Repeal dates, Title 57.

~~[(4)]~~ Section 57-1-25.5 is repealed on July 1, 2018.

~~[(2) Subsection 57-16-4(12), on July 1, 2017, is modified to read as follows:]~~

~~["(12) The mobile home park shall have a copy of this chapter posted at all times in a conspicuous place in a common area of the mobile home park."]~~

~~[(3) Title 57, Chapter 16a, Mobile Home Park Helpline, is repealed July 1, 2017.]~~

Section 67. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section 59-1-213.1 is repealed on May 9, 2019.

(2) Section 59-1-213.2 is repealed on May 9, 2019.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, 2019.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, 2019.

~~[(5) Subsection 59-2-924.2(9) is repealed on December 31, 2017.]~~

~~[(6)] (5) Section 59-7-618 is repealed July 1, 2020.~~

~~[(7)] (6) Section 59-9-102.5 is repealed December 31, 2020.~~

~~[(8)] (7) Section 59-10-1033 is repealed July 1, 2020.~~

~~[(9)] (8) Subsection 59-12-2219(13) is repealed on June 30, 2020.~~

~~[(10)] (9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.~~

Section 68. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-4a-213 is repealed July 1, 2019.

(2) Section 62A-4a-202.9 is repealed December 31, 2019.

(3) Subsection 62A-15-1101~~(5)~~(7) is repealed July 1, 2018.

Section 69. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

~~[(1) Subsection 19-1-403(2)(c)(i), the language that states “minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009” is repealed on January 1, 2017.]~~

~~[(2) Subsection 19-1-403(2)(c)(ii), the language that states “minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009” is repealed on January 1, 2017.]~~

Section 70. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Title 26.

(1) Section 26-8a-107 is repealed July 1, 2019.

~~[(2) Subsections 26-10-12(2) and (4) are repealed July 1, 2017.]~~

~~[(3)] (2) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.~~

~~[(4)] (3) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.~~

Section 71. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates -- Title 34A.

~~[Section 34A-2-107.1 is repealed November 30, 2017.]~~

Section 72. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

~~[Section 36-29-102 is repealed July 1, 2016.]~~

Section 73. Section 63I-2-248 is amended to read:

63I-2-248. Repeal dates -- Title 48.

~~[(1) Title 48, Chapter 1, General and Limited Liability Partnerships, is repealed January 1, 2016.]~~

~~[(2) Title 48, Chapter 2a, Utah Revised Uniform Limited Partnership Act, is repealed January 1, 2016.]~~

~~[(3) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, is repealed January 1, 2016.]~~

Section 74. Section 63I-2-249 is amended to read:

63I-2-249. Repeal dates -- Title 49.

~~[Section 49-20-412 is repealed January 1, 2016.]~~

Section 75. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

~~[(1) Section 53A-1-403.5 is repealed July 1, 2017.]~~

~~[(2) Section 53A-1-411 is repealed July 1, 2017.]~~

~~[(3)] (1) Section 53A-1-415 is repealed July 1, 2019.~~

~~[(4)] (2) Section 53A-1-709 is repealed July 1, 2020.~~

~~[(5)] (3) Subsection 53A-1-1207(3)(b)(ii)(B) is repealed July 1, 2020.~~

~~[(6)] (4) Section 53A-1-1208 is repealed July 1, 2020.~~

~~[(7) Section 53A-1a-513(4) is repealed July 1, 2017.]~~

~~[(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.]~~

~~[(9)] (5) Section 53A-24-601 is repealed January 1, 2018.~~

~~[(10)] (6) Section 53A-24-602 is repealed July 1, 2018.~~

~~[(11)] (7) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.~~

~~(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

~~[(12) Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]~~

~~[(13)] (8) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states “Except as provided in Subsection (6)(b)(ii)(B),” is repealed July 1, 2021.~~

~~(b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.~~

~~[(14)] (9) (a) Subsection 53B-7-707(4)(a)(ii), the language that states “Except as provided in Subsection (4)(b),” is repealed July 1, 2021.~~

~~(b) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.~~

~~[(15)] (10) (a) The following sections are repealed on July 1, 2023:~~

~~(i) Section 53B-8-202;~~

~~(ii) Section 53B-8-203;~~

~~(iii) Section 53B-8-204; and~~

~~(iv) Section 53B-8-205.~~

~~(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.~~

~~(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

~~[(16)] (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.~~

Section 76. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates, Title 78A and Title 78B.

[Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.]

Section 77. Section 63N-2-104 is amended to read:

63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office, with advice from the board, may create an economic development zone in the state if the following requirements are satisfied:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan;

(b) the request to create a development zone has first been approved by an appropriate local government entity; and

(c) local incentives have been or will be committed to be provided within the area.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:

(i) the new commercial project is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;

(v) the new commercial project generates new state revenues; and

(vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105.

(3) (a) The office, after consultation with the board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.

(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year; or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.

(ii) If the eligible business entity makes capital expenditures in the state of \$1,500,000,000 or more associated with a new commercial project, the office may:

(A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;

(B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(c)(ii); and

(C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year.

(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:

(A) be between the office, the local government entity, and the community reinvestment agency;

(B) establish the obligations of the local government entity and the community reinvestment agency; and

(C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.

(iv) If a local government entity assigns a tax credit to a community reinvestment agency:

(A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and

(B) a tax credit certificate issued in accordance with Section [63N-2-106] 63N-2-105 shall list the

community reinvestment agency as the named applicant.

(4) The office shall ensure that the written agreement described in Subsection (3):

(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

Section 78. Section 67-4a-501 is amended to read:

67-4a-501. Notice to apparent owner by holder.

(1) Subject to [~~Subsections~~] Subsection (2) [~~and (3)~~], the holder of property presumed abandoned shall send to the apparent owner notice by first-class United States mail that complies with Section 67-4a-502 in a format acceptable to the administrator not more than 180 days nor less than 60 days before filing the report under Section 67-4a-401 if:

(a) the holder has in the holder's records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class United States mail to the apparent owner; and

(b) the value of the property is \$50 or more.

(2) If an apparent owner has consented to receive electronic mail delivery from the holder, the holder shall send the notice described in Subsection (1) both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic mail address is invalid.

Section 79. Section 70A-2-311 is amended to read:

70A-2-311. Options and cooperation respecting performance.

(1) An agreement for sale which is otherwise sufficiently definite [~~(Subsection (3) of Section 70A-2-204)] to be a contract under Subsection 70A-2-204(3) is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be~~

made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed, specifications relating to assortment of the goods are at the buyer's option, and except as otherwise provided in Subsections 70A-2-319(1)(c) and (3), specifications or arrangements relating to shipment are at the seller's option.

(3) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies:

(a) is excused for any resulting delay in his own performance; and

(b) may also either proceed to perform in any reasonable manner or after the time for a material part of his own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods.

Section 80. Section 70A-2-402 is amended to read:

70A-2-402. Rights of seller's creditors against sold goods.

(1) Except as provided in Subsections (2) and (3), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under [~~this chapter (Sections 70A-2-502 and 70A-2-716)] Section 70A-2-502 or 70A-2-716.~~

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this chapter shall be deemed to impair the rights of creditors of the seller:

(a) under the provisions of [~~the chapter on Secured Transactions (Chapter 9a, Uniform Commercial Code - Secured Transactions)];~~ or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a preexisting claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this chapter constitute the transaction a voidable transaction or voidable preference.

Section 81. Section 70A-2-601 is amended to read:

70A-2-601. Buyer's rights on improper delivery.

Subject to the provisions of [~~this chapter on breach in installment contracts (Section~~

~~70A-2-612)~~ Section 70A-2-612, and unless otherwise agreed under ~~[the sections on contractual limitations of remedy (Sections 70A-2-718 and 70A-2-719)]~~ Sections 70A-2-718 and 70A-2-719, if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may:

- (1) reject the whole;
- (2) accept the whole; or
- (3) accept any commercial unit or units and reject the rest.

Section 82. Section 70A-2-610 is amended to read:

70A-2-610. Anticipatory repudiation.

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may:

- (1) for a commercially reasonable time await performance by the repudiating party;
- (2) resort to any remedy for breach [~~under Section 70A-2-703 or Section 70A-2-711~~], even though he has notified the repudiating party that he would await the latter's performance and has urged retraction; and
- (3) in either case suspend his own performance or proceed in accordance with the provisions of this chapter on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods [~~under Section 70A-2-704~~].

Section 83. Section 72-2-118 is amended to read:

72-2-118. Centennial Highway Fund.

(1) There is created a capital projects fund entitled the Centennial Highway Fund within the Transportation Investment Fund of 2005 created by Section 72-2-124.

(2) The account consists of money generated from the following revenue sources:

(a) any voluntary contributions received for the construction, reconstruction, or renovation of state or federal highways; and

(b) appropriations made to the fund by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money, as prioritized by the Transportation Commission, only to pay the costs of construction, reconstruction, or renovation to state and federal highways.

(5) When the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the account as determined by the Executive Appropriations Committee under Subsection (6)~~(4)~~(c), the Division of Finance shall

transfer any existing balance in the account into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(6) (a) The Division of Finance shall monitor the highway general obligation bonds that are being paid from revenues deposited in the fund.

(b) The department shall monitor the highway construction, reconstruction, or renovation projects that are being paid from revenues deposited in the fund.

(c) The department shall notify the State Tax Commission and the Division of Finance when:

(i) all highway general obligation bonds that are intended to be paid from revenues deposited in the fund have been paid off; and

(ii) all highway projects that are intended to be paid from revenues deposited in the account have been completed.

Section 84. Section 75-7-1011 is amended to read:

75-7-1011. Interest as general partner.

(1) Except as otherwise provided in Subsection (3) or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed pursuant to ~~[Title 48, Chapter 2a, Utah Revised Uniform Limited Partnership Act, or] Title 48, Chapter 2e, Utah Uniform Limited Partnership Act~~, as appropriate pursuant to ~~Section 48-2e-1205~~.

(2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(3) The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

(4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

Section 85. Section 77-7-15 is amended to read:

77-7-15. Authority of peace officer to stop and question suspect -- Grounds.

A peace officer may stop any person in a public place when ~~[he]~~ the officer has a reasonable suspicion to believe ~~[he]~~ the person has committed or is in the act of committing or is attempting to commit a public offense and may demand ~~[his]~~ the

person's name, address, and an explanation of [his] the person's actions.

Section 86. Section 77-10a-13 is amended to read:

77-10a-13. Location -- Who may be present -- Witnesses -- Witnesses who are subjects -- Evidence -- Contempt -- Notice -- Record of proceedings -- Disclosure.

(1) The managing judge shall designate the place where the grand jury meets. The grand jury may, upon request and with the permission of the managing judge, meet and conduct business any place within the state. Subject to the approval of the managing judge the grand jury shall determine the times at which it meets.

(2) (a) Attorneys representing the state, special prosecutors appointed under Section 77-10a-12, the witness under examination, interpreters when needed, counsel for a witness, and a court reporter or operator of a recording device to record the proceedings may be present while the grand jury is in session.

(b) No person other than the jurors may be present while the grand jury is deliberating.

(3) (a) The attorneys representing the state and the special prosecutors may subpoena witnesses to appear before the grand jury and may subpoena evidence in the name of the grand jury without the prior approval or consent of the grand jury or the court. The jury may request that other witnesses or evidence be subpoenaed.

(b) Subpoenas may be issued in the name of the grand jury to any person located within the state and for any evidence located within the state or as otherwise provided by law.

(c) Except as provided in Subsection (3)(d), a subpoena requiring a minor, who is a victim of a crime, to testify before a grand jury may not be served less than 72 hours before the victim is required to testify.

(d) A subpoena may be served upon a minor less than 72 hours before the minor is required to testify if the managing judge makes a factual finding that the minor was intentionally concealed to prevent service or that a shorter period is reasonably necessary to prevent:

- (i) a risk to the minor's safety;
- (ii) the concealment or removal of the minor from the jurisdiction;
- (iii) intimidation or coercion of the minor or a family member of the minor; or
- (iv) undue influence on the minor regarding the minor's testimony.

(e) The service requirement in Subsection (3)(c) may be asserted only by or on behalf of the minor and is not a basis for invalidation of the minor's testimony or any indictment issued by the grand jury.

(f) The service requirement of Subsection (3)(d) may be asserted by a parent or legal guardian of the minor on the minor's behalf.

(g) If the managing judge finds it necessary to prevent any of the actions enumerated in Subsections (3)(d)(i) through (iv) or to otherwise protect the minor, the judge may appoint a guardian ad litem to receive service on behalf of the minor, to represent the minor, and to protect the interests of the minor.

(h) If the minor served under Subsection (3)(d)[7] has no parent, legal guardian, or guardian ad litem with whom to confer prior to the grand jury hearing, the managing judge shall appoint legal counsel to represent the minor at the hearing.

(i) For any minor served with a subpoena under this section, attorneys representing the state, or special prosecutors appointed under Section 77-10a-12, shall interview and prepare the minor in the presence of the minor's parent or legal guardian and their attorney, or a guardian ad litem at least 24 hours prior to the time the minor is required to testify. The provisions of this subsection requiring the presence of the minor's parent do not apply if:

- (i) the parent is the subject of the grand jury investigation; or
- (ii) the parent is engaged in frustrating, or conspires with[7] another to frustrate, the protections and purposes of Subsection (3)(d).

(j) The managing judge may enter any order necessary to secure compliance with any subpoena issued in the name of the grand jury.

(4) (a) Any witness who appears before the grand jury shall be advised, by the attorney for the state or the special prosecutor, of his right to be represented by counsel.

(b) A witness who is also a subject as defined in Section 77-10a-1 shall, at the time [he appears] appearance as a witness, be advised:

- (i) of his right to be represented by counsel;
- (ii) that he is a subject;
- (iii) that he may claim his privilege against self-incrimination; and
- (iv) of the general scope of the grand jury's investigation.

(c) A witness who is also a target as defined in Section 77-10a-1 shall, at the time [he appears] appearance as a witness, be advised:

- (i) of his right to be represented by counsel;
- (ii) that he is a target;
- (iii) that he may claim his privilege against self-incrimination;
- (iv) that the attorney for the state, the special prosecutor, or the grand jury is in possession of substantial evidence linking him to the commission of a crime for which he could be charged; and

(v) of the general nature of that charge and of the evidence that would support the charge.

(d) This Subsection (4) does not require the attorney for the state, the special prosecutor, or the grand jury to disclose to any subject or target the names or identities of witnesses, sources of information, or informants, or disclose information in detail or in a fashion that would jeopardize or compromise any ongoing criminal investigation or endanger any person or the community.

(5) (a) The grand jury shall receive evidence without regard for the formal rules of evidence, except the grand jury may receive hearsay evidence only under the same provisions and limitations that apply to preliminary hearings.

(b) Any person, including a witness who has previously testified or produced books, records, documents, or other evidence, may present exculpatory evidence to the attorney representing the state or the special prosecutor and request that it be presented to the grand jury, or request to appear personally before the grand jury to testify or present evidence to that body. The attorney for the state or the special prosecutor shall forward the request to the grand jury.

(c) When the attorney for the state or the special prosecutor is personally aware of substantial and competent evidence negating the guilt of a subject or target that might reasonably be expected to lead the grand jury not to indict, [he] the attorney or special prosecutor shall present or otherwise disclose the evidence to the grand jury before the grand jury is asked to indict that person.

(6) (a) The managing judge has the contempt power and authority inherent in the court over which [he] the managing judge presides and as provided by statute.

(b) When a witness in any proceeding before or ancillary to any grand jury appearance refuses to comply with an order from the managing judge to testify or provide other information, including any book, paper, document, record, recording, or other material without having a recognized privilege, the attorney for the state or special prosecutor may apply to the managing judge for an order directing the witness to show cause why [he] the witness should not be held in contempt.

(c) After submission of the application and a hearing at which the witness is entitled to be represented by counsel, the managing judge may hold the witness in contempt and order that [he] the witness be confined, upon a finding that the refusal was not privileged.

(d) A hearing may not be held under this part unless 72 [hours] hours' notice is given to the witness who has refused to comply with the order to testify or provide other information, except a witness may be given a shorter notice if the managing judge upon a showing of special need so orders.

(e) Any confinement for refusal to comply with an order to testify or produce other information shall

continue until the witness is willing to give the testimony or provide the information. A period of confinement may not exceed the term of the grand jury, including extensions, before which the refusal to comply with the order occurred. In any event the confinement may not exceed one year.

(f) A person confined under this Subsection (6) for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events may not be again confined under this Subsection (6) or for criminal contempt for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.

(g) Any person confined under this section may be admitted to bail or released in accordance with local procedures pending the determination of an appeal taken by [him] the person from the order of [his] the person's confinement unless the appeal affirmatively appears to be frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, pursuant to an expedited schedule and in no event more than 30 days from the filing of the appeal.

(7) (a) All proceedings, except when the grand jury is deliberating or voting, shall be recorded stenographically or by an electronic recording device. An unintentional failure of any recording to reproduce all or any portion of a proceeding does not affect the validity of any prosecution or indictment. The recording or reporter's notes or any transcript prepared from them shall remain in the custody or control of the attorney for the state or the special prosecutor unless otherwise ordered by the managing judge in a particular case.

(b) A grand juror, an interpreter, a court reporter, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the state or special prosecutor, or any person to whom disclosure is made under the provisions of this section may not disclose matters occurring before the grand jury except as otherwise provided in this section. A knowing violation of this provision may be punished as a contempt of court.

(c) Disclosure otherwise prohibited by this section of matters occurring before the grand jury, other than its deliberations and the vote of any grand juror, may be made to:

(i) an attorney for the state or a special prosecutor for use in the performance of that attorney's duty; and

(ii) government personnel, including those of state, local, and federal entities and agencies, as are considered necessary by the attorney for the state or special prosecutor to assist [him] the attorney in the performance of [his] the attorney's duty to enforce the state's criminal laws.

(d) Any person to whom matters are disclosed under this section may not utilize that grand jury material for any purpose other than assisting the attorney for the state or the special prosecutor in performance of that attorney's duty to enforce the state's criminal laws. An attorney for the state or

the special prosecutor shall promptly provide the managing judge with the names of the persons to whom the disclosure has been made and shall certify that the attorney has advised the person of [his] the person's obligation of secrecy under this section.

(e) Disclosure otherwise prohibited by this section of matters occurring before the grand jury may also be made when:

(i) directed by the managing judge or by any court before which the indictment that involves matters occurring before the grand jury that are subject to disclosure is to be tried, preliminary to or in connection with a judicial proceeding;

(ii) permitted by the managing judge at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury;

(iii) the disclosure is made by an attorney for the state or the special prosecutor to another state or local grand jury or a federal grand jury;

(iv) permitted by the managing judge at the request of an attorney for the state or the special prosecutor, upon a showing that the matters may disclose a violation of federal criminal law, to an appropriate official of the federal government for the purpose of enforcing federal law; or

(v) showing of special need is made and the managing judge is satisfied that disclosure of the information or matters is essential for the preparation of a defense.

(f) When the matters are transcripts of testimony given by witnesses[,] the state or special prosecutor intends to call in the state's case in chief in any trial upon an indictment returned by the grand jury before which the witnesses testified, the attorney for the state or the special prosecutor shall, no later than 30 days before trial, provide the defendant with access to the transcripts. The attorney for the state or the special prosecutor shall at the same time provide the defendant with access to all exculpatory evidence presented to the grand jury prior to indictment.

(g) When the managing judge orders disclosure of matters occurring before the grand jury, disclosure shall be made in a manner, at a time, and under conditions the managing judge directs.

(h) A petition for disclosure made under Subsection (7)(e)(ii) shall be filed with the managing judge. Unless the hearing is ex parte, the petitioner shall serve written notice upon the attorney for the state or the special prosecutor, the parties to the judicial proceeding if disclosure is sought in connection with the proceeding, and other persons as the managing judge directs. The managing judge shall afford those persons a reasonable opportunity to appear and be heard.

(8) Records, orders, and subpoenas relating to grand jury proceedings shall be kept under seal to the extent and so long as necessary to prevent

disclosure of matters occurring before the grand jury other than as provided in this section.

(9) Subject to any right to an open hearing in contempt proceedings, the managing judge shall order a hearing on matters affecting a grand jury proceeding to be closed to the extent necessary to prevent disclosure of matters occurring before a grand jury.

Section 87. Section 77-15a-104 is amended to read:

77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant -- Scope of examination -- Report -- Procedures.

(1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies for an exemption from the death penalty under Subsection 77-15a-101(1) or (2), the defendant shall file and serve the prosecuting attorney with written notice of his intention as soon as practicable, but not fewer than 60 days before trial.

(b) If the defendant wishes to claim the exemption provided in Subsection 77-15a-101(2), the defendant shall file and serve the prosecuting attorney with written notice of his intention as soon as practicable, but not fewer than 60 days before trial.

(2) When notice is given under Subsection (1), the court raises the issue, or a motion is filed regarding Section 77-15a-101, the court may stay all proceedings in order to address the issue.

(3) (a) The court shall order the Department of Human Services to appoint at least two mental health experts to examine the defendant and report to the court. The experts:

(i) may not be involved in the current treatment of the defendant; and

(ii) shall have expertise in ~~mental retardation~~ intellectual disability assessment.

(b) Upon appointment of the experts, the defendant or other party as directed by the court shall provide information and materials to the examiners relevant to a determination of the defendant's ~~mental retardation~~ intellectual disability, including copies of the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) The court may make the necessary orders to provide the information listed in Subsection (3)(b) to the examiners.

(d) The court may provide in its order appointing the examiners that custodians of mental health records pertaining to the defendant shall provide those records to the examiners without the need for consent of the defendant or further order of the court.

(e) Prior to examining the defendant, examiners shall specifically advise the defendant of the limits of confidentiality as provided under Section 77-15a-106.

(4) During any examinations under Subsection (3), unless the court directs otherwise, the defendant shall be retained in the same custody or status he was in at the time the examination was ordered.

(5) The experts shall in the conduct of their examinations and in their reports to the court consider and address:

(a) whether the defendant is ~~[mentally retarded]~~ intellectually disabled as defined in Section 77-15a-102;

(b) the degree of any ~~[mental retardation]~~ intellectual disability the expert finds to exist;

(c) whether the defendant ~~[has the mental deficiencies]~~ is intellectually disabled as specified in Subsection 77-15a-101(2); and

(d) the degree of any ~~[mental deficiencies]~~ intellectual disability the expert finds to exist.

(6) (a) The experts examining the defendant shall provide written reports to the court, the prosecution, and the defense within 60 days of the receipt of the court's order, unless the expert submits to the court a written request for additional time in accordance with Subsection (6)(c).

(b) The reports shall provide to the court and to prosecution and defense counsel the examiners' written opinions concerning the ~~[mental retardation]~~ intellectual disability of the defendant.

(c) If an examiner requests of the court additional time, the examiner shall provide the report to the court and counsel within 90 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report.

(7) Any written report submitted by an expert shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) state the expert's clinical observations, findings, and opinions; and

(d) identify the sources of information used by the expert and present the basis for the expert's clinical findings and opinions.

(8) Within 30 days after receipt of the report from the Department of Human Services, but not later than five days before hearing, or at any other time the court directs, the prosecuting attorney shall file and serve upon the defendant a notice of witnesses the prosecuting attorney proposes to call in rebuttal.

(9) (a) Except pursuant to Section 77-15a-105, this chapter does not prevent any party from producing any other testimony as to the mental condition of the defendant.

(b) Expert witnesses who are not appointed by the court are not entitled to compensation under Subsection (10).

(10) (a) Expenses of examinations of the defendant ordered by the court under this section shall be paid by the Department of Human Services.

(b) Travel expenses associated with any court-ordered examination that are incurred by the defendant shall be charged by the Department of Human Services to the county where prosecution is commenced.

(11) (a) When the report is received, the court shall set a date for a hearing to determine if the exemption under Section 77-15a-101 applies. The hearing shall be held and the judge shall make the determination within a reasonable time prior to jury selection.

(b) Prosecution and defense counsel may subpoena to testify at the hearing any person or organization appointed by the Department of Human Services to conduct the examination and any independent examiner.

(c) The court may call any examiner to testify at the hearing who is not called by the parties. If the court calls an examiner, counsel for the parties may cross-examine that examiner.

(12) (a) A defendant is presumed ~~[to be not mentally retarded]~~ not to be intellectually disabled unless the court, by a preponderance of the evidence, finds the defendant to be ~~[mentally retarded]~~ intellectually disabled. The burden of proof is upon the proponent of ~~[mental retardation]~~ intellectual disability at the hearing.

(b) A finding of ~~[mental retardation]~~ intellectual disability does not operate as an adjudication of ~~[mental retardation]~~ intellectual disability for any purpose other than exempting the person from a sentence of death in the case before the court.

(13) (a) The defendant is presumed not to possess the mental deficiencies listed in Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the defendant has significant subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning and that this functioning was manifested prior to age 22. The burden of proof is upon the proponent of that proposition.

(b) If the court finds by a preponderance of the evidence that the defendant has significant subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning and that this functioning was manifested prior to age 22, then the burden is upon the state to establish that any confession by the defendant which the state intends to introduce into evidence is supported by substantial evidence independent of the confession.

(14) (a) If the court finds the defendant ~~[mentally retarded]~~ intellectually disabled, it shall issue an order:

(i) containing findings of fact and conclusions of law, and addressing each of the factors in Subsections (5)(a) and (b); and

(ii) stating that the death penalty is not a sentencing option in the case before the court.

(b) If the court finds by a preponderance of the evidence that the defendant possesses the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish that any confession is supported by substantial evidence independent of the confession, the state may proceed with its case and:

(i) introduce the confession into evidence, and the death penalty will not be a sentencing option in the case; or

(ii) not introduce into evidence any confession or the fruits of a confession that the court has found is not supported by substantial evidence independent of the confession, and the death penalty will be a sentencing option in the case.

(c) (i) A finding by the court regarding whether the defendant qualifies for an exemption under Section 77-15a-101 is a final determination of that issue for purposes of this chapter.

(ii) The following questions may not be submitted to the jury by instruction, special verdict, argument, or other means:

(A) whether the defendant is ~~mentally retarded~~ intellectually disabled for purposes of this chapter; and

(B) whether the defendant possesses the mental deficiencies specified in Subsection 77-15a-101(2).

(iii) This chapter does not prevent the defendant from submitting evidence of ~~retardation~~ intellectual disability or other mental deficiency to establish a mental condition as a mitigating circumstance under Section 76-3-207.

(15) A ruling by the court that the defendant is exempt from the death penalty may be appealed by the state pursuant to Section 77-18a-1.

(16) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 88. Section 77-20-3.5 is amended to read:

77-20-3.5. Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.

(1) As used in this section:

(a) “Domestic violence” means the same as that term is defined in Section 77-36-1.

(b) “Jail release agreement” means a written agreement described in Subsection [77-20-3.5] (3) that:

(i) limits the contact an individual arrested for a qualifying offense may have with an alleged victim; and

(ii) specifies other conditions of release from jail.

(c) “Jail release court order” means a written court order issued in accordance with Subsection [77-20-3.5] (3) that:

(i) limits the contact an individual arrested for a qualifying offense may have with an alleged victim; and

(ii) specifies other conditions of release from jail.

(d) “Minor” means an unemancipated individual who is younger than 18 years of age.

(e) “Offense against a child or vulnerable adult” means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, or 76-5-111.

(f) “Qualifying offense” means:

(i) domestic violence;

(ii) an offense against a child or vulnerable adult; or

(iii) the commission or attempted commission of an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) (a) Upon arrest for a qualifying offense and before the person is released on bail, recognizance, or otherwise, the person may not personally contact the alleged victim.

(b) A person who violates Subsection (2)(a) is guilty of a class B misdemeanor.

(3) (a) After a person is arrested for a qualifying offense, the person may not be released before:

(i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

(ii) the person signs a jail release agreement in accordance with Subsection (3)(d)(i).

(b) The arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection (6)(a).

(c) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall determine:

(i) whether grounds exist to hold the arrested person without bail, in accordance with Section 77-20-1;

(ii) if no grounds exist to hold the arrested person without bail, whether any release conditions, including electronic monitoring, are necessary to protect the alleged victim; or

(iii) any bail that is required to guarantee the arrested person’s subsequent appearance in court.

(d) (i) The magistrate may not release a person arrested for a qualifying offense before the person’s initial court appearance before the court with jurisdiction over the offense for which the person was arrested, unless the arrested person agrees in writing or the magistrate orders, as a release

condition, that, until the arrested person appears at the initial court appearance, the arrested person will not:

- (A) have personal contact with the alleged victim;
- (B) threaten or harass the alleged victim; or
- (C) knowingly enter onto the premises of the alleged victim's residence or any premises temporarily occupied by the alleged victim.

(ii) The magistrate shall schedule the appearance described in Subsection (3)(d)(i) to take place no more than 96 hours after the time of the arrest.

(iii) The arrested person may make the appearance described in Subsection (3)(d)(i) by video if the arrested person is not released.

(4) (a) If a person charged with a qualifying offense fails to appear at the time scheduled by the magistrate under Subsection (3)(d), the person shall comply with the release conditions described in Subsection (3)(d)(i) until the person makes an initial appearance.

(b) If the prosecutor has not filed charges against a person who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (3)(d), or by the court under Subsection (4)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the person an opportunity to be heard on the motion, extend the release conditions described in Subsection (3)(d)(i) by no more than three court days; and

(ii) if the court grants the motion described in Subsection (4)(b)(i), shall order the arrested person to appear at a time scheduled before the end of the granted extension.

(5) Except as provided in Subsection (4) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the arrested person's initial scheduled court appearance described in Subsection (3)(d)(i).

(6) (a) After an arrest for a qualifying offense, an alleged victim who is not a minor may waive in writing the release conditions described in Subsection (3)(d)(i)(A) or (C). Upon waiver, those release conditions do not apply to the arrested person.

(b) A court or magistrate may modify the release conditions described in Subsection (3)(d)(i), in writing or on the record, and only for good cause shown.

(7) (a) When an arrested person is released in accordance with Subsection (3), the releasing agency shall:

(i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;

(ii) make a reasonable effort to notify the alleged victim of the release; and

(iii) before releasing the arrested person, give the arrested person a copy of the jail release agreement or the jail release court order.

(b) (i) When a person arrested for domestic violence is released pursuant to Subsection (3) based on a written jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When a person arrested for domestic violence is released pursuant to Subsections (3) through (5) based upon a jail release court order or if a written jail release agreement is modified pursuant to Subsection (6)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection (7) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(8) (a) If a law enforcement officer has probable cause to believe that a person has violated a jail release agreement or jail release court order, the officer shall, without a warrant, arrest the person.

(b) Any person who knowingly violates a jail release court order or jail release agreement executed pursuant to Subsection (3) is guilty as follows:

(i) if the original arrest was for a felony, an offense under this section is a third degree felony; or

(ii) if the original arrest was for a misdemeanor, an offense under this section is a class A misdemeanor.

(c) City attorneys may prosecute class A misdemeanor violations under this section.

(9) A person who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the person.

(10) At the time an arrest is made for a qualifying offense, the arresting officer shall provide the alleged victim with written notice containing:

(a) the release conditions described in Subsections (3) through (5), and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a written agreement to comply with the release conditions; or

(ii) the magistrate orders the release conditions;

(b) notification of the penalties for violation of any jail release agreement or jail release court order;

(c) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest;

(d) the address of the appropriate court in the district or county in which the alleged victim resides;

(e) the availability and effect of any waiver of the release conditions; and

(f) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.

(11) At the time an arrest is made for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released;

(b) the release conditions described in Subsections (3) through (5) and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a written agreement to comply with the release conditions; or

(ii) the magistrate orders the release conditions;

(c) notification of the penalties for violation of any jail release agreement or jail release court order; and

(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.

(12) (a) A pretrial or sentencing protective order supercedes a jail release agreement or jail release court order.

(b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.

(13) In addition to the provisions of Subsections (3) through (12), because of the unique and highly emotional nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of an offender who has been arrested for domestic violence, it is the finding of the Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for which bail may be denied if there is substantial evidence to support the charge, and if the court finds by clear and convincing evidence that the alleged perpetrator would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

(14) The provisions of this section do not apply if the person arrested for the qualifying offense is a minor, unless the qualifying offense is domestic violence.

Section 89. Section 77-20-9 is amended to read:

77-20-9. Disposition of forfeitures.

If by reason of the neglect of the defendant to appear, money deposited instead of bail or money paid by sureties on bail bond is forfeited and the forfeiture is not discharged or remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment of the court, pay over the money forfeited as follows:

(1) the forfeited bail in cases in or appealed from district courts shall be distributed as provided in Section 78A-5-110;

(2) the forfeited bail in cases in precinct justice courts or in municipal justice courts shall be distributed as provided in Sections 78A-7-120 and 78A-7-121;

(3) the forfeited bail in cases in justice courts where the offense is not triable in that court shall be paid into the General Fund; and

(4) the forfeited bail in cases not provided for in this section shall be paid 50% to the state treasurer and the remaining 50% to the county treasurer in the county in which the violation occurred or the forfeited bail is collected.

Section 90. Section 77-23-210 is amended to read:

77-23-210. Force used in executing a search warrant -- When notice of authority is required as a prerequisite.

(1) (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant under this section shall comply with guidelines and procedures which are, at a minimum, in accordance with state law and model guidelines and procedures recommended by the Utah Peace Officer Standards and Training Council created in Section 53-6-106.

(b) Written policies adopted pursuant to this section[,] shall be subject to public disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(2) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

(a) if, after giving notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or

(b) without notice of the officer's authority and purpose as provided in Subsection (3).

(3) (a) The officer may enter without notice only if:

(i) there is reasonable suspicion to believe that the notice will endanger the life or safety of the officer or another person;

(ii) there is probable cause to believe that evidence may be easily or quickly destroyed; or

(iii) the magistrate, having found probable cause based upon proof provided under oath[,] that the object of the search may be easily or quickly

destroyed, or having found reason to believe that physical harm may result to any person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under the Rules of Criminal Procedure; or

(iv) the officer physically observes and documents a previously unknown event or circumstance at the time the warrant is being executed which creates probable cause to believe the object of the search is being destroyed, or creates reasonable suspicion to believe that physical harm may result to any person if notice were given.

(b) The officer shall identify himself or herself and state the purpose for entering the premises as soon as practicable after entering.

(4) An officer executing a warrant under this section may use only that force which is reasonable and necessary to execute the warrant.

(5) An officer executing a warrant under this section shall wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing which indicates that he or she is a law enforcement officer.

(6) (a) An officer executing a warrant under this section shall comply with the officer's employing agency's body worn camera policy when the officer is equipped with a body-worn camera.

(b) The employing agency's policy regarding the use of body-worn cameras shall include a provision that an officer executing a warrant under this section shall wear a body-worn camera when a camera is available, except in exigent circumstances where it is not practicable to do so.

(7) (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may result in harm to any person.

(b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.

(8) Notwithstanding any provision in this chapter, a warrant authorizing forcible entry without prior announcement may not be issued under this section, solely for:

(a) the alleged possession or use of a controlled substance; or

(b) the alleged possession of drug paraphernalia as provided in Section 58-37a-3.

Section 91. Section 77-30-8 is amended to read:

77-30-8. Execution of warrant of arrest.

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where [he] the accused may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act, to the duly authorized agent of the demanding state.

Section 92. Section 77-30-18 is amended to read:

77-30-18. Forfeiture of bail.

If the prisoner is admitted to bail and fails to appear and surrender [himself] according to the conditions of [his] the prisoner's bond, the judge or magistrate by proper order shall declare the bond forfeited and order [his] the prisoner's immediate arrest without warrant if [he-be] the prisoner is within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

Section 93. Section 77-30-25 is amended to read:

77-30-25. Person brought into state on extradition exempt from civil process -- Waiver of extradition proceedings -- Nonwaiver by this state.

(1) A person brought into this state by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(2) (a) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in Sections 77-30-7 and 77-30-8, and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state; provided, before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 77-30-10.

(b) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, [or] nor shall this waiver procedure be deemed to be an

exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(3) Nothing in this chapter shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for a crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, ~~or~~ nor shall any proceedings had under this chapter which result in or fail to result in extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

Section 94. Section 77-32-603 is amended to read:

77-32-603. County and state obligations.

(1) (a) Except as provided in Subsection (1)(b), each participating county shall pay into the fund annually an amount calculated by multiplying the average of the percent of its population to the total population of all participating counties and of the percent its taxable value of the locally and centrally assessed property located ~~with~~ within that county to the total taxable value of the locally and centrally assessed property to all participating counties by the total fund assessment for that year to be paid by all participating counties as is determined by the board to be sufficient such that it is unlikely that a deficit will occur in the fund in any calendar year.

(b) The fund minimum shall be equal to or greater than 50 cents per person of all counties participating.

(c) The amount paid by the participating county pursuant to Subsection (1) shall be the total county obligation for payment of costs pursuant to Section 77-32-601.

(2) (a) After the first year of operation of the fund, any county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, shall be required to make an equity payment in addition to the assessment provided in Subsection (1).

(b) The equity payment shall be determined by the board and represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous two years.

(3) If the fund balance after contribution by the state and participating counties is insufficient to replenish the fund annually to at least \$250,000, the board by a majority vote may terminate the fund.

(4) If the fund is terminated, all remaining funds shall continue to be administered and disbursed in accordance with the provision of this chapter until exhausted, at which time the fund shall cease to exist.

(5) (a) If the fund runs a deficit during any calendar year, the state is responsible for the deficit.

(b) In the calendar year following a deficit year, the board shall increase the assessment required by Subsection (1) by an amount at least equal to the deficit of the previous year, which combined amount becomes the base assessment until another deficit year occurs.

(6) In any calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session. The state shall pay any or all of the reasonable and necessary money for the deficit into the Indigent Capital Defense Trust Fund.

Section 95. Section 77-32a-102 is amended to read:

77-32a-102. Creation of criminal judgment account receivable.

(1) At the time of sentencing or acceptance of a plea in abeyance, the court shall establish the criminal accounts receivable, as determined in this chapter including all amounts then owing, including, as applicable, fines, fees, surcharges, costs, restitution, and interest.

(2) After creating the account receivable, the court:

(a) shall, in the case of felonies where a prison sentence is imposed and not suspended, enter any unpaid criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgment to the Office of State Debt Collection;

(b) may, in other cases, permit a defendant to pay the criminal judgment account receivable by a date certain or in installments; or

(c) may, in other cases where the court finds that collection of the account by the court would not be feasible, enter any unpaid criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgement to the Office of State Debt Collection.

(3) A court allowing installment payments does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(4) If the court makes restitution or another financial decision at a time after sentencing that increases the total amount owed in a case, the criminal accounts receivable balance shall be adjusted to include the new amounts determined by the court.

(5) The court may modify the amount and number of any installment payments, as justice requires, at any time before the time for default as outlined in Subsection 77-32a-103(2).

(6) In the district court, delinquent accounts may incur ~~post judgment~~ postjudgment interest.

Section 96. Section 77-38a-401 is amended to read:

77-38a-401. Entry of judgment -- Interest -- Civil actions -- Lien.

(1) Upon the court determining that a defendant owes restitution, the clerk of the court shall enter an order of complete restitution as defined in Section 77-38a-302 on the civil judgment docket and provide notice of the order to the parties.

(2) The order shall be considered a legal judgment, enforceable under the Utah Rules of Civil Procedure. In addition, the department may, on behalf of the person in whose favor the restitution order is entered, enforce the restitution order as judgment creditor under the Utah Rules of Civil Procedure.

(3) If the defendant fails to obey a court order for payment of restitution and the victim or department elects to pursue collection of the order by civil process, the victim shall be entitled to recover collection and reasonable attorney fees.

(4) Notwithstanding Subsection 77-18-6(1)(b)(~~v~~) and Sections 78B-2-311 and 78B-5-202, a judgment ordering restitution when entered on the civil judgment docket shall have the same ~~effect~~ effect and is subject to the same rules as a judgment in a civil action and expires only upon payment in full, which includes applicable interest, collection fees, and attorney fees. Interest shall accrue on the amount ordered from the time of sentencing, including prejudgment interest. This Subsection (4) applies to all restitution judgments not paid in full on or before May 12, 2009.

(5) The department shall make rules permitting the restitution payments to be credited to principal first and the remainder of payments credited to interest in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 97. Section 77-41-103 is amended to read:

77-41-103. Department duties.

(1) The department, to assist in investigating kidnapping and sex-related crimes, and in apprehending offenders, shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

(2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9) or (17), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102(9) or (17), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9) or (17), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Sex and Kidnap Offender Registry office within the Department of Corrections.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for any offense listed in Subsection 77-41-102(9) or (17), the court shall, within three business days, forward a signed copy of the order to the Sex and Kidnap Offender Registry office within the Department of Corrections.

(5) The department may intervene in any matter, including a criminal action, where the matter purports to affect a person's lawfully entered registration requirement.

(6) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is ~~enrolled~~ employed if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

CHAPTER 282**S. B. 118**

Passed March 6, 2018

Approved March 19, 2018

Effective May 8, 2018

(Exception clause in Section 14)

ABORTION LAW AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill amends provisions relating to abortion law.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits certain abortions outside of an abortion clinic or a hospital;
- ▶ amends provisions relating to informed consent;
- ▶ removes the requirement for the Department of Health to create a brochure and an informational video;
- ▶ requires the Department of Health to maintain a website with specified information;
- ▶ requires the Department of Health to develop an information module with specified information;
- ▶ requires the Department of Health to present the information module, or an update to the information module, to the Health and Human Services Interim Committee;
- ▶ establishes additional penalties for a violation of an abortion law provision;
- ▶ requires the Department of Health to make rules and pursue administrative and legal remedies to ensure compliance with provisions of abortion law; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-21-6.5, as enacted by Laws of Utah 2011, Chapter 161
- 58-67-304 (Superseded 07/01/18), as last amended by Laws of Utah 2011, Chapters 161 and 214
- 58-67-304 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 299
- 76-7-301, as last amended by Laws of Utah 2010, Chapter 13
- 76-7-302, as last amended by Laws of Utah 2010, Chapter 13
- 76-7-304, as last amended by Laws of Utah 2008, Chapter 299
- 76-7-304.5, as last amended by Laws of Utah 2010, Chapter 314
- 76-7-305, as last amended by Laws of Utah 2017, Chapter 399
- 76-7-305.5, as last amended by Laws of Utah 2017, Chapter 399

76-7-305.7, as last amended by Laws of Utah 2013, Chapter 61

76-7-313, as last amended by Laws of Utah 2010, Chapter 314

76-7-314, as last amended by Laws of Utah 2010, Chapter 13

REPEALS:

76-7-305.6, as enacted by Laws of Utah 2010, Chapter 314

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

Section 1. Section 26-21-6.5 is amended to read:**26-21-6.5. Licensing of an abortion clinic -- Rulemaking authority -- Fee.**

(1) ~~[Beginning on April 1, 2012, a]~~ A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

(2) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

(3) ~~[(a)]~~ The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

~~[(i)]~~ (a) a type I abortion clinic; and

~~[(ii)]~~ (b) a type II abortion clinic.

~~[(b) The rules established under Subsection (3)(a) shall take effect on April 1, 2012.]~~

(4) ~~[Beginning on April 1, 2012, in order to]~~ To receive and maintain a license described in this section, an abortion clinic shall:

(a) apply for a license on a form prescribed by the department;

(b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established under Subsection (3)~~[(a)]~~ that relate to the type of abortion clinic licensed;

(c) comply with the recordkeeping and reporting requirements of ~~[Subsection 76-7-305.6(4) and]~~ Section 76-7-313;

(d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion;

(e) pay the annual licensing fee; and

(f) cooperate with inspections conducted by the department.

(5) ~~[Beginning on April 1, 2012, the]~~ The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic. At least one of the inspections shall be made without providing notice to the abortion clinic.

(6) ~~[Beginning on April 1, 2012, the]~~ The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the

cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(7) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

Section 2. Section 58-67-304 (Superseded 07/01/18) is amended to read:

58-67-304 (Superseded 07/01/18). License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(i); and

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee.

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

Section 3. Section 58-67-304 (Effective 07/01/18) is amended to read:

58-67-304 (Effective 07/01/18). License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

Section 4. Section 76-7-301 is amended to read:

76-7-301. Definitions.

As used in this part:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.

(3) "Abuse" means the same as that term is defined in Section 78A-6-105.

(4) "Department" means the Department of Health.

(5) "Hospital" means:

(a) a general hospital licensed by the [~~Department of Health~~] department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the [~~Department of Health~~] department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the [~~Department of Health~~] department.

(6) "Information module" means the pregnancy termination information module prepared by the department.

[~~(2)~~] (7) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

(8) "Minor" means an individual who is:

(a) under 18 years of age;

(b) unmarried; and

(c) not emancipated.

[~~(3)~~] (9) (a) "Partial birth abortion" means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

[~~(4)~~] (10) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to a person described in Subsection [~~(4)~~] (10)(a) or (b).

Section 5. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.

(2) An abortion may be performed in this state only by a physician.

(3) An abortion may be performed in this state only under the following circumstances:

- (a) the unborn child is not viable; or
- (b) the unborn child is viable, if:
 - (i) the abortion is necessary to avert:
 - (A) the death of the woman on whom the abortion is performed; or
 - (B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
 - (ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a defect that is uniformly diagnosable and uniformly lethal; or
 - (iii) (A) the woman is pregnant as a result of:
 - (I) rape, as described in Section 76-5-402;
 - (II) rape of a child, as described in Section 76-5-402.1; or
 - (III) incest, as described in Subsection 76-5-406(10) or Section 76-7-102; and
 - (B) before the abortion is performed, the physician who performs the abortion:
 - (I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement; and
 - (II) complies with the requirements of Section 62A-4a-403.
- (4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

Section 6. Section 76-7-304 is amended to read:

76-7-304. Considerations by physician -- Notice to a parent or guardian -- Exceptions.

- ~~[(1) As used in this section:]~~
- ~~[(a) "abuse" is as defined in Section 78A-6-105; and]~~
- ~~[(b) "minor" means a person who is:]~~
- ~~[(i) under 18 years of age;]~~
- ~~[(ii) unmarried; and]~~
- ~~[(iii) not emancipated.]~~
- ~~[(2) (1) To enable the physician to exercise the physician's best medical judgment, the physician shall consider all factors relevant to the well-being of [the] a pregnant woman upon whom [the] an abortion is to be performed, including:~~
 - (a) her physical, emotional, and psychological health and safety;
 - (b) her age; and
 - (c) her familial situation.

~~[(3) (2) Subject to Subsection [(4)] (3), at least 24 hours before a physician performs an abortion on a minor, the physician shall notify a parent or guardian of the minor that the minor intends to have an abortion.~~

~~[(4) (3) A physician is not required to comply with Subsection [(3)] (2) if:~~

~~(a) subject to Subsection [(5)] (4)(a):~~

~~(i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:~~

~~(A) the minor's death; or~~

~~(B) a serious risk of substantial and irreversible impairment of a major bodily function of the minor; and~~

~~(ii) there is not sufficient time to give the notice required under Subsection [(3)] (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection [(4)] (3)(a)(i);~~

~~(b) subject to Subsection [(5)] (4)(b):~~

~~(i) the physician complies with Subsection [(6)] (5); and~~

~~(ii) (A) the minor is pregnant as a result of incest to which the parent or guardian was a party; or~~

~~(B) the parent or guardian has abused the minor; or~~

~~(c) subject to Subsection [(5)] (4)(b), the parent or guardian has not assumed responsibility for the minor's care and upbringing.~~

~~[(5) (4) (a) If, for the reason described in Subsection [(4)] (3)(a), a physician does not give the 24-hour notice described in Subsection [(3)] (2), the physician shall give the required notice as early as possible before the abortion, unless it is necessary to perform the abortion immediately in order to avert the minor's death or impairment described in Subsection [(4)] (3)(a)(i).~~

~~(b) If, for a reason described in Subsection [(4)] (3)(b) or (c), a parent or guardian of a minor is not notified that the minor intends to have an abortion, the physician shall notify another parent or guardian of the minor, if the minor has another parent or guardian that is not exempt from notification under Subsection [(4)] (3)(b) or (c).~~

~~[(6) (5) If, for a reason described in Subsection [(4)] (3)(b)(ii)(A) or (B), a physician does not notify a parent or guardian of a minor that the minor intends to have an abortion, the physician shall report the incest or abuse to the Division of Child and Family Services within the Department of Human Services.~~

Section 7. Section 76-7-304.5 is amended to read:

76-7-304.5. Consent required for abortions performed on minors -- Hearing to allow a minor to self-consent -- Appeals.

~~[(1) As used in this section, "minor" is as defined in Subsection 76-7-304(1).]~~

~~[(2)] (1)~~ In addition to the other requirements of this part, a physician may not perform an abortion on a minor unless:

(a) the physician obtains the informed written consent of a parent or guardian of the minor, consistent with Sections 76-7-305~~;~~ and 76-7-305.5~~;~~ and 76-7-305.6;

(b) the minor is granted the right, by court order under Subsection ~~[(5)] (4)(b)~~, to consent to the abortion without obtaining consent from a parent or guardian; or

(c) (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:

(A) the minor's death; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the minor; and

(ii) there is not sufficient time to obtain the consent in the manner chosen by the minor under Subsection ~~[(3)] (2)~~ before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection ~~[(2)] (1)(c)(i)~~.

~~[(3)] (2)~~ A pregnant minor who wants to have an abortion may choose:

(a) to seek consent from a parent or guardian under Subsection ~~[(2)] (1)(a)~~; or

(b) to seek a court order under Subsection ~~[(2)] (1)(b)~~.

~~[(4)] (3)~~ If a pregnant minor fails to obtain the consent of a parent or guardian of the minor to the performance of an abortion, or if the minor chooses not to seek the consent of a parent or guardian, the minor may file a petition with the juvenile court to obtain a court order under Subsection ~~[(2)] (1)(b)~~.

~~[(5)] (4)~~ (a) A hearing on a petition described in Subsection ~~[(4)] (3)~~ shall be closed to the public.

(b) After considering the evidence presented at the hearing, the court shall order that the minor may obtain an abortion without the consent of a parent or guardian of the minor if the court finds by a preponderance of the evidence that:

(i) the minor:

(A) has given her informed consent to the abortion; and

(B) is mature and capable of giving informed consent to the abortion; or

(ii) an abortion would be in the minor's best interest.

~~[(6)] (5)~~ The Judicial Council shall make rules that:

(a) provide for the administration of the proceedings described in this section;

(b) provide for the appeal of a court's decision under this section;

(c) ensure the confidentiality of the proceedings described in this section and the records related to the proceedings; and

(d) establish procedures to expedite the hearing and appeal proceedings described in this section.

Section 8. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains a voluntary and informed written consent from the woman on whom the abortion is performed, that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection ~~[(9)] (8)~~, consent to an abortion is voluntary and informed only if ~~[(a)]~~, at least 72 hours before the abortion~~;~~:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

~~[(i) consistent with Subsection (3)(a), of:]~~

~~[(A)] (i) the nature of the proposed abortion procedure;~~

~~[(B)] (ii) specifically how the procedure described in Subsection (2)(a)(i)(A)](d)(i) will affect the fetus;~~

~~[(C)] (iii) the risks and alternatives to [an] the abortion procedure or treatment; [and]~~

~~[(D)] (iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;~~

~~[(ii) of] (v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;~~

~~[(iii) of] (vi) the medical risks associated with carrying her child to term; and~~

~~[(iv) if the abortion is to be performed on an unborn child who is at least 20 weeks gestational age;]~~

~~[(A) that substantial medical evidence from studies concludes that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and]~~

~~[(B) the measures that shall be taken in accordance with Section 76-7-308.5;]~~

~~[(b) at least 72 hours prior to the abortion the physician who is to perform the abortion, the referring physician, or, as specifically delegated by either of those physicians, a physician, a registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation in any location in the state, informs the pregnant woman that:]~~

~~[(i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed material and an informational video that:]~~

~~[(A) provides medically accurate information regarding all abortion procedures that may be used;]~~

~~[(B) describes the gestational stages of an unborn child; and]~~

~~[(C) includes information regarding public and private services and agencies available to assist her through pregnancy, at childbirth, and while the child is dependent, including private and agency adoption alternatives;]~~

~~[(ii) the printed material and a viewing of or a copy of the informational video shall be made available to her, free of charge, on the Department of Health's website;]~~

~~[(iii) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of that assistance is contained in the printed~~

~~materials and the informational video published by the Department of Health;]~~

~~[(iv) except as provided in Subsection (3)(b);]~~

~~[(A) the father of the unborn child is legally required to assist in the support of her child, even if he has offered to pay for the abortion; and]~~

~~[(B) the Office of Recovery Services within the Department of Human Services will assist her in collecting child support; and]~~

~~[(v) she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;]~~

~~[(e) the information required to be provided to the pregnant woman under Subsection (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face consultation, prior to performance of the abortion, unless the attending or referring physician is the individual who provides the information required under Subsection (2)(a);]~~

~~[(d) a copy of the printed materials published by the Department of Health has been provided to the pregnant woman;]~~

~~[(e) the informational video, published by the Department of Health, has been provided to the pregnant woman in accordance with Subsection (4); and]~~

~~[(f) the pregnant woman has certified in writing, prior to the abortion, that the information required to be provided under Subsections (2)(a) through (e) was provided, in accordance with the requirements of those subsections.]~~

~~[(3) (a) The alternatives required to be provided under Subsection (2)(a)(i) include:]~~

~~[(i) a description of adoption services, including private and agency adoption methods; and]~~

~~[(ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and birth expenses.]~~

~~[(b) The information described in Subsection (2)(b)(iv) may be omitted from the information required to be provided to a pregnant woman under this section if the woman is pregnant as the result of rape.]~~

~~[(c) Nothing in this section shall be construed to prohibit a person described in Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv), informing a woman of the person's own opinion regarding the capacity of an unborn child to experience pain.]~~

~~[(4) When the informational video described in Section 76-7-305.5 is provided to a pregnant woman, the person providing the information shall:]~~

~~[(a) request that the woman view the video at that time or at another specifically designated time and location; or]~~

~~[(b) if the woman chooses not to view the video at a time described in Subsection (4)(a), inform the~~

woman that she can access the video on the Department of Health's website.]

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website; and

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3); and

(ii) obtain a copy of the statement described in Subsection (2)(c)(i).

~~[(4)]~~ (4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

~~[(6)]~~ (5) If an ultrasound is performed on a woman before an abortion is performed, the ~~[person]~~ individual who performs the ultrasound, or another qualified ~~[person]~~ individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (6)(c), if the woman requests it.

~~[(7)]~~ (6) The information described in Subsections (2), (3), ~~[(4), and (6)]~~ and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

~~[(8)]~~ (7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

~~[(9)]~~ (8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection ~~[(6)]~~ (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

~~[(10)]~~ (9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

~~[(11)]~~ (10) (a) The ~~[Department of Health]~~ department shall provide an ultrasound, in accordance with the provisions of Subsection ~~[(2)]~~ (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a ~~[person]~~ pregnant woman who requests an ultrasound described in Subsection ~~[(11)]~~ (10)(a) to the ~~[Department of Health]~~ department.

~~[(12)]~~ (11) A physician is not guilty of violating this section if:

(a) ~~[the physician provides]~~ the information described in Subsection (2) is provided less than 72 hours before ~~[performing]~~ the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 9. Section 76-7-305.5 is amended to read:

76-7-305.5. Requirements for information module and website.

(1) In order to ensure that a woman's consent to an abortion is truly an informed consent, the ~~[Department of Health]~~ department shall, in accordance with the requirements of this section~~[-]~~, develop an information module and maintain a public website.

~~[(a) publish printed materials; and]~~

~~[(b) produce an informational video.]~~

(2) The ~~[printed materials and the informational video]~~ information module and public website described in Subsection (1) shall:

(a) be scientifically accurate, comprehensible, and presented in a truthful, nonmisleading manner;

(b) present adoption as a preferred and positive choice and alternative to abortion;

(c) be ~~[printed and]~~ produced in a manner that conveys the state's preference for childbirth over abortion;

(d) state that the state prefers childbirth over abortion;

(e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

(f) state that any physician who performs an abortion without obtaining the woman's informed consent or without providing her a private medical consultation in accordance with the requirements of this section, may be liable to her for damages in a civil action at law;

(g) provide ~~[information on]~~ a geographically indexed list of resources and public and private services available to assist, financially or otherwise, a pregnant woman~~[- financially or otherwise]~~ during pregnancy, at childbirth, and while the child is dependent, including:

(i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

(ii) services and supports available under Section 35A-3-308;

(iii) other financial aid that may be available during an adoption; ~~and]~~

(iv) services available from public adoption agencies, private adoption agencies, and private attorneys whose practice includes adoption; and

(v) the names, addresses, and telephone numbers of each person listed under this Subsection (2)(g);

(h) describe the adoption-related expenses that may be paid under Section 76-7-203;

(i) describe the persons who may pay the adoption related expenses described in Subsection (2)(h);

(j) except as provided in Subsection (4), describe the legal responsibility of the father of a child to assist in child support, even if the father has agreed to pay for an abortion;

(k) except as provided in Subsection (4), describe the services available through the Office of Recovery Services, within the Department of Human Services, to establish and collect the support described in Subsection (2)(j);

(l) state that private adoption is legal;

(m) ~~[in accordance with Subsection (3),]~~ describe and depict, with pictures or video segments, the probable anatomical and physiological characteristics of an unborn child at two-week gestational increments from fertilization to full term, including:

(i) brain and heart function; ~~and]~~

(ii) the presence and development of external members and internal organs; and

(iii) the dimensions of the fetus;

(n) show an ultrasound of the heartbeat of an unborn child at:

(i) four weeks from conception;

(ii) six to eight weeks from conception; and

(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;

~~[(a)]~~ (o) describe abortion procedures used in current medical practice at the various stages of growth of the unborn child, including:

(i) the medical risks associated with each procedure;

(ii) the risk related to subsequent childbearing that are associated with each procedure; and

(iii) the consequences of each procedure to the unborn child at various stages of fetal development;

~~[(a)]~~ (p) describe the possible detrimental psychological effects of abortion;

~~[(a)]~~ (q) describe the medical risks associated with carrying a child to term; [and]

~~[(a)]~~ (r) include relevant information on the possibility of an unborn child's survival at the two-week gestational increments described in Subsection (2)(m)[-];

~~[(3)]~~ The information described in Subsection (2)(m) shall be accompanied by the following for each gestational increment described in Subsection (2)(m):-

~~[(a)]~~ pictures or video segments that accurately represent the normal development of an unborn child at that stage of development; and

~~[(b)]~~ the dimensions of the fetus at that stage of development.;

~~[(4)]~~ The printed material and video

(s) except as provided in Subsection (5), include:

(i) information regarding substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

(ii) the measures that will be taken in accordance with Section 76-7-308.5;

(t) explain the options and consequences of aborting a medication-induced abortion;

(u) include the following statement regarding a medication-induced abortion, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";

(v) inform a pregnant woman that she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request; and

(w) be in a typeface large enough to be clearly legible.

(3) The information module and website described in Subsection (1) may include a toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and description of services, agencies, and adoption attorneys in the locality of the caller.

~~[(5)]~~ In addition to the requirements described in Subsection (2), the printed material described in Subsection (1)(a) shall:

~~[(a)]~~ be printed in a typeface large enough to be clearly legible;

~~[(b)]~~ in accordance with Subsection (6), include a geographically indexed list of public and private services and agencies available to assist a woman, financially or otherwise, through pregnancy, at childbirth, and while the child is dependent;

~~[(c)]~~ except as provided in Subsection (7), include a separate brochure that contains truthful, nonmisleading information regarding:

~~[(i)]~~ substantial medical evidence from studies concluding that an unborn child who is at least 20 weeks gestational age may be capable of experiencing pain during an abortion procedure; and

~~[(ii)]~~ the measures that shall be taken in accordance with Section 76-7-308.5;

~~[(d)]~~ explain the options and consequences of aborting a medication-induced abortion; and

~~[(e)]~~ include the following statement, "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but have not yet taken the second drug and have questions regarding the health of your fetus or are questioning your decision to terminate your pregnancy, you should consult a physician immediately.";

~~[(6)]~~ The list described in Subsection (5)(b) shall include:

~~[(a)]~~ private attorneys whose practice includes adoption; and

~~[(b)]~~ the names, addresses, and telephone numbers of each person listed under Subsection (5)(b) or (6)(a).;

~~[(7)]~~ A person or facility is not required to provide the information described in Subsection (5)(c) to a patient or potential patient, if the abortion is to be performed.;

(4) The department may develop a version of the information module and website that omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of rape.

(5) The department may develop a version of the information module and website that omits the information described in Subsection (2)(s) for a viewer who will have an abortion performed:

(a) on an unborn child who is less than 20 weeks gestational age at the time of the abortion; or

(b) on an unborn child who is at least 20 weeks gestational age at the time of the abortion, if:

(i) the abortion is being performed for a reason described in Subsection 76-7-302(3)(b)(i) or (ii); and

(ii) due to a serious medical emergency, time does not permit compliance with the requirement to provide the information described in Subsection ~~[(5)(e)]~~ (2)(s).

~~[(8) In addition to the requirements described in Subsection (2), the video described in Subsection (1)(b) shall:]~~

~~[(a) make reference to the list described in Subsection (5)(b); and]~~

~~[(b) show an ultrasound of the heartbeat of an unborn child at:]~~

~~[(i) four weeks from conception;]~~

~~[(ii) six to eight weeks from conception; and]~~

~~[(iii) each month after 10 weeks gestational age, up to 14 weeks gestational age.]~~

(6) The department and each local health department shall make the information module and the website described in Subsection (1) available at no cost to any person.

(7) The department shall make the website described in Subsection (1) available for viewing on the department's website by clicking on a conspicuous link on the home page of the website.

(8) The department shall ensure that the information module is:

(a) available to be viewed at all facilities where an abortion may be performed;

(b) interactive for the individual viewing the module, including the provision of opportunities to answer questions and manually engage with the module before the module transitions from one substantive section to the next;

(c) produced in English and may include subtitles in Spanish or another language; and

(d) capable of being viewed on a tablet or other portable device.

(9) The department shall present the information module to the Health and Human Services Interim Committee for the committee's review and recommendation before November 1, 2018.

(10) The department shall release the information module, for the use described in Section 76-7-305, before January 1, 2019.

(11) After the department releases the initial version of the information module, for the use described in Section 76-7-305, the department shall:

(a) update the information module, as required by law; and

(b) present an updated version of the information module to the Health and Human Services Interim Committee for the committee's review and recommendation before releasing the updated version for the use described in Section 76-7-305.

Section 10. Section 76-7-305.7 is amended to read:

76-7-305.7. Statistical report by the Department of Health.

(1) In accordance with Subsection (2), the ~~[Department of Health]~~ department shall, on an annual basis, after December 31 of each year, compile and report the following information, relating to the preceding calendar year, to the Health and Human Services Interim Committee:

(a) the total number of abortions that were performed in the state;

(b) the reported reasons, if any, the women sought the abortions described in Subsection (1)(a);

(c) the stage of pregnancy in which the abortions described in Subsection (1)(a) were performed, including:

(i) the trimester; and

(ii) estimated week of pregnancy;

(d) the races and ethnicities of the women who obtained the abortions described in Subsection (1)(a), including:

(i) Alaska Native;

(ii) American Indian;

(iii) Asian;

(iv) Black or African American;

(v) Hispanic or Latino;

(vi) Native Hawaiian or Pacific Islander;

(vii) White, not Hispanic or Latino; and

(viii) some other race;

(e) the total amount of informed consent material described in this section that was distributed or accessed;

(f) the number of women who obtained abortions in this state without receiving the informed consent materials described in this section;

(g) the number of statements signed by attending physicians under Subsection ~~[76-7-305.6(4)]~~ 76-7-313(3); and

(h) any other information pertaining to obtaining informed consent from a woman who seeks an abortion.

(2) The report described in Subsection (1) shall be prepared and presented in a manner that preserves physician and patient anonymity.

Section 11. Section 76-7-313 is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department.

(1) In order for the ~~[state Department of Health]~~ department to maintain necessary statistical information and ensure enforcement of the provisions of this part~~;~~:

(a) any physician performing an abortion must obtain and record in writing:

~~[(a)]~~ (i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

~~[(b)]~~ (ii) the number of previous abortions performed on the woman described in Subsection (1)(a);

~~[(c)]~~ (iii) the hospital or other facility where the abortion was performed;

~~[(d)]~~ (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

~~[(e)]~~ (v) the pathological description of the unborn child;

~~[(f)]~~ (vi) the given menstrual age of the unborn child;

~~[(g)]~~ (vii) the measurements of the unborn child, if possible to ascertain; and

~~[(h)]~~ (viii) the medical procedure used to abort the unborn child~~;~~; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the ~~[Department of Health]~~ department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) that the required consent was obtained pursuant to Sections 76-7-305~~;~~ and 76-7-305.5~~;~~ and 76-7-305.6~~;~~; and

(ii) described in Subsection ~~[76-7-305.6(4)]~~ (3), if applicable; and

(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion; and

(ii) if the unborn child was viable, as defined in Subsection 76-7-302(1), at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

~~[(3)]~~ (4) All information supplied to the ~~[Department of Health]~~ department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Section 12. Section 76-7-314 is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

(5) The Department of Health shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section 26-21-11 against an abortion clinic if a violation of this chapter occurs at the abortion clinic.

Section 13. Repealer.

This bill repeals:

Section 76-7-305.6, Abortion facilities required to provide printed materials and informational video -- Department of Health to make printed materials and informational video available.

Section 14. Effective date.

This bill takes effect on May 8, 2018, except that:

(1) the amendments to Section 58-67-304 (Effective 07/01/18) take effect on July 1, 2018; and

(2) the amendments to Sections 76-7-305, 76-7-313, and 76-7-314 take effect on January 1, 2019.

CHAPTER 283**S. B. 120**

Passed February 28, 2018

Approved March 19, 2018

Effective May 8, 2018

**LOCAL GOVERNMENT
FEES AND TAXES AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Karianne Lisonbee

LONG TITLE**General Description:**

This bill prohibits a municipality from imposing a transportation utility fee on a legal subdivision.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ limits any authority a municipality has to impose a transportation utility fee by prohibiting a municipality from imposing a transportation utility fee on a legal subdivision; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-7-102, as last amended by Laws of Utah 2012, Chapter 289

72-7-108, as last amended by Laws of Utah 2017, Chapter 80

ENACTS:

11-26-101, Utah Code Annotated 1953

11-26-301, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

11-26-201, (Renumbered from 11-26-1, as last amended by Laws of Utah 2003, Chapter 253)

11-26-202, (Renumbered from 11-26-2, as enacted by Laws of Utah 1981, Chapter 214)

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

Section 1. Section 11-26-101 is enacted to read:**CHAPTER 26. LIMITATIONS ON LOCAL
TAXES AND FEES ON UTILITIES****Part 1. General Provisions.****11-26-101. Title.**

This chapter is known as "Limitations on Local Taxes and Fees on Utilities."

Section 2. Section 11-26-201, which is renumbered from Section 11-26-1 is renumbered and amended to read:

Part 2. Local Charges on a Public Service Provider

[11-26-1]. 11-26-201. Definitions -- Ceiling on local charges based on gross revenue of public service provider.

(1) As used in this [chapter] part:

(a) "Local charge" means one or more of the following charges paid by a public service provider to a county or municipality:

- (i) a tax;
- (ii) a license;
- (iii) a fee;
- (iv) a license fee;
- (v) a license tax; or
- (vi) a charge similar to Subsections (1)(a)(i) through (v).

(b) "Municipality" means:

- (i) a city; or
- (ii) a town.

(c) "Public service provider" means a person engaged in the business of supplying taxable energy as defined in Section 10-1-303.

(2) A county or a municipality may not impose upon, charge, or collect from a public service provider local charges:

(a) imposed on the basis of the gross [revenues] revenue of the public service provider;

(b) derived from sales, use, or both sales and use of the service within the county or municipality; and

(c) in a total amount that is greater than 6% of gross [revenues] revenue.

(3) The determination of gross [revenues] revenue under this section may not include:

(a) the sale of gas or electricity as special fuel for motor vehicles; or

(b) a local charge.

(4) This section may not be construed to:

(a) affect or limit the power of [~~counties or municipalities~~] a county or a municipality to impose sales and use taxes under:

- (i) Title 59, Chapter 12, Sales and Use Tax Act; or
- (ii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) grant any county or municipality the power to impose a local charge not otherwise provided for by law.

(5) This section takes precedence over any conflicting provision of law.

Section 3. Section 11-26-202, which is renumbered from Section 11-26-2 is renumbered and amended to read:

[11-26-2]. 11-26-202. Exemption of municipality from taxation limitation.

A municipality is exempt from this limit by a majority vote of ~~[its voters voting]~~ the municipality's voters who vote in a municipal election.

Section 4. Section 11-26-301 is enacted to read:

Part 3. Transportation Utility Fee

11-26-301. Definitions -- Limitation on imposition of transportation utility fee.

(1) As used in this section:

(a) (i) “Legal subdivision” means a local government that is recognized by Utah Constitution, Article XI.

(ii) “Legal subdivision” does not include a local government that Utah Constitution, Article XI, only authorizes the Legislature to create.

(b) “Municipality” means the same as that term is defined in Section 10-1-104.

(c) “Transportation utility fee” means an ongoing, regular fee or tax imposed:

(i) by a municipality for the purpose of maintaining public roads; and

(ii) on utility customers within the municipality.

(2) A municipality may not impose a transportation utility fee on a legal subdivision.

(3) This section does not grant to a municipality any authority not otherwise provided for by law to impose a transportation utility fee.

Section 5. Section 72-7-102 is amended to read:

72-7-102. Excavations, structures, or objects prohibited within right-of-way except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty for violation.

(1) As used in this section, “management costs” means the reasonable, direct, and actual costs a highway authority incurs in exercising authority over the highways under ~~[its]~~ the highway authority's jurisdiction.

(2) Except as provided in Subsection (3) and Section 54-4-15, a person may not:

(a) dig or excavate, within the right-of-way of any state highway, county road, or city street; or

(b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the right-of-way.

(3) (a) A highway authority having jurisdiction over the right-of-way may allow excavating, installation of utilities and other facilities, or access under rules made by the highway authority and in compliance with federal, state, and local law as applicable.

(b) (i) The rules may require a permit for any excavation or installation and may require a surety bond or other security.

(ii) The application for a permit for excavation or installation on a state highway shall be accompanied by a fee established under Subsection (4)(f).

(iii) The permit may be revoked and the surety bond or other security may be forfeited for cause.

(4) (a) Except as provided in Section 72-7-108 with respect to the department concerning the interstate highway system, a highway authority may require compensation from a utility service provider for access to the right-of-way of a highway only as provided in this section.

(b) A highway authority may recover from a utility service provider, only those management costs caused by the utility service provider's activities in the right-of-way of a highway under the jurisdiction of the highway authority.

(c) (i) A highway authority shall impose a fee or other compensation under this Subsection (4) [shall be imposed] on a competitively neutral basis.

(ii) (A) If a highway authority's management costs cannot be attributed to only one entity, the highway authority shall allocate the management costs [shall be allocated] among all privately owned and government agencies using the highway right-of-way for utility service purposes, including the highway authority itself.

(B) The allocation shall reflect proportionately the management costs incurred by the highway authority as a result of the various utility uses of the highway.

(d) A highway authority may not use the compensation authority granted under this Subsection (4) as a basis for generating revenue for the highway authority that is in addition to ~~[its]~~ the highway authority's management costs.

(e) (i) A utility service provider that is assessed management costs or a franchise fee by a highway authority is entitled to recover those management costs.

(ii) If the highway authority that assesses the management costs or franchise fees is a political subdivision of the state and the utility service provider serves customers within the boundaries of that highway authority, the management costs may be recovered from those customers.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall adopt a schedule of fees to be assessed for management costs incurred in connection with issuing and administering a permit on a state highway under this section.

(g) In addition to the requirements of this Subsection (4), a telecommunications tax or fee imposed by a municipality on a telecommunications provider, as defined in Section 10-1-402, is subject to Section 10-1-406.

(5) Permit fees collected by the department under this section shall be deposited with the state treasurer and credited to the Transportation Fund.

(6) Nothing in this section shall affect the authority of a municipality under:

- (a) Section 10-1-203 or 10-1-203.5;
- (b) Section ~~[11-26-1]~~ 11-26-201;

(c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(7) A person who violates the provisions of Subsection (2) is guilty of a class B misdemeanor.

Section 6. Section 72-7-108 is amended to read:

72-7-108. Longitudinal telecommunication access in the interstate highway system -- Definitions -- Agreements -- Compensation -- Restrictions -- Rulemaking.

(1) As used in this section:

(a) "Longitudinal access" means access to or use of any part of a right-of-way of a highway on the interstate system that extends generally parallel to the right-of-way for a total of 30 or more linear meters.

(b) "Statewide telecommunications purposes" means the further development of the statewide network that meets the telecommunications needs of state agencies and enhances the learning purposes of higher and public education.

(c) "Telecommunication facility" means any telecommunication cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment, or other equipment, system, and device used to transmit, receive, produce, or distribute via wireless, wireline, electronic, or optical signal for communication purposes.

(2) (a) Except as provided in Subsection (4), the department may allow a telecommunication facility provider longitudinal access to the right-of-way of a highway on the interstate system for the installation, operation, and maintenance of a telecommunication facility.

(b) The department shall enter into an agreement with a telecommunication facility provider and issue a permit before granting it any longitudinal access under this section.

(i) Except as specifically provided by the agreement, a property interest in a right-of-way may not be granted under the provisions of this section.

(ii) An agreement entered into by the department under this section shall:

(A) specify the terms and conditions for the renegotiation of the agreement;

(B) specify maintenance responsibilities for each telecommunication facility;

(C) be nonexclusive; and

(D) be limited to a maximum term of 30 years.

(3) (a) The department shall require compensation from a telecommunication facility provider under this section for longitudinal access to the right-of-way of a highway on the interstate system.

(b) The compensation charged shall be:

(i) fair and reasonable;

(ii) competitively neutral;

(iii) nondiscriminatory;

(iv) open to public inspection;

(v) established to promote access by multiple telecommunication facility providers;

(vi) established for zones of the state, with zones determined based upon factors that include population density, distance, numbers of telecommunication subscribers, and the impact upon private right-of-way users;

(vii) established to encourage the deployment of digital infrastructure within the state;

(viii) set after the department conducts a market analysis to determine the fair and reasonable values of the right-of-way based upon adjacent property values;

(ix) a lump sum payment or annual installment, at the option of the telecommunications facility provider; and

(x) set in accordance with Subsection (3)(f).

(c) (i) The compensation charged may be cash, in-kind compensation, or a combination of cash and in-kind compensation.

(ii) In-kind compensation requires the agreement of both the telecommunication facility provider and the department.

(iii) The department shall determine the present value of any in-kind compensation based upon the incremental cost to the telecommunication facility provider.

(iv) The value of in-kind compensation or a combination of cash and in-kind compensation shall be equal to or greater than the amount of cash compensation that would be charged if the compensation is cash only.

(d) (i) The department shall provide for the proportionate sharing of costs among the department and telecommunications providers for joint trenching or trench sharing based on the amount of conduit innerduct space that is authorized in the agreement for the trench.

(ii) If two or more telecommunications facility providers are required to share a single trench, each

telecommunications facility provider in the trench shall share the cost and benefits of the trench in accordance with Subsection (3)(d)(i) on a fair, reasonable, competitively neutral, and nondiscriminatory basis.

(e) The department shall conduct the market analysis ~~[under]~~ described in Subsection (3)(b)(viii) ~~[shall be conducted]~~ at least every five years and ~~[any adjustments warranted]~~ shall apply any necessary adjustments only to agreements entered after the date of the new market analysis.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish a schedule of rates of compensation for any longitudinal access granted under this section.

(4) The department may not grant any longitudinal access under this section that results in a significant compromise of the safe, efficient, and convenient use of the interstate system for the traveling public.

(5) The department may not pay any cost of relocation of a telecommunication facility granted longitudinal access to the right-of-way of a highway on the interstate system under this section.

(6) (a) Monetary compensation collected by the department in accordance with this section shall be deposited with the state treasurer and credited to the Transportation Fund.

(b) Any telecommunications capacity acquired as in-kind compensation shall be used exclusively for statewide telecommunications purposes and may not be sold or leased in competition with telecommunication or Internet service providers.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(a) governing the installation, operation, and maintenance of a telecommunication facility granted longitudinal access under this section;

(b) specifying the procedures for establishing an agreement for longitudinal access for a telecommunication facility provider;

(c) providing for the relocation or removal of a telecommunication facility for:

(i) needed changes to a highway on the interstate system;

(ii) expiration of an agreement; or

(iii) a breach of an agreement; and

(d) providing an opportunity for all interested providers to apply for access within open right-of-way segments.

(8) (a) Except for a right-of-way of a highway on the interstate system, nothing in this section shall be construed to allow a highway authority to require compensation from a telecommunication facility provider for longitudinal access to the

right-of-way of a highway under the highway authority's jurisdiction.

(b) Nothing in this section shall affect the authority of a municipality under:

(i) Section 10-1-203;

(ii) Section ~~[11-26-1]~~ 11-26-201;

(iii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(iv) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(9) Compensation paid to the department under Subsection (3) may not be used by any person as evidence of the market or other value of the access for any other purpose, including condemnation proceedings, other litigation, or the application of rates of taxation or the establishment of franchise fees relating to longitudinal access rights.

CHAPTER 284**S. B. 122**

Passed March 7, 2018
 Approved March 19, 2018
 Effective January 1, 2019

BOND ELECTIONS AMENDMENTS

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies the Local Government Bonding Act by amending provisions relating to the issuance of bonds by a local political subdivision.

Highlighted Provisions:

This bill:

- ▶ provides that a local political subdivision may not receive, from the issuance of certain bonds approved by the voters at an election, an aggregate amount that exceeds by a certain percentage the maximum principal amount stated in the bond proposition.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

11-14-301, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 11-14-301 is amended to read:**11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.**

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602 and Subsection 20A-7-601(3)(a), with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) A tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is made to the Supreme Court;

(ii) the Supreme Court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(f) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as

provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

(7) (a) A local political subdivision may not receive, from the issuance of bonds approved by the voters at an election, an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition.

(b) The provision in Subsection (7)(a) applies to bonds issued pursuant to an election held after January 1, 2019.

Section 2. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 285**S. B. 125**

Passed March 1, 2018
 Approved March 19, 2018
 Effective May 8, 2018
 (Exception clause in Section 22)

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends provisions relating to child welfare.

Highlighted Provisions:

This bill:

- ▶ amends and defines terms;
- ▶ prohibits the Department of Human Services from maintaining child pornography and requires the department to transfer specified child pornography to law enforcement;
- ▶ prohibits access to child pornography transferred by the department to law enforcement, subject to certain exceptions;
- ▶ exempts a Department of Human Services employee acting in the employee's professional capacity from criminal and civil liability due to the employee's necessary viewing or transferring of child pornography;
- ▶ removes child pornography from the definition of "record" in the Government Records Access and Management Act;
- ▶ clarifies the requirement for school personnel to report child abuse or neglect, including educational neglect, to the Division of Child and Family Services;
- ▶ makes requirements for how a court, the division, and law enforcement respond when a child who is in the custody of the division is missing, has been abducted, or has run away; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

26-36a-103, as last amended by Laws of Utah 2013, Chapter 32
 26-36b-103, as enacted by Laws of Utah 2016, Chapter 279
 53E-9-308, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53G-6-202, as renumbered and amended by Laws of Utah 2018, Chapter 3
 62A-4a-206, as last amended by Laws of Utah 2012, Chapter 214
 62A-4a-209, as last amended by Laws of Utah 2017, Chapter 181
 63G-2-103, as last amended by Laws of Utah 2017, Chapters 196 and 441
 63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

76-5b-201, as last amended by Laws of Utah 2016, Chapter 116
 77-7a-104, as last amended by Laws of Utah 2017, Chapter 415
 78A-6-105, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
 78A-6-106, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78A-6-113 (Superseded 07/01/18), as last amended by Laws of Utah 2010, Chapter 38
 78A-6-113 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 330
 78A-6-117 (Superseded 07/01/18), as last amended by Laws of Utah 2016, Chapter 418
 78A-6-117 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 330
 78A-6-307, as last amended by Laws of Utah 2015, Chapter 142
 78A-6-318, as last amended by Laws of Utah 2008, Chapter 17 and renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

53G-9-209, Utah Code Annotated 1953
 62A-1-121, Utah Code Annotated 1953
 62A-4a-206.5, Utah Code Annotated 1953

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

Section 1. Section 26-36a-103 is amended to read:**26-36a-103. Definitions.**

As used in this chapter:

(1) "Accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(2) "Assessment" means the Medicaid hospital provider assessment established by this chapter.

(3) "Discharges" means the number of total hospital discharges reported on worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of Health Care Financing of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) a ~~[residential care or treatment facility]~~ human services program as defined in Section 62A-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare cost report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 2. Section 26-36b-103 is amended to read:

26-36b-103. Definitions.

As used in this chapter:

(1) "Assessment" means the inpatient hospital assessment established by this chapter.

(2) "CMS" means the same as that term is defined in Section 26-18-411.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(6) "Non-state government hospital":

(a) means a hospital owned by a non-state government entity; and

(b) does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(7) "Private hospital":

(a) means:

(i) a privately owned general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) a privately owned specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include a ~~[residential care or treatment facility]~~ recovery residence or a human services program as defined in Section 62A-2-101.

(8) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 3. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager.

(1) An education entity shall comply with this section beginning with the 2017-18 school year.

(2) An education entity may not share a student's personally identifiable student data if the personally identifiable student data is not shared in accordance with:

(a) the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h; and

(b) this part.

(3) A student data manager shall:

(a) authorize and manage the sharing, outside of the education entity, of personally identifiable student data from a cumulative record for the education entity as described in this section; and

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302.

(4) (a) Except as provided in this section or required by federal law, a student data manager may not share, outside of the education entity, personally identifiable student data from a cumulative record without a data authorization.

(b) A student data manager may share the personally identifiable student data of a student with the student and the student's parent.

(5) A student data manager may share a student's personally identifiable student data from a cumulative record with:

(a) a school official;

(b) as described in Subsection (6), an authorized caseworker or other representative of the Department of Human Services; or

(c) a person to whom the student data manager's education entity has outsourced a service or function:

(i) to research the effectiveness of a program's implementation; or

(ii) that the education entity's employees would typically perform.

(6) A student data manager may share a student's personally identifiable student data from a

cumulative record with a caseworker or representative of the Department of Human Services if:

(a) the Department of Human Services is:

(i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 62A-4a-409(5); or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Human Services to receive the student's personally identifiable student data; and

(c) the Department of Human Services maintains and protects the student's personally identifiable student data.

(7) The Department of Human Services, a school official, or the Utah Juvenile Court may share education information, including a student's personally identifiable student data, to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the Department of Human Services;

(b) receiving services from the Division of Juvenile Justice Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(8) Subject to Subsection (9), a student data manager may share aggregate data.

(9) (a) If a student data manager receives a request to share data for the purpose of external research or evaluation, the student data manager shall:

(i) submit the request to the education entity's external research review process; and

(ii) fulfill the instructions that result from the review process.

(b) A student data manager may not share personally identifiable student data for the purpose of external research or evaluation.

(10) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (10)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(11) (a) In accordance with board rule, a student data manager may share personally identifiable information that is directory information.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(i) define directory information; and

(ii) determine how a student data manager may share personally identifiable information that is directory information.

Section 4. Section 53G-6-202 is amended to read:

53G-6-202. Compulsory education.

(1) For purposes of this section:

(a) "Intentionally" is as defined in Section 76-2-103.

(b) "Recklessly" is as defined in Section 76-2-103.

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which the notice of compulsory education violation described in Subsection (3) is served and ending on the last day of the school year.

(d) "School-age child" means a school-age minor under the age of 14.

(2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age minor shall enroll and send the school-age minor to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year.

(4) The notice of compulsory education violation, described in Subsection (3):

(a) shall direct the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent of the school-age child to intentionally or recklessly:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year;

(d) shall be served on the school-age child's parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt from enrollment under Section 53G-6-204 or 53G-6-702.

(6) It is a class B misdemeanor for a parent of a school-age child to, after being served with a notice of compulsory education violation in accordance with Subsections (3) and (4), intentionally or recklessly:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year.

(7) A local school board, local charter board, or school district shall report violations of this section to the appropriate county or district attorney.

(8) If school personnel have reason to believe that, after a notice of compulsory education violation is issued, the parent or guardian has failed to make a good faith effort to ensure that the child receives an appropriate education, the issuer of the compulsory education violation shall report to the Division of Child and Family Services:

(a) identifying information of the child and the child's parent or guardian who received the notice of compulsory education violation;

(b) information regarding the longest number of consecutive school days the school-age minor has been absent from school and the percentage of school days the child has been absent during each relevant school term;

(c) whether the child has made adequate educational progress;

(d) whether the requirements of Section 53G-6-206 have been met;

(e) whether the child is two or more years behind the local public school's age group expectations in one or more basic skills; and

(f) whether the child is receiving special education services or systematic remediation efforts.

Section 5. Section 53G-9-209 is enacted to read:

53G-9-209. Child abuse or neglect reporting requirement.

(1) As used in this section:

(a) "Educational neglect" means the same as that term is defined in Section 78A-6-105.

(b) "School personnel" means the same as that term is defined in Section 53G-9-203.

(2) School personnel shall comply with the child abuse and neglect reporting requirements described in Section 62A-4a-403.

(3) When school personnel have reason to believe that a child may be subject to educational neglect, school personnel shall submit the report described in Subsection 53G-6-202(8) to the Division of Child and Family Services.

(4) When school personnel have reason to believe that a child is subject to both educational neglect and another form of neglect or abuse, school personnel may not wait to report the other form of neglect or abuse pending preparation of a report regarding educational neglect.

(5) School personnel shall cooperate with the Division of Child and Family Services and share all information with the division that is relevant to the division's investigation of an allegation of abuse or neglect.

Section 6. Section 62A-1-121 is enacted to read:

62A-1-121. Child pornography.

(1) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(2) The department or a division within the department may not retain child pornography longer than is necessary to comply with the requirements of this section.

(3) When the department or a division within the department obtains child pornography as a result of an employee unlawfully viewing child pornography, the department or division shall consult with and follow the guidance of the Department of Human Resource Management and local law enforcement regarding retention of the child pornography.

(4) When the department or a division within the department obtains child pornography as a result of a report or an investigation, the department or division shall:

(a) document a written description of the child pornography in the appropriate case file; and

(b) securely transfer the child pornography to the law enforcement office that has jurisdiction over the area where the division's case is located.

(5) When the department or a division within the department transfers child pornography to law enforcement, the law enforcement office shall:

(a) seize and retain the child pornography as evidence, in accordance with Section 24-2-103;

(b) prohibit the distribution, release, or display of the child pornography, except to the following:

(i) an individual to whom a court has granted access by court order, as described in Subsection (6);

(ii) a department or division investigator, a supervisor of a department, or division investigator or an investigator authorized under Section 62A-4a-202.6, if necessary for the investigation;

(iii) an administrative law judge employed by the Department of Human Services, if necessary for an adjudication;

(iv) an office of the city attorney, county attorney, district attorney, or attorney general, if necessary for prosecution;

(v) a law enforcement agency, if necessary for an investigation; or

(vi) the guardian ad litem for the child who is the subject of the child pornography; and

(c) when the department determines that the child pornography no longer needs to be held as evidence, dispose of the child pornography under Subsection 24-3-103(6)(a)(iii).

(6) A court order described in Subsection (5)(b)(i):

(a) shall describe with particularity the individual to whom the child pornography may be released; and

(b) may impose reasonable restrictions on access to the child pornography to protect the privacy of the child victim.

Section 7. Section 62A-4a-206 is amended to read:

62A-4a-206. Process for removal of a child from foster family -- Procedural due process.

(1) (a) The Legislature finds that, except with regard to a child's natural parent or legal guardian, a foster family has a very limited but recognized interest in its familial relationship with a foster child who has been in the care and custody of that family. In making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.

(b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family prior to removal of a foster child from their home, regardless of the length of time the child has been in that home, unless removal is for the purpose of:

(i) returning the child to the child's natural parent or legal guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative, as defined in Subsection 78A-6-307(1)(e), who obtained custody or asserted an interest in the child within the preference period described in Subsection 78A-6-307(18)(a); or

(iv) placing an Indian child in accordance with preplacement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2) (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) Those procedures shall include requirements for:

(i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents prior to removal of the child; and

(ii) an opportunity for foster parents to present their information and concerns to the division and to:

(A) request a review, to be held before removal of the child, by a third party neutral fact finder; or

(B) if the child has been placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by:

(I) the juvenile court judge currently assigned to the child's case; or

(II) if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, it shall place the child in emergency foster care during the pendency of the procedures described in this subsection, instead of making another foster care placement.

(3) If the division removes a child from a foster home based upon the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2). The division may take no formal action with regard to that foster parent's license until after those processes, in addition to any other procedure or hearing required by law, have been completed.

(4) When a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) Whenever the division places a child in a foster home, it shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division pursuant to Subsection (2) and how to access those processes; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for

review of a decision to remove a foster child who has been in their custody for 12 months or longer, in accordance with the limitations and requirements of Section 78A-6-318.

(6) The requirements of this section do not apply to the removal of a child based on a foster parent's request for that removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child has been placed with the foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative, as defined in Subsection 78A-6-307(1)(e), of the child on the basis of the age or health of the foster parent without determining by:

(a) clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or

(b) a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.

Section 8. Section 62A-4a-206.5 is enacted to read:

62A-4a-206.5. Child missing from state custody.

(1) When the division receives information that a child in the custody of the division is missing, has been abducted, or has run away, the division shall:

(a) within 24 hours after the time when the division has reason to believe that the information is accurate, notify the National Center for Missing and Exploited Children; and

(b) pursue a warrant under Subsection 78A-6-106(6).

(2) When the division locates a child described in Subsection (1), the division shall:

(a) determine the primary factors that caused or contributed to the child's absence from care;

(b) determine the child's experiences while absent from care, including screening the child to determine if the child is a sex trafficking victim;

(c) to the extent possible, select a placement for the child that accommodates the child's needs and takes into consideration the factors and experiences described in Subsections (2)(a) and (b); and

(d) follow the requirements in Section 78A-6-307.5 for determining an ongoing placement of the child.

Section 9. Section 62A-4a-209 is amended to read:

62A-4a-209. Emergency placement.

(1) As used in this section:

(a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1)(a).

(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

(c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1)(e).

(2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:

(a) the case worker has made the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the person that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;

(b) a person, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the person described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the person meets the criteria for an emergency placement under Subsection (3);

(ii) the person agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the person agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the person agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the person has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the person is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

- (vii) the child is comfortable with the person.
- (3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:
- (a) may request the name of a reference and may contact the reference to determine the answer to the following questions:
- (i) would the person identified as a reference place a child in the home of the emergency placement; and
- (ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;
- (b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;
- (c) (i) if the emergency placement will be with a relative of the child, shall comply with the background check provisions described in Subsection (7); or
- (ii) if the emergency placement will be with a person other than a noncustodial parent or a relative, shall comply with the background check provisions described in Subsection (8) for adults living in the household where the child will be placed;
- (d) shall complete a limited home inspection of the home where the emergency placement is made; and
- (e) shall have the emergency placement approved by a family service specialist.
- (4) (a) The following order of preference shall be applied when determining the person with whom a child will be placed in an emergency placement described in this section, provided that the person is willing, and has the ability, to care for the child:
- (i) a noncustodial parent of the child in accordance with Section 78A-6-307;
- (ii) a relative of the child;
- (iii) subject to Subsection (4)(b), a friend designated by the custodial parent or guardian of the child; and
- (iv) a shelter facility, former foster placement, or other foster placement designated by the division.
- (b) Unless the division agrees otherwise, the custodial parent or guardian described in Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.
- (5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:
- (i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

- (ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and
- (iii) has the custodial parent or guardian sign an emergency placement agreement.
- (b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.
- (c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:
- (i) background check of the noncustodial parent, pursuant to Subsection (7); and
- (ii) inspection of the home where the emergency placement is made.
- (6) After an emergency placement, the division caseworker must:
- (a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;
- (b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;
- (c) contact the attorney general to schedule a shelter hearing;
- (d) complete the placement procedures required in Section 78A-6-307; and
- (e) continue to search for other relatives as a possible long-term placement, if needed.
- (7) (a) The background check described in Subsection (3)(c)(i) shall include completion of:
- (i) a name-based, Utah Bureau of Criminal Identification background check; and
- (ii) a search of the Management Information System described in Section 62A-4a-1003.
- (b) The division shall determine whether a person passes the background check described in this Subsection (7) pursuant to the provisions of Subsection 62A-2-120(14).
- (c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.
- (8) (a) The background check described in Subsection (3)(c)(ii) shall include completion of:
- (i) a name-based, Utah Bureau of Criminal Identification background check;
- (ii) a federal name-based criminal background check; and
- (iii) a search of the Management Information System described in Section 62A-4a-1003.
- (b) The division shall determine whether a person passes the background checks described in this

Subsection (8) pursuant to the provisions of Subsection 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the person contests that denial, the person shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days of the name-based background checks, the division shall require a person to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If a person fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

Section 10. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustible units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and

(iv) an association as defined in Section 53A-1-1601.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53A-1-1601, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one

business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; [ø]

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102[-]; or

(xvi) child pornography, as defined by Section 76-5b-103.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from

private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 11. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing,

certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those

resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of

intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101[(19)(a)(vi)](20), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; and

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist.

Section 12. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) A person is guilty of sexual exploitation of a minor:

(a) when the person:

(i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or

(ii) intentionally distributes or views child pornography; or

(b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).

(2) Sexual exploitation of a minor is a second degree felony.

(3) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(4) It is an affirmative defense to a charge of violating this section that no person under 18 years of age was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) ~~any~~ an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under any federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on any tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) ~~any~~ a law enforcement officer acting within the scope of a criminal investigation;

(c) ~~any~~ an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) ~~any~~ a juror who may be required to view child pornography during the course of the ~~person's~~ individual's service as a juror; ~~or~~

(e) ~~any~~ an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment~~;~~];

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 13. Section 77-7a-104 is amended to read:

77-7a-104. Activation and use of body-worn cameras.

(1) An officer using a body-worn camera shall verify that the equipment is properly functioning as is reasonably within the officer's ability.

(2) An officer shall report any malfunctioning equipment to the officer's supervisor if:

(a) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

(b) an officer determines that the officer's body-worn camera is not functioning properly at any time while the officer is on duty.

(3) An officer shall wear the body-worn camera so that it is clearly visible to the person being recorded.

(4) An officer shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible.

(5) An officer shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section.

(6) When going on duty and off duty, an officer who is issued a body-worn camera shall record the officer's name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera.

(7) If a body-worn camera was present during a law enforcement encounter, the officer shall document the presence of the body-worn camera in any report or other official record of a contact.

(8) When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer's direct participation in the law enforcement encounter is complete, except as provided in Subsection (9).

(9) An officer may deactivate a body-worn camera:

(a) to consult with a supervisor or another officer;

(b) during a significant period of inactivity; and

(c) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:

(i) the individual who is the subject of the recording requests that the officer deactivate the officer's body-worn camera; and

(ii) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera.

(10) If an officer deactivates a body-worn camera, the officer shall document the reason for deactivating a body-worn camera in a written report.

(11) (a) For purposes of this Subsection (11):

(i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(ii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iii) "Hospital" means the same as that term is defined in Section 78B-3-403.

(iv) "Human service program" means the same as that term is defined in ~~[Subsection]~~ Section 62A-2-101[(20)(a)(vi)].

(b) An officer may not activate a body-worn camera in a hospital, health care facility, human service program, or the clinic of a health care provider, except during a law enforcement encounter, and with notice under Section 77-7a-105.

Section 14. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

- (1) (a) "Abuse" means:
- (i) (A) nonaccidental harm of a child;
 - (B) threatened harm of a child;
 - (C) sexual exploitation;
 - (D) sexual abuse; or
 - (E) human trafficking of a child in violation of Section 76-5-308.5; or
 - (ii) that a child's natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b) "Abuse" does not include:
- (i) reasonable discipline or management of a child, including withholding privileges;
 - (ii) conduct described in Section 76-2-401; or
 - (iii) the use of reasonable and necessary physical restraint or force on a child:
 - (A) in self-defense;
 - (B) in defense of others;
 - (C) to protect the child; or
 - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.
- (4) "Adult" means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.
- (5) "Board" means the Board of Juvenile Court Judges.
- (6) "Child" means a person under 18 years of age.
- (7) "Child placement agency" means:
- (a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(14) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(15) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(16) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(17) "Division" means the Division of Child and Family Services.

(18) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

~~(18)~~ (19) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

~~(19)~~ (20) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

~~(20)~~ (21) "Formal referral" means a written report from a peace officer or other person

informing the court that a minor is or appears to be within the court's jurisdiction and that a case must be reviewed.

[(21)] (22) "Group rehabilitation therapy" means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

[(22)] (23) "Guardianship of the person" includes the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another person, agency, or institution.

[(23)] (24) "Habitual truant" means the same as that term is defined in Section 53A-11-101.

[(24)] (25) "Harm" means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

[(25)] (26) (a) "Incest" means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection [(25)] (26)(a) include:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

[(26)] (27) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

[(27)] (28) "Intellectual disability" means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person's effectiveness in meeting the standards expected for the person's age by the person's cultural group, in at least two of the following areas: communication, self-care, home

living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

[(28)] (29) "Legal custody" means a relationship embodying the following rights and duties:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and
- (e) the right, in an emergency, to authorize surgery or other extraordinary care.

[(29)] (30) "Material loss" means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss;
- (c) lost wages; or
- (d) medical expenses.

[(30)] (31) "Mental disorder" means a serious emotional and mental disturbance that severely limits a minor's development and welfare over a significant period of time.

[(31)] (32) "Minor" means:

- (a) a child; or
- (b) a person who is:
 - (i) at least 18 years of age and younger than 21 years of age; and
 - (ii) under the jurisdiction of the juvenile court.

[(32)] (33) "Mobile crisis outreach team" means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

[(33)] (34) "Molestation" means that a person, with the intent to arouse or gratify the sexual desire of any person:

- (a) touches the anus or any part of the genitals of a child;
- (b) takes indecent liberties with a child; or
- (c) causes a child to take indecent liberties with the perpetrator or another.

[(34)] (35) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

[(35)] (36) (a) "Neglect" means action or inaction causing:

- (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence[, education,] or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused; [or]

(v) abandonment of a child through an unregulated custody transfer[.]; or

(vi) educational neglect.

~~[(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.]~~

~~[(e) (b) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.~~

~~[(d) (c) (i) Notwithstanding Subsection [(35)] (36)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.~~

(ii) Nothing in Subsection ~~[(35)(d)]~~ (36)(c)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

~~[(36)]~~ (37) "Neglected child" means a child who has been subjected to neglect.

~~[(37)]~~ (38) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

~~[(38)]~~ (39) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

~~[(39)]~~ (40) "Physical abuse" means abuse that results in physical injury or damage to a child.

~~[(40)]~~ (41) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

~~[(41)]~~ (42) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

~~[(42)]~~ (43) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

~~[(43)]~~ (44) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

~~[(44)]~~ (45) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

~~[(45)]~~ (46) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

~~[(46)]~~ (47) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

~~[(47)]~~ (48) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection ~~[(25)]~~ (26);

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children; or

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7.

~~[(48)]~~ (49) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

~~[(49)]~~ (50) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

~~[(50)]~~ (51) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

~~[(51)]~~ (52) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

~~[(52)]~~ (53) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

~~[(53)]~~ (54) "Supported" means the same as that term is defined in Section 62A-4a-101.

~~[(54)]~~ (55) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

~~[(55)]~~ (56) "Therapist" means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

~~[(56)]~~ (57) "Unregulated custody transfer" means the placement of a child:

(a) with a person who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the person taking custody of the child.

~~[(57)]~~ (58) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

~~[(58)]~~ (59) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

~~[(59)]~~ (60) "Without merit" means the same as that term is defined in Section 62A-4a-101.

Section 15. Section 78A-6-106 is amended to read:

78A-6-106. Search warrants and subpoenas -- Authority to issue -- Protective custody -- Expedited hearing.

(1) The court has authority to issue search warrants, subpoenas, or investigative subpoenas in criminal cases, delinquency, and abuse, neglect, and dependency proceedings for the same purposes, in the same manner and pursuant to the same procedures set forth in the code of criminal

procedure for the issuance of search warrants, subpoenas, or investigative subpoenas in other trial courts in the state.

(2) A peace officer or child welfare worker may not enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless:

(a) there exist exigent circumstances sufficient to relieve the peace officer or child welfare worker of the requirement to obtain a warrant;

(b) the peace officer or child welfare worker obtains a search warrant under Subsection (3) or (6);

(c) the peace officer or child welfare worker obtains a court order after the parent or guardian of the child is given notice and an opportunity to be heard; or

(d) the peace officer or child welfare worker obtains the consent of the child's parent or guardian.

(3) (a) The court may issue a warrant authorizing a child protective services worker or peace officer to search for a child and take the child into protective custody if it appears to the court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or any other person, and upon the examination of other witnesses, if required by the judge, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the parent or guardian of the child is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) Pursuant to Section 77-23-210, a peace officer making the search may enter a house or premises by force, if necessary, in order to remove the child.

(c) The person executing the warrant shall ~~then~~ take the child to the place of shelter designated by the court or the division.

(4) (a) Consistent with Subsection (5), the court shall hold an expedited hearing to determine whether a child should be placed in protective custody if:

(i) a person files a petition under Section 78A-6-304;

(ii) a party to the proceeding files a "Motion for Expedited Placement in Temporary Custody"; and

(iii) notice of the hearing described in this Subsection (4)(a) is served consistent with the requirements for notice of a shelter hearing under Section 78A-6-306.

(b) The hearing described in Subsection (4)(a):

(i) shall be held within 72 hours, excluding weekends and holidays, of the filing of the motion described in Subsection (4)(a)(i); and

(ii) shall be considered a shelter hearing under Section 78A-6-306 and Utah Rules of Juvenile Procedure, Rule 13.

(5) (a) The hearing and notice described in Subsection (4) are subject to:

(i) Section 78A-6-306;

(ii) Section 78A-6-307; and

(iii) the Utah Rules of Juvenile Procedure.

(b) After the hearing described in Subsection (4), a court may order a child placed in the temporary custody of the division.

(6) Upon a motion filed for a warrant to search for a child who is missing, has been abducted, or has run away, a court shall issue a warrant authorizing a child welfare worker or a peace officer to search for the child and take the child into custody if the court determines that:

(a) the child is in the legal custody of the division; and

(b) the child is missing, has been abducted, or has run away.

(7) When a court issues a warrant under Subsection (6):

(a) the division shall notify the child's parent or guardian who has a right to parent-time with the child;

(b) the court shall order:

(i) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time when the law enforcement agency receives a copy of the warrant; and

(ii) the division to notify the law enforcement agency described in Subsection (7)(b)(i) of the order described in Subsection (7)(b)(i); and

(c) the court shall specify the location to which the child welfare worker or peace officer shall transport the child.

(8) On the sole basis of a child's absence from placement, a court may not hold in contempt a child who:

(a) is in the legal custody of the division; and

(b) is missing, has been abducted, or has run away.

[~~6~~] (9) When notice to a parent or guardian is required by this section:

(a) the parent or guardian to be notified must be:

(i) the child's primary caregiver; or

(ii) the parent or guardian who has custody of the child[~~er~~] when the order is sought; and

(b) the person required to provide notice shall make a good faith effort to provide notice to a parent or guardian who:

(i) is not required to be notified under Subsection [(6)] (9)(a); and

(ii) has [the] a right to parent-time with the child.

Section 16. Section 78A-6-113 (Superseded 07/01/18) is amended to read:

78A-6-113 (Superseded 07/01/18).

Placement of minor in detention or shelter facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement for criminal proceedings -- Bail laws inapplicable -- Exception.

(1) (a) A minor may not be placed or kept in a secure detention facility pending court proceedings unless it is unsafe for the public to leave the minor with the minor's parents, guardian, or custodian and the minor is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(b) A child who must be taken from the child's home but who does not require physical restriction shall be given temporary care in a shelter facility and may not be placed in a detention facility.

(c) A child may not be placed or kept in a shelter facility pending court proceedings unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

(d) (i) A court may temporarily place in a detention facility, as provided in Subsection (4), a child who is taken into custody based upon a warrant issued under Subsection 78A-6-106(6), if the court finds that detention is the least restrictive placement available to ensure the immediate safety of the child.

(ii) A child placed in detention under Subsection (1)(d)(i) may not be held in detention longer than is necessary for the division to identify a less restrictive, available, and appropriate placement for the child.

(2) After admission of a child to a detention facility pursuant to the guidelines established by the Division of Juvenile Justice Services and immediate investigation by an authorized officer of the court, the judge or the officer shall order the release of the child to the child's parents, guardian, or custodian if it is found the child can be safely returned to their care, either upon written promise to bring the child to the court at a time set or without restriction.

(a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the facility.

(b) The facility shall determine the cost of care.

(c) Any money collected under this Subsection (2) shall be retained by the Division of Juvenile Justice Services to recover the cost of care for the time the child remains in the facility.

(3) (a) When a child is detained in a detention or shelter facility, the parents or guardian shall be informed by the person in charge of the facility that they have the right to a prompt hearing in court to determine whether the child is to be further detained or released.

(b) When a minor is detained in a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in court to determine whether the minor is to be further detained or released.

(c) Detention hearings shall be held by the judge or by a commissioner.

(d) The court may, at any time, order the release of the minor, whether a detention hearing is held or not.

(e) If a child is released, and the child remains in the facility, because the parents, guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

(4) (a) A minor may not be held in a detention facility longer than 48 hours prior to a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention.

(b) A child may not be held in a shelter facility longer than 48 hours prior to a shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has been entered by the court after notice to all parties described in Section 78A-6-306.

(c) A hearing for detention or shelter may not be waived. Detention staff shall provide the court with all information received from the person who brought the minor to the detention facility.

(d) If the court finds at a detention hearing that it is not safe to release the minor, the judge or commissioner may order the minor to be held in the facility or be placed in another appropriate facility, subject to further order of the court.

(e) (i) After a detention hearing has been held, only the court may release a minor from detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued detention is necessary.

(ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that notice of its decision, including any disposition, order, or no contact orders, be provided to designated persons in the appropriate local law enforcement agency and district superintendent or the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for

purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency, school district, and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(5) A minor may not be held in a detention facility, following a dispositional order of the court for nonsecure substitute care as defined in Section 62A-4a-101, or for community-based placement under Section 62A-7-101 for longer than 72 hours, excluding weekends and holidays. The period of detention may be extended by the court for one period of seven calendar days if:

(a) the Division of Juvenile Justice Services or another agency responsible for placement files a written petition with the court requesting the extension and setting forth good cause; and

(b) the court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(6) The agency requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(7) The court shall promptly notify the detention facility regarding its initial disposition and any ruling on a petition for an extension, whether granted or denied.

(8) (a) A child under 16 years of age may not be held in a jail, lockup, or other place for adult detention except as provided by Section 62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703. The provisions of Section 62A-7-201 regarding confinement facilities apply to this Subsection (8).

(b) A child 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the detention facility for children may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults. However, a secure youth corrections facility is not an appropriate place of confinement for detention purposes under this section.

(9) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall immediately notify the juvenile court when a person who is or appears to be under 18 years of age is received at the facility and shall make arrangements for the transfer of the person to a detention facility, unless otherwise ordered by the juvenile court.

(10) This section does not apply to a minor who is brought to the adult facility under charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal proceedings in the district court under Section 78A-6-702 or 78A-6-703.

(11) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or 78A-6-703 may be detained in a jail or other place of detention used for adults charged with crime.

(12) Provisions of law regarding bail are not applicable to minors detained or taken into custody under this chapter, except that bail may be allowed:

(a) if a minor who need not be detained lives outside this state; or

(b) when a minor who need not be detained comes within one of the classes in Subsection 78A-6-603(11).

(13) Section 76-8-418 is applicable to a child who willfully and intentionally commits an act against a jail or other place of confinement, including a Division of Juvenile Justice Services detention, shelter, or secure confinement facility which would be a third degree felony if committed by an adult.

Section 17. Section 78A-6-113 (Effective 07/01/18) is amended to read:

78A-6-113 (Effective 07/01/18). Placement of minor in detention or shelter facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement for criminal proceedings -- Bail laws inapplicable -- Exception.

(1) (a) A minor may not be placed or kept in a secure detention facility pending court proceedings except in accordance with Section 78A-6-112.

(b) A child may not be placed or kept in a shelter facility pending court proceedings unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

(c) (i) A court may temporarily place in a detention facility, as provided in Subsection (4), a child who is taken into custody based upon a warrant issued under Subsection 78A-6-106(6), if the court finds that detention is the least restrictive placement available to ensure the immediate safety of the child.

(ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention longer than is necessary for the division to identify a less restrictive, available, and appropriate placement for the child.

(2) After admission of a child to a detention facility pursuant to Section 78A-6-112 and immediate investigation by an authorized officer of the court, the judge or the officer shall order the release of the child to the child's parents, guardian, or custodian if it is found the child can be safely returned to their care, either upon written promise to bring the child to the court at a time set or without restriction.

(a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility within 24 hours

after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the facility.

(b) The facility shall determine the cost of care.

(c) Any money collected under this Subsection (2) shall be retained by the Division of Juvenile Justice Services to recover the cost of care for the time the child remains in the facility.

(3) (a) When a child is detained in a detention or shelter facility, the parents or guardian shall be informed by the person in charge of the facility that the parent's or guardian's child has the right to a prompt hearing in court to determine whether the child is to be further detained or released.

(b) When a minor is detained in a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in court to determine whether the minor is to be further detained or released.

(c) Detention hearings shall be held by the judge or by a commissioner.

(d) The court may, at any time, order the release of the minor, whether a detention hearing is held or not.

(e) If a child is released, and the child remains in the facility, because the parents, guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

(4) (a) A minor may not be held in a detention facility longer than 48 hours before a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention.

(b) A child may not be held in a shelter facility longer than 48 hours before a shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has been entered by the court after notice to all parties described in Section 78A-6-306.

(c) A hearing for detention or shelter may not be waived. Detention staff shall provide the court with all information received from the person who brought the minor to the detention facility.

(d) The judge or commissioner may only order a minor to be held in the facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

(i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;

(ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(iii) the minor is eligible for detention under the division guidelines for detention admissions established by the Division of Juvenile Justice

Services, under Section 62A-7-202 and under Section 78A-6-112.

(e) (i) After a detention hearing has been held, only the court may release a minor from detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued detention is necessary.

(ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that notice of its decision, including any disposition, order, or no contact orders, be provided to designated persons in the appropriate local law enforcement agency and district superintendent or the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency, school district, and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(5) A minor may not be held in a detention facility, following a dispositional order of the court for nonsecure substitute care as defined in Section 62A-4a-101, or for community-based placement under Section 62A-7-101.

(6) (a) Except as otherwise provided in this section, a minor may not be held in a detention facility following a disposition order of the court for longer than 72 hours, excluding weekends and holidays.

(b) The period of detention may be extended by the court for a cumulative total of seven calendar days if:

(i) the Division of Juvenile Justice Services or another agency responsible for placement files a written petition with the court requesting the extension and setting forth good cause; and

(ii) the court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(c) The court may extend the period of detention beyond the seven calendar days if the court finds by clear and convincing evidence that:

(i) the Division of Juvenile Justice Services or another agency responsible for placement does not have space for the minor; and

(ii) the safety of the minor and community requires an extension of the period of detention.

(d) The Division of Juvenile Justice Services shall report to the court every 48 hours, excluding

weekends and holidays, regarding the status of whether the Division of Juvenile Justice Services or another agency responsible for placement has space for the minor.

(7) The agency requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(8) The court shall promptly notify the detention facility regarding its initial disposition and any ruling on a petition for an extension, whether granted or denied.

(9) (a) A child under 16 years of age may not be held in a jail, lockup, or other place for adult detention except as provided by Section 62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703. Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).

(b) A child 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the detention facility for children may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults. However, a secure facility is not an appropriate place of confinement for detention purposes under this section.

(10) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall immediately notify the juvenile court when a person who is or appears to be under 18 years of age is received at the facility and shall make arrangements for the transfer of the person to a detention facility, unless otherwise ordered by the juvenile court.

(11) This section does not apply to a minor who is brought to the adult facility under charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal proceedings in the district court under Section 78A-6-702 or 78A-6-703.

(12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or 78A-6-703 may be detained in a jail or other place of detention used for adults charged with crime.

(13) Provisions of law regarding bail are not applicable to minors detained or taken into custody under this chapter, except that bail may be allowed:

(a) if a minor who need not be detained lives outside this state; or

(b) when a minor who need not be detained comes within one of the classes in Subsection 78A-6-603(11).

(14) Section 76-8-418 is applicable to a child who willfully and intentionally commits an act against a jail or other place of confinement, including a Division of Juvenile Justice Services detention, shelter, or secure confinement facility which would be a third degree felony if committed by an adult.

Section 18. Section 78A-6-117 (Superseded 07/01/18) is amended to read:

78A-6-117 (Superseded 07/01/18).

Adjudication of jurisdiction of juvenile

court -- Disposition of cases --

Enumeration of possible court orders --

Considerations of court -- Obtaining DNA sample.

(1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within the provisions of Subsection 78A-6-103(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) The court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service as provided in Subsection (2)(m)(iii).

(ii) The court may place the minor in state supervision with the probation department of the court, under the legal custody of:

(A) the minor's parent or guardian;

(B) the Division of Juvenile Justice Services; or

(C) the Division of Child and Family Services.

(iii) If the court orders probation or state supervision, the court shall direct that notice of its order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iv) Any employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or ~~protective supervision~~ other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) (i) The court may:

(A) vest legal custody of the minor in the Division of Child and Family Services, Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health; and

(B) order the Department of Human Services to provide dispositional recommendations and services.

(ii) For minors who may qualify for services from two or more divisions within the Department of Human Services, the court may vest legal custody with the department.

(iii) (A) A minor who is committed to the custody of the Division of Child and Family Services on grounds other than abuse or neglect is subject to the provisions of Title 78A, Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A, Chapter 4a, Part 2a, Minors in Custody on Grounds Other than Abuse or Neglect.

(B) Before the court entering an order to place a minor in the custody of the Division of Child and Family Services on grounds other than abuse or neglect, the court shall provide the division with notice of the hearing no later than five days before the time specified for the hearing so the division may attend the hearing.

(C) Before committing a child to the custody of the Division of Child and Family Services, the court shall make a finding as to what reasonable efforts have been attempted to prevent the child's removal from the child's home.

(iv) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in

Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

(d) (i) The court may commit a minor to the Division of Juvenile Justice Services for secure confinement.

(ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of Juvenile Justice Services.

(e) The court may commit a minor, subject to the court retaining continuing jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice Services for observation and evaluation for a period not to exceed 45 days, which period may be extended up to 15 days at the request of the director of the Division of Juvenile Justice Services.

(f) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 days subject to the court retaining continuing jurisdiction over the minor. This commitment may be stayed or suspended upon conditions ordered by the court.

(ii) This Subsection (2)(f) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) The court may place a minor on a ranch or forestry camp, or similar facility for care and also for work, if possible, if the person, agency, or association operating the facility has been approved or has otherwise complied with all applicable state and local laws. A minor placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads, and on other works on or off the grounds of the facility and may be paid wages, subject to the approval of and under conditions set by the court.

(i) (i) The court may order a minor to repair, replace, or otherwise make restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in Section 78A-6-321 and impose fines in limited amounts.

(ii) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(j) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions.

(k) (i) The court may through its probation department encourage the development of employment or work programs to enable minors to fulfill their obligations under Subsection (2)(i) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other disposition under Subsection (2)(l)(i). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(m) (i) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(ii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or

subsequent adjudication, order that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(iii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service required under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).

(A) For a first adjudication, the court may require the minor to clean up graffiti for not less than eight hours.

(B) For a second adjudication, the court may require the minor to clean up graffiti for not less than 16 hours.

(C) For a third adjudication, the court may require the minor to clean up graffiti for not less than 24 hours.

(n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(n)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment

or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(n).

(o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(q) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(r) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to

judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(r)(i).

(s) The court may terminate all parental rights upon a finding of compliance with the provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(t) The court may make any other reasonable orders for the best interest of the minor or as required for the protection of the public, except that a child may not be committed to jail or prison.

(u) The court may combine the dispositions listed in this section if they are compatible.

(v) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(w) Except as provided in Subsection (2)(y)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review of the case by the court. A new date shall be set upon each review.

(x) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(y) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(y)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

- (i) would be a felony if committed by an adult;
 - (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
 - (iii) was committed with a weapon; and
- (c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

Section 19. Section 78A-6-117 (Effective 07/01/18) is amended to read:

78A-6-117 (Effective 07/01/18). Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.

(1) (a) When a minor is found to come within Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within Subsection 78A-6-103(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

- (i) the specific offenses for which the minor was adjudicated; and
- (ii) if available, if the victim:
 - (A) resides in the same school district as the minor; or
 - (B) attends the same school as the minor.

(c) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment. Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(c); and

(C) if the court orders treatment, be based on a validated risk and needs assessment conducted under Subsection (1)(c);

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or ~~protective supervision~~ other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) (i) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(A) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(B) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(ii) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

(d) (i) The court shall only commit a minor to the Division of Juvenile Justice Services for secure

confinement if the court finds that the minor poses a risk of harm to others and is adjudicated under this section for:

(A) a felony offense;

(B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(C) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

(ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

(iii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(e) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

(f) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(f) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days

eligible as a disposition under Subsection (2)(f)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(f)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(i). Only the seven days under this Subsection (2)(f)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(t), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c)(i).

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim has the meaning defined under Subsection 77-38a-102(14). A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay; and

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs

expended by any governmental entity for the return.

(viii) The prosecutor shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within three months after disposition.

(ix) A financial disposition ordered shall prioritize the payment of restitution.

(i) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(j) (i) The court may through its probation department encourage the development of nonresidential employment or work programs to enable minors to fulfill their obligations under Subsection (2)(h) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order is reasonable and prioritizes restitution.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for children under age 16 at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(j)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(k) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other eligible disposition under Subsection (2)(k)(i) except for a disposition under Subsection (2)(c), (d), or (f). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(l) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(j)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(h).

(m) (i) Subject to Subsection (2)(m)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(m)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(m)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making

health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(m).

(n) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(o) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(p) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(q) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State

Developmental Center when ordering a commitment under Subsection (2)(q)(i).

(r) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(s) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c) and (d).

(t) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

(u) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(v) Except as provided in Subsection (2)(x)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

(w) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(x) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(x)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court pursuant to this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court may suspend a custody order pursuant to Subsection (2)(c) or (d) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii).

(b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall do so for a defined period of time pursuant to this section.

(a) For the purposes of placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive maximum length of intake probation may not exceed three months; and

(ii) the presumptive maximum length of formal probation may not exceed four to six months.

(b) For the purposes of vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive maximum length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive maximum length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has

regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the Youth Parole Authority after considering the recommendation of a licensed service provider;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed; or

(v) there is an outstanding fine.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i), (ii), (iii), or (iv) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i), (ii), (iii), or (iv) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) a felony violation of Section 76-6-103, aggravated arson;

- (g) Section 76-6-203, aggravated burglary;
- (h) Section 76-6-302, aggravated robbery;
- (i) Section 76-10-508.1, felony discharge of a firearm; or
- (j) an offense other than those listed in Subsections (7)(a) through (i) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

Section 20. Section 78A-6-307 is amended to read:

78A-6-307. Shelter hearing -- Placement -- DCFS custody.

- (1) As used in this section:
 - (a) "Friend" means an adult the child knows and is comfortable with but who is not a natural parent or relative.
 - (b) (i) "Natural parent," notwithstanding the provisions of Section 78A-6-105, means:
 - (A) a biological or adoptive mother;
 - (B) an adoptive father; or
 - (C) a biological father who:
 - (I) was married to the child's biological mother at the time the child was conceived or born; or
 - (II) has strictly complied with the provisions of Sections 78B-6-120 through 78B-6-122, prior to removal of the child or voluntary surrender of the child by the custodial parent.
 - (ii) The definition of "natural parent" described in Subsection (1)(b)(i) applies regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.
 - (c) "Relative" means:
 - (i) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or a first cousin of the child's parent;
 - (ii) an adult who is an adoptive parent of the child's sibling; or
 - (iii) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that statute.

(2) (a) At the shelter hearing, when the court orders that a child be removed from the custody of the child's parent in accordance with the requirements of Section 78A-6-306, the court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the court's jurisdiction occurred, who desires to assume custody of the child.

(b) If another natural parent requests custody under Subsection (2)(a), the court shall place the child with that parent unless it finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The provisions of this Subsection (2) are limited by the provisions of Subsection (18)(b).

(d) (i) The court shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement.

(ii) The court shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 78A-6-308, and check the division's management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue.

(iii) The court may order the division to conduct any further investigation regarding the safety and appropriateness of the placement.

(iv) The division shall report its findings in writing to the court.

(v) The court may place the child in the temporary custody of the division, pending its determination regarding that placement.

(3) If the court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the court;

(b) the court may order:

(i) that the parent assume custody subject to the supervision of the court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed in the custody of a relative, pursuant to Subsections (7) through (12); or

(d) the child should be placed in the custody of the division.

(5) The time limitations described in Section 78A-6-312 with regard to reunification efforts, apply to children placed with a previously noncustodial parent in accordance with Subsection (2).

(6) Legal custody of the child is not affected by an order entered under Subsection (2) or (3). In order to affect a previous court order regarding legal custody, the party must petition that court for modification of the order.

(7) If, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the court:

(a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e), there is a relative of the child or a friend of a parent of the child who is able and willing to care for the child;

(b) may order the division to conduct a reasonable search to determine whether, subject to Subsections (18)(c) through (e), there are relatives of the child or friends of a parent of the child who are willing and appropriate, in accordance with the requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to, subject to Subsections (18)(c) through (e), provide information regarding relatives of the child or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the custody of the division pending the determination under Subsection (7)(a).

(8) This section may not be construed as a guarantee that an identified relative or friend will receive custody of the child.

(9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if it is in the best interest of the child, and the provisions of this section are satisfied.

(10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with that relative or friend.

(b) In order to be considered a "willing relative or friend" under this section, the relative or friend shall be willing to cooperate with the child's permanency goal.

(11) (a) In making the finding described in Subsection (10)(a), the court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative of the child, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(b), of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent of the child, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(b), of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative of the child, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 78A-6-308;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the court; and

(vii) provide sufficient information so that the court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(b) The division may determine to conduct, or the court may order the division to conduct, any further

investigation regarding the safety and appropriateness of the placement.

(c) The division shall complete and file its assessment regarding placement with a relative or friend as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(12) (a) The court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation pursuant to Subsections (10) and (11), and the court's determination regarding the appropriateness of that placement.

(b) The court shall ultimately base its determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

~~(13) When [the court awards custody and guardianship of a child with a relative or friend] a court places a child described in Subsection (7) in the custody of the child's relative or friend:~~

~~(a) the court [shall order that]:~~

~~(i) shall order the relative or friend assume custody, subject to the continuing supervision of the court; and~~

~~(ii) [any necessary services be provided to the child and the relative or friend] may order the division provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being;~~

~~(b) the child and [any] the relative or friend [with whom] in whose custody the child is placed are under the continuing jurisdiction of the court;~~

~~(c) the court may enter any order that it considers necessary for the protection and best interest of the child;~~

~~(d) the court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and~~

~~(e) the court shall conduct a periodic review no less often than every six months, to determine whether:~~

~~(i) placement with the relative or friend continues to be in the child's best interest;~~

~~(ii) the child should be returned home; or~~

~~(iii) the child should be placed in the custody of the division.~~

(14) No later than 12 months after placement with a relative or friend, the court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(15) The time limitations described in Section 78A-6-312, with regard to reunification efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

(16) (a) If the court awards custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 78A-6-308; and

(ii) if the results of the criminal background check described in Subsection (16)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after taking the child into physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the proceedings, of the division's action.

(b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a relative, pending the results of the background check described in Subsection (16)(a) on the relative.

(17) When the court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the court shall order that the child be placed in the temporary custody of the Division of Child and Family Services, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

(18) (a) Any preferential consideration that a relative or friend is initially granted pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the court.

(b) When the time period described in Subsection (18)(a) has expired, the preferential consideration, which is initially granted to a natural parent in accordance with Subsection (2), is limited. After that time the court shall base its custody decision on the best interest of the child.

(c) Prior to the expiration of the 120-day period described in Subsection (18)(a), the following order of preference shall be applied when determining the person with whom a child will be placed, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (18)(d), a friend of a parent of the child, if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing and appropriate placement for a child, neither the

court, nor the division, is required to consider more than one friend designated by each parent of the child.

(e) If a parent of the child is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:

(i) the department shall fully cooperate to expedite the licensing process for the friend; and

(ii) if the friend becomes licensed as a foster parent within the time frame described in Subsection (18)(a), the court shall determine whether it is in the best interests of the child to place the child with the friend.

(19) If, following the shelter hearing, the child is placed with a person who is not a parent of the child, a relative of the child, a friend of a parent of the child, or a former foster parent of the child, priority shall be given to a foster placement with a man and a woman who are married to each other, unless it is in the best interests of the child to place the child with a single foster parent.

(20) In determining the placement of a child, neither the court, nor the division, may take into account, or discriminate against, the religion of a person with whom the child may be placed, unless the purpose of taking religion into account is to place the child with a person or family of the same religion as the child.

Section 21. Section 78A-6-318 is amended to read:

78A-6-318. Review of foster care removal -- Foster parent's standing.

(1) With regard to a child in the custody of the Division of Child and Family Services who is the subject of a petition alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster family, the Legislature finds that:

(a) except with regard to the child's natural parents, a foster family has a very limited but recognized interest in its familial relationship with the child; and

(b) children in the custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(2) For the reasons described in Subsection (1), the Legislature finds that, except with regard to the child's natural parents, procedural due process protections must be provided to a foster family prior to removal of a foster child from the foster home.

(3) (a) A foster parent who has had a foster child in the foster parent's home for 12 months or longer may petition the juvenile court for a review and determination of the appropriateness of a decision by the Division of Child and Family Services to remove the child from the foster home, unless the removal was for the purpose of:

(i) returning the child to the child's natural parent or legal guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative, as defined in Subsection 78A-6-307(1)(e), who obtained custody or asserted an interest in the child within the preference period described in Subsection 78A-6-307(18)(a); or

(iv) placing an Indian child in accordance with preplacement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(b) The foster parent may petition the court under this section without exhausting administrative remedies within the division.

(c) The court may order the division to place the child in a specified home, and shall base its determination on the best interest of the child.

(4) The requirements of this section do not apply to the removal of a child based on a foster parent's request for that removal.

Section 22. Effective date.

This bill takes effect on May 8, 2018, except that the amendments to Sections 78A-6-113 (Effective 07/01/18) and 78A-6-117 (Effective 07/01/18) take effect on July 1, 2018.

CHAPTER 286**S. B. 127**

Passed March 6, 2018
Approved March 19, 2018
Effective May 8, 2018

**READING SOFTWARE
PROGRAM AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions regarding certain public education reading software.

Highlighted Provisions:

This bill:

- ▶ eliminates public school usage requirements for early interactive reading software;
- ▶ authorizes the State Board of Education to acquire certain analytical software to facilitate administering the reading software program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-4-203, as enacted by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-4-203 is amended to read:**53F-4-203. Early intervention interactive reading software -- Independent evaluator.**

~~[(1) In addition to an enhanced kindergarten program described in Section 53F-2-507, the early intervention program includes a component to address early reading through the use of early interactive reading software.]~~

[(2)] (1) (a) Subject to legislative appropriations, the State Board of Education shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) By August 1 of each year, the State Board of Education shall distribute licenses for early interactive reading software described in Subsection [(2)] (1)(a) to the school districts and charter schools of local education boards that apply for the licenses.

(c) Except as provided in [Subsection (3)(e)] board rule, a school district or charter school that received a license described in Subsection [(2)] (1)(b) during

the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection [(2)] (1)(c) shall be distributed through a competitive process.

~~[(3) (a) As used in this Subsection (3), "dosage" means amount of instructional time.]~~

[(b)] (2) A public school that receives a license described in Subsection [(2)] (1)(b) shall use the license:

[(i)] (a) for a student in kindergarten or grade 1:

~~[(A)] (i) for intervention for the student if the student is reading below grade level; or~~

~~[(B)] (ii) for advancement beyond grade level for the student if the student is reading at or above grade level; and~~

[(ii)] (b) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level[; and].

~~[(iii) in accordance with the technology provider's dosage recommendations.]~~

~~[(c) A public school that does not use the early interactive reading software in accordance with the technology provider's dosage recommendations for two consecutive years may not continue to receive a license.]~~

[(4)] (3) (a) On or before August 1 of each year, the State Board of Education shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The State Board of Education shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection [(2)] (1);

(ii) for the evaluation under Subsection [(4)] (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software [in accordance with a technology provider's dosage recommendations under Subsection (3)].

(c) The State Board of Education and the independent evaluator selected under Subsection [(4)] (3)(a) shall report annually on the results of the evaluation to the Education Interim Committee and the governor.

~~[(d)] (4) The State Board of Education may use up to 4% of the appropriation provided under Subsection [(2)] (1)(a) to:~~

(a) acquire an analytical software program that:

(i) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and

(ii) analyzes the information gathered under Subsection (4)(a)(i) to prescribe individual school usage time to maximize the beneficial impact on student performance; or

(b) contract with an independent evaluator selected under Subsection [4] (3)(a).

CHAPTER 287**S. B. 129**

Passed February 28, 2018

Approved March 19, 2018

Effective May 8, 2018

**PRIVATE INVESTIGATOR
LICENSE REVISIONS**

Chief Sponsor: Luz Escamilla

House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill modifies provisions regarding the licensing requirements of private investigators.

Highlighted Provisions:

This bill:

- modifies the number of hours of investigative experience and other requirements that are required to apply for a private investigator agency license.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-9-108, as last amended by Laws of Utah 2014, Chapter 378

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

Section 1. Section 53-9-108 is amended to read:**53-9-108. Qualifications for licensure.**

(1) (a) An applicant under this chapter shall be ~~at least 21 years of age and a legal resident of this state.~~ a legal resident of the state and at least:

(i) 21 years of age to apply for an agency license or a registrant license; or

(ii) 18 years of age to apply for an apprentice license.

(b) An applicant may not have been:

(i) convicted of a felony;

(ii) convicted of an act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) convicted of an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;

(iv) convicted of an act constituting dishonesty or fraud;

(v) convicted of an act involving moral turpitude within the past 10 years unless the conviction has been expunged under the provisions of Title 77, Chapter 40, Utah Expungement Act;

(vi) placed on probation or parole;

(vii) named in an outstanding arrest warrant; or

(viii) convicted of illegally obtaining or disclosing private, controlled, or protected records as provided in Section 63G-2-801.

(c) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board shall consider mitigating circumstances presented by an applicant.

(3) (a) An applicant for an agency license shall have:

(i) a minimum of ~~[10,000]~~ 5,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government; or

(ii) if the applicant held a registrant license or an apprentice license under this chapter on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government.

(b) An applicant for a registrant license shall have a minimum of 2,000 hours of investigative experience that consists of actual investigative work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, an investigator for a state, county, or municipal government, or a process server.

(c) At least ~~[2,000]~~ 1,000 hours of the investigative experience required under this Subsection (3) shall have been performed within 10 years immediately prior to the application.

(d) An applicant shall substantiate investigative work experience required under this Subsection (3) by providing:

(i) the exact details as to the character and nature of the investigative work on a form prescribed by the bureau and certified by the applicant's employers; or

(ii) if the applicant is applying for the reinstatement of an agency license, internal records of the applicant that demonstrate the investigative work experience requirement has previously been met.

(e) (i) The applicant shall prove completion of the investigative experience required under this Subsection (3) to the satisfaction of the board and the board may independently verify the certification offered on behalf of the applicant.

(ii) The board may independently confirm the claimed investigative experience and the verification of the applicant's employers.

(4) An applicant for an apprentice license, lacking the investigative experience required for a

registrant license, shall meet all of the qualification standards in Subsection (1), and shall complete an apprentice application.

(5) An applicant for an agency or registrant license may receive credit toward the hours of investigative experience required under Subsection (3) as follows:

(a) an applicant may receive credit for 2,000 hours of investigative experience if the applicant:

(i) has an associate's degree in criminal justice or police science from an accredited college or university; or

(ii) is certified as a peace officer; and

(b) an applicant may receive credit for 4,000 hours of investigative experience if the applicant has a bachelor's degree in criminal justice or police science from an accredited college or university.

(6) The board shall determine if the applicant may receive credit under Subsection (5) toward the investigative and educational experience requirements under Subsection (3).

(7) An applicant for the renewal of a license under this chapter shall be a legal resident of this state.

CHAPTER 288**S. B. 144**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**LOCAL FUNDING OF
EDUCATION TECHNOLOGY**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts provisions related to funding for education technology.

Highlighted Provisions:

This bill:

- ▶ authorizes a local school board to use revenues from a debt service or capital local levy for technology programs or projects; and
- ▶ repeals outdated language.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-14-310, as last amended by Laws of Utah 2006, Chapter 83
 53F-8-303, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 11-14-310 is amended to read:**11-14-310. General obligation bonds -- Levy and collection of taxes.**

(1) (a) Any bonds issued under this chapter in such manner that they are not payable solely from revenues other than those derived from ad valorem taxes are full general obligations of the local political subdivision, for the prompt and punctual payment of principal of and interest on which the full faith and credit of the local political subdivision are pledged, and the local political subdivision is hereby expressly required, regardless of any limitations which may otherwise exist on the amount of taxes which the local political subdivision may levy, to provide for the levy and collection annually of ad valorem taxes without limitation as to rate or amount on all taxable property in the local political subdivision fully sufficient for such purpose. If by law ad valorem taxes for the local political subdivision are levied by a board other than its governing body, the taxes for which provision is herein made shall be levied by such other board and the local political subdivision shall be under the duty in due season in each year to provide such other board with all information necessary to the levy of taxes in the required amount. Such taxes shall be levied and collected by the same officers, at the same time and in the same

manner as are other taxes levied for the local political subdivision.

(b) A local school board may use revenues from a tax levied under this section for school district technology programs or projects.

(2) If any local political subdivision shall neglect or fail for any reason to levy or collect or cause to be levied or collected sufficient taxes for the prompt and punctual payment of such principal and interest, any person in interest may enforce levy and collection thereof in any court having jurisdiction of the subject matter, and any suit, action or proceeding brought by such person in interest shall be a preferred cause and shall be heard and disposed of without delay. All provisions of the constitution and laws relating to the collection of county and municipal taxes and tax sales shall also apply to and regulate the collection of the taxes levied pursuant to this section, through the officer whose duty it is to collect the taxes and money due the local political subdivision.

Section 2. Section 53F-8-303 is amended to read:**53F-8-303. Capital local levy -- First class county required levy -- Allowable uses of collected revenue.**

(1) (a) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's:

- (i) capital projects[-]; or
- (ii) technology programs or projects.

(b) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.

(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

- (i) a capital outlay levy imposed under Section 53F-8-401; and
- (ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is budgeted for debt service or capital outlay; and

(b) revenue from eligible new growth as defined in Section 59-2-924.

~~[(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.]~~

~~[(b) If a local school board uses the proceeds described in Subsection (3)(a) for general fund~~

purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:]

[~~(i) before the local school board's budget hearing in accordance with the notification requirements described in Section 53G-7-303; and]~~

[~~(ii) at a budget hearing required in Section 53G-7-303.]~~

[~~(e) A local school board may not use the proceeds described in Subsection (3)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:]~~

[~~(i) 2300 Support Services - General District Administration; or]~~

[~~(ii) 2500 Support Services - Central Services.]~~

CHAPTER 289**S. B. 154**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**PROHIBITION OF LAW
ENFORCEMENT QUOTAS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Kim F. Coleman

LONG TITLE**General Description:**

This bill prohibits a political subdivision or law enforcement agency from imposing an arrest or citation quota on a peace officer.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ prohibits a political subdivision or law enforcement agency from requiring or directing a peace officer to meet an arrest or citation quota.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

77-7-27, Utah Code Annotated 1953

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

Section 1. Section 77-7-27 is enacted to read:**77-7-27. Quotas for arrest, citation prohibited.**

(1) As used in this section:

(a) “Law enforcement agency” means an entity of the state, or a political subdivision of the state, that exists primarily to prevent and detect crime and enforce criminal laws, statutes, or ordinances.

(b) “Law enforcement quota” means any requirement or minimum standard regarding the number or percentage of citations or arrests made by a law enforcement officer.

(2) A political subdivision or law enforcement agency employing a peace officer may not require or direct that a peace officer meet a law enforcement quota.

(3) Subsection (2) does not prohibit a political subdivision or law enforcement agency from including a peace officer’s engagement with the community or enforcement activity as part of an overall determination of the peace officer’s performance.

CHAPTER 290**S. B. 157**

Passed March 6, 2018
Approved March 19, 2018
Effective May 8, 2018

RESIDENTIAL SOLAR ENERGY AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Mike Winder

LONG TITLE**General Description:**

This bill enacts provisions relating to residential solar energy systems.

Highlighted Provisions:

This bill:

- ▶ requires a solar retailer to provide a written disclosure statement to a potential customer and specifies the timing and content of the disclosure statement; and
- ▶ provides for the enforcement of the disclosure requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-2-1, as last amended by Laws of Utah 2017, Chapter 98

ENACTS:

13-52-101, Utah Code Annotated 1953
13-52-102, Utah Code Annotated 1953
13-52-103, Utah Code Annotated 1953
13-52-201, Utah Code Annotated 1953
13-52-202, Utah Code Annotated 1953
13-52-203, Utah Code Annotated 1953
13-52-204, Utah Code Annotated 1953
13-52-205, Utah Code Annotated 1953
13-52-206, Utah Code Annotated 1953
13-52-301, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 is amended to read:**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 39, Child Protection Registry;

(p) Chapter 41, Price Controls During Emergencies Act;

(q) Chapter 42, Uniform Debt-Management Services Act;

(r) Chapter 49, Immigration Consultants Registration Act; [and]

(s) Chapter 51, Transportation Network Company Registration Act[-]; and

(t) Chapter 52, Residential Solar Energy Disclosure Act.

Section 2. Section 13-52-101 is enacted to read:**CHAPTER 52. RESIDENTIAL SOLAR ENERGY DISCLOSURE ACT****Part 1. General Provisions****13-52-101. Title.**

This chapter is known as the "Residential Solar Energy Disclosure Act."

Section 3. Section 13-52-102 is enacted to read:**13-52-102. Definitions.**

As used in this chapter:

(1) "Customer" means a person who, for primarily personal, family, or household purposes:

(a) purchases a residential solar energy system under a system purchase agreement;

(b) leases a residential solar energy system under a system lease agreement; or

(c) purchases electricity under a power purchase agreement.

(2) "Division" means the Division of Consumer Protection, established in Section 13-2-1.

(3) "Power purchase agreement" means an agreement:

- (a) between a customer and a solar retailer;
- (b) for the customer's purchase of electricity generated by a residential solar energy system owned by the solar retailer; and
- (c) that provides for the customer to make payments over a term of at least five years.
- (4) "Residential solar energy system":
- (a) means a solar energy system that:
- (i) is installed in the state;
- (ii) generates electricity primarily for on-site consumption for personal, family, or household purposes;
- (iii) is situated on no more than four units of residential real property; and
- (iv) has an electricity delivery capacity that exceeds one kilowatt; and
- (b) does not include a generator that:
- (i) produces electricity; and
- (ii) is intended for occasional use.
- (5) "Solar agreement" means a system purchase agreement, a system lease agreement, or a power purchase agreement.
- (6) "Solar energy system" means a system or configuration of solar energy devices that collects and uses solar energy to generate electricity.
- (7) "Solar retailer" means a person who:
- (a) sells or proposes to sell a residential solar energy system to a customer under a system purchase agreement;
- (b) owns the residential solar energy system that is the subject of a system lease agreement or proposed system lease agreement; or
- (c) sells or proposes to sell electricity to a customer under a power purchase agreement.
- (8) "System lease agreement" means an agreement:
- (a) under which a customer leases a residential solar energy system from a solar retailer; and
- (b) that provides for the customer to make payments over a term of at least five years for the lease of the residential solar energy system.
- (9) "System purchase agreement" means an agreement under which a customer purchases a residential solar energy system from a solar retailer.

Section 4. Section 13-52-103 is enacted to read:

13-52-103. Applicability of chapter.

This chapter:

- (1) applies to each solar agreement entered into on or after September 3, 2018, including a solar

agreement that accompanies the transfer of ownership or lease of real property; and

(2) does not apply to:

(a) the transfer of title or rental of real property on which a residential solar energy system is or is expected to be located, if the presence of the residential solar energy system is incidental to the transfer of title or rental;

(b) a lender, governmental entity, or other third party that enters into an agreement with a customer to finance a residential solar energy system but is not a party to a system purchase agreement, power purchase agreement, or lease agreement;

(c) a sale or lease of, or the purchase of electricity from, a solar energy system that is not a residential solar energy system; or

(d) the lease of a residential solar energy system or the purchase of power from a residential solar energy system under an agreement providing for payments over a term of less than five years.

Section 5. Section 13-52-201 is enacted to read:

Part 2. Disclosure Statement

13-52-201. Disclosure statement required.

(1) (a) Before entering a solar agreement, a solar retailer shall provide to a potential customer a separate, written disclosure statement as provided in this section and, as applicable, Sections 13-52-202, 13-52-203, 13-52-204, and 13-52-205.

(b) (i) The requirement under Subsection (1)(a) may be satisfied by the electronic delivery of a disclosure statement to the potential customer.

(ii) An electronic document under Subsection (1)(a) satisfies the font-size standard under Subsection (2)(a) if the required disclosures are displayed in a clear and conspicuous manner.

(2) A disclosure statement under Subsection (1) shall:

(a) be in at least 12-point font;

(b) contain:

(i) the name, address, telephone number, and any email address of the potential customer;

(ii) the name, address, telephone number, and email address of the solar retailer; and

(iii) (A) the name, address, telephone number, email address, and state contractor license number of the person who is expected to install the system that is the subject of the solar agreement; and

(B) if the solar retailer selected the person who is expected to provide operations or maintenance support to the potential customer or introduced that person to the potential customer, the name, address, telephone number, email address, and state contractor license of the operations or maintenance support person; and

(c) include applicable information and disclosures as provided in Sections 13-52-202, 13-52-203, 13-52-204, and 13-52-205.

Section 6. Section 13-52-202 is enacted to read:

13-52-202. Contents of disclosure statement for any solar agreement.

If a solar retailer is proposing to enter any solar agreement with a potential customer, the disclosure statement required in Subsection 13-52-201(1) shall include:

(1) a statement indicating that operations or maintenance services are not included as part of the solar agreement, if those services are not included as part of the solar agreement;

(2) if the solar retailer provides any written estimate of the savings the potential customer is projected to realize from the system:

(a) (i) the estimated projected savings over the life of the solar agreement; and

(ii) at the discretion of the solar retailer, the estimated projected savings over any longer period not to exceed the anticipated useful life of the system;

(b) any material assumptions used to calculate estimated projected savings and the source of those assumptions, including:

(i) if an annual electricity rate increase is assumed, the rate of the increase and the solar retailer's basis for the assumption of the rate increase;

(ii) the potential customer's eligibility for or receipt of tax credits or other governmental or utility incentives;

(iii) system production data, including production degradation;

(iv) the system's eligibility for interconnection under any net metering or similar program;

(v) electrical usage and the system's designed offset of the electrical usage;

(vi) historical utility costs paid by the potential customer;

(vii) any rate escalation affecting a payment between the potential customer and the solar retailer; and

(viii) the costs associated with replacing equipment making up part of the system or, if those costs are not assumed, a statement indicating that those costs are not assumed; and

(c) two separate statements in capital letters in close proximity to any written estimate of projected savings, with substantially the following form and content:

(i) "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT NECESSARILY REPRESENTATIVE OF

FUTURE RESULTS. FOR FURTHER INFORMATION REGARDING RATES, CONTACT YOUR LOCAL UTILITY OR THE STATE PUBLIC SERVICE COMMISSION."; and

(ii) "TAX AND OTHER FEDERAL, STATE, AND LOCAL INCENTIVES VARY AS TO REFUNDABILITY AND ARE SUBJECT TO CHANGE OR TERMINATION BY LEGISLATIVE OR REGULATORY ACTION, WHICH MAY IMPACT SAVINGS ESTIMATES. CONSULT A TAX PROFESSIONAL FOR MORE INFORMATION.";

(3) a notice with substantially the following form and content: "Legislative or regulatory action may affect or eliminate your ability to sell or get credit for any excess power generated by the system, and may affect the price or value of that power.";

(4) a notice describing any right a customer has under applicable law to cancel or rescind a solar agreement;

(5) a statement describing the system and indicating the system design assumptions, including the make and model of the solar panels and inverters, system size, positioning of the panels on the customer's property, estimated first-year energy production, and estimated annual energy production degradation, including the overall percentage degradation over the term of the solar agreement or, at the solar retailer's option, over the estimated useful life of the system;

(6) a description of any warranty, representation, or guarantee of energy production of the system;

(7) the approximate start and completion dates for the installation of the system;

(8) a statement indicating whether any warranty or maintenance obligations related to the system may be transferred by the solar retailer to a third party and, if so, a statement with substantially the following form and content: "The maintenance and repair obligations under your contract may be assigned or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified of any change to the address, email address, or phone number to use for questions or payments or to request system maintenance or repair.";

(9) if the solar retailer will not obtain customer approval to connect the system to the customer's utility, a statement to that effect and a description of what the customer must do to interconnect the system to the utility;

(10) a description of any roof penetration warranty or other warranty that the solar retailer provides the customer or a statement, in bold capital letters, that the solar retailer does not provide any warranty;

(11) a statement indicating whether the solar retailer will make a fixture filing or other notice in the county real property records covering the system, including a Notice of Independently Owned Solar Energy System, and any fees or other costs associated with the filing that may be charged to the customer;

(12) a statement in capital letters with substantially the following form and content: “NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO MAKE ANY PROMISE TO YOU THAT IS NOT CONTAINED IN THIS DISCLOSURE STATEMENT CONCERNING COST SAVINGS, TAX BENEFITS, OR GOVERNMENT OR UTILITY INCENTIVES. YOU SHOULD NOT RELY UPON ANY PROMISE OR ESTIMATE THAT IS NOT INCLUDED IN THIS DISCLOSURE STATEMENT.”;

(13) a statement in capital letters with substantially the following form and content: “[name of solar retailer] IS NOT AFFILIATED WITH ANY UTILITY COMPANY OR GOVERNMENT AGENCY. NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO CLAIM AFFILIATION WITH A UTILITY COMPANY OR GOVERNMENT AGENCY.”; and

(14) any additional information, statement, or disclosure the solar retailer considers appropriate, as long as the additional information, statement, or disclosure does not have the purpose or effect of obscuring the disclosures required under this part.

Section 7. Section 13-52-203 is enacted to read:

13-52-203. Contents of disclosure statement for system purchase agreement.

If a solar retailer is proposing to enter a system purchase agreement with a potential customer, the disclosure statement required in Subsection 13-52-201(1) shall include:

(1) a statement with substantially the following form and content: “You are entering an agreement to purchase an energy generation system. You will own the system installed on your property. You may be entitled to federal tax credits because of the purchase. You should consult your tax advisor.”;

(2) the price quoted to the potential customer for a cash purchase of the system;

(3) (a) the schedule of required and anticipated payments from the customer to the solar retailer and third parties over the term of the system purchase agreement, including application fees, up-front charges, down payment, scheduled payments under the system purchase agreement, payments at the end of the term of the system purchase agreement, payments for any operations or maintenance contract offered by or through the solar retailer in connection with the system purchase agreement, and payments for replacement of system components likely to require replacement before the end of the useful life of the system as a whole; and

(b) the total of all payments referred to in Subsection (3)(a);

(4) a statement indicating that the cost of insuring the system is not included within the schedule of payments under Subsection (3);

(5) a statement, if applicable, with substantially the following form and content: “You are responsible for obtaining insurance coverage for any loss or damage to the system. You should consult an insurance professional to understand how to protect against the risk of loss or damage to the system. You should also consult your home insurer about the potential impact of installing a system.”; and

(6) information about whether the system may be transferred to a purchaser of the home or real property where the system is located and any conditions for a transfer.

Section 8. Section 13-52-204 is enacted to read:

13-52-204. Contents of disclosure statement for system lease agreement.

If a solar retailer is proposing to enter a system lease agreement with a potential customer, the disclosure statement required in Subsection 13-52-201(1) shall include:

(1) a statement with substantially the following form and content: “You are entering an agreement to lease an energy generation system. You will lease (not own) the system installed on your property. You will not be entitled to any federal tax credit associated with the lease.”;

(2) information about whether the system lease agreement may be transferred to a purchaser of the home or real property where the system is located and, if so, any conditions for a transfer;

(3) if the solar retailer will not obtain insurance against damage or loss to the system, a statement to that effect and a description of the consequences to the customer if there is damage or loss to the system; and

(4) information about what will happen to the system at the end of the term of the system lease agreement.

Section 9. Section 13-52-205 is enacted to read:

13-52-205. Contents of disclosure statement for power purchase agreement.

If a solar retailer is proposing to enter a power purchase agreement with a potential customer, the disclosure statement required in Subsection 13-52-201(1) shall include:

(1) a statement with substantially the following form and content: “You are entering an agreement to purchase power from an energy generation system. You will not own the system installed on your property. You will not be entitled to any federal tax credit associated with the purchase.”;

(2) information about whether the power purchase agreement may be transferred to a purchaser of the home or real property where the system is located and, if so, any conditions for a transfer;

(3) if the solar retailer will not obtain insurance against damage or loss to the system, a statement to

that effect and a description of the consequences to the customer if there is damage or loss to the system; and

(4) information about what will happen to the system at the end of the term of the power purchase agreement.

Section 10. Section 13-52-206 is enacted to read:

13-52-206. Good faith estimate allowed.

A solar retailer that does not, at the time of providing a disclosure statement required in Subsection 13-52-201(1), have information required under Section 13-52-202, 13-52-203, 13-52-204, or 13-52-205 to be included in the disclosure statement may make a good faith estimate of that information, if the solar retailer clearly indicates that the information is an estimate and provides the basis for the estimate.

Section 11. Section 13-52-301 is enacted to read:

Part 3. Enforcement

13-52-301. Division enforcement authority -- Administrative fine.

(1) Subject to Subsection (2), the division may enforce the provisions of this chapter by:

(a) conducting an investigation into an alleged violation of this chapter;

(b) issuing a cease and desist order against a further violation of this chapter; and

(c) imposing an administrative fine of no more than \$2,500 per solar agreement on a solar retailer that:

(i) materially fails to comply with the disclosure requirements of this chapter; or

(ii) violates any other provision of this chapter, if the division finds that the violation is a willful or intentional attempt to mislead or deceive a customer.

(2) The division may not commence any enforcement action under this section more than four years after the date of execution of the solar agreement with respect to which a violation is alleged to have occurred.

(3) The division shall, in its discretion:

(a) deposit an administrative fine collected under Subsection (1)(c) in the Consumer Protection Education and Training Fund created in Section 13-2-8; or

(b) distribute an administrative fine collected under Subsection (1)(c) to a customer adversely affected by the solar retailer's failure or violation resulting in a fine under Subsection (1)(c), if the division has conducted an administrative proceeding resulting in a determination of the appropriateness and amount of any distribution to a customer.

(4) Nothing in this chapter may be construed to affect:

(a) a remedy a customer has independent of this chapter; or

(b) the division's ability or authority to enforce any other law or regulation.

CHAPTER 291**S. B. 159**

Passed March 6, 2018

Approved March 19, 2018

Effective May 8, 2018

FORCIBLE ENTRY AND DETAINER

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions related to forcible entry and detainer.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to how notice is served;
- ▶ addresses a complaint and summons;
- ▶ amends provisions related to court procedures;
- ▶ addresses attorney fees;
- ▶ modifies enforcement provisions;
- ▶ addresses abandonment; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

78B-6-805, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-807, as last amended by Laws of Utah 2016, Chapter 33

78B-6-810, as last amended by Laws of Utah 2017, Chapter 414

78B-6-811, as last amended by Laws of Utah 2017, Chapter 203

78B-6-812, as last amended by Laws of Utah 2017, Chapter 414

78B-6-815, as renumbered and amended by Laws of Utah 2008, Chapter 3

Utah Code Sections Affected by Coordination Clause:

78B-6-807, as last amended by Laws of Utah 2016, Chapter 33

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

Section 1. Section 78B-6-805 is amended to read:**78B-6-805. Notice -- How served.**

(1) [~~The notices~~] A notice required by this part may be served:

(a) by delivering a copy to the tenant personally or, if the tenant is a commercial tenant, by delivering a copy to the commercial tenant's usual place of business by leaving a copy of the notice with a person of suitable age and discretion;

(b) by sending a copy through registered [~~or~~] mail, certified mail, or an equivalent means, addressed to the tenant at the tenant's residence [~~or, if the tenant~~

~~is a commercial tenant, by sending a copy through registered or certified mail addressed to the commercial tenant's], leased property, or usual place of business;~~

(c) if the tenant is absent from the residence, leased property, or usual place of business, by leaving a copy with a person of suitable age and discretion [~~at either place and mailing a copy to the tenant at the tenant's residence or place of business~~] at the tenant's residence, leased property, or usual place of business;

(d) if a person of suitable age or discretion cannot be found at the place of residence, leased property, or usual place of business, then by affixing a copy in a conspicuous place on the leased property; or

(e) if an order of abatement by eviction of the nuisance is issued by the court as provided in Section 78B-6-1109, when issued, the parties present shall be on notice that the abatement by eviction order is issued and immediately effective or as to any absent party, notice shall be given as provided in Subsections (1)(a) through (e).

(2) Service upon a subtenant may be made in the same manner as provided in Subsection (1).

Section 2. Section 78B-6-807 is amended to read:**78B-6-807. Allegations permitted in complaint -- Time for appearance -- Service.**

(1) The plaintiff, in [~~his~~] the plaintiff's complaint:

(a) shall set forth the facts on which [~~he~~] the plaintiff seeks to recover;

(b) may set forth any circumstances of fraud, force, or violence [~~which~~] that may have accompanied the alleged forcible entry, or forcible or unlawful detainer; and

(c) may claim damages or compensation for the occupation of the premises, or both.

(2) If the unlawful detainer charged is after default in the payment of rent or other amounts due, the complaint shall state the amount of rent due or other amounts due.

(3) (a) The summons shall include the number of days within which the defendant is required to appear and defend the action, which shall be three business days from the date of service, unless the defendant objects to the number of days, and the court determines that the facts of the case should allow more time.

~~[(4) The court may authorize service by publication or mail for cause shown.]~~

~~[(5) Service by publication is complete one week after publication.]~~

~~[(6) Service by mail is complete three days after mailing.]~~

~~[(7) The summons shall be changed in form to conform to the time of service as ordered, and shall be served as in other cases.]~~

(b) A claim for unlawful detainer brought by counterclaim shall be served to any opposing party

in accordance with Utah Rules of Civil Procedure, and any response required shall be due within the timelines stated under Subsection (3)(a).

(4) The court may authorize alternative service pursuant to the Utah Rules of Civil Procedure.

Section 3. Section 78B-6-810 is amended to read:

78B-6-810. Court procedures.

(1) In an action under this chapter in which the tenant remains in possession of the property:

(a) the court shall expedite the proceedings, including the resolution of motions and trial;

(b) the court shall begin the trial within 60 days after the day on which the complaint is served, unless the parties agree otherwise; ~~and~~

(c) if this chapter requires a hearing to be held within a specified time, the time may be extended to the first date thereafter on which a judge is available to hear the case in a jurisdiction in which a judge is not always available[-]; and

(d) if this chapter requires a hearing to be held within a specified time, this section does not require a hearing to be held before the assigned judge, and the court may, out of convenience, schedule a hearing before another judge within the jurisdiction.

(2) (a) In an action for unlawful detainer, the court shall hold an evidentiary hearing, upon request of either party, within 10 business days after the day on which the defendant files an answer or response.

(b) At the evidentiary hearing held in accordance with Subsection (2)(a):

(i) the court shall determine who has the right of occupancy during the litigation's pendency; and

(ii) if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate those issues and enter judgment on the merits.

(3) (a) In an action for unlawful detainer in which the claim is for nuisance and alleges an act that would be considered criminal under the laws of this state, the court shall hold an evidentiary hearing upon request within 10 days after the day on which the complaint is filed to determine whether the alleged act occurred.

(b) The hearing required by Subsection (3)(a) shall be set at the time the complaint is filed and notice of the hearing shall be served upon the defendant with the summons at least three calendar days before the scheduled time of the hearing.

(c) If the court, at an evidentiary hearing held in accordance with Subsection (3)(a), determines that it is more likely than not that the alleged act occurred, the court shall issue an order of restitution.

(d) If an order of restitution is issued in accordance with Subsection (3)(c), a constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff immediately.

(e) The court may allow a period of up to 72 hours before restitution may be made under Subsection (3)(d) if the court determines the time is appropriate under the circumstances.

(f) At the evidentiary hearing held in accordance with Subsection (3)(a), if the court determines that all issues between the parties can be adjudicated without further proceedings, the court shall adjudicate those issues and enter judgment on the merits.

(g) "An act that would be considered criminal under the laws of this state" under Subsection (3)(a) includes only the following:

(i) an act that would be considered a felony under the laws of this state;

(ii) an act that would be considered criminal affecting the health or safety of a tenant, the landlord, the landlord's agent, or other person on the landlord's property;

(iii) an act that would be considered criminal that causes damage or loss to any tenant's property or the landlord's property;

(iv) a drug- or gang-related act that would be considered criminal;

(v) an act or threat of violence against any tenant or other person on the premises, or against the landlord or the landlord's agent; and

(vi) any other act that would be considered criminal that the court determines directly impacts the safety or peaceful enjoyment of the premises by any tenant.

(4) (a) At any hearing held in accordance with this chapter in which the tenant after receiving notice fails to appear, the court shall issue an order of restitution.

(b) If an order of restitution is issued in accordance with Subsection (4)(a), a constable or the sheriff of the county where the property is situated shall return possession of the property to the plaintiff immediately.

(5) A court adjudicating matters under this chapter may make other orders as are appropriate and proper.

Section 4. Section 78B-6-811 is amended to read:

78B-6-811. Judgment for restitution, damages, and rent -- Immediate enforcement -- Remedies.

(1) (a) A judgment may be entered upon the merits or upon default.

(b) A judgment entered in favor of the plaintiff shall include an order for the restitution of the premises as provided in Section 78B-6-812.

(c) If the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease or agreement.

(d) (i) A forfeiture under Subsection (1)(c) does not release a defendant from any obligation for payments on a lease for the remainder of the lease's term.

(ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate damages.

(2) The jury or the court, if the proceeding is tried without a jury or upon the defendant's default, shall also assess the damages resulting to the plaintiff from any of the following:

(a) forcible entry;

(b) forcible or unlawful detainer;

(c) waste of the premises during the defendant's tenancy, if waste is alleged in the complaint and proved at trial;

(d) the amounts due under the contract, if the alleged unlawful detainer is after default in the payment of amounts due under the contract; and

(e) the abatement of the nuisance by eviction as provided in Sections 78B-6-1107 through 78B-6-1114.

(3) The judgment shall be entered against the defendant for the rent, for three times the amount of the damages assessed under Subsections (2)(a) through (2)(e).

(4) (a) If the proceeding is for unlawful detainer, execution upon the judgment shall be issued immediately after the entry of the judgment.

(b) In all cases, the judgment may be issued and enforced immediately.

(5) In an action under this chapter, the court ~~may~~ shall award costs and reasonable attorney fees to the prevailing party.

Section 5. Section 78B-6-812 is amended to read:

78B-6-812. Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) An order of restitution shall:

(a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;

(b) advise the defendant of the time limit set by the court for the defendant to vacate the premises, which shall be three calendar days following service of the order, unless the court determines that a longer or shorter period is appropriate after a finding of extenuating circumstances; and

(c) advise the defendant of the defendant's right to a hearing to contest the manner of its enforcement.

(2) (a) A copy of the order of restitution and a form for the defendant to request a hearing as listed on the form shall be served in accordance with Section 78B-6-805 by a person authorized to serve process pursuant to Subsection 78B-8-302(1). ~~[If personal service is impossible or impracticable, service may be made by:]~~

~~[(i) mailing a copy of the order and the form by first class mail to the defendant's last known address and posting a copy of the order and the form at a conspicuous place on the premises; or]~~

~~[(ii) mailing a copy of the order and the form to the commercial tenant defendant's last known place of business and posting a copy of the order and the form at a conspicuous place on the business premises.]~~

(b) A request for hearing or other pleading filed by the defendant may not stay enforcement of the restitution order unless:

(i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to ~~[the formula set forth in]~~ Subsection 78B-6-808(4)(b); and

(ii) the court orders that the restitution order be stayed.

(c) The date of service, the name, title, signature, and telephone number of the person serving the order and the form shall be legibly endorsed on the copy of the order and the form served on the defendant.

(d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.

(3) (a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.

(b) Personal property ~~[of the defendant]~~ remaining in the leased property may be removed from the premises by the sheriff or constable and transported to a suitable location for safe storage. The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff, who shall store the personal property in a suitable place and in a reasonable manner.

(c) A tenant may not access the property until the removal and storage costs have been paid in full, except that the tenant shall be provided reasonable access within five business days to retrieve:

(i) clothing;

(ii) identification;

(iii) financial documents, including all those related to the tenant's immigration status~~[,]~~ or employment status;

(iv) documents pertaining to receipt of public services; and

(v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.

(d) The personal property removed and stored [~~shall, after 15 calendar days, be~~] is considered abandoned property and subject to Section 78B-6-816.

(4) In the event of a dispute concerning the manner of enforcement of the restitution order, the defendant may file a request for a hearing. The court shall set the matter for hearing within 10 calendar days from the filing of the request, or as soon thereafter as practicable, and shall mail notice of the hearing to the parties.

(5) The Judicial Council shall draft the forms necessary to implement this section.

Section 6. Section 78B-6-815 is amended to read:

78B-6-815. Abandonment.

(1) [~~“~~Abandonment~~”~~] is presumed in either of the following situations:

[~~(4)~~] (a) The tenant has not notified the owner that [~~he or she~~] the tenant will be absent from the premises, and the tenant fails to pay rent within 15 days after the due date, and there is no reasonable evidence other than the presence of the tenant’s personal property that the tenant is occupying the premises.

[~~(2)~~] (b) The tenant has not notified the owner that [~~he or she~~] the tenant will be absent from the premises, and the tenant fails to pay rent when due and the tenant’s personal property has been removed from the dwelling unit and there is no reasonable evidence that the tenant is occupying the premises.

(2) Abandonment is established as a matter of law if the owner has reason to believe that the presumption of abandonment under Subsection (1) has been met, the owner serves the tenant with a declaration of abandonment, and the tenant fails to dispute or rebut the declaration of abandonment in accordance with this Subsection (2).

(a) The tenant may be served with a declaration of abandonment that includes at least a contact address for the owner, contains a brief factual basis supporting the owner’s reasonable belief that the presumption of abandonment under Subsection (1) has been met, and states the date and time of service and includes the following language, or language that is substantially similar: “It is believed that these premises are abandoned and the owner is seeking to regain possession of the premises. If a tenant in legal possession of the premises has not abandoned the premises, the tenant must dispute abandonment in writing within 24 hours of service of this declaration of abandonment by providing a copy to the owner at the contact address included with this declaration

of abandonment. If written notice is not served on the owner within 24 hours, the owner may retake possession of the premises.” The 24-hour period stated in this Subsection (2)(a) does not include a Saturday, a Sunday, or a holiday during which the Utah state courts are closed.

(b) Service of the declaration of abandonment by the owner and any dispute or rebuttal by the tenant shall be made pursuant to Section 78B-6-805.

(c) If the tenant fails to dispute the declaration of abandonment in writing by serving notice to the owner within 24 hours of being served a declaration of abandonment, excluding a Saturday, a Sunday, or a holiday during which the Utah state courts are closed, the declaration of abandonment serves as prima facie evidence that the tenant has vacated and abandoned the premises.

(d) The tenant bears the burden to rebut an abandonment that is established by a declaration of abandonment by clear and convincing evidence.

Section 7. Coordinating S.B. 159 with S.B. 79 -- Substantive and technical amendments.

If this S.B. 159 and S.B. 79, Judiciary Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 78B-6-807(4) to read:

“(4) The court may authorize alternative service pursuant to the Utah Rules of Civil Procedure.”

CHAPTER 292

S. B. 162

Passed March 6, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**INTERGENERATIONAL POVERTY
 MATCHING --EDUCATION SAVINGS PLAN**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions of the Student Prosperity Savings Program.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of an individual as part of the Student Prosperity Savings Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Board of Regents -- Administration, as a one-time appropriation:
 - from the General Fund, \$100,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8a-201, as enacted by Laws of Utah 2017, Chapter 389 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 382

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

Section 1. Section 53B-8a-201 is amended to read:

53B-8a-201. Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs on behalf of a particular individual that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Child" means an individual less than 20 years of age.

(3) "Community partner" means a nonprofit organization that provide services to a child who is economically disadvantaged or a family member, legal guardian, or legal custodian of a child who is economically disadvantaged.

(4) "Donation" means a gift, grant, donation, or any other conveyance of money by a person other than the Legislature that is not made directly for the benefit or on behalf of a particular individual.

(5) "Economically disadvantaged" means that a child is:

(a) experiencing intergenerational poverty;

(b) a member or foster child of a family with an annual income at or below 185% of the federal poverty level; or

(c) living with a legal custodian or legal guardian with an annual family income at or below 185% of the federal poverty level.

(6) "Eligible individual" means an individual who:

(a) is [at least 15 years of age and] under 20 years of age and is a resident of Utah;

~~[(b) is a student in grade 10, grade 11, or grade 12 in Utah;]~~

~~[(e)]~~ (b) is economically disadvantaged; and

~~[(d)]~~ (c) receives, or has a family member, a foster family member, or a legal custodian or legal guardian who receives, services from a community partner.

(7) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(8) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5, except that the expenses must be incurred at:

(a) a credit-granting institution of higher education within the state system of higher education;

(b) a private, nonprofit college or university in the state that is accredited by the Northwestern Association of Schools and Colleges; or

(c) a technical college.

(9) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(10) "Program" means the Student Prosperity Savings Program created in Section 53B-8a-202.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To the Board of Regents

<u>From General Fund, One-time</u>	<u>\$100,000</u>
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Schedule of Programs:

<u>Administration</u>	<u>\$100,000</u>
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The Legislature intends that the Board of Regents use the appropriation under this section to

carry out the program described in Title 53B,
Chapter 8a, Part 2, Student Prosperity Savings
Program.

CHAPTER 293**S. B. 173**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**STATE CHARTER SCHOOL
BOARD AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends State Charter School Board membership provisions.

Highlighted Provisions:

This bill:

- ▶ amends State Charter School Board membership; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-5-201, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-5-201 is amended to read:**53G-5-201. State Charter School Board created.**

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2) (a) The State Charter School Board is created consisting of the following members appointed by the governor:

(i) ~~[two members who have]~~ one member who has expertise in finance or small business management;

(ii) three members who:

(A) are nominated by an organization that represents Utah's charter schools; and

(B) have expertise or experience in developing or administering a charter school; ~~[and]~~

(iii) two members who are nominated by the State Board of Education~~[-];~~ and

(iv) one member who:

(A) has expertise in personalized learning, including digital teaching and learning or deliberate practice; and

(B) supports innovation in education;

(b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53G-5-104.

(c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).

(d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired term.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall annually elect a chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 294**S. B. 182**

Passed March 8, 2018
 Approved March 19, 2018
 Effective March 19, 2018

GUARDIANSHIP AMENDMENTS

Chief Sponsor: J. Stuart Adams
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions related to guardianships.

Highlighted Provisions:

This bill:

- ▶ addresses powers or duties of a guardian;
- ▶ provides for appointment under certain circumstances of one or more individuals as guardians of a minor becoming an adult; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

75-5-312, as last amended by Laws of Utah 2017, Chapter 403

ENACTS:

75-5-317, Utah Code Annotated 1953

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

Section 1. Section 75-5-312 is amended to read:**75-5-312. General powers and duties of guardian -- Penalties.**

(1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section 75-5-304.

(2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child.

(3) In particular, and without qualifying [~~the foregoing~~] Subsections (1) and (2), a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.

(b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the

ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.

(d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends.

(e) If no conservator for the estate of the ward has been appointed, the guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward[~~;~~], except that the guardian may not use funds from the ward's estate for room and board [which] that the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult. The guardian shall exercise care to conserve any excess for the ward's needs.

(f) (i) A guardian is required to report the condition of the ward and of the estate [~~which~~] that has been subject to the guardian's possession or control, as required by the court or court rule.

(ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:

(A) the guardian's own observations; or

(B) information from the ward's physician or other medical care providers.

(iii) A guardian is required to immediately notify [~~all interested persons of~~] persons who request notification and are not restricted in associating with the ward pursuant to Section 75-5-312.5 of:

(A) the ward's admission to a hospital for three or more days or to a hospice program;

(B) the ward's death[~~;~~]; and

(C) the arrangements for the disposition of the ward's remains.

(iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and

to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.

(v) (A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all estates in excess of \$50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis.

(B) For estates less than \$50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court.

(C) A report under Subsection (3)(f)(v)(A) or (B) shall include a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The guardian shall also report the physical conditions of the ward, the place of residence, and a list of others living in the same household. The court may require additional information.

(D) The forms for both the informal report for estates under \$50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council.

(E) An annual report shall be examined and approved by the court.

(F) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.

(vi) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.

(vii) The guardian shall also render an annual accounting of the status of the person to the court [which] that shall be included in the petition or the informal annual report as required under Subsection (3)(f). If a fee is paid for an accounting of an estate, no fee shall be charged for an accounting of the status of a person.

(viii) If a guardian:

(A) makes a substantial misstatement on filings of annual reports;

(B) is guilty of gross impropriety in handling the property of the ward; or

(C) willfully fails to file the report required by this subsection, after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed \$5,000. The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.

(ix) The provisions and penalties in this Subsection (3)(f) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.

(x) For the purposes of Subsections (3)(f)(i), (ii), (iii), and (iv), "interested persons" means those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-309.

(g) If a conservator has been appointed:

(i) all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and

(ii) the guardian shall account to the conservator for funds expended.

(4) (a) A court may, in the order of appointment, place specific limitations on the guardian's power.

(b) A guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-312.5.

(c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection (2).

(5) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(6) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the protected person after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

(7) A guardian shall, to the extent practicable, encourage the ward to participate in decisions, exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the ward.

Section 2. Section 75-5-317 is enacted to read:

75-5-317. Guardianship proceedings for minor becoming an incapacitated adult.

(1) As used in this section:

(a) "Incapacitated" means the same as that term is defined in Section 75-1-201.

(b) “Joint legal decision-making” means parents or two individuals, regardless of whether they are married, sharing legal decision-making and no individual’s rights or responsibilities being superior except with respect to specified decisions set forth by the court or the individuals in a final judgment or order.

(c) “Legal decision-making” means the legal right and responsibility to make all nonemergency legal decisions for a minor including those regarding education, health care, religious training, and personal care decisions.

(d) “Minor” means the same as that term is defined in Section 75-1-201.

(e) “Physician” means an individual:

(i) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(f) “Psychologist” means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

(g) “Sole legal decision-making” means one parent or one individual having the legal right and responsibility to make major decisions for the minor child.

(2) (a) Notwithstanding the other provisions of this part, a person who may be a guardian of an incapacitated person under Section 75-5-301 may initiate guardianship proceedings pursuant to this Subsection (2) for a minor who is at least 17 years, six months of age and who is alleged to be incapacitated and request that a guardianship order take effect immediately on the day the minor turns 18 years of age.

(b) The petitioner shall provide with the petition a written report of an evaluation of the minor by a physician or psychologist that meets the requirements of Subsection (2)(c). If the evaluation is conducted within six months after the date the petition is filed with the court, the petitioner may ask in the petition that the court accept this report in lieu of ordering any additional evaluation and the court may grant the request.

(c) A written report filed pursuant to this section by a physician or psychologist acting within that person’s scope of practice shall include the following information:

(i) a specific description of the physical, psychiatric, or psychological diagnosis of the person;

(ii) a comprehensive assessment listing any functional impairments of the alleged incapacitated person and an explanation of how and to what extent these functional impairments may prevent that person from receiving or evaluating information in making decisions or in

communicating informed decisions, with or without assistance, regarding that person;

(iii) an analysis of the tasks of daily living the alleged incapacitated person is capable of performing independently or with assistance;

(iv) a list of the medications the alleged incapacitated person is receiving, the dosage of the medications, and a description of the effects each medication has on the person’s behavior to the best of the declarant’s knowledge;

(v) a prognosis for improvement in the alleged incapacitated person’s condition and a recommendation for the most appropriate rehabilitation plan or care plan; and

(vi) other information the physician or psychologist considers appropriate.

(3) (a) Notwithstanding the priorities in Section 75-5-311, if the petition for appointment of a guardian for the incapacitated person is filed pursuant to Subsection (2) or within two years after the day the incapacitated person turns 18 years of age, unless the court finds the appointment to be contrary to the incapacitated person’s best interest:

(i) the court shall appoint as the incapacitated person’s guardian any person who, by court order, had sole legal decision-making of the incapacitated person when the incapacitated person attained 17 years, six months of age; or

(ii) if two individuals had joint legal decision-making of the incapacitated person when the incapacitated person attained 17 years, six months of age, the court shall appoint both individuals as the incapacitated person’s coguardians.

(b) If under Subsection (3)(a) the court finds the appointment of an individual described in Subsection (3)(a) is contrary to the incapacitated person’s best interest or if the individual is unwilling to be appointed or serve as a guardian, the court may apply the priorities in Section 75-5-311 in appointing a guardian.

(4) The court may appoint more than one person as the incapacitated person’s coguardians if the appointment is required by Subsection (3) or the court finds that the appointment is in the incapacitated person’s best interest. If the court appoints coguardians, the coguardians shall share legal decision-making for the incapacitated person and neither coguardian’s rights or responsibilities are superior except as otherwise ordered by the court.

Section 3. Effective date.

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

**CHAPTER 295
S. B. 184**

Passed March 5, 2018
Approved March 19, 2018
Effective May 8, 2018

**PHARMACIST DISPENSING
AUTHORITY AMENDMENTS**

Chief Sponsor: Todd Weiler
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill permits a pharmacist to dispense a self-administered hormonal contraceptive under a standing prescription drug order.

Highlighted Provisions:

This bill:

- ▶ authorizes the use of a standing prescription drug order issued by a physician to dispense a self-administered hormonal contraceptive to a patient who is 18 years old or older;
- ▶ creates standards and procedures that a pharmacist must follow when prescribing a self-administered hormonal contraceptive;
- ▶ limits liability for physicians who issue a standing prescription drug order for a self-administered hormonal contraceptive; and
- ▶ specifies that the prescribing or dispensing of a self-administered hormonal contraceptive by a pharmacist is not unprofessional or unlawful conduct.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 58-17b-102, as last amended by Laws of Utah 2015, Chapter 336
58-17b-501, as last amended by Laws of Utah 2017, Chapter 392
58-17b-502, as last amended by Laws of Utah 2016, Chapter 405

ENACTS:

- 26-62-101, Utah Code Annotated 1953
26-62-102, Utah Code Annotated 1953
26-62-103, Utah Code Annotated 1953
26-62-104, Utah Code Annotated 1953
26-62-105, Utah Code Annotated 1953
26-62-106, Utah Code Annotated 1953
26-62-107, Utah Code Annotated 1953

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

Section 1. Section 26-62-101 is enacted to read:

**CHAPTER 62. FAMILY PLANNING
ACCESS ACT**

26-62-101. Title.

This chapter is known as the "Family Planning Access Act."

Section 2. Section 26-62-102 is enacted to read:

26-62-102. Definitions.

As used in this chapter:

(1) "Dispense" means the same as that term is defined in Section 58-17b-102.

(2) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(3) "Local health department" means:

(a) a local health department, as defined in Section 26A-1-102; or

(b) a multicounty local health department, as defined in Section 26A-1-102.

(4) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(5) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(6) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(7) "Physician" means the same as that term is defined in Section 58-67-102.

(8) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(9) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

Section 3. Section 26-62-103 is enacted to read:

26-62-103. Voluntary participation.

This chapter does not create a duty or standard of care for a person to prescribe or dispense a self-administered hormonal contraceptive.

Section 4. Section 26-62-104 is enacted to read:

26-62-104. Authorization to dispense self-administered hormonal contraceptives.

Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense a self-administered hormonal contraceptive may dispense the self-administered hormonal contraceptive:

- (1) to a patient who is 18 years old or older;

(2) pursuant to a standing prescription drug order made in accordance with Section 26-62-105;

(3) without any other prescription drug order from a person licensed to prescribe a self-administered hormonal contraceptive; and

(4) in accordance with the dispensing guidelines in Section 26-62-106.

Section 5. Section 26-62-105 is enacted to read:

26-62-105. Standing prescription drug orders for a self-administered hormonal contraceptive.

A physician who is licensed to prescribe a self-administered hormonal contraceptive, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, may issue a standing prescription drug order authorizing the dispensing of the self-administered hormonal contraceptive under Section 26-62-104 in accordance with a protocol that:

(1) requires the physician to specify the persons, by professional license number, authorized to dispense the self-administered hormonal contraceptive;

(2) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the self-administered hormonal contraceptive;

(3) requires those authorized by the physician to dispense the self-administered hormonal contraceptive to make and retain a record of each person to whom the self-administered hormonal contraceptive is dispensed, including:

- (a) the name of the person;
- (b) the drug dispensed; and
- (c) other relevant information; and

(4) is approved by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 6. Section 26-62-106 is enacted to read:

26-62-106. Guidelines for dispensing a self-administered hormonal contraceptive.

(1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal contraceptive under this chapter:

(a) shall obtain a completed self-screening risk assessment questionnaire, that has been approved by the division in collaboration with the Board of Pharmacy and the Physicians Licensing Board, from the patient before dispensing the self-administered hormonal contraceptive;

(b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to dispense a

self-administered hormonal contraceptive to a patient:

(i) may not dispense a self-administered hormonal contraceptive to the patient; and

(ii) shall refer the patient to a primary care or women's health care practitioner;

(c) may not continue to dispense a self-administered hormonal contraceptive to a patient for more than 24 months after the date of the initial prescription without evidence that the patient has consulted with a primary care or women's health care practitioner during the preceding 24 months; and

(d) shall provide the patient with:

(i) written information regarding:

(A) the importance of seeing the patient's primary care practitioner or women's health care practitioner to obtain recommended tests and screening; and

(B) the effectiveness and availability of long-acting reversible contraceptives as an alternative to self-administered hormonal contraceptives; and

(ii) a copy of the record of the encounter with the patient that includes:

(A) the patient's completed self-assessment tool; and

(B) a description of the contraceptives dispensed, or the basis for not dispensing a contraceptive.

(2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient, the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

(a) the appropriate administration and storage of the self-administered hormonal contraceptive;

(b) potential side effects and risks of the self-administered hormonal contraceptive;

(c) the need for backup contraception;

(d) when to seek emergency medical attention; and

(e) the risk of contracting a sexually transmitted infection or disease, and ways to reduce the risk of contraction.

(3) The division, in collaboration with the Board of Pharmacy and the Physicians Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire described in Subsection (1)(a).

Section 7. Section 26-62-107 is enacted to read:

26-62-107. Limited civil liability.

A physician who issues a standing prescription drug order in accordance with Section 26-62-105 is not liable for any civil damages for acts or omissions resulting from the dispensing of a

self-administered hormonal contraceptive under this chapter.

Section 8. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon,

stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company, but not including a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or

process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) “Pharmaceutical care” does not include prescribing of drugs without consent of a prescribing practitioner.

(46) “Pharmaceutical facility” means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) “Pharmaceutical wholesaler or distributor” means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) “Pharmaceutical wholesaler or distributor” does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility’s total distribution-related sales of prescription drugs does not exceed 5% of the facility’s total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) “Pharmacist” means an individual licensed by this state to engage in the practice of pharmacy.

(49) “Pharmacist-in-charge” means a pharmacist currently licensed in good standing who

accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) “Pharmacist preceptor” means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) “Pharmacy” means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) “Pharmacy benefits manager or coordinator” means a person or entity that provides a pharmacy [benefit] benefits management [services] service as defined in Section 49-20-502 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) “Pharmacy intern” means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) “Pharmacy technician training program” means an approved technician training program providing education for pharmacy technicians.

(55) (a) “Practice as a dispensing medical practitioner” means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) “Practice as a dispensing medical practitioner” does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(56) (a) “Practice as a licensed pharmacy technician” means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(b) “Practice as a licensed pharmacy technician” does not include:

(i) performing a drug utilization review, prescription drug order clarification from a prescriber, final review of the prescription,

dispensing of the drug, or counseling a patient with respect to a prescription drug;

(ii) except as permitted by rules made by the division in consultation with the board, final review of a prescribed drug prepared for dispensing;

(iii) counseling regarding nonprescription drugs and dietary supplements unless delegated by the supervising pharmacist; or

(iv) receiving new prescription drug orders when communicating telephonically or electronically unless the original information is recorded so the pharmacist may review the prescription drug order as transmitted.

(57) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy; ~~and~~

(m) formulary management intervention~~;~~; and

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 62, Family Planning Access Act.

(58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(65) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(66) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(68) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

~~[(68)]~~ (69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

~~[(69)]~~ (70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

~~[(70)]~~ (71) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

~~[(71)]~~ (72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

~~[(72)]~~ (73) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

~~[(73)]~~ (74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 9. Section 58-17b-501 is amended to read:

58-17b-501. Unlawful conduct.

"Unlawful conduct" includes:

(1) knowingly preventing or refusing to permit an authorized agent of the division to conduct an inspection pursuant to Section 58-17b-103;

(2) failing to deliver the license, permit, or certificate to the division upon demand, if it has been revoked, suspended, or refused;

(3) (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy technician," or a term having similar meaning, except by a person licensed as a pharmacist, pharmacy intern, or pharmacy technician; or

(b) conducting or transacting business under a name that contains, as part of that name, the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop," "apothecary," "prescriptions," or a term having a similar meaning, or in any manner advertising, otherwise describing, or referring to the place of the conducted business or profession, unless the place is a pharmacy issued a license by the division, except an establishment selling nonprescription drugs and supplies may display signs bearing the words "packaged drugs," "drug sundries," or "nonprescription drugs," and is not considered to be a pharmacy or drugstore by reason of the display;

(4) buying, selling, causing to be sold, or offering for sale, a drug or device that bears, or the package bears or originally did bear, the inscription "sample," "not for resale," "for investigational or experimental use only," or other similar words, except when a cost is incurred in the bona fide acquisition of an investigational or experimental drug;

(5) using to a person's own advantages or revealing to anyone other than the division, board, and its authorized representatives, or to the courts, when relevant to a judicial or administrative proceeding under this chapter, information acquired under authority of this chapter or concerning a method of process that is a trade secret;

(6) procuring or attempting to procure a drug or to have someone else procure or attempt to procure a drug:

(a) by fraud, deceit, misrepresentation, or subterfuge;

(b) by forgery or alteration of a prescription or a written order;

(c) by concealment of a material fact;

(d) by use of a false statement in a prescription, chart, order, or report; or

(e) by theft;

(7) filling, refilling, or advertising the filling or refilling of prescriptions for a consumer or patient residing in this state if the person is not licensed:

- (a) under this chapter; or
- (b) in the state from which he is dispensing;

(8) requiring an employed pharmacist, pharmacy intern, pharmacy technician, or authorized supportive personnel to engage in conduct in violation of this chapter;

(9) being in possession of a prescription drug for an unlawful purpose;

(10) dispensing a prescription drug to a person who does not have a prescription from a practitioner, except as permitted under:

(a) Title 26, Chapter 55, Opiate Overdose Response Act^[,;]; or

(b) Title 26, Chapter 62, Family Planning Access Act;

(11) dispensing a prescription drug to a person who the person dispensing the drug knows or should know is attempting to obtain drugs by fraud or misrepresentation;

~~[(11)]~~ (12) selling, dispensing, distributing, or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure; and

~~[(12)]~~ (13) a person using a prescription drug or controlled substance that was not lawfully prescribed for the person by a practitioner.

Section 10. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

“Unprofessional conduct” includes:

(1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(2) (a) except as provided in Subsection (2)(b):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals.

(b) Subsection (2)(a) does not apply to:

(i) giving or receiving price discounts based on purchase volume;

(ii) passing along pharmaceutical manufacturer’s rebates; or

(iii) providing compensation for services to a veterinarian.

(3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription “sample” or “not for resale” or similar words or phrases;

(5) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer’s sealed container, as defined in rule;

(6) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person’s professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(7) violating ~~[Federal Title II, P.L. 91, Controlled Substances Act,;]~~

(a) the federal Controlled Substances Act, Title II, P.L. 91-513;

(b) Title 58, Chapter 37, Utah Controlled Substances Act^[,;]; or

(c) rules or regulations adopted under either act;

(8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(9) administering:

(a) without appropriate training, as defined by rule;

(b) without a physician’s order, when one is required by law; and

(c) in conflict with a practitioner’s written guidelines or written protocol for administering;

(10) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(11) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(12) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section; ~~and~~

(13) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner^[,;]; and

(14) failing to act in accordance with Title 26, Chapter 62, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order.

CHAPTER 296**S. B. 186**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

INDIGENT DEFENSE AMENDMENTS

Sponsor: Chief Sponsor: Todd Weiler
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill addresses provisions relating to indigent defense.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ rewrites portions of Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission;
- ▶ addresses membership, membership qualifications, terms, and quorum requirements of the commission;
- ▶ addresses duties of the director of the commission;
- ▶ addresses powers and duties of the commission;
- ▶ addresses minimum guidelines;
- ▶ addresses provisions regarding the Indigent Defense Resources Restricted Account;
- ▶ addresses provisions of an indigent defense services grant program;
- ▶ modifies provisions requiring cooperation and participation with commission;
- ▶ repeals sections of the code relating to the commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 77-32-801, as last amended by Laws of Utah 2017, Chapter 111
 77-32-802, as last amended by Laws of Utah 2017, Chapter 111
 77-32-803, as last amended by Laws of Utah 2017, Chapter 111

ENACTS:

77-32-801.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

- 77-32-804, as last amended by Laws of Utah 2017, Chapter 111
 77-32-805, as last amended by Laws of Utah 2017, Chapter 111
 77-32-806, as last amended by Laws of Utah 2017, Chapter 111
 77-32-807, as last amended by Laws of Utah 2017, Chapter 111

REPEALS:

- 77-32-808, as last amended by Laws of Utah 2017, Chapter 111
 77-32-809, as last amended by Laws of Utah 2017, Chapter 111

77-32-810, as enacted by Laws of Utah 2016, Chapter 177

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

Section 1. Section 77-32-801 is amended to read:

Part 8. Utah Indigent Defense Commission

77-32-801. Utah Indigent Defense Commission -- Creation -- Purpose.

(1) There is created within the State Commission on Criminal and Juvenile Justice the "Utah Indigent Defense Commission."

(2) The purpose of the commission is to assist the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code.

~~[(3) Notwithstanding Section 77-32-201, for purposes of this part:]~~

~~[(a) "Indigent defense services" means the representation of indigent persons in criminal, juvenile delinquency, and child welfare cases.]~~

~~[(b) "Indigent defense system" means indigent defense services provided by:]~~

~~[(i) local units of government, including a county, city, or town; or]~~

~~[(ii) a regional legal defense organization.]~~

Section 2. Section 77-32-801.5 is enacted to read:

77-32-801.5. Definitions.

Notwithstanding Section 77-32-201, as used in this part:

(1) "Account" means the Indigent Defense Resources Account, created in Section 77-32-805.

(2) "Indigent defense service provider" means an individual or an entity providing indigent defense services for:

(a) a county;

(b) a municipality; or

(c) any combination of counties or municipalities, or both, through an interlocal agreement or other agreement under Section 77-32-306 to provide regional indigent defense services.

(3) "Indigent defense services" means the representation of an indigent individual.

(4) "Indigent defense system" means indigent defense services provided by:

(a) local units of government, including a county or municipality; or

(b) a regional legal defense organization.

(5) "Indigent individual" means an individual who:

(a) qualifies as indigent under indigency standards established in Section 77-32-202;

(b) does not, after being fully advised of the right to counsel, knowingly, intelligently, and voluntarily waive the right to counsel; and

(c) is:

(i) accused of a criminal offense the penalty for which includes any possibility of incarceration, confinement, or detention regardless of whether actually imposed;

(ii) a minor arrested or charged with any offense under Title 78A, Chapter 6, Part 6, Delinquency and Criminal Actions, or Title 78A, Chapter 6, Part 7, Transfer of Jurisdiction;

(iii) a parent or legal guardian facing any action initiated by the state or political subdivision of the state under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, or Title 78A, Chapter 6, Part 10, Adult Offenses;

(iv) a parent or legal guardian facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, or under Section 78B-6-112; or

(v) any one of the parties in the proceedings listed in this Subsection (5)(c), who is appealing a first appeal from a conviction or other final court action in one of those proceedings.

Section 3. Section 77-32-802 is amended to read:

77-32-802. Commission members -- Member qualifications -- Terms -- Vacancy.

(1) The commission is composed of ~~[13]~~ 14 voting members and ~~[two]~~ one ex officio, nonvoting ~~[members]~~ member.

(a) The governor, with the consent of the Senate, shall appoint the following 12 voting members:

(i) two practicing criminal defense attorneys ~~[and one attorney practicing in the area of juvenile delinquency defense]~~ recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

~~[(iv)]~~ (iii) an attorney representing minority interests recommended by the Utah Minority Bar Association;

~~[(iii)]~~ (iv) one member recommended by the Utah Association of Counties from a county of the first or second class;

~~[(iv)]~~ (v) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

~~[(v)]~~ (vi) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

~~[(vi)]~~ (vii) two members recommended by the Utah League of Cities and Towns from its membership;

~~[(vii)]~~ (viii) a retired judge recommended by the Judicial Council;

~~[(viii)]~~ (ix) one member of the Utah Legislature selected jointly by the Speaker of the House and President of the Senate; and

~~[(ix)]~~ (x) one attorney practicing in the area of parental defense, recommended by an entity funded under Title 63A, Chapter 11, Child Welfare Parental Defense Program.

(b) The Judicial Council shall appoint a voting member from the Administrative Office of the Courts.

~~[(b)]~~ (c) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee ~~[shall be]~~ is a voting member of the commission.

~~[(e)]~~ The ex officio, nonvoting members of the commission are:

~~[(i)]~~ the director of the commission appointed in Section 77-32-803; and

~~[(ii)]~~ a representative from the Administrative Office of the Courts appointed by the Judicial Council.

(d) The director of the commission, appointed under Section 77-32-803, is an ex officio, nonvoting member of the commission.

(2) ~~[Members]~~ A member appointed by the governor shall serve a four-year ~~[terms]~~ term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the ~~[commission is]~~ members appointed by the governor are appointed every two years.

(4) ~~[Members]~~ A member appointed to the commission shall have significant experience in indigent criminal defense, ~~[child welfare]~~ parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) A person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

~~[(Commission members)]~~ A commission member shall hold office until ~~[their successors are]~~ the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) ~~[When]~~ If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) The ~~[governor shall appoint one of the initial commission members to serve as chair of the~~

commission for a term of one year. At the expiration of that year, or upon the vacancy in the membership of the appointed chair, the commission shall annually elect a chair from the commission's membership to serve a one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~[(11) Six members constitute a quorum, however, the affirmative vote of at least six members of the commission is required for official action of the commission.]~~

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

Section 4. Section 77-32-803 is amended to read:

77-32-803. Director -- Qualifications -- Staff.

(1) The commission shall appoint a director to carry out the following duties:

(a) establish an annual budget;

(b) assist the commission in [the performance of] performing the commission's statutory duties;

(c) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures[, including recommending to the commission suggested changes to the criteria for an indigent person's eligibility to receive defense services under this chapter]; and

(d) perform all other duties as assigned.

(2) The director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the commission, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills to carry out duties as outlined in Subsection 77-32-804(1)(a)(c).

(4) The commission in appointing the director, and the director in hiring the assistant director, shall give a preference to individuals with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

Section 5. Section 77-32-804 is repealed and reenacted to read:

77-32-804. Powers and duties of the commission -- Minimum guidelines -- Annual report.

(1) The commission shall:

(a) adopt minimum guidelines for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which guidelines at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service and conflict cases; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to defense resources;

(C) the ability to provide representation to accused persons in criminal cases at all critical stages, and at all stages to indigent parties in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to all indigent individuals;

(c) identify and collect data from any source, which is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's minimum guidelines for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's minimum guidelines for effective representation of indigent individuals;

(e) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's minimum guidelines for the effective representation of indigent individuals;

(f) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(g) establish procedures to award grants to indigent defense systems under Section 77-32-806 consistent with the commission's minimum guidelines for the effective representation of indigent individuals and appropriations by the state;

(h) emphasize the importance of ensuring constitutionally effective indigent defense services;

(i) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;

(j) oversee individuals and entities involved in providing indigent defense services;

(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's minimum guidelines by indigent defense systems receiving grants from the commission;

(l) submit recommendations for improving indigent defense services in the state, to legislative, executive, and judicial leadership; and

(m) publish an annual report on the commission's website.

(2) An indigent defense system within the state shall meet the minimum guidelines adopted by the commission under Subsection (1)(a).

(3) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part.

Section 6. Section 77-32-805 is repealed and reenacted to read:

77-32-805. Indigent Defense Resources Restricted Account -- Administration.

(1) (a) There is created within the General Fund a restricted account known as the "Indigent Defense Resources Restricted Account."

(b) Appropriations from the account are nonlapsing.

(2) The account consists of:

(a) money appropriated by the Legislature based upon recommendations from the commission consistent with principles of shared state and local funding;

(b) any other money received by the commission from any source to carry out the purposes of this part; and

(c) any interest and earnings from the investment of account money.

(3) The commission shall administer the account and, subject to appropriation, disburse money from the account for the following purposes:

(a) to establish and maintain a statewide indigent defense data collection system;

(b) to establish and administer a grant program to provide grants of state money to indigent defense systems as set forth in Section 77-32-806;

(c) to provide training and continuing legal education for indigent defense service providers; and

(d) for administrative costs.

Section 7. Section 77-32-806 is repealed and reenacted to read:

77-32-806. Indigent defense services grant program.

(1) The commission may award grants to supplement local spending by a county or municipality for indigent defense services and defense resources.

(2) Commission grant money may be used for the following expenses:

(a) to assist a county or municipality to provide indigent defense services that meet the commission's minimum guidelines for the effective representation of indigent individuals;

(b) the establishment and maintenance of local indigent defense data collection systems;

(c) indigent defense services in addition to those currently being provided by a county or municipality; and

(d) to provide training and continuing legal education for indigent defense service providers.

(3) To receive a grant from the commission, a county or municipality shall demonstrate to the commission's satisfaction that:

(a) the county or municipality has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the county's or municipality's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the county or municipality to meet the commission's

minimum guidelines for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's minimum guidelines for the effective representation of indigent individuals.

Section 8. Section 77-32-807 is repealed and reenacted to read:

77-32-807. Cooperation and participation with the commission.

Indigent defense systems and entities or individuals engaged in providing indigent defense services in the state shall cooperate and participate with the commission in the collection of data, investigation, audit, and review of all indigent defense services.

Section 9. Repealer.

This bill repeals:

Section 77-32-808, Annual report, budget, and listing of expenditures -- Availability on website.

Section 77-32-809, Investigation, audit, and review of indigent and juvenile defense services -- Cooperation and participation with commission -- Maintenance of local share -- Necessity for excess funding.

Section 77-32-810, Applicability of GRAMA and Open and Public Meetings Act.

CHAPTER 297**S. B. 187**

Passed March 6, 2018
 Approved March 19, 2018
 Effective May 8, 2018

PARENT TIME AMENDMENTS

Chief Sponsor: Luz Escamilla
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill addresses parent time.

Highlighted Provisions:

This bill:

- ▶ outlines remedies for noncompliance with a parent-time order; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-5, as last amended by Laws of Utah 2017, Chapter 31

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

Section 1. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Determination of alimony -- Nonmeritorious petition for modification.

(1) When a decree of divorce is rendered, the court may include in it equitable orders relating to the children, property, debts or obligations, and parties. The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of the dependent children including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for the dependent children; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with the provisions of Section 30-3-5.4 which will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) pursuant to Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(2) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of the dependent children, necessitated by the employment or training of the custodial parent. If the court determines that the circumstances are appropriate and that the dependent children would be adequately cared for, it may include an order allowing the noncustodial parent to provide child care for the dependent children, necessitated by the employment or training of the custodial parent.

(3) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of the children and their support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(4) Child support, custody, visitation, and other matters related to children born to the [mother and father] parents after entry of the decree of divorce may be added to the decree by modification.

(5) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(6) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable ~~[attorneys']~~ attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(7) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party ~~[costs, including actual attorney fees and court costs]~~:

(a) actual attorney fees incurred;

(b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time~~[-]~~, which may include:

(i) court costs;

(ii) child care expenses;

(iii) transportation expenses actually incurred;

(iv) lost wages, if ascertainable; and

(v) counseling for a child or parent if ordered or approved by the court;

(c) make-up parent time consistent with the best interest of the child; and

(d) any other appropriate equitable remedy.

(8) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of minor children requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms thereof.

(c) "Fault" means any of the following wrongful conduct during the marriage that substantially

contributed to the breakup of the marriage relationship:

(i) engaging in sexual relations with a person other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or minor children;

(iii) knowingly and intentionally causing the other party or minor children to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the minor children.

(d) The court may, when fault is at issue, close the proceedings and seal the court records.

(e) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (8)(a). However, the court shall consider all relevant facts and equitable principles and may, in ~~[its]~~ the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no children have been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(f) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(g) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(h) In determining alimony when a marriage of short duration dissolves, and no ~~[children have]~~ child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(i) (i) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not foreseeable at the time of the divorce.

(ii) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(iii) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in this Subsection (8).

(A) The court may consider the subsequent spouse's financial ability to share living expenses.

(B) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(j) Alimony may not be ordered for a duration longer than the number of years that the marriage existed unless, at any time ~~[prior to]~~ before termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.

(9) Unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(10) Any order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse is cohabitating with another person.

CHAPTER 298**S. B. 188**

Passed March 5, 2018
 Approved March 19, 2018
 Effective May 8, 2018

UNIFORM UNSWORN DECLARATIONS ACT

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill addresses unsworn declarations.

Highlighted Provisions:

This bill:

- ▶ enacts the Uniform Unsworn Declarations Act, including:
 - defining terms;
 - providing the applicability of the act;
 - addressing the validity of unsworn declarations;
 - addressing required medium;
 - outlining the form of an unsworn declaration;
 - providing for uniformity; and
 - addressing relation to the Electronic Signatures in Global and National Commerce Act;
- ▶ repeals provisions related to unsworn declaration in lieu of affidavit and the Utah Uniform Unsworn Foreign Declarations Act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-17-3, as last amended by Laws of Utah 2016, Chapter 384
 73-4-5, as last amended by Laws of Utah 2016, Chapter 72
 76-8-501, as last amended by Laws of Utah 2014, Chapter 167
 78B-8-302, as last amended by Laws of Utah 2015, Chapter 210

ENACTS:

78B-18a-101, Utah Code Annotated 1953
 78B-18a-102, Utah Code Annotated 1953
 78B-18a-103, Utah Code Annotated 1953
 78B-18a-104, Utah Code Annotated 1953
 78B-18a-105, Utah Code Annotated 1953
 78B-18a-106, Utah Code Annotated 1953
 78B-18a-107, Utah Code Annotated 1953
 78B-18a-108, Utah Code Annotated 1953

REPEALS:

78B-5-705, as renumbered and amended by Laws of Utah 2008, Chapter 119
 78B-18-101, as enacted by Laws of Utah 2009, Chapter 100
 78B-18-102, as enacted by Laws of Utah 2009, Chapter 100

78B-18-103, as enacted by Laws of Utah 2009, Chapter 100
 78B-18-104, as enacted by Laws of Utah 2009, Chapter 100
 78B-18-105, as enacted by Laws of Utah 2009, Chapter 100
 78B-18-106, as enacted by Laws of Utah 2009, Chapter 100
 78B-18-107, as enacted by Laws of Utah 2009, Chapter 100
 78B-18-108, as enacted by Laws of Utah 2009, Chapter 100

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

Section 1. Section 57-17-3 is amended to read:**57-17-3. Deductions from deposit -- Written itemization -- Time for return.**

(1) Upon termination of a tenancy, the owner or the owner's agent may apply property or money held as a deposit toward the payment of rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the unit.

(2) No later than 30 days after the day on which a renter vacates and returns possession of a rental property to the owner or the owner's agent, the owner or the owner's agent shall deliver to the renter at the renter's last known address:

- (a) the balance of any deposit;
- (b) the balance of any prepaid rent; and

(c) if the owner or the owner's agent made any deductions from the deposit or prepaid rent, a written notice that itemizes and explains the reason for each deduction.

(3) If an owner or the owner's agent fails to comply with the requirements described in Subsection (2), the renter may serve the owner or the owner's agent, in accordance with Subsection (4), a notice that:

(a) states:

(i) the names of the parties to the rental agreement;

(ii) the day on which the renter vacated the rental property;

(iii) that the owner or the owner's agent has failed to comply with the requirements described in Subsection (2); and

(iv) the address where the owner or the owner's agent may send the items described in Subsection (2); and

(b) is substantially in the following form:

TENANT'S NOTICE TO
 PROVIDE DEPOSIT DISPOSITION

TO: (insert owner or owner's agent's name)

RE: (insert address of rental property)

NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS pursuant to Utah

Code Sections 57-17-3 et seq., the owner or the owner's agent must provide the tenant, at the address below, a refund of the balance of any security deposit, the balance of any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as allowed by law.

NOTICE IS FURTHER GIVEN that the tenant vacated the property on the ____ day of _____, 20__.

NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees.

Tenant's Name(s): _____

Mailing Address _____ City _____
State _____ Zip _____

This is a legal document. Please read and comply with the document's terms.

Dated this ____ day of _____, 20__.

Return of Service

On this ____ day of _____, 20__, I swear and attest that I served this notice in compliance with Utah Code Section 57-17-3 by:

____ Delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

____ Leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement because the owner or the owner's agent was absent from the address provided in the lease agreement;

____ Affixing a copy in a conspicuous place at the address provided in the lease agreement because a person of suitable age or discretion could not be found at the address provided in the lease agreement; or

____ Sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

The owner's address to which the service was effected is:

Address _____ City _____
State _____ Zip _____

_____ (server's signature)

Self-Authentication Declaration

Pursuant to Utah Code [Section 78B-5-705] Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed this ____ day of _____, 20__.

_____ (server's signature)

(4) A notice described in Subsection (3) shall be served:

(a) (i) by delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

(ii) if the owner or the owner's agent is absent from the address provided in the lease agreement, by leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement; or

(iii) if a person of suitable age or discretion cannot be found at the address provided in the lease agreement, by affixing a copy in a conspicuous place at the address provided in the lease agreement; or

(b) by sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

(5) Within five business days after the day on which the notice described in Subsection (3) is served, the owner or the owner's agent shall comply with the requirements described in Subsection (2).

Section 2. Section 73-4-5 is amended to read:

73-4-5. Requirements for statement of claim in general adjudication of water rights.

(1) Except as provided in Subsection (2), each person claiming a right to use water of a river system or water source shall, within 90 days after the day on which notice of the time to file statements of claim as described in Section 73-4-3 is served, file with the state engineer or the district court a written or electronic statement of claim, signed, and verified under oath, by the claimant, or by unsworn declaration as described in [Section 78B-5-705] Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, that includes:

- (a) the name and address of the claimant;
- (b) the nature and measure of beneficial use on which the claim is based;
- (c) the maximum flow of water used in cubic feet per second, the maximum volume of water used in acre-feet, or the quantity of water stored in acre-feet, as applicable;
- (d) the period of time during which the water is used each year;
- (e) the period of time during which the water is stored each year, if applicable;
- (f) the name of the stream or other source from which the water is diverted, the point on the stream or source where the water is diverted, and a description of the nature of the diverting works;
- (g) the water right number associated with the claimed right or, if not of record in the state engineer's office, evidence sufficient to enable the state engineer to evaluate the basis of the claimed right, including the information listed in Subsections 73-5-13(2)(a) and (c);
- (h) the claimed priority date;

(i) the place and manner of current use; and

(j) other facts that clearly define the extent, limits, and nature of the claim, or that are required by the written or electronic form provided by the state engineer with the notice of the time to file statements of claim.

(2) A person claiming a right to the use of water, as described in Subsection (1):

(a) may request an extension of time as described in Section 73-4-10; and

(b) shall file the statement described in Subsection (1) on or before the granted extension date, if an extension is granted pursuant to Section 73-4-10.

Section 3. Section 76-8-501 is amended to read:

76-8-501. Definitions.

As used in this part:

(1) "False statement" includes a false unsworn declaration, with "unsworn declaration" being defined in Section 78B-18a-102.

(2) "Material" means capable of affecting the course or outcome of an official proceeding, unless the person who made the statement or provided the information retracts the statement or information before the earlier of:

(a) the end of the official proceeding in which the statement was made or the information was provided;

(b) when it becomes manifest that the false or misleading nature of the statement or information has been or will be exposed; or

(c) when the statement or information substantially affects the proceeding.

(3) "Official proceeding" means:

(a) any proceeding before:

(i) a legislative, judicial, administrative, or other governmental body or official authorized by law to take evidence under oath or affirmation;

(ii) a notary; or

(iii) a person that takes evidence in connection with a proceeding described in Subsection (2)(a)(i);

(b) any civil or administrative action, trial, examination under oath, administrative proceeding, or other civil or administrative adjudicative process; or

(c) an investigation or audit conducted by:

(i) the Legislature, or a house, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection (2)(c)(i), at or under the direction of an entity described in Subsection (2)(3)(c)(i).

Section 4. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) Complaints, summonses, and subpoenas may be served by a person who is:

(a) 18 years of age or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; and

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's person a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) Any service under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances, may only be served by:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a constable, as ~~defined~~ listed in Subsection 53-13-105(1)(b)(ii).

(6) The following may not serve process issued by a court:

(a) a person convicted of a felony violation of an offense listed in Subsection 77-41-102(17); or

(b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders, in which a court has granted the petitioner a protective order.

(7) A person serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with ~~[Section 78B-5-705]~~ Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Section 5. Section 78B-18a-101 is enacted to read:

CHAPTER 18a. UNIFORM UNSWORN DECLARATIONS ACT

Part 1. General Provisions

78B-18a-101. Title.

This chapter is known as the "Uniform Unsworn Declarations Act."

Section 6. Section 78B-18a-102 is enacted to read:

78B-18a-102. Definitions.

In this chapter:

(1) "Law" includes a statute, judicial decision or order, rule of court, executive order, and administrative rule, regulation, or order.

(2) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(3) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(4) (a) "Sworn declaration" means a declaration in a signed record given under oath.

(b) "Sworn declaration" includes a sworn statement, verification, certificate, and affidavit.

(5) "Unsworn declaration" means a declaration in a signed record not given under oath but given under penalty of Title 76, Chapter 8, Part 5, Falsification in Official Matters.

Section 7. Section 78B-18a-103 is enacted to read:

78B-18a-103. Applicability.

This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States, whether or not the location is subject to the jurisdiction of the United States.

Section 8. Section 78B-18a-104 is enacted to read:

78B-18a-104. Validity of unsworn declaration.

(1) Except as otherwise provided in Subsection (2), if a law of this state requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.

(2) This chapter does not apply to:

(a) a deposition;

(b) an oath of office;

(c) an oath required to be given before a specified official other than a notary public;

(d) a declaration to be recorded under Title 57, Real Estate; or

(e) an oath required by Section 75-2-504.

Section 9. Section 78B-18a-105 is enacted to read:

78B-18a-105. Required medium.

If a law of this state requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in the same medium.

Section 10. Section 78B-18a-106 is enacted to read:

78B-18a-106. Form of unsworn declaration.

An unsworn declaration under this chapter must be in substantially the following form:

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the _____ day of _____, _____,
Date Month Year

at _____:

City or other location, and state or country

Printed name

Signature

Section 11. Section 78B-18a-107 is enacted to read:

78B-18a-107. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 12. Section 78B-18a-108 is enacted to read:

78B-18a-108. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 13. Repealer.

This bill repeals:

Section 78B-5-705, Unsworn declaration in lieu of affidavit.

Section 78B-18-101, Title.

Section 78B-18-102, Definitions.

Section 78B-18-103, Applicability.

Section 78B-18-104, Validity of unsworn declaration.

Section 78B-18-105, Required medium.

Section 78B-18-106, Form of unsworn declaration.

Section 78B-18-107, Uniformity of application and construction.

Section 78B-18-108, Relation to Electronic Signatures in Global and National Commerce Act.

CHAPTER 299**S. B. 189**

Passed March 7, 2018

Approved March 19, 2018

Effective September 1, 2018

**SMALL WIRELESS
FACILITIES DEPLOYMENT ACT**Chief Sponsor: Curtis S. Bramble
House Sponsor: Timothy D. Hawkes**LONG TITLE****General Description:**

This bill creates the Small Wireless Facilities Deployment Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a wireless provider to deploy a small wireless facility and any associated utility pole within a right-of-way under certain conditions;
- ▶ permits an authority to establish a permitting process for the deployment of a small wireless facility and any associated utility pole under certain conditions;
- ▶ describes a wireless provider's access to an authority pole within a right-of-way;
- ▶ sets rates and fees for the placement of:
 - a small wireless facility; and
 - a utility pole;
- ▶ describes the implementation of requirements in relation to agreements and ordinances; and
- ▶ permits an authority to adopt indemnification, insurance, or bonding requirements for a small wireless facility permit, under certain conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

72-6-116, as last amended by Laws of Utah 2014, Chapter 184

ENACTS:

54-21-101, Utah Code Annotated 1953
 54-21-102, Utah Code Annotated 1953
 54-21-103, Utah Code Annotated 1953
 54-21-201, Utah Code Annotated 1953
 54-21-202, Utah Code Annotated 1953
 54-21-203, Utah Code Annotated 1953
 54-21-204, Utah Code Annotated 1953
 54-21-205, Utah Code Annotated 1953
 54-21-206, Utah Code Annotated 1953
 54-21-207, Utah Code Annotated 1953
 54-21-208, Utah Code Annotated 1953
 54-21-209, Utah Code Annotated 1953
 54-21-210, Utah Code Annotated 1953
 54-21-301, Utah Code Annotated 1953
 54-21-302, Utah Code Annotated 1953
 54-21-303, Utah Code Annotated 1953
 54-21-401, Utah Code Annotated 1953
 54-21-402, Utah Code Annotated 1953
 54-21-403, Utah Code Annotated 1953

54-21-501, Utah Code Annotated 1953
 54-21-502, Utah Code Annotated 1953
 54-21-503, Utah Code Annotated 1953
 54-21-504, Utah Code Annotated 1953
 54-21-601, Utah Code Annotated 1953
 54-21-602, Utah Code Annotated 1953
 54-21-603, Utah Code Annotated 1953

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

Section 1. Section 54-21-101 is enacted to read:**CHAPTER 21. SMALL WIRELESS
FACILITIES DEPLOYMENT ACT****Part 1. General Provisions****54-21-101. Definitions.**

As used in this chapter:

(1) "Antenna" means communications equipment that transmits or receives an electromagnetic radio frequency signal used in the provision of a wireless service.

(2) "Applicable codes" means the International Building Code, the International Fire Code, the National Electrical Code, the International Plumbing Code, and the International Mechanical Code, as adopted and amended under Title 15A, State Construction and Fire Codes Act.

(3) "Applicable standards" means the structural standards for antenna supporting structures and antenna, known as ANSI/TIA-222, from the American National Standards Institute and the Telecommunications Industry Association.

(4) "Applicant" means a wireless provider who submits an application.

(5) "Application" means a request submitted by a wireless provider to an authority for a permit to:

(a) collocate a small wireless facility in a right-of-way; or

(b) install, modify, or replace a utility pole or a wireless support structure.

(6) (a) "Authority" means:

(i) the state;

(ii) a state agency;

(iii) a county;

(iv) a municipality;

(v) a town;

(vi) a metrotownship;

(vii) a subdivision of an entity described in Subsections (6)(a)(i) through (vi); or

(viii) a special district or entity established to provide a single public service within a specific geographic area, including:

(A) a public utility district; or

(B) an irrigation district.

(b) "Authority" does not include a state court having jurisdiction over an authority.

(7) “Authority pole” means a utility pole owned, managed, or operated by, or on behalf of, an authority.

(8) “Authority wireless support structure” means a wireless support structure owned, managed, or operated by, or on behalf of, an authority.

(9) “Category one authority” means a single authority with a population of 65,000 or greater.

(10) “Category two authority” means a single authority with a population of less than 65,000.

(11) “Collocate” means to install, mount, maintain, modify, operate, or replace a small wireless facility:

(a) on a wireless support structure or utility pole; or

(b) for ground-mounted equipment, adjacent to a wireless support structure or utility pole.

(12) “Communications service” means:

(a) a cable service, as defined in 47 U.S.C. Sec. 522(6);

(b) a telecommunications service, as defined in 47 U.S.C. Sec. 153(53);

(c) an information service, as defined in 47 U.S.C. Sec. 153(24); or

(d) a wireless service.

(13) “Communications service provider” means:

(a) a cable operator, as defined in 47 U.S.C. Sec. 522(5);

(b) a provider of information service, as information service is defined in 47 U.S.C. Sec. 153(24);

(c) a telecommunications carrier, as defined in 47 U.S.C. Sec. 153(51); or

(d) a wireless provider.

(14) “Decorative pole” means an authority pole:

(a) that is specially designed and placed for an aesthetic purpose; and

(b) (i) on which a nondiscriminatory rule or code prohibits an appurtenance or attachment, other than:

(A) a small wireless facility;

(B) a specialty designed informational or directional sign; or

(C) a temporary holiday or special event attachment; or

(ii) on which no appurtenance or attachment has been placed, other than:

(A) a small wireless facility;

(B) a specialty designed informational or directional sign; or

(C) a temporary holiday or special event attachment.

(15) “Design district” means an area:

(a) that is zoned or otherwise designated by municipal ordinance or code; and

(b) for which the authority maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

(16) “FCC” means the Federal Communications Commission of the United States.

(17) “Fee” means a one-time, nonrecurring charge.

(18) “Gross revenue” means the same as gross receipts from telecommunications service is defined in Section 10-1-402.

(19) “Historic district” means a group of buildings, properties, or sites that are:

(a) in accordance with 47 C.F.R. Part 1, Appendix C:

(i) listed in the National Register of Historic Places; or

(ii) formally determined eligible for listing in the National Register of Historic Places by the Keeper of the National Register; or

(b) in an historic district or area created under Section 10-9a-503.

(20) “Nondiscriminatory” means treating similarly situated entities the same absent a reasonable, and competitively neutral basis, for different treatment.

(21) “Micro wireless facility” means a type of small wireless facility:

(a) that, not including any antenna, is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height;

(b) on which any exterior antenna is no longer than 11 inches; and

(c) that only provides Wi-Fi service.

(22) “Permit” means a written authorization an authority requires for a wireless provider to perform an action or initiate, continue, or complete a project.

(23) “Rate” means a recurring charge.

(24) (a) “Right-of-way” means the area on, below, or above a public:

(i) roadway;

(ii) highway;

(iii) street;

(iv) sidewalk;

(v) alley; or

(vi) property similar to property listed in Subsections (24)(a)(i) through (v).

(b) “Right-of-way” does not include:

(i) the area on, below, or above a federal interstate highway; or

(ii) a fixed guideway, as defined in Section 59-12-102.

(25) “Small wireless facility” means a type of wireless facility:

(a) on which each wireless provider’s antenna could fit within an enclosure of no more than six cubic feet in volume; and

(b) for which all wireless equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet in volume, not including any:

(i) electric meter;

(ii) concealment element;

(iii) telecommunications demarcation box;

(iv) grounding equipment;

(v) power transfer switch;

(vi) cut-off switch;

(vii) vertical cable run for the connection of power or other service;

(viii) wireless provider antenna; or

(ix) coaxial or fiber-optic cable that is immediately adjacent to or directly associated with a particular collocation, unless the cable is a wireline backhaul facility.

(26) “Substantial modification” means:

(a) a proposed modification or replacement to an existing wireless support structure that will substantially change the physical dimensions of the wireless support structure under the substantial change standard established in 47 C.F.R. Sec. 1.40001(7); or

(b) a proposed modification in excess of the site dimensions specified in 47 C.F.R. Part 1, Appendix C, Sec. III.B.

(27) “Technically feasible” means that by virtue of engineering or spectrum usage, the proposed placement for a small wireless facility, or the small wireless facility’s design or site location, can be implemented without a significant reduction or impairment to the functionality of the small wireless facility.

(28) (a) “Utility pole” means a pole or similar structure that:

(i) is in a right-of-way; and

(ii) is or may be used, in whole or in part, for:

(A) wireline communications;

(B) electric distribution;

(C) lighting;

(D) traffic control;

(E) signage;

(F) a similar function to a function described in Subsections (28)(a)(ii)(A) through (E); or

(G) the collocation of a small wireless facility.

(b) “Utility pole” does not include:

(i) a wireless support structure;

(ii) a structure that supports electric transmission lines; or

(iii) a municipally owned structure that supports electric lines used for the provision of municipal electric service.

(29) (a) “Wireless facility” means equipment at a fixed location that enables wireless communication between user equipment and a communications network, including:

(i) equipment associated with wireless communications; and

(ii) regardless of the technological configuration, a radio transceiver, an antenna, a coaxial or fiber-optic cable, a regular or backup power supply, or comparable equipment.

(b) “Wireless facility” does not include:

(i) the structure or an improvement on, under, or within which the equipment is collocated; or

(ii) a coaxial or fiber-optic cable that is:

(A) between wireless structures or utility poles;

(B) not immediately adjacent to or directly associated with a particular antenna; or

(C) a wireline backhaul facility.

(30) (a) “Wireless infrastructure provider” means a person that builds or installs wireless communication transmission equipment, a wireless facility, or a wireless support structure.

(b) “Wireless infrastructure provider” includes a person authorized to provide a telecommunications service in the state.

(c) “Wireless infrastructure provider” does not include a wireless service provider.

(31) “Wireless provider” means a wireless infrastructure provider or a wireless service provider.

(32) (a) “Wireless service” means any service using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public using a wireless facility.

(b) “Wireless service” includes the use of Wi-Fi.

(33) “Wireless service provider” means a person who provides a wireless service.

(34) (a) “Wireless support structure” means an existing or proposed structure that is:

(i) in a right-of-way; and

(ii) designed to support or capable of supporting a wireless facility, including a:

(A) monopole;

(B) tower, either guyed or self-supporting;

(C) billboard; or

(D) building.

(b) “Wireless support structure” does not include a:

(i) structure designed solely for the collocation of a small wireless facility;

(ii) utility pole;

(iii) municipally owned structure that supports electric lines used for the provision of municipal electric service; or

(iv) structure owned by an energy services interlocal entity, as described in Subsection 11-13-203(4), that uses electric lines that are used for the provision of electrical service.

(35) “Wireline backhaul facility” means a facility used to transport communications by wire from a wireless facility to a communications network.

(36) (a) “Written” or “in writing” means a tangible or electronic record of a communication or representation.

(b) “Written” or “in writing” includes a communication or representation that is handwritten, typewritten, printed, photostated, photographed, or electronic.

Section 2. Section 54-21-102 is enacted to read:

54-21-102. Scope.

Nothing in this chapter:

(1) permits an entity to provide a service regulated under 47 U.S.C. Secs. 521 through 573, in a right-of-way without compliance with all applicable legal obligations;

(2) imposes a new requirement on the activity of a cable provider in a right-of-way for a cable service provided in this state;

(3) governs:

(a) a pole that an electrical corporation owns or a wireless support structure that an electrical corporation owns; or

(b) the attachment of a small wireless facility to a pole that an electrical corporation owns or to a wireless support structure that an electrical corporation owns; or

(4) confers on an authority any new jurisdiction over an electrical corporation.

Section 3. Section 54-21-103 is enacted to read:

54-21-103. Local authority jurisdiction.

(1) Subject to Subsection (2), the provisions of this chapter, and applicable federal law, an authority may continue to exercise zoning, land use, planning, and permitting authority within the authority’s territorial boundaries, including with

respect to wireless support structures and utility poles.

(2) An authority may exercise the authority’s police-power-based regulations for the management of a public right-of-way:

(a) on a nondiscriminatory basis to all users of the right-of-way;

(b) to the extent of the authority’s jurisdiction; and

(c) consistent with state and federal law.

(3) An authority may impose a regulation based on the authority’s police power in the management of an activity of a wireless provider in a public right-of-way, if:

(a) to the extent the authority enforces the regulation, the authority enforces the regulation on a nondiscriminatory basis; and

(b) the purpose of the regulation is to protect the health, safety, and welfare of the public.

(4) An authority may adopt design standards for the installation and construction of a small wireless facility or utility pole in a public right-of-way that:

(a) are reasonable and nondiscriminatory; and

(b) include additional installation and construction details that do not conflict with this chapter, including a requirement that:

(i) an industry standard pole load analysis be completed and submitted to an authority, indicating that the utility pole, to which the small wireless facility is to be attached, will safely support the load; or

(ii) small wireless facility equipment, on new and existing utility poles, be placed higher than eight feet above ground level.

(5) (a) A wireless provider shall comply with an authority’s design standards described in Subsection (4), if any, in place on the day on which the wireless provider files a permit application in relation to work for which the authority approves the permit application.

(b) An authority’s obligations under this chapter may not be tolled or extended pending the adoption or modification of design standards.

(6) A wireless provider may not install a new utility pole in a public right-of-way without the authority’s discretionary, nondiscriminatory, and written consent, if the public right-of-way is adjacent to a street or thoroughfare that is:

(a) not more than 60 feet wide, as depicted in the official plat records; and

(b) adjacent to single-family residential lots, other multifamily residences, or undeveloped land that is designated for residential use by zoning or deed restrictions.

(7) Nothing in this chapter authorizes the state or any political subdivision, including an authority, to:

(a) require the deployment of a wireless facility; or

(b) regulate a wireless service.

(8) Except as provided in this chapter or otherwise specifically authorized by state law, an authority may not impose or collect a tax, fee, or charge on a communications service provider authorized to operate in a right-of-way for the provision of communications service over the communications service provider's communications facilities in the right-of-way.

Section 4. Section 54-21-201 is enacted to read:

Part 2. Use of Right-of-Way for Small Wireless Facilities and Utility Poles

54-21-201. Applicability.

This part only applies to a wireless provider deploying, within a right-of-way:

(1) a small wireless facility; or

(2) a utility pole associated with a small wireless facility.

Section 5. Section 54-21-202 is enacted to read:

54-21-202. Prohibition on exclusive use.

An authority may not enter into an exclusive arrangement with any person for:

(1) use of a right-of-way for the collocation of a small wireless facility; or

(2) the installation, operation, marketing, modification, maintenance, or replacement of a utility pole.

Section 6. Section 54-21-203 is enacted to read:

54-21-203. Right-of-way rates and fees.

(1) An authority may charge a wireless provider a rate or fee for the use of a right-of-way to collocate a small wireless facility, or to install, operate, modify, maintain, or replace a utility pole associated with the wireless provider's collocation of a small wireless facility, if the authority:

(a) charges all other similarly situated wireless providers for use of the right-of-way; and

(b) charges only the rate or fee in accordance with Part 5, Rates and Fees.

(2) An authority may, on a nondiscriminatory basis, refrain from charging a rate or fee to a wireless provider for the use of a right-of-way.

Section 7. Section 54-21-204 is enacted to read:

54-21-204. Wireless provider right of access.

(1) Subject to the provisions of this part, along, across, upon, or under a right-of-way, a wireless provider may, as a permitted use under the authority's zoning regulation and subject only to administrative review:

(a) collocate a small wireless facility; or

(b) install, operate, modify, maintain, or replace:

(i) a utility pole associated with the wireless provider's collocation of a small wireless facility; or

(ii) equipment described in Subsections 54-21-101(25)(b)(i) through (ix) required for a wireless provider's collocation of a small wireless facility.

(2) A small wireless facility or utility pole under Subsection (1) may not:

(a) obstruct or hinder the usual travel or public safety on a right-of-way; or

(b) obstruct, damage, or interfere with:

(i) another utility facility in a right-of-way; or

(ii) a utility's use of the utility's facility in a right-of-way.

(3) Construction and maintenance by the wireless provider shall comply with all applicable legal obligations for the protection of underground and overhead utility facilities.

Section 8. Section 54-21-205 is enacted to read:

54-21-205. Height limitations in a right-of-way.

(1) A new or modified utility pole that has a collocated small wireless facility, and that is installed in a right-of-way, may not exceed 50 feet above ground level.

(2) An antenna of a small wireless facility may not extend more than 10 feet above the top of a utility pole existing on or before September 1, 2018.

Section 9. Section 54-21-206 is enacted to read:

54-21-206. Decorative poles.

If necessary to collocate a small wireless facility, a wireless provider may replace a decorative pole, if the replacement pole reasonably conforms to the design aesthetic of the displaced decorative pole.

Section 10. Section 54-21-207 is enacted to read:

54-21-207. Underground district.

A wireless provider shall comply with an authority's prohibition on a communications service provider installing a structure in the right-of-way in an area designated solely for underground or buried cable and utility facilities, if:

(1) the prohibition is reasonable and nondiscriminatory; and

(2) the authority:

(a) (i) requires that all cable and utility facilities, other than an authority pole and attachment, be placed underground; and

(ii) establishes the requirement in Subsection (2)(a)(i) more than 90 days before the day on which the applicant submits the application;

(b) does not prohibit the replacement of an authority pole in the designated area; and

(c) permits a wireless provider to seek a waiver, that is administered in a nondiscriminatory manner, of the undergrounding requirement for the placement of a new utility pole to support a small wireless facility.

Section 11. Section 54-21-208 is enacted to read:

54-21-208. Historic and design districts.

(1) Subject to the permit process described in Section 54-21-302, an authority may require a reasonable, technically feasible, nondiscriminatory, or technologically neutral design or concealment measure in an historic district, unless the facility is excluded from evaluation for effects on historic properties under 47 C.F.R. Sec. 1.1307(a)(4).

(2) A design or concealment measure described in Subsection (1) may not:

(a) have the effect of prohibiting a provider's technology; or

(b) be considered a part of the small wireless facility for purposes of the size parameters in the definition of a small wireless facility.

(3) (a) A wireless provider shall obtain advance approval from an authority before collocating a new small wireless facility or installing a new utility pole in an area that is zoned or otherwise designated as an historic district or a design district.

(b) As a condition for approval of a new small wireless facility or a new utility pole in an historic district or a design district, an authority may require reasonable design or concealment measures for the new small wireless facility or the new utility pole.

(4) A wireless provider shall comply with an authority's reasonable and nondiscriminatory design and aesthetic standards requiring the use of certain camouflage measures in connection with a new small wireless facility in an historic district or a design district, if the camouflage measures are technically and economically feasible consistent with this chapter.

(5) This section does not limit an authority's ability to enforce historic preservation zoning regulations consistent with:

(a) the preservation of local zoning authority under 47 U.S.C. Sec. 332(c)(7);

(b) the requirements for facility modifications under:

(i) 47 U.S.C. Sec. 1455(a); or

(ii) the National Historic Preservation Act of 1966, 16 U.S.C. Sec. 470 et seq.;

(c) the regulations adopted to implement the laws described in Subsections (5)(a) and (b); and

(d) Section 10-9a-503.

Section 12. Section 54-21-209 is enacted to read:

54-21-209. Manner of regulation.

(1) An authority shall manage a wireless provider's use of a right-of-way in a nondiscriminatory manner with regard to any other user of the right-of-way.

(2) Any term or condition an authority imposes on a right-of-way user may not:

(a) be unreasonable or discriminatory; or

(b) violate an applicable legal obligation or law.

Section 13. Section 54-21-210 is enacted to read:

54-21-210. Damage and repair.

(1) If a wireless provider's activity causes damage to a right-of-way, the wireless provider shall repair the right-of-way to substantially the same condition as before the damage.

(2) If a wireless provider fails to make a repair required by an authority under Subsection (1) within a reasonable time after written notice, the authority may:

(a) make the required repair; and

(b) charge the wireless provider the reasonable, documented, actual cost for the repair.

(3) If the damage described in Subsection (1) causes an urgent safety hazard, an authority may:

(a) immediately make the necessary repair; and

(b) charge the wireless provider the reasonable, documented, actual cost for the repair.

Section 14. Section 54-21-301 is enacted to read:

Part 3. Permitting Process for Small Wireless Facilities

54-21-301. Applicability -- General.

(1) This part applies to:

(a) the collocation of a small wireless facility in a right-of-way;

(b) the collocation of a small wireless facility on a wireless support structure in a right-of-way; and

(c) the installation, modification, or replacement of a utility pole associated with a small wireless facility in a right-of-way.

(2) Except as provided in this chapter, an authority may not prohibit, regulate, or charge for the collocation of a small wireless facility.

Section 15. Section 54-21-302 is enacted to read:

54-21-302. Permitting process, requirements, and limitations.

(1) An authority may require an applicant to obtain a permit to:

(a) collocate a small wireless facility in a right-of-way; or

(b) install a new, modified, or replacement utility pole associated with a small wireless facility in a right-of-way, as provided in Section 54-21-204.

(2) If an authority establishes a permitting process under Subsection (1), the authority:

(a) shall ensure that a required permit is of general applicability;

(b) may not require:

(i) directly or indirectly, that an applicant perform a service or provide a good unrelated to the permit, including reserving fiber, conduit, or pole space for the authority;

(ii) an applicant to provide more information to obtain a permit than a communications service provider that is not a wireless provider or a utility, except to the extent the applicant is required to include construction or engineering drawings or other information to demonstrate the applicant's application should be not denied under Subsection (7);

(iii) the placement of a small wireless facility on a specific utility pole or category of poles;

(iv) multiple antenna systems on a single utility pole; or

(v) a minimum separation distance, limiting the placement of a small wireless facility; and

(c) may require an applicant to attest that the small wireless facility will be operational for use by a wireless service provider within 270 days after the day on which the authority issues the permit, except in the case that:

(i) the authority and the applicant agree to extend the 270-day period; or

(ii) lack of commercial power or communications transport infrastructure to the site delays completion.

(3) Within 30 days after the day on which an authority receives an application for the collocation of a small wireless facility or for a new, modified, or replacement utility pole, the authority shall:

(a) determine whether the application is complete; and

(b) notify the applicant in writing of the authority's determination of whether the application is complete.

(4) If an authority determines, within the applicable time period described in Subsection (3), that an application is incomplete:

(a) the authority shall specifically identify the missing information in the written notification sent to the applicant under Subsection (3)(b); and

(b) the processing deadline in Subsection (6) is tolled:

(i) from the day on which the authority sends the applicant the written notice to the day on which the authority receives the applicant's missing information; or

(ii) as the applicant and the authority agree.

(5) An application for a small wireless facility expires if:

(a) the authority notifies the wireless provider that the wireless provider's application is incomplete, in accordance with Subsection (4); and

(b) the wireless provider fails to respond within 90 days after the day on which the authority notifies the wireless provider under Subsection (5)(a).

(6) (a) An authority shall:

(i) process an application on a nondiscriminatory basis; and

(ii) approve or deny an application:

(A) for the collocation of a small wireless facility, within 60 days after the day on which the authority receives the complete application; and

(B) for a new, modified, or replacement utility pole, within 105 days after the day on which the authority receives the complete application.

(b) If an authority fails to approve or deny an application within the applicable time period described in Subsection (6)(a)(ii), the application is approved.

(c) Notwithstanding Subsections (6)(a) and (b), an authority may extend the applicable period described in Subsection (6)(a)(ii) for a single additional period of 10 business days, if the authority notifies the applicant before the day on which approval or denial is originally due.

(7) An authority may deny an application to collocate a small wireless facility or to install, modify, or replace a utility pole that meets the height limitations under Section 54-21-205, only if the action requested in the application:

(a) materially interferes with the safe operation of traffic control equipment;

(b) materially interferes with a sight line or a clear zone for transportation or pedestrians;

(c) materially interferes with compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq., or a similar federal or state standard regarding pedestrian access or movement;

(d) fails to comply with applicable laws or legal obligations;

(e) creates a public health or safety hazard; or

(f) obstructs or hinders the usual travel or public safety of the right-of-way.

(8) (a) If an authority denies an application under Subsection (7), the authority shall:

(i) document the basis for the denial, including any specific law on which the denial is based; and

(ii) send the documentation described in Subsection (8)(a)(i) to the applicant on or before the day on which the authority denies the application.

(b) Within 30 days after the day on which an authority denies an application, the applicant may, without paying an additional application fee:

(i) cure any deficiency the authority identifies in the applicant's application; and

(ii) resubmit the application.

(c) (i) An authority shall approve or deny an application revised in accordance with Subsection (8)(b) within 30 days after the day on which the authority receives the revised application.

(ii) A review of an application revised in accordance with Subsection (8)(b) is limited to the deficiencies documented as the basis for denial unless the applicant has changed another portion of the application.

(9) (a) Subject to Subsections (9)(b) and (c), if an applicant seeks to:

(i) collocate multiple small wireless facilities within a single authority, the authority shall allow the applicant, at the applicant's discretion, to file a consolidated application for the collocation of up to 25 small wireless facilities, if all of the small wireless facilities in the consolidated application are:

(A) substantially the same type; and

(B) proposed for collocation on substantially the same types of structures; or

(ii) install, modify, or replace multiple utility poles within a single authority, the authority shall allow the applicant, at the applicant's discretion, to file a consolidated application for the installation, modification, or replacement of up to 25 utility poles.

(b) An applicant may not file within a 30-day period:

(i) with a category one authority, more than:

(A) three consolidated applications; or

(B) multiple applications that collectively seek permits for a combined total of more than 75 small wireless facilities and utility poles; or

(ii) with a category two authority, more than:

(A) one consolidated application; or

(B) multiple applications that collectively seek permits for a combined total of more than 25 small wireless facilities and utility poles.

(c) A consolidated application described in Subsection (9)(a) may not combine applications solely for collocation of small wireless facilities on existing utility poles with applications for the installation, modification, or replacement of a utility pole.

(d) If an authority denies the application for one or more utility poles, or one or more small wireless facilities, in a consolidated application, the authority may not use the denial as a basis to delay the application process of any other utility pole or small wireless facility in the same consolidated application.

(10) A wireless provider shall complete the installation or collocation for which a permit is granted under this part within 270 days after the day on which the authority issues the permit, unless:

(a) the authority and the applicant agree to extend the one-year period; or

(b) lack of commercial power or communications facilities at the site delays completion.

(11) Approval of an application authorizes the applicant to:

(a) collocate or install a small wireless facility or utility pole, as requested in the application; and

(b) subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain for a period of at least 10 years:

(i) any small wireless facility covered by the permit; and

(ii) any utility pole covered by the permit.

(12) If there is no basis for denial under Subsection (7), an authority shall grant the renewal of an application under this section for an equivalent duration.

(13) An authority may not institute, either expressly or de facto, a moratorium on filing, receiving, or processing an application, or issuing a permit or another approval, if any, for:

(a) the collocation of a small wireless facility; or

(b) the installation, modification, or replacement of a utility pole to support a small wireless facility.

(14) The approval of the installation, placement, maintenance, or operation of a small wireless facility, in accordance with this chapter, does not authorize:

(a) the provision of a communications service in the right-of-way; or

(b) the installation, placement, or operation of a facility, other than the approved small wireless facility, in the right-of-way.

Section 16. Section 54-21-303 is enacted to read:

54-21-303. Exceptions to permitting.

(1) Except as provided in Subsection (2), an authority may not require a wireless provider to submit an application, obtain a permit, or pay a rate for:

(a) routine maintenance;

(b) the replacement of a small wireless facility with a small wireless facility that is substantially similar or smaller in size; or

(c) the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.

(2) (a) An authority may require a wireless provider to obtain a permit in accordance with Section 72-7-102 for work that requires excavation or closing of sidewalks or vehicular lanes in a public right-of-way.

(b) If an authority requires a permit under Subsection (2)(a), the authority shall process and approve the permit within the same time period the authority processes and approves a permit for all other types of entities.

(3) (a) An authority may require advance notice of an activity described in Subsection (1).

(b) A wireless provider may replace or upgrade a utility pole only with the approval of the utility pole's owner.

Section 17. Section 54-21-401 is enacted to read:

Part 4. Access to Authority Poles Within a Right-of-Way

54-21-401. Applicability.

This part applies to activities of a wireless provider within a right-of-way.

Section 18. Section 54-21-402 is enacted to read:

54-21-402. Prohibition on exclusive use.

(1) A person owning, managing, or controlling an authority pole in a right-of-way may not enter into an exclusive arrangement with a person for the right to collocate a small wireless facility to the authority pole.

(2) A person who purchases or otherwise acquires an authority pole is subject to the requirements of this part.

(3) An authority shall allow the collocation of a small wireless facility on an authority pole in a right-of-way:

- (a) as provided in this chapter; and
- (b) subject to the permitting process in Part 3, Permitting Process for Small Wireless Facilities.

Section 19. Section 54-21-403 is enacted to read:

54-21-403. Rates.

The rate to collocate a small wireless facility on an authority pole:

- (1) shall be nondiscriminatory, regardless of the service provided by the collocating person; and
- (2) is provided in Part 5, Rates and Fees.

Section 20. Section 54-21-501 is enacted to read:

Part 5. Rates and Fees

54-21-501. Applicability.

This part governs an authority's rates and fees for the placement in a right-of-way of:

- (1) a small wireless facility; or

(2) a utility pole associated with a small wireless facility.

Section 21. Section 54-21-502 is enacted to read:

54-21-502. Right-of-way rates.

(1) Except as described in Subsection (2), an authority may not require a wireless provider to pay any rate, fee, or compensation to the authority, or to any other person, beyond what is expressly authorized in this chapter, for the right to use or occupy a right-of-way:

(a) for the collocation of a small wireless facility on a utility pole in the right-of-way; or

(b) for the installation, operation, modification, maintenance, or replacement of a utility pole in the right-of-way.

(2) (a) An authority may charge a wireless provider a rate for the right to use or occupy a right-of-way as described in Subsection (1), if, except as provided in Subsection 54-21-601(6), the rate is:

- (i) fair and reasonable;
- (ii) competitively neutral;
- (iii) nondiscriminatory;
- (iv) directly related to the wireless provider's actual use of the right-of-way; and
- (v) not more than the greater of:

(A) 3.5% of all gross revenue related to the wireless provider's use of the right-of-way for small wireless facilities; or

(B) \$250 annually for each small wireless facility.

(b) A wireless provider subject to a rate under this Subsection (2) shall remit payments to the authority on a monthly basis.

(c) A rate charged in accordance with Subsection (2)(a)(v) is presumed to be fair and reasonable.

(3) Notwithstanding Subsection (2), an authority may not require a wireless provider to pay an additional rate, fee, or compensation for the right to use or occupy a right-of-way as described in Subsection (1), if the wireless provider is subject to the municipal telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

Section 22. Section 54-21-503 is enacted to read:

54-21-503. Application fees.

(1) An authority may charge an application fee, if:

(a) a similar fee is required for similar types of commercial development or construction within the authority's jurisdiction;

(b) the costs to be recovered by an application fee are not already recovered by existing fees, rates, licenses, or taxes paid by the wireless provider; and

(c) the fee does not include:

(i) travel expenses incurred by a third party in review of an application; or

(ii) payment or reimbursement of a third-party rate or fee charged on a contingency basis or a result-based arrangement.

(2) Subject to Subsection (3), an application fee for collocation of a small wireless facility is limited to the cost of granting a building permit for similar types of commercial development or construction within the authority's jurisdiction.

(3) An application fee for the collocation of a small wireless facility on an existing or replacement utility pole may not exceed \$100 for each small wireless facility on the same application.

(4) If the activity is a permitted use described in Section 54-21-204, an application fee may not exceed \$250 per application to install, modify, or replace a utility pole associated with a small wireless facility.

(5) If the activity is not a permitted use described in Section 54-21-204, an application fee may not exceed \$1,000 per application to:

(a) install, modify, or replace a utility pole; or

(b) install, modify, or replace a new utility pole associated with a small wireless facility.

Section 23. Section 54-21-504 is enacted to read:

54-21-504. Authority pole collocation rate.

The rate to collocate a small wireless facility on an authority pole is \$50 per year, per authority pole.

Section 24. Section 54-21-601 is enacted to read:

Part 6. Implementation

54-21-601. General.

(1) An authority may, to the extent allowed by law and consistent with this chapter, establish rates, fees, and other terms that comply with this chapter by:

(a) implementing an ordinance; or

(b) if applicable, executing an agreement with a wireless provider.

(2) In the absence of an ordinance or agreement that fully complies with this chapter, a wireless provider may install and operate a small wireless facility or a utility pole associated with a small wireless facility:

(a) subject to Section 54-21-602; and

(b) under the requirements of this chapter.

(3) An authority may establish an ordinance or require an agreement to implement this chapter.

(4) (a) Subject to Subsection (4)(b), an authority may require a wireless provider to agree to reasonable and nondiscriminatory indemnification, insurance, or bonding requirements before a wireless provider collocates a small wireless facility in a right-of-way.

(b) An authority may not impose on a wireless provider an indemnification requirement described in Subsection (4)(a) that requires the wireless provider to indemnify the authority for the authority's negligence.

(5) An authority's obligations under this chapter may not be tolled or extended pending the implementation of an ordinance or negotiation of an agreement to implement this chapter.

(6) (a) Nothing in this section prohibits an authority from entering into a written, nondiscriminatory agreement with one or more wireless providers to jointly test certain traffic-related functions, or other technology related to research, using specified assets of the authority or the wireless providers.

(b) An agreement described in Subsection (6)(a) may:

(i) waive certain fees the participating wireless provider would otherwise be required to pay to the authority; or

(ii) allow the participating wireless provider to pay certain fees in cash, in-kind compensation, or in a combination of cash and in-kind compensation.

Section 25. Section 54-21-602 is enacted to read:

54-21-602. Noncompliant agreements and ordinances.

(1) An agreement or ordinance that does not fully comply with this chapter and applies to a small wireless facility or a utility pole that is operational or installed before May 11, 2018:

(a) may not be renewed or extended unless the agreement is modified to fully comply with this chapter; and

(b) is invalid and unenforceable beginning November 8, 2018, unless the agreement or ordinance is modified before November 8, 2018, to fully comply with this chapter.

(2) An agreement or ordinance entered into or passed before May 11, 2018, that does not fully comply with this chapter and applies to a small wireless facility or a utility pole that was not operational or installed before May 11, 2018, is invalid and unenforceable:

(a) beginning May 11, 2018; and

(b) until the agreement or ordinance is modified to fully comply with this chapter.

(3) If an agreement or ordinance is invalid in accordance with this section, until an agreement or ordinance that fully complies with this chapter is entered or adopted:

(a) a small wireless facility or a utility pole that is operational or installed before May 11, 2018, may remain installed and operate under the requirements of this chapter; and

(b) a small wireless facility or utility pole may become operational or be installed in the right-of-way on or after May 11, 2018, under the requirements of this chapter.

Section 26. Section 54-21-603 is enacted to read:

54-21-603. Relocation.

(1) Notwithstanding any provision to the contrary, an authority may require a wireless provider to relocate or adjust a small wireless facility in a public right-of-way:

- (a) in a timely manner; and
- (b) without cost to the authority owning the public right-of-way.

(2) The reimbursement obligations under Section 72-6-116(3)(b) do not apply to the relocation of a small wireless facility.

Section 27. Section 72-6-116 is amended to read:

72-6-116. Regulation of utilities -- Relocation of utilities.

(1) As used in this section:

(a) "Cost of relocation" includes the entire amount paid by the utility company properly attributable to the relocation of the utility after deducting any increase in the value of the new utility and any salvage value derived from the old utility.

(b) "Utility" includes telecommunication, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation facilities, and other similar utilities whether public, private, or cooperatively owned.

(c) "Utility company" means a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.

(b) If the department determines under the rules established in this section that it is necessary that any utilities should be relocated, the utility company owning or operating the utilities shall relocate the utilities in accordance with this section and the order of the department.

(3) (a) The department shall pay 100% of the cost of relocation of a utility to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway if the:

- (i) utility is owned or operated by a political subdivision of the state;
- (ii) utility company owns the easement or fee title to the right-of-way in which the utility is located; or
- (iii) utility is located in a public utility easement as defined in Section 54-3-27.

(b) Except as provided in Subsection (3)(a) or (c) or Section 54-21-603, the department shall pay

50% of the cost of relocation of a utility to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway, and the utility company shall pay the remainder of the cost of relocation.

(c) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).

(4) If a utility is relocated, the utility company owning or operating the utility, its successors or assigns, may maintain and operate the utility, with the necessary appurtenances, in the new location.

(5) In accordance with this section, the cost of relocating a utility in connection with any project on a highway is a cost of highway construction.

(6) (a) The department shall notify affected utility companies, in accordance with Section 54-3-29, whenever the relocation of utilities is likely to be necessary because of a reconstruction project.

(b) The notification shall be made during the preliminary design of the project or as soon as practical in order to minimize the number, costs, and delays of utility relocations.

(c) A utility company notified under this Subsection (6) shall coordinate and cooperate with the department and the department's contractor on the utility relocations, including the scheduling of the utility relocations.

Section 28. Effective date.

This bill takes effect on September 1, 2018.

CHAPTER 300**S. B. 194**

Passed March 7, 2018
Approved March 19, 2018
Effective May 8, 2018

EARLY LITERACY PROGRAM

Chief Sponsor: Ann Millner
House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill amends provisions related to a program for early literacy.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ renames the K-3 Reading Improvement Program the Early Literacy Program;
- ▶ amends requirements for a school district or charter school plan related to early literacy;
- ▶ amends provisions related to the consequences of a school district or charter school failing to meet a goal described in the school district or charter school's plan related to early literacy;
- ▶ requires the State Board of Education to provide support for a school district or charter school that fails to meet a goal in the school district or charter school's plan related to early literacy;
- ▶ requires the State Board of Education to use a digital reporting platform;
- ▶ provides that the State Board of Education may use funding provided for the Early Literacy Program for administration, up to a limit;
- ▶ amends other provisions related to the Early Literacy Program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-2-312, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-503, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-704, as enacted by Laws of Utah 2018, Chapter 2
53F-8-406, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-312 is amended to read:**53F-2-312. Appropriation for class size reduction.**

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.

(2) Each school district or charter school shall receive an allocation based upon the school district or charter school's prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection 53F-2-302(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).

(3) (a) A local education board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) Each local education board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 in grades kindergarten through grade 2, a local education board may petition the State Board of Education for, and the State Board of Education may grant, a waiver to use an allocation under Subsection (3)(b)(i) for class size reduction in the other grades.

(4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) A local education board may use up to 20% of an allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the local education board may use up to 50% of any allocation received by the respective school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade eight.

(8) (a) For a school district or charter school to qualify for class size reduction money, a local education board shall submit:

(i) a plan for the use of the allocation of class size reduction money to the State Board of Education; and

(ii) beginning with the 2014-15 school year, a report on the local education board's use of class size reduction money in the prior school year.

(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:

(i) (A) the number of teachers employed using class size reduction money;

(B) the amount of class size reduction money expended for teachers; and

(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;

(ii) (A) the number of paraprofessionals employed using class size reduction money;

(B) the amount of class size reduction money expended for paraprofessionals; and

(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and

(iii) the amount of class size reduction money expended for capital facilities.

(c) In addition to submitting a plan and report on the use of class size reduction money, a local education board shall annually submit a report to the State Board of Education that includes the following information:

(i) the number of teachers employed using ~~[K-3 Reading Improvement]~~ Early Literacy Program money received pursuant to Sections 53F-2-503 and 53F-8-406;

(ii) the amount of ~~[K-3 Reading Improvement]~~ Early Literacy Program money expended for teachers;

(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;

(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and

(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, ~~[K-3 Reading Improvement Program]~~ the Early Literacy Program described in Section 53F-2-503, and Title I money.

(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.

(e) The State Board of Education may make rules specifying procedures and standards for the submission of:

(i) a plan and a report on the use of class size reduction money as required by this section; and

(ii) a report required under Subsection (8)(c).

(f) Based on the data contained in the class size reduction plans and reports submitted by local education boards, and data on average class size, the State Board of Education shall annually report to the Public Education Appropriations Subcommittee on the impact of class size reduction,

~~[K-3 Reading Improvement Program]~~ the Early Literacy Program described in Section 53F-2-503, and Title I money on class size.

Section 2. Section 53F-2-503 is amended to read:

53F-2-503. Early Literacy Program -- Literacy proficiency plan.

(1) As used in this section:

(a) "Board" means the State Board of Education.

~~[(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.]~~

~~[(e) (b) "Program" means the [K-3 Reading Improvement] Early Literacy Program.~~

~~[(d) (c) "Program money" means:~~

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The ~~[K-3 Reading Improvement]~~ Early Literacy Program consists of program money and is created to supplement other school resources ~~[to achieve the state's goal of having third graders reading at or above grade level]~~ for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the ~~[K-3 Reading Improvement]~~ Early Literacy Program.

(4) (a) ~~[For a school district or charter school to receive program money, a]~~ A local education board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit a plan to the board for ~~[reading]~~ literacy proficiency improvement that incorporates the following components:

~~[(i) assessment;]~~

(i) core instruction in:

~~(A) phonological awareness;~~

~~(B) phonics;~~

~~(C) fluency;~~

~~(D) comprehension;~~

~~(E) vocabulary;~~

~~(F) oral language; and~~

~~(G) writing;~~

(ii) intervention strategies that are aligned to student needs;

(iii) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade ~~[three]~~ 3;

~~[(iv) reading performance standards; and]~~

~~[(v) specific measurable goals that include the following;]~~

(iv) assessments that support adjustments to core and intervention instruction;

[(A)] (v) a growth goal for [each school within a] the school district [and each] or charter school that:

(A) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

[(B) a growth goal for each school district and charter school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section 53E-4-302.]

(B) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal;

(vi) at least two goals that are specific to the school district or charter school that:

(A) are measurable;

(B) address current performance gaps in student literacy based on data; and

(C) include specific strategies for improving outcomes; and

(vii) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.

(b) A local education board shall approve a plan described in Subsection (4)(a) in a public meeting before submitting the plan to the board.

[(b)] (c) The board shall provide model plans that a local education board may use, or [the] a local education board may develop the local education board's own plan.

[(e)] (d) [Plans] A plan developed by a local education board shall be approved by the board.

[(d)] (e) The board shall develop uniform standards for acceptable growth goals that a local education board adopts for a school district or charter school as described in this Subsection (4).

(5) (a) There [is] are created within the [K-3 Reading Achievement] Early Literacy Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The board may use [no more than] up to \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the board for the [K-3 Reading Improvement] Early Literacy Program and not used by the board for computer-assisted instructional learning and assessments [as] described in Subsection (5)(b)[,] shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the local education board shall submit a [reading proficiency improvement plan to the board as provided in] plan described in Subsection (4) and [must] shall receive approval of the plan from the board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade [three] 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade [three] 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds [shall] may choose to first participate in [either] the Guarantee Program or the Low Income Students Program.

(b) A school district [must] shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the [local school] board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPU's.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) A local education board shall use program money for reading proficiency improvement interventions in grades early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students reading at grade level who are proficient in literacy, including:

~~[(i) reading assessments; and]~~

~~[(ii) focused reading remediations that may include:]~~

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

~~[(E) the use of reading software; or]~~

~~[(F)]~~ (E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) A local education board may use program money for portable technology devices used to administer reading literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) ~~[Each]~~ A local education board shall annually submit a report to the board accounting for the expenditure of program money in

accordance with ~~[its plan for reading proficiency improvement]~~ the local education board's plan described in Subsection (4).

(b) If a local education board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each local education board to annually report progress in meeting goals ~~[stated in the school district's or charter school's plan for student reading proficiency]~~ described in Subsections (4)(a)(v) and (vi), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in Subsection (4)(a)(v) or (vi), the local education board shall prepare a new plan ~~[which]~~ that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board before the local education board receives an allocation for the next year.

~~[(15) (a) If for two consecutive school years, a school district fails to meet the school district's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53E-4-302, the school district shall terminate any levy imposed under Section 53F-8-406 and may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.]~~

~~[(b) If for two consecutive school years, a charter school fails to meet the charter school's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53E-4-302, the charter school may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.]~~

(15) (a) The board shall:

(i) develop strategies to provide support for a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi); and

(ii) provide increasing levels of support to a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi) for two consecutive years.

(b) (i) The board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy.

(ii) The digital reporting platform shall include performance information for a school district or

charter school on the goals described in Subsection (4)(a)(v) and (vi).

(16) The board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.

~~[(16)]~~ (17) The board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in ~~[reading]~~ early literacy for the past school year and the five-year trend;

(ii) the percentage of ~~[third]~~ grade 3 students ~~[reading on grade level]~~ who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of ~~[schools and]~~ school districts and charter schools in meeting goals ~~[stated in a school district's or charter school's plan for student reading proficiency]~~ described in a plan described in Subsection (4)(a); and

~~[(iv) the correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and]~~

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of ~~[third]~~ grade 3 students who ~~[read on grade level]~~ are proficient in English language arts, including how to use a strategy or intervention described in Subsection (17)(a)(iv) to improve literacy proficiency for additional students.

(18) The report described in Subsection (17) shall include information provided through the digital reporting platform described in Subsection (15)(b).

Section 3. Section 53F-2-704 is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the ~~[K-3 Reading Improvement Program]~~ Early Literacy Program described in Section 53F-2-503, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-2-602, 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(3)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(3).

(d) (i) If the appropriation provided under this Subsection (2) is less than the amount prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53F-2-205, the allocation provided in Subsection (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(3), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 4. Section 53F-8-406 is amended to read:

53F-8-406. Board leeway for reading improvement.

(1) Except as provided in Subsection (4), a local school board may levy a tax rate of up to .000121 per dollar of taxable value for funding the school district's [~~K-3 Reading Improvement~~] Early Literacy Program created under Section 53F-2-503.

(2) The levy authorized under this section:

(a) is in addition to any other levy or maximum rate;

(b) does not require voter approval; and

(c) may be modified or terminated by a majority vote of the local school board.

(3) A local school board shall establish a local school board-approved levy under this section by June 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year.

(4) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

(5) The terms defined in Section 53F-2-102 apply to this section.

CHAPTER 301**S. B. 196**

Passed March 6, 2018
Approved March 19, 2018
Effective May 8, 2018

**HOMELESS
IDENTIFICATION DOCUMENTS**

Chief Sponsor: Allen M. Christensen
House Sponsor: Robert M. Spendlove

LONG TITLE**General Description:**

This bill waives fees to obtain certain documents for an individual who is homeless.

Highlighted Provisions:

This bill:

- ▶ waives fees to obtain certain identification documents for an individual who is verified as homeless; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-105, as last amended by Laws of Utah 2014, Chapters 225, 252, and 343

ENACTS:

26-2-12.6, Utah Code Annotated 1953

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

Section 1. Section 26-2-12.6 is enacted to read:

26-2-12.6. Fee waived for certified copy of birth certificate.

(1) Notwithstanding Section 26-1-6 and Section 26-2-12.5, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

(a) the individual requesting the certified copy of the birth certificate; and

(b) (i) homeless, as defined in Section 26-18-411;

(ii) a person who is homeless, as defined in Section 35A-5-302; or

(iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual.

(2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person who is homeless from:

(a) a homeless shelter, as defined in Section 10-9a-526;

(b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(c) the Department of Workforce Services; or

(d) a facility that serves an individual described in Subsection (1)(b) and maintains data on an individual described in Subsection (1)(b) through the Homeless Management Information System.

Section 2. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is \$25.

(2) An original provisional license application for a class D license under Section 53-3-205 is \$30.

(3) An original application for a motorcycle endorsement under Section 53-3-205 is \$9.50.

(4) An original application for a taxicab endorsement under Section 53-3-205 is \$7.

(5) A learner permit application under Section 53-3-210.5 is \$15.

(6) A renewal of a class D license under Section 53-3-214 is \$25 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$25.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is \$7.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is \$13.

(11) An extension of a class D license under Section 53-3-214 is \$20 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$20.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is \$9.50.

(14) An extension of a taxicab endorsement under Section 53-3-214 is \$7.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is \$11.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is:

(a) \$40 for the knowledge test; and

(b) \$60 for the skills test.

(17) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$7.

(18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$7.

(19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$7.

(20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$20.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$40.

(21) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$7.

(22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$18.

(23) (a) A license reinstatement application under Section 53-3-205 is \$30.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$35 in addition to the fee under Subsection (23)(a).

(24) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$230.

(b) This administrative fee is in addition to the fees under Subsection (23).

(25) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$6.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(26) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(27) (a) Except as provided under Subsections (27)(b) and (c), an identification card application under Section 53-3-808 is \$18.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(c) A fee may not be charged for an identification card application if the ~~person~~ individual applying:

(i) (A) has not been issued a Utah driver license;

~~(ii)~~ (B) is indigent; and

~~(iii)~~ (C) is at least 18 years of age[-]; or

(ii) submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(A) a homeless shelter, as defined in Section 10-9a-526;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(C) the Department of Workforce Services.

(28) (a) An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

(b) The fee described in Subsection (28)(a) shall be waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

(29) (a) An extension of a regular identification card under Subsection 53-3-807(6) is \$18.

(b) The fee described in Subsection (29)(a) shall be waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

(30) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(31) An original mobility vehicle permit application under Section 41-6a-1118 is \$25.

(32) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$25.

(33) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$10.

CHAPTER 302**S. B. 198**

Passed March 7, 2018
Approved March 19, 2018
Effective May 8, 2018

**PUBLIC SCHOOL DISCIPLINARY
ACTION AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill requires the State Board of Education to compile an annual report regarding law enforcement and disciplinary action.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to work with school districts, charter schools, and law enforcement agencies to compile an annual report regarding:
 - certain law enforcement actions related to minors;
 - certain disciplinary actions related to students; and
 - statewide information regarding the race, gender, age, and disability status of a minor or student involved in certain law enforcement and disciplinary actions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53E-3-516, Utah Code Annotated 1953

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

Section 1. Section 53E-3-516 is enacted to read:**53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.**

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

- (i) a search and seizure by an SRO;
- (ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to local board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or minimum school program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2020, the State Board of Education, in collaboration with school districts, charter schools, and law enforcement agencies, shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; and

(c) disciplinary actions.

(3) The report described in Subsection (2) shall include the following information by school district and charter school:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action; and

(d) the number of SROs employed.

(4) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (3)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(5) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection Act;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to compile the report described in Subsection (2).

(7) The State Board of Education shall provide the report described in Subsection (2) to the Education Interim Committee before November 1 of each year for incidents that occurred during the previous school year.

CHAPTER 303**S. B. 206**

Passed March 8, 2018
Approved March 19, 2018
Effective July 1, 2018

**LOCAL PUBLIC SAFETY AND
FIREFIGHTER SURVIVING SPOUSE
TRUST FUND AMENDMENTS**

Chief Sponsor: Todd Weiler
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends provisions relating to the Local Public Safety and Firefighter Surviving Spouse Trust Fund.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ authorizes certain law enforcement agencies that employ public safety officers or firefighters to elect to participate in the Local Public Safety and Firefighter Surviving Spouse Trust Fund by:
 - making an election;
 - entering into a cost-sharing agreement with the public safety commissioner; and
 - paying the cost-sharing rate determined by the Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees;
- ▶ provides that an employer is liable to the trust fund for failure to make a payment pursuant to the cost-sharing agreement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-17-102, as enacted by Laws of Utah 2015, Chapter 166

53-17-301 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 269

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

Section 1. Section 53-17-102 is amended to read:**53-17-102. Definitions.**

As used in this chapter:

(1) "Board" means Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees created in Section 53-17-402.

(2) "Child" or "children" means a child of a member, including a stepchild and a legally adopted child who is under the age of 26.

(3) "Employer" means a law enforcement agency or other state or local government agency that:

(a) is a participating employer [as defined in Section 49-11-102]; and

(b) employs one or more public safety service employees or firefighter service employees who are eligible to earn service credit in a Utah Retirement System under Title 49, Utah State Retirement and Insurance Benefit Act.

(4) "Firefighter service employee" means the same as that term is defined in Section 49-16-102 or 49-23-102.

[4] (5) "Member" means the same as that term is defined in Section 49-11-102.

(6) "Participating employer" means the same as that term is defined in Section 49-11-102.

(7) "Public safety service employee" means the same as that term is defined in Section 49-14-102, 49-15-102, or 49-23-102.

[5] (8) "Trust Fund" means the Local Public Safety and Firefighter Surviving Spouse Trust Fund created in Section 53-17-301.

Section 2. Section 53-17-301 (Effective 07/01/18) is amended to read:

53-17-301 (Effective 07/01/18). Cost-sharing agreements -- Deadlines -- Terms -- Reports -- Rulemaking.

(1) (a) An employer shall participate in the trust fund by:

[a] (i) entering into a cost-sharing agreement with the commissioner under this section; and

[b] (ii) paying the cost-sharing rate determined by the board.

(b) (i) In accordance with the requirements of this Subsection (1)(b), a participating employer that employs a public safety officer or firefighter but does not cover the public safety officer or firefighter as a public safety service employee or firefighter service employee for retirement purposes may elect to participate in the trust fund in accordance with the requirements of this Subsection (1)(b).

(ii) A participating employer described in Subsection (1)(b)(i) may participate in the trust fund by:

(A) making an election described in Subsection (1)(b)(iii);

(B) entering into a cost-sharing agreement with the commissioner under this section; and

(C) paying the cost-sharing rate determined by the board.

(iii) An election under Subsection (1)(b)(ii)(A) shall be documented by a resolution adopted by the participating employer.

(iv) If a participating employer makes an election under Subsection (1)(b)(ii), the provisions of this part apply to:

(A) the participating employer as an employer; and

(B) all employees of the participating employer as members.

(v) An employee of a participating employer described in this Subsection (1)(b) is not eligible for coverage under Part 2, Health Coverage for a Surviving Spouse, if the employee is not eligible to earn service credit in a Utah Retirement System under Title 49, Utah State Retirement and Insurance Benefit Act.

(2) (a) Subject to the terms of the cost-sharing agreement, an employer that participates in accordance with this section, and stays current with its payments, shall be considered to have paid the employer's full obligation under Subsection 53-17-201(1)(b).

(b) An employer that participates in accordance with this section and that does not stay current with its payments may not be covered from the trust fund.

(c) An employer is liable to the trust fund for failure to make a payment pursuant to the cost-sharing agreement in violation of this part.

(3) An employer shall be covered from the trust fund for a line-of-duty death that occurs on or after July 1, 2005.

(4) The commissioner shall:

(a) in consultation with the board, establish a form and language for a cost-sharing agreement required to use trust funds in accordance with this section;

(b) as directed by the board, assess the annual fee amount established by the board;

(c) as directed by the board, establish procedures for an employer participating in the trust fund to be reimbursed for the costs of providing the health coverage benefit under Subsection 53-17-201(1)(b);

(d) prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the trust fund, including its balance, expenditures, and revenues, and the operations and activities of the board under this chapter; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this chapter.

Section 3. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 304**S. B. 207**

Passed March 6, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**STUDENT DATA
 PROTECTION AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill amends provisions related to student data protection.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ updates provisions of Title 53E, Chapter 9, Part 3, Student Data Protection, to:
 - coordinate with federal law; and
 - provide clarification;
- ▶ grants certain rulemaking authority to the State Board of Education;
- ▶ requires the State Board of Education to share certain student data with:
 - the Utah Registry of Autism and Developmental Disabilities; and
 - the State Board of Regents; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 53E-9-301, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-302, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-304, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-305, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-306, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-307, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-308, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-309, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-9-310, as renumbered and amended by Laws of Utah 2018, Chapter 1

Utah Code Sections Affected by Coordination Clause:

- 53E-9-304, as renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-9-301 is amended to read:**53E-9-301. Definitions.**

As used in this part:

- (1) "Adult student" means a student who:
 - (a) is at least 18 years old;
 - (b) is an emancipated student; or
 - (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) "Aggregate data" means data that:
 - (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;
 - (b) do not reveal personally identifiable student data; and
 - (c) are collected in accordance with board rule.
- (3) (a) "Biometric identifier" means a:
 - (i) retina or iris scan;
 - (ii) fingerprint;
 - (iii) human biological sample used for valid scientific testing or screening; or
 - (iv) scan of hand or face geometry.
 (b) "Biometric identifier" does not include:
 - (i) a writing sample;
 - (ii) a written signature;
 - (iii) a voiceprint;
 - (iv) a photograph;
 - (v) demographic data; or
 - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:
 - (a) based on an individual's biometric identifier; and
 - (b) used to identify the individual.
- (5) "Board" means the State Board of Education.
- ~~[(6) "Cumulative disciplinary record" means disciplinary student data that is part of a cumulative record.]~~
- ~~[(7) "Cumulative record" means physical or electronic information that the education entity intends:]~~
- ~~[(a) to store in a centralized location for 12 months or more; and]~~
- ~~[(b) for the information to follow the student through the public education system.]~~
- ~~[(8) "Data authorization" means written authorization to collect or share a student's student data, from:]~~

~~[(a) the student's parent, if the student is not an adult student; or]~~

~~[(b) the student, if the student is an adult student.]~~

(6) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.

~~[(9)]~~ (7) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of an education entity data governance staff member;

~~[(b)]~~ (c) provides for necessary technical assistance, training, support, and auditing;

~~[(e)]~~ (d) describes the process for sharing student data between an education entity and another person;

~~[(d)]~~ (e) describes the education entity's data expungement process ~~[for an adult student or parent to request that data be expunged; and]~~, including how to respond to requests for expungement;

(f) describes the data breach response process; and

~~[(e)]~~ (g) is published annually and available on the education entity's website.

~~[(10)]~~ (8) "Education entity" means:

(a) the board;

(b) a local school board;

(c) a charter school governing board;

(d) a school district;

(e) a charter school;

(f) the Utah Schools for the Deaf and the Blind; or

(g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 53F-6-302.

~~[(11)]~~ (9) "Expunge" means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.

~~[(12) "External application" means a general audience:]~~

~~[(a) application;]~~

~~[(b) piece of software;]~~

~~[(c) website; or]~~

~~[(d) service.]~~

(10) "General audience application" means an Internet website, online service, online application, mobile application, or software program that:

(a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and

(b) is not subject to a contract between an education entity and a third-party contractor.

(11) "Higher education outreach student data" means the following student data for a student:

(a) name;

(b) parent name;

(c) grade;

(d) school and school district; and

(e) contact information, including:

(i) primary phone number;

(ii) email address; and

(iii) physical address.

~~[(13)]~~ (12) "Individualized education program" or "IEP" means a written statement:

(a) for a student with a disability; and

(b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

~~[(14) "Internal application" means an Internet website, online service, online application, mobile application, or software, if the Internet website, online service, online application, mobile application, or software is subject to a third-party contractor's contract with an education entity.]~~

~~[(15)]~~ (13) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school;

(c) the Utah Schools for the Deaf and the Blind; or

(d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 53F-6-302.

~~[(16) "Metadata dictionary" means a complete list of an education entity's student data elements and other education-related data elements, that:]~~

~~[(a) defines and discloses all data collected, used, stored, and shared by the education entity, including:]~~

~~[(i) who uses a data element within an education entity and how a data element is used within an education entity;]~~

~~[(ii) if a data element is shared externally, who uses the data element externally and how a data element is shared externally;]~~

~~[(iii) restrictions on the use of a data element; and]~~

~~[(iv) parent and student rights to a data element;]~~

~~[(b) designates student data elements as:]~~

~~[(i) necessary student data; or]~~

~~[(ii) optional student data;]~~

~~[(c) designates student data elements as required by state or federal law; and]~~

~~[(d) without disclosing student data or security information, is displayed on the education entity's website.]~~

(14) "Metadata dictionary" means a record that:

(a) defines and discloses all personally identifiable student data collected and shared by the education entity;

(b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:

(i) the purpose for sharing the data with the recipient;

(ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and

(iii) how sharing the data is permitted under federal or state law; and

(c) without disclosing personally identifiable student data, is displayed on the education entity's website.

~~[(17) (15) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:~~

~~(a) name;~~

~~(b) date of birth;~~

~~(c) sex;~~

~~(d) parent contact information;~~

~~(e) custodial parent information;~~

~~(f) contact information;~~

~~(g) a student identification number;~~

~~(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;~~

~~(i) courses taken and completed, credits earned, and other transcript information;~~

~~(j) course grades and grade point average;~~

~~(k) grade level and expected graduation date or graduation cohort;~~

~~(l) degree, diploma, credential attainment, and other school exit information;~~

~~(m) attendance and mobility;~~

~~(n) drop-out data;~~

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

(r) tribal affiliation;

(s) remediation efforts;

(t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;

(v) student injury information;

(w) a ~~[cumulative]~~ disciplinary record created and maintained as described in Section 53E-9-306;

(x) juvenile delinquency records;

(y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

~~[(18) (16) (a) "Optional student data" means student data that is not:~~

~~(i) necessary student data; or~~

~~(ii) student data that an education entity may not collect under Section 53E-9-305.~~

~~(b) "Optional student data" includes:~~

~~(i) information that is:~~

~~(A) related to an IEP or needed to provide special needs services; and~~

~~(B) not necessary student data;~~

~~(ii) biometric information; and~~

~~(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.~~

~~[(19) (17) "Parent" means [a student's parent or legal guardian.]:~~

~~(a) a student's parent;~~

~~(b) a student's legal guardian; or~~

~~(c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.~~

~~[(20) (18) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.~~

~~(b) "Personally identifiable student data" includes:~~

~~(i) a student's first and last name;~~

~~(ii) the first and last name of a student's family member;~~

~~(iii) a student's or a student's family's home or physical address;~~

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) ~~other information that is linked to a specific student that would allow a reasonable person in the school community, who does not have first-hand knowledge of the student, to identify the student with reasonable certainty.~~ information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

[~~(21)~~] (19) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

[~~(22)~~] (20) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

[~~(23)~~] "Student data disclosure statement" means a student data disclosure statement described in Section 53E-9-305.

[~~(24)~~] (21) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303[.], who fulfills the duties described in Section 53E-9-308.

[~~(25)~~] (22) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's

online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

[~~(26)~~] (23) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

(24) "Written consent" means written authorization to collect or share a student's student data, from:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 2. Section 53E-9-302 is amended to read:

53E-9-302. State student data protection governance.

(1) (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the board shall establish advisory groups to oversee student data protection in the state and make recommendations to the board regarding student data protection.

(a) The board shall establish a student data policy advisory group:

(i) composed of members from:

(A) the Legislature;

(B) the board and board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the board.

(b) The board shall establish a student data governance advisory group:

(i) composed of the state student data officer and other board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by board program offices; and

(B) preparing and maintaining the board's student data governance plan under the direction of the student data policy advisory group.

(c) The board shall establish a student data users advisory group:

(i) composed of members who use student data at the local level; and

(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4) (a) The board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data [disclosure statement] collection notice;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the board;

(B) an applicable education entity; and

(C) the student data policy advisory group; and

(v) act as a state level student data manager.

(5) The board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The board shall establish [~~an external~~] a research review process for a request for data for the purpose of [~~external~~] research or evaluation.

Section 3. Section 53E-9-304 is amended to read:

53E-9-304. Student data ownership and access -- Notification in case of significant data breach.

(1) (a) A student owns the student's personally identifiable student data.

~~(b) A student may download, export, transfer, save, or maintain the student's student data, including a document.~~

(b) An education entity shall allow the following individuals to access a student's student data that is maintained by the education entity:

(i) the student's parent;

(ii) the student; and

(iii) in accordance with the education entity's internal policy described in Section 53E-9-303 and in the absence of a parent, an individual acting as a parent to the student.

(2) (a) If [there is a release of a student's personally identifiable student data due to a security breach, an] a significant data breach occurs at an education entity, the education entity shall notify:

~~(a)~~ (i) the student, if the student is an adult student; or

~~(b)~~ (ii) the student's parent or legal guardian, if the student is not an adult student.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to define a significant data breach described in Subsection (2)(a).

Section 4. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

~~(1) An education entity shall comply with this section beginning with the 2017-18 school year.]~~

~~(2)~~ (1) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section 78A-6-112, criminal record.

~~(3)~~ (2) An education entity that collects student data [~~into a cumulative record~~] shall, in accordance with this section, prepare and distribute, except as provided in Subsection (3), to parents and students a student data [~~disclosure~~] collection notice statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the ~~[necessary and optional]~~ student data that the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection ~~(2)~~ (1);

(e) states the student data described in Section 53E-9-308 that the education entity may not share without ~~[a data authorization]~~ written consent;

~~[(f) describes how the education entity may collect, use, and share student data;]~~

~~[(g)]~~ (f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

~~[(h)]~~ (g) describes in general terms how the education entity stores and protects student data; ~~[and]~~

~~[(i)]~~ (h) states a student's rights under this part[-]; and

(i) for an education entity that teaches students in grade 9, 10, 11, or 12, requests written consent to share student data with the State Board of Regents as described in Section 53E-9-308.

(3) The board may publicly post the board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student ~~[into a cumulative record]~~ if the education entity provides a student data [disclosure statement] collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data ~~[into a cumulative record]~~ if the education entity:

(a) provides, to an individual described in Subsection (4), a student data [disclosure statement] collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains [a data authorization] written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information ~~[into a cumulative record]~~ if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information [disclosure statement] collection notice that is separate from a

student data [disclosure statement] collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains [a data authorization] written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an alternative school-related intervention described in Subsection 53G-8-211(3) without written consent.

Section 5. Section 53E-9-306 is amended to read:

53E-9-306. Using and expunging student data -- Rulemaking -- Disciplinary records.

(1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding using and expunging student data, including:

(a) a categorization of ~~[cumulative]~~ disciplinary records that includes the following levels of maintenance:

(i) one year;

(ii) three years; and

(iii) ~~[except as required in]~~ in accordance with Subsection (3), as determined by the education entity;

(b) the types of student data that may be expunged, including:

(i) medical records; and

(ii) behavioral test assessments; ~~[and]~~

(c) the types of student data that may not be expunged, including:

(i) grades;

(ii) transcripts;

(iii) a record of the student's enrollment; and

(iv) assessment information[-]; and

(d) the timeline and process for a prior student or parent of a prior student to request that an education entity expunge all of the prior student's student data.

(2) In accordance with board rule, an education entity may create and maintain a ~~[cumulative]~~ disciplinary record for a student.

(3) (a) ~~[An]~~ As recognized in Section 53E-9-304, and to ensure maximum student data privacy, an

education entity shall, in accordance with board rule, expunge a student's student data that is stored by the education entity [if].

~~[(i) the student is at least 23 years old; and]~~

~~[(ii) the student requests that the education entity expunge the student data.]~~

(b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and board rule.

Section 6. Section 53E-9-307 is amended to read:

53E-9-307. Securing and cataloguing student data.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:

(a) an education entity; [and]

(b) the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4, for student data obtained under Section 53E-9-308; and

~~[(b)] (c) a third-party contractor; and~~

(2) state requirements for an education entity's metadata dictionary.

Section 7. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

~~[(1) An education entity shall comply with this section beginning with the 2017-18 school year.]~~

~~[(2) An education entity may not share a student's personally identifiable student data if the personally identifiable student data is not shared in accordance with:]~~

~~[(a) the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h; and]~~

~~[(b) this part.]~~

(1) (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not share personally identifiable student data without written consent.

(b) An education entity, including a student data manager, may share personally identifiable student data:

(i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;

(ii) as required by federal law; and

(iii) as described in Subsections (3), (5), and (6).

~~[(3)] (2) A student data manager shall:~~

(a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data ~~[from a cumulative record]~~ for the education entity as described in this section; [and]

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302[-]; and

(c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.

~~[(4) (a) Except as provided in this section or required by federal law, a student data manager may not share, outside of the education entity, personally identifiable student data from a cumulative record without a data authorization.]~~

~~[(b) A student data manager may share the personally identifiable student data of a student with the student and the student's parent.]~~

~~[(5) A student data manager may share a student's personally identifiable student data from a cumulative record with:]~~

~~[(a) a school official;]~~

~~[(b) as described in Subsection (6), an authorized caseworker or other representative of the Department of Human Services; or]~~

~~[(c) a person to whom the student data manager's education entity has outsourced a service or function;]~~

~~[(i) to research the effectiveness of a program's implementation; or]~~

~~[(ii) that the education entity's employees would typically perform.]~~

~~[(6)] (3) A student data manager may share a student's personally identifiable student data [from a cumulative record] with a caseworker or representative of the Department of Human Services if:~~

(a) the Department of Human Services is:

(i) legally responsible for the care and protection of the student; or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Human Services to receive the student's personally identifiable student data; and

(c) the Department of Human Services maintains and protects the student's personally identifiable student data.

~~[(7)] (4) The Department of Human Services, a school official, or the Utah Juvenile Court may share [education information, including a student's~~

~~personally identifiable student data,] personally identifiable student data to improve education outcomes for youth:~~

~~(a) in the custody of, or under the guardianship of, the Department of Human Services;~~

~~(b) receiving services from the Division of Juvenile Justice Services;~~

~~(c) in the custody of the Division of Child and Family Services;~~

~~(d) receiving services from the Division of Services for People with Disabilities; or~~

~~(e) under the jurisdiction of the Utah Juvenile Court.~~

~~[(8) Subject to Subsection (9), a student data manager may share aggregate data.]~~

~~[(9) (a) If a student data manager receives a request to share data for the purpose of external research or evaluation, the student data manager shall:]~~

~~[(i) submit the request to the education entity's external research review process; and]~~

~~[(ii) fulfill the instructions that result from the review process.]~~

~~[(b) A student data manager may not share personally identifiable student data for the purpose of external research or evaluation.]~~

~~[(10) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.]~~

~~[(b) A person who receives personally identifiable student data under Subsection (10)(a) may not use the personally identifiable student data outside of the use described in the subpoena.]~~

~~[(11) (a) In accordance with board rule, a student data manager may share personally identifiable information that is directory information.]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:]~~

~~[(i) define directory information; and]~~

~~[(ii) determine how a student data manager may share personally identifiable information that is directory information.]~~

~~(5) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.~~

~~(b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.~~

~~(6) (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:~~

~~(i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);~~

~~(ii) submits the request to the education entity's research review process; and~~

~~(iii) fulfills the instructions that result from the review process.~~

~~(b) (i) In accordance with state and federal law, the board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26-7-4.~~

~~(ii) A person who receives student data under Subsection (6)(b)(i):~~

~~(A) shall maintain and protect the student data in accordance with board rule described in Section 53E-9-307;~~

~~(B) may not use the student data for a purpose not described in Section 26-7-4; and~~

~~(C) is subject to audit by the state student data officer described in Section 53E-9-302.~~

~~(c) The board shall enter into an agreement with the State Board of Regents, established in Section 53B-1-103, to share higher education outreach student data, for students in grades 9 through 12 who have obtained written consent under Subsection 53E-9-305(2)(i), to be used strictly for the purpose of:~~

~~(i) providing information and resources to students in grades 9 through 12 about higher education; and~~

~~(ii) helping students in grades 9 through 12 enter the higher education system and remain until graduation.~~

Section 8. Section 53E-9-309 is amended to read:

53E-9-309. Third-party contractors.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor, an education entity shall require the following provisions in the contract:

(a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;

(b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(d) except as provided in Subsection (4) and if required by the education entity, provisions that

prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a parent ~~[or legal guardian]~~ of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's ~~[internal]~~ application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's ~~[internal]~~ application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's ~~[internal]~~ application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and

(ii) ~~[except as provided in Subsection (5),]~~ only if the third-party contractor obtains ~~[written consent]~~ authorization in writing from:

(A) ~~[of]~~ a student's parent ~~[or legal guardian]~~ through the student's school or LEA; or

(B) for ~~[a]~~ an adult student ~~[who is age 18 or older or an emancipated minor, from]~~, the student.

~~[(5) A third-party contractor is not required to obtain written consent under Subsection (4)(f)(ii) if the third-party contractor:]~~

~~[(a) is a national assessment provider; and]~~

~~[(b) (i) secures the express written consent of the student or the student's parent; and]~~

~~[(ii) the express written consent is given in response to clear and conspicuous notice that the national assessment provider requests consent solely to provide access to information on employment, educational scholarships, financial aid, or postsecondary educational opportunities.]~~

~~[(6)] (5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.~~

~~[(7)] (6) (a) A third-party contractor may not:~~

~~(i) except as provided in [Subsections (5) and (7)(b)] Subsection (6)(b), sell student data;~~

~~(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or~~

~~(iii) use student data for targeted advertising.~~

~~(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.~~

~~[(8) A provider of an electronic store, gateway, marketplace, or other means of purchasing an external application is not required to ensure that the external application obtained through the provider complies with this section.]~~

~~[(9)] (7) The provisions of this section do not:~~

~~(a) apply to the use of [an external] a general audience application, including the access of [an external] a general audience application with login credentials created by a third-party contractor's [internal] application;~~

~~(b) apply to the providing of Internet service; or~~

~~(c) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.~~

~~(8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the third-party contractor obtains authorization from the following individual, in writing, to waive that provision:~~

~~(a) the student's parent, if the student is not an adult student; or~~

~~(b) the student, if the student is an adult student.~~

Section 9. Section 53E-9-310 is amended to read:

53E-9-310. Penalties.

(1) (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the board to pay a civil penalty of up to \$25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) The board may bring an action in the district court of the county in which the office of the board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A parent or adult student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section 10. Coordinating S.B. 207 with H.B. 132 -- Technical amendment.

If this S.B. 207 and H.B. 132, Juvenile Justice Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 53E-9-305(7) to read:

“(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an alternative evidence-based intervention described in Subsection 53G-8-211(3) without written consent.”

CHAPTER 305**S. B. 208**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**PHARMACY BENEFITS MANAGER
OR COORDINATOR AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a pharmacy service entity that uses direct or indirect remuneration to report certain information to pharmacies or the pharmacies' pharmacy services administration organization; and
- ▶ prohibits a pharmacy benefits manager or coordinator from preventing a pharmacist from disclosing cost information to a patient.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-17b-626, Utah Code Annotated 1953

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

Section 1. Section 58-17b-626 is enacted to read:**58-17b-626. Direct or indirect remuneration by pharmacy benefits managers -- Disclosure of customer costs.**

(1) As used in this section:

(a) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.

(b) "Direct or indirect remuneration" means any adjustment in the total compensation:

(i) received by a pharmacy from a pharmacy benefits manager or coordinator for the sale of a drug, device, or other product or service; and

(ii) that is determined after the sale of the product or service.

(c) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(d) "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

(i) contracting with a pharmacy benefits manager or coordinator on behalf of the pharmacy; and

(ii) managing a pharmacy's claims payments from third-party payers.

(e) "Pharmacy service entity" means:

(i) a pharmacy services administration organization; or

(ii) a pharmacy benefits manager or coordinator.

(f) (i) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

(ii) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

(g) "Sale" means a prescription drug claim covered by a health benefit plan.

(2) If a pharmacy service entity engages in direct or indirect remuneration with a pharmacy, the pharmacy service entity shall make a reimbursement report available to the pharmacy upon the pharmacy's request.

(3) For the reimbursement report described in Subsection (2), the pharmacy service entity shall:

(a) include the adjusted compensation amount related to a claim and the reason for the adjusted compensation; and

(b) provide the reimbursement report:

(i) in accordance with the contract between the pharmacy and the pharmacy service entity;

(ii) in an electronic format that is easily accessible; and

(iii) within 120 days after the day on which the pharmacy benefits manager or coordinator receives a report of a sale of a product or service by the pharmacy.

(4) A pharmacy service entity shall, upon a pharmacy's request, provide the pharmacy with:

(a) the reasons for any adjustments contained in a reimbursement report; and

(b) an explanation of the reasons provided in Subsection (4)(a).

(5) (a) A pharmacy benefits manager or coordinator may not prohibit or penalize the disclosure by a pharmacist of:

(i) an insured customer's cost share for a covered prescription drug;

(ii) the availability of any therapeutically equivalent alternative medications; or

(iii) alternative methods of paying for the prescription medication, including paying the cash price, that are less expensive than the cost share of the prescription drug.

(b) Penalties that are prohibited under Subsection (5)(a) include increased utilization review, reduced payments, and other financial disincentives.

(6) A pharmacy benefits manager or coordinator may not require an insured customer to pay, for a covered prescription drug, more than the lesser of:

(a) the applicable cost share of the prescription drug being dispensed; or

(b) the retail price of the drug without prescription drug coverage.

CHAPTER 306**S. B. 209**

Passed March 7, 2018

Approved March 19, 2018

Effective May 8, 2018

(Retrospective operation to)

529 SAVINGS PLAN AMENDMENTS

Chief Sponsor: Wayne A. Harper

House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill amends provisions relating to 529 savings plans.

Highlighted Provisions:

This bill:

- ▶ permits the Utah Educational Savings Plan to use another related name for business; and
- ▶ modifies the eligibility criteria for a beneficiary of the Student Prosperity Savings Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

53B-8a-103, as last amended by Laws of Utah 2011, Chapters 46 and 342

53B-8a-201, as enacted by Laws of Utah 2017, Chapter 389 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 382

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

Section 1. Section 53B-8a-103 is amended to read:**53B-8a-103. Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.**

(1) There is created the Utah Educational Savings Plan, which may also be known and ~~function as~~ do business as:

(a) the Utah Educational Savings Plan Trust~~[-]~~; or

(b) another related name.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

(i) consistent with sound fiduciary principles; and

(ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

(i) contracts for goods and services; and

(ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend ~~it from time to time~~ the corporate seal;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section 53B-8a-107;

(d) enter into agreements with account owners, any institution of higher education, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections ~~in order~~ to advise account owners regarding:

(i) present and estimated future higher education costs; and

(ii) levels of financial participation in the plan required ~~in order~~ to enable account owners to achieve their educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

(l) administer outreach efforts to:

(i) market and publicize the plan and ~~its~~ the plan's products to existing and prospective account owners; and

(ii) encourage economically challenged populations to save for post-secondary education;

(m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and [its] the plan's products;

(n) administer the funds of the plan;

(o) sue and be sued in [its] the plan's own name;

(p) own institutional accounts in the plan to establish and administer:

(i) scholarship programs; or

(ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and

(q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The annual audited financial statements of the plan described in Section 53B-8a-111 are public records.

(ii) Financial information that is provided by the plan to the Division of Finance and posted on the Utah Public Finance Website in accordance with Section 63A-3-402 is a public record.

Section 2. Section 53B-8a-201 is amended to read:

53B-8a-201. Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs on behalf of a particular individual that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Child" means an individual less than 20 years of age.

(3) "Community partner" means a nonprofit organization that provide services to a child who is economically disadvantaged or a family member, legal guardian, or legal custodian of a child who is economically disadvantaged.

(4) "Donation" means a gift, grant, donation, or any other conveyance of money by a person other than the Legislature that is not made directly for the benefit or on behalf of a particular individual.

(5) "Economically disadvantaged" means that a child is:

(a) experiencing intergenerational poverty;

(b) a member or foster child of a family with an annual income at or below 185% of the federal poverty level; [or]

(c) living with a legal custodian or legal guardian with an annual family income at or below 185% of the federal poverty level[-]; or

(d) living with a legal custodian or legal guardian who can attest that the child or the child's household is receiving services benefiting low-income households or individuals.

(6) "Eligible individual" means an individual who:

(a) is at least 15 years of age and under 20 years of age;

(b) is a student in grade 10, grade 11, or grade 12 in Utah;

(c) is economically disadvantaged; and

(d) receives, or has a family member, a foster family member, or a legal custodian or legal guardian who receives, services from a community partner.

(7) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(8) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5, except that the expenses must be incurred at:

(a) a credit-granting institution of higher education within the state system of higher education;

(b) a private, nonprofit college or university in the state that is accredited by the Northwestern Association of Schools and Colleges; or

(c) a technical college.

(9) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(10) "Program" means the Student Prosperity Savings Program created in Section 53B-8a-202.

Section 3. Retrospective operation and effective date.

(1) Except as provided in Subsection (2), this bill has retrospective operation to January 1, 2018.

(2) The amendments to Section 53B-8a-201 take effect on May 8, 2018.

CHAPTER 307**S. B. 212**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**SEPARATION FROM
PAYROLL AMENDMENTS**

Chief Sponsor: Karen Mayne
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill modifies provisions related to the payment of wages.

Highlighted Provisions:

This bill:

- ▶ addresses the payment of unpaid wages to a commission-based sales agent after the employer separates the sales agent from the employer's payroll.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-28-5, as last amended by Laws of Utah 2015, Chapter 376

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

Section 1. Section 34-28-5 is amended to read:**34-28-5. Separation from payroll --
Resignation -- Cessation because of
industrial dispute.**

(1) (a) When an employer separates an employee from the employer's payroll the unpaid wages of the employee become due immediately, and the employer shall pay the wages to the employee within 24 hours of the time of separation at the specified place of payment.

(b) An employer satisfies the 24-hour time requirement described in Subsection (1)(a) if:

(i) (A) the employer mails the wages to the employee; and

(B) the envelope that contains the wages is postmarked with a date that is no more than one day after the day on which the employer separates the employee from the employer's payroll; or

(ii) within 24 hours after the employer separates the employee from the employer's payroll, the employer:

(A) initiates a direct deposit of the wages into the employee's account; or

(B) hand delivers the wages to the employee.

(c) (i) In case of failure to pay wages due an employee within 24 hours of written demand, the wages of the employee shall continue from the date

of demand until paid, but in no event to exceed 60 days, at the same rate that the employee received at the time of separation.

(ii) The employee may recover the penalty thus accruing to the employee in a civil action. This action shall be commenced within 60 days from the date of separation.

(iii) An employee who has not made a written demand for payment is not entitled to any penalty under this Subsection (1)(c).

(2) If an employee does not have a written contract for a definite period and resigns the employee's employment, the wages earned and unpaid together with any deposit held by the employer and properly belonging to the resigned employee for the performance of the employee's employment duties become due and payable on the next regular payday.

(3) If work ceases as the result of an industrial dispute, the wages earned and unpaid at the time of this cessation become due and payable at the next regular payday, as provided in Section 34-28-3, including, without abatement or reduction, all amounts due all persons whose work has been suspended as a result of the industrial dispute, together with any deposit or other guaranty held by the employer for the faithful performance of the duties of the employment.

(4) ~~[This section does not apply to the earnings of]~~ For a sales agent employed in whole or in part on a commission basis who has custody of accounts, money, or goods of the sales agent's principal, this section does not apply to the commission-based portion of the sales agent's earnings if the net amount due the agent is determined only after an audit or verification of sales, accounts, funds, or stocks.

CHAPTER 308**S. B. 214**

Passed March 7, 2018
 Approved March 19, 2018
 Effective May 8, 2018

SOLICITATION AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: Sandra Hollins

LONG TITLE**General Description:**

This bill modifies provisions relating to prostitution and penalties relating to sexual solicitation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that an individual is guilty of patronizing a prostitute, aiding prostitution, or exploiting prostitution if the individual believed the other individual to be a prostitute;
- ▶ modifies the penalty for sexual solicitation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-1301, as last amended by Laws of Utah 2017, Chapter 433
 76-10-1303, as last amended by Laws of Utah 2017, Chapter 433
 76-10-1304, as last amended by Laws of Utah 2017, Chapter 433
 76-10-1305, as last amended by Laws of Utah 2017, Chapter 433
 76-10-1313, as last amended by Laws of Utah 2017, Chapter 433

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

Section 1. Section 76-10-1301 is amended to read:**76-10-1301. Definitions.**

[For the purposes of this part:]

As used in this part:

(1) "Child" is ~~a person~~ an individual younger than 18 years of age.

(2) "Inmate" means ~~a person~~ an individual who engages in prostitution in or through the agency of a place of prostitution.

(3) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more ~~persons~~ individuals under the control, management, or supervision of another.

(4) "Prostitute" means an individual engaged in the activities described in Subsection ~~76-10-1302(1)~~.

[~~(4)~~] (5) "Public place" means any place to which the public or any substantial group of the public has access.

[~~(5)~~] (6) "Sexual activity" means, regardless of the gender of either participant:

(a) acts of masturbation, sexual intercourse, or any sexual act involving the genitals of one ~~person~~ individual and the mouth or anus of another ~~person~~ individual; or

(b) touching the genitals, female breast, or anus of one ~~person~~ individual with any other body part of another ~~person~~ individual with the intent to sexually arouse or gratify either ~~person~~ individual.

Section 2. Section 76-10-1303 is amended to read:**76-10-1303. Patronizing a prostitute.**

(1) ~~A person~~ An individual is guilty of patronizing a prostitute when the ~~person~~ individual:

(a) pays or offers or agrees to pay ~~another person~~ a prostitute, a fee, or the functional equivalent of a fee, for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) and Section 76-10-1309.

(3) A violation of this section that is preceded by a conviction under this section or a conviction under local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307 is a third degree felony.

(5) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the other ~~person~~ individual, a violation of Subsection (1)(a) is a third degree felony.

(6) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 3. Section 76-10-1304 is amended to read:**76-10-1304. Aiding prostitution.**

(1) ~~A person~~ An individual is guilty of aiding prostitution if the ~~person~~ individual:

(a) (i) solicits ~~a person~~ an individual to patronize a prostitute, or to patronize an individual the actor believes to be a prostitute;

(ii) procures or attempts to procure a prostitute, or an individual the actor believes to be a prostitute, for a patron; ~~or~~

(iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or

(iv) provides any service or commits any act that enables another [person] individual to commit a violation of this Subsection (1)(a) or facilitates another [person's] individual's ability to commit any violation of this Subsection (1)(a); or

(b) solicits, receives, or agrees to receive any benefit for committing any of the acts prohibited by Subsection (1)(a).

(2) Aiding prostitution is a class A misdemeanor. ~~However, a person,~~ except as provided in Subsection (3).

(3) An individual who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

~~(3)~~ (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 4. Section 76-10-1305 is amended to read:

76-10-1305. Exploiting prostitution.

(1) ~~[A person]~~ An individual is guilty of exploiting prostitution if the [person] individual:

(a) procures ~~[a person]~~ an individual for a place of prostitution;

(b) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

(c) transports ~~[a person]~~ an individual into or within this state with a purpose to promote that [person's] individual's engaging in prostitution or procuring or paying for transportation with that purpose;

(d) not being a child or legal dependent of a prostitute, shares the proceeds of prostitution with a prostitute, or an individual the actor believes to be a prostitute, pursuant to their understanding that ~~[he]~~ the actor is to share therein; or

(e) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another, a place of prostitution or a business where prostitution occurs or is arranged, encouraged, supported, or promoted.

(2) Exploiting prostitution is a felony of the third degree.

(3) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 5. Section 76-10-1313 is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) ~~[A person]~~ An individual is guilty of sexual solicitation when the [person] individual:

(a) offers or agrees to commit any sexual activity with another [person] individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another [person] individual to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee or to pay another [person] individual to commit any sexual activity for a fee or the functional equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of ~~[a person's]~~ an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of ~~[a person's]~~ an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from ~~[a person's]~~ an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) (a) Sexual solicitation is a class ~~[B]~~ A misdemeanor, except under Subsection ~~[(3)(b)]~~ (4).

(b) ~~[Any person]~~ An individual who is convicted a second ~~[or subsequent]~~ time under this section or under a local ordinance adopted in compliance with Section 76-10-1307~~[7]~~ is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

~~[(4) If a person]~~

(5) If an individual commits an act of sexual solicitation and the [person] individual solicited is a child, the offense is a third degree felony if the solicitation does not amount to human trafficking or human smuggling, a violation of Section 76-5-308, or aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310.

CHAPTER 309**S. B. 219**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

COURT CITATION AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Brian S. King

LONG TITLE**General Description:**

This bill amends provisions relating to electronic filing of a citation issued for a misdemeanor or infraction charge.

Highlighted Provisions:

This bill:

- ▶ provides that a citation issued for a misdemeanor or infraction charge may be filed after five business days if the defendant consents and the interests of justice would be served; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7-20, as last amended by Laws of Utah 2014, Chapters 126 and 263

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

Section 1. Section 77-7-20 is amended to read:**77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing -- Contents of citations.**

(1) [A] Except as provided in Subsection (4), a peace officer or public official who issues a citation pursuant to Section 77-7-18 shall give the citation to the [person] individual cited and shall within five business days electronically file the data from Subsections (2)(a) through (2)(g) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

(2) The citation issued under authority of this chapter shall contain the following data:

- (a) the name of the court before which the [person] individual is to appear;
- (b) the name of the [person] individual cited;
- (c) a brief description of the offense charged;
- (d) the date, time, and place at which the offense is alleged to have occurred;
- (e) the date on which the citation was issued;
- (f) the name of the peace officer or public official who issued the citation, and the name of the arresting [person] individual if an arrest was made

by a private party and the citation was issued in lieu of taking the arrested [person] individual before a magistrate;

(g) the time and date on or before and after which the [person] individual is to appear or a statement that the court will notify the [person] individual of the time to appear;

(h) the address of the court in which the [person] individual is to appear;

(i) whether the offense is a domestic violence offense; and

(j) a notice containing substantially the following language:

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You **MUST** appear in court on or before the time set in this citation or as directed by the court. **IF YOU FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.**

(3) By electronically filing the data with the court, the peace officer or public official certifies to the court that:

(a) the citation or information, including the summons and complaint, was served upon the defendant in accordance with the law;

(b) the defendant committed the offense set forth in the served documents; and

(c) the court to which the defendant was directed to appear is the proper court pursuant to Section 77-7-21.

(4) (a) ~~[Notwithstanding Subsection (1), if]~~ If a citing law enforcement officer is not reasonably able to access the e-filing system, the citation need not be filed electronically if being filed with a justice court.

(b) The court may accept an electronic filing received after five business days if:

(i) the defendant consents to the filing; and

(ii) the court finds the interests of justice would be best served by accepting the filing.

CHAPTER 310**S. B. 221**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**PROPERTY TAX ABATEMENT
FOR INDIGENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill provides a process to appeal a county's decision on a property owner's application for a property tax abatement or deferral for a poor person.

Highlighted Provisions:

This bill:

- ▶ provides an appeal process for a property owner dissatisfied with a county's decision on the property owner's application for an abatement or deferral of property tax for a poor person; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-1109, as last amended by Laws of Utah 2013, Chapters 19 and 278

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

Section 1. Section 59-2-1109 is amended to read:**59-2-1109. Indigent persons -- Deferral or abatement -- Application -- County authority to make refunds -- Appeal.**

(1) A person under the age of 65 years is not eligible for a deferral or abatement provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:

(a) the county finds that extreme hardship would prevail if ~~the grants~~ a deferral or abatement were not made; or

(b) the person has a disability.

(2) (a) An application for the deferral or abatement shall be filed on or before September 1 with the county in which the property is located.

(b) The application shall include a signed statement setting forth the eligibility of the applicant for the deferral or abatement.

(c) Both ~~husband and wife~~ spouses shall sign the application if the ~~husband and wife~~ spouses seek a deferral or abatement on a residence:

(i) in which ~~they~~ both spouses reside; and

(ii) ~~which they~~ that the spouses own as joint tenants.

(d) A county may extend the deadline for filing under Subsection ~~[(2)]~~ (3)(a) until December 31 if the county finds that good cause exists to extend the deadline.

(3) (a) For purposes of this Subsection (3):

(i) "Property taxes due" means the taxes due on a person's property:

(A) for which the county grants an abatement ~~[is granted by a county]~~ under Section 59-2-1107; and

(B) for the calendar year for which the county grants the abatement ~~[is granted]~~.

(ii) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the abatement; and

(B) the amount of the abatement the county grants under Section 59-2-1107.

(b) A county granting an abatement to a person under Section 59-2-1107 shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is \$1 or more.

(4) For purposes of this section:

(a) a poor person is any person:

(i) whose total household income as defined in Section 59-2-1202 is less than the maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);

(ii) who resides for not less than 10 months of each year in the residence for which the tax relief, deferral, or abatement is requested; and

(iii) who is unable to meet the tax assessed on the person's real property that is residential property as the tax becomes due; and

(b) "residence" includes a mobile home as defined under Section 70D-2-102.

(5) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an abatement or deferral is claimed, the claimant may claim the portion of the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revert in the claimant upon the exercise of a power:

(i) by:

(A) the claimant as grantor of the trust;

(B) a nonadverse party; or

(C) both the claimant and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

- (C) to alter;
- (D) to amend; or
- (E) to appoint;
- (b) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the abatement or deferral; and
- (c) the claimant meets the requirements under this part for the abatement or deferral.
- (6) The commission shall adopt rules to implement this section.
- (7) Any poor person may qualify for:
- (a) the deferral of taxes under Section 59-2-1108;
- (b) if the person meets the ~~[requisites]~~ requirements of this section, ~~[for]~~ the abatement of taxes under Section 59-2-1107; or
- (c) both:
- (i) the deferral described in Subsection (7)(a); and
- (ii) the abatement described in Subsection (7)(b).
- (8) Any property owner dissatisfied with a county's decision regarding a property owner's application for a deferral or abatement under Section 59-2-1107 or 59-2-1108 may appeal to the commission under Section 59-2-1006.

CHAPTER 311**S. B. 230**

Passed March 8, 2018
Approved March 19, 2018
Effective May 8, 2018

**LAW ENFORCEMENT
PROTECTION AMENDMENTS**

Chief Sponsor: Don L. Ipson
House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill amends provisions relating to publicly available personal information of law enforcement officers.

Highlighted Provisions:

This bill:

- ▶ creates a process by which a law enforcement officer may have their own personal information removed from publicly available state or local government sites;
- ▶ requires that the law enforcement officer deliver copies of a form to the affected state or local government agency;
- ▶ provides that the ban on the information may remain in place for up to four years; and
- ▶ makes conforming and technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-18-102, as enacted by Laws of Utah 2017, Chapter 266
53-18-103, as enacted by Laws of Utah 2017, Chapter 266

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

Section 1. Section 53-18-102 is amended to read:**53-18-102. Definitions.**

As used in this chapter:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

- (a) filter, screen, allow, or disallow content;
- (b) pick, choose, analyze, or digest content; or
- (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(2) "Immediate family member" means a law enforcement officer's spouse, child ~~or spouse of a child, sibling or spouse of a sibling, or~~ parent, or grandparent who resides with the officer.

(3) "Interactive computer service" means the same as that term is defined in Subsection 47 U.S.C. 230(f).

(4) "Law enforcement officer" or "officer":

(a) means the same as that term is defined in Section 53-13-103;

(b) includes "correctional officers" as defined in Section 53-13-104; and

(c) refers only to officers who are currently employed by, retired from, or were killed in the line of duty while in the employ of a state or local governmental law enforcement agency.

(5) "Personal information" means a law enforcement officer's or law enforcement officer's immediate family member's address, telephone number, personal mobile telephone number, pager number, personal email address, personal photograph, directions to locate the law enforcement officer's home, or photographs of the law enforcement officer's or the officer's immediate family member's home or vehicle.

(6) "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

Section 2. Section 53-18-103 is amended to read:**53-18-103. Internet posting of personal information of law enforcement officers -- Prohibitions.**

(1) (a) A state or local governmental agency that has received the form described in Subsection (1)(b) from a law enforcement officer may not publicly post on the Internet the personal information of any law enforcement officer employed by the state or any political subdivision ~~on the Internet unless the agency has obtained written permission from the officer and has the written permission in the agency's possession~~.

(b) Each state or local government agency employing law enforcement officers shall:

(i) provide a form for an officer to request the removal or concealment of the officer's personal information from the state or local government agencies' publicly accessible websites and databases;

(ii) inform the officer how to submit a form under this section;

(iii) upon request, assist an officer in completing the form; and

(iv) include on any form a disclaimer informing the officer that by submitting a completed form the officer may not receive official announcements affecting the officer's property, including notices about proposed annexations, incorporation, or zoning modifications.

(2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a law enforcement officer, completed and submitted under this section, shall:

(a) classify the law enforcement officer's voter registration record in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109 as a private record; and

(b) classify the law enforcement officer's marriage licenses and marriage license applications, if any, as private records.

(3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form described in Subsection (1)(b) from a law enforcement officer, completed and submitted under this section, shall:

(a) provide a method for the assessment roll and index and the tax roll and index that will block public access to the law enforcement officer's personal information; and

(b) provide to the law enforcement officer who submits the form a written disclaimer informing the officer that the officer may not receive official announcements affecting the officer's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A form submitted under this section remains in effect for the shorter of:

(a) four years from the date on which the form was signed by the officer, regardless of whether the officer's qualifying employment is terminated during the four years; or

(b) one year after official notice of the law enforcement officer's death is transmitted by the officer's immediate family or the officer's employing agency to all state and local government agencies that are reasonably expected to have records containing personal information of the deceased officer.

(5) Notwithstanding Subsection (4), the law enforcement officer, or the officer's immediate family if the officer is deceased, may rescind the form at any time.

~~[(2)] (6) An individual may not [knowingly], with intent to frighten or harass a law enforcement officer, publicly post on the Internet the personal information of any law enforcement officer [or of the officer's immediate family members] knowing the person is a law enforcement officer [or that the person is the immediate family member of a law enforcement officer].~~

(a) A violation of this Subsection ~~[(2)]~~ (6) is a class B misdemeanor.

(b) A violation of this Subsection ~~[(2)]~~ (6) that results in bodily injury to the officer, or a member of the officer's immediate family, is a class A misdemeanor.

(c) Each act against a separate individual in violation of this Subsection ~~[(2)]~~ (6) is a separate offense. The defendant may also be charged separately with the commission of any other criminal conduct related to the commission of an offense under this Subsection ~~[(2)]~~ (6).

~~[(3)]~~ (7) (a) A business or association may not publicly post or publicly display on the Internet the

personal information of any law enforcement officer if that officer has, either directly or through an agent designated under Subsection ~~[(3)]~~ (7)(c), provided to that business or association a written demand to not disclose the officer's personal information.

(b) A written demand made under this Subsection ~~[(3)]~~ (7) by a law enforcement officer is effective for four years beginning on the day the demand is delivered, regardless of whether or not the law enforcement officer's employment as an officer has terminated during the four years.

(c) A law enforcement officer may designate in writing the officer's employer or a representative of any voluntary professional association of law enforcement officers to act on behalf of the officer and as the officer's agent to make a written demand pursuant to this chapter.

(d) (i) A business or association that receives a written demand from a law enforcement officer under Subsection ~~[(3)]~~ (7)(a) shall remove the officer's personal information from public display on the Internet, including the removal of information provided to cellular telephone applications, within 24 hours of the delivery of the written demand, and shall ensure that the information is not posted again on the same Internet website or any other Internet website the recipient of the written demand maintains or exercises control over.

(ii) After receiving the law enforcement officer's written demand, the person, business, or association may not publicly post or publicly display on the Internet, the personal information of the law enforcement officer.

(iii) This Subsection ~~[(3)]~~ (7)(d) does not prohibit a telephone corporation, as defined in Section 54-2-1, or its affiliate or other voice service provider, including providers of interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from transferring the law enforcement officer's personal information to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, terms of service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the officer to the telephone corporation or its affiliate.

(iv) This Subsection ~~[(3)]~~ (7)(d) does not apply to a telephone corporation or other voice service provider, including providers of interconnected voice over Internet protocol service, with respect to directories or directories listings to the extent the entity offers a nonpublished listing option.

~~[(4)]~~ (8) (a) A law enforcement officer whose personal information is made public as a result of a violation of Subsection ~~[(3)]~~ (7) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction.

(b) If a court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the law enforcement officer court costs and reasonable attorney fees.

(c) If the defendant fails to comply with an order of the court issued under this Subsection [(4)] (8), the court may impose a civil penalty of not more than \$1,000 for the defendant's failure to comply with the court's order.

[(5)] (9) (a) A person, business, or association may not solicit, sell, or trade on the Internet the personal information of a law enforcement officer, if the dissemination of the personal information poses an imminent and serious threat to the law enforcement officer's safety or the safety of the law enforcement officer's immediate family and the person making the information available on the Internet knows or reasonably should know of the imminent and serious threat.

(b) A law enforcement officer whose personal information is knowingly publicly posted or publicly displayed on the Internet may bring an action in any court of competent jurisdiction. If a jury or court finds that a defendant has committed a violation of Subsection [(5)] (9)(a), the jury or court shall award damages to the officer in the amount of triple the cost of actual damages or \$4,000, whichever is greater.

[(6)] (10) An interactive computer service or access software is not liable under Subsections [(3)] (7)(d)(i) and [(5)] (9) for information or content provided by another information content provider.

[(7)] (11) Unless a state or local government agency receives a completed form directly from the law enforcement officer ~~requests that certain information be removed or protected from disclosure in accordance with Section 63G-2-302, a county recorder~~ in accordance with Subsection (1), a state or local government official who makes information available for public inspection in accordance with ~~Section 17-21-19~~ state law is not in violation of this chapter.

CHAPTER 312**S. B. 235**

Passed March 8, 2018
 Approved March 19, 2018
 Effective May 8, 2018

**HOMELESS SHELTER
 FUNDING AMENDMENTS**

Chief Sponsor: Gene Davis
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill creates the Homeless Shelter Cities Mitigation Restricted Account and authorizes the use of the restricted account's funds.

Highlighted Provisions:

This bill:

- ▶ allows redevelopment agencies to transfer funds to a county or municipality under certain circumstances;
- ▶ modifies the membership of the Homeless Coordinating Committee;
- ▶ defines terms;
- ▶ creates an application process for certain municipalities with homeless shelters to obtain Homeless Shelter Cities Mitigation Restricted Account funds to employ and equip additional personnel to provide public safety services;
- ▶ creates a grant program with funds from the Homeless Shelter Cities Mitigation Restricted Account for a municipality with a homeless shelter to pay for programs to mitigate the impact of the homeless shelter and for the Department of Public Safety to employ additional personnel to provide public safety;
- ▶ requires the State Tax Commission to deposit a percentage of a county's or municipality's local option sales and use tax revenue into the Homeless Shelter Cities Mitigation Restricted Account;
- ▶ directs the Department of Workforce Services on how to disburse funds from the Homeless Shelter Cities Mitigation Restricted Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Workforce Services Housing and Community Development Homeless Shelter Cities Mitigation Program, as a one-time appropriation:
 - from the Homeless Shelter Cities Mitigation Restricted Account, One-time, \$2,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17C-1-409, as last amended by Laws of Utah 2016, Chapter 350
 17C-1-411, as last amended by Laws of Utah 2016, Chapter 350
 17C-1-412, as last amended by Laws of Utah 2016, Chapter 350
 35A-8-601, as last amended by Laws of Utah 2016, Chapter 278

- 59-12-205, as last amended by Laws of Utah 2017, Chapters 230 and 385
 59-12-302, as last amended by Laws of Utah 2016, Chapter 364
 59-12-354, as last amended by Laws of Utah 2016, Chapter 364
 59-12-403, as last amended by Laws of Utah 2016, Chapter 364
 59-12-603, as last amended by Laws of Utah 2017, Chapter 178
 59-12-703, as last amended by Laws of Utah 2017, Chapters 181 and 422
 59-12-802, as last amended by Laws of Utah 2017, Chapter 422
 59-12-804, as last amended by Laws of Utah 2017, Chapter 422
 59-12-1102, as last amended by Laws of Utah 2016, Chapter 364
 59-12-1302, as last amended by Laws of Utah 2017, Chapter 422
 59-12-1402, as last amended by Laws of Utah 2017, Chapter 422
 59-12-2103, as last amended by Laws of Utah 2017, Chapter 422
 59-12-2206, as last amended by Laws of Utah 2017, Chapter 160

ENACTS:

- 35A-8-606, Utah Code Annotated 1953
 35A-8-607, Utah Code Annotated 1953
 35A-8-608, Utah Code Annotated 1953
 35A-8-609, Utah Code Annotated 1953
 63J-1-801, Utah Code Annotated 1953
 63J-1-802, Utah Code Annotated 1953

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

Section 1. Section 17C-1-409 is amended to read:**17C-1-409. Allowable uses of agency funds.**

- (1) (a) An agency may use agency funds:
- (i) for any purpose authorized under this title;
 - (ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;
 - (iii) to pay for, including financing or refinancing, all or part of:
 - (A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;
 - (B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;
 - (C) an incentive or other consideration paid to a participant under a participation agreement;
 - (D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area; [øø]

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area[-]; or

(v) subject to Subsection (5), to transfer funds to a community that created the agency.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the

prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 2. Section 17C-1-411 is amended to read:

17C-1-411. Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.

(1) An agency may use project area funds:

(a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;

(b) outside of a project area for the purpose of:

(i) replacing housing units lost by project area development; or

(ii) increasing, improving, or preserving the affordable housing supply within the boundary of the agency; [øø]

(c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area[-]; or

(d) subject to Subsection (4), to transfer funds to a community that created the agency.

(2) (a) Each agency shall create a housing fund and separately account for project area funds allocated under this section.

(b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the housing fund, shall accrue to the housing fund.

(c) An agency that designates a housing fund under this section shall use the housing fund for the purposes set forth in this section or Section 17C-1-412.

(3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.

(4) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(d), 17C-1-409(1)(a)(v), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 3. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation, if applicable, to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); [øø]

(ix) relocate mobile home park residents displaced by project area development[.]; or

(x) subject to Subsection (6), transfer funds to a community that created the agency.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county; or

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.

(2) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(3) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (3)(a) previously issued by the agency.

(4) (a) Except as provided in Subsection (4)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (4)(a) does not apply in a year in which tax increment is insufficient.

(5) (a) Except as provided in Subsection (4)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (5)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(6) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 4. Section 35A-8-601 is amended to read:

35A-8-601. Creation.

(1) There is created within the division the Homeless Coordinating Committee.

(2) (a) The committee shall consist of the following members:

(i) the lieutenant governor or the lieutenant governor's designee;

(ii) the state planning coordinator or the coordinator's designee;

(iii) the state superintendent of public instruction or the superintendent's designee;

(iv) the chair of the board of trustees of the Utah Housing Corporation or the chair's designee;

(v) the executive director of the Department of Workforce Services or the executive director's designee;

(vi) the executive director of the Department of Corrections or the executive director's designee;

(vii) the executive director of the Department of Health or the executive director's designee;

(viii) the executive director of the Department of Human Services or the executive director's designee;

(ix) the mayor of Salt Lake City~~[-and]~~ or the mayor's designee;

(x) the mayor of Salt Lake County~~[-]~~ or the mayor's designee;

(xi) the mayor of Ogden or the mayor's designee;

(xii) the mayor of Midvale or the mayor's designee;

(xiii) the mayor of St. George or the mayor's designee; and

(xiv) the mayor of South Salt Lake or the mayor's designee.

(b) (i) The lieutenant governor shall serve as the chair of the committee.

(ii) The lieutenant governor may appoint a vice chair from among committee members, who shall conduct committee meetings in the absence of the lieutenant governor.

(3) The governor may appoint as members of the committee:

(a) representatives of local governments, local housing authorities, local law enforcement agencies;

(b) representatives of federal and private agencies and organizations concerned with the homeless, persons with a mental illness, the elderly, single-parent families, persons with a substance use disorder, and persons with a disability; and

(c) a resident of Salt Lake County.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members appointed under Subsection (3) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A member appointed under Subsection (3) may not be appointed to serve more than three consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 5. Section 35A-8-606 is enacted to read:

35A-8-606. Homeless Shelter Cities Mitigation Restricted Account.

(1) As used in this section:

(a) "Annual local contribution" means:

(i) for a participating local government, the lesser of \$200,000 or an amount equal to 1.8% of the

participating local government's tax revenue distribution amount under Subsection 59-12-205(2)(a) for the previous fiscal year; or

(ii) for an eligible municipality or a grant eligible entity that is certified in accordance with Section 35A-8-609, §0.

(b) "Eligible municipality" means the same as that term is defined in Section 35A-8-607.

(c) "Grant eligible entity" means the same as that term is defined in Section 35A-8-608.

(d) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity as certified by the department in accordance with Section 35A-8-609.

(2) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

(3) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205; and

(b) interest earned on the account.

(4) (a) The department shall administer the account.

(b) Subject to appropriation, the department shall disburse funds from the account to:

(i) eligible municipalities in accordance with Sections 35A-8-607 and 63J-1-802; and

(ii) grant eligible entities in accordance with Sections 35A-8-608 and 63J-1-802.

Section 6. Section 35A-8-607 is enacted to read:

35A-8-607. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) As used in this section:

(a) "Account" means the restricted account created in Section 35A-8-606.

(b) "Committee" means the Homeless Coordinating Committee created in this part.

(c) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a metro township that:

(i) has, or is proposed to have, a homeless shelter within the city's, town's, or metro township's geographic boundaries;

(ii) due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city's, town's, or metro township's geographic boundaries; and

(iii) is certified as an eligible municipality in accordance with Section 35A-8-609.

(d) "Homeless shelter" means a facility that:

(i) provides or is proposed to provide temporary shelter to homeless individuals;

(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(e) "Public safety services" means law enforcement, emergency medical services, and fire protection.

(2) (a) An eligible municipality may request account funds to employ and equip additional personnel to provide public safety services in and around a homeless shelter within the eligible municipality's geographic boundaries.

(b) (i) An eligible municipality that builds or has proposed to build a homeless shelter on or after July 1, 2018, shall be eligible to receive at least 40% of the account funds, if the eligible municipality meets the requirements of this section.

(ii) An eligible municipality that built a homeless shelter on or before June 30, 2018, shall be eligible to receive at least 20% of the account funds, if the eligible municipality meets the requirements of this section.

(3) (a) This Subsection (3) applies to an eligible municipality's request for account funds for the fiscal year beginning on July 1, 2018, only.

(b) An eligible municipality may make a request for account funds by:

(i) sending an electronic copy of the request to the committee before the first meeting of the committee on or after July 1, 2018; and

(ii) appearing at the first meeting of the committee on or after July 1, 2018, to present the request.

(c) The request described in Subsection (3)(b) shall contain:

(i) data relating to the eligible municipality's public safety services for the last fiscal year before a homeless shelter was located or proposed to be located within the eligible municipality's boundaries, including:

(A) crime statistics; and

(B) calls for public safety services;

(ii) data showing the eligible municipality's need for public safety services in the next fiscal year;

(iii) a summary of the eligible municipality's proposed use of account funds; and

(iv) a copy of the eligible municipality's budget, which includes a request in a specific amount for additional personnel to provide public safety services.

(d) The committee shall evaluate a request made in accordance with this Subsection (3) using the following factors:

(i) the strength and reliability of the data that the eligible municipality provides to support the request;

(ii) the availability of alternative funding for the eligible municipality to address the eligible municipality's need for public safety services; and

(iii) any other considerations identified by the committee.

(e) (i) After making the evaluation described in Subsection (3)(d) and subject to appropriation, the committee shall vote to:

(A) fund the eligible municipality's request; or

(B) fund the eligible municipality's request at a reduced level, as determined by the committee.

(ii) The committee shall support the vote described in Subsection (3)(e)(i) with findings on each of the factors described in Subsection (3)(d).

(f) (i) An eligible municipality that receives an award of account funds under this Subsection (3) shall submit an invoice of the eligible municipality's expenses, with supporting documentation, to the department monthly for reimbursement.

(ii) Each month, beginning in January 2019, the department shall disburse the revenue in the account to reimburse the eligible municipality that submits the information described in Subsection (3)(f)(i) for the amount on the invoice or contract.

(4) (a) This Subsection (4) applies to a fiscal year beginning on or after July 1, 2019.

(b) (i) The committee shall set aside time on an agenda of a committee meeting that occurs on or after July 1 and on or before November 30 to allow an eligible municipality to present a request for account funds for the next fiscal year.

(ii) An eligible municipality may present a request for account funds by:

(A) sending an electronic copy of the request to the committee before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection (4)(b) shall contain:

(i) data relating to the eligible municipality's public safety services for the last fiscal year before a homeless shelter was located or proposed to be located within the eligible municipality's boundaries, including:

(A) crime statistics; and

(B) calls for public safety services;

(ii) data showing the eligible municipality's need for public safety services in the next fiscal year;

(iii) a summary of the eligible municipality's proposed use of account funds; and

(iv) a copy of the eligible municipality's budget, which includes a request in a specific amount for additional personnel to provide public safety services.

(d) (i) On or before November 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the committee a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's public safety needs; and

(C) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The committee may request additional information as needed to make the evaluation described in Subsection (4)(e).

(e) The committee shall evaluate a request made in accordance with this Subsection (4) using the following factors:

(i) the strength and reliability of the data that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of alternative funding for the eligible municipality to address the eligible municipality's need for public safety services; and

(iv) any other considerations identified by the committee.

(f) (i) After making the evaluation described in Subsection (4)(e) and subject to other provisions of this Subsection (4)(f), the committee shall vote to recommend that an eligible municipality's request be:

(A) funded as requested; or

(B) funded at a reduced level, as determined by the committee.

(ii) The committee shall support the recommendation described in Subsection (4)(f)(i) with findings on each of the factors described in Subsection (4)(e).

(g) The committee shall submit the recommendation described in Subsection (4)(f) to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(h) (i) An eligible municipality that is approved to receive account funds under Section 63J-1-802 shall submit an invoice of the eligible municipality's expenses, with supporting documentation, to the department monthly for reimbursement.

(ii) Each month, the department shall disburse the revenue in the account to reimburse an eligible municipality that submits the information described in Subsection (4)(h)(i) for the amount on the invoice or contract.

(5) On or before October 1, the department, in cooperation with the committee, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the department's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

Section 7. Section 35A-8-608 is enacted to read:

35A-8-608. Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) As used in this section:

(a) "Account" means the restricted account created in Section 35A-8-606.

(b) "Committee" means the Homeless Coordinating Committee created in this part.

(c) "Grant" means an award of funds from the account.

(d) "Grant eligible entity" means:

(i) the Department of Public Safety; or

(ii) a city, town, or metro township that:

(A) has a homeless shelter within the city's, town's, or metro township's geographic boundaries;

(B) has increased community, social service, and public safety service needs due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries; and

(C) is certified as a grant eligible entity in accordance with Section 35A-8-609.

(e) "Homeless shelter" means a facility that:

(i) provides temporary shelter to homeless individuals;

(ii) has the capacity to provide temporary shelter to at least 60 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(f) "Public safety services" means law enforcement, emergency medical services, and fire protection.

(2) Subject to the availability of funds, a grant eligible entity may request a grant to mitigate the impacts of the location of a homeless shelter:

(a) through employment of additional personnel to provide public safety services in and around a homeless shelter; or

(b) for a grant eligible entity that is a city, town, or metro township, through:

(i) development of a community and neighborhood program within the city's, town's, or metro township's boundaries; or

(ii) provision of social services within the city's, town's, or metro township's boundaries.

(3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing:

(i) the process for determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year; and

(ii) the process for notifying grant eligible entities about the availability of grants for the next fiscal year.

(b) (i) If the committee offers a grant program for the next fiscal year, the committee shall set aside time on the agenda of a committee meeting that occurs on or after July 1 and on or before November 30 to allow a grant eligible entity to present a request for account funds for the next fiscal year.

(ii) A grant eligible entity may present a request for account funds by:

(A) sending an electronic copy of the request to the committee before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection (3)(b) shall contain:

(i) for a grant request to develop a community and neighborhood program:

(A) a proposal outlining the components of a community and neighborhood program;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(ii) for a grant request to provide social services:

(A) a proposal outlining the need for additional social services;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(iii) for a grant request to employ additional personnel to provide public safety services:

(A) data relating to the grant eligible entity's public safety services for the current fiscal year,

including crime statistics and calls for public safety services;

(B) data showing an increase in the grant eligible entity's need for public safety services in the next fiscal year;

(C) a summary of the grant eligible entity's proposed use of any grant awarded; and

(D) the amount requested; and

(iv) for a grant request to provide some combination of the activities described in Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each activity for which the grant eligible entity requests a grant.

(d) (i) On or before November 30, a grant eligible entity that received a grant during the previous fiscal year shall file electronically with the committee a report that includes:

(A) a summary of the amount of the grant that the grant eligible entity received and the grant eligible entity's specific use of those funds;

(B) an evaluation of the grant eligible entity's effectiveness in using the grant to address the grant eligible entity's increased needs due to the location of a homeless shelter; and

(C) any proposals for improving the grant eligible entity's effectiveness in using a grant that the grant eligible entity may receive in future fiscal years.

(ii) The committee may request additional information as needed to make the evaluation described in Subsection (3)(e).

(e) The committee shall evaluate a grant request made in accordance with this Subsection (3) using the following factors:

(i) the strength of the proposal that the grant eligible entity provides to support the request;

(ii) if the grant eligible entity received a grant during the previous fiscal year, the efficiency with which the grant eligible entity used the grant during the previous fiscal year;

(iii) the availability of alternative funding for the grant eligible entity to address the grant eligible entity's needs due to the location of a homeless shelter; and

(iv) any other considerations identified by the committee.

(f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the committee shall vote to:

(A) prioritize the grant requests; and

(B) recommend a grant amount for each grant eligible entity.

(ii) The committee shall support the prioritization and recommendation described in Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

(g) The committee shall submit a list that prioritizes the grant requests and recommends a grant amount for each grant eligible entity that requested a grant to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(4) (a) Subject to Subsection (4)(b), the department shall disburse the revenue in the account as a grant to a grant eligible entity:

(i) after making the disbursements required by Section 35A-8-607; and

(ii) subject to the availability of funds in the account:

(A) in the order of priority that the Legislature gives to each eligible grant entity under Section 63J-1-802; and

(B) in the amount that the Legislature approves to a grant eligible entity under Section 63J-1-802.

(b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing the process for the department to determine the timeline within the fiscal year for funding the grants.

(5) On or before October 1, the department, in cooperation with the committee, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the department's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

Section 8. Section 35A-8-609 is enacted to read:

35A-8-609. Certification of eligible municipality or grant eligible entity.

(1) The department shall certify each year, on or after July 1 and before the first meeting of the committee after July 1, the cities or towns that meet the requirements of an eligible municipality or a grant eligible entity as of July 1.

(2) On or before October 1, the department shall provide a list of the cities or towns that the department has certified as meeting the requirements of an eligible municipality or a grant eligible entity for the year to the State Tax Commission.

Section 9. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through ~~(6)~~ (7) and subject to Subsection ~~(7)~~ (8):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the

city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

(b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.

(5) (a) As used in this Subsection (5):

(i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or more in tax

revenue distributions in accordance with Subsection (4) for each of the following fiscal years:

- (A) fiscal year 2002-03;
- (B) fiscal year 2003-04; and
- (C) fiscal year 2004-05.

(ii) "Minimum tax revenue distribution" means the greater of:

(A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

(B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

- (A) the payment required by Subsection (2); or
- (B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:

- (i) the minimum tax revenue distribution; and
- (ii) .90.

(6) (a) As used in this Subsection (6):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2002-03;

(B) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2003-04;

(C) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2004-05;

(D) for a fiscal year beginning with fiscal year 2012-13 and ending with fiscal year 2015-16, does

not receive a tax revenue distribution described in Subsection (5) equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years; and

(E) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) Beginning with fiscal year 2016-17, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

- (i) the payment required by Subsection (2); or
- (ii) the minimum tax revenue distribution.

(7) (a) For purposes of this Subsection (7):

(i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A-8-609.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (7)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-8a-606.

(c) The commission shall make the calculation and distribution described in this Subsection (7) after making the distributions described in Subsections (3) through (6).

[7] (8) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.

(b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 10. Section 59-12-302 is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in Subsection (2) or (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

- (i) Part 1, Tax Collection; or
- (ii) Part 2, Local Sales and Use Tax Act; and
- (b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [(7)] (8).

(4) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 11. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

- (i) Part 1, Tax Collection; or
- (ii) Part 2, Local Sales and Use Tax Act; and
- (b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to the municipality within which the revenue was collected; and

(ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [(7)] (8).

Section 12. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(7)~~ (8).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 13. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

(i) financing tourism promotion; and
 (ii) the development, operation, and maintenance of:

- (A) an airport facility;
- (B) a convention facility;
- (C) a cultural facility;
- (D) a recreation facility; or
- (E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and
 (ii) combine the sale of:
 (A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- (a) an airport facility;
- (b) a convention facility;
- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in

accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

- (I) Part 1, Tax Collection; or
- (II) Part 2, Local Sales and Use Tax Act; and
- (B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~(7)~~ (8).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according

to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1),

the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 14. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(7)~~ (8).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 15. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county of the third or fourth class, rural county health care facilities in that county; or

(ii) for a county of the fifth or sixth class:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

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

(E) rural health clinics in that county; or

(F) a combination of Subsections (1)(b)(ii)(A) through (E).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

- (i) members of the county's legislative body; and
- (ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:

- (i) ongoing operating expenses of a rural county health care facility within that county;
- (ii) the acquisition of land for a rural county health care facility within that county; or
- (iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used to fund:

- (i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;
- (ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;
- (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county; or
- (iv) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

- (I) Part 1, Tax Collection; or
- (II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through [(7)] (8).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 16. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

- (i) on the transactions described in Subsection 59-12-103(1) located within the city; and
- (ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

- (i) members of the city legislative body; and
- (ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

- (I) Part 1, Tax Collection; or
- (II) Part 2, Local Sales and Use Tax Act; and
- (B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through ~~(7)~~ (8).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 17. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(47)~~ (8).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) \$6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the

requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 18. Section 59-12-1302 is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on the purchase price or sales price

for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after

July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through [(7)] (8).

Section 19. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or

charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through [(7)] (8).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town

legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of

the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 20. Section 59-12-2103 is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a

city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit revenue collected within a city or town from a tax under this part:

- (a) to the city or town legislative body;
- (b) monthly; and
- (c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

- (A) Part 1, Tax Collection; or
- (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through ~~(7)~~ (8).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax

or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

Section 21. Section 59-12-2206 is amended to read:

59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer -- Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

- (i) Part 1, Tax Collection; or
- (ii) Part 2, Local Sales and Use Tax Act; and
- (b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through [(7)] (8).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) (a) Subject to Section 59-12-2207, and except as provided in Subsection (5)(b), the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under

Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

(b) The commission shall transmit a portion of the revenue collected within a county, city, or town from a sales and use tax under this part that would be transferred to a public transit district or an eligible political subdivision under Subsection (5)(a) to the county, city, or town to fund public transit fixed guideway safety oversight under Section 72-1-214 if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) specifies the amount of revenue required to be transmitted to the county, city, or town.

Section 22. Section 63J-1-801 is enacted to read:

Part 8. Homeless Shelter Cities Mitigation Program

63J-1-801. Definitions.

As used in this part:

(1) “Committee” means the Homeless Coordinating Committee created in Section 35A-8-601.

(2) “Eligible municipality” means a city of the third, fourth, or fifth class, a town, or a metro township that:

(a) has, or is proposed to have, a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries that:

(i) provides or is proposed to provide temporary shelter to homeless individuals;

(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(b) due to the location of a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city’s, town’s, or metro township’s geographic boundaries.

(3) “Grant eligible entity” means:

(a) the Department of Public Safety; or

(b) a city, town, or metro township that has:

(i) a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries that:

(A) provides temporary shelter to homeless individuals;

(B) has the capacity to provide temporary shelter to at least 60 individuals per night; and

(C) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(ii) increased community, social service, and public safety service needs due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries.

Section 23. Section 63J-1-802 is enacted to read:

63J-1-802. Submission of Homeless Coordinating Committee recommendations -- Adoption, procedure, and approval -- Appropriation.

(1) (a) On or before December 31, the committee shall submit the committee's recommendation under Subsection 35A-8-607(4) for each eligible municipality that made a request:

(i) to the Social Services Appropriations Subcommittee of the Legislature; and

(ii) as an appropriations request.

(b) For each recommendation that the committee submits, the Social Services Appropriations Subcommittee shall:

(i) approve the amount as recommended;

(ii) increase or decrease the amount and then approve the modified amount; or

(iii) reject the amount.

(2) (a) On or before December 31, the committee shall submit the committee's list prioritizing the grant requests and recommending a grant amount for each grant eligible entity that requested a grant:

(i) to the Social Services Appropriations Subcommittee of the Legislature; and

(ii) as an appropriations request.

(b) The Social Services Appropriations Subcommittee shall:

(i) approve the committee's list;

(ii) modify the committee's list and then approve the modified list; or

(iii) reject the committee's list.

(3) The Social Services Appropriations Subcommittee may submit the subcommittee's approvals under this section from the Homeless Shelter Cities Mitigation Restricted Account for inclusion in an appropriations act to be considered by the full Legislature.

Section 24. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature

appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Housing and Community Development

From Homeless Shelter Cities

Mitigation Restricted

Account, One-Time \$2,500,000

Schedule of Programs:

Homeless Shelter Cities

Mitigation Program

\$2,500,000

The Legislature intends that:

(1) the appropriations provided under this section be used for the purposes described in Section 35A-8-607; and

(2) the Department of Workforce Services allocate the appropriation under this section to an eligible municipality, as defined in Section 35A-8-607, in an amount approved by the Homeless Coordinating Committee to the extent that the eligible municipality provides an invoice and supporting documentation to the Department of Workforce Services as described in Section 35A-8-607.

CHAPTER 313**S. B. 236**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

ALCOHOL MODIFICATIONS

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions of the Attire, Conduct, and Entertainment Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses prohibited attire and conduct on premises or at an event regulated under the Alcoholic Beverage Control Act;
- ▶ modifies the markup for hard cider manufactured by a manufacturer producing less than a certain number of gallons; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-1-102, as last amended by Laws of Utah 2017, Chapter 455

32B-1-504, as enacted by Laws of Utah 2010, Chapter 276

32B-2-304, as last amended by Laws of Utah 2017, Chapter 455

32B-6-302, as last amended by Laws of Utah 2017, Chapter 455

63I-2-232, as last amended by Laws of Utah 2017, Chapter 455

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

Section 1. Section 32B-1-102 is amended to read:**32B-1-102. Definitions.**

As used in this title:

- (1) "Airport lounge" means a business location:
 - (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - (b) that is located at an international airport with a United States Customs office on the premises of the international airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
 - (a) beer; or
 - (b) liquor.

(4) (a) "Alcoholic product" means a product that:

- (i) contains at least .5% of alcohol by volume; and
- (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

- (i) except as provided in Subsection (4)(d), an extract;
- (ii) vinegar;
- (iii) preserved nonintoxicating cider;
- (iv) essence;
- (v) tincture;
- (vi) food preparation; or
- (vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

- (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- (b) described in Section 62A-15-401.

(6) "Banquet" means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

- (i) hotel;
- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person; and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

- (a) stored; or
- (b) dispensed.

(8) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail

License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

- (i) a dining club license;
- (ii) an equity license;
- (iii) a fraternal license; or
- (iv) a bar license.

(9) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(10) (a) Subject to Subsection (10)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (10)(a); and

(ii) is referred to as:

- (A) beer;
- (B) ale;
- (C) porter;
- (D) stout;
- (E) lager; or
- (F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(11) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(12) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(13) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(14) "Billboard" means a public display used to advertise, including:

- (a) a light device;
- (b) a painting;
- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.

(15) "Brewer" means a person engaged in manufacturing:

- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.

(16) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(17) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(18) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(19) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(20) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(21) "Commissioner" means a member of the commission.

(22) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(23) “Community location governing authority” means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(24) “Container” means a receptacle that contains an alcoholic product, including:

- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.

(25) “Convention center” means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a “convention center” by the commission by rule.

(26) (a) “Counter” means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) “Counter” does not include a dispensing structure.

(27) “Department” means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

(28) “Department compliance officer” means an individual who is:

- (a) an auditor or inspector; and
- (b) employed by the department.

(29) “Department sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(30) “Dining club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(31) “Director,” unless the context requires otherwise, means the director of the department.

(32) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(33) (a) Subject to Subsection (33)(b), “dispense” means:

- (i) drawing of an alcoholic product:
- (A) from an area where it is stored; or

(B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

(ii) using the alcoholic product described in Subsection (33)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of “dispense” in this Subsection (33) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; and
- (iv) a beer-only restaurant license.

(34) “Dispensing structure” means a surface or structure on a licensed premises:

(a) where an alcoholic product is stored or dispensed; or

(b) from which an alcoholic product is served.

(35) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(36) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(37) “Educational facility” includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

(38) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(39) “Event permit” means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(40) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(41) (a) “Flavored malt beverage” means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
- (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
- (iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and

Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

(42) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(43) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(44) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(45) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

(46) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

[466] (47) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

[477] (48) (a) “Heavy beer” means a product that:

(i) contains more than 4% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.

[488] (49) “Hotel” is as defined by the commission by rule.

[499] (50) “Hotel license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[509] (51) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[519] (52) “Industry representative” means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[529] (53) “Industry representative sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

[539] (54) “Interdicted person” means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

[549] (55) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections [544] (55)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

[559] (56) “Investigator” means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

~~[(56)]~~ (57) "Invitee" means the same as that term is defined in Section 32B-8-102.

~~[(57)]~~ (58) "License" means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

~~[(58)]~~ (59) "Licensee" means a person who holds a license.

~~[(59)]~~ (60) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

~~[(60)]~~ (61) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

~~[(61)]~~ (62) (a) (i) "Liquor" means a liquid that:

- (A) is:
 - (I) alcohol;
 - (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
 - (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
 - (IV) other drink or drinkable liquid; and
- (B) (I) contains at least .5% alcohol by volume; and
- (II) is suitable to use for beverage purposes.
- (ii) "Liquor" includes:
 - (A) heavy beer;
 - (B) wine; and
 - (C) a flavored malt beverage.
- (b) "Liquor" does not include beer.

~~[(62)]~~ (63) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

~~[(63)]~~ (64) "Liquor warehousing license" means a license that is issued:

- (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- (b) to a person, other than a licensed manufacturer, who engages in the importation for

storage, sale, or distribution of liquor regardless of amount.

~~[(64)]~~ (65) "Local authority" means:

- (a) for premises that are located in an unincorporated area of a county, the governing body of a county; or
- (b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township.

~~[(65)]~~ (66) "Lounge or bar area" is as defined by rule made by the commission.

~~[(66)]~~ (67) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

~~[(67)]~~ (68) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

~~[(68)]~~ (69) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

- (i) (A) under the control of the United States Department of Defense; or
- (B) of the National Guard;
- (ii) that is located within the state; and
- (iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

- (i) civil works;
- (ii) a rivers and harbors project; or
- (iii) a flood control project.

~~[(69)]~~ (70) "Minor" means an individual under the age of 21 years.

~~[(70)]~~ (71) "Nondepartment enforcement agency" means an agency that:

- (a) (i) is a state agency other than the department; or
- (ii) is an agency of a county, city, town, or metro township; and
- (b) has a responsibility to enforce one or more provisions of this title.

~~[(71)]~~ (72) "Nondepartment enforcement officer" means an individual who is:

- (a) a peace officer, examiner, or investigator; and
- (b) employed by a nondepartment enforcement agency.

~~[(72)]~~ (73) (a) "Off-premise beer retailer" means a beer retailer who is:

- (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) “Off-premise beer retailer” does not include an on-premise beer retailer.

[~~(73)~~] (74) “Off-premise beer retailer state license” means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

[~~(74)~~] (75) “On-premise banquet license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~(75)~~] (76) “On-premise beer retailer” means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer’s premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~(76)~~] (77) “Opaque” means impenetrable to sight.

[~~(77)~~] (78) “Package agency” means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

[~~(78)~~] (79) “Package agent” means a person who holds a package agency.

[~~(79)~~] (80) “Patron” means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

[~~(80)~~] (81) “Permittee” means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

[~~(81)~~] (82) “Person subject to administrative action” means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections [~~(81)~~] (82)(a) through (f); or

(ii) a package agent.

[~~(82)~~] (83) “Premises” means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[~~(83)~~] (84) “Prescription” means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner’s professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

[~~(84)~~] (85) (a) “Private event” means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) “Private event” does not include an event to which the general public is invited, whether for an admission fee or not.

[~~(85)~~] (86) (a) “Proof of age” means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

[(86)] (87) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[(87)] (88) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[(88)] (89) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [(88)] (89)(a) to a third party for the third party's event.

[(89)] (90) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[(90)] (91) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[(91)] (92) "Residence" means a person's principal place of abode within Utah.

[(92)] (93) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[(93)] (94) "Resort" means the same as that term is defined in Section 32B-8-102.

[(94)] (95) "Resort facility" is as defined by the commission by rule.

[(95)] (96) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

[(96)] (97) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

[(97)] (98) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served to the general public; and

(c) that is engaged primarily in serving meals to the general public.

[(98)] (99) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a resort license; or

(l) a hotel license.

~~[(99)]~~ (100) “Room service” means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.

~~[(100)]~~ (101) (a) “School” means a building used primarily for the general education of minors.

(b) “School” does not include an educational facility.

~~[(101)]~~ (102) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(102)]~~ (103) “Serve” means to place an alcoholic product before an individual.

~~[(103)]~~ (104) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:

- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
 - (i) a bar licensee; or
 - (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection ~~[(103)]~~ (104)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
 - (i) an employee;
 - (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.

~~[(104)]~~ (105) “Single event permit” means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(105)]~~ (106) “Small brewer” means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

~~[(106)]~~ (107) “Special use permit” means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(107)]~~ (108) (a) “Spirituous liquor” means liquor that is distilled.

(b) “Spirituous liquor” includes an alcoholic product defined as a “distilled spirit” by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

~~[(108)]~~ (109) “Sports center” is as defined by the commission by rule.

~~[(109)]~~ (110) (a) “Staff” means an individual who engages in activity governed by this title:

- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
- (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
- (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) “Staff” includes:

- (i) an officer;
- (ii) a director;
- (iii) an employee;
- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;
- (vi) an operator; or
- (vii) a representative.

~~[(110)]~~ (111) “State of nudity” means:

(a) the appearance of:

- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus.

~~[(111)]~~ (112) “State of seminudity” means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(112)]~~ (113) (a) “State store” means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

- (ii) operated by a state employee.
- (b) "State store" does not include:
 - (i) a package agency;
 - (ii) a licensee; or
 - (iii) a permittee.

~~(413)~~ (114) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

~~(414)~~ (115) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

~~(415)~~ (116) "Supplier" means a person who sells an alcoholic product to the department.

~~(416)~~ (117) "Tavern" means an on-premise beer retailer who is:

- (a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

~~(417)~~ (118) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~(418)~~ (119) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~(419)~~ (120) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~(420)~~ (121) "Unsaleable liquor merchandise" means a container that:

- (a) is unsaleable because the container is:
 - (i) unlabeled;
 - (ii) leaky;
 - (iii) damaged;
 - (iv) difficult to open; or
 - (v) partly filled;
- (b) (i) has faded labels or defective caps or corks;
- (ii) has contents that are:
 - (A) cloudy;
 - (B) spoiled; or

- (C) chemically determined to be impure; or
- (iii) contains:
 - (A) sediment; or
 - (B) a foreign substance; or
- (c) is otherwise considered by the department as unfit for sale.

~~(421)~~ (122) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

- (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and
- (ii) hard cider.

~~(4)~~ (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

~~(422)~~ (123) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-504 is amended to read:

32B-1-504. General requirements on attire and conduct.

(1) As used in this section, "obscene" means that:

- (a) the average individual, applying contemporary community standards, would find the conduct or material, taken as a whole, appeals to the prurient interest;
- (b) the conduct or material depicts or describes sexual conduct in a patently offensive way; and
- (c) the conduct or material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(2) The following attire and conduct on premises or at an event regulated by the commission under this title are considered contrary to the public health, peace, safety, welfare, and morals, and are prohibited:

~~(4)~~ (a) employing or using a person in the sale, offer for sale, or furnishing of an alcoholic product while the person is in:

- ~~(a)~~ (i) a state of nudity;
- ~~(b)~~ (ii) a state of seminudity; or
- ~~(c)~~ (iii) performance attire or clothing that exposes to view any portion of:

~~(i)~~ (A) the female breast below the top of the areola; or

~~(ii)~~ (B) the cleft of the buttocks;

~~(2)~~ (b) employing or using the services of a person to mingle with patrons while the person is in:

- ~~(a)~~ (i) a state of nudity;

[~~(b)~~] (ii) a state of seminudity; or

[~~(e)~~] (iii) performance attire or clothing that exposes to view any portion of:

[~~(4)~~] (A) the female breast below the top of the areola; or

[~~(ii)~~] (B) the cleft of the buttocks;

[~~(3)~~] (c) encouraging or permitting a person to:

[~~(a)~~] (i) engage in or simulate an act of:

[~~(4)~~] (A) sexual intercourse;

[~~(ii)~~] (B) masturbation;

[~~(iii)~~] (C) sodomy;

[~~(iv)~~] (D) bestiality;

[~~(v)~~] (E) oral copulation;

[~~(vi)~~] (F) flagellation; or

[~~(vii)~~] (G) a sexual act that is prohibited by Utah law; or

[~~(b) touch,~~] (ii) caress[, or] fondle the breast, [~~buttocks,~~] anus, or genitals of any other person;

[~~(4)~~] (d) permitting a person to wear or use a device or covering that:

[~~(a)~~] (i) is exposed to view; and

[~~(b)~~] (ii) simulates all or any portion of the human genitals, anus, pubic area, or female breast;

[~~(5)~~] (e) permitting a person to use an artificial device or inanimate object to depict an act prohibited by this section;

[~~(6)~~] (f) permitting a person to remain on premises or at an event who exposes to public view any portion of that person's:

[~~(a)~~] (i) genitals, pubic area, or anus; or

[~~(b)~~] (ii) in the case of a female, the areola and nipple of the breast; or

[~~(7) showing a film, still picture, electronic reproduction, or other visual reproduction depicting;~~]

[~~(a) an act or simulated act of;~~]

[~~(i) sexual intercourse;~~]

[~~(ii) masturbation;~~]

[~~(iii) sodomy;~~]

[~~(iv) bestiality;~~]

[~~(v) oral copulation;~~]

[~~(vi) flagellation; or~~]

[~~(vii) a sexual act that is prohibited by Utah law;~~]

[~~(b) a person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;~~]

[~~(c) a scene wherein an artificial device or inanimate object is employed to depict, or a drawing is employed to portray, an act prohibited by this section; or~~]

[~~(d) a scene wherein a person displays the genitals or anus.~~]

[~~(g) showing a film, still picture, electronic reproduction, or other visual reproduction depicting conduct or material that is obscene or in violation of other state or federal law regarding pornography or obscenity.~~]

[~~(3) Subsection (2) does not apply to artistic expression that:~~]

[~~(a) when taken as a whole, has serious literary, artistic, political, or scientific value;~~]

[~~(b) is not in violation of state or federal law regarding pornography or obscenity; and~~]

[~~(c) occurs on premises or at an event regulated by the commission under this title that is not predominantly used for performances by sexually oriented entertainers.~~]

Section 3. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah,

spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; ~~and~~ or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53A-19-201.

(5) This section does not prohibit the department from selling discontinued items at a discount.

(6) (a) Except as provided in Section 53A-13-114, the department shall collect the markup and remit the markup collected by the department under this section:

(i) to the State Tax Commission monthly on or before the last day of the month immediately following the last day of the previous month; and

(ii) using a form prescribed by the State Tax Commission.

(b) For liquor provided to a package agency on consignment, the department shall remit the markup to the State Tax Commission for the month during which the liquor is provided to the package agency regardless of when the package agency pays the department for the liquor provided to the package agency.

(c) The State Tax Commission shall deposit revenues remitted to it under Subsection (6)(a) into the Markup Holding Fund created in Section 32B-2-301.

(d) The assessment, collection, and refund of a markup under this section shall be in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(e) The department, if it fails to comply with this Subsection (6), is subject to penalties as provided in Section 59-1-401 and interest as provided in Section 59-1-402.

(f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

Section 4. Section 32B-6-302 is amended to read:

32B-6-302. Definitions.

As used in this part:

(1) (a) "Dining area" means an area in the licensed premises of a limited-service restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(b) "Dining area" does not include a dispensing area.

(2) (a) "Dispensing area" means an area in the licensed premises of a limited-service restaurant licensee where a dispensing structure is located and that:

(i) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of alcoholic product;

(ii) except as provided in Subsection (2)(b), measures at least 10 feet from any area where alcoholic product is dispensed to the dining area and any waiting area, measured from the point of the area where alcoholic product is dispensed that is closest to the dining area or waiting area; or

(iii) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures:

(A) at least 42 inches high; and

(B) at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

(3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a limited-service restaurant licensee that:

(i) as of May 11, 2009, has:

(A) patron seating at the bar structure;

(B) a partition at one or more locations on the bar structure that is along:

(I) the width of the bar structure; or

(II) the length of the bar structure; and

(C) facilities for the dispensing or storage of an alcoholic product:

(I) on the portion of the bar structure that is separated by the partition described in Subsection (3)(a)(i)(B); or

(II) if the partition as described in Subsection (3)(a)(i)(B)(II) is adjacent to the bar structure in a manner visible to a patron sitting at the bar structure;

(ii) is not operational as of May 12, 2009, if:

(A) a person applying for a limited-service restaurant license:

(I) has as of May 12, 2009, a building permit to construct the restaurant;

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued the limited-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure described in Subsection (3)(a)(i);

(iii) as of May 12, 2009, has no patron seating at the bar structure; or

(iv) is not operational as of May 12, 2009, if:

(A) a person applying for a limited-service restaurant license:

(I) has as of May 12, 2009, a building permit to construct the restaurant;

(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and

(III) is issued a limited-service restaurant license by no later than December 31, 2009; and

(B) once constructed, the licensed premises has a bar structure with no patron seating.

(b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (3)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(c) Subject to Subsection (3)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

(4) "Seating grandfathered bar structure" means:

(a) a grandfathered bar structure described in Subsection (3)(a)(i) or (ii); or

(b) a bar structure grandfathered under Section 32B-6-409.

(5) "Waiting area" includes a lobby.

~~[(6) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:]~~

~~[(a) sparkling and carbonated wine;]~~

~~[(b) wine made from condensed grape must;]~~

~~[(c) wine made from other agricultural products than the juice of sound, ripe grapes;]~~

~~[(d) imitation wine;]~~

~~[(e) compounds sold as wine;]~~

~~[(f) vermouth;]~~

~~[(g) cider;]~~

~~[(h) perry; and]~~

~~[(i) sake.]~~

Section 5. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Subsection 32B-1-102(33)(a)(i)(B), the language that states "32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii)," and " , or 32B-6-905(12)(b)(ii)" is repealed July 1, 2022.

(3) Subsection 32B-1-102[(414)](115)(b), the language that states "32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii)," and " , or 32B-6-905(12)(b)(ii)" is repealed July 1, 2022.

(4) Subsection 32B-1-604(4) is repealed June 1, 2018.

(5) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

(6) Section 32B-6-205 is repealed July 1, 2022.

(7) Subsection 32B-6-205.2(17) is repealed July 1, 2022.

(8) Section 32B-6-205.3 is repealed July 1, 2022.

(9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

(10) Section 32B-6-305 is repealed July 1, 2022.

(11) Subsection 32B-6-305.2(17) is repealed July 1, 2022.

(12) Section 32B-6-305.3 is repealed July 1, 2022.

(13) Section 32B-6-404.1 is repealed July 1, 2022.

(14) Section 32B-6-409 is repealed July 1, 2022.

(15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

(16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

(17) Section 32B-6-905 is repealed July 1, 2022.

(18) Subsection 32B-6-905.1(17) is repealed July 1, 2022.

(19) Section 32B-6-905.2 is repealed July 1, 2022.

(20) Section 32B-7-303 is repealed March 1, 2019.

(21) Section 32B-7-304 is repealed March 1, 2019.

(22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

CHAPTER 314**S. B. 237**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

VISION SERVICES AMENDMENTS

Chief Sponsor: Allen M. Christensen
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill regulates certain insurance contract provisions for vision services.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ regulates a contract between a vision plan and a vision service provider, including contract provisions related to:
 - fees for vision services that are not covered by a vision plan; and
 - a discount program sponsored by a vision plan.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

31A-22-647, Utah Code Annotated 1953

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

Section 1. Section 31A-22-647 is enacted to read:**31A-22-647. Vision insurance -- Contract provisions.**

(1) As used in this section:

(a) "Covered individual" means an individual who has insurance coverage under a vision plan.

(b) "Covered service" means a vision service that:

(i) is reimbursable under or would be reimbursable under an enrollee's vision plan, but for the application of at least one of the following contractual provisions:

(A) a deductible;

(B) a copayment;

(C) coinsurance;

(D) a waiting period;

(E) an annual or lifetime maximum;

(F) a frequency limitation; or

(G) an alternative benefit payment; and

(ii) is not merely nominal, for the purpose of avoiding the requirements of this section.

(c) "Optometrist" means an individual licensed under Title 58, Chapter 16a, Utah Optometry Practice Act.

(d) "Vision plan" means a health insurance policy or contract that provides vision coverage.

(e) "Vision service" means:

(i) professional work performed by a vision service provider; or

(ii) an ophthalmic medical device, such as lenses, ophthalmic frames, contact lenses, or a prosthetic device that treats a condition of the human eye or the areas surrounding the human eye.

(f) "Vision service provider" means:

(i) an optometrist; or

(ii) an individual who provides a vision service and is licensed under:

(A) Title 58, Chapter 67, Utah Medical Practice Act; or

(B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) (a) This section applies to:

(i) a vision plan that a person enters into or renews on or after January 1, 2019; and

(ii) an administrator providing third-party administration services or a provider network for a vision plan.

(b) This section does not apply to a self-insured vision plan that is regulated by federal law.

(3) A contract between a vision plan and a vision service provider to provide a covered service may not:

(a) except as provided in Subsection (4), require that a vision service provider provide a vision service to a covered individual at a fee set by, or a fee subject to the approval of, the vision plan unless the vision service is a covered service; or

(b) prohibit a vision service provider from offering or providing a vision service that is not a covered service to a covered individual at a fee determined by:

(i) the vision service provider; or

(ii) the vision service provider and the covered individual.

(4) (a) In accordance with Subsections (4)(b) and (c), a vision service provider may, in a contract with a vision plan, agree to participate in a discount program sponsored by the vision plan.

(b) A contract between a vision service provider and a vision plan to provide a covered service may not be contingent on whether the vision service provider agrees to participate in a discount program sponsored by the vision plan.

(c) Regardless of whether a vision service provider participates in a discount program sponsored by the vision plan, a vision plan shall offer equal treatment to a vision service provider

under contract with the vision plan to provide a covered service, regarding:

- (i) promotional treatment;
- (ii) marketing benefits;
- (iii) materials; and
- (iv) contract terms for providing a covered service.

(5) Notwithstanding Subsection (4)(c), a vision plan may, when providing a typically-formatted list of vision service providers that accept the vision plan, identify whether a vision service provider participates in a discount program sponsored by the vision plan.

CHAPTER 315**S. B. 238**

Passed March 8, 2018

Approved March 19, 2018

Effective May 8, 2018

**LEGISLATIVE HIRING
PRACTICES AMENDMENTS**

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies the Open and Public Meetings Act and the Government Records Access and Management Act in relation to the employment recommendation process for Legislative Management subcommittees.

Highlighted Provisions:

This bill:

- ▶ provides that certain meetings of the following subcommittees of the Legislative Management Committee are not subject to the provisions of the Open and Public Meetings Act when they are meeting in relation to making an employment recommendation to the Legislature:
 - the Research and General Counsel Subcommittee;
 - the Budget Subcommittee; and
 - the Audit Subcommittee; and
- ▶ classifies certain records relating to subcommittee employment recommendations of the Legislature as protected records.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-103, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441

63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 52-4-103 is amended to read:****52-4-103. Definitions.**

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the

express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;
- (d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance gathering or social gathering; or
- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as defined in Section 53A-1-1601, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity as defined in Section 53A-1-1601.

(b) "Public body" includes:

(i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking; and

(ii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council as defined in Section 53A-1a-108.1; ~~or~~

(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201[-]; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action,

either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated

transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

- (i) governmental property;
 - (ii) governmental programs; or
 - (iii) the property of a private person who provides the Division of Emergency Management information;
- (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;
- (50) as provided in Section 26-39-501:
- (a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and
 - (b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;
- (51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
- (a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
 - (b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
 - (i) the nature of the law, ordinance, rule, or order; and
 - (ii) the individual complying with the law, ordinance, rule, or order;
- (52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:
- (a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
 - (b) conducted using animals;
- (53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;
- (54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

- (55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;
- (56) records contained in the Management Information System created in Section 62A-4a-1003;
- (57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;
- (58) information requested by and provided to the 911 Division under Section 63H-7a-302;
- (59) in accordance with Section 73-10-33:
 - (a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or
 - (b) an outline of an emergency response plan in possession of the state or a county or municipality;
- (60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:
 - (a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;
 - (b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;
 - (c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;
 - (d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or
 - (e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;
- (61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; ~~and~~

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist~~[-];~~ and

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature.

CHAPTER 316**H. B. 14**

Passed March 6, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**SUBSTANCE ABUSE TREATMENT
 FACILITY PATIENT BROKERING**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Gene Davis

LONG TITLE**General Description:**

This bill makes remuneration for the referral of an individual for substance use disorder treatment an unlawful act.

Highlighted Provisions:

This bill:

- ▶ makes remuneration for the referral of an individual for substance use disorder treatment a class A misdemeanor;
- ▶ specifies permissible exceptions;
- ▶ defines terms; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-36a-103, as last amended by Laws of Utah 2013, Chapter 32
 26-36b-103, as enacted by Laws of Utah 2016, Chapter 279
 62A-2-101, as last amended by Laws of Utah 2017, Chapters 29, 148, and 209
 62A-2-116, as last amended by Laws of Utah 2016, Chapter 211
 63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415
 77-7a-104, as last amended by Laws of Utah 2017, Chapter 415

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

Section 1. Section 26-36a-103 is amended to read:**26-36a-103. Definitions.**

As used in this chapter:

(1) "Accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(2) "Assessment" means the Medicaid hospital provider assessment established by this chapter.

(3) "Discharges" means the number of total hospital discharges reported on worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of Health Care Financing of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) ~~[a residential care or treatment facility]~~ a human services program, as defined in Section 62A-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare cost report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 2. Section 26-36b-103 is amended to read:**26-36b-103. Definitions.**

As used in this chapter:

(1) "Assessment" means the inpatient hospital assessment established by this chapter.

(2) "CMS" means the same as that term is defined in Section 26-18-411.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(6) "Non-state government hospital":

(a) means a hospital owned by a non-state government entity; and

(b) does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(7) "Private hospital":

(a) means:

(i) a privately owned general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) a privately owned specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include a ~~[residential care or treatment facility]~~ human services program, as defined in Section 62A-2-101.

(8) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 3. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection ~~[(29)]~~ (33)(a); or

(B) provides the treatment or services described in Subsection ~~[(29)]~~ (33)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection ~~[(29)]~~ (33)(a) on a limited basis if:

(A) the treatment or services described in Subsection ~~[(29)]~~ (33)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection ~~[(29)]~~ (33)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection ~~[(29)]~~ (33)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means a person under 18 years of age.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) "Child-placing agency" means a person that engages in child placing.

(8) "Client" means an individual who receives or has received services from a licensee.

(9) “Day treatment” means specialized treatment that is provided to:

- (a) a client less than 24 hours a day; and
- (b) four or more persons who:
 - (i) are unrelated to the owner or provider; and
 - (ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(10) “Department” means the Department of Human Services.

(11) “Department contractor” means an individual who:

- (a) provides services under a contract with the department; and
- (b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(12) “Direct access” means that an individual has, or likely will have:

- (a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or
- (b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child’s parents or legal guardians, or the vulnerable adult.

(13) “Directly supervised” means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(14) “Director” means the director of the Office of Licensing.

(15) “Domestic violence” means the same as that term is defined in Section 77-36-1.

(16) “Domestic violence treatment program” means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(17) “Elder adult” means a person 65 years of age or older.

(18) “Executive director” means the executive director of the department.

(19) “Foster home” means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.

(20) “Health benefit plan” means the same as that term is defined in Section 31A-22-619.6.

(21) “Health care provider” means the same as that term is defined in Section 78B-3-403.

(22) “Health insurer” means the same as that term is defined in Section 31A-22-615.5.

~~[(20)]~~ (23) (a) “Human services program” means a:

- (i) foster home;
- (ii) therapeutic school;
- (iii) youth program;
- (iv) resource family home;
- (v) recovery residence; or
- (vi) facility or program that provides:
 - (A) secure treatment;
 - (B) inpatient treatment;
 - (C) residential treatment;
 - (D) residential support;
 - (E) adult day care;
 - (F) day treatment;
 - (G) outpatient treatment;
 - (H) domestic violence treatment;
 - (I) child-placing services;
 - (J) social detoxification; or

(K) any other human services that are required by contract with the department to be licensed with the department.

(b) “Human services program” does not include a boarding school.

~~[(21)]~~ (24) “Indian child” means the same as that term is defined in 25 U.S.C. Sec. 1903.

~~[(22)]~~ (25) “Indian country” means the same as that term is defined in 18 U.S.C. Sec. 1151.

~~[(23)]~~ (26) “Indian tribe” means the same as that term is defined in 25 U.S.C. Sec. 1903.

~~[(24)]~~ (27) “Licensee” means an individual or a human services program licensed by the office.

~~[(25)]~~ (28) “Local government” means a city, town, metro township, or county.

~~[(26)]~~ (29) “Minor” has the same meaning as “child.”

~~[(27)]~~ (30) “Office” means the Office of Licensing within the Department of Human Services.

~~[(28)]~~ (31) “Outpatient treatment” means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(32) “Practice group” or “group practice” means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

- (a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[29] (33) (a) “Recovery residence” means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance [abuse] use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance [abuse] use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance [abuse] use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) “Recovery residence” does not mean:

(i) a residential treatment program;

(ii) residential support; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[30] (34) “Regular business hours” means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[31] (35) (a) “Residential support” means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) “Residential support” includes providing a supervised living environment for persons with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) “Residential support” does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[32] (36) (a) “Residential treatment” means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) “Residential treatment” does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[33] (37) “Residential treatment program” means a human services program that provides:

(a) residential treatment; or

(b) secure treatment.

[34] (38) (a) “Secure treatment” means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) “Secure treatment” differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

[35] (39) “Social detoxification” means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(40) “Substance abuse disorder” or “substance use disorder” mean the same as “substance use disorder” is defined in Section 62A-15-1202.

~~[(36)]~~ (41) “Substance abuse treatment program” or “substance use disorder treatment program” means a program:

- (a) designed to provide:
 - (i) specialized drug or alcohol treatment;
 - (ii) rehabilitation; or
 - (iii) habilitation services; and
- (b) that provides the treatment or services described in Subsection ~~[(36)]~~ (40)(a) to persons with:
 - (i) a diagnosed substance ~~[abuse]~~ use disorder; or
 - (ii) chemical dependency disorder.

~~[(37)]~~ (42) “Therapeutic school” means a residential group living facility:

- (a) for four or more individuals that are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to:
 - (I) a disability;
 - (II) emotional development;
 - (III) behavioral development;
 - (IV) familial development; or
 - (V) social development.

~~[(38)]~~ (43) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

~~[(39)]~~ (44) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

~~[(40)]~~ (45) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
 - (ii) charges a fee for its services;
 - (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
 - (iv) may or may not provide all or part of its services in the outdoors;
 - (v) may or may not limit or censor access to parents or guardians; and
 - (vi) prohibits or restricts a minor’s ability to leave the program at any time of the minor’s own free will.
- (b) “Youth program” does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 4. Section 62A-2-116 is amended to read:

62A-2-116. Violation -- Criminal penalties.

(1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a human services program in violation of this chapter is guilty of a class A misdemeanor if the violation endangers or harms the health, welfare, or safety of persons participating in that program.

(b) Conviction in a criminal proceeding does not preclude the office from:

- (i) assessing a civil penalty or an administrative penalty;
- (ii) denying, placing conditions on, suspending, or revoking a license; or
- (iii) seeking injunctive or equitable relief.

(2) Any person that violates a provision of this chapter, lawful orders of the office, or rules adopted under this chapter may be assessed a penalty not to exceed the sum of \$10,000 per violation, in:

- (a) a judicial civil proceeding; or
 - (b) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (3) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:
- (a) seeking criminal penalties;
 - (b) denying, placing conditions on, suspending, or revoking a license; or
 - (c) seeking injunctive or equitable relief.
- (4) The office may assess the human services program the cost incurred by the office in placing a monitor.

(5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers, pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus, kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return for:

(a) referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder; or

(b) receiving a referred individual for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder.

(6) Subsection (5) does not prohibit:

(a) any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

(b) patient referrals within a practice group;

(c) payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance use disorder goods or services under a health benefit plan;

(d) payments to or by a health care provider, practice group, or substance use disorder treatment program that has contracted with a local mental health authority, a local substance abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance use disorder goods or services under a health benefit plan when the payments are for goods or services under the plan; or

(e) payments by a health care provider, practice group, or substance use disorder treatment program to a health, mental health, or substance use disorder information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, if the information service:

(i) does not attempt through standard questions for solicitation of consumer criteria or through any other means to steer or lead a consumer to select or consider selection of a particular health care provider, practice group, or substance use disorder treatment program;

(ii) does not provide or represent that the information service provides diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment; and

(iii) charges and collects fees from a health care provider, practice group, or substance use disorder treatment program participating in information services that are set in advance, are consistent with the fair market value for those information

services, and are not based on the potential value of a patient or patients to a health care provider, practice group, or substance use disorder treatment program of the goods or services provided by the health care provider, practice group, or substance use disorder treatment program.

Section 5. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing,

certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution

within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental unit under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the

Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint

regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in [Subsection 62A-2-101(19)(a)(vi)] Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; and

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist.

Section 6. Section 77-7a-104 is amended to read:

77-7a-104. Activation and use of body-worn cameras.

(1) An officer using a body-worn camera shall verify that the equipment is properly functioning as is reasonably within the officer's ability.

(2) An officer shall report any malfunctioning equipment to the officer's supervisor if:

(a) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

(b) an officer determines that the officer's body-worn camera is not functioning properly at any time while the officer is on duty.

(3) An officer shall wear the body-worn camera so that it is clearly visible to the person being recorded.

(4) An officer shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible.

(5) An officer shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section.

(6) When going on duty and off duty, an officer who is issued a body-worn camera shall record the

officer's name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera.

(7) If a body-worn camera was present during a law enforcement encounter, the officer shall document the presence of the body-worn camera in any report or other official record of a contact.

(8) When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer's direct participation in the law enforcement encounter is complete, except as provided in Subsection (9).

(9) An officer may deactivate a body-worn camera:

(a) to consult with a supervisor or another officer;

(b) during a significant period of inactivity; and

(c) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:

(i) the individual who is the subject of the recording requests that the officer deactivate the officer's body-worn camera; and

(ii) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera.

(10) If an officer deactivates a body-worn camera, the officer shall document the reason for deactivating a body-worn camera in a written report.

(11) (a) For purposes of this Subsection (11):

(i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(ii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iii) "Hospital" means the same as that term is defined in Section 78B-3-403.

(iv) "Human service program" means the same as that term is defined in [Subsection 62A-2-101(20)(a)(vi)] Section 62A-2-101.

(b) An officer may not activate a body-worn camera in a hospital, health care facility, human service program, or the clinic of a health care provider, except during a law enforcement encounter, and with notice under Section 77-7a-105.

CHAPTER 317**H. B. 30**

Passed February 9, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**UTAH ANTIDISCRIMINATION
ACT AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the Utah Antidiscrimination Act and the Administrative Procedures Act.

Highlighted Provisions:

This bill:

- ▶ removes a provision relating to the Utah Labor Commission Antidiscrimination and Labor Division (UALD) holding hearings upon receiving complaints;
- ▶ grants the UALD subpoena power during an investigation;
- ▶ permits the Career Service Review Office to request an investigation in certain circumstances;
- ▶ instructs the UALD to assign a mediator to offer mediation services between parties before an investigation begins;
- ▶ removes language instructing mediators to attempt a settlement between parties by conciliation and persuasion;
- ▶ requires notification to parties regarding the right to request an evidentiary hearing;
- ▶ excludes the issuance of a determination and order from the Utah Administrative Procedures Act;
- ▶ removes a provision requiring a finding before an investigation begins; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-5-102.5, as enacted by Laws of Utah 2015, Chapter 13
 34A-5-104, as last amended by Laws of Utah 2017, Chapter 18
 34A-5-107, as last amended by Laws of Utah 2016, Chapter 132
 34A-5-108, as last amended by Laws of Utah 2008, Chapter 382
 63G-4-102, as last amended by Laws of Utah 2015, Chapter 441

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

Section 1. Section 34A-5-102.5 is amended to read:

34A-5-102.5. Supremacy over local regulations -- No special class created for other purposes.

(1) ~~[Consistent with the requirements of Subsection 34A-5-107(15), this]~~ This chapter supersedes and preempts any ordinance, regulation, standard, or other legal action by a local government entity, a state entity, or the governing body of a political subdivision that relates to the prohibition of discrimination in employment.

(2) This chapter shall not be construed to create a special or protected class for any purpose other than employment.

Section 2. Section 34A-5-104 is amended to read:**34A-5-104. Powers.**

(1) (a) The commission has jurisdiction over the subject of employment practices and discrimination made unlawful by this chapter.

(b) The commission may adopt, publish, amend, and rescind rules, consistent with, and for the enforcement of this chapter.

(2) The division may:

(a) appoint and prescribe the duties of an investigator, other employee, or agent of the commission that the commission considers necessary for the enforcement of this chapter;

(b) receive, reject, investigate, and pass upon complaints alleging:

(i) discrimination in:

(A) employment;

(B) an apprenticeship program;

(C) an on-the-job training program; or

(D) a vocational school; or

(ii) the existence of a discriminatory or prohibited employment practice by:

(A) a person;

(B) an employer;

(C) an employment agency;

(D) a labor organization;

(E) an employee or member of an employment agency or labor organization;

(F) a joint apprenticeship committee; and

(G) a vocational school;

(c) investigate and study the existence, character, causes, and extent of discrimination in employment, apprenticeship programs, on-the-job training programs, and vocational schools in this state by:

(i) employers;

(ii) employment agencies;

(iii) labor organizations;

(iv) joint apprenticeship committees; and

(v) vocational schools;

(d) formulate plans for the elimination of discrimination by educational or other means;

~~[(c) hold hearings upon complaint made against:]~~
~~[(i) a person;]~~
~~[(ii) an employer;]~~
~~[(iii) an employment agency;]~~
~~[(iv) a labor organization;]~~
~~[(v) an employee or member of an employment agency or labor organization;]~~
~~[(vi) a joint apprenticeship committee; or]~~
~~[(vii) a vocational school;]~~

~~[(f)] (e)~~ issue publications and reports of investigations and research that:

(i) promote good will among the various racial, religious, and ethnic groups of the state; and

(ii) minimize or eliminate discrimination in employment because of race, color, sex, religion, national origin, age, disability, sexual orientation, or gender identity;

~~[(g)] (f)~~ prepare and transmit to the governor, at least once each year, reports describing:

(i) ~~[(the division's) division proceedings[, and investigations[, and hearings];]~~

~~[(ii) the outcome of those hearings;]~~

~~[(iii)] (ii)~~ decisions the division renders; and

~~[(iv) the] (iii)~~ other work performed by the division;

~~[(h)] (g)~~ recommend policies to the governor, and submit recommendation to employers, employment agencies, and labor organizations to implement those policies;

~~[(i)] (h)~~ recommend legislation to the governor that the division considers necessary concerning discrimination because of:

(i) race;

(ii) sex;

(iii) color;

(iv) national origin;

(v) religion;

(vi) age;

(vii) disability;

(viii) sexual orientation; or

(ix) gender identity; and

~~[(j)] (i)~~ within the limits of appropriations made for ~~[(its)] the division's~~ operation, cooperate with other agencies or organizations, both public and private, in the planning and conducting of educational programs designed to eliminate discriminatory practices prohibited under this chapter.

(3) ~~[(The)]~~ In addition to processing complaints made in accordance with this chapter, the division shall investigate an alleged discriminatory practice

involving an officer or employee of state government ~~[(if) when requested [(to do so)] by the Career Service Review Office.~~

(4) (a) In ~~[(a hearing)]~~ an investigation held under this chapter, the division may subpoena a person to compel the person to:

(i) ~~[(subpoena witnesses and compel their attendance at the hearing;)]~~ cooperate and participate in an interview; or

~~[(ii) administer oaths and take the testimony of a person under oath; and]~~

~~[(iii)] (ii)~~ ~~[(compel a person to)]~~ produce for examination a book, paper, or other information relating to the matters raised by the complaint.

~~[(b) The division director or a hearing examiner appointed by the division director may conduct a hearing.]~~

~~[(e)] (b)~~ If a ~~[(witness)]~~ person fails or refuses to obey a subpoena issued by the division, the division may petition the district court to enforce the subpoena.

~~[(d)] (c)~~ If a ~~[(witness)]~~ person asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

(5) In 2018, before November 1, the division shall submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee on the effectiveness of the commission and state law in addressing discrimination in matters of compensation.

Section 3. Section 34A-5-107 is amended to read:

34A-5-107. Procedure for aggrieved person to file claim -- Investigations -- Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.

(1) (a) A person claiming to be aggrieved by a discriminatory or prohibited employment practice may, or that person's attorney or agent may, make, sign, and file with the division a request for agency action.

(b) A request for agency action shall be verified under oath or affirmation.

(c) A request for agency action made under this section shall be filed within 180 days after the alleged discriminatory or prohibited employment practice occurs.

(d) The division may transfer a request for agency action filed with the division pursuant to this section to the federal Equal Employment Opportunity Commission in accordance with a work-share agreement that is:

(i) between the division and the Equal Employment Opportunity Commission; and

(ii) in effect on the day on which the request for agency action is transferred.

(2) An employer, labor organization, joint apprenticeship committee, or vocational school who

has an employee or member who refuses or threatens to refuse to comply with this chapter may file with the division a request for agency action asking the division for assistance to obtain the employee's or member's compliance by conciliation or other remedial action.

(3) (a) ~~Before [a hearing is set or held as part of any adjudicative proceeding] an investigation begins into allegations of discriminatory or prohibited employment practice, the division shall promptly assign [an investigator to attempt a settlement] a mediator to offer mediation services between the parties by conference, conciliation, or persuasion.~~

(b) (i) If mediation services are refused or no settlement is reached, the division shall promptly assign an investigator.

(ii) The investigator shall make a prompt impartial investigation of all allegations made in the request for agency action.

(c) The division and [its] the division's staff, agents, and employees[-(i)] shall conduct every investigation in fairness to all parties and agencies involved[, and].

~~[(ii) may not attempt a settlement between the parties if it is clear that no discriminatory or prohibited employment practice has occurred.]~~

(d) An aggrieved party may withdraw the request for agency action prior to the issuance of a final order.

(4) (a) If the initial attempts at settlement are unsuccessful, and the investigator uncovers insufficient evidence during the investigation to support the allegations of a discriminatory or prohibited employment practice set out in the request for agency action, the investigator shall formally report these findings to the director or the director's designee.

(b) (i) Upon receipt of the investigator's report described in Subsection (4)(a), the director or the director's designee may issue a determination and order for dismissal of the adjudicative proceeding.

(ii) A determination and order issued under this Subsection (4)(b) shall include a notice:

(A) of the right to request an evidentiary hearing under Subsection (4)(c); and

(B) that failure to request an evidentiary hearing under Subsection (4)(c) will result in the determination and order becoming final, in accordance with Subsection (4)(d).

(c) A party may make a written request to the Division of Adjudication for an evidentiary hearing to review de novo the director's or the director's designee's determination and order within 30 days ~~[of the date]~~ from the day on which the determination and order for dismissal is issued.

(d) If the director or the director's designee receives no timely request for a hearing, the determination and order issued by the director or

the director's designee becomes the final order of the commission.

(5) (a) If the initial attempts at settlement are unsuccessful and the investigator uncovers sufficient evidence during the investigation to support the allegations of a discriminatory or prohibited employment practice set out in the request for agency action, the investigator shall formally report these findings to the director or the director's designee.

(b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the director or the director's designee may issue a determination and order based on the investigator's report.

(ii) A determination and order issued under this Subsection (5)(b) shall:

(A) direct the respondent to cease any discriminatory or prohibited employment practice; ~~and]~~

(B) provide relief to the aggrieved party as the director or the director's designee determines is appropriate[-];

(C) include a notice of the right to request an evidentiary hearing under Subsection (5)(c); and

(D) include a notice that failure to request an evidentiary hearing under Subsection (5)(c) will result in the determination and order becoming final, in accordance with Subsection (5)(d).

(c) A party may file a written request to the Division of Adjudication for an evidentiary hearing to review de novo the director's or the director's designee's determination and order within 30 days ~~[of the date]~~ after the day on which the determination and order is issued.

(d) If the director or the director's designee receives no timely request for a hearing, the determination and order issued by the director or the director's designee in accordance with Subsection (5)(b) becomes the final order of the commission.

(6) In an adjudicative proceeding to review the director's or the director's designee's determination that a prohibited employment practice has occurred, the division shall present the factual and legal basis of the determination ~~[or]~~ and order issued under Subsection (5).

~~[(7) (a) Before the commencement of an evidentiary hearing:]~~

~~[(i) the party filing the request for agency action may reasonably and fairly amend any allegation; and]~~

~~[(ii) the respondent may amend its answer.]~~

~~[(b) An amendment permitted under this Subsection (7) may be made:]~~

~~[(i) during or after a hearing; and]~~

~~[(ii) only with permission of the presiding officer.]~~

~~[(8)]~~ (7) (a) If, upon reviewing all the evidence at a hearing, the presiding officer finds that a

respondent has not engaged in a discriminatory or prohibited employment practice, the presiding officer shall issue an order dismissing the request for agency action containing the allegation of a discriminatory or prohibited employment practice.

(b) The presiding officer may order that the respondent be reimbursed by the complaining party for the respondent's ~~attorneys'~~ attorney fees and costs.

~~[(9)]~~ (8) If, upon reviewing all the evidence at the hearing, the presiding officer finds that a respondent has engaged in a discriminatory or prohibited employment practice, the presiding officer shall issue an order requiring the respondent to:

(a) cease any discriminatory or prohibited employment practice;

(b) provide relief to the complaining party, including:

(i) reinstatement;

(ii) back pay and benefits;

(iii) attorney fees; and

(iv) costs.

~~[(10)]~~ (9) If a discriminatory practice described in Subsection ~~[(9)]~~ (8) includes discrimination in matters of compensation, the presiding officer may provide, to the complaining party, in addition to the amount available to the complaining party under Subsection ~~[(9)]~~ (8)(b), an additional amount equal to the amount of back pay available to the complaining party under Subsection ~~[(9)]~~ (8)(b)(ii) unless a respondent shows that:

(a) the act or omission that gave rise to the order was in good faith; and

(b) the respondent had reasonable grounds to believe that the act or omission was not discrimination in matters of compensation under this chapter.

~~[(11)]~~ (10) Conciliation between the parties is to be urged and facilitated at all stages of the adjudicative process.

~~[(12)]~~ (11) (a) Either party may file with the Division of Adjudication a written request for review before the commissioner or Appeals Board of the order issued by the presiding officer in accordance with:

(i) Section 63G-4-301; and

(ii) Chapter 1, Part 3, Adjudicative Proceedings.

(b) If there is no timely request for review, the order issued by the presiding officer becomes the final order of the commission.

~~[(13)]~~ (12) An order of the commission under Subsection ~~[(12)]~~ (11)(a) is subject to judicial review as provided in:

(a) Section 63G-4-403; and

(b) Chapter 1, Part 3, Adjudicative Proceedings.

~~[(14)]~~ (13) The commission may make rules concerning procedures under this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(15)]~~ (14) The commission and its staff may not divulge or make public information gained from an investigation, settlement negotiation, or proceeding before the commission except as provided in Subsections ~~[(15)]~~ (14)(a) through (d).

(a) Information used by the director or the director's designee in making a determination may be provided to all interested parties for the purpose of preparation for and participation in proceedings before the commission.

(b) General statistical information may be disclosed provided the identities of the individuals or parties are not disclosed.

(c) Information may be disclosed for inspection by the attorney general or other legal representatives of the state or the commission.

(d) Information may be disclosed for information and reporting requirements of the federal government.

~~[(16)]~~ (15) The procedures contained in this section are the exclusive remedy under state law for employment discrimination based upon:

(a) race;

(b) color;

(c) sex;

(d) retaliation;

(e) pregnancy, childbirth, or pregnancy-related conditions;

(f) age;

(g) religion;

(h) national origin;

(i) disability;

(j) sexual orientation; or

(k) gender identity.

~~[(17)]~~ (16) (a) The commencement of an action under federal law for relief based upon an act prohibited by this chapter bars the commencement or continuation of an adjudicative proceeding before the commission in connection with the same claim under this chapter.

(b) The transfer of a request for agency action to the Equal Employment Opportunity Commission in accordance with Subsection (1)(d) is considered the commencement of an action under federal law for purposes of Subsection ~~[(17)]~~ (16)(a).

(c) Nothing in this Subsection ~~[(17)]~~ (16) is intended to alter, amend, modify, or impair the exclusive remedy provision set forth in Subsection ~~[(16)]~~ (15).

Section 4. Section 34A-5-108 is amended to read:

34A-5-108. Judicial enforcement of division findings.

(1) The commission or the attorney general at the request of the commission shall commence an action under Section 63G-4-501 for civil enforcement of a final order of the commission issued under ~~Subsection~~ Section 34A-5-107~~(11)~~ if:

(a) the order finds that there is reasonable cause to believe that a respondent has engaged or is engaging in discriminatory or prohibited employment practices made unlawful by this chapter;

(b) counsel to the commission or the attorney general determines after reasonable inquiry that the order is well grounded in fact and is warranted by existing law;

(c) the respondent has not received an order of automatic stay or discharge from the United States Bankruptcy Court; and

(d) (i) the commission has not accepted a conciliation agreement to which the aggrieved party and respondent are parties; or

(ii) the respondent has not conciliated or complied with the final order of the commission within 30 days from the date the order is issued.

(2) If the respondent seeks judicial review of the final order under Section 63G-4-403, pursuant to Section 63G-4-405 the commission may stay seeking civil enforcement pending the completion of the judicial review.

Section 5. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or

termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch

Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Title 63G, Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, valves, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1); ~~and~~

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action[-]; or

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

CHAPTER 318**H. B. 37**

Passed February 9, 2018

Approved March 20, 2018

Effective May 8, 2018

(Exception clause in Section 52)

**OCCUPATIONAL AND PROFESSIONAL
LICENSING AMENDMENTS**

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies statutory provisions related to the Division of Occupational and Professional Licensing (DOPL).

Highlighted Provisions:

This bill:

- ▶ modifies DOPL's authority to share certain licensee information;
- ▶ modifies provisions related to unlawful and unprofessional conduct;
- ▶ modifies provisions related to unpaid penalties;
- ▶ modifies the exemptions from licensure and other requirements related to cosmetology and associated professions;
- ▶ modifies background check requirements and other requirements for certain medical professions;
- ▶ modifies certain contractor licensing requirements;
- ▶ modifies the membership of the Hunting Guides and Outfitters Licensing Board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

58-1-106, as last amended by Laws of Utah 2016, Chapter 238
 58-1-301.5, as last amended by Laws of Utah 2013, Chapter 262
 58-1-501, as last amended by Laws of Utah 2014, Chapter 408
 58-1-502, as last amended by Laws of Utah 2016, Chapter 238
 58-3a-502, as last amended by Laws of Utah 2013, Chapter 278
 58-11a-304, as last amended by Laws of Utah 2013, Chapter 13
 58-11a-306, as last amended by Laws of Utah 2016, Chapter 274
 58-11a-503, as last amended by Laws of Utah 2014, Chapter 100
 58-17b-307, as last amended by Laws of Utah 2012, Chapter 93
 58-17b-504, as last amended by Laws of Utah 2011, Chapter 23
 58-22-503, as last amended by Laws of Utah 2017, Chapter 218
 58-24b-302, as last amended by Laws of Utah 2017, Chapter 164

58-24b-303, as last amended by Laws of Utah 2016, Chapter 238
 58-28-503, as last amended by Laws of Utah 2008, Chapter 382
 58-31b-201, as last amended by Laws of Utah 2010, Chapter 372
 58-31b-302, as last amended by Laws of Utah 2014, Chapter 316
 58-31b-503, as last amended by Laws of Utah 2011, Chapter 340
 58-37-6, as last amended by Laws of Utah 2017, Chapter 237
 58-37-6.5, as last amended by Laws of Utah 2017, Chapter 180
 58-37f-401, as last amended by Laws of Utah 2011, Chapter 23
 58-37f-402, as last amended by Laws of Utah 2013, Chapter 450
 58-44a-402, as last amended by Laws of Utah 2008, Chapter 382
 58-47b-501, as last amended by Laws of Utah 2000, Chapter 309
 58-53-502, as last amended by Laws of Utah 2008, Chapter 382
 58-55-305, as last amended by Laws of Utah 2013, Chapters 430 and 449
 58-55-501, as last amended by Laws of Utah 2014, Chapter 188
 58-55-503, as last amended by Laws of Utah 2017, Chapter 339
 58-56-9.5, as last amended by Laws of Utah 2010, Chapter 278
 58-60-117, as last amended by Laws of Utah 2015, Chapter 197
 58-63-503, as last amended by Laws of Utah 2008, Chapters 246 and 382
 58-67-302, as last amended by Laws of Utah 2012, Chapters 162 and 225
 58-67-302.5, as last amended by Laws of Utah 2011, Chapter 214
 58-67-302.7, as last amended by Laws of Utah 2015, Chapter 258
 58-67-302.8 (Effective 07/01/18), as enacted by Laws of Utah 2017, Chapter 299
 58-67-304 (Superseded 07/01/18), as last amended by Laws of Utah 2011, Chapters 161 and 214
 58-67-304 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 299
 58-67-403, as last amended by Laws of Utah 2011, Chapter 214
 58-67-503, as last amended by Laws of Utah 2012, Chapter 369
 58-68-302, as last amended by Laws of Utah 2012, Chapters 162 and 225
 58-68-302.5 (Effective 07/01/18), as enacted by Laws of Utah 2017, Chapter 299
 58-68-304 (Superseded 07/01/18), as last amended by Laws of Utah 2011, Chapters 161 and 214
 58-68-304 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 299
 58-68-403, as last amended by Laws of Utah 2011, Chapter 214
 58-68-503, as last amended by Laws of Utah 2012, Chapter 369

58-71-503, as enacted by Laws of Utah 1996, Chapter 282

58-76-502, as last amended by Laws of Utah 2008, Chapter 382

58-79-201, as enacted by Laws of Utah 2009, Chapter 52

78B-3-416, as last amended by Laws of Utah 2010, Chapters 97 and 286

ENACTS:

58-24b-302.1, Utah Code Annotated 1953

58-67-302.1, Utah Code Annotated 1953

58-68-302.1, Utah Code Annotated 1953

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

Section 1. Section 58-1-106 is amended to read:

58-1-106. Division -- Duties, functions, and responsibilities.

(1) The duties, functions, and responsibilities of the division include the following:

(a) prescribing, adopting, and enforcing rules to administer this title;

(b) investigating the activities of any person whose occupation or profession is regulated or governed by the laws and rules administered and enforced by the division;

(c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum the production of any books, papers, documents, records, contracts, recordings, tapes, correspondence, or information relevant to an investigation upon a finding of sufficient need by the director or by the director's designee;

(d) taking administrative and judicial action against persons in violation of the laws and rules administered and enforced by the division, including the issuance of cease and desist orders;

(e) seeking injunctions and temporary restraining orders to restrain unauthorized activity;

(f) complying with Title 52, Chapter 4, Open and Public Meetings Act;

(g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or otherwise acting upon any license;

(h) preparing and submitting to the governor and the Legislature an annual report of the division's operations, activities, and goals;

(i) preparing and submitting to the executive director a budget of the expenses for the division;

(j) establishing the time and place for the administration of examinations; and

(k) preparing lists of licensees and making these lists available to the public at cost upon request unless otherwise prohibited by state or federal law.

(2) The division may not include home telephone numbers or home addresses of licensees on the lists prepared under Subsection (1)(k), except as

otherwise provided by rules of the division made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) The division may provide the home address or home telephone number of a licensee on a list prepared under Subsection (1) upon the request of an individual who provides proper identification and the reason for the request, in writing, to the division.

(b) A request under Subsection (3)(a) is limited to providing information on only one licensee per request.

(c) The division shall provide, by rule, what constitutes proper identification under Subsection (3)(a).

(4) (a) Notwithstanding any contrary provisions in Title 63G, Chapter 2, Government Records Access and Management Act, the division may share licensee information with:

(i) the division's contracted agents when sharing the information in compliance with state or federal law; and

(ii) a person who is evaluating the progress or monitoring the compliance of an individual who has been disciplined by the division under this title.

(b) The division may make rules to implement the provisions of this Subsection (4).

(5) All rules made by the division under this title shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to criminal background information maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of persons who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307 of Title 58, Chapter 17b, Pharmacy Practice Act;

(b) Sections 58-24b-302 and 58-24b-302.1 of Title 58, Chapter 24b, Physical Therapy Practice Act;

~~(c)~~ (c) Section 58-31b-302 of Title 58, Chapter 31b, Nurse Practice Act;

~~(d)~~ (d) Section 58-47b-302 of Title 58, Chapter 47b, Massage Therapy Practice Act;

~~(e)~~ (e) Section 58-55-302 of Title 58, Chapter 55, Utah Construction Trades Licensing Act, as it applies to alarm companies and alarm company agents;

~~(f)~~ (f) Section 58-63-302 of Title 58, Chapter 63, Security Personnel Licensing Act; ~~and~~

~~(g)~~ (g) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners Licensing Act[-];

(h) Sections 58-67-302 and 58-67-302.1 of Title 58, Chapter 67, Utah Medical Practice Act; and

(i) Sections 58-68-302 and 58-68-302.1 of Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 3. Section 58-1-501 is amended to read:

58-1-501. Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing

board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission; or

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or

(o) violating the terms of an order governing a license.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

Section 4. Section 58-1-502 is amended to read:

58-1-502. Unlawful and unprofessional conduct -- Penalties.

(1) Unless otherwise specified in this title, a person who violates the unlawful conduct provisions defined in this title is guilty of a class A misdemeanor.

(2) (a) In addition to any other statutory penalty for a violation related to a specific occupation or profession regulated by this title, if upon inspection or investigation, the division concludes that a person has violated Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to those subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly:

(i) issue a citation to the person according to this section and any pertinent rules;

(ii) attempt to negotiate a stipulated settlement; or

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

(b) (i) The division may assess a fine under this Subsection (2) against a person who violates Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to those subsections, as evidenced by:

(A) an uncontested citation;

(B) a stipulated settlement; or

(C) a finding of a violation in an adjudicative proceeding.

(ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i), order the person to cease and desist from violating Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to those subsections.

(c) Except for a cease and desist order, the division may not assess the licensure sanctions cited in Section 58-1-401 through a citation.

(d) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

(e) The division may issue a notice in lieu of a citation.

(f) (i) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(i) The division may not issue a citation under this section after the expiration of one year following the occurrence of a violation.

(j) The director or the director's designee shall assess fines according to the following:

(i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000; and

(iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000 for each day of continued offense.

(3) (a) An action for a first or second offense that has not yet resulted in a final order of the division may not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(4) (a) The director may collect a penalty that is not paid by:

(i) ~~either~~ referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect ~~the~~ a penalty.

(c) A court may award reasonable attorney fees and costs to the ~~division~~ prevailing party in an action brought by the division to ~~enforce the provisions of this section~~ collect a penalty.

Section 5. Section 58-3a-502 is amended to read:

58-3a-502. Penalty for unlawful conduct.

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to

appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to Section 58-3a-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-3a-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

~~[(3) Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state shall provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded to the division.]~~

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 6. Section 58-11a-304 is amended to read:

58-11a-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology without being licensed under this chapter:

(1) a person licensed under the laws of this state to engage in the practice of medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they are licensed;

(2) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;

(3) a registered nurse, undertaker, or mortician licensed under the laws of this state when engaged in the practice of the profession for which the person is licensed;

(4) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;

(5) a person who engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology without compensation;

(6) a person instructing an adult education class or other educational program directed toward persons who are not licensed under this chapter and that is not intended to train persons to become licensed under this chapter, provided:

(a) an attendee receives no credit toward educational requirements for licensure under this chapter;

(b) the instructor informs each attendee in writing that taking such a class or program will not certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(c) (i) the instructor is properly licensed; or

(ii) the instructor receives no compensation;

(7) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians;

(8) a person enrolled in a licensed barber or cosmetology/barber school when participating in an on the job training internship under the direct supervision of a licensed barber or cosmetologist/barber upon completion of a basic program under the standards established by rule by the division in collaboration with the board;

(9) a person enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

(10) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to a potential customer, provided the employee makes no representation to a potential customer that attending such a demonstration will certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter;

(11) a person who:

(a) is qualified to engage in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail

technology in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

(b) is employed by, or under contract with, a motion picture company; and

(c) engages in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology in the state:

(i) solely to assist in the production of a motion picture; and

(ii) for no more than 120 days per calendar year; and

(12) a person who:

(a) engages in hair braiding; and

(b) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter.

Section 7. Section 58-11a-306 is amended to read:

58-11a-306. Apprenticeship.

(1) An approved barber apprenticeship shall:

(a) consist of not less than 1,250 hours of training in not less than eight months; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a barber instructor or a cosmetology/barber instructor; and

(ii) provides one-on-one direct supervision of the barber apprentice during the apprenticeship program.

(2) An approved cosmetologist/barber apprenticeship shall:

(a) consist of not less than 2,500 hours of training in not less than 15 months; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a cosmetologist/barber instructor; and

(ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice during the apprenticeship program.

(3) An approved esthetician apprenticeship shall:

(a) consist of not less than 800 hours of training in not less than five months; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as an esthetician instructor; and

(ii) provides one-on-one direct supervision of the esthetician apprentice during the apprenticeship program.

(4) An approved master esthetician apprenticeship shall:

(a) consist of not less than 1,500 hours of training in not less than 10 months; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a master-level esthetician instructor; and

(ii) provides one-on-one direct supervision of the master esthetician apprentice during the apprenticeship program.

(5) An approved nail technician apprenticeship shall:

(a) consist of not less than 375 hours of training in not less than three months; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber instructor; ~~and~~

(ii) provides ~~one-on-one~~ direct supervision of the nail technician apprentice during the apprenticeship program~~[-]~~; and

(iii) provides direct supervision to no more than two nail technician apprentices during the apprentice program.

(6) A person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter shall:

(a) register with the division before beginning the training requirements by:

(i) submitting a form prescribed by the division, which includes the name of the licensed supervisor; and

(ii) paying a fee determined by the department under Section 63J-1-504;

(b) complete the apprenticeship within five years of the date on which the division approves the registration; and

(c) notify the division within 30 days if the licensed supervisor changes after the registration is approved by the division.

(7) Notwithstanding Subsection (6), if a person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter registers with the division before January 1, 2017, any training requirements completed by the person as an apprentice in an approved apprenticeship before registration may be applied to successful completion of the approved apprenticeship.

Section 8. Section 58-11a-503 is amended to read:

58-11a-503. Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-11a-502 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

(2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code,

shall be subject to the applicable penalties in Title 76, Utah Criminal Code.

(3) Grounds for immediate suspension of a licensee's license by the division include the issuance of a citation for violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7).

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7), or a rule or order issued with respect to Subsection 58-11a-502(1), (2), (4), (5), (6), or (7), and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-11a-502(1), (2), (4), (5), (6), or (7).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-11a-401 may not be assessed through a citation.

(b) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

(c) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director or by mail.

(d) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) No citation may be issued under this section after the expiration of six months following the occurrence of a violation.

(h) Fines shall be assessed by the director or the director's designee according to the following:

(i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7); or

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-11a-502(1), (2), (4), (5), (6), or (7); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund.

(b) A penalty which is not paid may be collected by the director by either:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state ~~[is to]~~ shall provide legal assistance and advice to the director in an action to collect ~~[the]~~ a penalty.

(d) A court shall award reasonable attorney fees and costs ~~[in an action brought to enforce the provisions of this section]~~ to the prevailing party in an action brought by the division to collect a penalty.

Section 9. Section 58-17b-307 is amended to read:

58-17b-307. Qualification for licensure -- Criminal background checks.

(1) An applicant for licensure under this chapter shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) in accordance with this section and requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a fingerprint background check regarding the application conducted by the:

- (i) Utah Bureau of Criminal Identification; and
- (ii) Federal Bureau of Investigation.

~~[(2) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant through the National Criminal History System (NCIC) or any successor system.]~~

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records, a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

~~[(3)]~~ (4) For purposes of conducting the criminal background check required in Subsection (1), the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

~~[(4)]~~ (5) (a) A new pharmacist, pharmacy intern, or pharmacy technician license issued under this section is conditional, pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection (1), discloses the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

~~[(5)]~~ (6) (a) A person whose conditional license has been revoked under Subsection ~~[(4)]~~ (5) is entitled to a postrevocation hearing to challenge the revocation.

(b) The division shall conduct ~~[the]~~ a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 10. Section 58-17b-504 is amended to read:

58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.

(1) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

(2) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

(3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts of unprofessional or unlawful conduct, the division may:

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

(b) An administrative penalty imposed pursuant to this section shall be deposited in the General Fund as a dedicated credit to be used by the division for pharmacy licensee education and enforcement as provided in Section 58-17b-505.

(4) If a licensee has been convicted of violating Section 58-17b-501 prior to an administrative

finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

(5) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) Any person who is in violation of the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any rule or order issued with respect to these provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-17b-401 may not be assessed through a citation.

(d) Each citation shall be in writing and specifically describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated. The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act. The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(e) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(f) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

(h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(i) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(6) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 11. Section 58-22-503 is amended to read:

58-22-503. Penalties and administrative actions for unlawful or unprofessional conduct.

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to Section 58-22-501 or 58-22-502.5, and that disciplinary action is appropriate, the director or the director's designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to Section 58-22-501 or 58-22-502.5, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and

may, in addition to or in lieu of, be ordered to cease and desist from violating Section 58-1-501, 58-22-501, or 58-22-502.5, or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-22-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

~~(3) Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state shall provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded to the division.~~

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 12. Section 58-24b-302 is amended to read:

58-24b-302. Licensure.

(1) An applicant for a license as a physical therapist shall:

(a) be of good moral character;

(b) complete the application process, including payment of fees;

(c) submit proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency;

(d) after complying with Subsection (1)(c), pass a licensing examination;

(e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; ~~and~~

(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact, consent to a criminal background check in

accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(f)]~~ (g) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for a license as a physical therapist assistant shall:

(a) be of good moral character;

(b) complete the application process, including payment of fees set by the division, in accordance with Section 63J-1-504, to recover the costs of administering the licensing requirements relating to physical therapist assistants;

(c) submit proof of graduation from a physical therapist assistant education program that is accredited by a recognized accreditation agency;

(d) after complying with Subsection (2)(c), pass a licensing examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(f) submit to, and pass, a criminal background check, in accordance with Section 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(g) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for a license as a physical therapist who is educated outside of the United States shall:

(a) be of good moral character;

(b) complete the application process, including payment of fees;

(c) (i) provide satisfactory evidence that the applicant graduated from a professional physical therapist education program that is accredited by a recognized accreditation agency; or

(ii) (A) provide satisfactory evidence that the applicant graduated from a physical therapist education program that prepares the applicant to engage in the practice of physical therapy, without restriction;

(B) provide satisfactory evidence that the education program described in Subsection (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical therapist

education program in the country where the program is located; and

(C) pass a credential evaluation to ensure that the applicant has satisfied uniform educational requirements;

(d) after complying with Subsection (3)(c), pass a licensing examination;

(e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; ~~and~~

(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(f)]~~ (g) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall issue a license to a person who holds a current unrestricted license to practice physical therapy in a state, district, or territory of the United States of America, other than Utah, if the person:

(a) is of good moral character;

(b) completes the application process, including payment of fees; ~~and~~

(c) is able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board~~[-];~~

(d) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact, consents to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) meets any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an internship in physical therapy, unless the person is:

(i) certified by the division; or

(ii) exempt from licensure under Section 58-24b-304.

(b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is participating in the supervised clinical training program for the purpose of becoming a physical therapist or a physical therapist assistant.

Section 13. Section 58-24b-302.1 is enacted to read:

58-24b-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new physical therapist assistant license issued under Subsection 58-24b-302(2) is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection 58-24b-302(2) demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) The division may not issue a letter of qualification to participate in the Physical Therapy Licensure Compact until the criminal background check described in this section is completed.

Section 14. Section 58-24b-303 is amended to read:

58-24b-303. Term of license -- Renewal -- Temporary license for physical therapist assistant.

(1) A license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. The division may, by rule, extend or shorten a license renewal process by one year in order to stagger the renewal cycles that the division administers.

(2) At the time of license renewal, the licensee shall provide satisfactory evidence that the licensee completed continuing education competency requirements, established by the division, by rule.

(3) If a license renewal cycle is shortened or extended under Subsection (1), the division shall increase or reduce the required continuing education competency requirements accordingly.

(4) A license issued under this chapter expires on the expiration date indicated on the license, unless the license is renewed under this section.

~~(5) Notwithstanding any other provision of this chapter, the division may, by rule, grant a temporary license, that expires on July 1, 2014, as a physical therapist assistant to an individual who:~~

~~(a) was working as a physical therapist assistant in Utah before July 1, 2009; and~~

~~(b) complies with the requirements described in Subsections 58-24b-302(2)(a), (b), (c), (e), and (f).]~~

Section 15. Section 58-28-503 is amended to read:

58-28-503. Penalty for unlawful or unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is guilty of a third degree felony.

(2) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Chapter 1, Division of Occupational and Professional Licensing Act, the division may impose administrative penalties of up to \$10,000 for acts of

unprofessional conduct or unlawful conduct under this chapter.

(3) Assessment of a penalty under this section does not affect any other action the division is authorized to take regarding a license issued under this chapter.

(4) (a) The director may collect a penalty that is not paid by:

- (i) referring the matter to a collection agency; or
- (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 16. Section 58-31b-201 is amended to read:

58-31b-201. Board.

(1) There is created the Board of Nursing that consists of the following 11 members:

(a) nine nurses in a manner as may be further defined in division rule; and

(b) two members of the public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The board shall carry out the duties and responsibilities in Sections 58-1-202 and 58-1-203 and shall:

(a) (i) recommend to the division minimum standards for educational programs qualifying a person for licensure or certification under this chapter;

(ii) recommend to the division denial, approval, or withdrawal of approval regarding educational programs that meet or fail to meet the established minimum standards; and

(iii) designate one of its members on a permanent or rotating basis to:

(A) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(B) advise the division in its investigation of these complaints.

(b) A board member who has, under Subsection (3)(a)(iii), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

~~[(4) (a) The director shall appoint an individual to serve as an ex officio member of the Board of~~

~~Nursing to represent the position of the division in matters considered by the board.]~~

~~[(b) The ex officio member shall be a licensed registered nurse, shall have earned a masters degree in nursing, and shall have a minimum of five years of experience working in nursing administration or nursing education.]~~

Section 17. Section 58-31b-302 is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background checks.

(1) An applicant for certification as a medication aide shall:

(a) submit an application to the division on a form prescribed by the division;

(b) pay a fee to the division as determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) have a current certification as a nurse aide, in good standing, from the Department of Health;

(e) have a minimum of 2,000 hours of experience within the two years prior to application, working as a certified nurse aide in a long-term care facility;

(f) obtain letters of recommendation from a long-term care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

(g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

(h) have completed an approved education program or an equivalent as determined by the division in collaboration with the board;

(i) have passed the examinations as required by division rule made in collaboration with the board; and

(j) meet with the board, if requested, to determine the applicant's qualifications for certification.

(2) An applicant for licensure as a licensed practical nurse shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will permit the applicant to practice safely as a licensed practical nurse;

(e) have completed an approved practical nursing education program or an equivalent as determined by the board;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(3) An applicant for licensure as a registered nurse shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse;

(e) have completed an approved registered nursing education program;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(4) Applicants for licensure as an advanced practice registered nurse shall:

(a) submit to the division an application on a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) be in a condition of physical and mental health which will allow the applicant to practice safely as an advanced practice registered nurse;

(d) hold a current registered nurse license in good standing issued by the state or be qualified at the time for licensure as a registered nurse;

(e) (i) have earned a graduate degree in:

(A) an advanced practice registered nurse nursing education program; or

(B) a related area of specialized knowledge as determined appropriate by the division in collaboration with the board; or

(ii) have completed a nurse anesthesia program in accordance with Subsection (4)(f)(ii);

(f) have completed:

(i) course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(5) For each applicant for licensure or certification under this chapter:

(a) the applicant shall:

(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(ii) consent to a fingerprint background check conducted by the [Utah] Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application; ~~and~~

~~(b) the division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC) or any successor system.]~~

(b) the division shall:

(i) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprint card and the fees described in this Subsection (5)(b) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant; and

(c) the Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(i) check the fingerprints submitted under Subsection (5)(b) against the applicable state and regional criminal records databases;

(ii) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(iii) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(6) For purposes of conducting the criminal background checks required in Subsection (5), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(7) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.

(ii) ~~[If]~~ Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and automatically revoked upon notice to the licensee by the division.

(b) (i) ~~[Any]~~ A person whose conditional license or certification has been revoked under Subsection (7)(a) [shall be] is entitled to a postrevocation hearing to challenge the revocation.

(ii) ~~[The]~~ A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(8) ~~[(a)]~~ If a person has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation[;—(4)], the person is disqualified for licensure under this chapter[;] and:

~~[(ii) (A)]~~ (a) if the person is licensed under this chapter, the division:

~~[(4)]~~ (i) shall act upon the license as required under Section 58-1-401; and

~~[(4)]~~ (ii) may not renew or subsequently issue a license to the person under this chapter; and

~~[(B)]~~ (b) if the person is not licensed under this chapter, the division may not issue a license to the person under this chapter.

~~[(b)]~~ (9) If a person has been charged with a felony other than a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation[;—(4) if the person is licensed under this chapter], the division shall determine whether the felony disqualifies the person for licensure under this chapter and act upon the license, as required, in accordance with Section 58-1-401[; and].

~~[(ii) if the person is not licensed under this chapter, the person may not file an application for licensure under this chapter any sooner than five years after having completed the conditions of the sentence or plea agreement.]~~

(10) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 18. Section 58-31b-503 is amended to read:

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

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

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

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

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

(i) assess administrative penalties; and

(ii) take any other appropriate administrative action.

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

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

(6) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

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

(ii) attempt to negotiate a stipulated settlement; or

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

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

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

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

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

(d) Each citation issued under this section shall:

(i) be in writing; and

(ii) clearly describe or explain:

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

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

(C) the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation; and

(iii) be served upon any person upon whom a summons may be served:

(A) in accordance with the Utah Rules of Civil Procedure;

(B) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(C) by mail.

(e) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(7) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty

is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 19. Section 58-37-6 is amended to read:

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the person's business or

employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses any controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or any person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if consistent with the public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether or not the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into other than legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon furnishing the division evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to

manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of

perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) Every physician, dentist, naturopathic physician, veterinarian, practitioner, or other person who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by him and a record of all drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

(ii) A person using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the person keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by him, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) A person may not write or authorize a prescription for a controlled substance unless the person is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) A person other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, a person may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the person who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).

(i) A prescription for a Schedule II substance may not be refilled.

(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(iii) (A) Except as provided in Subsection (7)(f)(iii)(B), a prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.

(B) Subsection (7)(f)(iii)(A) does not apply to a prescription issued for a surgery when the practitioner determined that a quantity exceeding seven days is needed, in which case the practitioner may prescribe up to a 30-day supply, with a partial fill at the discretion of the practitioner.

(C) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.

(D) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).

(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply; and

(C) a second or third prescription shall include the date of issuance and the date for dispensing.

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the

hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(iii) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

Section 20. Section 58-37-6.5 is amended to read:

58-37-6.5. Continuing education for controlled substance prescribers.

(1) For the purposes of this section:

(a) "Controlled substance prescriber" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe schedule II controlled substances and schedule III controlled substances that are applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

(b) "D.O." means an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "FDA" means the United States Food and Drug Administration.

(d) "M.D." means a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act.

(e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration or defined by the division, in consultation with the Division of Substance Abuse and Mental Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Beginning with the licensing period that begins after January 1, 2014, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least ~~four~~ 3.5 continuing education hours per licensing period that satisfy the requirements of ~~Subsections~~ Subsection (3) ~~and (4)~~.

(b) (i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection ~~(5)~~ (4).

(ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i), fulfills the continuing education hours requirement in Subsection ~~(4)~~ (3) for the licensing period in which the class was completed.

(iii) A controlled substance prescriber:

(A) need only take the SBIRT-training class once during the controlled substance prescriber's licensure in the state; and

(B) shall provide a completion record of the SBIRT-training class in order to be reimbursed for SBIRT services to patients, in accordance with Section 26-18-22 and Section 49-20-416.

~~[(3) As provided in Subsection 58-37f-402(8), the online tutorial and passing the online test described in Section 58-37f-402 shall count as 1/2 hour of continuing professional education under Subsection (2) per licensing period.]~~

~~[(4) (3) A controlled substance prescriber shall complete at least 3.5 hours of continuing education in one or more controlled substance prescribing classes, except dentists who shall complete at least two hours, that satisfy the requirements of Subsections ~~(5)~~ (4) and ~~(7)~~ (6).~~

~~[(5) (4) A controlled substance prescribing class shall:~~

(a) satisfy the division's requirements for the continuing education required for the renewal of the controlled substance prescriber's respective license type;

(b) be delivered by an accredited or approved continuing education provider recognized by the division as offering continuing education

appropriate for the controlled substance prescriber's respective license type; and

(c) include a postcourse knowledge assessment.

~~[(6) (5) An M.D. or D.O. completing continuing professional education hours under Subsection (4) shall complete those hours in classes that qualify for the American Medical Association Physician's Recognition Award Category 1 Credit.~~

~~[(7) (6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:~~

(a) the scope of the controlled substance abuse problem in Utah and the nation;

(b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;

(c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;

(d) patient record documentation for controlled substance and opioid prescribing; and

(e) office policies, procedures, and implementation.

~~[(8) (7) (a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections ~~(5)~~ (4) and ~~(7)~~ (6) for an M.D. or D.O.~~

(b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections ~~(5)~~ (4) and ~~(7)~~ (6) for a controlled substance prescriber other than an M.D. or D.O.

(c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections ~~(5)~~ (4) and ~~(7)~~ (6) for a controlled substance prescriber.

~~[(9) (8) A controlled substance prescribing class required under this section:~~

(a) may be held:

(i) in conjunction with other continuing professional education programs; and

(ii) online; and

(b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.

~~[(10) (9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.~~

~~[(11)]~~ (10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection ~~[(4)]~~ (3) for two consecutive licensing periods.

Section 21. Section 58-37f-401 is amended to read:

58-37f-401. Database registration required -- Penalties for failure to register.

(1) Each individual, other than a veterinarian, who, on June 30, 2010, has a license to prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, but is not registered with the division to use the database shall, on or before September 30, 2010, register with the division to use the database.

~~[(2) Each individual who, on November 1, 2012, is registered with the division to use the database shall, on or before January 1, 2013, participate in the online tutorial and pass the online test described in Section 58-37f-402.]~~

~~[(3)]~~ (2) (a) An individual who is not a veterinarian, who obtains a new license to prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, shall, within 30 days after the day on which the individual obtains a license to prescribe a controlled substance from the Drug Enforcement Administration, register with the division to use the database.

(b) An individual who is not a veterinarian may not renew a license to prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, unless the individual registers with the division to use the database.

~~[(4)]~~ (3) Beginning on November 2, 2012, in order to register to use the database, the individual registering must participate in the online tutorial and pass the online test described in Section 58-37f-402.

~~[(5)]~~ (4) Failure by an individual to comply with the requirements of this section is grounds for the division to take the following actions in accordance with Section 58-1-401:

- (a) refuse to issue a license to the individual;
- (b) refuse to renew the individual's license; or
- (c) revoke, suspend, restrict, or place on probation the license.

~~[(6)]~~ (5) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, impose an annual database registration fee on an individual who registers to use the database, to pay the startup and ongoing costs of the division for complying with the requirements of this section ~~and Section 58-37f-402~~.

Section 22. Section 58-37f-402 is amended to read:

58-37f-402. Online tutorial and test relating to the database -- Fees -- Rulemaking authority -- Continuing professional education credit.

(1) The division shall develop an online tutorial and an online test for registration to use the database that provides instruction regarding, and tests, the following:

- (a) the purpose of the database;
- (b) how to access and use the database;
- (c) the law relating to:
 - (i) the use of the database; and
 - (ii) the information submitted to, and obtained from, the database; and
 - (d) basic knowledge that is important for all people who prescribe controlled substances to know in order to help ensure the health and safety of an individual to whom a controlled substance is prescribed.

(2) The division shall design the test described in this section as follows:

- (a) an individual shall answer all of the questions correctly in order to pass the test;
- (b) an individual shall be permitted to immediately retake the portion of the test that the individual answers incorrectly as many times as necessary for the individual to pass the test; and
- (c) after an individual takes the test, the test software shall:
 - (i) immediately inform the individual of the number of questions that were answered incorrectly;
 - (ii) provide the correct answers;
 - (iii) replay the portion of the tutorial that relates to the incorrectly answered questions; and
 - (iv) ask the individual the incorrectly answered questions again.

(3) The division shall design the tutorial and test so that it is possible to take the tutorial and complete the test in 20 minutes or less, if the individual answers all of the questions correctly on the first attempt.

(4) The division shall ensure that the tutorial and test described in this section are fully functional and available for use online on or before November 1, 2010.

(5) The division shall impose a fee, in accordance with Section 63J-1-504, on an individual who takes the test described in this section, to pay the costs incurred by the division to:

- (a) develop, implement, and administer the tutorial and test described in this section; and
- (b) fulfill the other duties imposed on the division under this part.

(6) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) develop, implement, and administer the tutorial and test described in this section; and

(b) fulfill the other duties imposed on the division under this part.

(7) The Department of Health shall assist the division in developing the portion of the test described in Subsection (1)(d).

~~[(8) Completing the online tutorial and passing the online test described in this section shall count as 1/2 hour of continuing professional education under Subsection 58-37-6.5(2).]~~

Section 23. Section 58-44a-402 is amended to read:

58-44a-402. Authority to assess penalty.

(1) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, the division may impose an administrative penalty of up to \$10,000 for unprofessional or unlawful conduct under this chapter in accordance with a fine schedule established by rule.

(2) The assessment of a penalty under this section does not affect any other action the division is authorized to take regarding a license issued under this chapter.

(3) The division may impose an administrative penalty of up to \$500 for any violation of Subsection 58-44a-501(2), (3), or (4), consistent with Section 58-44a-503.

(4) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 24. Section 58-47b-501 is amended to read:

58-47b-501. Unlawful conduct.

“Unlawful conduct” includes:

(1) practicing, engaging in, or attempting to practice or engage in massage therapy without holding a current license as a massage therapist or a massage apprentice under this chapter;

(2) advertising or representing himself as practicing massage therapy when not licensed to do so; and

(3) massaging, touching, or applying any instrument or device by a licensee in the course of practicing or engaging in massage therapy to the:

(a) genitals [øf];

(b) anus; [and] or

~~[(b)] (c) breasts of a female patron, except when a female patron requests breast massage, as may be further defined by division rule, and signs a written consent form, which must also include the signature of a parent or legal guardian if the patron is a minor, authorizing the procedure and outlining the reason for it before the procedure is performed.~~

Section 25. Section 58-53-502 is amended to read:

58-53-502. Citations -- Penalty for unlawful conduct.

(1) (a) If upon inspection or investigation, the division concludes that a person has violated Subsections 58-1-501(1)(a) through (d), Section 58-53-501, or Section 58-53-603 or any rule or order issued with respect to Section 58-53-501, and that disciplinary action is appropriate, the director or the director’s designee from within the division for each alternative respectively, shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-53-501 or any rule or order issued with respect to Section 58-53-501.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-53-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division does not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

~~[(3) Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state shall provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the~~

~~provisions of this section, reasonable attorney's fees and costs shall be awarded to the division.]~~

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 26. Section 58-55-305 is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

(d) sole owners of property engaged in building:

(i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), “token compensation” means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

(H) if the total value of the project is greater than \$1,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public’s health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or

other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbeque; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in Subsection 58-55-102(14), if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Section 27. Section 58-55-501 is amended to read:

58-55-501. Unlawful conduct.

Unlawful conduct includes:

(1) engaging in a construction trade, acting as a contractor, an alarm business or company, or an alarm company agent, or representing oneself to be engaged in a construction trade or to be acting as a contractor in a construction trade requiring licensure, unless the person doing any of these is appropriately licensed or exempted from licensure under this chapter;

(2) acting in a construction trade, as an alarm business or company, or as an alarm company agent beyond the scope of the license held;

(3) hiring or employing a person who is not licensed under this chapter to perform work on a project, unless the person:

(a) is an employee of a person licensed under this chapter for wages; and

(b) is not required to be licensed under this chapter;

(4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;

(5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;

(6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;

(7) failing to obtain a building permit when required by law or rule;

(8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;

(9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;

(10) allowing one's license to be used by another except as provided by statute or rule;

(11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;

(12) if licensed as a [specialty] contractor in the electrical trade or plumbing trade, journeyman

plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the [speciality] contractor's supervision;

(13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;

(14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;

(15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;

(16) if licensed under this chapter, willfully or deliberately disregarding or violating:

(a) the building or construction laws of this state or any political subdivision;

(b) the safety and labor laws applicable to a project;

(c) any provision of the health laws applicable to a project;

(d) the workers' compensation insurance laws of the state applicable to a project;

(e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or

(f) reporting, notification, and filing laws of this state or the federal government;

(17) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter;

(18) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;

(19) failing, as an original contractor, as defined in Section 38-11-102, to include in a written contract the notification required in Section 38-11-108;

(20) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;

(21) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;

(22) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

(23) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);

(24) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah while not lawfully present in the United States;

(25) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:

(a) workers' compensation coverage:

(i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; or

(ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the unincorporated entity were licensed under this chapter; and

(b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(26) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:

(a) display the contractor's license number prominently on a vehicle that:

(i) the contractor uses; and

(ii) displays the contractor's business name; or

(b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor;

(27) (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a

construction trade in the state while the individual is using a Social Security number that does not belong to that individual; or

(b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual, who owns an interest in the unincorporated entity, to engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual;

(28) a contractor failing to comply with a requirement imposed by a political subdivision, state agency, or board of education under Section 58-55-310; or

(29) failing to timely comply with the requirements described in Section 58-55-605.

Section 28. Section 58-55-503 is amended to read:

58-55-503. Penalty for unlawful conduct -- Citations.

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2).

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to

contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of six months following the occurrence of a violation.

(h) Except as provided in Subsection (5), the director or the director's designee shall assess a fine in accordance with the following:

(i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall

revoke the license of a licensee that violates Subsection 58-55-501(24) or (25) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25) for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state ~~is to~~ shall provide legal assistance and advice to the director in ~~any~~ an action to collect ~~the~~ a penalty.

(d) In an action brought to ~~enforce the provisions of this section~~ collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 29. Section 58-56-9.5 is amended to read:

58-56-9.5. Penalty for unlawful conduct -- Citations.

(1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.

(2) Grounds for immediate suspension of a licensee's license by the division under this chapter include:

(a) the issuance of a citation for violation of a provision of Section 58-56-9.1; and

(b) failure by a licensee to make application to, report to, or notify the division with respect to a matter for which application, notification, or reporting is required under this chapter or rules made under this chapter by the division.

(3) (a) If upon inspection or investigation, the division concludes that a person has violated a

provision of Section 58-56-9.1, or a rule or order issued with respect to that section, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

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

(ii) attempt to negotiate a stipulated settlement; or

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

(b) (i) A person who violates a provision of Section 58-56-9.1, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or instead of the fine, be ordered by the division to cease from violating the provision.

(ii) Except as otherwise provided in Subsection (2)(a), the division may not assess licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

(c) (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(e) (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of the violation.

(i) The director or the director's designee may assess fines for violations of Section 58-56-9.1 as follows:

(i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

(ii) for a second offense, a fine of up to \$2,000; and

(iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued offense.

(j) For the purposes of issuing a final order under this section and assessing a fine under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

(i) the division previously issued a final order determining that a person committed a first or second offense in violation of a provision of Section 58-56-9.1; or

(ii) (A) the division initiated an action for a first or second offense;

(B) no final order has been issued by the division in the action initiated under Subsection (3)(j)(ii)(A);

(C) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent violation of a provision of Section 58-56-9.1; and

(D) after determining that the person committed a second or subsequent offense under Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under Subsection (3)(j)(ii)(A).

(k) In issuing a final order for a second or subsequent offense under Subsection (3)(j), the division shall comply with the requirements of this section.

(4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the Commerce Service Account created by Section 13-1-2.

~~[(b) The director may collect an unpaid fine by:]~~

~~[(i) referring the matter to a collection agency; or]~~

~~[(ii) bringing an action in the district court of the county in which the person resides or in the county where the director's office is located.]~~

~~[(c) (i) The state's attorney general or a county attorney shall provide legal assistance and advice to the director in an action brought under Subsection (4)(b).]~~

~~[(ii) Reasonable attorney fees and costs shall be awarded in an action brought to enforce the provisions of this section.]~~

(b) The director may collect a fine that is not paid by:

- (i) referring the matter to a collection agency; or
- (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 30. Section 58-60-117 is amended to read:

58-60-117. Externship licenses.

(1) The division shall issue a temporary license under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act, of this chapter to a person who:

(a) submits an application for licensure under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act;

(b) pays a fee determined by the department under Section 63J-1-504;

(c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;

(d) has a deficiency, as defined by division rule, in course work;

(e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

(f) is of good moral character and has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

(2) A temporary license issued under this section shall expire upon the earlier of:

(a) issuance of the license applied for; or

(b) unless the deadline is extended for good cause as determined by the division, three years from the date the temporary license was issued.

(3) The temporary license issued under this section is an externship license.

Section 31. Section 58-63-503 is amended to read:

58-63-503. Penalties.

(1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-63-501 or who fails to comply with a citation issued under this section after it becomes final is guilty of a class A misdemeanor.

(2) The division may immediately suspend a license issued under this chapter of a person who is given a citation for violating Subsection 58-63-501(1), (2), (4), or (5).

(3) (a) If upon inspection or investigation, the division determines that a person has violated Subsection 58-63-501(1), (2), (4), or (5) or any rule made or order issued under those subsections, and that disciplinary action is warranted, the director or the director's designee within the division shall promptly issue a citation to the person and:

(i) attempt to negotiate a stipulated settlement; or

(ii) notify the person to appear for an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) (i) The division may fine a person who violates Subsection 58-63-501(1), (2), (4), or (5), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to cease and desist from the violation, or do both.

(ii) Except for a cease and desist order, the division may not impose the licensure sanctions listed in Section 58-63-401 through the issuance of a citation under this section.

(c) The written citation shall:

(i) describe the nature of the violation, including a reference to the allegedly violated statute, rule, or order;

(ii) state the recipient must notify the division in writing within 20 calendar days of issuance of the citation if the recipient wants to contest the citation at the adjudicative proceeding referred to in Subsection (3)(a)(ii); and

(iii) explain the consequences of failure to timely contest the citation or to make payment of a fine assessed under the citation with the time specified in the citation.

(d) (i) The division may serve a citation issued under this section, or a copy of the citation, upon an individual who is subject to service of a summons under the Utah Rules of Civil Procedure.

(ii) (A) The division may serve the individual personally or serve the individual's agent.

(B) The division may serve the summons by a division investigator, by a person designated by the director, or by mail.

(e) (i) If within 20 days from the service of a citation the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The division may grant an extension of the 20-day period for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The division may not issue a citation for an alleged violation under this section after the expiration of six months following the occurrence of the alleged violation.

(h) The director or the director's designee may assess fines under this section as follows:

(i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

(ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

(iii) for a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each day of continued violation.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (3)(h), an offense is a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-63-501(1) or (4); or

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in an action initiated under Subsection (3)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-63-501(1) or (4); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (3)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (3)(i)(i), the division shall comply with the requirements of this section.

(4) (a) The division shall deposit a fine imposed by the director under Subsection (3)(h) in the General Fund as a dedicated credit for use by the division for the purposes listed in Section 58-63-103.

~~[(b) The director may collect a Subsection (3)(h) fine which is not paid by:]~~

~~[(i) referring the matter to the Office of State Debt Collection or a collection agency; or]~~

~~[(ii) bringing an action in the district court of the county in which the person resides or in the county where the office of the director is located.]~~

~~[(c) The director may seek legal assistance from the attorney general or the county or district attorney of the district in which the action is brought to collect the fine.]~~

~~[(d) The court shall award reasonable attorney fees and costs to the division for successful actions under Subsection (4)(b)(ii).]~~

~~(b) The director may collect a fine that is not paid by:~~

~~(i) referring the matter to a collection agency; or~~

~~(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.~~

~~(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.~~

~~(d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.~~

Section 32. Section 58-67-302 is amended to read:

58-67-302. Qualifications for licensure.

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

~~(d) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-67-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~[(d)] (e) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:~~

~~(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or~~

~~(ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;~~

~~[(e)] (f) satisfy the division and board that the applicant:~~

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)(~~d~~)(e);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

(~~f~~) (g) pass the licensing examination sequence required by division rule made in collaboration with the board;

(~~g~~) (h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(~~h~~) (i) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

(~~i~~) (j) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(~~j~~) (k) establish a method for notifying patients of the ~~i~~ identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or

territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through [~~d~~] (e), (1)(~~e~~)(f)(i), and (1)(~~g~~)(h) through [~~j~~] (k);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require a post-residency board certification as a requirement for licensure.

Section 33. Section 58-67-302.1 is enacted to read:

58-67-302.1. Qualifications for licensure -- Criminal background check.

(1) An applicant for participation in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) The division may not issue a letter of qualification to participate in the Interstate Medical Licensure Compact until the criminal background check described in this section is completed.

Section 34. Section 58-67-302.5 is amended to read:

58-67-302.5. Licensing of graduates of foreign medical schools.

(1) Notwithstanding any other provision of law to the contrary, an individual enrolled in a medical school outside the United States, its territories, the District of Columbia, or Canada is eligible for licensure as a physician and surgeon in this state if the individual has satisfied the following requirements:

(a) meets all the requirements of Subsection 58-67-302(1), except for Subsection 58-67-302(1)(d)(e);

(b) has studied medicine in a medical school located outside the United States which is recognized by an organization approved by the division;

(c) has completed all of the formal requirements of the foreign medical school except internship or social service;

(d) has attained a passing score on the educational commission for foreign medical graduates examination or other qualifying examinations such as the United States Medical Licensing Exam parts I and II, which are approved by the division or a medical school approved by the division;

(e) has satisfactorily completed one calendar year of supervised clinical training under the direction of

a United States medical education setting accredited by the liaison committee for graduate medical education and approved by the division;

(f) has completed the postgraduate hospital training required by Subsection 58-67-302(1)(~~e~~)(f)(i); and

(g) has passed the examination required by the division of all applicants for licensure.

(2) Satisfaction of the requirements of Subsection (1) is in lieu of:

(a) the completion of any foreign internship or social service requirements; and

(b) the certification required by Subsection 58-67-302(1)(~~d~~)(e).

(3) Individuals who satisfy the requirements of Subsections (1)(a) through (~~f~~) (g) shall be eligible for admission to graduate medical education programs within the state, including internships and residencies, which are accredited by the liaison committee for graduate medical education.

(4) A document issued by a medical school located outside the United States shall be considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a physician and surgeon in this state if:

(a) the foreign medical school is recognized by an organization approved by the division;

(b) the document granted by the foreign medical school is issued after the completion of all formal requirements of the medical school except internship or social service; and

(c) the foreign medical school certifies that the person to whom the document was issued has satisfactorily completed the requirements of Subsection (1)(c).

(5) The provisions for licensure under this section shall be known as the "fifth pathway program."

Section 35. Section 58-67-302.7 is amended to read:

58-67-302.7. Licensing of physician-educators.

(1) As used in this section:

(a) "Foreign country" means a country other than the United States, its territories, or Canada.

(b) "Foreign medical school" means a medical school that is outside the United States, its territories, and Canada.

(2) Notwithstanding any provision of law to the contrary, an individual may receive a type I foreign teaching license if the individual:

(a) submits an application in a form prescribed by the division, which may include:

(i) submission by the applicant of information maintained in a practitioner data bank, as

designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) the applicant's curriculum vitae;

(b) is a graduate of a foreign medical school that is accepted for certification by the Educational Commission for Foreign Medical Graduates;

(c) is licensed in good standing in a foreign country, the United States, its territories, or Canada;

(d) does not have an investigation or action pending against the physician's healthcare license, does not have a healthcare license that was suspended or revoked, and has not surrendered a healthcare license in lieu of disciplinary action, unless:

(i) the license was subsequently reinstated in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant and full consideration by the division in collaboration with the board, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents resolution, and the division in collaboration with the board is satisfied that but for the mitigating circumstance, the license would be reinstated;

(e) submits documentation of legal status to work in the United States;

(f) meets at least three of the following qualifications:

(i) (A) published original results of clinical research, within 10 years before the day on which the application is submitted, in a medical journal listed in the Index Medicus or an equivalent scholarly publication; and

(B) submits the publication to the Board in English or in a foreign language with a verifiable, certified English translation;

(ii) held an appointment at a medical school approved by the LCME or at any medical school listed in the World Health Organization directory at the level of associate or full professor, or its equivalent, for at least five years;

(iii) (A) developed a treatment modality, surgical technique, or other verified original contribution to the field of medicine within 10 years before the day on which the application is submitted; and

(B) has the treatment modality, surgical technique, or other verified original contribution attested to by the dean of an LCME accredited school of medicine in Utah;

(iv) actively practiced medicine cumulatively for 10 years; or

(v) is board certified in good standing of a board of the American Board of Medical Specialities or equivalent specialty board;

(g) is of good moral character;

(h) is able to read, write, speak, understand, and be understood in the English language and demonstrates proficiency to the satisfaction of the division in collaboration with the board, if requested;

(i) is invited by an LCME accredited medical school in Utah to serve as a full-time member of the medical school's academic faculty, as evidenced by written certification from:

(i) the dean of the medical school, stating that the applicant has been appointed to a full-time faculty position, that because the applicant has unique expertise in a specific field of medicine the medical school considers the applicant to be a valuable member of the faculty, and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the state; and

(ii) the head of the department to which the applicant is to be appointed, stating that the applicant will be under the direction of the head of the department and will be permitted to practice medicine only as a necessary part of the applicant's duties, providing detailed evidence of the applicant's qualifications and competence, including the nature and location of the applicant's proposed responsibilities, reasons for any limitations of the applicant's practice responsibilities, and the degree of supervision, if any, under which the applicant will function;

(j) pays a licensing fee set by the division under Section 63J-1-504; and

(k) has practiced medicine for at least 10 years as an attending physician.

(3) Notwithstanding any provision of law to the contrary, an individual may receive a type II foreign teaching license if the individual:

(a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through (j);

(b) has delivered clinical care to patients cumulatively for five years after graduation from medical school; and

(c) (i) will be completing a clinical fellowship while employed at the medical school described in Subsection (2)(i); or

(ii) has already completed a medical residency accredited by the Royal College of Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a comparable accreditation organization as determined by the division in collaboration with the board.

(4) After an initial term of one year, a type I license may be renewed for periods of two years if the licensee continues to satisfy the requirements described in Subsection (2) and completes the division's continuing education renewal

requirements established under Section 58-67-303.

(5) A type II license may be renewed on an annual basis, up to four times, if the licensee continues to satisfy the requirements described in Subsection (3) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(6) A license issued under this section:

(a) authorizes the licensee to practice medicine:

(i) within the scope of the licensee's employment at the medical school described in Subsection (2)(i) and the licensee's academic position; and

(ii) at a hospital or clinic affiliated with the medical school described in Subsection (2)(i) for the purpose of teaching, clinical care, or pursuing research;

(b) shall list the limitations described in Subsection (6)(a); and

(c) shall expire on the earlier of:

(i) one year after the day on which the type I or type II license is initially issued, unless the license is renewed;

(ii) for a type I license, two years after the day on which the license is renewed;

(iii) for a type II license, one year after the day on which the license is renewed; or

(iv) the day on which employment at the medical school described in Subsection (2)(i) ends.

(7) A person who holds a type I license for five consecutive years may apply for licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies the requirements described in Subsection (8). If the person fails to obtain licensure as a physician and surgeon in this state, the person may apply for a renewal of the type I license under Subsection (2).

(8) An individual who holds a type I or type II license for five consecutive years is eligible for licensure as a physician and surgeon in this state if the individual:

(a) worked an average of at least 40 hours per month at the level of an attending physician during the time the individual held the type I or type II license;

(b) holds the rank of associate professor or higher at the medical school described in Subsection (2)(i);

(c) obtains certification from the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(d) spent a cumulative 20 hours per year while holding a type I or type II license:

(i) teaching or lecturing to medical students or house staff;

(ii) participating in educational department meetings or conferences that are not certified to

meet the continuing medical education license renewal requirement; or

(iii) attending continuing medical education classes in addition to the requirements for continuing education described in Subsections (4) and (5);

(e) obtains a passing score on the final step of the licensing examination sequence required by division rule made in collaboration with the board; and

(f) satisfies the requirements described in Subsections 58-67-302(1)(a) through [(e), (h), and (i)] (d), (i), and (j).

(9) If a person who holds a type II license fails to obtain licensure as a physician and surgeon in this state after applying under the procedures described in Subsection (8), the person may not:

- (a) reapply for or renew a type II license; or
- (b) apply for a type I license.

(10) The division or the board may require an applicant for licensure under this section to meet with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(11) The division in collaboration with the board may withdraw a license under this section at any time for material misrepresentation or unlawful or unprofessional conduct.

Section 36. Section 58-67-302.8 (Effective 07/01/18) is amended to read:

58-67-302.8 (Effective 07/01/18). Restricted licensing of an associate physician.

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-67-302(1)(a) through [(e)] (d), (1)[(d)](e)(i), and (1)[(g)](h) through [(j)] (k);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-67-302(1)[(d)](e)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-67-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services to medically underserved populations or in medically underserved areas within the state.

Section 37. Section 58-67-304 (Superseded 07/01/18) is amended to read:

58-67-304 (Superseded 07/01/18). License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)[(i)](j); and

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee.

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

Section 38. Section 58-67-304 (Effective 07/01/18) is amended to read:

58-67-304 (Effective 07/01/18). License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(~~i~~)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

Section 39. Section 58-67-403 is amended to read:

58-67-403. Revocation of license -- Nondisciplinary.

Revocation by the division of a license under Subsection 58-67-302(1)(~~e~~)(f) for failure to continue on a resident training program for reasons other than unprofessional or unlawful conduct is a nondisciplinary action and may not be reported by the division as a disciplinary action against the licensee.

Section 40. Section 58-67-503 is amended to read:

58-67-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

(i) assessing administrative penalties; or

(ii) taking other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund created in Section 58-67a-1.

(3) If a licensee has been convicted of unlawful conduct, described in Section 58-67-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated provisions of Section 58-67-501, Section 58-67-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

(i) issue a citation to the individual;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of the provisions described in Subsection (4)(a).

(c) An individual's license may not be suspended or revoked through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

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

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after six months from the day on which the violation last occurred.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 41. Section 58-68-302 is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-68-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

[(d)] (e) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

[(e)] (f) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)[(d)](e); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)[(d)](e);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

~~[(f)]~~ (g) pass the licensing examination sequence required by division rule, as made in collaboration with the board;

~~[(g)]~~ (h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

~~[(h)]~~ (i) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure;

~~[(i)]~~ (j) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

~~[(j)]~~ (k) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(d)]~~ (e), ~~1) [(e)] (f)~~(i), and ~~1) [(g)] (h)~~ through ~~[(j)]~~ (k);

(d) have passed the licensing examination sequence required in Subsection (1)~~[(f)]~~(g) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require a post-residency board certification as a requirement for licensure.

Section 42. Section 58-68-302.1 is enacted to read:

58-68-302.1. Qualifications for licensure -- Criminal background check.

(1) An applicant for participation in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) The division may not issue a letter of qualification to participate in the Interstate Medical Licensure Compact until the criminal background check described in this section is completed.

Section 43. Section 58-68-302.5 (Effective 07/01/18) is amended to read:

58-68-302.5 (Effective 07/01/18). Restricted licensing of an associate physician.

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-68-302(1)(a) through ~~(e)~~ (d), ~~(1)(~~d~~)~~(e)(i), and ~~(1)(~~e~~)~~(h) through ~~(j)~~ (k);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-68-302(1)(~~d~~)(e)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine as described in Subsection (3), the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-68-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

(3) An associate physician's scope of practice is limited to primary care services to medically underserved populations or in medically underserved areas within the state.

Section 44. Section 58-68-304 (Superseded 07/01/18) is amended to read:

58-68-304 (Superseded 07/01/18). License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(i)(j); and

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(j)(k).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

Section 45. Section 58-68-304 (Effective 07/01/18) is amended to read:

58-68-304 (Effective 07/01/18). License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the

number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(i)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(j)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

Section 46. Section 58-68-403 is amended to read:

58-68-403. Revocation of license -- Nondisciplinary.

Revocation by the division of a license under Subsection 58-68-302(1)(e)(f) for failure to continue on a resident training program for reasons other than unprofessional or unlawful conduct is a

nondisciplinary action and may not be reported by the division as a disciplinary action against the licensee.

Section 47. Section 58-68-503 is amended to read:

58-68-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

(i) assessing administrative penalties; or

(ii) taking any other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund described in Section 58-67a-1.

(3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, the licensee may not be assessed an administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated the provisions of Section 58-68-501, Section 58-68-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

(i) issue a citation to the individual;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in

Section 58-1-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

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

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after six months from the day on which the last violation occurred.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 48. Section 58-71-503 is amended to read:

58-71-503. Penalty for unlawful conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-71-501, Subsection 58-1-501(1)(a), or 58-1-501(1)(c) is guilty of a third degree felony.

(2) The division may assess administrative penalties in accordance with the provisions of Section 58-71-402, for acts of unlawful conduct.

(3) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 49. Section 58-76-502 is amended to read:

58-76-502. Penalty for unlawful conduct.

(1) (a) If, upon inspection or investigation, the division concludes that a person has violated Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-76-501 or any rule or order issued with respect to this section.

(ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-76-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) The division may issue a notice in lieu of a citation.

(d) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by any person specially designated by the director or by mail.

(e) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest a citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

(i) The director or the director's designee shall assess fines according to the following:

(i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to \$1,000;

(ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000; and

(iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to \$2,000 for each day of continued offense.

(2) An action initiated for a first or second offense which has not yet resulted in a final order of the division shall not preclude initiation of any subsequent action for a second or subsequent offense during the pendency of any preceding action. The final order on a subsequent action shall be considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

~~[(3) Any penalty which is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located. Any county attorney or the attorney general of the state shall provide legal assistance and advice to the director in any action to collect the penalty. In any action brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be awarded to the division.]~~

(3) (a) The director may collect a penalty that is not paid by:

- (i) referring the matter to a collection agency; or
- (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 50. Section 58-79-201 is amended to read:

58-79-201. Board.

(1) There is created the Hunting Guides and Outfitters Licensing Board consisting of ~~three persons licensed in accordance with this chapter,~~ five members as follows:

(a) three persons licensed as a hunting guide or an outfitter in accordance with this chapter;

(b) one member of the Wildlife Board, created in Section 23-14-2, selected by the Wildlife Board[;]; and

(c) one person appointed by the Wildlife Board.

(2) Except for the two members selected by the Wildlife Board, the board shall be appointed and serve in accordance with Section 58-1-201.

(3) The two members selected by the Wildlife Board may not hold a license regulated by this chapter.

~~[(3)]~~ (4) (a) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

(b) The board shall also:

(i) designate one of its members on a permanent or rotating basis to assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of hunting guides and outfitters; and

(ii) advise the division in its investigations of these complaints.

~~[(4)]~~ (5) A board member who has, under Subsection ~~[(3)]~~ (4)(b), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 51. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel

-- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (3)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in

accordance with Subsection (3)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (3)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (3).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(4) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one member who is a licensed health care provider listed under Section 78B-3-403, who is practicing and knowledgeable in the same specialty as the proposed defendant, and who is appointed by the division in accordance with Subsection (5); or

(ii) in claims against only hospitals or their employees, one member who is an individual currently serving in a hospital administration position directly related to hospital operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Pre litigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(6) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(7) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 52. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

(2) The amendments to the following sections take effect on July 1, 2018:

(a) Section 58-67-302.8 (Effective 07/01/18);

(b) Section 58-67-304 (Effective 07/01/18);

(c) Section 58-68-302.5 (Effective 07/01/18); and

(d) Section 58-68-304 (Effective 07/01/18).

CHAPTER 319**H. B. 39**

Passed March 6, 2018

Approved March 20, 2018

Effective May 8, 2018

INSURANCE MODIFICATIONS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to insurance.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies defined terms;
- ▶ adds provisions that a warrantor is required to disclose in a vehicle protection product warranty;
- ▶ repeals the requirement that the fixed amount of reimbursement under a vehicle protection product warranty is uniform for all warranty holders of the same vehicle protection product warranty;
- ▶ addresses the requirements for filing a binder for a health benefit plan or dental policy with the commissioner;
- ▶ modifies the date on which the commissioner presents an annual evaluation of the state's health insurance market;
- ▶ classifies certain records related to an examination as protected records;
- ▶ modifies the membership of the Title and Escrow Commission;
- ▶ modifies provisions related to the Captive Insurance Restricted Account;
- ▶ enacts and consolidates provisions related to an offer of qualified health insurance coverage that certain contractors and subcontractors are required to obtain and maintain;
- ▶ amends the threshold at which certain contractors and subcontractors become subject to certain health care-related requirements;
- ▶ modifies the process by which the commissioner determines an applicant's ability to provide proposed health care services under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- ▶ modifies the requirements for a nonadmitted insurer to be listed on the commissioner's "reliable" list;
- ▶ provides the circumstances under which the commissioner must hold a hearing on a merger or other acquisition of an insurer;
- ▶ amends the deadline for holding a hearing on a merger or other acquisition of an insurer;
- ▶ allows an insurer to terminate coverage of a spouse of an insured under an accident and health insurance policy in the event of legal separation;
- ▶ prohibits an insured from charging any additional amount for electing to extend group coverage;
- ▶ addresses the timing of open enrollment for individuals who extend or are eligible to extend group coverage;
- ▶ addresses the commissioner's authority to take action against a person who has had an

insurance license or other professional or occupational license denied, suspended, revoked, or surrendered to resolve an administrative action;

- ▶ addresses the circumstances under which an individual title insurance producer or agency title insurance producer may do escrow involving real property transactions;
- ▶ provides that the commissioner may take action against a licensee if the commissioner finds that the licensee is convicted of a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- ▶ modifies the training and continuing education requirements for certain licensees;
- ▶ amends provisions related to the effect of an insurer's insolvency;
- ▶ clarifies the process by which the state designates the essential health benefits for the state;
- ▶ repeals certain sections of the Insurance Code;
- ▶ modifies the workers' compensation advisory council's reporting requirements;
- ▶ authorizes the Labor Commission to use funds from the Industrial Accident Restricted Account for specific purposes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17B-2a-818.5, as last amended by Laws of Utah 2016, Chapters 20 and 355
- 19-1-206, as last amended by Laws of Utah 2016, Chapters 20 and 355
- 26-18-402, as last amended by Laws of Utah 2013, Chapter 278
- 26-40-115, as last amended by Laws of Utah 2016, Chapter 20
- 31A-1-301, as last amended by Laws of Utah 2017, Chapter 292
- 31A-2-201.1, as last amended by Laws of Utah 2008, Chapter 382
- 31A-2-201.2, as last amended by Laws of Utah 2017, Chapter 292
- 31A-2-204, as last amended by Laws of Utah 2008, Chapter 382
- 31A-2-403, as last amended by Laws of Utah 2015, Chapter 330
- 31A-3-303, as last amended by Laws of Utah 2011, Chapters 62 and 275
- 31A-3-304, as last amended by Laws of Utah 2017, Chapter 168
- 31A-6a-101, as last amended by Laws of Utah 2017, Chapter 27
- 31A-6a-104, as last amended by Laws of Utah 2016, Chapter 138
- 31A-6a-105, as last amended by Laws of Utah 2015, Chapter 244
- 31A-8-104, as last amended by Laws of Utah 1997, Chapter 185
- 31A-8a-102, as last amended by Laws of Utah 2013, Chapters 104 and 135
- 31A-15-103, as last amended by Laws of Utah 2017, Chapter 363

31A-16-103, as last amended by Laws of Utah 2015, Chapter 244

31A-22-612, as last amended by Laws of Utah 2015, Chapter 244

31A-22-618.6, as last amended by Laws of Utah 2017, Chapter 168 and renumbered and amended by Laws of Utah 2017, Chapter 292

31A-22-629, as last amended by Laws of Utah 2012, Chapter 253

31A-22-701, as last amended by Laws of Utah 2017, Chapter 168

31A-22-722, as last amended by Laws of Utah 2013, Chapter 319

31A-23a-107, as last amended by Laws of Utah 2012, Chapter 253

31A-23a-109, as last amended by Laws of Utah 2012, Chapter 253

31A-23a-111, as last amended by Laws of Utah 2017, Chapter 168

31A-23a-208, as enacted by Laws of Utah 2013, Chapter 341

31A-23a-406, as last amended by Laws of Utah 2013, Chapter 319

31A-23b-102, as last amended by Laws of Utah 2017, Chapter 168

31A-23b-202.5, as last amended by Laws of Utah 2017, Chapter 168

31A-23b-204, as enacted by Laws of Utah 2013, Chapter 341

31A-23b-205, as last amended by Laws of Utah 2014, Chapters 290, 300, 425 and last amended by Coordination Clause, Laws of Utah 2014, Chapters 300, and 425

31A-23b-206, as last amended by Laws of Utah 2015, Chapter 244

31A-25-204, as enacted by Laws of Utah 1985, Chapter 242

31A-25-206, as last amended by Laws of Utah 2001, Chapter 116

31A-26-102, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-26-205, as last amended by Laws of Utah 1986, Chapter 204

31A-26-208, as last amended by Laws of Utah 2011, Chapter 284

31A-27a-111, as enacted by Laws of Utah 2007, Chapter 309

31A-27a-608, as enacted by Laws of Utah 2007, Chapter 309

31A-30-210, as enacted by Laws of Utah 2010, Chapter 229

31A-43-303, as last amended by Laws of Utah 2014, Chapters 290 and 300

34A-2-107, as last amended by Laws of Utah 2017, Chapters 18 and 363

34A-2-705, as last amended by Laws of Utah 2011, Chapter 328

63A-5-205, as last amended by Laws of Utah 2016, Chapters 20 and 355

63C-9-403, as last amended by Laws of Utah 2016, Chapters 20 and 355

63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

72-6-107.5, as last amended by Laws of Utah 2016, Chapters 20 and 355

79-2-404, as last amended by Laws of Utah 2016, Chapters 20 and 355

ENACTS:

31A-45-403, Utah Code Annotated 1953

63A-5-205.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

31A-6a-111, as enacted by Laws of Utah 2015, Chapter 244

REPEALS:

31A-22-722.5, as last amended by Laws of Utah 2011, Chapters 297 and 340

31A-30-209, as last amended by Laws of Utah 2016, Chapter 138

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

Section 1. Section 17B-2a-818.5 is amended to read:**17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.**

(1) ~~[For purposes of]~~ As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

~~[(a)]~~ (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" ~~[as defined in Section 34A-2-104]~~ who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days ~~[from the date of hire]~~ after the day on which the individual is hired.

~~[(b)]~~ (d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

~~[(e)]~~ (e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

~~[(d)]~~ (f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

~~[(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the public transit district on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).]~~

~~[(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract.]~~

~~[(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.]~~

~~[(3) This section does not apply if:]~~

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

~~[(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).]~~

~~[(b) (4) A person [who] that intentionally uses change orders [or], contract modifications, or multiple contracts to circumvent the requirements of [Subsection (2)] this section is guilty of an infraction.~~

(5) (a) A contractor subject to ~~[Subsection (2)]~~ the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employee's dependents during the duration of the contract~~[-]~~ by submitting to the public transit district a written statement that:

~~[(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall:]~~

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in ~~[the subcontract that the subcontractor]~~ each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' ~~[dependants]~~ dependents during the duration of the subcontract; and

~~[(ii) certify to the public transit district that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.]~~

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor ~~[who fails to meet the requirements of]~~ that fails to maintain an offer of qualified health insurance coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to ~~[meet the requirements of]~~ obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor ~~[who fails to meet the requirements of]~~ that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i) during the duration of the ~~[contract]~~ subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to ~~[meet the requirements of]~~ maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section ~~[63A-5-205]~~ 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate ~~[to the public transit district]~~ compliance with this section ~~[that shall include]~~, including:

~~[(A) that a contractor shall demonstrate compliance with Subsection (5)(a) or (b) at the time of the execution of each initial contract described in Subsection (2)(b);]~~

~~[(B) that the contractor's]~~

~~(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General; [and]~~

~~[(C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;]~~

~~(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and~~

~~(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);~~

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section [shall be] is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement [of actuarial equivalency provided by an:] described in Subsection (5)(a) or (5)(b)(ii); or

~~[(I) actuary; or]~~

~~[(II) underwriter who is responsible for developing the employer group's premium rates; or]~~

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3) [or (4)].

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) [For purposes of] As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

~~[(a)] (c)~~ "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" ~~[as defined in Section 34A-2-104]~~ who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days ~~[from the date of hire]~~ after the day on which the individual is hired.

~~[(b)] (d)~~ "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

~~[(e)] (e)~~ "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

~~[(d)] (f)~~ "Subcontractor" means the same as that term is defined in Section 63A-5-208.

~~[(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by or delegated to the department or a division or board of the department on or after July 1, 2009, and to a prime contractor or subcontractor in accordance with Subsection (2)(b).]~~

~~[(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract.]~~

~~[(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.]~~

~~(2) Except as provided in Subsection (3), the requirements of this section apply to:~~

~~(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and~~

~~(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.~~

~~(3) This section does not apply to contracts entered into by the department or a division or board of the department if:~~

~~(a) the application of this section jeopardizes the receipt of federal funds;~~

~~(b) the contract or agreement is between:~~

~~(i) the department or a division or board of the department; and~~

~~(ii) (A) another agency of the state;~~

~~(B) the federal government;~~

~~(C) another state;~~

~~(D) an interstate agency;~~

~~(E) a political subdivision of this state; or~~

~~(F) a political subdivision of another state;~~

~~(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or~~

~~(d) the contract is:~~

~~(i) a sole source contract; or~~

~~(ii) an emergency procurement.~~

~~[(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).]~~

~~[(b)] (4) A person [who] that intentionally uses change orders [or], contract modifications, or~~

~~multiple contracts to circumvent the requirements of [Subsection (2)] this section is guilty of an infraction.~~

~~(5) (a) A contractor subject to [Subsection (2)] the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract[-] by submitting to the executive director a written statement that:~~

~~[(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall:]~~

~~(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;~~

~~(ii) is from:~~

~~(A) an actuary selected by the contractor or the contractor's insurer; or~~

~~(B) an underwriter who is responsible for developing the employer group's premium rates; and~~

~~(iii) was created within one year before the day on which the statement is submitted.~~

~~(b) A contractor that is subject to the requirements of this section shall:~~

~~(i) place a requirement in [the subcontract that the subcontractor] each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' [dependants] dependents during the duration of the subcontract; and~~

~~[(ii) certify to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.]~~

~~(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:~~

~~(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;~~

~~(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and~~

~~(C) was created within one year before the day on which the contractor obtains the statement.~~

~~(c) (i) (A) A contractor [who fails to comply with] that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).~~

~~(B) A contractor is not subject to penalties for the failure of a subcontractor to [meet the requirements~~

of] obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor ~~[who fails to meet the requirements of]~~ that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b) during the duration of the ~~[contract]~~ subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to ~~[meet the requirements of]~~ maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section ~~[63A-5-205]~~ 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate ~~[to the public transit district]~~ compliance with this section ~~[that shall include]~~, including:

~~[(A) that a contractor shall demonstrate compliance with Subsection (5)(a) or (b) at the time of the execution of each initial contract described in Subsection (2)(b);]~~

~~[(B) that the contractor's]~~

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General; ~~[and]~~

~~[(C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;]~~

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)~~[(e)]~~(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section ~~[shall be]~~ is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement ~~[of actuarial equivalency provided by:]~~ described in Subsection (5)(a) or (5)(b)(ii); or

~~[(I) an actuary; or]~~

~~[(II) an underwriter who is responsible for developing the employer group's premium rates; or]~~

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) ~~[or (4)].~~

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under;

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 3. Section 26-18-402 is amended to read:

26-18-402. Medicaid Restricted Account.

(1) There is created a restricted account in the General Fund known as the Medicaid Restricted Account.

(2) (a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:

(i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

(ii) any unused state funds that are associated with the Medicaid program, as defined in Section 26-18-2, from the Department of Workforce Services and the Department of Human Services; and

(iii) any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

~~(C) Section 63A-5-205;~~

(C) Subsection 63A-5-205.5;

(D) Section 63C-9-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404.

(b) The account shall earn interest and all interest earned shall be deposited into the account.

(c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

(3) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

(a) any general funds appropriated to the department for the state plan for medical

assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and

(b) funds described in Subsection (2)(a)(ii).

Section 4. Section 26-40-115 is amended to read:

26-40-115. State contractor -- Employee and dependent health benefit plan coverage.

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, [63A-5-205] 63A-5-205.5, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health insurance coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the program under Subsection 26-40-106(1), and a contribution level at which the employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

Section 5. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection [(170)] (171).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

- (a) that is open to the public;
- (b) that is staffed during regular business hours on regular business days; and
- (c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

- (a) a corporation;
- (b) an association;
- (c) a partnership;
- (d) a limited liability company;
- (e) a limited liability partnership; or
- (f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection [~~91~~] (92).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

- (a) Section 31A-7-201;
- (b) Section 31A-8-205; or
- (c) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

- (a) an insurer:
 - (i) owned by another organization; and
 - (ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

- (i) owned by the insureds; and
- (ii) whose exclusive purpose is to insure risks of:
 - (A) a member organization;
 - (B) a group member; or
 - (C) an affiliate of:
 - (I) a member organization; or
 - (II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

- (a) an insured under a group insurance policy; or
- (b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

- (i) provides board and lodging;
- (ii) provides one or more of the following:
 - (A) a personal service;
 - (B) a nursing service;
 - (C) a medical service; or
 - (D) any other health-related service; and
- (iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:
 - (A) for the life of the insured; or
 - (B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

- (i) by contract;
- (ii) by common management;
- (iii) through the ownership of voting securities; or
- (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite

the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) “Controlled insurer” means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) “Controlling person” means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) “Controlling producer” means a producer who directly or indirectly controls an insurer.

(33) (a) “Corporation” means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) “Mutual” or “mutual corporation” means a mutual insurance corporation.

(c) “Stock corporation” means a stock insurance corporation.

(34) (a) “Creditable coverage” has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) “Creditable coverage” includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children’s Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(35) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(36) (a) “Credit insurance” means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) “Credit insurance” includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(37) “Credit life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(38) “Creditor” means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(39) “Credit property insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(40) “Credit unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(41) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

- (i) provided by the private insurance market; or
- (ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

(42) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

- (i) for the customer service representative’s:
 - (A) producer;
 - (B) surplus lines producer; or
 - (C) consultant employer; and
- (ii) to the customer service representative’s employer’s:
 - (A) customer;
 - (B) client; or
 - (C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative’s producer, surplus lines producer, or consultant employer.

(43) “Deadline” means a final date or time:

- (a) imposed by:
 - (i) statute;
 - (ii) rule; or
 - (iii) order; and
- (b) by which a required filing or payment must be received by the department.

(44) “Deemer clause” means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner’s failure to take a specific action.

(45) “Degree of relationship” means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(46) “Department” means the Insurance Department.

(47) “Director” means a member of the board of directors of a corporation.

(48) “Disability” means a physiological or psychological condition that partially or totally limits an individual’s ability to:

- (a) perform the duties of:

- (i) that individual’s occupation; or

- (ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

- (b) perform two or more of the following basic activities of daily living:

- (i) eating;
- (ii) toileting;
- (iii) transferring;
- (iv) bathing; or
- (v) dressing.

(49) “Disability income insurance” means the same as that term is defined in Subsection [(82)] (83).

(50) “Domestic insurer” means an insurer organized under the laws of this state.

(51) “Domiciliary state” means the state in which an insurer:

- (a) is incorporated;
- (b) is organized; or
- (c) in the case of an alien insurer, enters into the United States.

(52) (a) “Eligible employee” means:

- (i) an employee who:
 - (A) works on a full-time basis; and
 - (B) has a normal work week of 30 or more hours; or

- (ii) a person described in Subsection (52)(b).

(b) “Eligible employee” includes:

- (i) an owner who:
 - (A) works on a full-time basis; and
 - (B) has a normal work week of 30 or more hours; and

- (ii) if the individual is included under a health benefit plan of a small employer:

- (A) a sole proprietor;
- (B) a partner in a partnership; or
- (C) an independent contractor.

- (c) “Eligible employee” does not include, unless eligible under Subsection (52)(b):

- (i) an individual who works on a temporary or substitute basis for a small employer;

- (ii) an employer’s spouse who does not meet the requirements of Subsection (52)(a)(i); or

- (iii) a dependent of an employer who does not meet the requirements of Subsection (52)(a)(i).

(53) “Employee” means:

- (a) an individual employed by an employer; and
- (b) an owner who meets the requirements of Subsection (52)(b)(i).

(54) “Employee benefits” means one or more benefits or services provided to:

- (a) an employee; or
- (b) a dependent of an employee.

(55) (a) “Employee welfare fund” means a fund:

(i) established or maintained, whether directly or through a trustee, by:

- (A) one or more employers;
- (B) one or more labor organizations; or
- (C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) “Employee welfare fund” includes a plan funded or subsidized by a user fee or tax revenues.

(56) “Endorsement” means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(57) (a) “Enrollee” means:

- (i) a policyholder;
- (ii) a certificate holder;
- (iii) a subscriber; or
- (iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) “Enrollee” includes an insured.

(58) “Enrollment date,” with respect to a health benefit plan, means:

- (a) the first day of coverage; or
- (b) if there is a waiting period, the first day of the waiting period.

(59) “Enterprise risk” means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer’s risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(60) (a) “Escrow” means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) “Escrow” does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(61) “Escrow agent” means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(62) (a) “Excludes” is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term “excludes” are representative examples for use in interpretation of this title.

(63) “Exclusion” means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(64) “Expense reimbursement insurance” means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

(65) “Fidelity insurance” means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(66) (a) “Filed” means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) “Filed” does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (66)(a).

(67) “Filing,” when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

(68) “First party insurance” means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured’s losses.

(69) “Foreign insurer” means an insurer domiciled outside of this state, including an alien insurer.

(70) (a) “Form” means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) “Form” does not include a document specially prepared for use in an individual case.

(71) “Franchise insurance” means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(72) “General lines of authority” include:

(a) the general lines of insurance in Subsection (73);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers’ compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(73) “General lines of insurance” include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(74) “Group health plan” means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(75) (a) “Group insurance policy” means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(76) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(77) (a) "Health benefit plan" means, except as provided in Subsection (77)(b), a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) hospital indemnity or other fixed indemnity insurance; and

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan.

(78) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

(79) (a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(80) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(81) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

~~[(81)]~~ (82) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

~~[(82)]~~ (83) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

~~[(83)]~~ (84) “Indemnity” means the payment of an amount to offset all or part of an insured loss.

~~[(84)]~~ (85) “Independent adjuster” means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

~~[(85)]~~ (86) “Independently procured insurance” means insurance procured under Section 31A-15-104.

~~[(86)]~~ (87) “Individual” means a natural person.

~~[(87)]~~ (88) “Inland marine insurance” includes insurance covering:

- (a) property in transit on or over land;
- (b) property in transit over water by means other than boat or ship;
- (c) bailee liability;
- (d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and
- (e) personal and commercial property floaters.

~~[(88)]~~ (89) “Insolvency” or “insolvent” means that:

(a) an insurer is unable to pay ~~[its debts or meet its obligations as the debts and obligations mature]~~ the insurer’s obligations as the obligations are due;

(b) an insurer’s total adjusted capital is less than the insurer’s mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an ~~[insurer is determined to be hazardous under this title]~~ insurer’s admitted assets are less than the insurer’s liabilities.

~~[(89)]~~ (90) (a) “Insurance” means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person’s risk.

(b) “Insurance” includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

~~[(90)]~~ (91) “Insurance adjuster” means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an

annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

~~[(91)]~~ (92) “Insurance business” or “business of insurance” includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection ~~[(120)]~~ (121);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections ~~[(91)]~~ (92)(a) through (h) in a manner designed to evade this title.

~~[(92)]~~ (93) “Insurance consultant” or “consultant” means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

~~[(93)]~~ (94) “Insurance holding company system” means a group of two or more affiliated persons, at least one of whom is an insurer.

~~[(94)]~~ (95) (a) “Insurance producer” or “producer” means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) “Producer for the insurer” means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) “Producer for the insurer” may be referred to as an “agent.”

(c) (i) “Producer for the insured” means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) “Producer for the insured” may be referred to as a “broker.”

~~[(95)]~~ (96) (a) “Insured” means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

- (i) a policyholder;
- (ii) a subscriber;
- (iii) a member; and
- (iv) a beneficiary.

(b) The definition in Subsection ~~[(95)]~~ (96)(a):

- (i) applies only to this title;
- (ii) does not define the meaning of “insured” as used in an insurance policy or certificate; and
- (iii) includes an enrollee.

~~[(96)]~~ (97) (a) “Insurer” means a person doing an insurance business as a principal including:

- (i) a fraternal benefit society;
- (ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);
- (iii) a motor club;
- (iv) an employee welfare plan;
- (v) a person purporting or intending to do an insurance business as a principal on that person’s own account; and
- (vi) a health maintenance organization.

(b) “Insurer” does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107.

~~[(97)]~~ (98) “Interinsurance exchange” means the same as that term is defined in Subsection ~~[(452)]~~ (153).

~~[(98)]~~ (99) “Involuntary unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

~~[(99)]~~ (100) (a) “Large employer,” in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(i) employed an average of at least 51 employees on business days during the preceding calendar year; and

(ii) employs at least one employee on the first day of the plan year.

(b) The number of employees shall be determined using the method set forth in 26 U.S.C. Sec. 4980H(c)(2).

~~[(100)]~~ (101) “Late enrollee,” with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

~~[(101)]~~ (102) “Late enrollment,” with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

~~[(102)]~~ (103) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.

(b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

~~[(103)]~~ (104) (a) “Liability insurance” means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

- (A) medical malpractice insurance;
- (B) professional liability insurance; and
- (C) workers’ compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

[~~(104)~~] (105) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

[~~(105)~~] (106) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

[~~(106)~~] (107) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

[~~(107)~~] (108) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

[~~(108)~~] (109) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

[~~(109)~~] (110) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

[~~(110)~~] (111) "Limited lines authority" includes the lines of insurance listed in Subsection [~~(109)~~] (110).

[~~(111)~~] (112) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

[~~(112)~~] (113) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or
 (D) another method;
 (iii) for one or more necessary or medically necessary services that are:

- (A) diagnostic;
- (B) preventative;
- (C) therapeutic;
- (D) rehabilitative;
- (E) maintenance; or
- (F) personal care; and

(iv) that may be issued by:

- (A) an insurer;
- (B) a fraternal benefit society;
- (C) (I) a nonprofit health hospital; and
- (II) a medical service corporation;
- (D) a prepaid health plan;
- (E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections ~~[(112)]~~ (113)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

- (A) a group or individual annuity or rider; or
- (B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

- (A) cognitive impairment; or
- (B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

- (ii) basic hospital expense coverage;
- (iii) basic medical/surgical expense coverage;
- (iv) hospital confinement indemnity coverage;
- (v) major medical expense coverage;
- (vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

- (A) disease; or
- (B) accident;
- (ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

- (I) benefits; or
- (II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

- (I) terminal illness;
- (II) medical conditions requiring extraordinary medical intervention; or
- (III) permanent institutional confinement.

~~[(113)]~~ (114) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

~~[(114)]~~ (115) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

~~[(115)]~~ (116) "Member" means a person having membership rights in an insurance corporation.

~~[(116)]~~ (117) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

~~[(117)]~~ (118) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

~~[(118)]~~ (119) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

~~[(119)]~~ (120) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

~~[(120)]~~ (121) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections ~~(120)~~ (121)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

~~(121)~~ (122) "Mutual" means a mutual insurance corporation.

~~(122)~~ (123) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

~~(123)~~ (124) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

~~(124)~~ (125) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

~~(125)~~ (126) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

~~(126)~~ (127) "Order" means an order of the commissioner.

~~(127)~~ (128) "Outline of coverage" means a summary that explains an accident and health insurance policy.

~~(128)~~ (129) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

~~(129)~~ (130) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

~~(130)~~ (131) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

~~(131)~~ (132) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

~~(132)~~ (133) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

~~(133)~~ (134) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection [(133)] (134)(a) or (b), the calendar year.

[(134)] (135) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

[(135)] (136) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

[(136)] (137) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

[(137)] (138) "Policy summary" means a synopsis describing the elements of a life insurance policy.

[(138)] (139) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

[(139)] (140) "Preexisting condition," with respect to ~~a health benefit plan~~ health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

[(140)] (141) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

[(141)] (142) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

[(142)] (143) "Proceeding" includes an action or special statutory proceeding.

[(143)] (144) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

[(144)] (145) (a) Except as provided in Subsection [(144)] (145)(b), "property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

[(145)] (146) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

[(146)] (147) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

~~[(147)]~~ (148) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

~~[(148)]~~ (149) (a) Except as provided in Subsection ~~[(148)]~~ (149)(b), "rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

~~[(149)]~~ (150) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

~~[(150)]~~ (151) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

~~[(151)]~~ (152) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

~~[(152)]~~ (153) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

~~[(153)]~~ (154) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

- (i) “assuming insurer”; or
- (ii) “assuming reinsurer.”

[(454)] (155) “Reinsurer” means a person licensed in this state as an insurer with the authority to assume reinsurance.

[(455)] (156) “Residential dwelling liability insurance” means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

[(456)] (157) (a) “Retrocession” means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer “retrocedes” when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

[(457)] (158) “Rider” means an endorsement to:

- (a) an insurance policy; or
- (b) an insurance certificate.

[(458)] (159) “Secondary medical condition” means a complication related to an exclusion from coverage in accident and health insurance.

[(459)] (160) (a) “Security” means a:

- (i) note;
- (ii) stock;
- (iii) bond;
- (iv) debenture;
- (v) evidence of indebtedness;
- (vi) certificate of interest or participation in a profit-sharing agreement;
- (vii) collateral-trust certificate;
- (viii) preorganization certificate or subscription;
- (ix) transferable share;
- (x) investment contract;
- (xi) voting trust certificate;
- (xii) certificate of deposit for a security;
- (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;
- (xiv) commodity contract or commodity option;
- (xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections [(459)] (160)(a)(i) through (xiv); or
- (xvi) another interest or instrument commonly known as a security.

(b) “Security” does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

- (A) insurance;
- (B) an endowment policy; or
- (C) an annuity contract; or
- (ii) a burial certificate or burial contract.

[(460)] (161) “Securityholder” means a specified person who owns a security of a person, including:

- (a) common stock;
- (b) preferred stock;
- (c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection [(460)] (161).

[(461)] (162) (a) “Self-insurance” means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection [(461)] (162), “self-insurance” does not include an arrangement under which a number of persons spread their risks among themselves.

(c) “Self-insurance” includes:

- (i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee’s employment; and
- (ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) “Self-insurance” does not include an arrangement with an independent contractor.

[(462)] (163) “Sell” means to exchange a contract of insurance:

- (a) by any means;
- (b) for money or its equivalent; and
- (c) on behalf of an insurance company.

[(463)] (164) “Short-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

[(464)] (165) “Significant break in coverage” means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

[(465)] (166) (a) “Small employer” means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one ~~[employee]~~ but not more than 50 eligible employees on business days during the preceding calendar year; ~~[and] or~~

~~(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;~~

(ii) employs at least one employee on the first day of the plan year~~[-]; and~~

~~[(b) The number of employees shall:]~~

~~[(i) be determined using the method set forth in 26 U.S.C. Sec. 4980H(c)(2); and]~~

~~[(ii) include an owner described in Subsection (52)(b)(i).]~~

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

~~[(e)] (b) “Small employer” does not include a sole proprietor that does not employ at least one employee.~~

~~[(166)] (167) “Special enrollment period,” in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.~~

~~[(167)] (168) (a) “Subsidiary” of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.~~

(b) “Wholly owned subsidiary” of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary’s domicile requires to be owned by directors or others.

~~[(168)] (169) Subject to Subsection [(89)] (90)(b), “surety insurance” includes:~~

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal’s obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

~~[(169)] (170) (a) “Surplus” means the excess of assets over the sum of paid-in capital and liabilities.~~

(b) (i) “Permanent surplus” means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) “Excess surplus” means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer’s or health organization’s minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer’s paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer’s total adjusted capital required by Subsection 31A-17-609(1).

~~[(170)] (171) “Third party administrator” or “administrator” means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:~~

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer’s employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

~~[(471)]~~ (172) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

~~[(472)]~~ (173) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

~~[(473)]~~ (174) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

~~[(474)]~~ (175) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

~~[(475)]~~ (176) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

~~[(476)]~~ (177) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection ~~[(444)]~~ (145).

~~[(477)]~~ (178) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

~~[(478)]~~ (179) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

~~[(479)]~~ (180) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 6. Section 31A-2-201.1 is amended to read:

31A-2-201.1. General filing requirements.

Except as otherwise provided in this title, the commissioner may set by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specific requirements for filing any of the following required by this title:

(1) a form;

(2) a rate; ~~[or]~~

(3) a report~~[-];~~ or

(4) a binder for a health benefit plan or dental policy.

Section 7. Section 31A-2-201.2 is amended to read:

31A-2-201.2. Evaluation of health insurance market.

- (1) Each year the commissioner shall:
- (a) conduct an evaluation of the state's health insurance market;
 - (b) report the findings of the evaluation to the Health and Human Services Interim Committee before ~~[October]~~ December 1 of each year; and
 - (c) publish the findings of the evaluation on the department website.
- (2) The evaluation required by this section shall:
- (a) analyze the effectiveness of the insurance regulations and statutes in promoting a healthy, competitive health insurance market that meets the needs of the state, and includes an analysis of:
 - (i) the availability and marketing of individual and group products;
 - (ii) rate changes;
 - (iii) coverage and demographic changes;
 - (iv) benefit trends;
 - (v) market share changes; and
 - (vi) accessibility;
 - (b) assess complaint ratios and trends within the health insurance market, which assessment shall include complaint data from the Office of Consumer Health Assistance within the department;
 - (c) contain recommendations for action to improve the overall effectiveness of the health insurance market, administrative rules, and statutes; and
 - (d) include claims loss ratio data for each health insurance company doing business in the state.

(3) When preparing the evaluation and report required by this section, the commissioner may seek the input of insurers, employers, insured persons, providers, and others with an interest in the health insurance market.

(4) The commissioner may adopt administrative rules for the purpose of collecting the data required by this section, taking into account the business confidentiality of the insurers.

(5) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 8. Section 31A-2-204 is amended to read:

31A-2-204. Conducting examinations.

(1) As used in this section, "work papers" means a record that is created or relied upon:

(a) during the course of an examination conducted under Section 31A-2-203; or

(b) in drafting an examination report.

~~[(4)]~~ (2) (a) For each examination under Section 31A-2-~~203~~, the commissioner shall issue an order:

- (i) stating the scope of the examination; and
- (ii) designating the examiner in charge.

(b) The commissioner need not give advance notice of an examination to an examinee.

(c) The examiner in charge shall give the examinee a copy of the order issued under this Subsection ~~[(4)]~~ (2).

(d) (i) The commissioner may alter the scope or nature of an examination at any time without advance notice to the examinee.

(ii) If the commissioner amends an order described in this Subsection ~~[(4)]~~ (2), the commissioner shall provide a copy of any amended order to the examinee.

(e) Statements in the commissioner's examination order concerning examination scope are for the examiner's guidance only.

(f) Examining relevant matters not mentioned in an order issued under this Subsection ~~[(4)]~~ (2) is not a violation of this title.

~~[(2)]~~ (3) The commissioner shall, whenever practicable, cooperate with the insurance regulators of other states by conducting joint examinations of:

- (a) multistate insurers doing business in this state; or
- (b) other multistate licensees doing business in this state.

~~[(3)]~~ (4) An examiner authorized by the commissioner shall, when necessary to the purposes of the examination, have access at all reasonable hours to the premises and to any books, records, files, securities, documents, or property of:

- (a) the examinee; and
- (b) any of the following if the premises, books, records, files, securities, documents, or property relate to the affairs of the examinee:
 - (i) an officer of the examinee;
 - (ii) any other person who:
 - (A) has executive authority over the examinee; or
 - (B) is in charge of any segment of the examinee's affairs; or
 - (iii) any affiliate of the examinee under Subsection 31A-2-203(1)(b).

~~[(4)]~~ (5) (a) The officers, employees, and agents of the examinee and of persons under Subsection 31A-2-203(1)(b) shall comply with every reasonable request of the examiners for assistance in any matter relating to the examination.

(b) A person may not obstruct or interfere with the examination except by legal process.

[45] (6) If the commissioner finds the accounts or records to be inadequate for proper examination of the condition and affairs of the examinee or improperly kept or posted, the commissioner may employ experts to rewrite, post, or balance the accounts or records at the expense of the examinee.

[46] (7) (a) The examiner in charge of an examination shall make a report of the examination no later than 60 days after the completion of the examination that shall include:

(i) the information and analysis ordered under Subsection [44] (2); and

(ii) the examiner's recommendations.

(b) At the option of the examiner in charge, preparation of the report may include conferences with the examinee or representatives of the examinee.

(c) The report is confidential until the report becomes a public document under Subsection [47] (8), except the commissioner may use information from the report as a basis for action under Chapter 27a, Insurer Receivership Act.

[47] (8) (a) The commissioner shall serve a copy of the examination report described in Subsection [46] (7) upon the examinee.

(b) Within 20 days after service, the examinee shall:

(i) accept the examination report as written; or

(ii) request agency action to modify the examination report.

(c) The report is considered accepted under this Subsection [47] (8) if the examinee does not file a request for agency action to modify the report within 20 days after service of the report.

(d) If the examination report is accepted:

(i) the examination report immediately becomes a public document; and

(ii) the commissioner shall distribute the examination report to all jurisdictions in which the examinee is authorized to do business.

(e) (i) Any adjudicative proceeding held as a result of the examinee's request for agency action shall, upon the examinee's demand, be closed to the public, except that the commissioner need not exclude any participating examiner from this closed hearing.

(ii) Within 20 days after the hearing held under this Subsection [47] (8)(e), the commissioner shall:

(A) adopt the examination report with any necessary modifications; and

(B) serve a copy of the adopted report upon the examinee.

(iii) Unless the examinee seeks judicial relief, the adopted examination report:

(A) shall become a public document 10 days after service; and

(B) may be distributed as described in this section.

(f) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, to the extent that this section is in conflict with Title 63G, Chapter 4, Administrative Procedures Act, this section governs:

(i) a request for agency action under this section; or

(ii) adjudicative proceeding under this section.

[48] (9) The examinee shall promptly furnish copies of the adopted examination report described in Subsection [47] (8) to each member of the examinee's board.

[49] (10) After an examination report becomes a public document under Subsection [47] (8), the commissioner may furnish, without cost or at a reasonable price set under Section 31A-3-103, a copy of the examination report to interested persons, including:

(a) a member of the board of the examinee; or

(b) one or more newspapers in this state.

[40] (11) (a) In a proceeding by or against the examinee, or any officer or agent of the examinee, the examination report as adopted by the commissioner is admissible as evidence of the facts stated in the report.

(b) In any proceeding commenced under Chapter 27a, Insurer Receivership Act, the examination report, whether adopted by the commissioner or not, is admissible as evidence of the facts stated in the examination report.

(12) Work papers are protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 9. Section 31A-2-403 is amended to read:

31A-2-403. Title and Escrow Commission created.

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the consent of the Senate as follows:

(i) except as provided in Subsection (1)(c), two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the title

examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(c) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):

(i) one member who is an employee of a title insurer; and

(ii) one member who is an employee of a Utah agency title insurance producer.

(2) (a) Subject to Subsection (2)(c), a commission member shall file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) The commission shall meet at least monthly. Notwithstanding Section 52-4-207, a commission member shall physically attend a regularly scheduled monthly meeting of the commission and may not attend through electronic means. A commission member may attend subcommittee meetings, emergency meetings, or other not regularly scheduled meetings electronically in accordance with Section 52-4-207.

(b) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

(c) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

Section 10. Section 31A-3-303 is amended to read:

31A-3-303. Payment of tax.

(1) (a) An insurer, the producers involved in the transaction, and the policyholder are jointly and severally liable for the payment of the taxes required under Section 31A-3-301.

(b) The policyholder's liability for payment of the premium tax under Section 31A-3-301 ends when the policyholder pays the tax to a producer or an insurer.

(c) The insurer and the producers involved in the transaction are jointly and severally liable for the payment of the additional tax required under Section 31A-3-302.

(d) Except for the tax under Section 31A-3-302, the policyholder shall pay a tax under this part and shall be billed specifically for the tax when billed for the premium.

(e) Except for the tax imposed under Section 31A-3-302, absorption of the tax by the producer or

insurer is an unfair method of competition under Sections 31A-23a-402 and 31A-23a-402.5.

(2) (a) The commissioner shall by rule prescribe accounting and reporting forms and procedures for insurers, producers, and policyholders to use in determining the amount of taxes owed under this part, and the manner and time of payment.

(b) If a tax is not paid within the time prescribed under the commissioner's rule, a penalty shall be imposed of 25% of the tax due, plus 1-1/2% per month from the time of default until full payment of the tax.

(3) Upon making a record of its actions, and upon reasonable cause shown, the commissioner may waive, reduce, or compromise any of the penalties or interest imposed under this part.

~~[(4) Subject to Section 31A-3-305, if a policy covers risks that are only partially located in this state, for computation of tax under this part the premium shall be reasonably allocated among the states on the basis of risk locations. However, the premiums with respect to surplus lines insurance received in this state by a surplus lines producer or charged on policies written or negotiated in or from this state are taxable in full under this part, subject to a credit for any tax actually paid in another state to the extent of a reasonable allocation on the basis of risk locations.]~~

(4) When Utah is the home state, premiums for surplus lines insurance are taxable in full.

(5) Subject to Section 31A-3-305, the premium taxes collected under this part by a producer or by an insurer are the property of this state.

(6) If the property of a producer is seized under any process in a court in this state, or if a producer's business is suspended by the action of creditors or put into the hands of an assignee, receiver, or trustee, the taxes and penalties due this state under this part are preferred claims and the state is to that extent a preferred creditor.

Section 11. Section 31A-3-304 is amended to read:

31A-3-304. Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) A captive insurance company that pays one of the following fees is exempt from Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9, Taxation of Admitted Insurers:

(i) a fee under this section;

(ii) a fee under Chapter 37, Captive Insurance Companies Act; or

(iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other fee or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

(i) administer and enforce:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

(ii) promote the captive insurance industry in Utah.

(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of the following shall be treated as free revenue in the General Fund:

~~[(i) for fiscal year 2015-2016, in excess of \$1,250,000;]~~

~~[(ii) for fiscal year 2016-2017, in excess of \$1,250,000; and]~~

~~[(iii)] (i) for fiscal year 2017-2018 and subsequent fiscal years, in excess of \$1,850,000[.]; and~~

(ii) for fiscal year 2018-2019 and subsequent fiscal years, in excess of \$1,600,000.

Section 12. Section 31A-6a-101 is amended to read:

31A-6a-101. Definitions.

As used in this chapter:

(1) (a) “Incidental cost” means a cost, incurred by a warranty holder in relation to a vehicle protection product warranty, that is in addition to the cost of purchasing the warranty.

(b) “Incidental cost” includes an insurance policy deductible, a rental vehicle charge, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales tax, a registration fee, a transaction fee, a mechanical inspection fee, or damage a theft causes to a vehicle.

(1) (2) “Mechanical breakdown insurance” means a policy, contract, or agreement issued by an insurance company that has complied with either Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, that undertakes to perform or provide repair or replacement service on goods or property, or indemnification for repair or replacement service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear.

(2) (3) “Nonmanufacturers’ parts” means replacement parts not made for or by the original manufacturer of the goods commonly referred to as “after market parts.”

(3) (4) (a) “Road hazard” means a hazard that is encountered while driving a motor vehicle.

(b) “Road hazard” includes potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(4) (5) (a) “Service contract” means a contract or agreement to perform or reimburse for the repair or maintenance of goods or property, for their operational or structural failure due to a defect in materials, workmanship, normal wear and tear, power surge or interruption, or accidental damage from handling, with or without additional provision for incidental payment of indemnity under limited circumstances, including towing, providing a rental car, providing emergency road service, and covering food spoilage.

(b) “Service contract” does not include:

(i) mechanical breakdown insurance; or

(ii) a prepaid contract of limited duration that provides for scheduled maintenance only, regardless of whether the contract is executed before, on, or after May 9, 2017.

(c) “Service contract” includes any contract or agreement to perform or reimburse the service contract holder for any one or more of the following services:

(i) the repair or replacement of tires, wheels, or both on a motor vehicle damaged as a result of coming into contact with a road hazard;

(ii) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the

existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(iii) the repair of chips or cracks in or the replacement of a motor vehicle windshield as a result of damage caused by a road hazard, that is primary to the coverage offered by the motor vehicle owner’s motor vehicle insurance policy; or

(iv) the replacement of a motor vehicle key or key-fob if the key or key-fob becomes inoperable, lost, or stolen, except that the replacement of lost or stolen property is limited to only the replacement of a lost or stolen motor vehicle key or key-fob.

(5) (6) “Service contract holder” or “contract holder” means a person who purchases a service contract.

(6) (7) “Service contract provider” means a person who issues, makes, provides, administers, sells or offers to sell a service contract, or who is contractually obligated to provide service under a service contract.

(7) (8) “Service contract reimbursement policy” or “reimbursement insurance policy” means a policy of insurance providing coverage for all obligations and liabilities incurred by the service contract provider or warrantor under the terms of the service contract or vehicle protection product warranty issued by the provider or warrantor.

(8) (9) (a) “Vehicle protection product” means a device or system that is:

(i) installed on or applied to a motor vehicle; and

(ii) designed to:

(A) prevent the theft of the vehicle[-]; or

(B) if the vehicle is stolen, aid in the recovery of the vehicle.

(b) “Vehicle protection product” includes:

(i) a vehicle protection product warranty;

(ii) an alarm system;

(iii) a body part marking product;

(iv) a steering lock;

(v) a window etch product;

(vi) a pedal and ignition lock;

(vii) a fuel and ignition kill switch; and

(viii) an electronic, radio, or satellite tracking device.

(9) (10) “Vehicle protection product warranty” means a written agreement by a warrantor that provides that if the vehicle protection product fails to prevent the theft of the motor vehicle, [that] or aid in the recovery of the motor vehicle within a time period specified in the warranty, not exceeding 30 days after the day on which the motor vehicle is reported stolen, the warrantor will reimburse the warranty holder [under the warranty in a fixed amount] for incidental costs specified in the warranty, not [to exceed \$5,000] exceeding \$5,000, or in a specified fixed amount not exceeding \$5,000.

~~[(40)]~~ (11) "Warrantor" means a person who is contractually obligated to the warranty holder under the terms of a vehicle protection product warranty.

~~[(41)]~~ (12) "Warranty holder" means the person who purchases a vehicle protection product, any authorized transferee or assignee of the purchaser, or any other person legally assuming the purchaser's rights under the vehicle protection product warranty.

Section 13. Section 31A-6a-104 is amended to read:

31A-6a-104. Required disclosures.

(1) A ~~[service contract]~~ reimbursement insurance policy insuring a service contract or a vehicle protection product warranty that is issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the service contract provider or warrantor to perform under the contract, the issuer of the policy shall:

(a) pay on behalf of the service contract provider or warrantor any sums the service contract provider or warrantor is legally obligated to pay according to the service contract provider's or warrantor's contractual obligations under the service contract or a vehicle protection product warranty issued or sold by the service contract provider or warrantor; or

(b) provide the service which the service contract provider is legally obligated to perform, according to the service contract provider's contractual obligations under the service contract issued or sold by the service contract provider.

(2) (a) A service contract may not be issued, sold, or offered for sale in this state unless the service contract contains the following statements in substantially the following form:

(i) "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. Should the provider fail to pay or provide service on any claim within 60 days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the Insurance Company."; ~~[and]~~

(ii) "This service contract or warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."; and

(iii) A service contract or reimbursement insurance policy may not be issued, sold, or offered for sale in this state unless the contract contains a statement in substantially the following form, "Coverage afforded under this contract is not guaranteed by the Property and Casualty Guaranty Association."

(b) A vehicle protection product warranty may not be issued, sold, or offered for sale in this state unless the vehicle protection product warranty contains the following statements in substantially the following form:

(i) "Obligations of the warrantor under this vehicle protection product warranty are guaranteed under a reimbursement insurance policy. Should the warrantor fail to pay on any claim within 60 days after proof of loss has been filed, the warranty holder is entitled to make a claim directly against the Insurance Company."; ~~[and]~~

(ii) "This vehicle protection product warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."; and

(iii) as applicable:

(A) "The warrantor under this vehicle protection product warranty will reimburse the warranty holder as specified in the warranty upon the theft of the vehicle."; or

(B) "The warrantor under this vehicle protection product warranty will reimburse the warranty holder as specified in the warranty and at the end of the time period specified in the warranty if, following the theft of the vehicle, the stolen vehicle is not recovered within a time period specified in the warranty, not to exceed 30 days after the day on which the vehicle is reported stolen."

(c) A vehicle protection product warranty, or reimbursement insurance policy, may not be issued, sold, or offered for sale in this state unless the warranty contains a statement in substantially the following form, "Coverage afforded under this warranty is not guaranteed by the Property and Casualty Guaranty Association."

(3) A service contract and a vehicle protection product warranty shall:

(a) conspicuously state the name, address, and a toll free claims service telephone number of the reimbursement insurer;

(b) (i) identify the service contract provider, the seller, and the service contract holder; or

(ii) identify the warrantor, the seller, and the warranty holder;

(c) conspicuously state the total purchase price and the terms under which the service contract or warranty is to be paid;

(d) conspicuously state the existence of any deductible amount;

(e) specify the merchandise, service to be provided, and any limitation, exception, or exclusion;

(f) state a term, restriction, or condition governing the transferability of the service contract or warranty; and

(g) state a term, restriction, or condition that governs cancellation of the service contract as provided in Sections 31A-21-303 through 31A-21-305 by either the contract holder or service contract provider.

(4) If prior approval of repair work is required, a service contract shall conspicuously state the

procedure for obtaining prior approval and for making a claim, including:

(a) a toll free telephone number for claim service; and

(b) a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) A preexisting condition clause in a service contract shall specifically state which preexisting condition is excluded from coverage.

(6) (a) Except as provided in Subsection (6)(c), a service contract shall state the conditions upon which the use of a nonmanufacturers' part is allowed.

(b) A condition described in Subsection (6)(a) shall comply with applicable state and federal laws.

(c) This Subsection (6) does not apply to a home warranty contract.

(7) This section applies to a vehicle protection product warranty, except for the requirements of Subsections (3)(d) and (g), (4), (5), and (6). The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application of this section to a vehicle protection product warranty.

(8) (a) As used in this Subsection (8), "conspicuous statement" means a disclosure that:

(i) appears in all-caps, bold, and 14-point font; and

(ii) provides a space to be initialed by the consumer:

(A) immediately below the printed disclosure; and

(B) at or before the time the consumer purchases the vehicle protection product.

~~(8)~~ (b) A vehicle protection product warranty shall contain a conspicuous statement in substantially the following form: "Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle."

(9) If a vehicle protection product warranty states that the warrantor will reimburse the warranty holder for incidental costs, the vehicle protection product warranty shall state how incidental costs paid under the warranty are calculated.

(10) If a vehicle protection product warranty states that the warrantor will reimburse the warranty holder in a fixed amount, the vehicle protection product warranty shall state the fixed amount.

Section 14. Section 31A-6a-105 is amended to read:

31A-6a-105. Prohibited acts.

(1) Except as provided in Subsection 31A-6a-104(2), a service contract provider or

warrantor may not use in [its] the service contract provider or warrantor's name, a contract, or literature:

(a) any of the following words:

(i) "insurance";

(ii) "casualty";

(iii) "surety";

(iv) "mutual"; or

(v) another word descriptive of the insurance, casualty, or surety business; or

(b) a name deceptively similar to the name or description of:

(i) an insurance or surety corporation; or

(ii) another service contract provider.

(2) A service contract provider ~~or the~~, a service contract provider's representative, a warrantor, or a warrantor's representative may not:

(a) make, permit, or cause to be made a false or misleading statement in connection with the sale, offer to sell, or advertisement of a service contract or vehicle protection product; or

(b) deliberately omit a material statement that would be considered misleading if omitted, in connection with the sale, offer to sell, or advertisement of a service contract or vehicle protection product.

(3) A bank, savings and loan association, insurance company, or other lending institution may not require the purchase of a service contract as a condition of a loan.

(4) Except for a bank, savings and loan association, industrial bank, or credit union, a service contract provider may not sell, or be the obligated party for:

(a) a guaranteed asset protection waiver, unless registered with the commissioner under Chapter 6b, Guaranteed Asset Protection Waiver Act;

(b) a debt cancellation agreement, unless licensed by the commissioner; or

(c) a debt suspension agreement, unless licensed by the commissioner.

(5) A warrantor or [its] the warrantor's representative may not:

(a) require the purchase of a vehicle protection product as a condition of the financing, lease, or purchase of a motor vehicle[-]; or

(b) sell a vehicle protection product to a consumer before providing the consumer, for review, a copy of the vehicle protection product warranty that is filed with the Department of Insurance.

Section 15. Section 31A-6a-111 is repealed and reenacted to read:

31A-6a-111. Vehicle protection product warranty requirements.

(1) A warrantor shall make a reimbursement promised under a vehicle protection product warranty as specified in the warranty, regardless of, and not contingent upon, the payment of a benefit provided for under the warranty holder's primary vehicle insurance or any other contract.

(2) (a) If a vehicle protection product is represented as preventing the theft of a vehicle, the vehicle protection product warranty shall, at a minimum, provide for reimbursement of damage a theft causes to the motor vehicle up to \$5,000, if the vehicle is recovered within the time period specified in the warranty following the theft of the vehicle, not to exceed 30 days after the day on which the vehicle is reported stolen.

(b) If a vehicle protection product is represented as aiding in the recovery of a stolen vehicle, the vehicle protection product warranty shall provide for reimbursement of the vehicle up to \$5,000, if the vehicle is not recovered within the time period specified in the warranty following the theft of the vehicle, not to exceed 30 days after the day on which the vehicle is reported stolen.

Section 16. Section 31A-8-104 is amended to read:

31A-8-104. Determination of ability to provide services.

(1) The commissioner may not issue a certificate of authority to an applicant for a certificate of authority under this chapter unless the applicant demonstrates to the commissioner [has determined] that the applicant has:

(a) [demonstrated] the willingness and potential ability to furnish the proposed health care services in a manner to assure both availability and accessibility of adequate personnel and facilities and continuity of service; and

(b) arrangements for an ongoing quality of health care assurance program concerning health care processes and outcomes[, established in accordance with rules adopted by the director of the Department of Health based upon prevailing standards for quality assurance for other forms of health care delivery in this state; and].

[~~(c) a procedure, established in accordance with rules of the director of the Department of Health, to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and such other matters as may be reasonably required by the director of the Department of Health.~~]

[~~(2) Upon receipt of an application for a certificate of authority under this chapter, the commissioner shall transmit a copy of the application and accompanying documents to the director of the Department of Health. Upon receipt of the application, the director of the Department of Health shall review the application, investigate the surrounding facts and circumstances, and make a finding concerning whether the applicant satisfies the requirements of Subsection (1). The director of~~

~~the Department of Health is considered to have found the applicant to comply with Subsection (1) unless he delivers to the commissioner a finding of noncompliance within 90 days after receiving the application from the commissioner.~~]

[~~(3) In determining whether the requirements of Subsection (1) are satisfied, the commissioner shall rely on the findings of the director of the Department of Health delivered to the commissioner in accordance with Subsection (2).~~]

[~~(4) A finding of noncompliance with Subsection (1) shall specify in what respects the applicant is deficient in meeting the requirements of Subsection (1).~~]

(2) (a) In accordance with Sections 31A-2-203 and 31A-2-204, the commissioner may order an independent audit or examination by one or more technical experts to determine an applicant's ability to provide the proposed health care services as described in Subsection (1).

(b) In accordance with Section 31A-2-205, an applicant shall reimburse the commissioner for the reasonable cost of an independent audit or examination.

[~~(5) An organization's certificate of authority issued under this chapter is conclusive evidence of compliance with Subsection (1), as to the services authorized to be performed under the certificate of authority, except in a proceeding by the state against the organization.~~]

(3) Licensing under this chapter does not exempt an organization from any licensing requirement applicable under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Section 17. Section 31A-8a-102 is amended to read:

31A-8a-102. Definitions.

[~~For purposes of~~] As used in this chapter:

(1) "Fee" means any periodic charge for use of a discount program.

(2) "Health care provider" means a health care provider as defined in Section 78B-3-403, with the exception of "licensed athletic trainer," who:

(a) is practicing within the scope of the provider's license; and

(b) has agreed either directly or indirectly, by contract or any other arrangement with a health discount program operator, to provide a discount to enrollees of a health discount program.

(3) (a) "Health discount program" means a business arrangement or contract in which a person pays fees, dues, charges, or other consideration in exchange for a program that provides access to health care providers who agree to provide a discount for health care services.

(b) "Health discount program" does not include a program that does not charge a membership fee or require other consideration from the member to use the program's discounts for health services.

(4) "Health discount program marketer" means a person, including a private label entity, that markets, promotes, sells, or distributes a health discount program but does not operate a health discount program.

(5) "Health discount program operator" means a person that provides a health discount program by entering into a contract or agreement, directly or indirectly, with a person or persons in this state who agree to provide discounts for health care services to enrollees of the health discount program and determines the charge to members.

(6) "Marketing" means making or causing to be made any communication that contains information that relates to a product or contract regulated under this chapter.

[(6)] (7) "Value-added benefit" means a discount offering with no additional charge made by a health insurer or health maintenance organization that is licensed under this title, in connection with existing contracts with the health insurer or health maintenance organization.

Section 18. Section 31A-15-103 is amended to read:

31A-15-103. Surplus lines insurance -- Unauthorized insurers.

(1) Notwithstanding Section 31A-15-102, [a foreign insurer that has not obtained a certificate of authority to do business in this state under Section 31A-14-202 may negotiate for and] when this state is the home state as defined in Section 31A-3-305, a nonadmitted insurer may make an insurance contract [with] for coverage of a person in this state and on a risk located in this state, subject to the limitations and requirements of this section.

(2) (a) For a contract made under this section, the insurer may, in this state:

- (i) inspect the risks to be insured;
- (ii) collect premiums;
- (iii) adjust losses; and

(iv) do another act reasonably incidental to the contract.

(b) An act described in Subsection (2)(a) may be done through:

- (i) an employee; or
- (ii) an independent contractor.

(3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on behalf of an insurer that has no certificate of authority.

(b) Insurance placed with a nonadmitted insurer shall be placed [with] by a surplus lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) The commissioner may by rule prescribe how a surplus lines producer may:

(i) pay or permit the payment, commission, or other remuneration on insurance placed by the surplus lines producer under authority of the surplus lines producer's license to one holding a license to act as an insurance producer; and

(ii) advertise the availability of the surplus lines producer's services in procuring, on behalf of a person seeking insurance, a contract with a nonadmitted insurer.

(4) For a contract made under this section, a nonadmitted insurer is subject to Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

(5) A nonadmitted insurer may not issue workers' compensation insurance coverage to an employer located in this state, except for stop loss coverage issued to an employer securing workers' compensation under Subsection 34A-2-201(2).

(6) (a) The commissioner may by rule prohibit making a contract under Subsection (1) for a specified class of insurance if authorized insurers provide an established market for the class in this state that is adequate and reasonably competitive.

(b) The commissioner may by rule place a restriction or a limitation on and create special procedures for making a contract under Subsection (1) for a specified class of insurance if:

(i) there have been abuses of placements in the class; or

(ii) the policyholders in the class, because of limited financial resources, business experience, or knowledge, cannot protect their own interests adequately.

(c) The commissioner may prohibit an individual insurer from making a contract under Subsection (1) and all insurance producers from dealing with the insurer if:

(i) the insurer willfully violates:

(A) this section;

(B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

(C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

(ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or

(iii) the commissioner has reason to believe that the insurer is:

(A) in an unsound condition;

(B) operated in a fraudulent, dishonest, or incompetent manner; or

(C) in violation of the law of its domicile.

(d) (i) The commissioner may issue one or more lists of [unauthorized] nonadmitted foreign insurers whose:

(A) solidity the commissioner doubts; or

(B) practices the commissioner considers objectionable.

(ii) The commissioner shall issue one or more lists of ~~[unauthorized]~~ nonadmitted foreign insurers the commissioner considers to be reliable and solid.

(iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner may issue other relevant evaluations of ~~[unauthorized]~~ nonadmitted insurers.

(iv) An action may not lie against the commissioner or an employee of the department for a written or oral communication made in, or in connection with the issuance of, a list or evaluation described in this Subsection (6)(d).

(e) A foreign ~~[unauthorized]~~ nonadmitted insurer shall be listed on the commissioner's "reliable" list only if the ~~[unauthorized]~~ nonadmitted insurer:

(i) delivers a request to the commissioner to be on the list;

(ii) establishes satisfactory evidence of good reputation and financial integrity;

(iii) (A) delivers to the commissioner a copy of the ~~[unauthorized]~~ nonadmitted insurer's current annual statement certified by the insurer~~;~~ ~~and~~ and, each subsequent year, delivers to the commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day on which the nonadmitted insurer files the annual statement with the insurance regulatory authority where the nonadmitted insurer is domiciled; or

~~[(B) continues each subsequent year to file its annual statements with the commissioner within 60 days of the day on which it is filed with the insurance regulatory authority where the insurer is domiciled;]~~

~~[(B) files the nonadmitted insurer's annual statements with the National Association of Insurance Commissioners and the nonadmitted insurer's annual statements are available electronically from the National Association of Insurance Commissioners;~~

(iv) (A) ~~[(E)]~~ is in substantial compliance with the solvency standards in Chapter 17, Part 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is greater; ~~[and] or~~

~~[(H) maintains in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve System, or maintains a deposit meeting the statutory deposit requirements for insurers in the state where it is made, which trust fund or deposit;]~~

~~[(Aa) shall be in an amount not less than \$2,500,000 for the protection of all of the insurer's policyholders in the United States;]~~

~~[(Bb) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and]~~

~~[(Ce) may include as part of the trust arrangement a letter of credit that qualifies as~~

~~acceptable security under Section 31A-17-404.1; or]~~

(B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group of alien individual insurers, maintains a trust fund that:

(I) shall be in an amount not less than \$50,000,000 as security to its full amount for all policyholders and creditors in the United States of each member of the group;

(II) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and

(III) may include as part of this trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; and

(v) for an alien insurer not domiciled in the United States or a territory of the United States, is listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

(7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly or without reasonable investigation of the financial condition and general reputation of the insurer, place insurance under this section with:

(i) a financially unsound insurer;

(ii) an insurer engaging in unfair practices; or

(iii) an otherwise substandard insurer.

(b) A surplus line producer may place insurance under this section with an insurer described in Subsection (7)(a) if the surplus line producer:

(i) gives the applicant notice in writing of the known deficiencies of the insurer or the limitations on the surplus line producer's investigation; and

(ii) explains the need to place the business with that insurer.

(c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the surplus line producer for at least five years.

(d) To be financially sound, an insurer shall satisfy standards that are comparable to those applied under the laws of this state to an authorized insurer.

(e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed substandard.

(8) (a) A policy issued under this section shall:

(i) include a description of the subject of the insurance; and

(ii) indicate:

(A) the coverage, conditions, and term of the insurance;

(B) the premium charged the policyholder;

(C) the premium taxes to be collected from the policyholder; and

(D) the name and address of the policyholder and insurer.

(b) If the direct risk is assumed by more than one insurer, the policy shall state:

(i) the names and addresses of all insurers; and

(ii) the portion of the entire direct risk each assumes.

(c) A policy issued under this section shall have attached or affixed to the policy the following statement: "The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28, Guaranty Associations."

(9) Upon placing a new or renewal coverage under this section, a surplus lines producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the insurance consisting either of:

(a) the policy as issued by the insurer; or

(b) if the policy is not available upon placing the coverage, a certificate, cover note, or other confirmation of insurance complying with Subsection (8).

(10) If the commissioner finds it necessary to protect the interests of insureds and the public in this state, the commissioner may by rule subject a policy issued under this section to as much of the regulation provided by this title as is required for a comparable policy written by an authorized foreign insurer.

(11) (a) A surplus lines transaction in this state shall be examined to determine whether it complies with:

(i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

(ii) the solicitation limitations of Subsection (3);

(iii) the requirement of Subsection (3) that placement be through a surplus lines producer;

(iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

(v) the policy form requirements of Subsections (8) and (10).

(b) The examination described in Subsection (11)(a) shall take place as soon as practicable after the transaction. The surplus lines producer shall submit to the examiner information necessary to conduct the examination within a period specified by rule.

(c) (i) The examination described in Subsection (11)(a) may be conducted by the commissioner or by an advisory organization created under Section 31A-15-111 and authorized by the commissioner to

conduct these examinations. The commissioner is not required to authorize an additional advisory organization to conduct an examination under this Subsection (11)(c).

(ii) The commissioner's authorization of one or more advisory organizations to act as examiners under this Subsection (11)(c) shall be:

(A) by rule; and

(B) evidenced by a contract, on a form provided by the commissioner, between the authorized advisory organization and the department.

(d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall collect a stamping fee of an amount not to exceed 1% of the policy premium payable in connection with the transaction.

(B) A stamping fee collected by the commissioner shall be deposited in the General Fund.

(C) The commissioner shall establish a stamping fee by rule.

(ii) A stamping fee collected by an advisory organization is the property of the advisory organization to be used in paying the expenses of the advisory organization.

(iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.

(iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If a stamping fee is not paid when due, the commissioner or advisory organization may impose a penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until full payment of the stamping fee.

~~[(v) A stamping fee relative to a policy covering a risk located partially in this state shall be allocated in the same manner as under Subsection 31A-3-303(4).]~~

(e) The commissioner, representatives of the department, advisory organizations, representatives and members of advisory organizations, authorized insurers, and surplus lines insurers are not liable for damages on account of statements, comments, or recommendations made in good faith in connection with their duties under this Subsection (11)(e) or under Section 31A-15-111.

(f) An examination conducted under this Subsection (11) and a document or materials related to the examination are confidential.

(12) (a) For a surplus lines insurance transaction in the state entered into on or after May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines insurer:

(i) shall exercise due diligence to initiate an audit of an insured, to determine whether additional premium is owed by the insured, by no later than six months after the expiration of the term for which premium is paid; and

(ii) may not audit an insured more than three years after the surplus lines insurance policy expires.

(b) A surplus lines insurer that does not comply with this Subsection (12) may not charge or collect additional premium in excess of the premium agreed to under the surplus lines insurance policy.

Section 19. Section 31A-16-103 is amended to read:

31A-16-103. Acquisition of control of, divestiture of control of, or merger with domestic insurer.

(1) (a) A person may not take the actions described in Subsection (1)(b) or (c) unless, at the time any offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of securities if no offer or agreement is involved:

(i) the person files with the commissioner a statement containing the information required by this section;

(ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the insurer; and

(iii) the commissioner approves the offer, request, invitation, agreement, or acquisition.

(b) Unless the person complies with Subsection (1)(a), a person other than the issuer may not make a tender offer for, a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if after the acquisition, the person would directly, indirectly, by conversion, or by exercise of any right to acquire be in control of the insurer.

(c) Unless the person complies with Subsection (1)(a), a person may not enter into an agreement to merge with or otherwise to acquire control of:

(i) a domestic insurer; or

(ii) any person controlling a domestic insurer.

(d) For purposes of this section, a controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least 30 days before the cessation of control. The commissioner shall determine those instances in which the one or more persons seeking to divest or to acquire a controlling interest in an insurer, will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in the commissioner's discretion, determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in Subsection (1)(a) is otherwise filed, this Subsection (1)(d) does not apply.

(e) With respect to a transaction subject to this section, the acquiring person shall also file a

pre-acquisition notification with the commissioner, which shall contain the information set forth in Section 31A-16-104.5. A failure to file the notification may be subject to penalties specified in Section 31A-16-104.5.

(f) (i) For purposes of this section, a domestic insurer includes any person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(ii) The controlling person described in Subsection (1)(f)(i) shall file with the commissioner a preacquisition notification containing the information required in Subsection (2) 30 calendar days before the proposed effective date of the acquisition.

(iii) For the purposes of this section, "person" does not include any securities broker that in the usual and customary brokers function holds less than 20% of:

(A) the voting securities of an insurance company; or

(B) any person that controls an insurance company.

(iv) This section applies to all domestic insurers and other entities licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations;

(C) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(D) Chapter 9, Insurance Fraternal; and

(E) Chapter 11, Motor Clubs.

(g) (i) An agreement for acquisition of control or merger as contemplated by this Subsection (1) is not valid or enforceable unless the agreement:

(A) is in writing; and

(B) includes a provision that the agreement is subject to the approval of the commissioner upon the filing of any applicable statement required under this chapter.

(ii) A written agreement for acquisition or control that includes the provision described in Subsection (1)(g)(i) satisfies the requirements of this Subsection (1).

(2) The statement to be filed with the commissioner under Subsection (1) shall be made under oath or affirmation and shall contain the following information:

(a) the name and address of the "acquiring party," which means each person by whom or on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to be effected; and

(i) if the person is an individual:

(A) the person's principal occupation;

(B) a listing of all offices and positions held by the person during the past five years; and

(C) any conviction of crimes other than minor traffic violations during the past 10 years; and

(ii) if the person is not an individual:

(A) a report of the nature of its business operations during:

(I) the past five years; or

(II) for any lesser period as the person and any of its predecessors has been in existence;

(B) an informative description of the business intended to be done by the person and the person's subsidiaries;

(C) a list of all individuals who are or who have been selected to become directors or executive officers of the person, or individuals who perform, or who will perform functions appropriate to such positions; and

(D) for each individual described in Subsection (2)(a)(ii)(C), the information required by Subsection (2)(a)(i) for each individual;

(b) (i) the source, nature, and amount of the consideration used or to be used in effecting the merger or acquisition of control;

(ii) a description of any transaction in which funds were or are to be obtained for the purpose of effecting the merger or acquisition of control, including any pledge of:

(A) the insurer's stock; or

(B) the stock of any of the insurer's subsidiaries or controlling affiliates; and

(iii) the identity of persons furnishing the consideration;

(c) (i) fully audited financial information, or other financial information considered acceptable by the commissioner, of the earnings and financial condition of each acquiring party for:

(A) the preceding five fiscal years of each acquiring party; or

(B) any lesser period the acquiring party and any of its predecessors shall have been in existence; and

(ii) unaudited information:

(A) similar to the information described in Subsection (2)(c)(i); and

(B) prepared within the 90 days prior to the filing of the statement;

(d) any plans or proposals which each acquiring party may have to:

(i) liquidate the insurer;

(ii) sell its assets;

(iii) merge or consolidate the insurer with any person; or

(iv) make any other material change in the insurer's:

(A) business;

(B) corporate structure; or

(C) management;

(e) (i) the number of shares of any security referred to in Subsection (1) that each acquiring party proposes to acquire;

(ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1); and

(iii) a statement as to the method by which the fairness of the proposal was arrived at;

(f) the amount of each class of any security referred to in Subsection (1) that:

(i) is beneficially owned; or

(ii) concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) a full description of any contract, arrangement, or understanding with respect to any security referred to in Subsection (1) in which any acquiring party is involved, including:

(i) the transfer of any of the securities;

(ii) joint ventures;

(iii) loan or option arrangements;

(iv) puts or calls;

(v) guarantees of loans;

(vi) guarantees against loss or guarantees of profits;

(vii) division of losses or profits; or

(viii) the giving or withholding of proxies;

(h) a description of the purchase by any acquiring party of any security referred to in Subsection (1) during the 12 calendar months preceding the filing of the statement including:

(i) the dates of purchase;

(ii) the names of the purchasers; and

(iii) the consideration paid or agreed to be paid for the purchase;

(i) a description of:

(i) any recommendations to purchase by any acquiring party any security referred to in Subsection (1) made during the 12 calendar months preceding the filing of the statement; or

(ii) any recommendations made by anyone based upon interviews or at the suggestion of the acquiring party;

(j) (i) copies of all tender offers for, requests for, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Subsection (1); and

(ii) if distributed, copies of additional soliciting material relating to the transactions described in Subsection (2)(j)(i);

(k) (i) the term of any agreement, contract, or understanding made with, or proposed to be made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for tender; and

(ii) the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to any agreement, contract, or understanding described in Subsection (2)(k)(i);

(l) an agreement by the person required to file the statement referred to in Subsection (1) that it will provide the annual report, specified in Section 31A-16-105, for so long as control exists;

(m) an acknowledgment by the person required to file the statement referred to in Subsection (1) that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer; and

(n) any additional information the commissioner requires by rule, which the commissioner determines to be:

(i) necessary or appropriate for the protection of policyholders of the insurer; or

(ii) in the public interest.

(3) The department may request:

(a) (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(b) Information obtained by the department from the review of criminal history records received under Subsection (3)(a) shall be used by the department for the purpose of:

(i) verifying the information in Subsection (2)(a)(i);

(ii) determining the integrity of persons who would control the operation of an insurer; and

(iii) preventing persons who violate 18 U.S.C. Sec. 1033 from engaging in the business of insurance in the state.

(c) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(a)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(a)(ii); and

(iii) charge the person required to file the statement referred to in Subsection (1) a fee equal to the aggregate of Subsections (3)(c)(i) and (ii).

(4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(b) (i) Under Subsection (2)(e), the commissioner may require a statement of the adjusted book value assigned by the acquiring party to each security in arriving at the terms of the offer.

(ii) For purposes of this Subsection (4)(b), "adjusted book value" means each security's proportional interest in the capital and surplus of the insurer with adjustments that reflect:

(A) market conditions;

(B) business in force; and

(C) other intangible assets or liabilities of the insurer.

(c) The description required by Subsection (2)(g) shall identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(5) (a) If the person required to file the statement referred to in Subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that all the information called for by Subsection (2), (3), or (4) shall be given with respect to each:

(i) partner of the partnership or limited partnership;

(ii) member of the syndicate or group; and

(iii) person who controls the partner or member.

(b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation, or if the person required to file the statement referred to in Subsection (1) is a corporation, the commissioner may require that the information called for by Subsection (2) shall be given with respect to:

(i) the corporation;

(ii) each officer and director of the corporation; and

(iii) each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(6) If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to Subsection (2), an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner and sent to the insurer within two business days after the filing person learns of such change.

(7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection (1) is proposed to be made by means of a registration statement

under the Securities Act of 1933, or under circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, a person required to file the statement referred to in Subsection (1) may use copies of any registration or disclosure documents in furnishing the information called for by the statement.

(8) (a) The commissioner shall approve any merger or other acquisition of control referred to in Subsection (1), unless ~~[, after a public hearing on the merger or acquisition,]~~ the commissioner finds that:

(i) after the change of control, the domestic insurer referred to in Subsection (1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would:

(A) substantially lessen competition in insurance in this state; or

(B) tend to create a monopoly in insurance;

(iii) the financial condition of any acquiring party might:

(A) jeopardize the financial stability of the insurer; or

(B) prejudice the interest of:

(I) its policyholders; or

(II) any remaining securityholders who are unaffiliated with the acquiring party;

(iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1) are unfair and unreasonable to the securityholders of the insurer;

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are:

(A) unfair and unreasonable to policyholders of the insurer; and

(B) not in the public interest; or

(vi) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders of the insurer and the public to permit the merger or other acquisition of control.

(b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not be considered unfair if the adjusted book values under Subsection (2)(e):

(i) are disclosed to the securityholders; and

(ii) determined by the commissioner to be reasonable.

(9) For a merger or other acquisition of control described in Subsection (1), the commissioner:

(a) may hold a public hearing on the merger or other acquisition at the commissioner's discretion; and

(b) shall hold a public hearing on the merger or other acquisition upon request by the acquiring party, the insurer, or any other interested party.

~~[(9)]~~ (10) (a) The commissioner shall hold a public hearing ~~[referred to in Subsection (8)]~~ shall be held ~~within 30]~~ under Subsection (9) no later than 45 days after the day on which the statement required by Subsection (1) is filed.

(b) (i) ~~[At]~~ The commissioner shall give at least 20 days notice of the hearing ~~[shall be given by the commissioner]~~ to the person filing the statement.

(ii) Affected parties may waive the notice required by this Subsection (9)(b).

(iii) Not less than seven days notice of the public hearing shall be given by the person filing the statement to:

(A) the insurer; and

(B) any person designated by the commissioner.

(c) The commissioner shall make a determination within 30 days after the conclusion of the hearing.

(d) At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing may:

(i) present evidence;

(ii) examine and cross-examine witnesses; and

(iii) offer oral and written arguments.

(e) (i) A person or insurer described in Subsection ~~[(9)]~~ (10)(d) may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state.

(ii) All discovery proceedings shall be concluded not later than three days before the commencement of the public hearing.

~~[(10)]~~ (11) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing ~~[referred to]~~ described in Subsection (9)~~[(a)]~~ may be held on a consolidated basis upon request of the person filing the statement referred to in Subsection (1). The person shall file the statement referred to in Subsection (1) with the National Association of Insurance Commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt-out within 10 days of the receipt of the statement referred to in Subsection (1). A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. The commissioners shall hear and receive evidence. A commissioner may attend a hearing under this Subsection ~~[(10)]~~ (11) in person or by telecommunication.

~~[(41)]~~ (12) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than 60 days after the date of notification of the change in control submitted pursuant to Subsection (1).

~~[(42)]~~ (13) (a) The commissioner may retain technical experts to assist in reviewing all, or a portion of, information filed in connection with a proposed merger or other acquisition of control referred to in Subsection (1).

(b) In determining whether any of the conditions in Subsection (8) exist, the commissioner may consider the findings of technical experts employed to review applicable filings.

(c) (i) A technical expert employed under Subsection ~~[(42)]~~ (13)(a) shall present to the commissioner a statement of all expenses incurred by the technical expert in conjunction with the technical expert's review of a proposed merger or other acquisition of control.

(ii) At the commissioner's direction the acquiring person shall compensate the technical expert at customary rates for time and expenses:

(A) necessarily incurred; and

(B) approved by the commissioner.

(iii) The acquiring person shall:

(A) certify the consolidated account of all charges and expenses incurred for the review by technical experts;

(B) retain a copy of the consolidated account described in Subsection ~~[(42)]~~ (13)(c)(iii)(A); and

(C) file with the department as a public record a copy of the consolidated account described in Subsection ~~[(42)]~~ (13)(c)(iii)(A).

~~[(43)]~~ (14) (a) (i) If a domestic insurer proposes to merge into another insurer, any securityholder electing to exercise a right of dissent may file with the insurer a written request for payment of the adjusted book value given in the statement required by Subsection (1) and approved under Subsection (8), in return for the surrender of the security holder's securities.

(ii) The request described in Subsection ~~[(43)]~~ (14)(a)(i) shall be filed not later than 10 days after the day of the securityholders' meeting where the corporate action is approved.

(b) The dissenting securityholder is entitled to and the insurer is required to pay to the dissenting securityholder the specified value within 60 days of receipt of the dissenting security holder's security.

(c) Persons electing under this Subsection ~~[(43)]~~ (14) to receive cash for their securities waive the dissenting shareholder and appraisal rights otherwise applicable under Title 16, Chapter 10a, Part 13, Dissenters' Rights.

(d) (i) This Subsection ~~[(43)]~~ (14) provides an elective procedure for dissenting securityholders to resolve their objections to the plan of merger.

(ii) This section does not restrict the rights of dissenting securityholders under Title 16, Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this Subsection ~~[(43)]~~ (14).

~~[(44)]~~ (15) (a) All statements, amendments, or other material filed under Subsection (1), and all notices of public hearings held under Subsection (8), shall be mailed by the insurer to its securityholders within five business days after the insurer has received the statements, amendments, other material, or notices.

(b) (i) Mailing expenses shall be paid by the person making the filing.

(ii) As security for the payment of mailing expenses, that person shall file with the commissioner an acceptable bond or other deposit in an amount determined by the commissioner.

~~[(45)]~~ (16) This section does not apply to any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from the requirements of this section as:

(a) not having been made or entered into for the purpose of, and not having the effect of, changing or influencing the control of a domestic insurer; or

(b) otherwise not comprehended within the purposes of this section.

~~[(46)]~~ (17) The following are violations of this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to Subsections (1), (2), and (5); or

(b) the effectuation, or any attempt to effectuate, an acquisition of control of, divestiture of, or merger with a domestic insurer unless the commissioner has given the commissioner's approval to the acquisition or merger.

~~[(47)]~~ (18) (a) The courts of this state are vested with jurisdiction over:

(i) a person who:

(A) files a statement with the commissioner under this section; and

(B) is not resident, domiciled, or authorized to do business in this state; and

(ii) overall actions involving persons described in Subsection ~~[(47)]~~ (18)(a)(i) arising out of a violation of this section.

(b) A person described in Subsection ~~[(47)]~~ (18)(a) is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person, to be that person's lawful agent upon whom may be served all lawful process in any action, suit, or proceeding arising out of a violation of this section.

(c) A copy of a lawful process described in Subsection ~~[(47)]~~ (18)(b) shall be:

(i) served on the commissioner; and

(ii) transmitted by registered or certified mail by the commissioner to the person at that person's last-known address.

Section 20. Section 31A-22-612 is amended to read:

31A-22-612. Conversion privileges for insured former spouse.

(1) An accident and health insurance policy, which in addition to covering the insured also provides coverage to the spouse of the insured, may not contain a provision for termination of coverage of a spouse covered under the policy, except by entry of a valid decree of divorce, legal separation, or annulment between the parties.

(2) Every policy which contains this type of provision shall provide that upon the entry of the divorce decree the spouse is entitled to have issued an individual policy of accident and health insurance without evidence of insurability, upon application to the company and payment of the appropriate premium. The policy shall provide the coverage being issued which is most nearly similar to the terminated coverage. Probationary or waiting periods in the policy are considered satisfied to the extent the coverage was in force under the prior policy.

(3) When the insurer receives actual notice that the coverage of a spouse is to be terminated because of a divorce, legal separation, or annulment, the insurer shall promptly provide the spouse written notification of the right to obtain individual coverage as provided in Subsection (2), the premium amounts required, and the manner, place, and time in which premiums may be paid. The premium is determined in accordance with the insurer's table of premium rates applicable to the age and class of risk of the persons to be covered and to the type and amount of coverage provided. If the spouse applies and tenders the first monthly premium to the insurer within 30 days after receiving the notice provided by this Subsection (3), the spouse shall receive individual coverage that commences immediately upon termination of coverage under the insured's policy.

(4) This section does not apply to accident and health insurance policies offered on a group blanket basis or a health benefit plan.

Section 21. Section 31A-22-618.6 is amended to read:

31A-22-618.6. Discontinuance, nonrenewal, or changes to group health benefit plans.

(1) Except as otherwise provided in this section, a group health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for noncompliance with the insurer's employer contribution requirements;

(b) if there is no longer any enrollee under the group health plan who lives, resides, or works in:

(i) the service area of the insurer; or

(ii) the area for which the insurer is authorized to do business;

(c) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual; or

(d) for noncompliance with the insurer's minimum employee participation requirements, except as provided in Subsection (3).

(3) If a small employer [~~employs fewer than two eligible employees~~] no longer employs at least one eligible employee, a carrier may not discontinue or not renew the health benefit plan until the first renewal date following the beginning of a new plan year, even if the carrier knows at the beginning of the plan year that the employer no longer has at least [~~two current employees~~] one eligible employee.

(4) (a) A small employer that, after purchasing a health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the small group market.

(b) A large employer that, after purchasing a health benefit plan in the large group market, employs on average fewer than 51 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the large group market.

(5) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit plan product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing to each plan sponsor, employee, or dependent of a plan sponsor or an employee, at least

90 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing to the commissioner, and at least three working days before the date the notice is sent to the affected plan sponsors, employees, and dependents of the plan sponsors or employees;

(C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all other health benefit plans currently being offered by the insurer in the market or, in the case of a large employer, any other health benefit plans currently being offered in that market; and

(D) in exercising the option to discontinue that health benefit plan and in offering the option of coverage in this section, acts uniformly without regard to the claims experience of a plan sponsor, any health status-related factor relating to any covered participant or beneficiary, or any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; and

(ii) (A) provides notice of the discontinuation in writing to each plan sponsor, employee, or dependent of a plan sponsor or an employee at least 180 days before the date the coverage will be discontinued;

(B) provides notice of the discontinuation in writing to the commissioner in each state in which an affected insured individual is known to reside and, at least 30 working days before the date the notice is sent to the affected plan sponsors, employees, and the dependents of the plan sponsors or employees;

(C) discontinues and nonrenews all plans issued or delivered for issuance in the market described in Subsection (5)(e)(i); and

(D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(6) (a) Except as provided in Subsection (6)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee that is discontinued under Subsection (6)(a) may reenroll:

(i) 12 months after the date of discontinuance; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage is discontinued under Subsection (6)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.

(d) An eligible employee may not be discontinued under this Subsection (6) because of a fraud or misrepresentation that relates to health status.

(7) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(8) An insurer may modify a health benefit plan for a plan sponsor only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 22. Section 31A-22-629 is amended to read:

31A-22-629. Adverse benefit determination review process.

(1) As used in this section:

(a) (i) "Adverse benefit determination" means the:

(A) denial of a benefit;

(B) reduction of a benefit;

(C) termination of a benefit; or

(D) failure to provide or make payment, in whole or in part, for a benefit.

(ii) "Adverse benefit determination" includes:

(A) denial, reduction, termination, or failure to provide or make payment that is based on a determination of an insured's or a beneficiary's eligibility to participate in a plan;

(B) denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for, a benefit resulting from the application of a utilization review; or

(C) failure to cover an item or service for which benefits are otherwise provided because it is determined to be:

(I) experimental;

(II) investigational; or

(III) not medically necessary or appropriate.

(b) "Independent review" means a process that:

(i) is a voluntary option for the resolution of an adverse benefit determination;

- (ii) is conducted at the discretion of the claimant;
- (iii) is conducted by an independent review organization designated by the ~~[insurer]~~ commissioner;
- (iv) renders an independent and impartial decision on an adverse benefit determination submitted by an insured; and
- (v) may not require the insured to pay a fee for requesting the independent review.
- (c) "Independent review organization" means a person, subject to Subsection (6), who conducts an independent external review of adverse determinations.
- (d) "Insured" is as defined in Section 31A-1-301 and includes a person who is authorized to act on the insured's behalf.
- (e) "Insurer" is as defined in Section 31A-1-301 and includes:
- (i) a health maintenance organization; and
 - (ii) a third party administrator that offers, sells, manages, or administers a health insurance policy or health maintenance organization contract that is subject to this title.
- (f) "Internal review" means the process an insurer uses to review an insured's adverse benefit determination before the adverse benefit determination is submitted for independent review.
- (2) This section applies generally to health insurance policies, health maintenance organization contracts, and income replacement or disability income policies.
- (3) (a) An insured may submit an adverse benefit determination to the insurer.
- (b) The insurer shall conduct an internal review of the insured's adverse benefit determination.
- (c) An insured who disagrees with the results of an internal review may submit the adverse benefit determination for an independent review if the adverse benefit determination involves:
- (i) payment of a claim regarding medical necessity; or
 - (ii) denial of a claim regarding medical necessity.
- (4) The commissioner shall adopt rules that establish minimum standards for:
- (a) internal reviews;
 - (b) independent reviews to ensure independence and impartiality;
 - (c) the types of adverse benefit determinations that may be submitted to an independent review; and
 - (d) the timing of the review process, including an expedited review when medically necessary.
- (5) Nothing in this section may be construed as:

- (a) expanding, extending, or modifying the terms of a policy or contract with respect to benefits or coverage;
 - (b) permitting an insurer to charge an insured for the internal review of an adverse benefit determination;
 - (c) restricting the use of arbitration in connection with or subsequent to an independent review; or
 - (d) altering the legal rights of any party to seek court or other redress in connection with:
 - (i) an adverse decision resulting from an independent review, except that if the insurer is the party seeking legal redress, the insurer shall pay for the reasonable attorney fees of the insured related to the action and court costs; or
 - (ii) an adverse benefit determination or other claim that is not eligible for submission to independent review.
- (6) (a) An independent review organization in relation to the insurer may not be:
- (i) the insurer;
 - (ii) the health plan;
 - (iii) the health plan's fiduciary;
 - (iv) the employer; or
 - (v) an employee or agent of any one listed in Subsections (6)(a)(i) through (iv).
- (b) An independent review organization may not have a material professional, familial, or financial conflict of interest with:
- (i) the health plan;
 - (ii) an officer, director, or management employee of the health plan;
 - (iii) the enrollee;
 - (iv) the enrollee's health care provider;
 - (v) the health care provider's medical group or independent practice association;
 - (vi) a health care facility where service would be provided; or
 - (vii) the developer or manufacturer of the service that would be provided.

Section 23. Section 31A-22-701 is amended to read:

31A-22-701. Groups eligible for group or blanket insurance.

- (1) As used in this section, "association group" means a lawfully formed association of individuals or business entities that:
- (a) purchases insurance on a group basis on behalf of members; and
 - (b) is formed and maintained in good faith for purposes other than obtaining insurance.
- (2) A group accident and health insurance policy may be issued to:

(a) a group:

(i) to which a group life insurance policy may be issued under [Sections] Section 31A-22-502, 31A-22-503, 31A-22-504, 31A-22-506, or 31A-22-507[, and 31A-22-509]; and

(ii) that is formed and maintained in good faith for a purpose other than obtaining insurance;

(b) an association group authorized by the commissioner that:

(i) has been actively in existence for at least five years;

(ii) has a constitution and bylaws;

(iii) has a shared or common purpose that is not primarily a business or customer relationship;

(iv) is formed and maintained in good faith for purposes other than obtaining insurance;

(v) does not condition membership in the association group on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee;

(vi) makes accident and health insurance coverage offered through the association group available to all members regardless of any health status-related factor relating to the members or individuals eligible for coverage through a member;

(vii) does not make accident and health insurance coverage offered through the association group available other than in connection with a member of the association group; and

(viii) is actuarially sound; or

(c) a group specifically authorized by the commissioner [~~under Section 31A-22-509~~], upon a finding that:

(i) authorization is not contrary to the public interest;

(ii) the group is actuarially sound;

(iii) formation of the proposed group may result in economies of scale in acquisition, administrative, marketing, and brokerage costs;

(iv) the insurance policy, insurance certificate, or other indicia of coverage that will be offered to the proposed group is substantially equivalent to insurance policies that are otherwise available to similar groups;

(v) the group would not present hazards of adverse selection;

(vi) the premiums for the insurance policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided; and

(vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance.

(3) A blanket accident and health insurance policy:

(a) covers a defined class of persons;

(b) may not be offered or underwritten on an individual basis;

(c) shall cover only a group that is:

(i) actuarially sound; and

(ii) formed and maintained in good faith for a purpose other than obtaining insurance; and

(d) may be issued only to:

(i) a common carrier or an operator, owner, or lessee of a means of transportation, as policyholder, covering persons who may become passengers as defined by reference to the person's travel status;

(ii) an employer, as policyholder, covering any group of employees, dependents, or guests, as defined by reference to specified hazards incident to any activities of the policyholder;

(iii) an institution of learning, including a school district, a school jurisdictional unit, or the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering students, teachers, or employees;

(iv) a religious, charitable, recreational, educational, or civic organization, or branch of one of those organizations, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities sponsored or supervised by the policyholder;

(v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering members, campers, employees, officials, or supervisors;

(vi) a volunteer fire department, first aid, civil defense, or other similar volunteer organization, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to activities sponsored, supervised, or participated in by the policyholder;

(vii) a newspaper or other publisher, as policyholder, covering its carriers;

(viii) an association, including a labor union, that has a constitution and bylaws and that is organized in good faith for purposes other than that of obtaining insurance, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; and

(ix) any other class of risks that, in the judgment of the commissioner, may be properly eligible for blanket accident and health insurance.

(4) The judgment of the commissioner may be exercised on the basis of:

(a) individual risks;

(b) a class of risks; or

(c) both Subsections (4)(a) and (b).

Section 24. Section 31A-22-722 is amended to read:

31A-22-722. Utah mini-COBRA benefits for employer group coverage.

(1) An insured may extend the employee's coverage under the current employer's group policy for a period of 12 months, except as provided in ~~Subsections (2) and 31A-22-722.5(4)]~~ Subsection (2). The right to extend coverage includes:

- (a) voluntary termination;
- (b) involuntary termination;
- (c) retirement;
- (d) death;
- (e) divorce or legal separation;
- (f) loss of dependent status;
- (g) sabbatical;
- (h) a disability;
- (i) leave of absence; or
- (j) reduction of hours.

(2) (a) Notwithstanding Subsection (1), an employee may not extend coverage under the current employer's group insurance policy if the employee:

- (i) fails to pay premiums or contributions in accordance with the terms of the insurance policy;
- (ii) acquires other group coverage covering all preexisting conditions including maternity, if the coverage exists;
- (iii) performs an act or practice that constitutes fraud in connection with the coverage;
- (iv) makes an intentional misrepresentation of material fact under the terms of the coverage;
- (v) is terminated from employment for gross misconduct;
- (vi) is not continuously covered under the current employer's group policy for a period of three months immediately before the termination of the insurance policy due to an event set forth in Subsection (1);
- (vii) is eligible for an extension of coverage required by federal law;
- (viii) establishes residence outside of this state;
- (ix) moves out of the insurer's service area;
- (x) is eligible for similar coverage under another group insurance policy; or
- (xi) has the employee's coverage terminated because the employer's coverage is terminated, except as provided in Subsection (8).

(b) The right to extend coverage under Subsection (1) applies to spouse or dependent coverage, including a surviving spouse or dependents whose coverage under the insurance policy terminates by reason of the death of the employee or member.

(3) (a) The employer shall notify the following in writing of the right to extend group coverage and the payment amounts required for extension of

coverage, including the manner, place, and time in which the payments shall be made:

- (i) a terminated insured;
- (ii) an ex-spouse of an insured; or
- (iii) if Subsection (2)(b) applies:
 - (A) a surviving spouse; and
 - (B) the guardian of surviving dependents, if different from a surviving spouse.

(b) The notification required in Subsection (3)(a) shall be sent first class mail within 30 days after the termination date of the group coverage to:

- (i) the terminated insured's home address as shown on the records of the employer;
- (ii) the address of the surviving spouse, if different from the insured's address and if shown on the records of the employer;
- (iii) the guardian of any dependents address, if different from the insured's address, and if shown on the records of the employer; and
- (iv) the address of the ex-spouse, if shown on the records of the employer.

(4) The insurer shall provide the employee, spouse, or any eligible dependent the opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:

- (a) the employer policyholder does not provide the terminated insured the written notification required by Subsection (3)(a); and
- (b) the employee or other individual eligible for extension contacts the insurer within 60 days of coverage termination.

(5) (a) A premium amount for extended group coverage may not exceed 102% of the group rate in effect for a group member, including an employer's contribution, if any, for a group insurance policy.

(b) Except as provided in Subsection (5)(a), an insurer may not charge an insured an additional fee, an additional premium, interest, or any similar charge for electing extended group coverage.

(6) Except as provided in this Subsection (6), coverage extends without interruption for 12 months and may not terminate if the terminated insured or, with respect to a minor, the parent or guardian of the terminated insured:

- (a) elects to extend group coverage within 60 days of losing group coverage; and
- (b) tenders the amount required to the employer or insurer.

(7) The insured's coverage may be terminated before 12 months if the terminated insured:

- (a) establishes residence outside of this state;
- (b) moves out of the insurer's service area;
- (c) fails to pay premiums or contributions in accordance with the terms of the insurance policy, including any timeliness requirements;

(d) performs an act or practice that constitutes fraud in connection with the coverage;

(e) makes an intentional misrepresentation of material fact under the terms of the coverage;

(f) becomes eligible for similar coverage under another group insurance policy; or

(g) has the coverage terminated because the employer's coverage is terminated, except as provided in Subsection (8).

(8) If the current employer coverage is terminated and the employer replaces coverage with similar coverage under another group insurance policy, without interruption, the terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection (2)(b) applies, may obtain extension of coverage under the replacement group insurance policy:

(a) for the balance of the period the terminated insured would have extended coverage under the replaced group insurance policy; and

(b) if the terminated insured is otherwise eligible for extension of coverage.

(9) An insurer shall require an insured employer to offer to the following individuals an open enrollment period at the same time as other regular employees:

(a) an individual who extends group coverage and is current on payment; and

(b) during the applicable grace period described in Subsection (3) or (4), an individual who is eligible to elect to extend group coverage.

Section 25. Section 31A-23a-107 is amended to read:

31A-23a-107. Character requirements.

An applicant for a license under this chapter shall show to the commissioner that:

(1) the applicant has the intent in good faith, to engage in the type of business that the license applied for would permit;

(2) (a) if a natural person, the applicant is:

(i) competent; and

(ii) trustworthy; or

(b) if the applicant is an agency:

(i) the partners, directors, or principal officers or persons having comparable powers are trustworthy; and

(ii) that it will transact business in such a way that the acts that may only be performed by a licensed producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary are performed exclusively by natural persons who are licensed under this chapter to transact that type of business and designated on the agency's license;

(3) the applicant intends to comply with Section 31A-23a-502; and

(4) if a natural person, the applicant is at least 18 years of age.

Section 26. Section 31A-23a-109 is amended to read:

31A-23a-109. Nonresident jurisdictional agreement.

(1) (a) If a nonresident license applicant has a valid producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license from the nonresident license applicant's home state or designated home state and the conditions of Subsection (1)(b) are met, the commissioner shall:

(i) waive the license requirements for a license under this chapter; and

(ii) issue the nonresident license applicant a nonresident license.

(b) Subsection (1)(a) applies if:

(i) the nonresident license applicant:

(A) is licensed [~~as a resident~~] in the nonresident license applicant's home state or designated home state at the time the nonresident license applicant applies for a nonresident producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license;

(B) has submitted the proper request for licensure;

(C) has submitted to the commissioner:

(I) the application for licensure that the nonresident license applicant submitted to the applicant's home state or designated home state; or

(II) a completed uniform application; and

(D) has paid the applicable fees under Section 31A-3-103; and

(ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing.

(2) A nonresident applicant applying under Subsection (1) shall in addition to complying with all license requirements for a license under this chapter execute, in a form acceptable to the commissioner, an agreement to be subject to the jurisdiction of the Utah commissioner and courts on any matter related to the applicant's insurance activities in this state, on the basis of:

(a) service of process under Sections 31A-2-309 and 31A-2-310; or

(b) service authorized:

(i) in the Utah Rules of Civil Procedure; or

(ii) under Section 78B-3-206.

(3) The commissioner may verify a producer's licensing status through the producer database maintained by:

(a) the National Association of Insurance Commissioners; or

(b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

(4) The commissioner may not assess a greater fee for an insurance license or related service to a person not residing in this state solely on the fact that the person does not reside in this state.

Section 27. Section 31A-23a-111 is amended to read:

31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

- (a) revoked or suspended under Subsection (5);
- (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- (c) the licensee dies or is adjudicated incompetent as defined under:
 - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
 - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
- (d) lapsed under Section 31A-23a-113; or
- (e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

- (a) a lapsed license; or
- (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

- (a) this title; or
- (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

- (a) the qualifications pertaining to a line of authority are no longer met by the licensee; or
- (b) the supporting license type:
 - (i) is revoked or suspended under Subsection (5);
 - (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

- (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

- (i) revoke:
 - (A) a license; or
 - (B) a line of authority;
- (ii) suspend for a specified period of 12 months or less:
 - (A) a license; or
 - (B) a line of authority;
- (iii) limit in whole or in part:
 - (A) a license; or
 - (B) a line of authority;
- (iv) deny a license application;
- (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

- (i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;
- (ii) violates:
 - (A) an insurance statute;
 - (B) a rule that is valid under Subsection 31A-2-201(3); or
 - (C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or

ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) is convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or [its] an equivalent[;] to an insurance license or other professional or occupational license:

(A) denied[;];

(B) suspended[; or];

(C) revoked [in another state, province, district, or territory]; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) violates or permits others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

- (iv) surrendered in lieu of administrative action;
- (v) lapsed; or
- (vi) voluntarily surrendered; and
- (b) the licensee:
 - (i) continues to act as a licensee; or
 - (ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 28. Section 31A-23a-208 is amended to read:

31A-23a-208. Producer and agency authority in health insurance exchange.

A producer or agency licensed under this chapter, with a line of authority that permits the producer or agency to sell, negotiate, or solicit accident and health insurance, is authorized to sell, negotiate, or solicit qualified health plans offered on ~~an~~ a health insurance exchange ~~[that is:]~~.

~~[(1) operated in the state; or]~~

~~[(2) operated in the state and certified by the United States Department of Health and Human Services as a:]~~

~~[(a) state-based exchange under PPACA;]~~

~~[(b) a federally facilitated exchange under PPACA; or]~~

~~[(c) a partnership exchange under PPACA.]~~

Section 29. Section 31A-23a-406 is amended to read:

31A-23a-406. Title insurance producer's business.

(1) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

- (i) the title line of authority; and
- (ii) the escrow subline of authority;

(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;

(c) the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:

- (i) an owner's policy of title insurance; ~~[or]~~
- (ii) a lender's policy of title insurance; or

[(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy of title insurance;

(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow:

- (i) is deposited:
 - (A) in a federally insured financial institution; and
 - (B) in a trust account that is separate from all other trust account money that is not related to real estate transactions;

(ii) is the property of the one or more persons entitled to the money under the provisions of the escrow; and

(iii) is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;

(e) earnings on money held in escrow may be paid out of the escrow account to any person in accordance with the conditions of the escrow;

(f) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:

- (i) construction money; or
- (ii) money held for exchange under Section 1031, Internal Revenue Code; and

(g) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.

(2) Notwithstanding Subsection (1), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

- (i) a mobile home;
- (ii) a grazing right;
- (iii) a water right; or

(iv) other personal property authorized by the commissioner; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (1)(c).

(3) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

(4) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

(5) (a) A check from the trust account described in Subsection (1)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection (5), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; and

(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than \$10,000:

(A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;

(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's escrow account;

(C) a personal check not to exceed \$500 per closing; or

(D) a check drawn on the escrow account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the escrow account of the individual title insurance producer or agency title insurance producer in the escrow transaction.

(c) A check or deposit not described in Subsection (5)(b) may be disbursed:

(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.

(6) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.

(7) An individual title insurance producer or agency title insurance producer shall comply with:

(a) Section 31A-23a-409;

(b) Title 46, Chapter 1, Notaries Public Reform Act; and

(c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern escrows.

(8) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

Section 30. Section 31A-23b-102 is amended to read:

31A-23b-102. Definitions.

As used in this chapter:

(1) “Enroll” and “enrollment” mean to:

(a) (i) obtain personally identifiable information about an individual; and

(ii) inform an individual about accident and health insurance plans or public programs offered on an exchange;

(b) solicit insurance; or

(c) submit to the exchange:

(i) personally identifiable information about an individual; and

(ii) an individual’s selection of a particular accident and health insurance plan or public program offered on the exchange.

~~[(2) (a) “Exchange” means an online marketplace that is certified by the United States Department of Health and Human Services as either a state-based small employer exchange or a federally facilitated individual exchange under PPACA.]~~

~~[(b) “Exchange” does not include an online marketplace for the purchase of health insurance if the online marketplace is not a certified exchange in accordance with Subsection (2)(a).]~~

~~[(3) (2) “Navigator”:~~

~~(a) means a person who facilitates enrollment in an exchange by offering to assist, or who advertises any services to assist, with:~~

~~(i) the selection of and enrollment in a qualified health plan or a public program offered on an exchange; or~~

~~(ii) applying for premium subsidies through an exchange; and~~

~~(b) includes a person who is an in-person assister or a certified application counselor as described in federal regulations or guidance issued under PPACA.~~

~~[(4) (3) “Personally identifiable information” is as defined in 45 C.F.R. Sec. 155.260.~~

~~[(5) (4) “Public programs” means the state Medicaid program in Title 26, Chapter 18, Medical Assistance Act, and Title 26, Chapter 40, Utah Children’s Health Insurance Act.~~

~~[(6) (5) “Resident” is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~[(7) (6) “Solicit” [is-as] means the same as that term is defined in Section 31A-23a-102.~~

Section 31. Section 31A-23b-202.5 is amended to read:

31A-23b-202.5. License types.

(1) A license issued under this chapter shall be issued under the license types described in Subsection (2).

(2) A license type under this chapter shall be a navigator line of authority or a certified application

counselor line of authority. A license type is intended to describe the matters to be considered under any education, examination, and training required of an applicant under this chapter.

(3) (a) A navigator line of authority includes the enrollment process as described in Subsection 31A-23b-102~~[(3)]~~(2)(a).

(b) (i) A certified application counselor line of authority is limited to providing information and assistance to individuals and employees about public programs and premium subsidies available through the exchange.

(ii) A certified application counselor line of authority does not allow the certified application counselor to assist a person with the selection of or enrollment in a qualified health plan offered on an exchange.

Section 32. Section 31A-23b-204 is amended to read:

31A-23b-204. Character requirements.

An applicant for a license under this chapter shall demonstrate to the commissioner that:

(1) the applicant has the intent, in good faith, to engage in the practice of a navigator as the license would permit;

(2) (a) if a natural person, the applicant is:

(i) competent; and

(ii) trustworthy; or

(b) if the applicant is an agency:

(i) the partners, directors, or principal officers or persons having comparable powers are trustworthy; and

(ii) that it will transact business in a way that the acts that may only be performed by a licensed navigator are performed only by a natural person who is licensed under this chapter, or Chapter 23a, Insurance Marketing-Licensing Producers, Consultants, and Reinsurance Intermediaries;

(3) the applicant intends to comply with the surety bond requirements of Section 31A-23b-207;

(4) if a natural person, the applicant is at least 18 years of age; and

(5) the applicant does not have a conflict of interest as defined by regulations issued under PPACA.

Section 33. Section 31A-23b-205 is amended to read:

31A-23b-205. Examination and training requirements.

(1) The commissioner may require an applicant for a license to pass an examination and complete a training program as a requirement for a license.

(2) The examination described in Subsection (1) shall reasonably relate to:

(a) the duties and functions of a navigator;

(b) requirements for navigators as established by federal regulation under PPACA; and

(c) other requirements that may be established by the commissioner by administrative rule.

(3) The examination may be administered by the commissioner or as otherwise specified by administrative rule.

(4) The training required by Subsection (1) shall be approved by the commissioner and shall include:

- (a) accident and health insurance plans;
- (b) qualifications for and enrollment in public programs;
- (c) qualifications for and enrollment in premium subsidies;
- (d) cultural and linguistic competence;
- (e) conflict of interest standards;
- (f) exchange functions; and
- (g) other requirements that may be adopted by the commissioner by administrative rule.

(5) (a) For the navigator line of authority, the training required by Subsection (1) shall consist of at least 21 credit hours of training before obtaining the license, which shall include ~~[(i) at least two hours of training on defined contribution arrangements and the small employer health insurance exchange; and (ii)]~~ the navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) For the certified application counselor line of authority, the training required by Subsection (1) shall consist of at least six hours of training before obtaining a license, which shall include ~~[(i) at least one hour of training on defined contribution arrangements and the small employer health insurance exchange; and (ii)]~~ the certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.

(6) This section applies only to an applicant who is a natural person.

Section 34. Section 31A-23b-206 is amended to read:

31A-23b-206. Continuing education requirements.

(1) The commissioner shall, by rule, prescribe continuing education requirements for a navigator.

(2) (a) The commissioner may not require a degree from an institution of higher education as part of continuing education.

(b) The commissioner may state a continuing education requirement in terms of hours of instruction received in:

- (i) accident and health insurance;
- (ii) qualification for and enrollment in public programs;

(iii) qualification for and enrollment in premium subsidies;

- (iv) cultural competency;
- (v) conflict of interest standards; and
- (vi) other exchange functions.

(3) (a) For a navigator line of authority, continuing education requirements shall require:

(i) that a licensee complete 12 credit hours of continuing education for every one-year licensing period;

(ii) that at least two of the 12 credit hours described in Subsection (3)(a)(i) be ethics courses; and

~~[(iii) that at least one of the 12 credit hours described in Subsection (3)(a)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and]~~

~~[(iv)]~~ (iii) that a licensee complete the annual navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) For a certified application counselor, the continuing education requirements shall require:

(i) that a licensee complete six credit hours of continuing education for every one-year licensing period;

(ii) that at least two of the six credit hours described in Subsection (3)(b)(i) be on ethics courses; and

~~[(iii) that at least one of the six credit hours described in Subsection (3)(b)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and]~~

~~[(iv)]~~ (iii) that a licensee complete the annual certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.

(c) An hour of continuing education in accordance with Subsections (3)(a)(i) and (b)(i) may be obtained through:

- (i) classroom attendance;
- (ii) home study;
- (iii) watching a video recording; or
- (iv) another method approved by rule.

(d) A licensee may obtain continuing education hours at any time during the one-year license period.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule, authorize one or more continuing education providers, including a state or national professional producer or consultant associations, to:

- (i) offer a qualified program on a geographically accessible basis; and

(ii) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(4) The commissioner shall approve a continuing education provider or a continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule establish the procedures for continuing education provider registration and course approval.

(6) This section applies only to a navigator who is a natural person.

(7) A navigator shall keep documentation of completing the continuing education requirements of this section for one year after the end of the one-year licensing period to which the continuing education applies.

Section 35. Section 31A-25-204 is amended to read:

31A-25-204. Character requirements.

Each applicant for a license under this chapter shall show to the commissioner all of the following:

(1) ~~he or it~~ that the applicant has the good faith intent to engage in the type of business the license applied for would permit;

(2) (a) if a natural person, ~~he is~~ that the applicant is:

(i) competent; and

(ii) trustworthy^[-]; or^[-]

(b) if a partnership or corporation, that all the partners, directors, principal officers, or persons having comparable powers are trustworthy; and

(3) if a natural person, ~~he~~ that the applicant is at least 18 years of age.

Section 36. Section 31A-25-206 is amended to read:

31A-25-206. Nonresident jurisdictional agreement.

(1) (a) If a nonresident license applicant has a valid license from the nonresident license applicant's home state or designated home state and the conditions of Subsection (1)(b) are met, the commissioner shall:

(i) waive any license requirement for a license under this chapter; and

(ii) issue the nonresident license applicant a nonresident third party administrator license.

(b) Subsection (1)(a) applies if:

(i) the nonresident license applicant:

(A) is licensed ~~as a resident~~ in the nonresident license applicant's home state or designated home state at the time the nonresident license applicant

applies for a nonresident third party administrator license;

(B) has submitted the proper request for licensure;

(C) has submitted to the commissioner:

(I) the application for licensure that the nonresident license applicant submitted to the applicant's home state or designated home state; or

(II) a completed uniform application; and

(D) has paid the applicable fees under Section 31A-3-103;

(ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing; and

(iii) the nonresident license applicant's home state or designated home state awards nonresident third party administrator licenses to residents of this state on the same basis as this state awards licenses to residents of that home state or designated home state.

(2) A nonresident applicant shall execute in a form acceptable to the commissioner an agreement to be subject to the jurisdiction of the Utah commissioner and courts on any matter related to the applicant's insurance activities in Utah, on the basis of:

(a) service of process under Sections 31A-2-309 and 31A-2-310; or

(b) other service authorized in the Utah Rules of Civil Procedure.

(3) The commissioner may verify the third party administrator's licensing status through the database maintained by:

(a) the National Association of Insurance Commissioners; or

(b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

(4) The commissioner may not assess a greater fee for an insurance license or related service to a person not residing in this state based solely on the fact that the person does not reside in this state.

Section 37. Section 31A-26-102 is amended to read:

31A-26-102. Definitions.

As used in this chapter, unless expressly provided otherwise:

(1) "Company adjuster" means a person employed by an insurer ~~whose regular duties include insurance adjusting~~, or an entity under common control or ownership with the insurer, who negotiates or settles claims on behalf of the employer.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance adjuster does not maintain the adjuster's principal:

- (i) place of residence; or
 - (ii) place of business;
- (b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:
- (i) examination requirement;
 - (ii) fingerprint background check requirement; and
 - (iii) continuing education requirement; and
- (c) the adjuster has designated the state, territory, or District of Columbia as the designated home state.
- (3) "Home state" means:
- (a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:
 - (i) maintains the adjuster's principal:
 - (A) place of residence; or
 - (B) place of business; and
 - (ii) is licensed to act as a resident adjuster; or
 - (b) if the resident state, territory, or the District of Columbia described in Subsection (3)(a) does not license adjusters for the line of authority sought, a state, territory, or the District of Columbia:
 - (i) in which the adjuster is licensed;
 - (ii) in which the adjuster is in good standing; and
 - (iii) that the adjuster has designated as the adjuster's designated home state.
- (4) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of one or more insurers.
- (5) "Insurance adjusting" or "adjusting" means directing or conducting the investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a claimant under an insurance policy.
- (6) "Organization" means a person other than a natural person, and includes a sole proprietorship by which a natural person does business under an assumed name.
- (7) "Portable electronics insurance" is as defined in Section 31A-22-1802.
- (8) "Public adjuster" means a person required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants under insurance policies.

Section 38. Section 31A-26-205 is amended to read:

31A-26-205. Character requirements.

Each applicant for a license under this chapter shall show to the commissioner that:

(1) ~~he~~ the applicant has the good faith intent to engage in the type of business the license or licenses applied for would permit;

(2) (a) if a natural person, ~~he is~~ the applicant is:

(i) competent; and

(ii) trustworthy^[s]; or ~~that~~^[s];

(b) if an organization, all the partners, directors, principal officers, or persons in fact having comparable powers are trustworthy, and that ~~it~~ the applicant will transact business in such a way that all acts that may only be performed by a licensed adjuster are performed exclusively by natural persons who are licensed under this chapter to transact that business and listed on the organization's license under Section 31A-26-209; and

(3) if a natural person, ~~he~~ the applicant is at least 18 years of age.

Section 39. Section 31A-26-208 is amended to read:

31A-26-208. Nonresident jurisdictional agreement.

(1) (a) If a nonresident license applicant has a valid license from the nonresident license applicant's home state or designated home state and the conditions of Subsection (1)(b) are met, the commissioner shall:

(i) waive any license requirement for a license under this chapter; and

(ii) issue the nonresident license applicant a nonresident adjuster's license.

(b) Subsection (1)(a) applies if:

(i) the nonresident license applicant:

(A) is licensed ~~as a resident~~ in the nonresident license applicant's home state or designated home state at the time the nonresident license applicant applies for a nonresident adjuster license;

(B) has submitted the proper request for licensure;

(C) has submitted to the commissioner:

(I) the application for licensure that the nonresident license applicant submitted to the applicant's home state or designated home state; or

(II) a completed uniform application; and

(D) has paid the applicable fees under Section 31A-3-103;

(ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing; and

(iii) the nonresident license applicant's home state or designated home state awards nonresident

adjuster licenses to residents of this state on the same basis as this state awards licenses to residents of that home state or designated home state.

(2) A nonresident applicant shall execute in a form acceptable to the commissioner an agreement to be subject to the jurisdiction of the commissioner and courts of this state on any matter related to the adjuster's insurance activities in this state, on the basis of:

(a) service of process under Sections 31A-2-309 and 31A-2-310; or

(b) other service authorized under the Utah Rules of Civil Procedure or Section 78B-3-206.

(3) The commissioner may verify an adjuster's licensing status through the database maintained by:

(a) the National Association of Insurance Commissioners; or

(b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

(4) The commissioner may not assess a greater fee for an insurance license or related service to a person not residing in this state based solely on the fact that the person does not reside in this state.

Section 40. Section 31A-27a-111 is amended to read:

31A-27a-111. Actions by and against the receiver.

(1) (a) An allegation by the receiver of improper or fraudulent conduct against a person may not be the basis of a defense to the enforcement of a contractual obligation owed to the insurer by a third party.

(b) Notwithstanding Subsection (1)(a), a third party described in this Subsection (1) is not barred by this section from seeking to establish independently as a defense that the conduct is materially and substantially related to the contractual obligation for which enforcement is sought.

(2) (a) Subject to Subsection (2)(b), a prior wrongful or negligent action of any present or former officer, manager, director, trustee, owner, employee, or agent of the insurer may not be asserted as a defense to a claim by the receiver:

(i) under a theory of:

(A) estoppel;

(B) comparative fault;

(C) intervening cause;

(D) proximate cause;

(E) reliance; or

(F) mitigation of damages; or

(ii) otherwise.

(b) Notwithstanding Subsection (2)(a):

(i) the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract; and

(ii) a principal under a surety bond or a surety undertaking is entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that:

(A) the receiver has possession or control of the property; or

(B) the insurer or its agents misappropriated, including commingling, the property.

(c) Evidence of fraud in the inducement is admissible only if it is contained in the records of the insurer.

(3) Action or inaction by an insurance regulatory authority may not be asserted as a defense to a claim by the receiver.

(4) (a) Subject to Subsection (4)(b), a judgment or order entered against an insured or the insurer in contravention of a stay or injunction under this chapter, or at any time by default or collusion, may not be considered as evidence of liability or of the quantum of damages in adjudicating claims filed in the estate arising out of the subject matter of the judgment or order.

(b) Subsection (4)(a) does not apply to an affected guaranty association's claim for amounts paid on a settlement or judgment in pursuit of the affected guaranty association's statutory obligations.

(5) (a) Subject to Subsection (5)(b), the following do not affect the amount that a receiver may recover from a third party, regardless of any provision in an agreement to the contrary:

(i) the insurer's insolvency; or

(ii) the insurer's or receiver's failure to pay all or a portion of an amount or a claim to the third party.

(b) If an agreement between the insurer and a third party requires a payment by the insurer before the insurer may recover from the third party, the amount the receiver may recover from the third party under Subsection (5)(a) is limited to an amount equal to the greater of:

(i) the amount paid by the insurer or by another person on behalf of the insurer to the third party; or

(ii) the amount allowed as a claim for payment under:

(A) an approved report described in Section 31A-27a-608;

(B) an order of the receivership court; or

(C) a plan of rehabilitation.

~~[(5)]~~ (6) The receiver may not be considered a governmental entity for the purposes of any state law awarding fees to a litigant who prevails against a governmental entity.

Section 41. Section 31A-27a-608 is amended to read:

31A-27a-608. Liquidator's recommendations to the receivership court.

(1) The liquidator shall, from time to time as determined by the liquidator, present to the receivership court for approval, reports of claims settled or determined by the liquidator under Section 31A-27a-603.

(2) A report required by this section shall include information identifying:

- (a) the claim;
- (b) the amount of the claim; and
- (c) the priority class of the claim.

(3) (a) A claim included in a report described in this section and approved by the receivership court is a liability of the estate.

(b) An insurer's insolvency does not affect the amount of a liability described in Subsection (3)(a), regardless of any provision in an agreement to the contrary.

Section 42. Section 31A-30-210 is amended to read:

31A-30-210. State contract requirements -- Employer default plans.

(1) This section applies to an employer who is required to offer [its] the employer's employees a health benefit plan as a condition of qualifying for a state contract under:

- (a) Section 17B-2a-818.5;
- (b) Section 19-1-206;
- ~~[(c) Subsection 63A-5-205(3);]~~
- (c) Subsection 63A-5-205.5;
- (d) Section 63C-9-403;
- (e) Section 72-6-107.5; and
- (f) Section 79-2-404.

(2) An employer described in Subsection (1) shall, when selecting the default plan required in Section 31A-30-204, select a default plan that is "qualified health insurance coverage" as defined in the sections listed in Subsections (1)(a) through (f).

Section 43. Section 31A-43-303 is amended to read:

31A-43-303. Stop-loss insurance disclosure.

A stop-loss insurance contract delivered, issued for delivery, or entered into shall include the disclosure exhibit required by the commissioner through administrative rule, which shall include at least the following information:

- (1) the complete costs for the stop-loss contract;
- (2) the date on which the insurance takes effect and terminates, including renewability provisions;
- (3) the aggregate attachment point and the specific attachment point;
- (4) limitations on coverage;

(5) an explanation of monthly accommodation and disclosure about any monthly accommodation features included in the stop-loss contract;

(6) a description of terminal liability funding, including the cost of processing claims before and after the termination of the contract; ~~and]~~

(7) maximum claims liability to the employer[-]; and

(8) a summary of the policy.

Section 44. Section 31A-45-403 is enacted to read:

31A-45-403. Essential health benefits.

(1) The state designates the state's own essential health benefits and does not accept a federal determination of the essential health benefits under the PPACA.

(2) Subject to Subsections (3) and (4), the commissioner shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that designate the essential health benefits for the state.

(3) Before the commissioner makes rules in accordance with Subsection (2):

(a) the commissioner shall present a summary of the commissioner's planned rules to the Health Reform Task Force; and

(b) the Health Reform Task Force shall recommend whether the commissioner makes rules in accordance with the presented summary.

(4) The essential health benefits plan:

(a) may not include a state mandate if the inclusion of the state mandate would require the state to contribute to premium subsidies under the PPACA; and

(b) may add benefits in addition to the benefits included in a benchmark plan adopted in accordance with this section if the additional benefits are mandated under the PPACA.

Section 45. Section 34A-2-107 is amended to read:

34A-2-107. Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation.

(1) The commissioner shall appoint a workers' compensation advisory council composed of:

- (a) the following voting members:
 - (i) five employer representatives; and
 - (ii) five employee representatives; and
- (b) the following nonvoting members:

(i) a representative of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001;

(ii) a representative of a workers' compensation insurance carrier different from the workers'

compensation insurance carrier listed in Subsection (1)(b)(i);

(iii) a representative of health care providers;

(iv) the Utah insurance commissioner or the insurance commissioner's designee; and

(v) the commissioner or the commissioner's designee.

(2) Employers and employees shall consider nominating members of groups who historically may have been excluded from the council, such as women, minorities, and individuals with disabilities.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the commissioner shall appoint each new member or reappointed member to a two-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(4) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The commissioner shall terminate the term of a council member who ceases to be representative as designated by the member's original appointment.

(5) The council shall confer at least quarterly for the purpose of advising the commission, the division, and the Legislature on:

(a) the Utah workers' compensation and occupational disease laws;

(b) the administration of the laws described in Subsection (5)(a); and

(c) rules related to the laws described in Subsection (5)(a).

(6) Regarding workers' compensation, rehabilitation, and reemployment of employees who acquire a disability because of an industrial injury or occupational disease the council shall:

(a) offer advice on issues requested by:

(i) the commission;

(ii) the division; and

(iii) the Legislature; and

(b) make recommendations to:

(i) the commission; and

(ii) the division.

~~[(7) The council shall study how hospital costs may be reduced for purposes of medical benefits for workers' compensation. By no later than November 30, 2017, the council shall submit, in accordance with Section 68-3-14, a written report to the~~

~~Business and Labor Interim Committee containing the council's recommendations.]~~

(7) (a) The council shall:

(i) study how to reduce hospital costs for purposes of medical benefits for workers' compensation;

(ii) study hospital billing and payment trends in the state;

(iii) study hospital fee schedules used in other states; and

(iv) collect information from third-party hospital bill review companies in the state or region to identify an average reimbursement rate that represents the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services in the state.

(b) In accordance with Section 68-3-14, the council shall submit a written report to the Business and Labor Interim Committee no later than September 1, 2019, 2020, and 2021. Each written report shall include:

(i) recommendations on how to reduce hospital costs for purposes of medical benefits for workers' compensation;

(ii) aggregate data on hospital billing and payment trends in the state;

(iii) the results of the council's study of hospital fee schedules from other states; and

(iv) the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services, calculated in accordance with Subsection (7)(a)(iv).

(c) For each report described in Subsection (7)(b), the commission may contract with a third-party expert to assist with the council's duties described in Subsections (7)(a) and (b).

(8) The commissioner or the commissioner's designee shall serve as the chair of the council and call the necessary meetings.

(9) The commission shall provide staff support to the council.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 46. Section 34A-2-705 is amended to read:

34A-2-705. Industrial Accident Restricted Account.

(1) As used in this section:

(a) "Account" means the Industrial Accident Restricted Account created by this section.

(b) "Advisory council" means the state workers' compensation advisory council created under Section 34A-2-107.

(2) There is created in the General Fund a restricted account known as the "Industrial Accident Restricted Account."

(3) (a) The account is funded from:

(i) .5% of the premium income remitted to the state treasurer and credited to the account pursuant to Subsection 59-9-101(2)(c)(iv); and

(ii) amounts deposited under Section 34A-2-1003.

(b) If the balance in the account exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to the Uninsured Employers' Fund created under Section 34A-2-704.

(4) (a) From money appropriated by the Legislature from the account to the commission and subject to the requirements of this section, the commission may fund:

(i) the activities of the Division of Industrial Accidents described in Section 34A-1-202;

(ii) the activities of the Division of Adjudication described in Section 34A-1-202; ~~and~~

(iii) the activities of the commission described in Section 34A-2-1005[.]; and

(iv) the activities of the commission described in Subsection 34A-2-107(7)(c), up to \$50,000 for each of the three reports described in Subsection 34A-2-107(7)(b).

(b) The money deposited in the account may not be used for a purpose other than a purpose described in this Subsection (4), including an administrative cost or another activity of the commission unrelated to the account.

(5) (a) Each year before the public hearing required by Subsection 59-9-101(2)(d)(i), the commission shall report to the advisory council regarding:

(i) the commission's budget request to the governor for the next fiscal year related to:

(A) the Division of Industrial Accidents; and

(B) the Division of Adjudication;

(ii) the expenditures of the commission for the fiscal year in which the commission is reporting related to:

(A) the Division of Industrial Accidents; and

(B) the Division of Adjudication;

(iii) revenues generated from the premium assessment under Section 59-9-101 on an admitted insurer writing workers' compensation insurance in this state and on a self-insured employer under Section 34A-2-202; and

(iv) money deposited under Section 34A-2-1003.

(b) The commission shall annually report to the governor and the Legislature regarding:

(i) the use of the money appropriated to the commission under this section;

(ii) revenues generated from the premium assessment under Section 59-9-101 on an admitted insurer writing workers' compensation insurance in this state and on a self-insured employer under Section 34A-2-202; and

(iii) money deposited under Section 34A-2-1003.

Section 47. Section 63A-5-205 is amended to read:

63A-5-205. Contracting powers of director -- Retainage.

~~[(1) As used in this section:]~~

~~[(a) "Capital developments" means the same as that term is defined in Section 63A-5-104.]~~

~~[(b) "Capital improvements" means the same as that term is defined in Section 63A-5-104.]~~

~~[(c) "Employee" means an "employee," "worker," or "operative" as defined in Section 34A-2-104 who:]~~

~~[(i) works at least 30 hours per calendar week; and]~~

~~[(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 60 days from the date of hire.]~~

~~[(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.]~~

~~[(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.]~~

~~[(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.]~~

~~[(2)] (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may:~~

~~(a) subject to [Subsections (3) and (4)] Section 63A-5-205.5, enter into [contracts] a contract for any work or professional services [which] that the division or the State Building Board may do or have done; and~~

~~(b) as a condition of any contract for architectural or engineering services, prohibit the architect or engineer from retaining a sales or agent engineer for the necessary design work.~~

~~[(3) Except as provided in Subsection (4), this Subsection (3) applies to]~~

~~[all design or construction contracts entered into by the division or the State Building Board on or after July 1, 2009, and:]~~

~~[(a) applies to a prime contractor if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract; and]~~

~~[(b) applies to a subcontractor if the subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.]~~

- ~~[(4) Subsection (3) does not apply:]~~
- ~~[(a) if the application of Subsection (3) jeopardizes the receipt of federal funds;]~~
- ~~[(b) if the contract is a sole source contract;]~~
- ~~[(c) if the contract is an emergency procurement; or]~~
- ~~[(d) to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the threshold required by Subsection (3).]~~
- ~~[(5) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection (3) is guilty of an infraction.]~~
- ~~[(6) (a) A contractor subject to Subsection (3) shall demonstrate to the director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents.]~~
- ~~[(b) If a subcontractor of the contractor is subject to Subsection (3), the contractor shall:]~~
- ~~[(i) place a requirement in the subcontract that the subcontractor shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and]~~
- ~~[(ii) certify to the director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.]~~
- ~~[(c) (i) A contractor who fails to meet the requirements of Subsection (6)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (7).]~~
- ~~[(ii) A contractor is not subject to penalties for the failure of a subcontractor to meet the requirements of Subsection (6)(b).]~~
- ~~[(iii) A subcontractor who fails to meet the requirements of Subsection (6)(b) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (7).]~~
- ~~[(iv) A subcontractor is not subject to penalties for the failure of a contractor to meet the requirements of Subsection (6)(a).]~~
- ~~[(7) The division shall adopt administrative rules:]~~
- ~~[(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;]~~
- ~~[(b) in coordination with:]~~
- ~~[(i) the Department of Environmental Quality in accordance with Section 19-1-206;]~~
- ~~[(ii) the Department of Natural Resources in accordance with Section 79-2-404;]~~
- ~~[(iii) a public transit district in accordance with Section 17B-2a-818.5;]~~
- ~~[(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;]~~
- ~~[(v) the Department of Transportation in accordance with Section 72-6-107.5; and]~~
- ~~[(vi) the Legislature's Administrative Rules Review Committee; and]~~
- ~~[(c) that establish:]~~
- ~~[(i) the requirements and procedures a contractor must follow to demonstrate to the director compliance with Subsections (3) through (10) that shall include:]~~
- ~~[(A) that a contractor shall demonstrate compliance with Subsection (6)(a) or (b) at the time of the execution of each initial contract described in Subsection (3);]~~
- ~~[(B) that the contractor's compliance is subject to an audit by the division or the Office of the Legislative Auditor General; and]~~
- ~~[(C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is not more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;]~~
- ~~[(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of Subsections (3) through (10), which may include:]~~
- ~~[(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;]~~
- ~~[(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;]~~
- ~~[(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and]~~
- ~~[(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and]~~
- ~~[(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e), that is provided by the~~

~~Department of Health, in accordance with Subsection 26-40-115(2).]~~

~~[(8) (a) In addition to the penalties imposed under Subsection (7)(c), a contractor or subcontractor who intentionally violates the provisions of this section shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.]~~

~~[(b) An employer has an affirmative defense to a cause of action under Subsection (8)(a) if:]~~

~~[(i) the employer relied in good faith on a written statement of actuarial equivalency provided by:]~~

~~[(A) an actuary; or]~~

~~[(B) an underwriter who is responsible for developing the employer group's premium rates; or]~~

~~[(ii) the department determines that compliance with this section is not required under the provisions of Subsection (4).]~~

~~[(c) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (8).]~~

~~[(9) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created by Section 26-18-402.]~~

~~[(10) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:]~~

~~[(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and]~~

~~[(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.]~~

~~[(11) (2) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.~~

~~[(12) (3) The division shall make all payments to the contractor for completed work in accordance with the contract and pay the interest specified in the contract on any payments that are late.~~

~~[(13) (4) If any payment on a contract with a private contractor to do work for the division or the State Building Board is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.~~

Section 48. Section 63A-5-205.5 is enacted to read:

63A-5-205.5. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the division or the State Building Board on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the division or State Building Board on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall demonstrate to the director that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents by submitting to the director a written statement that:

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The division shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark for the qualified health insurance coverage that is provided by the Department of Health in accordance with Subsection 26-40-115(2).

(7) (a) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(b) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health insurance coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(c) If a contractor or subcontractor provides the documents and information described in Subsection (7)(b)(ii), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health insurance coverage.

(8) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor that intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (8)(a) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(b)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (8).

(9) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(10) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 49. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) ~~For purposes of~~ As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" ~~as defined in Section 34A-2-104~~ who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days ~~from the date of hire~~ after the day on which the individual is hired.

~~(b)~~ (d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

~~(e)~~ (e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

~~(d)~~ (f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

~~(2) (a) Except as provided in Subsection (3), this section applies to a design or construction contract entered into by the board or on behalf of the board on or after July 1, 2009, and to a prime contractor or a subcontractor in accordance with Subsection (2)(b).~~

~~(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract.~~

~~(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.~~

~~(3) This section does not apply if:~~

~~(2) Except as provided in Subsection (3), the requirements of this section apply to:~~

~~(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and~~

~~(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.~~

~~(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:~~

~~(a) the application of this section jeopardizes the receipt of federal funds;~~

~~(b) the contract is a sole source contract; or~~

~~(c) the contract is an emergency procurement.~~

~~(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).~~

~~(b)~~ (4) A person ~~who~~ that intentionally uses change orders ~~or~~, contract modifications, or multiple contracts to circumvent the requirements of ~~Subsection (2)~~ this section is guilty of an infraction.

(5) (a) A contractor subject to ~~Subsection (2)~~ the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health insurance

coverage for the contractor's employees and the employees' dependents during the duration of the contract[.] by submitting to the executive director a written statement that:

~~(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall:~~

~~(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;~~

~~(ii) is from:~~

~~(A) an actuary selected by the contractor or the contractor's insurer; or~~

~~(B) an underwriter who is responsible for developing the employer group's premium rates; and~~

~~(iii) was created within one year before the day on which the statement is submitted.~~

~~(b) A contractor that is subject to the requirements of this section shall:~~

~~(i) place a requirement in [the subcontract that the subcontractor] each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and~~

~~[(ii) certify to the executive director that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.]~~

~~(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:~~

~~(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;~~

~~(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and~~

~~(C) was created within one year before the day on which the contractor obtains the statement.~~

~~(c) (i) (A) A contractor [who fails to meet the requirements of] that fails to maintain an offer of qualified health insurance coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).~~

~~(B) A contractor is not subject to penalties for the failure of a subcontractor to [meet the requirements of] obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).~~

~~(ii) (A) A subcontractor [who fails to meet the requirements of] that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i) during the duration of the [contract] subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).~~

~~(B) A subcontractor is not subject to penalties for the failure of a contractor to [meet the requirements of] maintain an offer of qualified health insurance coverage described in Subsection (5)(a).~~

~~(6) The department shall adopt administrative rules:~~

~~(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~(b) in coordination with:~~

~~(i) the Department of Environmental Quality in accordance with Section 19-1-206;~~

~~(ii) the Department of Natural Resources in accordance with Section 79-2-404;~~

~~(iii) the State Building Board in accordance with Section [63A-5-205] 63A-5-205.5;~~

~~(iv) a public transit district in accordance with Section 17B-2a-818.5;~~

~~(v) the Department of Transportation in accordance with Section 72-6-107.5; and~~

~~(vi) the Legislature's Administrative Rules Review Committee; and~~

~~(c) that establish:~~

~~(i) the requirements and procedures a contractor [must] and a subcontractor shall follow to demonstrate [to the executive director] compliance with this section [that shall include], including:~~

~~[(A) that a contractor shall demonstrate compliance with Subsection (5)(a) or (b) at the time of the execution of each initial contract described in Subsection (2)(b);]~~

~~[(B) that the contractor's]~~

~~(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General; [and]~~

~~[(C) that the actuarially equivalent determination required for the qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;]~~

~~(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and~~

~~(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);~~

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(e)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section ~~[shall be]~~ is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement ~~[of actuarial equivalency provided by:]~~ described in Subsection (5)(a) or (5)(b)(ii); or

~~[(4) an actuary; or]~~

~~[(4) an underwriter who is responsible for developing the employer group's premium rates; or]~~

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) ~~[or (4)].~~

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 50. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in

anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of

personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or

control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

- (a) a victim's application or request for benefits;
- (b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

- (a) depict the commission of an alleged crime;
- (b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- (c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; ~~and~~

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist~~[-];~~ and

(68) work papers as defined in Section 31A-2-204.

Section 51. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) ~~[For purposes of]~~ As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

~~[(a)]~~ (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" ~~[as defined in Section 34A-2-104]~~ who:

- (i) works at least 30 hours per calendar week; and
- (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month

following 60 days ~~[from the date of hire]~~ after the day on which the individual is hired.

~~[(b)]~~ (d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

~~[(e)]~~ (e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

~~[(d)]~~ (f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

~~[(2) (a) Except as provided in Subsection (3), this section applies to contracts entered into by the department on or after July 1, 2009, for construction or design of highways and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).]~~

~~[(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract.]~~

~~[(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.]~~

~~[(3) This section does not apply if:]~~

(2) (a) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

~~[(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).]~~

~~[(b)]~~ (4) A person ~~[who]~~ that intentionally uses change orders ~~[or]~~, contract modifications, or multiple contracts to circumvent the requirements of ~~[Subsection (2)]~~ this section is guilty of an infraction.

(5) (a) A contractor subject to ~~[Subsection (2)]~~ the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract~~[-]~~ by submitting to the department a written statement that:

~~[(b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall:]~~

~~(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;~~

~~(ii) is from:~~

~~(A) an actuary selected by the contractor or the contractor's insurer; or~~

~~(B) an underwriter who is responsible for developing the employer group's premium rates; and~~

~~(iii) was created within one year before the day on which the statement is submitted.~~

~~(b) A contractor that is subject to the requirements of this section shall:~~

~~(i) place a requirement in [the subcontract that the subcontractor] each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and~~

~~[(ii) certify to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.]~~

~~(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:~~

~~(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;~~

~~(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and~~

~~(C) was created within one year before the day on which the contractor obtains the statement.~~

~~(c) (i) (A) A contractor [who fails to meet the requirements of] that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).~~

~~(B) A contractor is not subject to penalties for the failure of a subcontractor to [meet the requirements of] obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).~~

~~(ii) (A) A subcontractor [who fails to meet the requirements of] that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b) during the duration of the [contract] subcontract is subject to penalties~~

in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to [meet the requirements of] maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section [63A-5-205] 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor [must] and a subcontractor shall follow to demonstrate [to the department] compliance with this section [that shall include], including:

~~[(A) that a contractor shall demonstrate compliance with Subsection (5)(a) or (b) at the time of the execution of each initial contract described in Subsection (2)(b);]~~

~~[(B) that the contractor's]~~

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General; [and]

~~[(C) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;]~~

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health insurance coverage identified in Subsection (1)(~~(e)~~)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section ~~[shall be]~~ is liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement ~~[of actuarial equivalency provided by:]~~ described in Subsection (5)(a) or (5)(b)(ii); or

~~[(I) an actuary; or]~~

~~[(II) an underwriter who is responsible for developing the employer group's premium rates; or]~~

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) ~~[or (4)].~~

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under;

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 52. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) ~~[For purposes of]~~ As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

~~[(a)]~~ (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" [as defined in Section 34A-2-104] who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days ~~[from the date of hire]~~ after the day on which the individual is hired.

~~[(b)]~~ (d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

~~[(e)]~~ (e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

~~[(d)]~~ (f) "Subcontractor" means the same as that term is defined in Section 63A-5-208.

~~[(2) (a) Except as provided in Subsection (3), this section applies a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, and to a prime contractor or to a subcontractor in accordance with Subsection (2)(b).]~~

~~[(b) (i) A prime contractor is subject to this section if the prime contract is in the amount of \$2,000,000 or greater at the original execution of the contract.]~~

~~[(ii) A subcontractor is subject to this section if a subcontract is in the amount of \$1,000,000 or greater at the original execution of the contract.]~~

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

~~[(4) (a) This section does not apply to a change order as defined in Section 63G-6a-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection (2).]~~

~~[(b) (4) A person who that intentionally uses change orders ~~[or]~~, contract modifications, or multiple contracts to circumvent the requirements of ~~[Subsection (2)]~~ this section is guilty of an infraction.~~

(5) (a) A contractor subject to ~~[Subsection (2)(b)(i)]~~ the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents during the duration of the contract~~[.]~~ by submitting to the department a written statement that:

~~[(b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor shall:]~~

(i) the contractor offers qualified health insurance coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer; or

(B) an underwriter who is responsible for developing the employer group's premium rates; and

(iii) was created within one year before the day on which the statement is submitted.

(b) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in ~~[the subcontract that the subcontractor]~~ each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' ~~[dependants]~~ dependents during the duration of the subcontract; and

~~[(ii) certify to the department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.]~~

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health insurance coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates; and

(C) was created within one year before the day on which the contractor obtains the statement.

(c) (i) (A) A contractor ~~[who fails to meet the requirements of]~~ that fails to maintain an offer of qualified health insurance coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to ~~[meet the requirements of]~~ obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b)(i).

(ii) (A) A subcontractor ~~[who fails to meet the requirements of]~~ that fails to obtain and maintain an offer of qualified health insurance coverage described in Subsection (5)(b) during the duration of the ~~[contract]~~ subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to ~~[meet the requirements of]~~ maintain an offer of qualified health insurance coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the State Building Board in accordance with Section ~~[63A-5-205]~~ 63A-5-205.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor ~~[must]~~ and a subcontractor shall follow to demonstrate compliance with this section ~~[to the department that shall include]~~, including:

~~[(A) that a contractor shall demonstrate compliance with Subsection (5)(a) or (b) at the time of the execution of each initial contract described in Subsection (2)(b);]~~

~~[(B) that the contractor's]~~

~~(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General; [and]~~

~~[(C) that the actuarially equivalent determination required for qualified health insurance coverage in Subsection (1) is met by the contractor if the contractor provides the department or division with a written statement of actuarial equivalency, which is no more than one year old, regarding the contractor's offer of qualified health coverage from an actuary selected by the contractor or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates;]~~

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(b)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the

qualified health insurance coverage identified in Subsection (1)~~[(e)](e)~~, provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section [shall be] liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement ~~[of actuarial equivalency provided by:]~~ described in Subsection (5)(a) or (5)(b)(ii); or

~~[(I) an actuary; or]~~

~~[(II) an underwriter who is responsible for developing the employer group's premium rates; or]~~

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3) ~~[or (4)].~~

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

Section 53. Repealer.

This bill repeals:

Section 31A-22-722.5, Mini-COBRA election -- American Recovery and Reinvestment Act.

Section 31A-30-209, Insurance producers and the Health Insurance Exchange.

CHAPTER 320**H. B. 81**

Passed February 26, 2018

Approved March 20, 2018

Effective May 8, 2018

SAFETY BELT VIOLATIONS AMENDMENTS

Chief Sponsor: Michael K. McKell

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill limits to a first violation the requirement of a court to waive a fine for certain safety belt violations.

Highlighted Provisions:

This bill:

- ▶ revises a provision related to a safety belt violation to require the court to waive a fine only for a first violation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1805, as last amended by Laws of Utah 2017, Chapter 406

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

Section 1. Section 41-6a-1805 is amended to read:**41-6a-1805. Penalty for violation.**

(1) (a) A person who violates Section 41-6a-1803 is guilty of an infraction and shall be fined a maximum of \$45.

(b) Until July 1, 2018, a peace officer may not issue a citation to an individual for a violation of Section 41-6a-1803 if the person has not previously been warned for a violation of Section 41-6a-1803 but shall issue the individual a warning informing the individual that operating or being a passenger in a vehicle without wearing a properly adjusted and fastened safety belt is prohibited.

(c) The court shall waive all of the fine for a first violation of Subsection 41-6a-1803(1)(~~b~~)(a)(ii) if the person submits proof of acquisition, rental, or purchase of a child restraint device.

(2) Points for a motor vehicle reportable violation, as defined under Section 53-3-102, may not be assessed against a person for a violation of Section 41-6a-1803.

CHAPTER 321**H. B. 96**

Passed February 28, 2018

Approved March 20, 2018

Effective May 8, 2018

AMENDMENT TO CONSTITUTIONAL AND FEDERALISM DEFENSE ACT REPEALERChief Sponsor: Ken Ivory
Senate Sponsor: Lincoln Fillmore**LONG TITLE****General Description:**

This bill amends a provision relating to the Constitutional and Federalism Defense Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date for the Constitutional and Federalism Defense Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

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

Section 1. Section 63I-1-263 is amended to read:**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, [2018] 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

CHAPTER 322**H. B. 99**

Passed February 23, 2018

Approved March 20, 2018

Effective May 8, 2018

**SUBSTANCE ABUSE AND
MENTAL HEALTH ACT AMENDMENTS**

Chief Sponsor: Edward H. Redd

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions of the Substance Abuse and Mental Health Act.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ changes the date by which local substance abuse authorities and local mental health authorities shall annually submit a service plan to the Division of Substance Abuse and Mental Health within the Department of Human Services;
- ▶ expands the division's responsibilities with respect to peer support services to include peer support services for individuals with mental health disorders;
- ▶ amends peer support services provisions;
- ▶ recodifies peer support services provisions;
- ▶ requires rulemaking;
- ▶ clarifies the role of a mental health officer;
- ▶ removes obsolete references to the Utah State Hospital Board;
- ▶ removes the exemption of security officers from the public safety retirement system;
- ▶ updates code provisions in accordance with the existing practice of private hospitals providing inpatient mental health treatment;
- ▶ makes changes to procedures and criteria for civil commitments;
- ▶ gives officers authority to not take a mentally ill individual into custody in order to avoid escalating a dangerous situation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-15-103, as last amended by Laws of Utah 2017, Chapter 163

62A-15-602, as last amended by Laws of Utah 2017, Chapter 408

62A-15-603, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

62A-15-613, as last amended by Laws of Utah 2006, Chapter 139

62A-15-625, as last amended by Laws of Utah 2003, Chapter 195

62A-15-627, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

62A-15-628, as last amended by Laws of Utah 2003, Chapter 195

62A-15-629, as last amended by Laws of Utah 2011, Chapter 366

62A-15-631, as last amended by Laws of Utah 2013, Chapters 29 and 312

62A-15-632, as last amended by Laws of Utah 2011, Chapter 366

62A-15-635, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

62A-15-637, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

62A-15-703, as last amended by Laws of Utah 2017, Chapter 181

62A-15-705, as last amended by Laws of Utah 2003, Chapter 195

REPEALS:

62A-15-402, as enacted by Laws of Utah 2012, Chapter 179

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

Section 1. Section 62A-15-103 is amended to read:**62A-15-103. Division -- Creation -- Responsibilities.**

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) ~~promulgate~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private providers, minimum standards for public and private providers of substance abuse and mental health programs licensed by the ~~Department of Human Services~~ department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance ~~abuse~~ use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

- (A) emergency department utilization;
- (B) jail and prison populations;
- (C) the homeless population; and
- (D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(iii) ~~promulgate~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) ~~promulgate~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that ~~all individuals~~ an individual receiving services through a local mental health ~~authorities~~ authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the

governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of ~~any~~ local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

- (A) local substance abuse authorities;
- (B) local mental health authorities; and

(C) in counties where they exist, ~~the~~ a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health ~~authorities~~ authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

- (A) a statewide comprehensive continuum of substance abuse services;
- (B) a statewide comprehensive continuum of mental health services;
- (C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(~~4~~)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with ~~its~~ the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with ~~its~~ the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ~~[assure]~~ ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit ~~[its]~~ a plan to the division ~~[by May 1]~~ on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority ~~[in the state and its]~~ and each local substance abuse authority's contract provider, and each local mental health authority ~~[in the state and its]~~ and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse ~~[authorities and]~~ authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by ~~[them or their contract providers]~~ the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance ~~[abuse]~~ use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

~~[(4)]~~ (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance ~~[abuse]~~ use disorder and mental health treatment to ~~[individuals]~~ an individual who ~~[are]~~ is required to participate in treatment by the court or the Board of Pardons and Parole, or who ~~[are]~~ is incarcerated, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment ~~[includes]~~, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)~~[(4)]~~(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

~~[(4)]~~ (j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance ~~[abuse]~~ use disorder and mental health treatment to ~~[individuals]~~ an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(~~(4)~~)(i) for the treatment of individuals an individual involved in the criminal justice system; and

(iii) the requirement that all a public and or private providers provider of treatment to individuals an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(~~(j)~~) (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed for the reduced to reduce recidivism efforts;

(ii) county jail and county behavioral health early-assessment resources needed for offenders an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(~~(4)~~) (l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(~~(4)~~)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(~~(4)~~) (m) in its the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(~~(4)~~)(i); and

(~~(4)~~) (n) annually, on or before August 31, submit the data collected under Subsection (2)(~~(j)~~)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract with its provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out its the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) the use of public funds;

(b) oversight responsibilities regarding of public funds; and

(c) governance of substance abuse use disorder and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Section 2. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic

Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) “Adult” means ~~[a person]~~ an individual 18 years of age or older.

(2) “Approved treatment facility or program” means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) “Commitment to the custody of a local mental health authority” means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area ~~[in which the proposed patient]~~ where the adult resides or is found.

(4) “Community mental health center” means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

[44] (5) “Designated examiner” means:

(a) a licensed physician [familiar with severe mental illness, preferably a psychiatrist], preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or [another]

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years’ continual experience in the treatment of mental [or related] illness. [At least one designated examiner in any case shall be a licensed physician. No person who is the applicant, or who signs the certification, under Section 62A-15-631 may be a designated examiner in the same case.]

[45] (6) “Designee” means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of ~~[an agency]~~ a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

[46] (7) “Essential treatment” and “essential treatment and intervention” mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult’s substance use disorder.

[47] (8) “Harmful sexual conduct” means ~~[any of]~~ the following conduct upon an individual without the individual’s consent, [or upon an individual who cannot legally consent to the conduct including under the] including the nonconsensual circumstances described in Subsections 76-5-406(1) through (12):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

~~[(8)]~~ (9) “Institution” means a hospital[, or a health facility licensed under [the provisions of Section 26-21-9] Section 26-21-8.

~~[(9)]~~ “Licensed physician” means an individual ~~licensed under the laws of this state to practice medicine, or a medical officer of the United States government while in this state in the performance of official duties.]~~

~~[(10)]~~ “Local comprehensive community mental health center” means an agency or organization that provides treatment and services to residents of a designated geographic area, operated by or under contract with a local mental health authority, in compliance with state standards for local comprehensive community mental health centers.]

~~[(11)]~~ (10) “Local substance abuse authority” means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

~~[(12)]~~ (11) “Mental health facility” means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, ~~[or organization]~~ a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

~~[(13)]~~ (12) “Mental health officer” means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to ~~[interact with and transport persons to any mental health facility:]~~

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

~~[(14)]~~ (13) “Mental illness” means ~~[a psychiatric disorder as defined by the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association which substantially impairs a person’s mental, emotional, behavioral, or related functioning:]~~

(a) a psychiatric disorder that substantially impairs an individual’s mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[45] (14) “Patient” means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(15) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Serious bodily injury" means bodily injury ~~[which]~~ that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(17) "Substantial danger" means ~~[the person, by his or her behavior, due to mental illness]~~ that due to mental illness, an individual is at serious risk of:

~~[(a) is at serious risk to:]~~

~~[(i) commit suicide;]~~

~~[(ii) inflict serious bodily injury on himself or herself; or]~~

~~[(iii) because of his or her actions or inaction, suffer serious bodily injury because he or she is incapable of providing the basic necessities of life, such as food, clothing, and shelter; or]~~

~~[(b) is at serious risk to cause or attempt to cause serious bodily injury or engage in harmful sexual conduct.]~~

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

(18) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, ~~[and]~~ or other medical treatments that are generally accepted medical ~~[and]~~ or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 3. Section 62A-15-603 is amended to read:

62A-15-603. Administration of state hospital -- Division -- Authority.

~~[(1) The administration of the state hospital is vested in the division where it shall function and be administered as a part of the state's comprehensive mental health program and, to the fullest extent possible, shall be coordinated with local mental health authority programs. When it becomes feasible the board may direct that the hospital be~~

~~decentralized and administered at the local level by being integrated with, and becoming a part of, the community mental health services.]~~

~~[(2) The division shall succeed to all the powers, discharge all the duties, and perform all the functions, duties, rights, and responsibilities pertaining to the state hospital which by law are conferred upon it or required to be discharged or performed. However, the functions, powers, duties, rights, and responsibilities of the division and of the board otherwise provided by law and by this part apply.]~~

(1) The division shall administer the state hospital as part of the state's comprehensive mental health program and, to the fullest extent possible, shall, as the state hospital's administrator, coordinate with local mental health authority programs.

(2) The division has the same powers, duties, rights, and responsibilities as, and shall perform the same functions that by law are conferred or required to be discharged or performed by, the state hospital.

(3) Supervision and administration of security responsibilities for the state hospital is vested in the division. The executive director shall designate, as special function officers, individuals with peace officer authority to perform special security functions for the state hospital [that require peace officer authority. These special function officers may not become or be designated as members of the Public Safety Retirement System].

~~[(4) Directors of mental health facilities that house involuntary detainees or detainees committed pursuant to judicial order may establish secure areas, as prescribed in Section 76-8-311.1, within the mental health facility for the detainees.]~~

(4) A director of a mental health facility that houses an involuntary patient or a patient committed by judicial order may establish secure areas, as provided in Section 76-8-311.1, within the mental health facility for the patient.

Section 4. Section 62A-15-613 is amended to read:

62A-15-613. Appointment of superintendent -- Qualifications -- Powers and responsibilities.

~~(1) The director, with the [advice and consent of the board and the approval]~~ consent of the executive director, shall appoint a superintendent of the state hospital, who shall hold office at the will of the director.

(2) The superintendent shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning mental health.

~~(3) [Subject to the rules of the board, the]~~ The superintendent has general responsibility for the buildings, grounds, and property of the state hospital. The superintendent shall appoint, with the approval of the director, as many employees as

necessary for the efficient and economical care and management of the state hospital, and shall fix [their] the employees' compensation and administer personnel functions according to the standards of the Department of Human Resource Management.

Section 5. Section 62A-15-625 is amended to read:

62A-15-625. Voluntary admission of adults.

~~(1) A local mental health authority or its designee may admit to that authority, for observation, diagnosis, care, and treatment any individual who is mentally ill or has symptoms of mental illness and who, being 18 years of age or older, applies for voluntary admission.~~

~~(2) (a) No adult may be committed or continue to be committed to a local mental health authority against his will except as provided in this chapter.~~

~~(b) A person under 18 years of age may be committed to the physical custody of a local mental health authority only after a court commitment proceeding in accordance with the provisions of Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.~~

(1) A local mental health authority, a designee of a local mental health authority, or another mental health facility may admit for observation, diagnosis, care, and treatment an adult who applies for voluntary admission and who has a mental illness or exhibits the symptoms of a mental illness.

(2) No adult may be committed to a local mental health authority against that adult's will except as provided in this chapter.

(3) An adult may be voluntarily admitted to a local mental health authority for treatment at the Utah State Hospital as a condition of probation or stay of sentence only after the requirements of Subsection 77-18-1(13) have been met.

Section 6. Section 62A-15-627 is amended to read:

62A-15-627. Release of voluntary patient -- Exceptions.

(1) A [voluntary] patient who is voluntarily admitted, as described in Section 62A-15-625, and who requests release, verbally or in writing, or whose release is requested in writing by [his] the patient's legal guardian, parent, spouse, or adult next of kin, shall be immediately released except that:

(1) if the patient was voluntarily admitted on his own application, and]

(a) release may be conditioned upon the agreement of the patient, if the request for release is made by [a person] an individual other than the patient[, release may be conditioned upon the agreement of the patient; and]; or

(2) (b) if [a] the admitting local mental health authority, [or its designee is of the opinion that release of a patient would be unsafe for that patient

or others,] a designee of the local mental health authority, or a mental health facility has cause to believe that release of the patient would be unsafe for the patient or others, release of that patient may be postponed for up to 48 hours, excluding weekends and holidays, provided that the [local mental health] admitting authority, [or its] the designee, or the facility shall cause to be instituted involuntary commitment proceedings with the district court within the specified time period.[, unless cause no longer exists for instituting those proceedings. Written]

(2) The admitting authority, the designee, or the facility shall provide written notice of [that] the postponement [with] and the reasons[. shall be given] for the postponement to the patient without undue delay.

(3) No judicial proceedings for involuntary commitment may be commenced with respect to a voluntary patient unless [he] the patient has requested release.

Section 7. Section 62A-15-628 is amended to read:

62A-15-628. Involuntary commitment -- Procedures.

(1) An adult may not be involuntarily committed to the custody of a local mental health authority except under the following provisions:

(a) emergency procedures for temporary commitment upon medical or designated examiner certification, as provided in Subsection 62A-15-629(1)(a);

(b) emergency procedures for temporary commitment without endorsement of medical or designated examiner certification, as provided in Subsection 62A-15-629[2](1)(b); or

(c) commitment on court order, as provided in Section 62A-15-631.

(2) A person under 18 years of age may be committed to the physical custody of a local mental health authority only [after a court commitment proceeding] in accordance with the provisions of Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

Section 8. Section 62A-15-629 is amended to read:

62A-15-629. Temporary commitment -- Requirements and procedures.

(1) [(a)-] An adult [may] shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) [written application] is completed by a responsible [person] individual who has reason to know, stating a belief that the [individual] adult, due to mental illness, is likely to [cause serious injury] pose substantial danger to self or others if not [immediately] restrained[;] and stating the personal knowledge of the [individual's] adult's

condition or circumstances ~~[which] that~~ lead to ~~[that] the individual's~~ belief; and

(ii) ~~includes~~ a certification by a licensed physician or designated examiner stating that the physician or designated examiner has examined the ~~[individual] adult~~ within a three-day period immediately preceding that certification, and that the physician or designated examiner is of the opinion that ~~[the individual has a mental illness and, because of the individual's mental illness, is likely to injure self or others if not immediately restrained.],~~ due to mental illness, the adult poses a substantial danger to self or others; or

~~[(b) Application and certification as described in Subsection (1)(a) authorizes any peace officer to take the individual into the custody of a local mental health authority and transport the individual to that authority's designated facility.]~~

~~[(2) If a duly authorized peace officer observes a person involved in conduct that gives the officer probable cause to believe that the person has a mental illness, as defined in Section 62A-15-602, and because of that apparent mental illness and conduct, there is a substantial likelihood of serious harm to that person or others, pending proceedings for examination and certification under this part, the officer may take that person into protective custody. The peace officer shall transport the person to be transported to the designated facility of the appropriate local mental health authority pursuant to this section, either on the basis of the peace officer's own observation or on the basis of a mental health officer's observation that has been reported to the peace officer by that mental health officer. Immediately thereafter, the officer shall place the person in the custody of the local mental health authority and make application for commitment of that person to the local mental health authority. The application shall be on a prescribed form and shall include the following:]~~

~~[(a) a statement by the officer that the officer believes, on the basis of personal observation or on the basis of a mental health officer's observation reported to the officer by the mental health officer, that the person is, as a result of a mental illness, a substantial and immediate danger to self or others;]~~

~~[(b) the specific nature of the danger;]~~

~~[(c) a summary of the observations upon which the statement of danger is based; and]~~

~~[(d) a statement of facts which called the person to the attention of the officer.]~~

~~(b) a peace officer or a mental health officer:~~

~~(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:~~

~~(A) the adult has a mental illness; and~~

~~(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and~~

~~(ii) completing a temporary commitment application that:~~

~~(A) is on a form prescribed by the division;~~

~~(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;~~

~~(C) states the specific nature of the danger;~~

~~(D) provides a summary of the observations upon which the statement of danger is based; and~~

~~(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.~~

~~(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.~~

~~(3) A [person] patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time period, the person shall be released unless application for involuntary commitment has been commenced pursuant to Section 62A-15-631. If that application has been made, an order of detention may be entered under Subsection 62A-15-631(3). If no order of detention is issued, the patient shall be released unless he has made voluntary application for admission.], unless:~~

~~(a) as described in Section 62A-15-631, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 62A-15-631(4); or~~

~~(b) the patient makes a voluntary application for admission.~~

~~[(4) Transportation of persons with a mental illness pursuant to Subsections (1) and (2) shall be conducted by the appropriate municipal, or city or town, law enforcement authority or, under the appropriate law enforcement's authority, by ambulance to the extent that Subsection (5) applies. However, if the designated facility is outside of that authority's jurisdiction, the appropriate county sheriff shall transport the person or cause the person to be transported by ambulance to the extent that Subsection (5) applies.]~~

~~[(5) Notwithstanding Subsections (2) and (4), a peace officer shall cause a person to be transported by ambulance if the person meets any of the criteria in Section 26-8a-305. In addition, if the person requires physical medical attention, the peace officer shall direct that transportation be to an appropriate medical facility for treatment.]~~

~~(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:~~

~~(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and~~

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the individual to be committed is present, if the individual is not transported by ambulance; or

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported by ambulance.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section. This section does not create a special duty of care.

Section 9. Section 62A-15-631 is amended to read:

62A-15-631. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

~~[(1) Proceedings for involuntary commitment of an individual who is 18 years of age or older may be commenced by filing a written application with the district court of the county in which the proposed patient resides or is found, by a responsible person who has reason to know of the condition or circumstances of the proposed patient which lead to the belief that the individual has a mental illness and should be involuntarily committed. The application shall include:]~~

(1) A responsible person who has reason to know of an adult's mental illness and the condition or

circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the [individual's] proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number; and

~~[(b) either:]~~

(b) (i) a certificate of a licensed physician or a designated examiner stating that within [a] the seven-day period immediately preceding the certification, the physician or designated examiner [has] examined the [individual, and that the physician or designated examiner] proposed patient and is of the opinion that the [individual is mentally ill] proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the [individual] proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

(i) may take place at or before the hearing; and

(ii) is required if the local mental health authority appears at the hearing.

(3) If the court finds from the application, from any other statements under oath, or from any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a substantial danger[, as defined in Section 62A-15-602,] to self or others requiring involuntary commitment pending examination and hearing; or, if the proposed patient has refused to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient in the custody of a local mental health authority or in a temporary emergency facility as provided in

Section 62A-15-634 to be detained for the purpose of examination. [Within 24 hours of the issuance of the order for examination, a local mental health authority or its designee shall report to the court, orally or in writing, whether the patient is, in the opinion of the examiners, mentally ill, whether the patient has agreed to become a voluntary patient under Section 62A-15-625, and whether treatment programs are available and acceptable without court proceedings. Based on that information, the court may, without taking any further action, terminate the proceedings and dismiss the application. In any event, if the examiner reports orally, the examiner shall immediately send the report in writing to the clerk of the court.]

(4) Notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall be provided by the court to a proposed patient before, or upon, placement in the custody of a local mental health authority or, with respect to any [individual] proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court. A copy of that order of detention shall be maintained at the place of detention.

(5) Notice of commencement of those proceedings shall be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other persons whom the proposed patient or the court shall designate. That notice shall advise those persons that a hearing may be held within the time provided by law. If the proposed patient has refused to permit release of information necessary for provisions of notice under this subsection, the extent of notice shall be determined by the court.

(6) Proceedings for commitment of an individual under the age of 18 years to [the division] a local mental health authority may be commenced [by filing a written application with the juvenile court in accordance with the provisions of] in accordance with Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(7) The district court may, in its discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

~~[(8) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority under court order for detention or examination, the court shall appoint two designated examiners to examine the proposed patient. If requested by the proposed patient's counsel, the court shall appoint, as one of the examiners, a reasonably available qualified person designated by counsel. The examinations, to be conducted separately, shall be held at the home of the proposed patient, a hospital or other medical~~

~~facility, or at any other suitable place that is not likely to have a harmful effect on the patient's health.]~~

~~[(b) The examiner shall inform the patient if not represented by an attorney that, if desired, the patient does not have to say anything, the nature and reasons for the examination, that it was ordered by the court, that any information volunteered could form part of the basis for the patient's involuntary commitment, and that findings resulting from the examination will be made available to the court.]~~

~~[(c) A time shall be set for a hearing to be held within 10 calendar days of the appointment of the designated examiners, unless those examiners or a local mental health authority or its designee informs the court prior to that hearing date that the patient is not mentally ill, that the patient has agreed to become a voluntary patient under Section 62A-15-625, or that treatment programs are available and acceptable without court proceedings, in which event the court may, without taking any further action, terminate the proceedings and dismiss the application.]~~

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(10) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment; and

(v) that findings resulting from the examination will be made available to the court; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 62A-15-625, or has acceptable programs available to the proposed patient without court proceedings. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient:

(a) is not mentally ill;

(b) has agreed to voluntary commitment, as described in Section 62A-15-625; or

(c) has acceptable options for treatment programs that are available without court proceedings.

~~(9)(a)~~ (14) Before the hearing, an opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or ~~was~~ is found.

~~(b)~~ (15) (a) The proposed patient, the applicant, and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other person. The court may allow a waiver of the proposed patient's right to appear only for good cause shown, and that cause shall be made a matter of court record.

~~(e)~~ (b) The court is authorized to exclude all persons not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

~~(d)~~ (c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is

not likely to have a harmful effect on the mental health of the proposed patient.

~~(e)~~ (d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

~~(f)~~ (e) (i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes; and

(G) medication records pertaining to the current commitment.

(ii) That information shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

~~(10)~~ (16) The court shall order commitment of ~~an individual~~ a proposed patient who is 18 years of age or older to a local mental health authority if, upon completion of the hearing and consideration of the information presented in accordance with Subsection ~~(9)(e)~~ (15)(d), the court finds by clear and convincing evidence that:

(a) the proposed patient has a mental illness;

(b) because of the proposed patient's mental illness the proposed patient poses a substantial danger~~[, as defined in Section 62A-15-602,] to self or others~~[, which may include the inability to provide the basic necessities of life such as food, clothing, and shelter, if allowed to remain at liberty]~~;~~

(c) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(d) there is no appropriate less-restrictive alternative to a court order of commitment; and

(e) the local mental health authority can provide the ~~individual~~ proposed patient with treatment that is adequate and appropriate to the ~~individual's~~ proposed patient's conditions and needs. In the absence of the required findings of the court after the hearing, the court shall ~~forthwith~~ dismiss the proceedings.

~~(11)~~ (17) (a) The order of commitment shall designate the period for which the ~~individual~~ patient shall be treated. When the ~~individual~~ patient is not under an order of commitment at the time of the hearing, that period may not exceed six months without benefit of a review hearing. Upon such a review hearing, to be commenced prior to the

expiration of the previous order, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the required conditions in Subsection ~~[(10)]~~ (16) will last for an indeterminate period.

(b) The court shall maintain a current list of all patients under its order of commitment. That list shall be reviewed to determine those patients who have been under an order of commitment for the designated period. At least two weeks prior to the expiration of the designated period of any order of commitment still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee. The local mental health authority or its designee shall immediately reexamine the reasons upon which the order of commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, it shall discharge the patient from involuntary commitment and immediately report ~~[that]~~ the discharge to the court. Otherwise, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through ~~[(10)]~~ (14).

(c) The local mental health authority or its designee responsible for the care of a patient under an order of commitment for an indeterminate period, shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, that local mental health authority or its designee shall discharge the patient from its custody and immediately report the discharge to the court. If the local mental health authority or its designee determines that the conditions justifying that commitment continue to exist, the local mental health authority or its designee shall send a written report of those findings to the court. The patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued, the reasons for that decision, and that the patient has the right to a review hearing by making a request to the court. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through ~~[(10)]~~ (14).

~~[(12) In the event that the designated examiners are unable, because a proposed patient refuses to submit to an examination, to complete that examination on the first attempt, the court shall fix a reasonable compensation to be paid to those designated examiners for their services.]~~

~~[(13) (18) Any [person] patient committed as a result of an original hearing or a [person's] patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days of the entry of the court order. The petition must allege error or mistake in the findings, in which case the court shall appoint three~~

impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient. The new hearing shall, in all other respects, be conducted in the manner otherwise permitted.

~~[(14) (19) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.~~

Section 10. Section 62A-15-632 is amended to read:

62A-15-632. Circumstances under which conditions justifying initial involuntary commitment shall be considered to continue to exist.

(1) After ~~[a person has been]~~ an individual is involuntarily committed to the custody of a local mental health authority under Subsection 62A-15-631~~[(10)]~~(16), the conditions justifying commitment under that subsection shall be considered to continue to exist, for purposes of continued treatment under Subsection 62A-15-631~~[(11)]~~(17) or conditional release under Section 62A-15-637, if the court finds that the patient is still mentally ill, and that absent an order of involuntary commitment and without continued treatment the patient will suffer severe and abnormal mental and emotional distress as indicated by recent past history, and will experience deterioration in the patient's ability to function in the least restrictive environment, thereby making the patient a substantial danger to self or others.

(2) A patient whose treatment is continued or who is conditionally released under the terms of this section, shall be maintained in the least restrictive environment available that can provide the patient with the treatment that is adequate and appropriate.

Section 11. Section 62A-15-635 is amended to read:

62A-15-635. Notice of commitment.

Whenever a patient has been temporarily, involuntarily committed to a local mental health authority ~~[pursuant to]~~ under Section 62A-15-629 on the application of ~~[any person]~~ an individual other than ~~[his]~~ the patient's legal guardian, spouse, or next of kin, the local mental health authority or ~~[its]~~ a designee of the local mental health authority shall immediately notify the patient's legal guardian, spouse, or next of kin, if known.

Section 12. Section 62A-15-637 is amended to read:

62A-15-637. Release of patient to receive other treatment -- Placement in more restrictive environment -- Procedures.

(1) A local mental health authority or ~~[its]~~ a designee of a local mental health authority may release an improved patient to less restrictive treatment ~~[as it may specify, and when agreed to in writing by the patient.]~~ when:

(a) the authority specifies the less-restrictive treatment; and

(b) the patient agrees in writing to the less restrictive treatment.

(2) Whenever a local mental health authority or [its designee] a designee of a local mental health authority determines that the conditions justifying commitment no longer exist, the [patient shall be discharged] local mental health authority or the designee shall discharge the patient. If the patient has been committed through judicial proceedings, [a report describing that determination shall be sent] the local mental health authority or the designee shall prepare a report describing the determination and shall send the report to the clerk of the court where the proceedings were held.

~~[(2)]~~ (3) (a) A local mental health authority or [its designee] a designee of a local mental health authority is authorized to issue an order for the immediate placement of a current patient [not previously released from an order of commitment] into a more restrictive environment, if:

(i) the local mental health authority or [its designee] a designee of a local mental health authority has reason to believe that the [less restrictive environment in which the patient has been placed] patient's current environment is aggravating the patient's mental illness [as defined in Subsection 62A-15-631(10), or that]; or

(ii) the patient has failed to comply with the specified treatment plan to which [he had] the patient agreed in writing.

(b) [That] An order for a more restrictive environment shall include the reasons [therefor] for the order and shall authorize any peace officer to take the patient into physical custody and transport [him] the patient to a facility designated by the [division] local mental health authority. Prior to or upon admission to the more restrictive environment, or upon imposition of additional or different requirements as conditions for continued release from inpatient care, copies of the order shall be personally delivered to the patient and sent to the person in whose care the patient is placed. The order shall also be sent to the patient's counsel of record and to the court that entered the original order of commitment. The order shall inform the patient of the right to a hearing, as prescribed in this section, the right to appointed counsel, and the other procedures prescribed in Subsection 62A-15-631(9)(14).

(c) If the patient [has been in the] was in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or [his] the patient's representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section 62A-15-631, with the exception of Subsection 62A-15-631(10)(16), unless, by the time set for the hearing, the patient [has again been placed in]

is returned to the less restrictive environment[,], or the patient [has in writing withdrawn his] withdraws the request for a hearing, in writing.

~~[(3) The court shall find that either:]~~

~~[(a) the less restrictive environment in which the patient has been placed is aggravating the patient's dangerousness or mental illness as defined in Subsection 62A-15-631(10), or the patient has failed to comply with a specified treatment plan to which he had agreed in writing; or]~~

~~[(b) the less restrictive environment in which the patient has been placed is not aggravating the patient's mental illness or dangerousness, and the patient has not failed to comply with any specified treatment plan to which he had agreed in writing, in which event the order shall designate that the individual shall be placed and treated in a less restrictive environment appropriate for his needs.]~~

(d) The court shall:

(i) make findings regarding whether the conditions described in Subsections (3)(a) and (b) were met and whether the patient is in the least restrictive environment that is appropriate for the patient's needs; and

~~[(4) (ii) [The order shall also] designate, by order, the environment for the patient's care and the period for which the [individual] patient shall be treated, [in no event to] which may not extend beyond expiration of the original order of commitment.~~

~~[(5) (4) Nothing contained in this section prevents a local mental health authority or its designee, pursuant to Section 62A-15-636, from discharging a patient from commitment or from placing a patient in an environment that is less restrictive than that ordered by the court.~~

Section 13. Section 62A-15-703 is amended to read:

62A-15-703. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner, as defined in ~~Subsection~~ Section 62A-15-602~~(3)~~; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by ~~the~~ a fact finder that the following circumstances clearly exist, ~~he~~ the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness, as defined in Subsection 62A-15-602~~(11)~~(13);

(b) the child demonstrates ~~a risk of harm to himself~~ a reasonable fear of the risk of substantial danger to self or others;

~~(c) the child is experiencing significant impairment in his ability to perform socially;~~

~~(d)~~ (c) the child will benefit from care and treatment by the local mental health authority; and

~~(e)~~ (d) there is no appropriate less-restrictive alternative.

(5) (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible~~;~~ and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the ~~person who submitted the petition for commitment~~ petitioner, and a representative of the appropriate local mental health authority ~~shall all~~;

(i) shall receive informal notice of the date and time of the proceeding~~. Those parties shall also be afforded an opportunity to appear and to~~; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in ~~his~~ the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow ~~the~~ a child to waive ~~his~~ the child's right to be present at the commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

- (i) the petition for commitment;
- (ii) the admission notes;
- (iii) the child's diagnosis;
- (iv) physicians' orders;
- (v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) ~~When~~ At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and ~~his~~ the child's parent or legal guardian of that decision~~;~~ and of the reasons for ordering commitment ~~at the conclusion of the hearing, and also in writing~~.

(iii) The neutral and detached fact finder shall state in writing the basis of ~~his~~ the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

~~(6) Absent the procedures and findings required by this section, a child may be temporarily committed to the physical custody of a local mental health authority only in accordance with the emergency procedures described in Subsection 62A-15-629(1) or (2). A child temporarily committed in accordance with those emergency procedures may be held for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time period, the child shall be released unless the procedures and findings required by this section have been satisfied.~~

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 62A-15-629 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's

parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition^[s] or ~~that of his~~ on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

- (i) the original petition for commitment;
- (ii) admission notes;
- (iii) diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal

hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, ~~his~~ the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive ~~his~~ the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to ~~his~~ the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating ~~his~~ the child's mental illness, or increasing the risk of harm to ~~himself~~ self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport ~~him~~ the child to a facility designated by the appropriate local mental health

authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, [his] the child's parent or legal guardian, the administrator of the more restrictive environment, or [his] the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or [his] the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating [his] the child's mental illness[,] or increasing the risk of harm to [himself] self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating [his] the child's mental illness[,] or increasing the risk of harm to [himself] self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 78A-6-120. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority [pursuant to] under this section, the child is still entitled to additional due process proceedings, in accordance with Section 62A-15-704, before any treatment [which] that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 14. Section 62A-15-705 is amended to read:

62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Custody.

(1) (a) Subject to Subsection (1)(b), commitment proceedings for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section 62A-15-631.

(b) Commitment proceedings under this section may be commenced only after a commitment proceeding under Section 62A-15-703 has concluded without the child being committed.

(2) The juvenile court shall order commitment to the physical custody of a local mental health authority if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

(a) the child has a mental illness, as defined in [Subsection] Section 62A-15-602[(8)];

(b) the child demonstrates a risk of harm to himself or others;

(c) the child is experiencing significant impairment in [his] the child's ability to perform socially;

(d) the child will benefit from the proposed care and treatment; and

(e) there is no appropriate less restrictive alternative.

(3) The local mental health authority has an affirmative duty to conduct periodic reviews of children committed to its custody pursuant to this section, and to release any child who has sufficiently improved so that the local mental health authority or its designee determines that commitment is no longer appropriate.

Section 15. Repealer.

This bill repeals:

Section 62A-15-402, Rules for substance use disorder peer support specialist training and certification.

CHAPTER 323**H. B. 101**

Passed March 7, 2018
 Approved March 20, 2018
 Effective May 8, 2018

AIR QUALITY EMISSIONS TESTING AMENDMENTS

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Joel K. Briscoe
 Rebecca Chavez-Houck
 Rebecca P. Edwards
 Edward H. Redd
 V. Lowry Snow
 Mike Winder

LONG TITLE**General Description:**

This bill amends requirements for emissions testing of motor vehicles.

Highlighted Provisions:

This bill:

- ▶ amends exemptions to emissions testing;
- ▶ creates a pilot program requiring certain counties to require emissions inspections for certain diesel-powered motor vehicles;
- ▶ requires a county participating in the program to present a report;
- ▶ requires the Division of Air Quality to provide an estimate of pollution emitted based on the failure rate of diesel-powered motor vehicles in the pilot program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1642, as last amended by Laws of Utah 2017, Chapters 57, 246, and 406

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

Section 1. Section 41-6a-1642 is amended to read:**41-6a-1642. Emissions inspection -- County program.**

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of [emission] emissions inspection, or waiver of the certificate, more often than required under Subsection [(7)] (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

- (vi) Audi A8L, model years 2014, 2015, and 2016;
- (vii) Audi Q5, model years 2014, 2015, and 2016; and
- (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

- (i) emissions standards;
- (ii) test procedures;
- (iii) inspections stations;
- (iv) repair requirements and dollar limits for correction of deficiencies; and
- (v) certificates of emissions inspections.

~~[(b) The regulations or ordinances shall:]~~

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) ~~[be made]~~ shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) ~~[be compliant]~~ shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that is:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) ~~[providing]~~ provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507; ~~[and]~~

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer[-];

~~[(5) (a) The legislative body of a county identified in Subsection (1) shall exempt]~~

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less ~~[from the emission inspection requirements of this section]~~, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance[-];

(g) a motorcycle as defined in Section 41-1a-102;

(h) a motor vehicle powered solely by electric power; and

(i) a motor vehicle with a model year of 1967 or older.

~~[(b)] (5) The county shall [provide] issue to the registered owner who signs and submits a signed statement under [this section] Subsection (4)(f) a certificate of exemption from [emission] emissions inspection requirements for purposes of registering the exempt vehicle.~~

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) (a) The legislative body of a county described in Subsection (1) that does not require an emissions inspection for diesel-powered motor vehicles as of December 31, 2017, shall implement a three-year pilot program as described in Subsection (7)(b).

(b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative body of a county described in Subsection (7)(a) shall require:

(i) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(A) a model year of 2007 or newer;

(B) a gross vehicle weight rating of 14,000 pounds or less; and

(C) a model year that is five years old or older; and

(ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(A) with a gross vehicle weight rating of 14,000 pounds or less;

(B) that has a model year of 1997 or newer; and

(C) that has a model year that is five years old or older.

(c) (i) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall prepare a report including:

(A) the total number of diesel-powered vehicles inspected as part of the pilot program using computerized technology;

(B) the passage and failure rates of the diesel-powered motor vehicles inspected as part of the pilot program using computerized technology, shown by model year;

(C) the total number of diesel-powered vehicles visually inspected as part of the pilot program;

(D) the passage and failure rates of the diesel-powered motor vehicles visually inspected as part of the pilot program, shown by model year;

(E) the total number of diesel-powered vehicles visually inspected as part of the pilot program where tampering with emissions equipment was found, shown by model year; and

(F) any other information the executive body or individual considers relevant.

(ii) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural Resources, Agriculture, and Environment Interim Committee:

(A) one time after January 1, 2020, but before August 31, 2020; and

(B) one time after January 1, 2021, but before August 31, 2021.

(d) After each report described in Subsection (7)(c), the Division of Air Quality created in Section 19-1-105 shall provide to the Natural Resources,

Agriculture, and Environment Interim Committee and the legislative body of a county participating in the pilot program an estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor vehicles in the pilot program.

[(6)] (8) (a) Subject to Subsection [(6)] (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection [(6)] (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection [(6)] (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection [(6)] (8).

[(7)] (9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection [(7)] (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection [(7)] (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under

Subsection ~~[(7)]~~ (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection ~~[(7)]~~ (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection ~~[(7)]~~ (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection ~~[(7)]~~(9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

~~[(8)]~~ (10) (a) Except as provided in Subsections ~~[(7)]~~ (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

~~[(9)]~~ (11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate

legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

~~[(40)]~~ (12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by \$2.50 for each year that is exempted from emissions inspections under Subsection ~~[(7)]~~ (9)(c) up to a \$7.50 increase.

~~[(41)]~~ (13) (a) A county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

CHAPTER 324**H. B. 102**

Passed February 16, 2018

Approved March 20, 2018

Effective May 8, 2018

USE OF FORCE AMENDMENTS

Chief Sponsor: Brian M. Greene
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill modifies criminal provisions related to use of force.

Highlighted Provisions:

This bill:

- ▶ addresses when a person is not justified in using force.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-2-402, as last amended by Laws of Utah 2010, Chapters 324 and 361

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

Section 1. Section 76-2-402 is amended to read:**76-2-402. Force in defense of person --
Forcible felony defined.**

(1) (a) A person is justified in threatening or using force against another when and to the extent that the person reasonably believes that force or a threat of force is necessary to defend the person or a third person against another person's imminent use of unlawful force.

(b) A person is justified in using force intended or likely to cause death or serious bodily injury only if the person reasonably believes that force is necessary to prevent death or serious bodily injury to the person or a third person as a result of another person's imminent use of unlawful force, or to prevent the commission of a forcible felony.

(2) (a) A person is not justified in using force under the circumstances specified in Subsection (1) if the person:

(i) initially provokes the use of force against the person with the intent to use force as an excuse to inflict bodily harm upon the assailant;

(ii) is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony, unless the use of force is a reasonable response to factors unrelated to the commission, attempted commission, or fleeing after the commission of that felony; or

(iii) was the aggressor or was engaged in a combat by agreement, unless the person withdraws from the encounter and effectively communicates to the

other person his intent to do so and, notwithstanding, the other person continues or threatens to continue the use of unlawful force.

(b) For purposes of Subsection (2)(a)(iii) the following do not, by themselves, constitute "combat by agreement":

(i) voluntarily entering into or remaining in an ongoing relationship; or

(ii) entering or remaining in a place where one has a legal right to be.

(3) A person does not have a duty to retreat from the force or threatened force described in Subsection (1) in a place where that person has lawfully entered or remained, except as provided in Subsection (2)(a)(iii).

(4) (a) For purposes of this section, a forcible felony includes aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property.

(b) Any other felony offense which involves the use of force or violence against a person so as to create a substantial danger of death or serious bodily injury also constitutes a forcible felony.

(c) Burglary of a vehicle, defined in Section 76-6-204, does not constitute a forcible felony except when the vehicle is occupied at the time unlawful entry is made or attempted.

(5) In determining imminence or reasonableness under Subsection (1), the trier of fact may consider, but is not limited to, any of the following factors:

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the unlawful force would result in death or serious bodily injury;

(d) the other's prior violent acts or violent propensities; and

(e) any patterns of abuse or violence in the parties' relationship.

CHAPTER 325**H. B. 116**

Passed March 8, 2018
Approved March 20, 2018
Effective May 8, 2018

**STUDENT CIVIL LIBERTIES
PROTECTION ACT**

Chief Sponsor: Kim F. Coleman
Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill creates the Student Civil Liberties Protection Act.

Highlighted Provisions:

This bill:

- ▶ upon the commissioner of higher education's recommendation, permits the State Board of Regents to hire legal staff;
- ▶ requires a state institution of higher education to initiate rulemaking proceedings for a policy under certain circumstances;
- ▶ requires each state institution of higher education to:
 - review each current policy for direct effects on the civil liberties of students; and
 - repeal or initiate rulemaking proceedings for each policy that directly affects a student's civil liberty;
- ▶ permits a student at a state institution of higher education to submit a complaint about a school policy to the State Board of Regents or to the Utah System of Technical Colleges Board of Trustees;
- ▶ requires the State Board of Regents and the Utah System of Technical Colleges Board of Trustees to:
 - establish a complaint process; and
 - report annually to the Administrative Rules Review Committee;
- ▶ amends the Utah Administrative Rulemaking Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-1-106, as enacted by Laws of Utah 1987, Chapter 167
63G-3-201, as last amended by Laws of Utah 2017, Chapter 181

ENACTS:

53B-27-301, Utah Code Annotated 1953
53B-27-302, Utah Code Annotated 1953
53B-27-303, Utah Code Annotated 1953

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

Section 1. Section 53B-1-106 is amended to read:

53B-1-106. Appointment and hiring of staff -- Transfer of functions, personnel, and funds.

Upon the commissioner's recommendation, the board appoints and hires a staff of professional, legal, and administrative personnel to serve at [its] the board's pleasure. [Salaries] The board determines salaries, retirement provisions, other benefits, and capacities of service [~~are determined by the board~~]. If the board transfers a staff function from an institution's own staff, the funds the institution budgeted [~~by the institution~~] for the transferred functions are transferred to the board. Transferred personnel retain their retirement and other benefits and seniority of term standing with the institution from which they are transferred.

Section 2. Section 53B-27-301 is enacted to read:

Part 3. Student Civil Liberties Protection Act

53B-27-301. Definitions.

As used in this part:

(1) "Civil liberty" means a civil liberty enumerated in the United States Constitution or the Utah Constitution.

(2) "Governing board" means:

(a) for an institution described in Subsections 53B-2-101(1)(a) through (h), the board; or

(b) for a technical college, the Utah System of Technical Colleges Board of Trustees.

(3) "Initiate rulemaking proceedings" means the same as that term is defined in Section 63G-3-601.

Section 3. Section 53B-27-302 is enacted to read:

53B-27-302. Policies requiring rulemaking -- Policy review.

(1) An institution may not make or amend a policy that directly affects a student's civil liberty, unless the policy is made a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each institution shall:

(a) before November 30, 2018, review the institution's policies as of May 11, 2018, and identify any policy that directly affects a student's civil liberty; and

(b) before August 1, 2019, for each policy identified under Subsection (2)(a), repeal the policy or initiate rulemaking proceedings to make the policy a rule.

Section 4. Section 53B-27-303 is enacted to read:

53B-27-303. Complaint process -- Reporting.

(1) Before August 1, 2019, each governing board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the institution's governing board alleging a policy of the institution directly affects one or more of the student's civil liberties.

(2) (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the governing board shall:

(i) examine the complaint and, within 30 days after the day on which the governing board receives the complaint, determine whether the complaint is made in good faith; and

(ii) (A) if the governing board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or

(B) if the governing board determines that the complaint is made in bad faith, dismiss the complaint.

(b) Before November 30 of each year, each governing board shall submit a report to the Administrative Rules Review Committee detailing:

(i) the number of complaints the governing board received during the preceding year;

(ii) the number of complaints the governing board found to be made in good faith during the preceding year; and

(iii) each policy that is the subject of a good-faith complaint that the governing board received during the preceding year.

(3) If a governing board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the governing board directs the institution.

Section 5. Section 63G-3-201 is amended to read:

63G-3-201. When rulemaking is required.

(1) Each agency shall:

(a) maintain a current version of its rules; and

(b) make it available to the public for inspection during its regular business hours.

(2) In addition to other rulemaking required by law, each agency shall make rules when agency action:

(a) authorizes, requires, or prohibits an action;

(b) provides or prohibits a material benefit;

(c) applies to a class of persons or another agency; and

(d) is explicitly or implicitly authorized by statute.

(3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.

(4) Rulemaking is not required when:

(a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or, except as provided in Title 53B, Chapter 27, Part 3, Student Civil Liberties Protection Act, students enrolled in a state education institution;

(b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;

(c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

(d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the office.

(5) (a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).

(b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).

(c) A violation of a rule may be subject to a class C misdemeanor or greater criminal penalty under Subsection (5)(a) when:

(i) authorized by a specific state statute;

(ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or

(iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7) (a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal agency, an agency or political subdivision of this state, an agency of another state, or by a nationally recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program;

(iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

(iv) lists, tables, illustrations, or similar materials that the executive director or the executive director's designee determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public review at the agency and at the office.

(8) (a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

CHAPTER 326**H. B. 121**

Passed February 16, 2018

Approved March 20, 2018

Effective May 8, 2018

**REGULATION OF ALKALINE
HYDROLYSIS PROCESS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the Funeral Services Licensing Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms, including “alkaline hydrolysis”;
- ▶ authorizes the use of the alkaline hydrolysis process for the disposition of human remains;
- ▶ describes licensing and other requirements for a licensed funeral service establishment to use the alkaline hydrolysis process for the disposition of human remains; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-4-2, as last amended by Laws of Utah 2011, Chapter 297

58-9-102, as last amended by Laws of Utah 2013, Chapter 278

58-9-302, as last amended by Laws of Utah 2009, Chapter 183

58-9-601, as last amended by Laws of Utah 2013, Chapter 364

58-9-606, as enacted by Laws of Utah 2007, Chapter 144

58-9-611, as enacted by Laws of Utah 2008, Chapter 353

ENACTS:

58-9-613, Utah Code Annotated 1953

58-9-614, Utah Code Annotated 1953

58-9-615, Utah Code Annotated 1953

58-9-616, Utah Code Annotated 1953

58-9-617, Utah Code Annotated 1953

58-9-618, Utah Code Annotated 1953

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

Section 1. Section 26-4-2 is amended to read:**26-4-2. Definitions.**

As used in this chapter:

- (1) “Dead body” is as defined in Section 26-2-2.
- (2) “Death by violence” means death that resulted by the decedent’s exposure to physical, mechanical, or chemical forces, and includes death which

appears to have been due to homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) “Medical examiner” means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

(4) “Regional pathologist” means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

(5) “Sudden death while in apparent good health” means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(6) “Sudden infant death syndrome” means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(7) “Suicide” means death caused by an intentional and voluntary act of a person who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(8) “Unattended death” means the death of a person who has not been seen by a physician within the scope of the physician’s professional capacity within 30 days immediately prior to the date of death. This definition does not require an investigation, autopsy, or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.

(9) (a) “Unavailable for postmortem investigation” means that a dead body is:

- (i) transported out of state;
- (ii) buried at sea;
- (iii) cremated; ~~or~~

(iv) processed by alkaline hydrolysis; or

~~(iv)~~ (v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) “Unavailable for postmortem investigation” does not include embalming or burial of a dead body pursuant to the requirements of law.

(10) “Within the scope of the decedent’s employment” means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 2. Section 58-9-102 is amended to read:

58-9-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Alkaline hydrolysis” means a water-based dissolution process using alkaline chemicals, heat, and sometimes agitation or pressure that reduces human remains to a liquid and to dry bone residue and includes the disposal of the liquid and the processing and pulverization of the dry bone residue.

(2) “Alkaline hydrolysis chamber” means the enclosed space within which the alkaline hydrolysis process takes place and that is used exclusively for alkaline hydrolysis of human remains.

(3) “Alkaline hydrolysis container” means a container:

(a) in which human remains are transported to a funeral service establishment and placed in an alkaline hydrolysis chamber for resomation; and

(b) that meets substantially all of the following standards:

(i) able to be closed in order to provide a complete covering for the human remains;

(ii) resistant to leakage or spillage;

(iii) rigid enough for handling with ease; and

(iv) able to provide protection for the health, safety, and personal integrity of crematory personnel.

(4) “Authorizing agent” means a person legally entitled to authorize the cremation or the alkaline hydrolysis process of human remains.

(5) “Beneficiary” means the individual who, at the time of the individual’s death, is to receive the benefit of the property and services purchased under a preneed funeral arrangement.

(6) “Board” means the Board of Funeral Service created in Section 58-9-201.

(7) “Body part” means:

(a) a limb or other portion of the anatomy that is removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or

(b) a human body or any portion of a body that has been donated to science for medical research purposes.

(8) “Buyer” means a person who purchases a preneed funeral arrangement.

(9) “Calcination” means a process in which a dead human body is reduced by intense heat to a residue that is not as substantive as the residue that follows cremation.

(10) “Cremated remains” means all the remains of a cremated body recovered after the completion of the cremation process, including

pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.

(11) “Cremation” means the technical process, using direct flame and heat, or a chemical process, that reduces human remains to bone fragments through heat and evaporation, or a chemical process, and includes the processing and usually the pulverization of the bone fragments.

(12) “Cremation chamber” means the enclosed space within which the cremation process takes place and which is used exclusively for the cremation of human remains.

(13) “Cremation container” means the container:

(a) in which the human remains are transported to the crematory and placed in the cremation chamber for cremation; and

(b) that meets substantially all of the following standards:

(i) composed of readily combustible or consumable materials suitable for cremation;

(ii) able to be closed in order to provide a complete covering for the human remains;

(iii) resistant to leakage or spillage;

(iv) rigid enough for handling with ease; and

(v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

(14) “Crematory” means the building or portion of a building that houses the cremation chamber and the holding facility.

(15) “Direct disposition” means the disposition of a dead human body:

(a) as quickly as law allows;

(b) without preparation of the body by embalming; and

(c) without an attendant funeral service or graveside service.

(16) “Disposition” means the final disposal of a dead human body by:

(a) earth interment;

(b) above ground burial;

(c) cremation;

(d) calcination;

(e) alkaline hydrolysis;

(f) burial at sea;

(g) delivery to a medical institution; or

(h) other lawful means.

(17) “Embalming” means replacing body fluids in a dead human body with preserving and disinfecting chemicals.

[45] (18) (a) “Funeral merchandise” means any of the following into which a dead human body is placed in connection with the transportation or disposition of the body:

- (i) a vault;
 - (ii) a casket; or
 - (iii) other personal property.
- (b) “Funeral merchandise” does not include:
- (i) a mausoleum crypt;
 - (ii) an interment receptacle preset in a cemetery;
- or
- (iii) a columbarium niche.

[46] (19) “Funeral service” means a service, rite, or ceremony performed:

- (a) with respect to the death of a human; and
- (b) with the body of the deceased present.

[47] (20) “Funeral service director” means an individual licensed under this chapter who may engage in all lawful professional activities regulated and defined under the practice of funeral service.

[48] (21) (a) “Funeral service establishment” means a place of business at a specific street address or location licensed under this chapter that is devoted to:

(i) the embalming, care, custody, shelter, preparation for burial, and final disposition of dead human bodies; and

(ii) the furnishing of services, merchandise, and products purchased from the establishment as a preneed provider under a preneed funeral arrangement.

(b) “Funeral service establishment” includes:

(i) all portions of the business premises and all tools, instruments, and supplies used in the preparation and embalming of dead human bodies for burial, cremation, alkaline hydrolysis, and final disposition as defined by division rule; and

(ii) a facility used by the business in which funeral services may be conducted.

[49] (22) “Funeral service intern” means an individual licensed under this chapter who is permitted to:

(a) assist a funeral service director in the embalming or other preparation of a dead human body for disposition;

(b) assist a funeral service director in the cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body or its remains; and

(c) perform other funeral service activities under the supervision of a funeral service director.

[40] (23) “Graveside service” means a funeral service held at the location of disposition.

[21] (24) “Memorial service” means a service, rite, or ceremony performed:

- (a) with respect to the death of a human; and
- (b) without the body of the deceased present.

[22] (25) “Practice of funeral service” means:

(a) supervising the receipt of custody and transportation of a dead human body to prepare the body for:

- (i) disposition; or
- (ii) shipment to another location;

(b) entering into a contract with a person to provide professional services regulated under this chapter;

(c) embalming or otherwise preparing a dead human body for disposition;

(d) supervising the arrangement or conduct of:

- (i) a funeral service;
- (ii) a graveside service; or
- (iii) a memorial service;

(e) cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body or the body’s remains;

(f) supervising the arrangement of:

- (i) a disposition; or
 - (ii) a direct disposition;
- (g) facilitating:

- (i) a disposition; or
- (ii) a direct disposition;

(h) supervising the sale of funeral merchandise by a funeral establishment;

(i) managing or otherwise being responsible for the practice of funeral service in a licensed funeral service establishment;

(j) supervising the sale of a preneed funeral arrangement; and

(k) contracting with or employing individuals to sell a preneed funeral arrangement.

[23] (26) (a) “Preneed funeral arrangement” means a written or oral agreement sold in advance of the death of the beneficiary under which a person agrees with a buyer to provide at the death of the beneficiary any of the following as are typically provided in connection with a disposition:

- (i) goods;
- (ii) services, including:
 - (A) embalming services; and
 - (B) funeral directing services;
- (iii) real property; or
- (iv) personal property, including:
 - (A) a casket;

- (B) another primary container;
- (C) a cremation, alkaline hydrolysis, or transportation container;
- (D) an outer burial container;
- (E) a vault;
- (F) a grave liner;
- (G) funeral clothing and accessories;
- (H) a monument;
- (I) a grave marker; and
- (J) a cremation or alkaline hydrolysis urn.

(b) "Preneed funeral arrangement" does not include a policy or product of life insurance providing a death benefit cash payment upon the death of the beneficiary which is not limited to providing the products or services described in Subsection (23)(a).

[24] (27) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation or the alkaline hydrolysis process to unidentifiable bone fragments by manual means.

[25] (28) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation or alkaline hydrolysis and processing to granulated particles by manual or mechanical means.

(29) "Resomation" means the alkaline hydrolysis process.

[26] (30) "Sales agent" means an individual licensed under this chapter as a preneed funeral arrangement sales agent.

[27] (31) "Temporary container" means a receptacle for cremated or alkaline hydrolysis remains usually made of cardboard, plastic, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

[28] (32) "Unlawful conduct" ~~is as~~ means the same as that term is defined in Sections 58-1-501 and 58-9-501.

[29] (33) "Unprofessional conduct" ~~is as~~ means the same as that term is defined in Sections 58-1-501 and 58-9-502.

[30] (34) "Urn" means a receptacle designed to permanently encase ~~the~~ cremated or alkaline hydrolysis remains.

Section 3. Section 58-9-302 is amended to read:

58-9-302. Qualifications for licensure.

(1) Each applicant for licensure as a funeral service director shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of:

(i) a first or second degree felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) any other crime that when considered with the duties and responsibilities of a funeral service director is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree;

(e) have obtained an associate degree, or its equivalent, in mortuary science from a school of funeral service accredited by the American Board of Funeral Service Education or other accrediting body recognized by the U.S. Department of Education;

(f) have completed not less than 2,000 hours and 50 embalmings, over a period of not less than one year, of satisfactory performance in training as a licensed funeral service intern under the supervision of a licensed funeral service director; and

(g) obtain a passing score on examinations approved by the division in collaboration with the board.

(2) Each applicant for licensure as a funeral service intern shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of:

(i) a first or second degree felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) any other crime that when considered with the duties and responsibilities of a funeral service intern is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree; and

(e) obtain a passing score on an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a funeral service establishment and each funeral service establishment licensee shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have in place:

(i) an embalming room for preparing dead human bodies for burial or final disposition, which may

serve one or more facilities operated by the applicant;

(ii) a refrigeration room that maintains a temperature of not more than 40 degrees fahrenheit for preserving dead human bodies prior to burial or final disposition, which may serve one or more facilities operated by the applicant; and

(iii) maintain at all times a licensed funeral service director who is responsible for the day-to-day operation of the funeral service establishment and who is personally available to perform the services for which the license is required;

(d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service director if the funeral service establishment sells preneed funeral arrangements;

(e) file with the completed application a copy of each form of contract or agreement the applicant will use in the sale of preneed funeral arrangements; ~~and~~

(f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product to be sold by the provider or the provider's sales agent~~[-]; and~~

(g) if the applicant intends to offer alkaline hydrolysis in a funeral service establishment, provide evidence that in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the funeral service establishment meets the minimum standards for the handling, holding, and processing of deceased human remains in a safe, clean, private, and respectful manner; and

(ii) all operators of the alkaline hydrolysis equipment have received adequate training.

(4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of:

(i) a first or second degree felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) any other crime that when considered with the duties and responsibilities of a preneed funeral sales agent is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree;

(e) have obtained a passing score on an examination approved by the division in collaboration with the board;

(f) affiliate with a licensed funeral service establishment; and

(g) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product.

Section 4. Section 58-9-601 is amended to read:

58-9-601. Advance directions.

(1) A person may provide written directions, acknowledged before a notary public or executed with the same formalities required of a will under Section 75-2-502, to direct the preparation, type, and place of the person's disposition, including:

(a) designating a funeral service establishment;

(b) providing directions for burial arrangements; ~~or~~

(c) providing directions for cremation arrangements~~[-]; or~~

(d) providing directions for alkaline hydrolysis arrangements.

(2) A funeral service director shall carry out the written directions of the decedent prepared under this section to the extent that:

(a) the directions are lawful; and

(b) the decedent has provided resources to carry out the directions.

(3) Directions for disposition contained in a will shall be carried out pursuant to Subsection (2) regardless of:

(a) the validity of other aspects of the will; or

(b) the fact that the will may not be offered or admitted to probate until a later date.

(4) A person may change or cancel written directions prepared under this section at any time prior to the person's death by providing written notice to all applicable persons, including:

(a) if the written directions designate a funeral service establishment or funeral service director, the funeral service establishment or funeral service director designated in the written directions; and

(b) if the written directions are contained in a will, the personal representative as defined in Section 75-1-201.

Section 5. Section 58-9-606 is amended to read:

58-9-606. Right to rely -- Immunity.

(1) A person signing a funeral service agreement, cremation authorization form, alkaline hydrolysis authorization form, or other authorization for a decedent's disposition warrants the truthfulness of the facts set forth in the document, including the

identity of the decedent and the person's authority to order the disposition.

(2) A funeral service establishment has the right to rely on a contract or authorization executed under Subsection (1) and may carry out the instructions of the person whom its funeral service director reasonably believes holds the right of disposition.

(3) A funeral service director incurs no civil or criminal liability for failure to contact or independently investigate the existence of any next-of-kin or relative of the decedent.

(4) If there are at least two persons in the nearest class of the next-of-kin who are equal in priority and a funeral service director has no knowledge of an objection by other members of the class, the funeral service director may rely on and act according to the instructions of the first person in the class to make funeral and disposition arrangements.

(5) A funeral service establishment or funeral service director who relies in good faith on the instructions of a person claiming the right of disposition under this part is immune from civil and criminal liability and disciplinary action in carrying out the disposition of a decedent's remains in accordance with that person's instructions.

Section 6. Section 58-9-611 is amended to read:

58-9-611. Disposition of cremated remains.

(1) (a) An authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the final disposition of the cremated remains, if known.

(b) The funeral services establishment shall retain a copy of the statement.

(2) (a) The authorizing agent is responsible for the disposition of the cremated remains.

(b) If the authorizing agent or the agent's representative has not specified the ultimate disposition of or claimed the cremated remains within 60 days from the date of the cremation, the funeral service establishment may dispose of the remains in any manner permitted by law, except scattering.

(c) The authorizing agent shall reimburse the funeral services establishment for all reasonable costs incurred in disposing of the cremated remains under Subsection (2)(b).

(d) The person or entity disposing of cremated remains under this section:

(i) shall make and keep a record of the disposition of the remains; and

(ii) is discharged from any legal obligation or liability concerning the remains once the disposition has been made.

(e) Subsection (2)(d)(ii) applies to cremated remains in the possession of a funeral services

establishment or other responsible party as of May 5, 2008, or any time after that date.

(3) (a) An authorizing agent may direct a funeral service establishment to dispose of or arrange for the disposition of cremated remains:

(i) in a crypt, niche, grave, or scattering garden located in a dedicated cemetery;

(ii) by scattering ~~them over uninhabited~~ the cremated remains over uninhabited public land, the sea, or other public waterways subject to health and environmental laws and regulations; or

(iii) in any manner on the private property of a consenting owner.

(b) If cremated remains are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the funeral service establishment with the written consent of the property owner prior to disposal of the remains.

(c) In order to scatter cremated remains under Subsection (3)(a)(ii) or (iii), the remains must be reduced to a particle size of one-eighth inch or less and removed from their closed container.

(4) A funeral service establishment may not release cremated remains for scattering under this section to the authorizing agent or the agent's designated representative until the funeral service establishment is given a receipt that shows the proper filing has been made with the local registrar of births and deaths.

Section 7. Section 58-9-613 is enacted to read:

58-9-613. Authorization for alkaline hydrolysis -- Penalties for removal of items from human remains.

(1) Except as otherwise provided in this section, a funeral service establishment may not perform alkaline hydrolysis on human remains until the funeral service establishment has received:

(a) an alkaline hydrolysis authorization form signed by an authorizing agent;

(b) a completed and executed burial transit permit or similar document, as provided by state law, indicating that disposition of the human remains is to be by alkaline hydrolysis; and

(c) any other documentation required by the state, county, or municipality.

(2) (a) The alkaline hydrolysis authorization form shall contain, at a minimum, the following information:

(i) the identity of the human remains and the time and date of death, including a signed declaration of visual identification of the deceased or refusal to visually identify the deceased;

(ii) the name of the funeral director and funeral service establishment that obtained the alkaline hydrolysis authorization;

(iii) notification as to whether the death occurred from a disease declared by the Department of

Health to be infectious, contagious, communicable, or dangerous to the public health;

(iv) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(v) a representation that the authorizing agent has the right to authorize the disposition of the decedent by alkaline hydrolysis and that the authorizing agent is not aware of any living person with a superior or equal priority right to that of the authorizing agent, except that if there is another living person with a superior or equal priority right, the alkaline hydrolysis authorization form shall contain a representation that the authorizing agent has:

(A) made reasonable efforts to contact that person;

(B) been unable to do so; and

(C) no reason to believe that the person would object to the disposition of the decedent by alkaline hydrolysis;

(vi) authorization for the funeral service establishment to use alkaline hydrolysis for the disposition of the human remains;

(vii) the name of the person authorized to receive the human remains from the funeral service establishment;

(viii) the manner in which the final disposition of the human remains is to take place, if known;

(ix) a listing of each item of value to be delivered to the funeral service establishment along with the human remains, and instructions as to how each item should be handled;

(x) the signature of the authorizing agent, attesting to the accuracy of all representations contained on the alkaline hydrolysis authorization form;

(xi) if the alkaline hydrolysis authorization form is being executed on a preneed basis, the disclosure required for preneed programs under this chapter; and

(xii) except for a preneed alkaline hydrolysis authorization, the signature of the funeral director of the funeral service establishment that obtained the alkaline hydrolysis authorization.

(b) (i) The person referred to in Subsection (2)(a)(xii) shall execute the alkaline hydrolysis authorization form as a witness and is not responsible for any of the representations made by the authorizing agent.

(ii) The funeral director or the funeral service establishment shall warrant that the human remains delivered to the funeral service establishment have been positively identified by the authorizing agent or a designated representative of the authorizing agent as the decedent listed on the alkaline hydrolysis authorization form.

(iii) The authorizing agent or the agent's designee may make the identification referred to in Subsection (2)(b)(ii) in person or by photograph.

(3) (a) A funeral service establishment may not accept unidentified human remains for alkaline hydrolysis.

(b) If a funeral service establishment takes custody of an alkaline hydrolysis container subsequent to the human remains being placed within the container, the funeral service establishment can rely on the identification made before the remains were placed in the container.

(c) The funeral service establishment shall place appropriate identification on the exterior of the alkaline hydrolysis container based on the prior identification.

(4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains:

(i) with purpose to deprive another over control of the property is guilty of an offense and subject to the punishments provided in Section 76-6-412;

(ii) with purpose to exercise unauthorized control and with intent to temporarily deprive another of control over the property is guilty of an offense and subject to the punishments provided in Section 76-6-404.5; and

(iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without specific written permission of the individual who has the right to control those remains is guilty of a class B misdemeanor.

(b) The fact that residue or any unavoidable dental gold or dental silver or other precious metals remain in alkaline hydrolysis equipment or a container used in a prior alkaline hydrolysis process is not a violation of Subsection (4)(a).

Section 8. Section 58-9-614 is enacted to read:

58-9-614. Recordkeeping.

(1) (a) A funeral service establishment shall furnish to the person who delivers human remains to the establishment for alkaline hydrolysis a receipt signed by a representative of the establishment and the person making the delivery, showing:

(i) the date and time of the delivery;

(ii) the type of casket or alternative container delivered;

(iii) the name of the person from whom the human remains were received;

(iv) the name of the funeral establishment or other entity with whom the person making the delivery is affiliated;

(v) the name of the person who received the human remains on behalf of the funeral service establishment; and

(vi) the name of the decedent.

(b) The funeral service establishment shall keep a copy of the receipt in the funeral service establishment's permanent records for a period of seven years.

(2) (a) Upon release of human remains after alkaline hydrolysis, a funeral service establishment shall furnish to the person who receives the human remains a receipt signed by a representative of the funeral service establishment and the person who receives the human remains, showing:

(i) the date and time of the release;

(ii) the name of the person to whom the human remains were released; and

(iii) if applicable:

(A) the name of the funeral establishment, cemetery, or other entity with whom the person receiving the human remains is affiliated;

(B) the name of the person who released the human remains on behalf of the funeral service establishment; and

(C) the name of the decedent.

(b) (i) The receipt shall contain a representation from the person receiving the human remains confirming that the remains will not be used for any improper purpose.

(ii) Upon release of the human remains, the person to whom the human remains were released may transport the human remains in any manner in the state, without a permit, and dispose of the human remains in accordance with this chapter.

(c) The funeral service establishment shall retain a copy of the receipt in the funeral service establishment's permanent records for a period of seven years.

(3) (a) The funeral service establishment shall maintain at the funeral service establishment's place of business a permanent record of each disposition by alkaline hydrolysis that took place at the funeral service establishment.

(b) The permanent record shall contain:

(i) the name of the decedent;

(ii) the date of disposition by alkaline hydrolysis;

(iii) the final disposition of the human remains; and

(iv) any other document required by this chapter.

Section 9. Section 58-9-615 is enacted to read:

58-9-615. Accepting remains for alkaline hydrolysis.

(1) A funeral service establishment may not make or enforce a rule requiring that human remains be placed in a casket before alkaline hydrolysis.

(2) A funeral service establishment may not refuse to accept human remains for alkaline hydrolysis because the human remains are not in a casket.

Section 10. Section 58-9-616 is enacted to read:

58-9-616. Procedure for alkaline hydrolysis.

(1) A funeral service establishment may not perform alkaline hydrolysis on human remains until the funeral service establishment:

(a) completes and files a death certificate with the Office of Vital Statistics and the county health department as indicated on the regular medical certificate of death or the coroner's certificate; and

(b) complies with the provisions of Section 26-4-29.

(2) While human remains are in the area where alkaline hydrolysis takes place, both before and during the alkaline hydrolysis process and while being removed from the alkaline hydrolysis chamber, only authorized persons are permitted in the area.

(3) Simultaneous alkaline hydrolysis of the human remains of more than one person within the same alkaline hydrolysis chamber is not allowed.

(4) A funeral service establishment shall:

(a) verify the identification of human remains as indicated on an alkaline hydrolysis container immediately before performing alkaline hydrolysis;

(b) attach an identification tag to the alkaline hydrolysis container;

(c) remove the identification tag from the alkaline hydrolysis container; and

(d) place the identification tag near the alkaline hydrolysis chamber where the identification tag shall remain until the alkaline hydrolysis process is complete.

(5) Upon completion of the alkaline hydrolysis process, the funeral service establishment shall:

(a) dispose of liquid remains in accordance with state and local requirements;

(b) to the extent possible, remove all of the recoverable residue of the remains of the alkaline hydrolysis process from the alkaline hydrolysis chamber;

(c) separate all other residue from the alkaline hydrolysis process from remaining bone fragments, to the extent possible, and process the bone fragments so as to reduce them to unidentifiable particles; and

(d) remove anything other than the unidentifiable bone particles from the remains of the alkaline hydrolysis process, to the extent possible, and dispose of that material.

(6) (a) A funeral service establishment shall pack the remains of the alkaline hydrolysis process, which consist of the unidentifiable bone particles and the identification tag described in Subsection (4), in an urn or temporary container ordered by the authorizing agent.

(b) The urn or temporary container shall be packed in clean packing materials and not be

contaminated with any other object, unless otherwise directed by the authorizing agent.

(c) If the remains of the alkaline hydrolysis process cannot fit within the designated urn or temporary container, the funeral service establishment shall:

(i) return the excess remains to the authorizing agent or the agent's representative in a separate urn or temporary container; and

(ii) mark both urns or temporary containers on the outside with the name of the decedent and an indication that the remains of the named decedent are in both urns or temporary containers.

(7) (a) If the remains are to be shipped, the funeral service establishment shall pack the designated temporary container or urn in a suitable, sturdy container.

(b) The funeral service establishment shall have the remains shipped only by a method that:

(i) has an available tracking system; and

(ii) provides a receipt signed by the person accepting delivery.

Section 11. Section 58-9-617 is enacted to read:

58-9-617. Final disposition of remains from the alkaline hydrolysis process.

(1) (a) An authorizing agent shall provide the person with whom alkaline hydrolysis arrangements are made with a signed statement specifying the final disposition of the remains from the alkaline hydrolysis process, if known.

(b) The funeral service establishment shall retain a copy of the statement.

(2) (a) The authorizing agent is responsible for the final disposition of the remains from the alkaline hydrolysis process.

(b) If the authorizing agent or the agent's representative has not specified the ultimate disposition of or claimed the remains from the alkaline hydrolysis process within 60 days from the date of the alkaline hydrolysis process, the funeral service establishment may dispose of the remains in any manner permitted by law, except scattering.

(c) The authorizing agent shall reimburse the funeral service establishment for all reasonable costs incurred in disposing of the remains from the alkaline hydrolysis process under Subsection (2)(b).

(d) The person or entity disposing of remains from the alkaline hydrolysis process under this section:

(i) shall make and keep a record of the final disposition of the remains; and

(ii) is discharged from any legal obligation or liability concerning the remains once the final disposition has been made.

(3) (a) An authorizing agent may direct a funeral service establishment to dispose of or arrange for

the final disposition of remains from the alkaline hydrolysis process:

(i) in a crypt, niche, grave, or scattering garden located in a dedicated cemetery;

(ii) by scattering the remains over uninhabited public land, the sea, or other public waterways subject to health and environmental laws and regulations; or

(iii) in any manner on the private property of a consenting owner.

(b) If remains from the alkaline hydrolysis process are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the funeral service establishment with the written consent of the property owner before disposal of the remains.

(c) In order to scatter remains from the alkaline hydrolysis process under Subsection (3)(a)(ii) or (iii), the remains must be reduced to a particle size of one-eighth inch or less and removed from the remains' closed container.

(4) Under this section, a funeral service establishment may not release remains from the alkaline hydrolysis process to the authorizing agent or the agent's designated representative for scattering until the funeral service establishment is given a receipt that shows the proper filing has been made with the local registrar of births and deaths.

Section 12. Section 58-9-618 is enacted to read:

58-9-618. Limitation of liability.

(1) An authorizing agent who signs an alkaline hydrolysis authorization form warrants the truthfulness of the facts set forth on the form, including:

(a) the identity of the deceased whose remains are to undergo the alkaline hydrolysis process; and

(b) the authorizing agent's authority to order the alkaline hydrolysis process.

(2) A funeral service establishment may rely upon the representations made by an authorizing agent under Subsection (1).

(3) The authorizing agent is personally and individually liable for all damage resulting from a misstatement or misrepresentation made under Subsection (1).

(4) (a) A funeral service establishment may arrange for the alkaline hydrolysis process upon receipt of an alkaline hydrolysis authorization form signed by an authorizing agent.

(b) A funeral service establishment that arranges the alkaline hydrolysis process or releases or disposes of human remains from the alkaline hydrolysis process pursuant to an alkaline hydrolysis authorization form is not liable for an action the funeral service establishment takes pursuant to that authorization.

(5) A funeral service establishment is not responsible or liable for any valuables delivered to the establishment with human remains.

(6) A funeral service establishment may refuse to arrange for the alkaline hydrolysis process of a decedent, to accept human remains for the alkaline hydrolysis process, or to perform the alkaline hydrolysis process:

(a) if the establishment is aware of a dispute concerning the disposition of the human remains and the funeral service establishment has not received a court order or other suitable confirmation that the dispute has been resolved;

(b) if the establishment has a reasonable basis for questioning any of the representations made by an authorizing agent; or

(c) for any other lawful reason.

(7) (a) If a funeral service establishment is aware of a dispute concerning the release or disposition of remains from the alkaline hydrolysis process in the funeral service establishment's possession, the establishment may refuse to release the remains until:

(i) the dispute has been resolved; or

(ii) the funeral service establishment has received a court order authorizing the release or disposition of the remains.

(b) A funeral service establishment is not liable for its refusal to release or dispose of remains from the alkaline hydrolysis process in accordance with this Subsection (7).

CHAPTER 327**H. B. 127**

Passed March 7, 2018
Approved March 20, 2018
Effective May 8, 2018

**CONTROLLED SUBSTANCE
DATABASE ACT AMENDMENTS**

Chief Sponsor: Justin L. Fawson
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends portions of the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ changes the requirements for checking the controlled substance database;
- ▶ delays enforcement of the requirements in this bill to check the controlled substance database;
- ▶ modifies the authority of the Division of Occupational and Professional Licensing to review the controlled substance database to identify any prescriber who may be overprescribing opioids;
- ▶ grants the Division of Occupational and Professional Licensing the authority to provide education or training to certain prescribers and to take other enforcement action; and
- ▶ modifies enforcement provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-304, as last amended by Laws of Utah 2017, Chapters 181 and 237

58-37f-701, as last amended by Laws of Utah 2016, Chapter 275

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

Section 1. Section 58-37f-304 is amended to read:

58-37f-304. Database utilization.

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, or the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

~~[(2) (a) A prescriber shall substantially comply with this Subsection (2).]~~

~~[(b) Except as provided in Subsection (2)(b), a]~~

(2) (a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

~~[(c) A prescriber is not required to check the database under Subsection (2)(b) if:]~~

~~[(i) the prescription for a Schedule II opioid or a Schedule III opioid is for three days or fewer on the daily dosage instructions on the prescription;]~~

~~[(ii) the prescriber has prior knowledge of the patient's prescription history based on the prescriber's review of the patient's health record; or]~~

~~[(iii) the prescription for a Schedule II opioid or a Schedule III opioid is a post surgical prescription and the total duration of opioid written after the surgery has been for 30 days or fewer.]~~

[(d) (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

(i) the database; or

(ii) other similar records of controlled substances the patient has filled.

~~[(e) (c) A prescriber may assign the access and review required under [Subsections (2)(b) and (2)(c)] Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).~~

~~[(f) The division shall not take action against the license of a prescriber for failure to follow this Subsection (2) if the prescriber demonstrates substantial compliance with the requirements of this Subsection (2).]~~

(d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

(A) is connected to the database through a connection that has been approved by the division; and

(B) displays the information from the database in a prominent manner for the prescriber.

(ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.

(e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

- (i) is necessary due to an emergency situation;
- (ii) is caused by a suspension or disruption in the operation of the database; or
- (iii) is caused by a failure in the operation or availability of the Internet.

(f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

- (i) December 31, 2018; or
- (ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

(4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

(5) (a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:

- (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;
- (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health; or
- (iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Physicians Licensing Board.

(b) The division shall offer education to a prescriber identified under this Subsection (5)

regarding best practices in the prescribing of opioids.

(c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.

(d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.

(e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.

Section 2. Section 58-37f-701 is amended to read:

58-37f-701. Immunity from liability.

(1) An individual who has submitted information to or accessed and reviewed the database in accordance with this chapter may not be held civilly liable, including under Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act, for such actions, or a lack of action, which are protected and are not subject to civil discovery, as provided in Section 58-37f-302.

~~[(2) Notwithstanding any other provision of law, any action or lack of action by a prescriber or dispenser to meet the requirements of Section 58-37f-304 may not be used by the division in any action against the prescriber or dispenser.]~~

~~[(3)]~~ (2) Nothing in Section 58-37f-304 establishes a minimum standard of care for prescribers and dispensers.

CHAPTER 328**H. B. 146**

Passed February 23, 2018

Approved March 20, 2018

Effective July 1, 2018

**POSTRETIREMENT REEMPLOYMENT
RESTRICTIONS ACT AMENDMENTS**Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill modifies the Postretirement Reemployment Restrictions Act by amending provisions relating to the reemployment of an affiliated emergency services worker.

Highlighted Provisions:

This bill:

- ▶ repeals the requirement that for a retiree who is reemployed as an affiliated emergency services worker, the termination date of the reemployment is considered the retiree's retirement date for the purpose of calculating the one-year separation requirement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

49-11-1205, as last amended by Laws of Utah 2017, Chapter 141

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

Section 1. Section 49-11-1205 is amended to read:**49-11-1205. Postretirement reemployment restriction exceptions.**

(1) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for

social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(b) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed \$500 per month.

(c) Beginning January 1, 2016, the board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(4) (a) If a retiree is reemployed under the provisions of Subsection (1) [~~or (3)~~], the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii) or (3)(b).

Section 2. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 329**H. B. 149**

Passed March 7, 2018

Approved March 20, 2018

Effective July 1, 2018

**DEPARTMENT OF ALCOHOLIC BEVERAGE
CONTROL FUNDING AMENDMENTS**

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

LONG TITLE**General Description:**

This bill modifies provisions related to the budget of the Department of Alcoholic Beverage Control.

Highlighted Provisions:

This bill:

- ▶ modifies how the Department of Alcoholic Beverage Control handles money it receives from the markup on alcoholic beverages;
- ▶ repeals certain responsibilities of the State Tax Commission related to money received from the markup on alcoholic beverages;
- ▶ creates the State Store Land Acquisition Fund;
- ▶ allows the Department of Alcoholic Beverage Control to use the money in the State Store Land Acquisition Fund to purchase or lease property for state stores;
- ▶ requires the Department of Alcoholic Beverage Control to use proceeds from any related revenue bond to repay the money used from the State Store Land Acquisition Fund;
- ▶ addresses reporting requirements;
- ▶ provides for establishing performance measures and goals to evaluate the operations of the Department of Alcoholic Beverage Control;
- ▶ requires the Department of Alcoholic Beverage Control to obtain approval from the Governor's Office of Management and Budget before submitting a request to the State Building Board for a capital development project; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

- ▶ To the Department of Alcoholic Beverage Control -- State Store Land Acquisition Fund -- State Store Land Acquisition Fund -- as a one-time appropriation:
 - from the General Fund, One-time, \$5,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 32B-2-301, as last amended by Laws of Utah 2017, Chapter 159
- 32B-2-304, as last amended by Laws of Utah 2017, Chapter 455
- 32B-3-205, as last amended by Laws of Utah 2017, Chapter 455
- 53F-9-304, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 59-1-401, as last amended by Laws of Utah 2017, Chapter 430

59-1-402, as last amended by Laws of Utah 2017, Chapter 430

59-1-1402, as last amended by Laws of Utah 2017, Chapter 430

ENACTS:

32B-2-307, Utah Code Annotated 1953

32B-2-505, Utah Code Annotated 1953

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

Section 1. Section 32B-2-301 is amended to read:**32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.**

(1) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in [Sections 32B-3-205 and] Section 32B-2-304, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title [~~shall be transferred to the Liquor Control Fund.~~]; and

~~[(3) (a) There is created an enterprise fund known as the "Markup Holding Fund."]~~

~~[(b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit revenue remitted to the State Tax Commission from the markup imposed under Section 32B-2-304 into the Markup Holding Fund.]~~

~~[(c) Money deposited into the Markup Holding Fund may be expended:]~~

~~[(i) to the extent appropriated by the Legislature; and]~~

~~[(ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection 32B-2-305(4).]~~

(ii) money received from the markup described in Section 32B-2-304.

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

~~[(4) The] (3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from the Liquor Control Fund [only to the extent appropriated by the Legislature or provided for by statute, except that the department may draw by warrant] without an appropriation [from the Liquor Control Fund] for an expenditure that is directly incurred by the department:~~

~~[(a)] (i) to purchase an alcoholic product;~~

~~[(b)] (ii)~~ to transport an alcoholic product from the supplier to a warehouse of the department; ~~[and] or~~

~~[(e)] (iii)~~ for variances related to an alcoholic product, including breakage or theft.

~~(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.~~

~~[(5)] (4) (a)~~ As used in this Subsection ~~[(5)] (4)~~, “base budget” means the same as that term is defined in legislative rule.

(b) The department’s base budget shall include as an appropriation from the Liquor Control Fund:

(i) credit card related fees paid by the department;

(ii) package agency compensation; and

(iii) the department’s costs of shipping and warehousing alcoholic products.

~~[(6) Before the transfer required by Subsection (7), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:]~~

~~[(a) capital equipment purchases;]~~

~~[(b) salary increases for department employees;]~~

~~[(c) performance awards for department employees; or]~~

~~[(d) information technology enhancements because of changes or trends in technology.]~~

~~[(7) (5) (a) The [department] Division of Finance shall transfer annually from the Liquor Control Fund [and the State Tax Commission shall transfer annually from the Markup Holding Fund] to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection [(7). The transfers shall be calculated by no later than] (5).~~

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and ~~[made by no later than]~~ the Division of Finance shall make the transfer on or before September 30 ~~[after a fiscal year]~~.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund ~~[and the Markup Holding Fund in order]~~ to comply with Subsection 51-5-6(2).

~~[(8)] (6) (a)~~ By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

~~[(9) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant drawn against the Liquor Control Fund by the department, the cash resources of the General Fund may be used to the extent necessary. At no time may the fund equity of the Liquor Control Fund fall below zero.]~~

(7) Before the Division of Finance makes the transfer described in Subsection (5), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

Section 2. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) “Landed case cost” means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) “Landed case cost” does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) “Proof gallon” means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, “small brewer” means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an

amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53A-19-201.

(5) This section does not prohibit the department from selling discontinued items at a discount.

~~[(6) (a) Except as provided in Section 53A-13-114, the department shall collect the markup and remit the markup collected by the department under this section:]~~

~~[(i) to the State Tax Commission monthly on or before the last day of the month immediately following the last day of the previous month; and]~~

~~[(ii) using a form prescribed by the State Tax Commission.]~~

~~[(b) For liquor provided to a package agency on consignment, the department shall remit the markup to the State Tax Commission for the month during which the liquor is provided to the package agency regardless of when the package agency pays the department for the liquor provided to the package agency.]~~

~~[(c) The State Tax Commission shall deposit revenues remitted to it under Subsection (6)(a) into the Markup Holding Fund created in Section 32B-2-301.]~~

~~[(d) The assessment, collection, and refund of a markup under this section shall be in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.]~~

~~[(e) The department, if it fails to comply with this Subsection (6), is subject to penalties as provided in Section 59-1-401 and interest as provided in Section 59-1-402.]~~

~~[(f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).]~~

Section 3. Section 32B-2-307 is enacted to read:

32B-2-307. State Store Land Acquisition Fund.

(1) There is created an enterprise fund known as the State Store Land Acquisition Fund.

(2) The State Store Land Acquisition Fund is funded from the following sources:

(a) appropriations made to the State Store Land Acquisition Fund by the Legislature; and

(b) in accordance with Subsection (5), proceeds from revenue bonds authorized by Title 63B, Bonds.

(3) Subject to Subsection (4), the department may use the money deposited into the State Store Land Acquisition Fund to purchase or lease property for new state stores.

(4) (a) Before the department spends or commits money from the State Store Land Acquisition Fund, the department shall present to the Infrastructure and General Government Appropriations Subcommittee a description of how the department will spend the money.

(b) Following a presentation described in Subsection (4)(a), the Infrastructure and General Government Appropriations Subcommittee shall recommend whether the department spend the money in accordance with the department's presentation.

(5) When the department uses money in the State Store Land Acquisition Fund to purchase or lease property for a new state store and subsequently issues a revenue bond for the state store for which the department purchased or leased the property, the department shall repay the money used to purchase or lease the property with proceeds from the revenue bond.

Section 4. Section 32B-2-505 is enacted to read:

32B-2-505. Reporting requirements -- Building plan and market survey required -- Department performance measures.

(1) In 2018 and each year thereafter, the department shall present a five-year building plan

to the Infrastructure and General Government Appropriations Subcommittee that describes the department's anticipated property acquisition, building, and remodeling for the five years following the day on which the department presents the five-year building plan.

(2) (a) In 2018 and every other year thereafter, the department shall complete a market survey to inform the department's five-year building plan described in Subsection (1).

(b) The department shall:

(i) provide a copy of each market survey to the Infrastructure and General Government Appropriations Subcommittee and the Business and Labor Interim Committee; and

(ii) upon request, appear before the Infrastructure and General Government Appropriations Subcommittee to present the results of the market survey.

(3) For fiscal year 2018-19 and each fiscal year thereafter, before the fiscal year begins, the Governor's Office of Management and Budget, in consultation with the department and the Office of the Legislative Fiscal Analyst, shall establish performance measures and goals to evaluate the department's operations during the fiscal year.

(4) (a) The department may not submit a request to the State Building Board for a capital development project unless the department first obtains approval from the Governor's Office of Management and Budget.

(b) In determining whether to grant approval for a request described in Subsection (4)(a), the Governor's Office of Management and Budget shall evaluate the extent to which the department met the performance measures and goals described in Subsection (3) during the previous fiscal year.

Section 5. Section 32B-3-205 is amended to read:

32B-3-205. Penalties.

(1) If the commission is satisfied that a person subject to administrative action violates this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

(a) suspend or revoke the person's license, permit, or certificate of approval;

(b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;

(c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or

(d) take a combination of actions described in this Subsection (1).

(2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

(i) a single notice of agency action; or

(ii) a single action against a package agency.

(b) The commission shall by rule establish a schedule setting forth a range of fines for each violation.

(c) When a presiding officer imposes a fine, the presiding officer shall consider any aggravating circumstances or mitigating circumstances in deciding where within the applicable range to set the fine.

(3) The ~~commission~~ department shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.

(4) (a) If a license or permit is suspended under this section, the licensee or permittee shall prominently display a sign provided by the department:

(i) during the suspension; and

(ii) at the entrance of the premises of the licensee or permittee.

(b) The sign required by this Subsection (4) shall:

(i) read "The Utah Alcoholic Beverage Control Commission has suspended the alcoholic product license or permit of this establishment. An alcoholic product may not be sold, offered for sale, furnished, or consumed on these premises during the period of suspension."; and

(ii) include the dates of the suspension period.

(c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to be displayed under this Subsection (4) during the suspension period.

(5) (a) If a license or permit is revoked, the commission may order the revocation of a bond posted by the licensee or permittee under this title.

(b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a licensee or permittee for money owed the department under this title without the commission first revoking the license or permit.

(6) A licensee or permittee whose license or permit is revoked may not reapply for a license or permit under this title for three years from the date on which the license or permit is revoked.

(7) If a staff member of a licensee, permittee, or certificate holder is found to have violated this title, in addition to imposing another penalty authorized by this title, the commission may prohibit the staff member from handling, selling, furnishing, distributing, manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as staff with a licensee, permittee, or certificate holder under this title for a period determined by the commission.

(8) (a) If the commission makes the finding described in Subsection (8)(b), in addition to other penalties prescribed by this title, the commission may order:

(i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's from the department's sales list; and

(ii) a suspension of the department's purchase of an alcoholic product described in Subsection (8)(a)(i) for a period determined by the commission.

(b) The commission may take the action described in Subsection (8)(a) if:

(i) a manufacturer, supplier, or importer of liquor or its staff or representative violates this title; and

(ii) the manufacturer, supplier, or importer:

(A) directly commits the violation; or

(B) solicits, requests, commands, encourages, or intentionally aids another to engage in the violation.

(9) If the commission makes a finding that the brewer holding a certificate of approval violates this title or rules of the commission, the commission may take an action against the brewer holding a certificate of approval that the commission could take against a licensee including:

(a) suspension or revocation of the certificate of approval; and

(b) imposition of a fine.

(10) Notwithstanding the other provisions of this title, the commission may not order a disciplinary action or fine in accordance with this section if the disciplinary action or fine is ordered on the basis of a violation:

(a) of a provision in this title related to intoxication or becoming intoxicated; and

(b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or service.

Section 6. Section 53F-9-304 is amended to read:

53F-9-304. Underage Drinking Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Control [remits] deposits any portion of the markup collected under Section 32B-2-304 [~~to the State Tax Commission, the department~~] into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the [department] Department of Alcoholic Beverage Control deposited into the account during the

preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year [2017].

(b) For purposes of this Subsection (3), the [department] Department of Alcoholic Beverage Control shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The State Board of Education shall use money in the account for the Underage Drinking Prevention Program described in Section 53G-10-406.

Section 7. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), “tax, fee, or charge” means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

~~[(VII) Section 32B-2-304;]~~

~~[(VIII) (VII) Section 34A-2-202;~~

~~[(IX) (VIII) Section 40-6-14; or~~

~~[(X) (IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or~~

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) “Tax, fee, or charge” does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) “Unactivated tax, fee, or charge” means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b)

resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or

charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 8. Section 59-1-402 is amended to read:

59-1-402. Definitions -- Interest.

(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the United States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

(i) invalidates a state or federal taxation statute; and

(ii) requires the state to provide a refund for an overpayment that was made:

(A) prior to the final judicial decision; or

(B) during the 180-day period after the final judicial decision.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

~~(VII) Section 32B-2-304;~~

~~(VIII)~~ (VII) Section 34A-2-202;

~~(IX)~~ (VIII) Section 40-6-14; or

~~(X)~~ (IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(B) another amount that by statute is subject to interest imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act;

(E) Chapter 4, Privilege Tax; or

(F) Chapter 13, Part 5, Interstate Agreements.

(2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or

charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5) (a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or

(ii) 90 days after the last date prescribed for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c) (i) In the case of an amended return, interest on an overpayment shall be allowed:

(A) for a time period:

(I) that begins on the later of:

(Aa) the date the original return was filed; or

(Bb) the due date for filing the original return not including any extensions for filing the original return; and

(II) that ends on the date the commission receives the amended return; and

(B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):

(I) if the amended return is with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, and is filed electronically, within a 45-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 46 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment; or

(II) if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically, within a 90-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 91 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment.

(ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall be calculated forward from the preparation date of the refund document to allow for processing.

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.

(7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

Section 9. Section 59-1-1402 is amended to read:

59-1-1402. Definitions.

As used in this part:

(1) "Administrative cost" means a fee imposed to cover:

(a) the cost of filing;

(b) the cost of administering a garnishment;

(c) the amount the commission pays to a depository institution in accordance with Part 17, Depository Institution Data Match System and Levy Act; or

(d) a cost similar to Subsections (1)(a) through (c) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Books and records" means the following made available in printed or electronic format:

(a) an account;

(b) a book;

(c) an invoice;

(d) a memorandum;

(e) a paper;

(f) a record; or

(g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Deficiency" means:

(a) the amount by which a tax, fee, or charge exceeds the difference between:

(i) the sum of:

(A) the amount shown as the tax, fee, or charge by a person on the person's return; and

(B) any amount previously assessed, or collected without assessment, as a deficiency; and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or

(b) if a person does not show an amount as a tax, fee, or charge on the person's return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:

(i) the amount previously assessed, or collected without assessment, as a deficiency; and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.

(4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:

(a) an asset of the person held by another person; or

(b) the earnings of the person.

(5) "Liability" means the following that a person is required to remit to the commission:

(a) a tax, fee, or charge;

(b) an addition to a tax, fee, or charge;

(c) an administrative cost;

(d) interest that accrues in accordance with Section 59-1-402; or

(e) a penalty that accrues in accordance with Section 59-1-401.

(6) (a) Subject to Subsection (6)(b), “mathematical error” is as defined in Section 6213(g)(2), Internal Revenue Code.

(b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:

(i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or

(ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.

(7) (a) Except as provided in Subsection (7)(b), “tax, fee, or charge” means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-410.5;

(E) Section 19-6-714;

(F) Section 19-6-805;

~~[(G) Section 32B-2-304;]~~

~~[(H)]~~ (G) Section 34A-2-202;

~~[(I)]~~ (H) Section 40-6-14; or

~~[(J)]~~ (I) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(ii) another amount that by statute is administered by the commission.

(b) “Tax, fee, or charge” does not include a tax, fee, or charge imposed under:

(i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) Chapter 2, Property Tax Act;

(iv) Chapter 3, Tax Equivalent Property Act;

(v) Chapter 4, Privilege Tax; or

(vi) Chapter 13, Part 5, Interstate Agreements.

(8) “Transferee” means:

(a) a devisee;

(b) a distributee;

(c) a donee;

(d) an heir;

(e) a legatee; or

(f) a person similar to Subsections (8)(a) through (e) as determined by the commission by rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 10. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Alcoholic Beverage Control
-- State Store Land Acquisition Fund

From General Fund, One-time	\$5,000,000
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Schedule of Programs:

State Store Land Acquisition Fund	\$5,000,000
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The Legislature intends that the appropriations provided under this section be used to purchase or lease property for new state stores in accordance with Section 32B-2-307.

Section 11. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 330**H. B. 151**

Passed February 16, 2018

Approved March 20, 2018

Effective May 8, 2018

**UTAH POPULATION
ESTIMATES PRODUCTION**

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill creates the Utah Population Committee.

Highlighted Provisions:

This bill:

- ▶ creates the Utah Population Committee and provides for the committee's membership and duties;
- ▶ with exceptions, requires an executive, legislative, or independent entity to use estimates produced by the Utah Population Committee;
- ▶ changes all references in the state code from the Utah Population Estimates Committee to the Utah Population Committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-2-602, as last amended by Laws of Utah 2000, Chapter 318
- 10-2-711, as last amended by Laws of Utah 2009, Chapter 350
- 10-2a-302, as last amended by Laws of Utah 2017, Chapters 181 and 452
- 10-2a-302.5, as enacted by Laws of Utah 2017, Chapter 452
- 17-27a-901, as last amended by Laws of Utah 2017, Chapter 448
- 17-50-502, as enacted by Laws of Utah 2000, Chapter 318
- 17B-2a-807, as last amended by Laws of Utah 2017, Chapter 70
- 20A-13-103, as last amended by Laws of Utah 2013, Chapter 383
- 20A-14-102.1, as last amended by Laws of Utah 2013, Chapter 455
- 26-18-501, as last amended by Laws of Utah 2016, Chapter 276
- 26-46a-102, as enacted by Laws of Utah 2015, Chapter 136
- 26A-1-115, as last amended by Laws of Utah 2002, Chapter 249
- 32B-2-402, as last amended by Laws of Utah 2016, Chapters 158 and 176
- 35A-2-101, as last amended by Laws of Utah 2016, Chapter 296
- 36-1-104, as last amended by Laws of Utah 2013, Chapter 454
- 36-1-203, as last amended by Laws of Utah 2013, Chapter 382

59-12-205, as last amended by Laws of Utah 2017, Chapters 230 and 385

59-12-2219, as last amended by Laws of Utah 2016, Chapter 373

62A-15-611, as last amended by Laws of Utah 2011, Chapter 187

67-1a-2, as last amended by Laws of Utah 2015, Chapter 352

72-2-108, as last amended by Laws of Utah 2017, Chapter 144

78B-1-110, as last amended by Laws of Utah 2017, Chapter 115

ENACTS:

63C-19-101, Utah Code Annotated 1953

63C-19-102, Utah Code Annotated 1953

63C-19-103, Utah Code Annotated 1953

63C-19-104, Utah Code Annotated 1953

63C-19-105, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 10-2-602 is amended to read:****10-2-602. Contents of resolution or petition.**

(1) The resolution of the governing body or the petition of the electors shall include:

(a) a statement fully describing each of the areas to be included within the consolidated municipality;

(b) the name of the proposed consolidated municipality; and

(c) the names of the municipalities to be consolidated.

(2) (a) The resolution or petition shall state the population of each of the municipalities within the area of the proposed consolidated municipality and the total population of the proposed consolidated municipality.

(b) (i) The population figure under Subsection (2)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population [Estimates] Committee.

Section 2. Section 10-2-711 is amended to read:**10-2-711. Dissolution by the county legislative body.**

(1) (a) A municipality having fewer than 50 residents may be dissolved on application to the district court by the county legislative body of the county where the municipality is located.

(b) (i) The population figure under Subsection (1)(a) shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If the population figure is not available from the United States Bureau of the Census, the population figure shall be derived from the estimate from the Utah Population [Estimates] Committee.

(2) Notice of the application shall be served on the municipality in the manner prescribed by law or by publication in the manner provided by law if the municipal authorities cannot be served.

(3) The district court may enter an order approving the dissolution of the municipality on a finding that the existence of the municipality serves no valid municipal purpose, its existence is a sham, or on a clear and convincing showing that the best interests of the community would be served by the dissolution.

(4) If the municipality is dissolved, the district court shall wind down the affairs and dissolve the municipality as quickly as possible in the same manner as is provided in Sections 10-2-705 through 10-2-709.

Section 3. Section 10-2a-302 is amended to read:

10-2a-302. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(c) "Financial feasibility study" means a study described in Subsection (7).

(d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.

(e) "Nonurban" means having a residential density of less than one unit per acre.

(2) (a) This section applies to individuals who seek to initiate the process of incorporating a town before May 9, 2017.

(b) (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.

(ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(b)(i) if:

(A) the area includes a strip of land that connects geographically separate areas; and

(B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(c) The population figure under Subsection (2)(b) shall be determined:

(i) as of the date the incorporation petition is filed; and

(ii) by the Utah Population [Estimates] Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

(3) (a) Individuals may initiate the process to incorporate an area as a town by circulating a petition to incorporate the area as a town.

(b) The individuals must file the petition with the Office of the Lieutenant Governor no later than January 2, 2018 for the petition to be valid.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be incorporated; and

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and

(B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;

(ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

(iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(iv) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable Lieutenant Governor:

We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property or a registered voter residing within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(d) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the petition; and

(ii) is still pending on the date the petition is filed.

(e) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(c)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.

(f) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:

(i) at any time until the lieutenant governor certifies the petition under Subsection (5); and

(ii) by filing a signed, written withdrawal or reinstatement with the lieutenant governor.

(4) (a) If a petition is filed under Subsection (3)(b) proposing to incorporate as a town an area located within a county of the first class, the lieutenant governor shall deliver written notice of the proposed incorporation:

(i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and

(ii) within seven calendar days after the date on which the petition is filed.

(b) A private real property owner described in Subsection (4)(a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:

(i) with the lieutenant governor; and

(ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

(c) The lieutenant governor shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

(i) the property:

(A) is nonurban; and

(B) does not and will not require a municipal service; and

(ii) exclusion will not leave an unincorporated island within the proposed town.

(d) If the lieutenant governor excludes property from the area proposed to be incorporated as a town, the lieutenant governor shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the lieutenant governor determines that the petition complies with those requirements:

(A) certify the petition; and

(B) mail or deliver written notification of the certification to ~~the~~ the contact sponsor~~s~~ and ~~the~~ the Utah Population ~~Estimates~~ Committee; or

(ii) if the lieutenant governor determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the lieutenant governor.

(ii) A valid signature on a petition filed under Subsection (3)(b) may be used toward fulfilling the signature requirement of Subsection (3)(c) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the lieutenant governor.

(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the lieutenant governor under Subsection (5)(b)(ii):

(i) the amended petition shall be considered as a newly filed petition; and

(ii) the amended petition's processing priority is determined by the date on which it is refiled.

(7) (a) (i) If a petition is filed under Subsection (3) and certified under Subsection (5), the lieutenant governor shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(c)(ii), with the consent of the lieutenant governor; or

(II) by the lieutenant governor if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the lieutenant governor; and

(B) in accordance with applicable county procurement procedure.

(iii) The lieutenant governor shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the lieutenant governor no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed town and in adjacent areas during the next five years;

(iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:

- (A) culinary water;
- (B) secondary water;
- (C) sewer;
- (D) law enforcement;
- (E) fire protection;
- (F) roads and public works;
- (G) garbage;
- (H) weeds; and
- (I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

(f) The lieutenant governor shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section 10-2a-303.

Section 4. Section 10-2a-302.5 is amended to read:

10-2a-302.5. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) (i) "Municipal services" means any of the following that are publicly provided:

- (A) culinary water;
- (B) secondary water;
- (C) sewer service;
- (D) law enforcement service;
- (E) fire protection;
- (F) roads;
- (G) refuse collection; or
- (H) weed control.

(ii) "Municipal services" includes the physical facilities required to provide a service described in Subsection (1)(b)(i).

(2) (a) This section applies to individuals who seek to initiate the process of incorporating a town on or after May 9, 2017.

(b) Individuals who reside in a contiguous area of a county that is not within a municipality may incorporate as a town as provided in this section if:

(i) the area has a population of at least 100 people, but less than 1,000 people; and

(ii) at least 50% of the voting eligible population in the area are registered voters.

(c) An area within a county of the first class is not contiguous for purposes of Subsection (2)(b) if:

(i) the area includes a strip of land that connects geographically separate areas; and

(ii) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(3) (a) Individuals described in Subsection (2) may initiate the process of incorporating a town by filing an application for an incorporation petition with the lieutenant governor that contains:

(i) the name and residential address of at least five sponsors of the petition who meet the qualifications described in Subsection (3)(b) for a sponsor and Subsection (7) for a petition signer;

(ii) a statement certifying that each of the sponsors:

(A) is a resident of the state; and

(B) has voted in a regular general election or municipal general election in the state within the last three years;

(iii) the signature of each sponsor, attested to by a notary public;

(iv) the name of a sponsor who is designated as the contact sponsor;

(v) consistent with the requirements described in Subsection (3)(c), an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(vi) a statement indicating whether persons may be paid for gathering signatures for the petition.

(b) Sponsors may not file a petition under this section if the cumulative private real property that the petition sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

(c) A map described in Subsection (3)(a)(v) may not include an area proposed for annexation in an annexation petition described in Section 10-2-403 that is pending on the day on which the application for the incorporation petition is filed.

(4) (a) If the lieutenant governor determines that an incorporation petition application complies with the requirements described in Subsection (3)(a), the lieutenant governor shall accept the application and mail or transmit written notification of the acceptance to:

- (i) the contact sponsor; and
- (ii) the Utah Population [Estimates] Committee.

(b) If the lieutenant governor determines that an application does not comply with the requirements described in Subsection (3)(a), the lieutenant governor shall reject the application and mail or transmit written notification of the rejection, including the reason for the rejection, to the contact sponsor.

(5) (a) Within 20 days after the day on which the lieutenant governor accepts an application under Subsection (4)(a), the Utah Population [Estimates] Committee shall:

- (i) determine the population of the proposed town as of the date the application was filed under Subsection (3) for the proposed town; and
- (ii) provide that determination to the lieutenant governor.

(b) If the Utah Population [Estimates] Committee determines that the population of the proposed town does not meet the requirements described in Subsection (2)(b)(i), the lieutenant governor shall rescind the acceptance described in Subsection (4)(a) and reject the application in accordance with Subsection (4)(b).

(6) Within 30 days after the day on which the lieutenant governor receives the determination described in Subsection (5)(b) but before collecting signatures under Subsection (7), the sponsors of the incorporation petition shall hold a public hearing at which the public may:

(a) review the map or plat of the proposed town described in Subsection (3)(a)(v);

(b) ask questions and receive information about the incorporation of the proposed town; and

(c) express views about the proposed incorporation, including views regarding the boundary of the proposed town.

(7) (a) If, after holding the public hearing described in Subsection (6), the sponsors wish to proceed with the proposed incorporation, the sponsors shall circulate an incorporation petition that, in order to be declared sufficient under Subsection (8)(b)(i), must be signed by:

- (i) the owners of private real property that:

(A) is located within the boundaries of the proposed town; and

(B) is collectively greater than or equal to 20% of the assessed value of all private real property within the boundaries of the proposed town; and

(ii) 20% of the registered voters residing within the boundaries of the proposed town, as of the day on which the petition is filed.

(b) The petition sponsors shall ensure that the petition is:

- (i) accompanied by and circulated with a copy of the map described in Subsection (3)(a)(v); and
- (ii) printed in substantially the following form:

“PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable Lieutenant Governor:

We, the undersigned, respectfully petition the lieutenant governor to direct the county to submit to the registered voters residing within the area described in this petition, in an election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property located within, or is a registered voter residing within, the described area, and that the current residence address of each is correctly written after the signer’s name. The area we propose for incorporation as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).”

(c) An individual who signs a petition described in this Subsection (7) may withdraw or reinstate the individual’s signature by filing a written, signed statement with the lieutenant governor before the lieutenant governor certifies the petition signatures under Subsection (8).

(d) The petition sponsors shall submit a completed petition to the lieutenant governor no later than 316 days after the day on which the sponsors submit the application described in Subsection (3)(a) to the lieutenant governor.

(8) No later than 20 days after the day on which the sponsors submit the petition to the lieutenant governor under Subsection (7)(d), the lieutenant governor shall:

(a) determine whether the petition complies with the requirements described in Subsection (7); and

(b) (i) if the lieutenant governor determines that the petition complies with the requirements described in Subsection (7):

(A) certify the petition as sufficient; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the lieutenant governor determines that the petition does not comply with the requirements described in Subsection (7):

(A) reject the petition; and

(B) notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(9) (a) Petition sponsors may amend a petition that the lieutenant governor rejected under Subsection (8)(b)(ii) by:

(i) correcting the reason for which the lieutenant governor rejects the petition; and

(ii) submitting an amended petition to the lieutenant governor no later than the deadline described in Subsection (7)(d).

(b) A valid signature on a petition that the lieutenant governor rejects under Subsection (8)(b)(ii) is valid for an amended petition that the petition sponsors submit to the lieutenant governor under Subsection (9)(a).

(c) The lieutenant governor shall review an amended petition in accordance with Subsection (8).

(d) The sponsors of an incorporation petition may not amend the petition more than once.

(10) (a) If the lieutenant governor certifies an incorporation petition as sufficient under Subsection (8), the lieutenant governor shall, within seven days after the day on which the lieutenant governor certifies the petition, mail or transmit written notice of the proposed incorporation to each person who owns private real property that:

(i) is located within the boundaries of the proposed town; and

(ii) has a value that is greater than or equal to 1% of the assessed value of all private real property within the boundaries of the proposed town.

(b) A person described in Subsection (10)(a) may request that the lieutenant governor exclude all or part of the person's property from boundaries of the proposed town if:

(i) the property does not require, and is not expected to require, a municipal service that the proposed town will provide; and

(ii) exclusion of the property will not leave an unincorporated island within the proposed town.

(c) (i) To request exclusion under this Subsection (10), a person described in Subsection (10)(a) shall

file a written request with the lieutenant governor within 10 days after the day on which the person receives the notice described in Subsection (10)(a).

(ii) The notice shall describe the property for which the person requests exclusion.

(d) (i) The lieutenant governor shall exclude property from the boundaries of the proposed town if the property is described in a written request filed under Subsection (10)(c) and meets the requirements described in Subsection (10)(b).

(ii) Within five days after the lieutenant governor excludes the property, the lieutenant governor shall mail or transmit written notice of the exclusion to the person who filed the request and to the contact sponsor.

(11) (a) If the lieutenant governor certifies an incorporation petition as sufficient under Subsection (8), the lieutenant governor shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procure the services of a feasibility consultant to conduct a financial feasibility study on the proposed incorporation.

(b) The lieutenant governor shall ensure that a feasibility consultant selected under Subsection (11)(a):

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with:

(A) a sponsor of the incorporation petition to which the feasibility study relates; or

(B) the county in which the proposed town is located.

(c) The lieutenant governor shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the lieutenant governor no later than 60 days after the day on which the lieutenant governor procures the services of the feasibility consultant.

(d) The financial consultant shall ensure that the financial feasibility study includes:

(i) an analysis of the population and population density within the boundaries of the proposed town and the surrounding area;

(ii) the current and projected five-year demographics of, and tax base within, the boundaries of the proposed town and the surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (11)(e), the current and five-year projected cost of providing municipal services to the proposed town, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current municipal services providers, the present and five-year projected revenue for the proposed town;

(v) a projection of the tax burden per household of any new taxes that may be levied within the

proposed town within five years of the town's incorporation; and

(vi) if the lieutenant governor excludes property from the proposed town under Subsection (10)(d), an update to the map and legal description described in Subsection (3)(a)(v).

(e) (i) For purposes of Subsection (11)(d)(iii), the feasibility consultant shall assume that the proposed town will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the proposed town at the time the feasibility consultant conducts the feasibility study.

(ii) In determining the present cost of municipal services, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide the municipal services for the first five years after the town's incorporation; and

(B) the current municipal services provider's present and five-year projected cost of providing the municipal services.

(iii) In calculating the costs described in Subsection (11)(d)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(f) If the five-year projected revenues described in Subsection (11)(d)(iv) exceed the five-year projected costs described in Subsection (11)(d)(iii) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(g) The lieutenant governor shall publish the feasibility study on the lieutenant governor's website and make a copy of the feasibility study available for public review at the Office of the Lieutenant Governor.

(12) After the lieutenant governor conducts the feasibility study, the lieutenant governor shall hold a public hearing in accordance with Section 10-2a-303.

Section 5. Section 17-27a-901 is amended to read:

17-27a-901. Mountainous planning district.

(1) (a) The legislative body of a county of the first class may adopt an ordinance designating an area located within the county as a mountainous planning district if the legislative body determines that:

(i) the area is primarily used for recreational purposes, including canyons, foothills, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas within the Wasatch Range;

(ii) the area is used by residents of the county who live inside and outside the limits of a municipality;

(iii) the total resident population in the proposed mountainous planning district is equal to or less than 5% of the population of the county;

(iv) the area is within the unincorporated area of the county or was within the unincorporated area of the county before May 12, 2015; and

(v) the area includes land designated as part of a national forest on or before May 9, 2017.

(b) (i) A mountainous planning district may include within its boundaries a municipality, whether in whole or in part.

(ii) Except as provided in Subsection (1)(b)(iv), if a mountainous planning district includes within its boundaries an unincorporated area, and that area subsequently incorporates as a municipality:

(A) the area of the incorporated municipality that is located in the mountainous planning district is included within the mountainous planning district boundaries; and

(B) property within the municipality that is also within the mountainous planning district is subject to the authority of the mountainous planning district.

(iii) A subdivision and zoning ordinance that governs property located within a mountainous planning district shall control over any subdivision or zoning ordinance, as applicable, that a municipality may adopt.

(iv) A county shall allow an area within the boundaries of a mountainous planning district to withdraw from the mountainous planning district if:

(A) the area contains less than 100 acres;

(B) the area is annexed to a city in accordance with Title 10, Chapter 2, Part 4, Annexation;

(C) the county determines that the area does not contain United States Forest Service land or land that is designated as watershed; and

(D) the county determines that the area is not used by individuals for recreational purposes.

(v) An area described in Subsection (1)(b)(iv) that withdraws from a mountainous planning district is not subject to the authority of the mountainous planning district.

(c) The population figure under Subsection (1)(a)(iii) shall be derived from a population estimate by the Utah Population [Estimates] Committee.

(d) If any portion of a proposed mountainous planning district includes a municipality with a land base of five square miles or less, the county shall ensure that all of that municipality is wholly located within the boundaries of the mountainous planning district.

(2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision ordinance for a property that is located within:

(i) a mountainous planning district; and

(ii) a municipality.

(b) A county plan or zoning or subdivision ordinance governs a property described in Subsection (2)(a).

(3) A planning commission with jurisdiction over a mountainous planning district in a county of the first class shall submit a report that summarizes actions the planning commission has taken and any recommendations regarding the mountainous planning district to the Legislature's Natural Resources, Agriculture, and Environment Interim Committee by no later than November 30 of each year.

Section 6. Section 17-50-502 is amended to read:

17-50-502. Change of class of county.

(1) Each county shall retain its classification under Section 17-50-501 until changed as provided in this section.

(2) The lieutenant governor shall monitor the population figure for each county as shown on:

(a) each official census or census estimate of the United States Bureau of the Census; or

(b) if the population figure for a county is not available from the United States Bureau of the Census, the population estimate from the Utah Population [Estimates] Committee.

(3) If the applicable population figure under Subsection (2) indicates that a county's population has increased beyond the limit for its current class, the lieutenant governor shall:

(a) prepare a certificate indicating the class in which the county belongs based on the increased population figure; and

(b) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body and, if the county has an executive that is separate from the legislative body, the executive of the county whose class was changed.

(4) A county's change in class is effective on the date of the lieutenant governor's certificate under Subsection (3).

Section 7. Section 17B-2a-807 is amended to read:

17B-2a-807. Public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

(1) (a) If 200,000 people or fewer reside within the boundaries of a public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this Subsection (1) may include a member that is a commissioner on the Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection (11), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this Subsection (1) shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this Subsection (1), municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:

(i) 11 members:

(A) appointed as described under this Subsection (2); or

(B) retained in accordance with Section 17B-2a-807.5;

(ii) three members appointed as described in Subsection (4);

(iii) one voting member appointed as provided in Subsection (11); and

(iv) one nonvoting member appointed as provided in Subsection (12).

(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:

(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and

(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.

(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for

representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.

(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.

(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.

(e) If the population of a county is at least 750,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population of the county.

(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.

(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).

(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.

(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(c) applies, or the municipalities within the county.

(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(c), the remaining voting members for the county shall represent a municipality or combination of municipalities.

(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(c) applies.

(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.

(k) Voting members representing a municipality or combination of municipalities shall be

designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.

(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.

(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.

(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population [Estimates] Committee.

(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.

(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States [Census] Bureau of the Census report every 10 years.

(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.

(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.

(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.

(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.

(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:

(A) upon appointment of a new member under Subsection (2)(o)(v); or

(B) in accordance with Section 17B-2a-807.5.

(3) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.

(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:

(a) one member appointed by the speaker of the House of Representatives;

(b) one member appointed by the president of the Senate; and

(c) one member appointed by the governor.

(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(6) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

(c) If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

(7) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

(8) Each public transit district shall pay to each member per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

(9) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection (9)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

(10) (a) Except as otherwise authorized under Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5, at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

(11) The Transportation Commission created in Section 72-1-301:

(a) for a public transit district serving a population of 200,000 people or fewer, may appoint a commissioner of the Transportation Commission to serve on the board of trustees as a nonvoting, ex officio member; and

(b) for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.

(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.

(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).

(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.

(13) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

(c) Except as provided in Section 17B-2a-807.5, if a board member is recalled or resigns under this Subsection (13), the vacancy shall be filled as provided in Subsection (6).

Section 8. Section 20A-13-103 is amended to read:

20A-13-103. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a Congressional district in the Congressional shapefile enacted by the Legislature, the county clerk of the affected county, upon discovery of the

omission, shall attach the area to the appropriate Congressional district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single Congressional district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more Congressional districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population [Estimates] Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 9. Section 20A-14-102.1 is amended to read:

20A-14-102.1. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a State Board of Education district in the Board shapefile enacted by the Legislature, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate State Board of Education district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single State Board of Education district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more State Board of Education districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population [Estimates] Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 10. Section 26-18-501 is amended to read:

26-18-501. Definitions.

As used in this part:

(1) "Certified program" means a nursing care facility program with Medicaid certification.

(2) "Director" means the director of the Division of Health Care Financing.

(3) "Medicaid certification" means the right of a nursing care facility, as a provider of a nursing care facility program, to receive Medicaid reimbursement for a specified number of beds within the facility.

(4) (a) "Nursing care facility" means the following facilities licensed by the department under Chapter 21, Health Care Facility Licensing and Inspection Act:

- (i) skilled nursing facilities;
- (ii) intermediate care facilities; and

(iii) an intermediate care facility for people with an intellectual disability.

(b) "Nursing care facility" does not mean a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998).

(5) "Nursing care facility program" means the personnel, licenses, services, contracts and all other requirements that shall be met for a nursing care facility to be eligible for Medicaid certification under this part and division rule.

(6) "Physical facility" means the buildings or other physical structures where a nursing care facility program is operated.

(7) "Rural county" means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States [Census] Bureau of the Census; or

(b) the most recent population estimate for the county from the Utah Population [Estimates] Committee, if a population figure for the county is not available under Subsection (7)(a).

(8) "Service area" means the boundaries of the distinct geographic area served by a certified program as determined by the division in accordance with this part and division rule.

(9) "Urban county" means a county that is not a rural county.

Section 11. Section 26-46a-102 is amended to read:

26-46a-102. Definitions.

As used in this chapter:

(1) "Hospital" means a general acute hospital, as defined in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) "Physician" means a person:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(3) "Rural county" means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States [Census] Bureau of the Census; or

(b) the most recent population estimate for the county from the Utah Population [Estimates] Committee, if a population figure for the county is not available under Subsection (3)(a).

(4) "Rural hospital" means a hospital located within a rural county.

Section 12. Section 26A-1-115 is amended to read:

26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage match of state funds -- Audit.

(1) (a) The cost of establishing and maintaining a multicounty local health department may be apportioned among the participating counties on the basis of population in proportion to the total population of all counties within the boundaries of the local health department, or upon other bases agreeable to the participating counties.

(b) Costs of establishing and maintaining a county health department shall be a charge of the county creating the local health department.

(c) Money available from fees, contracts, surpluses, grants, and donations may also be used to establish and maintain local health departments.

(d) As used in this Subsection (1), "population" means population estimates prepared by the Utah Population [Estimates] Committee.

(2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department is the responsibility of participating governing bodies.

(3) Local health departments that comply with all department rules and secure advance approval of proposed service boundaries from the department may by contract receive funds under Section 26A-1-116 from the department to provide specified public health services.

(4) Contract funds distributed under Subsection (3) shall be in accordance with Section 26A-1-116 and policies and procedures adopted by the department.

(5) Department rules shall require that contract funds be used for public health services and not replace other funds used for local public health services.

(6) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments. Counties shall have no legal obligation to match state funds at percentages in excess of those established by the department and shall suffer no penalty or reduction in state funding for failing to exceed the required funding match.

(7) (a) Each local health department shall cause an annual financial and compliance audit to be made of its operations by a certified public accountant. The audit may be conducted as part of an annual county government audit of the county where the local health department headquarters are located.

(b) The local health department shall provide a copy of the audit report to the department and the local governing bodies of counties participating in the local health department.

Section 13. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city;

(ii) a town; or

(iii) a metro township.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within the Department of Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population [Estimates] Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 14. Section 35A-2-101 is amended to read:

35A-2-101. Economic service areas -- Creation.

(1) (a) The executive director shall establish economic service areas to furnish the services described in Section 35A-2-201.

(b) In establishing economic service areas, the executive director shall seek input from the State Workforce Development Board.

(2) In establishing the economic service areas, the executive director may consider:

(a) areas comprised of multiple counties;

(b) the alignment of transportation and other infrastructure or services;

(c) the interdependence of the economy within a geographic area;

(d) the ability to develop regional marketing and economic development programs;

(e) the labor market areas;

(f) the population of the area, as established in the most recent estimate by the Utah Population [Estimates] Committee;

(g) the number of individuals in the previous year receiving:

(i) services under Chapter 3, Employment Support Act; and

(ii) benefits under Chapter 4, Employment Security Act; and

(h) other factors that relate to the management of the programs administered or that relate to the delivery of services provided under this title.

Section 15. Section 36-1-104 is amended to read:

36-1-104. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a Utah State Senate district in the Senate shapefile enacted by the Legislature, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate Senate district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single Senate district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more Senate districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population [Estimates] Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 16. Section 36-1-203 is amended to read:

36-1-203. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a Utah House of Representatives district in the House shapefile enacted by the Legislature, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate House district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single House district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more House districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population [Estimates] Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 17. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (6) and subject to Subsection (7):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal

Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

(b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.

(5) (a) As used in this Subsection (5):

(i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or more in tax revenue distributions in accordance with Subsection (4) for each of the following fiscal years:

(A) fiscal year 2002-03;

(B) fiscal year 2003-04; and

(C) fiscal year 2004-05.

(ii) "Minimum tax revenue distribution" means the greater of:

(A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

(B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(A) the payment required by Subsection (2); or

(B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:

(i) the minimum tax revenue distribution; and

(ii) .90.

(6) (a) As used in this Subsection (6):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2002-03;

(B) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2003-04;

(C) receives, in accordance with Subsection (4), \$2,000 or more in tax revenue distributions for fiscal year 2004-05;

(D) for a fiscal year beginning with fiscal year 2012-13 and ending with fiscal year 2015-16, does not receive a tax revenue distribution described in Subsection (5) equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years; and

(E) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) Beginning with fiscal year 2016-17, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(7) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States [Census] Bureau of the Census.

(b) If a needed population estimate is not available from the United States [Census] Bureau of the Census, population figures shall be derived from the estimate from the Utah Population [Estimates] Committee ~~[created by executive order of the governor]~~.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 18. Section 59-12-2219 is amended to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

(a) "Class B road" means the same as that term is defined in Section 72-3-103.

(b) "Class C road" means the same as that term is defined in Section 72-3-104.

(c) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) The commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through (10).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (8); and

(c) .05% shall be distributed to the county legislative body.

(5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district that also has a county of the first class annexed into the same public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (8);

(ii) .10% shall be distributed as provided in Subsection (9); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (8);

(ii) .10% shall be distributed as provided in Subsection (9); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (7)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(8) (a) Subject to Subsection (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States [~~Census~~] Bureau of the Census.

(ii) If a needed population estimate is not available from the United States [~~Census~~] Bureau of the Census, population figures shall be derived from an estimate from the Utah Population [~~Estimates~~] Committee [~~created by executive order of the governor~~].

(9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (9)(e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that obtains approval from a majority of the county's registered voters voting on

the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (9).

(d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (9)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (8); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (9)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage of

revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (9)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (9)(e) and approved by the county legislative body in accordance with Subsection (9)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a) or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (9)(g)(ii) from the county.

(ii) The notice described in Subsection (9)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (9)(a) or (e); and

(B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(10) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the

eligible political subdivision intends to provide public transit service within the county.

(11) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

(a) a class B road;

(b) a class C road;

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections (11)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections (11)(a) through (e).

(12) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(13) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (13)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

Section 19. Section 62A-15-611 is amended to read:

62A-15-611. Allocation of state hospital beds -- Formula.

(1) As used in this section:

(a) "Adult beds" means the total number of patient beds located in the adult general psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent of the state hospital.

(b) “Mental health catchment area” means a county or group of counties governed by a local mental health authority.

(2) (a) The division shall establish by rule a formula to separately allocate to local mental health authorities adult beds for persons who meet the requirements of Subsection 62A-15-610(2)(a). Beginning on May 10, 2011, and ending on June 30, 2011, 152 beds shall be allocated to local mental health authorities under this section.

(b) The number of beds shall be reviewed and adjusted as necessary:

(i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding permits; and

(ii) on July 1, 2011, and every three years after July 1, 2011, according to the state’s population.

(c) All population figures utilized shall reflect the most recent available population estimates from the Utah Population [Estimates] Committee.

(3) The formula established under Subsection (2) shall provide for allocation of beds based on:

(a) the percentage of the state’s adult population located within a mental health catchment area; and

(b) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located in urban areas.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate adult beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under the formula established under Subsection (2), the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

(6) The board shall periodically review and make changes in the formula established under Subsection (2) as necessary to accurately reflect changes in population.

Section 20. Section 63C-19-101 is enacted to read:

CHAPTER 19. UTAH POPULATION COMMITTEE

63C-19-101. Title.

This chapter is known as “Utah Population Committee.”

Section 21. Section 63C-19-102 is enacted to read:

63C-19-102. Definitions.

As used in this chapter, “committee” means the Utah Population Committee created by this chapter.

Section 22. Section 63C-19-103 is enacted to read:

63C-19-103. Utah Population Committee -- Creation.

(1) There is created the Utah Population Committee composed of the following members:

(a) the director of the Kem C. Gardner Policy Institute at the University of Utah or the director’s designee;

(b) the director of the Population Research Laboratory at Utah State University or the director’s designee;

(c) the state planning coordinator appointed under Section 63J-4-202;

(d) the director of the Workforce Research and Analysis Division within the Department of Workforce Services or the director’s designee;

(e) the director of the Office of Vital Records and Statistics or the director’s designee;

(f) the state superintendent of public instruction or the superintendent’s designee;

(g) the chair of the State Tax Commission or the chair’s designee;

(h) the legislative fiscal analyst or the legislative fiscal analyst’s designee;

(i) the commissioner of higher education or the commissioner’s designee; and

(j) any additional member appointed under Subsection (2).

(2) (a) By a majority vote of the members of the committee, the committee may appoint one or more additional members to serve on the committee at the pleasure of the committee.

(b) The committee shall ensure that each additional member appointed under Subsection (2)(a) is a data provider or a representative of a data provider.

(3) The director of the Kem C. Gardner Policy Institute or the director’s designee described in Subsection (1)(a) is the chair of the committee.

Section 23. Section 63C-19-104 is enacted to read:

63C-19-104. Committee duties.

The committee shall:

(1) prepare annual population estimates for the total population of the state and each county in the state;

(2) review and comment on the methodologies and population estimates for all geographic levels for the state that the United States Bureau of the Census produces;

(3) prepare place estimates for new political subdivision annexations and incorporations in the state;

(4) prepare additional demographic estimates for the state that may include estimates related to race,

ethnicity, age, sex, religious affiliation, or economic status; and

(5) publish the estimates described in Subsections (1), (3), and (4) on the committee's website.

Section 24. Section 63C-19-105 is enacted to read:

63C-19-105. State use of committee estimates -- Compliance.

(1) Except as provided in Subsection (2), and unless otherwise provided in statute or rule, if an executive branch entity, legislative branch entity, or independent entity is required to perform an action or make a determination based on a population estimate, the entity shall use a population estimate that the committee produces, if available.

(2) (a) The Governor's Office of Management and Budget may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to use a population estimate other than a population estimate that the committee produces.

(b) For the purpose of creating a revenue estimate, the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst are not required to use a population estimate that the committee produces.

(c) For redistricting purposes, a legislative branch entity shall give priority to a population estimate that is produced by the United States Bureau of the Census.

(3) A newly incorporated political subdivision shall provide the committee with a list of residential building permits issued within the boundaries of the political subdivision since the last decennial census.

Section 25. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to

coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Subsection 20A-5-302(2) and Sections 20A-5-802 and 20A-5-803;

(x) conduct the study described in Section 67-1a-14;

(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xii) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) ~~[(A)]~~ determine a new city's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a City, based on the city's population using the population estimate from the Utah Population ~~[Estimates]~~ Committee; and

~~[(B)-(F)]~~ (ii) (A) prepare a certificate indicating the class in which the new city belongs based on the city's population; and

~~[(H)]~~ (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the city's legislative body~~;~~].

~~[(ii)-(A)]~~ (b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

~~[(F)]~~ (A) each official census or census estimate of the United States Bureau of the Census; or

~~[(H)]~~ (B) the population estimate from the Utah Population ~~[Estimates]~~ Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

~~[(B)-(F)]~~ (ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

~~[(H)]~~ (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body~~;~~].

~~[(iii)-(A)]~~ (c) The lieutenant governor shall:

(i) determine a new metro township's classification under Section 10-2-301.5 upon the

metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population ~~[Estimates]~~ Committee; and

~~[(B)]~~ (ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body~~;~~~~and~~].

~~[(iv)-]~~ (d) The lieutenant governor shall monitor the population of each municipality using population information from:

~~[(A)]~~ (i) each official census or census estimate of the United States Bureau of the Census; or

~~[(B)]~~ (ii) the population estimate from the Utah Population ~~[Estimates]~~ Committee, if the population of a municipality is not available from the United States Bureau of the Census.

~~[(b)]~~ (e) If the applicable population figure under Subsection (3)~~[(a)(ii) or (iv)]~~(b) or (d) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

~~[(e)]~~ (f) (i) If the applicable population figure under Subsection (3)~~[(a)(ii) or (iv)]~~(b) or (d) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 26. Section 72-2-108 is amended to read:

72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.

(1) For purposes of this section:

(a) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

- (ii) that has an improved surface; and
- (iii) that has a wearing surface made of:

- (A) gravel;
- (B) broken stone;
- (C) slag;
- (D) iron ore;
- (E) shale; or
- (F) other material that is:

(I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

- (II) coarser than sand.

(b) "Paved road" includes a graveled road with a chip seal surface.

(c) "Road mile" means a one-mile length of road, regardless of:

- (i) the width of the road; or
 - (ii) the number of lanes into which the road is divided.
- (d) "Weighted mileage" means the sum of the following:

- (i) paved road miles multiplied by five; and
- (ii) all other road type road miles multiplied by two.

(2) Subject to the provisions of Subsections (3) through (8) and except as provided in Subsection (10), funds appropriated for class B and class C roads shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population [Estimates] Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) If an apportionment under Subsection (2) made in the current fiscal year to a county or municipality with a population of less than 14,000 is less than 120% of the amount apportioned to the county or municipality for class B and class C roads in fiscal year 1996-97, the department shall reapportion the funds under Subsection (2) to ensure that the county or municipality receives:

(a) subject to the requirement in Subsection (5) and for fiscal year 2016 only, an amount equal to:

(i) the amount apportioned to the county or municipality for class B and class C roads in fiscal year 2015 multiplied by 120%; plus

(ii) an amount equal to the amount apportioned to the county or municipality in fiscal year 2015 multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between fiscal year 2015 and fiscal year 2016;

(b) for fiscal year 2017 only, an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) (A) the amount apportioned to the county for class B and class C roads in fiscal year 2015 multiplied by 120%; plus

(B) the amount calculated as described in Subsection (7); or

(c) for a fiscal year beginning on or after July 1, 2017, an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) (A) the amount apportioned to the county or municipality for class B and class C roads through the apportionment formula under Subsection (2) or this Subsection (4), excluding any amounts appropriated as additional support for class B and class C roads under Subsection (10), in the prior fiscal year; plus

(B) the amount calculated as described in Subsection (7).

(5) For the purposes of calculating a final distribution of money collected in fiscal year 2016,

the department shall subtract the payments previously made to a county or municipality for money collected in fiscal year 2016 for class B and class C roads from the fiscal year 2016 total calculated in Subsection (4)(a).

(6) (a) The department shall decrease proportionately as provided in Subsection (6)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a), (b)(ii), or (c)(ii) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (6)(a) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a), (b)(ii), or (c)(ii).

(7) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4)(b)(ii) or (c)(ii) shall receive an amount equal to the amount apportioned to the county or municipality under Subsection (4)(b)(ii) or (c)(ii) for class B and class C roads in the prior fiscal year multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between the prior fiscal year and the fiscal year that immediately preceded the prior fiscal year.

(b) The adjustment under Subsection (7)(a) shall be made in the same way as provided in Subsections (6)(a) and (b).

(8) (a) If a county or municipality does not qualify for a reapportionment under Subsection (4)(c) in the current fiscal year but previously qualified for a reapportionment under Subsection (4)(c) on or after July 1, 2017, the county or municipality shall receive an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) the amount apportioned to the county or municipality for class B and class C roads in the prior fiscal year.

(b) The adjustment under Subsection (8)(a) shall be made in the same way as provided in Subsections (6)(a) and (b).

(9) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

(10) (a) For fiscal year 2017 only, the department shall distribute \$5,000,000 of the funds appropriated for additional support for class B and class C roads among the counties and municipalities that qualified for reapportioned funds under Subsection (4) before May 1, 2016.

(b) The department shall distribute an amount to each county or municipality described in Subsection (10)(a) considering the projected amount of revenue that each county or municipality would have received under the reapportionment formula in effect before May 1, 2016.

(c) The department may consult with local government entities to determine the distribution amounts under Subsection (10)(b).

(d) Before making the distributions required under this section, the department shall report to the Executive Appropriations Committee of the Legislature by no later than December 31, 2016, the amount of funds the department will distribute to each county or municipality that qualifies for a distribution under this Subsection (10).

(e) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of funds proposed to be distributed to each county or municipality that qualifies for a distribution under this Subsection (10).

Section 27. Section 78B-1-110 is amended to read:

78B-1-110. Limitations on jury service.

(1) In any two-year period, a person may not:

(a) be required to serve on more than one grand jury;

(b) be required to serve as both a grand and trial juror;

(c) be required to attend court as a trial juror more than one court day, except if necessary to complete service in a particular case; or

(d) if summoned for jury service and the summons is complied with as directed, be selected for the prospective jury list more than once.

(2) (a) Subsection (1)(d) does not apply to counties of the fourth, fifth, and sixth class and counties of the third class with populations up to 75,000.

(b) (i) All population figures used for this section shall be derived from the most recent official census or census estimate of the United States [Census] Bureau of the Census.

(ii) If population estimates are not available from the United States [Census] Bureau of the Census, population figures shall be derived from the estimate of the Utah Population [Estimates] Committee.

CHAPTER 331**H. B. 170**

Passed March 7, 2018

Approved March 20, 2018

Effective May 8, 2018

LICENSING FEE WAIVERS AMENDMENTS

Chief Sponsor: Susan Pulsipher

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions of the Division of Occupational and Professional Licensing Act.

Highlighted Provisions:

This bill:

- ▶ provides that an applicant applying for a license from the Division of Occupational and Professional Licensing does not have to pay fees under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-1-301.3, Utah Code Annotated 1953

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

Section 1. Section 58-1-301.3 is enacted to read:**58-1-301.3. Waiver of licensing fees.**

An individual applying for initial licensure under this title may apply for licensure without paying the fees described in Subsection 58-1-301(1) if the applicant provides evidence to the division in a form prescribed by the division that at the time of the application the applicant is:

(1) on full-time active service with a branch of the armed forces of the United States, including an applicant who is on full-time active duty orders with the National Guard or reserve component of the armed forces; or

(2) receiving public assistance through one of the following programs administered by the Department of Workforce Services:

(a) the Family Employment Program described in Section 35A-3-302; or

(b) General Assistance described in Section 35A-3-401.

CHAPTER 332**H. B. 188**

Passed February 16, 2018

Approved March 20, 2018

Effective May 8, 2018

**REGULATION OF OUT-OF-STATE
DISTRIBUTION ELECTRICAL
COOPERATIVE AMENDMENTS**Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill modifies provisions related to the Public Service Commission.

Highlighted Provisions:

This bill:

- ▶ limits the jurisdiction of the Public Service Commission over out-of-state distribution electrical cooperatives.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

54-2-202, Utah Code Annotated 1953

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

Section 1. Section 54-2-202 is enacted to read:**54-2-202. Out-of-state distribution electrical cooperative -- Exemption from commission jurisdiction.**

(1) As used in this section, "out-of-state distribution electrical cooperative" means an electrical corporation that:

- (a) is a distribution electrical cooperative;
- (b) is headquartered and maintains its principal place of business in a state adjoining Utah; and
- (c) provides electric services to consumers located in Utah.

(2) An out-of-state distribution electrical cooperative is exempt from regulation by the commission if the out-of-state distribution electrical cooperative:

- (a) has not previously been headquartered or maintained its principal place of business in Utah;
- (b) serves fewer than 25,000 total customers;
- (c) provides less than 20% of the out-of-state distribution electrical cooperative's total power sales in Utah; and

(d) provides and maintains on file with the commission written documentation certifying that the out-of-state distribution electrical cooperative is subject to the applicable laws, rules, and

regulations of the state where the out-of-state distribution electrical cooperative's principal place of business is located.

(3) Notwithstanding the other provisions of this section, the commission may exercise the commission's authority applicable to a distribution electrical cooperative pursuant to this title if:

- (a) the out-of-state distribution electrical cooperative fails to meet any of the qualifications of Subsection (2); or
- (b) a complaint is filed against the out-of-state distribution electrical cooperative by one of the out-of-state distribution electrical cooperative's customers within Utah.

CHAPTER 333**H. B. 195**

Passed March 7, 2018
Approved March 20, 2018
Effective May 8, 2018

MEDICAL CANNABIS POLICY

Chief Sponsor: Brad M. Daw
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill creates a “right to try” cannabis-based treatment for terminally ill patients.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that an individual who possesses or uses cannabis in a medicinal dosage form in compliance with Title 58, Chapter 85, Utah Right to Try Act, is not subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act; and
- ▶ describes the procedure for a terminally ill patient to receive a recommendation for a cannabis-based treatment from the terminally ill patient’s physician.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-37-3.6, as enacted by Laws of Utah 2017, Chapter 398
58-85-102, as enacted by Laws of Utah 2015, Chapter 110
58-85-104, as last amended by Laws of Utah 2016, Chapter 348
58-85-105, as enacted by Laws of Utah 2015, Chapter 110

ENACTS:

58-85-103.5, Utah Code Annotated 1953

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

Section 1. Section 58-37-3.6 is amended to read:**58-37-3.6. Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.**

- (1) As used in this section:
- (a) “Cannabinoid product” means a product intended for human ingestion that:
- (i) contains an extract or concentrate that is obtained from cannabis;
 - (ii) is prepared in a medicinal dosage form; and
 - (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) “Cannabis” means any part of the plant cannabis sativa, whether growing or not.

(c) “Drug paraphernalia” means the same as that term is defined in Section 58-37a-3.

(d) “Expanded cannabinoid product” means a product intended for human ingestion that:

- (i) contains an extract or concentrate that is obtained from cannabis;
 - (ii) is prepared in a medicinal dosage form; and
 - (iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.
- (e) “Medicinal dosage form” means:
- (i) a tablet;
 - (ii) a capsule;
 - (iii) a concentrated oil;
 - (iv) a liquid suspension;
 - (v) a transdermal preparation; or
 - (vi) a sublingual preparation.

(f) “Tetrahydrocannabinol” means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter, an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual’s possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act.

(3) Notwithstanding any other provision of this chapter, an individual who possesses or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual’s possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.

Section 2. Section 58-85-102 is amended to read:**58-85-102. Definitions.**

As used in this chapter:

(1) “Cannabis” means cannabis that has been grown by a state-approved grower and processed into a medicinal dosage form.

(2) “Cannabis-based treatment” means a course of treatment involving cannabis.

[4] (3) “Eligible patient” means an individual who has been diagnosed with a terminal illness by a physician.

(4) “Health care facility” means the same as that term is defined in Section 26-55-102.

[42] (5) "Insurer" means the same as that term is defined in Section 31A-1-301.

[43] (6) "Investigational device" means a device that:

(a) meets the definition of "investigational device" in 21 C.F.R. Sec. 812.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational device described in 21 C.F.R. Part 812.

[44] (7) "Investigational drug" means a drug that:

(a) meets the definition of "investigational new drug" in 21 C.F.R. Sec. 312.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational new drug described in 21 C.F.R. Part 312.

(8) "Medicinal dosage form" means the same as that term is defined in Section 58-37-3.6.

[45] (9) "Physician" means an individual who is licensed under:

(a) Title 58, Chapter 67, Utah Medical Practice Act; or

(b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(10) "State-approved grower and processor" means a person who grows cannabis pursuant to state law and processes the cannabis into a medicinal dosage form.

[46] (11) "Terminal illness" means a condition of a patient that:

(a) as determined by a physician:

(i) is likely to pose a greater risk to the patient than the risk posed to the patient by treatment with an investigational drug or investigational device; and

(ii) will inevitably lead to the patient's death; and

(b) presents the patient, after the patient has explored conventional therapy options, with no treatment option that is satisfactory or comparable to treatment with an investigational drug or device.

Section 3. Section 58-85-103.5 is enacted to read:

58-85-103.5. Right to request a recommendation for a cannabis-based treatment.

(1) As used in this section, "terminally ill patient" means a patient who has an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

(2) A terminally ill patient's physician may give the eligible patient a recommendation to try a cannabis-based treatment if:

(a) the physician believes, in the physician's professional judgment, that the cannabis-based treatment may provide some benefit to the terminally ill patient; and

(b) the physician recommends a cannabis-based treatment to no more than 25 terminally ill patients at any given time.

(3) (a) A recommendation may be for up to a one-month supply of cannabis.

(b) Once a terminally ill patient has exhausted a one-month supply of cannabis, the terminally ill patient's physician may renew the original recommendation for an additional one-month supply of cannabis, so long as the terminally ill patient's physician continues to believe, in the physician's professional judgment, that the cannabis-based treatment may provide some benefit to the terminally ill patient.

(4) A terminally ill patient may possess and use cannabis if the terminally ill patient:

(a) has a recommendation from the terminally ill patient's physician as described in this section; and

(b) procures cannabis from a state-approved source.

(5) The physician shall provide a terminally ill patient with a recommendation to use a cannabis-based treatment with an informed consent document that, based on the physician's knowledge of the cannabis-based treatment:

(a) describes the possible positive and negative outcomes the terminally ill patient could experience;

(b) states that an insurer is not required to cover the cost of providing cannabis to the terminally ill patient; and

(c) states that, subject to Section 58-85-105, an insurer may deny coverage for the terminally ill patient.

Section 4. Section 58-85-104 is amended to read:

58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.

(1) (a) It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

(b) It is not a breach of the applicable standard of care for a physician to recommend a cannabis-based treatment to a terminally ill patient under this chapter, or a health care facility to aid or assist in any way a terminally ill patient's use of cannabis.

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter, or a physician who recommends a cannabis-based treatment to a

terminally ill patient or a health care facility that facilitates a terminally ill patient's recommended use of a cannabis-based treatment under this chapter, may not, for any harm done to the eligible patient by the investigational drug or device, or for any harm done to the terminally ill patient by the cannabis-based treatment, be subject to:

- (a) civil liability;
- (b) criminal liability; or
- (c) licensure sanctions under:
 - (i) for a physician:
 - (A) Title 58, Chapter 67, Utah Medical Practice Act; or

- (B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

- (ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or

- (iii) for the hospital or health care facility, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(3) This chapter does not:

- (a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient's physician;

- (b) require a physician to agree to:

- (i) administer an investigational drug to an eligible patient under this chapter; ~~or~~

- (ii) treat an eligible patient with an investigational device under this chapter; or

- (iii) recommend a cannabis-based treatment to a terminally ill patient; or

- (c) create a private right of action for an eligible patient:

- (i) against a physician or hospital, for the physician's or hospital's refusal to:

- (A) administer an investigational drug to an eligible patient under this chapter; ~~or~~

- (B) treat an eligible patient with an investigational device under this chapter; or

- (C) recommend a cannabis-based treatment to the terminally ill patient; or

- (ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient with an investigational drug or an investigational device under this chapter.

Section 5. Section 58-85-105 is amended to read:

58-85-105. Insurance coverage.

(1) This chapter does not:

- (a) require an insurer to cover the cost of:

- (i) administering an investigational drug under this chapter; ~~or~~

- (ii) treating a patient with an investigational device under this chapter; or

- (iii) a cannabis-based treatment; or

- (b) prohibit an insurer from covering the cost of:

- (i) administering an investigational drug under this chapter; ~~or~~

- (ii) treating a patient with an investigational device under this chapter~~[-]; or~~

- (iii) a cannabis-based treatment.

(2) Except as described in Subsection (3), an insurer may deny coverage to an eligible patient who is treated with an investigational drug or investigational device, for harm to the eligible patient caused by the investigational drug or investigational device.

(3) An insurer may not deny coverage to an eligible patient under Subsection (2) for:

- (a) the eligible patient's preexisting condition;

- (b) benefits that commenced before the day on which the eligible patient is treated with the investigational drug or investigational device; or

- (c) palliative or hospice care for an eligible patient that has been treated with an investigational drug or device, but is no longer receiving curative treatment with the investigational drug or device.

CHAPTER 334**H. B. 291**

Passed March 7, 2018

Approved March 20, 2018

Effective May 8, 2018

(Exception clause in Section 14)

**SENTENCING COMMISSION LENGTH
OF SUPERVISION GUIDELINES**

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends provisions of the Utah Code relating to probation and parole.

Highlighted Provisions:

This bill:

- ▶ requires the Utah Sentencing Commission to develop guidelines relating to the length of supervision of adult offenders on probation or parole and to make recommendations to the Legislature, the courts, and the governor;
- ▶ provides that the length of an offender's probation or parole term may not exceed the length of an offender's maximum sentence, unless the maximum sentence is one year or less;
- ▶ removes certain lifetime parole requirements;
- ▶ modifies the circumstances under which an individual may be discharged following a parole revocation;
- ▶ removes the requirement that an offender found guilty with a mental illness and placed on probation or parole must be supervised for at least five years;
- ▶ removes the prohibition on termination of probation or parole resulting from a driving under the influence conviction;
- ▶ requires the Utah Board of Pardons and Parole and courts to terminate probation or parole in accordance with the supervision length guidelines developed by the Utah Sentencing Commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-6a-505, as last amended by Laws of Utah 2017, Chapters 445 and 446

63M-7-404 (Superseded 07/01/18), as last amended by Laws of Utah 2015, Chapter 412

63M-7-404 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 330

63M-7-405, as last amended by Laws of Utah 2017, Chapter 377

64-13-21, as last amended by Laws of Utah 2015, Chapter 412

76-3-202, as last amended by Laws of Utah 2015, Chapter 412

77-16a-201, as last amended by Laws of Utah 2011, Chapter 366

77-16a-205, as last amended by Laws of Utah 2011, Chapter 366

77-18-1, as last amended by Laws of Utah 2017, Chapter 304

77-27-5, as last amended by Laws of Utah 2017, Chapter 475

77-27-7, as last amended by Laws of Utah 2008, Chapter 382

77-27-9, as last amended by Laws of Utah 2010, Chapter 110

77-27-11, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 41-6a-505 is amended to read:**41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.**

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the [person] individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the [person] individual to participate in a screening;

(iii) order the [person] individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the [person] individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than \$700;

(vi) order probation for the [person] individual in accordance with Section 41-6a-507, if there is admissible evidence that the [person] individual had a blood alcohol level of .16 or higher;

(vii) (A) order the [person] individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the [person] individual sentenced, order the [person] individual sentenced to reimburse the party; or

(viii) (A) order the [person] individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the [person] individual sentenced, order the [person] individual sentenced to reimburse the party; and

(b) the court may:

(i) order the [person] individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the [person] individual in accordance with Section 41-6a-507;

(iii) order the [person] individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the [person] individual is 21 years of age or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) If [a person] an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 hours; or

(B) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the [person] individual to participate in a screening;

(iii) order the [person] individual to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the [person] individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the [person] individual in accordance with Section 41-6a-507;

(vii) (A) order the [person] individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the [person] individual sentenced, order the [person] individual sentenced to reimburse the party; or

(viii) (A) order the [person] individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the [person] individual sentenced, order the [person] individual sentenced to reimburse the party; and

(b) the court may:

(i) order the [person] individual to obtain substance abuse treatment if the substance abuse

treatment program determines that substance abuse treatment is appropriate;

(ii) order the [person] individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the [person] individual is 21 years of age or older; or

(iii) order a combination of Subsections (2)(b)(i) and (ii).

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:

(a) a fine of not less than \$1,500;

(b) a jail sentence of not less than 1,500 hours; and

(c) supervised probation.

(4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court:

(a) shall impose an order requiring the [person] individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(b) may impose an order requiring the [person] individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the [person] individual is 21 years of age or older.

(5) ~~(a)~~ The requirements of Subsections (1)(a), (2)(a), (3)(a), and (4) may not be suspended.

~~(b) Probation or parole resulting from a conviction for a violation under this section may not be terminated.~~

(6) If [a person] an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the [person] individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the [person] individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the [person] individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 2. Section 63M-7-404 (Superseded 07/01/18) is amended to read:

63M-7-404 (Superseded 07/01/18). Purpose -- Duties.

(1) The purpose of the commission ~~shall be~~ is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council ~~about~~ regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

~~(a)~~ (i) respond to public comment;

~~(b)~~ (ii) relate sentencing practices and correctional resources;

~~(c)~~ (iii) increase equity in criminal sentencing;

~~(d)~~ (iv) better define responsibility in criminal sentencing; and

~~(e)~~ (v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority[-]; and

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the

probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole;

(b) when violations should be reported to the court or the Board of Pardons and Parole; and

(c) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

Section 3. Section 63M-7-404 (Effective 07/01/18) is amended to read:

63M-7-404 (Effective 07/01/18). Purpose -- Duties.

(1) The purpose of the commission ~~shall be~~ is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council ~~about~~ regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

~~(a)~~ (i) respond to public comment;

~~(b)~~ (ii) relate sentencing practices and correctional resources;

~~(c)~~ (iii) increase equity in criminal sentencing;

~~(d)~~ (iv) better define responsibility in criminal sentencing; and

~~(e)~~ (v) enhance the discretion of sentencing judges while preserving the role of the Board of

Pardons and Parole and the Youth Parole Authority[-]; and

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the

individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole;

(b) when violations should be reported to the court or the Board of Pardons and Parole; and

(c) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

Section 4. Section 63M-7-405 is amended to read:

63M-7-405. Compensation of members -- Reports to the Legislature, the courts, and the governor.

(1) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(2) (a) The commission shall submit to the Legislature, the courts, and the governor at least 60 days before the annual general session of the Legislature the commission's reports and recommendations for sentencing guidelines and supervision length guidelines and amendments.

(b) The commission shall use existing data and resources from state criminal justice agencies.

(c) The commission may employ professional assistance and other staff members as it considers necessary or desirable.

(3) The commission shall assist and respond to questions from all three branches of government, but is part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.

(4) (a) As used in this Subsection (4), "master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.

(b) No later than May 1, 2017, the commission shall create a master offense list.

(c) No later than June 30 of each calendar year, the commission shall:

- (i) after the last day of the general legislative session, update the master offense list; and
- (ii) present the updated master offense list to the Law Enforcement and Criminal Justice Interim Committee.

Section 5. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced

offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) [~~Standards~~] The department shall establish standards for the supervision of offenders [~~shall be established by the department~~] in accordance with sentencing guidelines and supervision length guidelines, including the graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced pursuant to Subsection 58-37-8(2)(b)(ii).

(2) The department shall apply graduated sanctions established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated sanctions and incentives, and offenders' outcomes.

(b) The collected information shall be provided to the Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) providing investigative services for the courts, the department, or the Board of Pardons and Parole;

(d) supervising any offender during transportation; or

(e) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole. The fee may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) ~~[The]~~ For offenders placed on probation under Section 77-18-1 or parole under Subsection 76-3-202(1)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender ~~on probation under Section 77-18-1 or on parole under Subsection 76-3-202(1)(a)~~ to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation

or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 6. Section 76-3-202 is amended to read:

76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

(1) Every individual committed to the state prison to serve an indeterminate term and, after December 31, 2018, released on parole shall complete a term of parole that extends through the expiration of the individual's maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, as described in Subsection 77-27-5(7), to the extent the guidelines are consistent with the requirements of the law.

~~[(1)]~~ (2) (a) Except as provided in Subsection ~~[(1)]~~ (2)(b), every ~~[person]~~ individual committed to the state prison to serve an indeterminate term and ~~[later]~~ released on parole on or after October 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the ~~[person's]~~ individual's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section 64-13-21.

(b) Every ~~[person]~~ individual committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was convicted of any felony offense under Title 76, Chapter 5, Offenses Against the Person, or any attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a term of parole that extends through the expiration of the ~~[person's]~~ individual's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

~~[(2)] (3) Every [person] individual convicted of a second degree felony for violating Section 76-5-404, forcible sexual abuse, or 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child, or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the [person] individual is earlier terminated by the Board of Pardons and Parole.~~

~~[(3) (a) Every person convicted of a first degree felony for committing any offense listed in Subsection (3)(b), or attempting, conspiring, or soliciting the commission of a violation of any of those sections, shall complete a term of lifetime parole outside of confinement and without violation unless the person is earlier terminated by the Board of Pardons and Parole.]~~

~~[(b) The offenses referred to in Subsection (3)(a) are:]~~

~~[(i) Section 76-5-301.1, child kidnapping;]~~

~~[(ii) Subsection 76-5-302(1)(b)(vi), aggravated kidnapping involving a sexual offense;]~~

~~[(iii) Section 76-5-402, rape;]~~

~~[(iv) Section 76-5-402.1, rape of a child;]~~

~~[(v) Section 76-5-402.2, object rape;]~~

~~[(vi) Section 76-5-402.3, object rape of a child;]~~

~~[(vii) Subsection 76-5-403(2), forcible sodomy;]~~

~~[(viii) Section 76-5-403.1, sodomy on a child;]~~

~~[(ix) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child; or]~~

~~[(x) Section 76-5-405, aggravated sexual assault;]~~

~~(4) [Any person] An individual who violates the terms of parole, while serving parole, for any offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined by the Board of Pardons and Parole, but not to exceed the maximum term.~~

~~[(5) In order for a parolee convicted on or after May 5, 1997, to be eligible for early termination from parole, the parolee must provide to the Board of Pardons and Parole:]~~

~~[(a) evidence that the parolee has completed high school classwork and has obtained a high school graduation diploma, a GED certificate, or a vocational certificate; or]~~

~~[(b) documentation of the inability to obtain one of the items listed in Subsection (5)(a) because of:]~~

~~[(i) a diagnosed learning disability; or]~~

~~[(ii) other justified cause.]~~

~~[(6)] (5) [Any person] An individual paroled following a former parole revocation may not be discharged from the [person's] individual's sentence until:~~

~~(a) the [person] individual has served the applicable period of parole under this section outside of confinement [and without violation];~~

~~(b) the [person's] individual's maximum sentence has expired; or~~

~~(c) the Board of Pardons and Parole orders the [person] individual to be discharged from the sentence.~~

~~[(7)] (6) (a) All time served on parole, outside of confinement and without violation, constitutes service [of] toward the total sentence [but does not preclude the requirement of serving the applicable period of parole under this section, outside of confinement and without violation].~~

~~(b) Any time [a person] an individual spends outside of confinement after commission of a parole violation does not constitute service [of] toward the total sentence unless the [person] individual is exonerated at a parole revocation hearing.~~

~~(c) (i) Any time [a person] an individual spends in confinement awaiting a hearing before the Board of Pardons and Parole or a decision by the board concerning revocation of parole constitutes service [of the] toward the total sentence.~~

~~(ii) In the case of exonerated by the board, the time spent is included in computing the total parole term.~~

~~[(8)] (7) When [any] a parolee causes the parolee's absence from the state without authority from the Board of Pardons and Parole [absents himself from the state] or avoids or evades parole supervision, the period of absence, avoidance, or evasion tolls the parole period.~~

~~[(9)] (8) (a) While on parole, time spent in confinement outside the state may not be credited toward the service of any Utah sentence.~~

~~(b) Time in confinement outside the state or in the custody of any tribal authority or the United States government for a conviction obtained in another jurisdiction tolls the expiration of the Utah sentence.~~

~~[(10)] (9) This section does not preclude the Board of Pardons and Parole from paroling or discharging an inmate at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law.~~

~~[(11)] (10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole for termination of lifetime parole.~~

Section 7. Section 77-16a-201 is amended to read:

77-16a-201. Probation.

(1) (a) In felony cases, when the court proposes to place on probation a defendant who has pled or is found guilty with a mental illness at the time of the

offense, it shall request UDC to provide a presentence investigation report regarding whether probation is appropriate for that defendant and, if so, recommending a specific treatment program. If the defendant is placed on probation, that treatment program shall be made a condition of probation, and the defendant shall remain under the jurisdiction of the sentencing court.

(b) The court may not place an offender who has been convicted of the felony offenses listed in Section 76-3-406 on probation, regardless of whether the offender has, or had, a mental illness.

(2) The period of probation for a felony offense committed by a [person] defendant who has been found guilty with a mental illness at the time of the offense ~~[may be for no less than five years. Probation for those offenders]~~ may not be subsequently reduced by the sentencing court without consideration of an updated report on the mental health status of the defendant.

(3) (a) Treatment ordered by the court under this section may be provided by or under contract with the department, a mental health facility, a local mental health authority, or, with the approval of the sentencing court, any other public or private mental health provider.

(b) The entity providing treatment under this section shall file a report with the defendant's probation officer at least every six months during the term of probation.

(c) Any request for termination of probation regarding a defendant who is receiving treatment under this section shall include a current mental health report prepared by the treatment provider.

(4) Failure to continue treatment or any other condition of probation, except by agreement with the entity providing treatment and the sentencing court, is a basis for initiating probation violation hearings.

(5) The court may not release an offender with a mental illness into the community, as a part of probation, if it finds by clear and convincing evidence that the offender:

(a) poses an immediate physical danger to self or others, including jeopardizing the offender's own or others' safety, health, or welfare if released into the community; or

(b) lacks the ability to provide the basic necessities of life, such as food, clothing, and shelter, if released into the community.

(6) An offender with a mental illness who is not eligible for release into the community under the provisions of Subsection (5) may be placed by the court, on probation, in an appropriate mental health facility.

Section 8. Section 77-16a-205 is amended to read:

77-16a-205. Parole.

(1) When an offender with a mental illness who has been committed to the department becomes eligible to be considered for parole, the board shall request a recommendation from the executive director and from UDC before placing the offender on parole.

(2) Before setting a parole date, the board shall request that its mental health adviser prepare a report regarding the offender with a mental illness, including:

(a) all available clinical facts;

(b) the diagnosis;

(c) the course of treatment received at the mental health facility;

(d) the prognosis for remission of symptoms;

(e) potential for recidivism;

(f) an estimation of the dangerousness of the offender with a mental illness either to self or others; and

(g) recommendations for future treatment.

(3) Based on the report described in Subsection (2), the board may place the offender with a mental illness on parole. The board may require mental health treatment as a condition of parole. If treatment is ordered, failure to continue treatment, except by agreement with the treatment provider, and the board, is a basis for initiation of parole violation hearings by the board.

(4) UDC, through Adult Probation and Parole, shall monitor the status of an offender with a mental illness who has been placed on parole. UDC may provide treatment by contracting with the department, a local mental health authority, any other public or private provider, or in-house staff.

(5) ~~[The period of parole may be no less than five years, or until expiration of the defendant's sentence, whichever occurs first.]~~ The board may not subsequently reduce the period of parole without considering an updated report on the offender's current mental condition.

Section 9. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the

defendant ~~[on probation. The court may place the defendant]:~~

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department~~[. These standards shall be]~~ based on:

- (i) the type of offense;
- (ii) the results of a risk and needs assessment;
- (iii) the demand for services;
- (iv) the availability of agency resources;
- (v) public safety; and
- (vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of ~~[persons] an individual convicted of a class B or C [misdemeanors or infractions]~~ misdemeanor or an infraction or to conduct presentence investigation reports on a class C ~~[misdemeanors or infractions] misdemeanor or infraction.~~ However, the department may supervise the probation of a class B ~~[misdemeanants] misdemeanor~~ in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of

sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that ~~the~~ a defendant~~[-(a)]~~ perform any or all of the following:

~~[(i)]~~ (a) provide for the support of others for whose support the defendant is legally liable;

~~[(ii)]~~ (b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

~~[(iii)]~~ (c) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

~~[(iv)]~~ (d) serve a term of home confinement, which may include the use of electronic monitoring;

~~[(v)]~~ (e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

~~[(vi)]~~ (f) pay for the costs of investigation, probation, and treatment services;

~~[(vii)]~~ (g) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

~~[(viii)]~~ (h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation~~]; and~~.

~~[(b) if convicted on or after May 5, 1997:]~~

~~[(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED certificate, or vocational certificate prior to being placed on probation; or]~~

~~[(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:]~~

~~[(A) a diagnosed learning disability; or]~~

~~[(B) other justified cause.]~~

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) [Probation] Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

[(ii) (A)] (b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

[(B)] (ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

[(b)] (c) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of

supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the ~~[graduated sanctions and incentives]~~ supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404~~[, but the]~~.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

~~[(iv)]~~ (iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

~~[(iii)]~~ (iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

~~[(iv)]~~ (v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)~~[(iii)]~~(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit ~~[himself or herself]~~ the defendant to the custody of the Division of Substance Abuse and Mental Health

for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) ~~[persons]~~ individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for [those persons who have been] an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 10. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, ~~[persons]~~ individuals committed to serve sentences in class A misdemeanor cases at penal or correctional facilities which are under the jurisdiction of the Department of Corrections, and all felony cases except treason or impeachment or as otherwise limited by law, may be released upon parole, pardoned, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences commuted or terminated.

(b) The board may sit together or in panels to conduct hearings. The chair shall appoint members to the panels in any combination and in accordance with rules ~~[promulgated]~~ made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board, except in hearings involving commutation and pardons. The chair may participate on any panel and when doing so is chair of the panel. The chair of the board may designate the chair for any other panel.

(c) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection other than by a majority of the board shall be affirmed by a majority of the board.

(d) A commutation or pardon may be granted only after a full hearing before the board.

(e) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(iii)(A).

(2) (a) In the case of original parole grant hearings, rehearings, and parole revocation hearings, timely prior notice of the time and location of the hearing shall be given to the defendant, the county or district attorney's office responsible for prosecution of the case, the sentencing court, law enforcement officials responsible for the defendant's arrest and conviction, and whenever possible, the victim or the victim's family.

(b) Notice to the victim, the victim's representative, or the victim's family shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section. This information shall be provided in terms that are reasonable for the lay person to understand.

(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) In determining when, where, and under what conditions ~~[offenders serving sentences]~~ an offender serving a sentence may be paroled, pardoned, have restitution ordered, or have ~~[their]~~ the offender's fines or forfeitures remitted, or ~~[their sentences]~~ the offender's sentence commuted or terminated, the board shall:

(a) consider whether the ~~[persons have]~~ offender has made or [are] is prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; and

(b) develop and use a list of criteria for making determinations under this Subsection (5).

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee[;]; and

(b) the parole period as provided in Section 76-3-202, and in accordance with Section 77-27-13.

(7) For offenders placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 11. Section 77-27-7 is amended to read:

77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists -- Mental competency.

(1) The Board of Pardons and Parole shall determine within six months after the date of an offender's commitment to the custody of the Department of Corrections, for serving a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and shall promptly notify the offender of the date.

(2) Before reaching a final decision to release any offender under this chapter, the chair shall cause the offender to appear before the board, its panel, or any appointed hearing officer, who shall personally interview the offender to consider the offender's fitness for release and verify as far as possible information furnished from other sources. Any offender may waive a personal appearance before the board. Any offender outside of the state shall, if ordered by the board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in which the offender is housed in lieu of an appearance before the board. The offender shall be promptly notified in writing of the board's decision.

(3) (a) In the case of an offender convicted of violating or attempting to violate any of the provisions of Section 76-5-301.1, Subsection 76-5-302(1)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, or 76-5-405, the chair may appoint one or more alienists who shall examine the offender within six months prior to a hearing at which an original parole date is granted on any offense listed in this Subsection (3).

(b) The alienists shall report in writing the results of the examination to the board prior to the hearing. The report of the appointed alienists shall specifically address the question of the offender's current mental condition and attitudes as they relate to any danger the offender may pose to children or others if the offender is released on parole.

(4) ~~[The]~~ A parolee may petition the board for termination of lifetime parole as provided in Section 76-3-202 in the case of a ~~[person]~~ parolee convicted of a first degree felony violation, or convicted of attempting to violate Section 76-5-301.1,

Subsection 76-5-302(1)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, or 76-5-405, and released on parole before January 1, 2019.

(5) In any case where an offender's mental competency is questioned by the board, the chair may appoint one or more alienists to examine the offender and report in writing to the board, specifically addressing the issue of competency.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules governing:

- (a) the hearing process;
- (b) alienist examination; and
- (c) parolee petitions for termination of parole.

Section 12. Section 77-27-9 is amended to read:

77-27-9. Parole proceedings.

(1) (a) The Board of Pardons and Parole may pardon or parole any offender or commute or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections for a felony or class A misdemeanor except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(c) The board may not pardon or parole any offender or commute or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) ~~[A person]~~ An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory

sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:

(i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person; and

(ii) the victim of the offense was under 18 years of age at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (6).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(3) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of its members or by a designated hearing examiner in the performance of its duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

(4) (a) The board may adopt rules consistent with law for its government, meetings and hearings, the conduct of proceedings before it, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

(5) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

(6) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

Section 13. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any [person] individual who is found to have violated any condition of [his] the individual's parole.

(2) (a) If a parolee is confined by the Department of Corrections or any law enforcement official for a suspected violation of parole, the Department of Corrections shall immediately report the alleged violation to the board, by means of an incident report, and make any recommendation regarding the incident.

(b) No parolee may be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(3) Any member of the board may issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee, and may upon arrest or otherwise direct the Department of Corrections to determine if there is probable cause to believe that the parolee has violated the conditions of [his] the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or its appointed examiner.

(5) (a) The board or its appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against [him] the parolee.

(b) The board or its appointed examiner shall provide the parolee the opportunity:

- (i) to be present;
- (ii) to be heard;
- (iii) to present witnesses and documentary evidence;
- (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred. The appointed examiner shall then refer the case to the board for disposition.

(d) Final decisions shall be reached by majority vote of the members of the board sitting and the parolee shall be promptly notified in writing of the board's findings and decision.

(6) (a) Parolees found to have violated the conditions of parole may, at the discretion of the board, be returned to parole, have restitution ordered, or be imprisoned again as determined by the board, not to exceed the maximum term, or be subject to any other conditions the board may impose within its discretion.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

~~(b)~~ (c) If the board revokes parole for a violation and orders incarceration, the board shall impose a period of incarceration consistent with the guidelines under Subsection 63M-7-404(5).

~~(e)~~ (d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)~~(b)~~(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section 14. Effective date.

This bill takes effect on May 8, 2018, except that the amendments to Section 63M-7-404 (Effective 07/01/18) take effect on July 1, 2018.

CHAPTER 335**H. B. 303**

Passed March 7, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**DRINKING WATER SOURCE
 SIZING REQUIREMENTS**

Chief Sponsor: Scott D. Sandall
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions related to drinking water source and storage requirements.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends powers of the Drinking Water Board;
- ▶ requires certain public water systems to provide certain water use data;
- ▶ requires the director of the Division of Drinking Water to establish water source sizing requirements for certain public water systems; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-4-102, as last amended by Laws of Utah 2012, Chapter 360

19-4-104, as last amended by Laws of Utah 2016, Chapter 58

ENACTS:

19-4-114, Utah Code Annotated 1953

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

Section 1. Section 19-4-102 is amended to read:

19-4-102. Definitions.

As used in this chapter:

(1) "Board" means the Drinking Water Board appointed under Section 19-4-103.

(2) "Community water system" means a public water system that serves residents year-round.

(3) (3) "Contaminant" means a physical, chemical, biological, or radiological substance or matter in water.

(4) (4) "Director" means the director of the Division of Drinking Water.

(5) (5) "Division" means the Division of Drinking Water, created in Subsection 19-1-105(1)(b).

(6) (6) (a) "Groundwater source" means an underground opening from or through which

groundwater flows or is pumped from a subsurface water-bearing formation.

(b) "Groundwater source" includes:

- (i) a well;
- (ii) a spring;
- (iii) a tunnel; or
- (iv) an adit.

(7) (7) "Maximum contaminant level" means the maximum permissible level of a contaminant in water that is delivered to a user of a public water system.

(8) (8) (a) "Public water system" means a system providing water for human consumption and other domestic uses that:

- (i) has at least 15 service connections; or
- (ii) serves an average of 25 individuals daily for at least 60 days of the year.

(b) "Public water system" includes:

- (i) a collection, treatment, storage, or distribution facility under the control of the operator and used primarily in connection with the system; and
- (ii) a collection, pretreatment, or storage facility used primarily in connection with the system but not under the operator's control.

(9) (9) "Retail water supplier" means a person that:

- (a) supplies water for human consumption and other domestic uses to an end user; and
- (b) has more than 500 service connections.

(10) (10) "Supplier" means a person who owns or operates a public water system.

(11) (11) "Wholesale water supplier" means a person that provides most of that person's water to a retail water supplier.

Section 2. Section 19-4-104 is amended to read:

19-4-104. Powers of board.

(1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring, record-keeping, and reporting of water quality related matters;

(ii) governing design, construction, operation, and maintenance of public water systems;

(iii) granting variances and exemptions to the requirements established under this chapter that are not less stringent than those allowed under federal law;

(iv) protecting watersheds and water sources used for public water systems; ~~and~~

(v) governing capacity development in compliance with Section 1420 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(vi) for a community water system failing to comply with the reporting requirements under Subsections (1)(c)(iv) and (v):

(A) establishing fines and penalties, including posting on the division's web page those community water systems that fail to comply with the reporting requirements; and

(B) allowing a community water system, in lieu of penalties established under Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the division that requires compliance and establishes a compliance schedule approved by the director.

(b) The board may:

(i) order the director to:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings; or

(C) institute judicial proceedings to secure compliance with this chapter;

(ii) (A) hold a hearing that is not an adjudicative proceeding relating to the administration of this chapter; or

(B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding; or

(iii) request and accept financial assistance from other public agencies, private entities, and the federal government to carry out the purposes of this chapter.

(c) The board shall:

(i) require the submission to the director of plans and specifications for construction of, substantial addition to, or alteration of public water systems for review and approval by the board before that action begins and require any modifications or impose any conditions that may be necessary to carry out the purposes of this chapter;

(ii) advise, consult, cooperate with, provide technical assistance to, and enter into agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies, municipalities, local health departments, educational institutions, and others necessary to carry out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of local jurisdictions;

(iii) develop and implement an emergency plan to protect the public when declining drinking water quality or quantity creates a serious health risk and issue emergency orders if a health risk is imminent;

~~(iv) require a certified operator of a public water supplier to verify by signature and certification number, or a professional engineer performing the duties of a certified water operator to verify by signature and stamp, the accuracy of any data on~~

~~water use and water supply submitted by the public water supplier to the division; and]~~

~~(iv) require a community water system serving a population of 500 or more to annually collect accurate water use data, described in Subsection (6), and annually report that data to the Division of Water Rights;~~

~~(v) require a certified operator, or a professional engineer performing the duties of a certified water operator, to verify by certification or license number the accuracy of water use data reported by a public water system, including the data required from a community water system under Subsection (1)(c)(iv); and~~

~~[(v)] (vi) meet the requirements of federal law related or pertaining to drinking water.~~

(2) (a) The board may adopt and enforce standards and establish fees for certification of operators of any public water system.

(b) The board may not require certification of operators for a water system serving a population of 800 or less except:

(i) to the extent required for compliance with Section 1419 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(ii) for a system that is required to treat its drinking water.

(c) The certification program shall be funded from certification and renewal fees.

(3) Routine extensions or repairs of existing public water systems that comply with the rules and do not alter the system's ability to provide an adequate supply of water are exempt from the provisions of Subsection (1)(c)(i).

(4) (a) The board may adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs or backflow prevention assembly training, repair, and maintenance testing.

(b) The certification program shall be funded from certification and renewal fees.

(5) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(6) (a) The water use data required to be collected in Subsection (1)(c)(iv) shall include peak day source demand, average annual demand, the number of equivalent residential connections for retail service, and the quantity of non-revenue water.

(b) The division may, by rule, establish:

(i) other types of water use data required to be collected in addition to that listed in Subsection (6)(a); and

(ii) alternative methods for calculating the water use data listed in Subsection (6)(a).

Section 3. Section 19-4-114 is enacted to read:

19-4-114. Source and storage minimum sizing requirements for public water systems.

(1) (a) Except as provided in Subsection (1)(b) and upon submission of plans for a substantial addition to or alteration of a community water system, the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of more than 3300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of more than 3300 shall provide the information necessary to establish the system-specific standards described in this Subsection (1) by no later than March 1, 2019.

(2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b), the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of between 500 and no more than 3300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of between 500 and no more than 3300 shall provide the information necessary to establish

system-specific standards described in this Subsection (2) by no later than March 1, 2023.

(3) The director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of fewer than 500 based on:

(a) at least the most recent three years of a community water system's actual water use data submitted to the division and accepted by the director;

(b) an engineering study submitted by the community water system and accepted by the director;

(c) standards, comparable to those of established community water systems, as determined by the director; or

(d) relevant information, as determined by the director.

(4) The director shall:

(a) for community water systems described in Subsection (3), establish a schedule to transition from statewide sizing standards to system-specific standards;

(b) establish minimum sizing standards for public water systems that are not community water systems;

(c) provide for the routine evaluation of changes to the system-specific standards; and

(d) include, as part of system-specific standards, necessary fire storage capacity in accordance with the state fire code adopted under Section 15A-1-403.

(5) The director may adjust system-specific sizing standards, established under this section for a public water system, based on information submitted by the public water system addressing the effect of any wholesale water deliveries or other system-specific conditions affecting infrastructure needs.

(6) A wholesale water supplier is exempt from this section if the wholesale water supplier serves:

(a) a total population of more than 10,000; and

(b) a wholesale population that is 75% or more of the total population served.

CHAPTER 336**H. B. 306**

Passed February 27, 2018

Approved March 20, 2018

Effective May 8, 2018

STATE BOARD OF EDUCATION REVISIONS

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies provisions related to the State Board of Education.

Highlighted Provisions:

This bill:

- ▶ provides that the State Board of Education elect leadership from the board members every other year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-3-201, as renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-3-201 is amended to read:**53E-3-201. State Board of Education members -- Election and appointment of officers -- Removal from office.**

(1) Members of the State Board of Education shall be nominated and elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(2) The State Board of Education shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, [each] every other year at a meeting held any time between November 15 and January 15.

(3) (a) If the election of officers is held subsequent to the election of a new member of the board, but prior to the time that the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.

(b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.

(4) The duties of these officers shall be determined by the board.

(5) The board shall appoint a secretary who serves at the pleasure of the board.

(6) An officer appointed or elected by the board under this section may be removed from office for cause by a vote of two-thirds of the board.

CHAPTER 337**H. B. 341**

Passed March 2, 2018

Approved March 20, 2018

Effective May 8, 2018

**GOVERNMENT
NONPROFIT AMENDMENTS**

Chief Sponsor: Michael K. McKell

Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill removes a repeal date.

Highlighted Provisions:

This bill:

- ▶ removes a repeal date that would modify the definition of “governmental nonprofit corporation”; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**63I-2-211, as last amended by Laws of Utah 2017,
Chapter 441

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63I-2-211 is amended to read:****63I-2-211. Repeal dates -- Title 11.**

[~~(1) (a) — On July 1, 2019, Subsection 11-13a-102(4)(b) is repealed.~~]

[~~(b) — When repealing Subsection 11-13a-102(4)(b), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January 1, 2020.

CHAPTER 338**H. B. 357**

Passed February 22, 2018

Approved March 20, 2018

Effective March 20, 2018

**EVALUATING TAX REVENUE FOREGONE
FROM FEDERALLY CONTROLLED LANDS**

Chief Sponsor: Ken Ivory

Senate Sponsor: David P. Hinkins

Cosponsors: Cheryl K. Acton

Carl R. Albrecht

Patrice M. Arent

Stewart E. Barlow

Joel K. Briscoe

Walt Brooks

Rebecca Chavez-Houck

Scott H. Chew

LaVar Christensen

Kay J. Christofferson

Kim F. Coleman

Bruce R. Cutler

Brad M. Daw

Susan Duckworth

James A. Dunnigan

Rebecca P. Edwards

Steve Eliason

Justin L. Fawson

Gage Froerer

Francis D. Gibson

Brian M. Greene

Keith Grover

Craig Hall

Stephen G. Handy

Timothy D. Hawkes

Sandra Hollins

Gregory H. Hughes

Eric K. Hutchings

Michael S. Kennedy

Brian S. King

John Knotwell

Karen Kwan

Bradley G. Last

Karianne Lisonbee

A. Cory Maloy

Daniel McCay

Michael K. McKell

Kelly B. Miles

Carol Spackman Moss

Jefferson Moss

Merrill F. Nelson

Michael E. Noel

Derrin R. Owens

Lee B. Perry

Jeremy A. Peterson

Val L. Peterson

Dixon M. Pitcher

Val K. Potter

Marie H. Poulson

Susan Pulsipher

Tim Quinn

Paul Ray

Edward H. Redd

Marc K. Roberts

Adam Robertson

Angela Romero

Douglas V. Sagers

Scott D. Sandall

Mike Schultz

Travis M. Seegmiller

V. Lowry Snow

Robert M. Spendlove

Keven J. Stratton

Norman K. Thurston

Raymond P. Ward

Christine F. Watkins

R. Curt Webb

Elizabeth Weight

John R. Westwood

Mark A. Wheatley

Logan Wilde

Brad R. Wilson

Mike Winder

LONG TITLE**General Description:**

This bill enacts provisions relating to federally controlled land within the state.

Highlighted Provisions:

This bill:

- ▶ requires the Commission on Federalism to hold a hearing on the impact of the federal payments in lieu of tax on the state;
- ▶ authorizes the Commission on Federalism to engage each of the state's elected members of Congress in coordinating with the federal government to secure payments in lieu of tax that are equivalent to the property tax the state would generate but for federally controlled land in the state; and
- ▶ requires the Commission on Federalism to communicate the results of the hearing and any action taken to certain individuals and entities, including the state's elected members of Congress.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63C-4a-303, as last amended by Laws of Utah 2014, Chapter 221

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

ENACTS:

63C-4a-307, Utah Code Annotated 1953

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

Section 1. Section 63C-4a-303 is amended to read:**63C-4a-303. Duties of Commission on Federalism.**

(1) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

- (a) as agreed by a majority of the commission; or
- (b) submitted to the commission by a council member.

(2) The commission may request information regarding a federal law under evaluation from a

United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; and

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) On May 20 and October 20 of each year, the commission shall submit a report by electronic mail to the Legislative Management Committee and the Government Operations Interim Committee that summarizes:

(a) action taken by the commission in accordance with this section; and

(b) action taken by, or communication received from, any of the following in response to a request or inquiry made, or other action taken, by the commission:

(i) a United States senator or representative elected from the state;

(ii) a representative of another state; or

(iii) a federal entity, official, or employee.

(7) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(8) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:

(a) fundamental principles of federalism;

(b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(c) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(d) the authority and limits on the authority of the federal government as found in the United States Constitution;

(e) the relationship between the state and federal governments;

(f) methods of evaluating a federal law in the context of the principles of federalism;

(g) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(h) the separate and independent powers of the state that serve as a check on the federal government;

(i) first amendment rights and freedoms contained therein; and

(j) any other issues relating to federalism the commission considers necessary.

(9) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

(10) Before the final meeting of 2019, the commission shall conduct the activities described in Section 63C-4a-307.

Section 2. Section 63C-4a-307 is enacted to read:

63C-4a-307. Foregone property tax evaluation procedures.

(1) As used in this section:

(a) (i) "Federally controlled land" means any land within the exterior boundaries of the state that is controlled by the United States government for the entire taxable year.

(ii) "Federally controlled land" does not include:

(A) a military installation;

(B) a federal enclave as described in United States Constitution, Article I, Section 8, clause 17; or

(C) land owned by an Indian tribe as described in 18 U.S.C. Sec. 1151.

(b) (i) “Payments in lieu of tax” means payments made by the federal government to a county, municipality, or school district of the state.

(ii) “Payments in lieu of tax” includes a payment under:

(A) the in lieu of property taxes program, 31 U.S.C. Sec. 6901, et seq., commonly referred to as PILT; and

(B) the impact aid program, 20 U.S.C. Sec. 7701, et seq.

(2) (a) The commission shall hold a hearing regarding the impact on the state from the failure of the federal government to make payments in lieu of tax that are equivalent to the property tax revenue that the state would generate but for federally controlled land.

(b) The commission shall invite and accept testimony on the information described in Subsection (2)(a) and the impact on the ability and the duty of the state to fund education and to protect and promote the health, safety, and welfare of the state, the state’s political subdivisions, and the residents of the state from the following:

(i) representatives from:

(A) the office of each United States senator or representative elected from the state;

(B) any federal government entity administering the payments in lieu of tax;

(C) the Legislative Management Committee;

(D) the Office of the Governor;

(E) the Office of the Attorney General;

(F) the State Tax Commission;

(G) the Public Lands Policy Coordinating Office, created in Section 63J-4-602;

(H) the school districts;

(I) the association of school districts;

(J) the superintendents’ association;

(K) the charter schools;

(L) school community councils;

(M) the counties;

(N) the municipalities; and

(O) nonpartisan entities serving state governments;

(ii) other states’ officials or agencies; and

(iii) other interested individuals or entities.

(3) In accordance with this part, the commission may engage each United States senator or representative elected from the state in coordinating with the federal government to secure payments in lieu of tax that are equivalent to the property tax revenue the state would generate but for federally controlled land.

(4) The commission shall communicate the information received during the hearing described in Subsection (2) and any action taken under Subsection (3) to the individuals and entities described in Subsection (2)(b).

Section 3. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, [2018] 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 4. Effective date.

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

CHAPTER 339**H. B. 377**

Passed March 8, 2018
 Approved March 20, 2018
 Effective May 8, 2018

LAND USE AMENDMENTS

Chief Sponsor: Mike Schultz
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to land use provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes requirements on proposed conditions for a proposed conditional use;
- ▶ states that a conditional use is an administrative land use decision;
- ▶ amends provisions related to an applicant's rights vesting in a land use application;
- ▶ removes land use authority discretion in allowing an applicant to post an improvement completion assurance;
- ▶ prohibits municipalities and counties from denying a building permit application where the land use authority has accepted an improvement completion assurance;
- ▶ modifies the arbitrary and capricious standard for judicial review of a land use decision; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-103, as last amended by Laws of Utah 2017, Chapters 17 and 84
- 10-9a-507, as last amended by Laws of Utah 2005, Chapter 245 and renumbered and amended by Laws of Utah 2005, Chapter 254
- 10-9a-509, as last amended by Laws of Utah 2017, Chapters 84, 410, and 428
- 10-9a-604.5, as last amended by Laws of Utah 2015, Chapter 327
- 10-9a-801, as last amended by Laws of Utah 2017, Chapter 84
- 10-9a-802, as last amended by Laws of Utah 2016, Chapter 303
- 17-27a-103, as last amended by Laws of Utah 2017, Chapter 84
- 17-27a-506, as last amended by Laws of Utah 2005, Chapter 245 and renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-508, as last amended by Laws of Utah 2017, Chapters 84, 410, and 428
- 17-27a-604.5, as last amended by Laws of Utah 2015, Chapter 327
- 17-27a-801, as last amended by Laws of Utah 2017, Chapter 84

17-27a-802, as last amended by Laws of Utah 2015, Chapter 327

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

Section 1. Section 10-9a-103 is amended to read:**10-9a-103. Definitions.**

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(8) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

(ii) a therapeutic school.

(11) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(12) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(13) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(14) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(15) “Historic preservation authority” means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(16) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(17) “Identical plans” means building plans submitted to a municipality that:

(a) are clearly marked as “identical plans”;

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(19) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(20) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(21) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(22) "Infrastructure improvement" means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(23) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(25) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(26) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(27) "Land use decision" means ~~a final action~~ an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(28) "Land use permit" means a permit issued by a land use authority.

(29) "Land use regulation":

(a) means ~~an~~ a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land; ~~and~~

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

~~(b)~~ (c) does not include:

~~(i) a general plan;~~

~~(ii)~~ (i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

~~(iii)~~ (ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(30) “Legislative body” means the municipal council.

(31) “Local district” means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) “Local historic district or area” means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(33) “Lot line adjustment” means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(34) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(35) “Nominal fee” means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(36) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(37) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(38) “Official map” means a map drawn by municipal authorities and recorded in a county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality’s general plan.

(39) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(40) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(41) “Plan for moderate income housing” means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city’s program to encourage an adequate supply of moderate income housing.

(42) “Plat” means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

(43) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(44) “Public agency” means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(45) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(46) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(47) “Receiving zone” means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(48) “Record of survey map” means a map of a survey of land prepared in accordance with Section 17-23-17.

(49) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(50) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(51) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(52) “Sending zone” means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(53) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

(54) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(55) “State” includes any department, division, or agency of the state.

(56) “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(57) (a) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other

division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (57)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality’s subdivision ordinance.

(58) “Suspect soil” means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(59) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(60) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(61) "Unincorporated" means the area outside of the incorporated area of a city or town.

(62) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-507 is amended to read:

10-9a-507. Conditional uses.

(1) (a) A municipality may adopt a land use ordinance ~~[may include]~~ that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use ~~[shall be approved]~~ if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

~~[(b)]~~ (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use ~~[may be denied]~~.

(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.

Section 3. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has ~~[filed]~~ submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive ~~[land use]~~ review of the ~~[land use]~~ application under the land use regulations:

(A) in effect on the date that the application is complete; and ~~[as further provided in this section.]~~

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the ~~[municipality's]~~ applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application ~~[is submitted and all]~~ and pays application fees ~~[have been paid]~~, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application [is submitted], the municipality [has] formally [initiated] initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as [provided] described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings [were initiated]; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) ~~[An application for a land use approval]~~ A land use application is considered submitted and complete when the applicant provides the application [is provided] in a form that complies with the requirements of applicable ordinances and pays all applicable fees [have been paid].

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(g) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision

improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

Section 4. Section 10-9a-604.5 is amended to read:

10-9a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a [required] landscaping or infrastructure improvement that the land use authority requires.

~~[(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.]~~

~~[(b) Subsection (2)(a) does not apply if:]~~

~~[(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and]~~

~~[(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.]~~

(2) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required landscaping or infrastructure improvements; or

(ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall ensure that the assurance:

(i) provides for completion of 100% of the required landscaping or infrastructure improvements; or

(ii) if the municipality has inspected and accepted a portion of the landscaping or infrastructure improvements, provides for completion of 100% of the unaccepted landscaping or infrastructure improvements.

(c) A municipality shall:

(i) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(ii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iii) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of landscaping or infrastructure improvements.

(d) A municipality may not require an applicant to post an improvement completion assurance for landscaping or an infrastructure improvement that the municipality has previously inspected and accepted.

(3) At any time [up to the land use authority's acceptance of] before a municipality accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the [land use authority] municipality may require the [developer] applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) When a municipality accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(i), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

[4] (5) The provisions of this section [may not be interpreted to] do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 5. Section 10-9a-801 is amended to read:

10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious [unless] if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application for any adversely affected third party, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or authority appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

Section 6. Section 10-9a-802 is amended to read:

10-9a-802. Enforcement.

(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) A municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the municipality has accepted an infrastructure improvement completion assurance for landscaping or infrastructure improvements for the development.

Section 7. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) “Billboard” means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) “Charter school” means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) “Charter school” does not include a therapeutic school.

(5) “Chief executive officer” means the person or body that exercises the executive powers of the county.

(6) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(8) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(9) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(12) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(13) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) “Gas corporation” has the same meaning as defined in Section 54-2-1.

(15) “General plan” means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(16) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or
 (h) any other geologic condition that presents a risk:

- (i) to life;
- (ii) of substantial loss of real property; or
- (iii) of substantial damage to real property.

(17) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) "Identical plans" means building plans submitted to a county that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
 - (iv) does not require any additional engineering or analysis.

(19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

- (a) recording a subdivision plat; or
 - (b) development of a commercial, industrial, mixed use, or multifamily project.
- (21) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

- (a) complies with the county's written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

- (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
- (ii) has substantial evidence, on record:
 - (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(23) "Infrastructure improvement" means permanent infrastructure that an applicant must install:

- (a) pursuant to published installation and inspection specifications for public improvements; and
- (b) as a condition of:
 - (i) recording a subdivision plat; or
 - (ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(24) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(25) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(27) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(28) "Land use application":

- (a) means an application that is:
 - (i) required by a county; and
 - (ii) submitted by a land use applicant to obtain a land use decision; and
- (b) does not mean an application to enact, amend, or repeal a land use regulation.

- (29) "Land use authority" means:
- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
 - (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.
- (30) "Land use decision" means ~~a final action~~ an administrative decision of a land use authority or appeal authority regarding:
- (a) a land use permit;
 - (b) a land use application; or
 - (c) the enforcement of a land use regulation, land use permit, or development agreement.
- (31) "Land use permit" means a permit issued by a land use authority.
- (32) "Land use regulation":
- (a) means ~~an~~ a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land; ~~and~~
 - (b) includes the adoption or amendment of a zoning map or the text of the zoning code; and
 - ~~(b)~~ (c) does not include:
 - ~~(i) a general plan;~~
 - ~~(ii) (i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or~~
 - ~~(ii) (ii) a temporary revision to an engineering specification that does not materially:~~
 - (A) increase a land use applicant's cost of development compared to the existing specification; or
 - (B) impact a land use applicant's use of land.
- (33) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.
- (34) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- (35) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.
- (36) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.
- (37) "Mountainous planning district" means an area:
- (a) designated by a county legislative body in accordance with Section 17-27a-901; and
 - (b) that is not otherwise exempt under Section 10-9a-304.
- (38) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:
- (a) verifying that building plans are identical plans; and
 - (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
- (39) "Noncomplying structure" means a structure that:
- (a) legally existed before its current land use designation; and
 - (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.
- (40) "Nonconforming use" means a use of land that:
- (a) legally existed before its current land use designation;
 - (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and
 - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- (41) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:
- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
 - (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
 - (c) has been adopted as an element of the county's general plan.
- (42) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
- (a) no additional parcel is created; and
 - (b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.
- (43) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- (44) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(45) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(46) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

(47) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(48) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(49) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(50) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(51) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(52) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(53) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(54) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(55) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(56) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(57) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(58) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(59) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(60) "State" includes any department, division, or agency of the state.

(61) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(62) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (62)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (62) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(63) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(64) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(65) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(66) "Unincorporated" means the area outside of the incorporated area of a municipality.

(67) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(68) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 8. Section 17-27a-506 is amended to read:

17-27a-506. Conditional uses.

(1) (a) A county may adopt a land use ordinance [~~may include~~] that includes conditional uses and provisions for conditional uses that require

compliance with standards set forth in an applicable ordinance.

(b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use [shall be approved] if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

~~(b)~~ (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use [may be denied].

(3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

Section 9. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has [filed] submitted a complete land use application, including the payment of all application fees, is entitled to substantive [land use] review of the [land use] application under the land use regulations;

(A) in effect on the date that the application is complete; and [as further provided in this section].

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the [county's] applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application [is submitted] and pays all application fees [have been paid], unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the [application is submitted, the county has formally initiated] applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as [provided] described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings [were initiated]; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) [An application for a land use approval] A land use application is considered submitted and complete when the applicant provides the application [is provided] in a form that complies with the requirements of applicable ordinances and pays all applicable fees [have been paid].

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) A county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

Section 10. Section 17-27a-604.5 is amended to read:

17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement.

~~[(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.]~~

~~[(b) Subsection (2)(a) does not apply if:]~~

~~[(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and]~~

~~[(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.]~~

(2) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required landscaping or infrastructure improvements; or

(ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall ensure that the assurance:

(i) provides for completion of 100% of the required landscaping or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the landscaping or infrastructure improvements, provides for completion of 100% of the unaccepted landscaping or infrastructure improvements.

(c) A county shall:

(i) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(ii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iii) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of landscaping or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for landscaping or an infrastructure improvement that the county has previously inspected and accepted.

(3) At any time [up to the land use authority's acceptance of] before a county accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the [developer] applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(i) county engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) When a county accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(i), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

[(4)] (5) The provisions of this section [may not be interpreted to] do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 11. Section 17-27a-801 is amended to read:

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious ~~unless~~ if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application for any adversely affected third

party, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

Section 12. Section 17-27a-802 is amended to read:

17-27a-802. Enforcement.

(1) (a) A county or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) A county may enforce the county's ordinance by withholding a building permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the county has accepted an [~~infrastructure~~] improvement completion assurance for landscaping or infrastructure improvements for the development.

CHAPTER 340**H. B. 390**

Passed March 7, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**RURAL ECONOMIC
DEVELOPMENT INCENTIVES**

Chief Sponsor: Carl R. Albrecht
 Senate Sponsor: Don L. Ipson
 Cosponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill creates the Rural Employment Expansion Program within the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

- ▶ authorizes a rural employment expansion grant for the creation of new jobs in counties of the fourth, fifth, or sixth class;
- ▶ requires the Governor's Office of Economic Development to administer the grant;
- ▶ describes the qualifications and process to receive a rural employment expansion grant;
- ▶ defines terms; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Governor's Office of Economic Development -- Rural Employment Expansion Program as an ongoing appropriation:
 - from the General Fund, \$728,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63J-1-602.4, as last amended by Laws of Utah 2017, Chapters 253, 430, and 470

ENACTS:

63N-4-401, Utah Code Annotated 1953

63N-4-402, Utah Code Annotated 1953

63N-4-403, Utah Code Annotated 1953

63N-4-404, Utah Code Annotated 1953

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

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office's authority

under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~(19)~~ (20) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~(20)~~ (21) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

~~(21)~~ (22) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 2. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(10) Funds appropriated or collected for publishing the Office of Administrative Rules' publications, as provided in Section 63G-3-402.

(11) The Immigration Act Restricted Account created in Section 63G-12-103.

(12) Money received by the military installation development authority, as provided in Section 63H-1-504.

(13) Appropriations from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(14) Appropriations from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(15) Appropriations from the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(16) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(17) Appropriations to the Utah Science Technology and Research Initiative created in Section 63M-2-301.

(18) Appropriations to fund the Governor’s Office of Economic Development’s Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(19) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(20) Appropriations to fund the Governor’s Office of Economic Development’s Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[20] (21) The Motion Picture Incentive Account created in Section 63N-8-103.

[21] (22) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

Section 3. Section 63N-4-401 is enacted to read:

Part 4. Rural Employment Expansion Program

63N-4-401. Title.

This part is known as the “Rural Employment Expansion Program.”

Section 4. Section 63N-4-402 is enacted to read:

63N-4-402. Definitions.

As used in this part:

(1) (a) “Business entity” means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) “Business entity” does not include a business primarily engaged in the following:

- (i) construction;
- (ii) staffing;
- (iii) retail trade; or
- (iv) public utility activities.

(2) “Immediate family member” means a spouse, child, parent, sibling, grandparent, or grandchild.

(3) “New full-time employee position” means a position that has been newly created in addition to

the highest baseline count of employment positions that existed within a business entity during the previous taxable year and is filled by an employee working at least 30 hours per week:

- (a) in a county of the fourth, fifth, or sixth class;
- (b) for a period of at least 12 consecutive months;
- (c) in a position that does not primarily involve:
 - (i) construction;
 - (ii) retail trade; or
 - (iii) public utility activities;
- (d) where the annual gross wage of the position, not including healthcare or other paid or unpaid benefits, is at least 125% of the average wage of the county in which the position exists; and

(e) who is not an immediate family member of an owner or officer of the business entity.

(4) (a) “Owner or officer” means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.

(b) “Owner or officer” includes:

- (i) a member of a board of directors or other governing body of an entity; or
- (ii) a partner in any type of partnership.

(5) “Rural employment expansion grant” means a grant available under this part.

Section 5. Section 63N-4-403 is enacted to read:

63N-4-403. Duties of the office.

(1) The office shall:

(a) review a business entity’s application for a rural employment expansion grant under this part in the order in which the application is received by the office;

(b) ensure that a rural employment expansion grant is only awarded to a business entity that meets the requirements of this part; and

(c) as part of the annual written report described in Section 63N-1-301, prepare an annual evaluation that provides:

- (i) the identity of each business entity that was provided a rural employment expansion grant by the office during the year of the annual report;
- (ii) the total amount awarded in rural employment expansion grants for each county; and
- (iii) an evaluation of the effectiveness of the rural employment expansion grant in bringing significant new employment to rural communities.

(2) The office may:

(a) authorize a rural employment expansion grant for a business entity under this part;

(b) audit a business entity to ensure:

(i) eligibility for a rural employment expansion grant; and

(ii) compliance with this part; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding the:

(i) form and content of an application for a rural employment expansion grant;

(ii) documentation or other requirements for a business entity to receive a rural employment expansion grant; and

(iii) administration of rural employment expansion grants, including an appeal process and relevant timelines and deadlines.

Section 6. Section 63N-4-404 is enacted to read:

63N-4-404. Rural employment expansion grant application process.

(1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a rural employment expansion grant as provided in this part shall provide the office with an application for a rural employment expansion grant in a form approved by the office that includes:

(a) a certification, by an officer of the business entity, of each signature on the application;

(b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a rural employment expansion grant; and

(c) any additional information required by the office.

(2) (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the rural employment expansion grant, the office shall:

(i) deny the application; or

(ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.

(b) (i) If the office denies an application, the business entity may appeal the denial to the office.

(ii) The office shall review any appeal within 10 business days and make a final determination of the business entity's eligibility for a grant under this part.

(3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a rural employment expansion grant and if there are available funds for the grant, the office shall enter

into a written agreement with the business entity that:

(a) indicates the maximum rural employment expansion grant amount the business entity is authorized to receive;

(b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and

(d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

(4) (a) Subject to available funds, the office may award a rural employment expansion grant to a business entity as follows:

(i) \$4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;

(ii) \$5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and

(iii) \$6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.

(b) A business entity may qualify for no more than \$25,000 in rural employment expansion grants in any fiscal year.

(5) (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:

(i) in a form prescribed by the office under Subsection (3)(c);

(ii) before the deadline described in Subsection (3)(d); and

(iii) that demonstrates that the business applicant has created new full-time employee positions.

(b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a rural employment expansion grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection 63N-2-903(1)(a).

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1,

Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Governor's Office of Economic Development -- Rural Employment Expansion Program

From General Fund \$728,000

Schedule of Programs:

Rural Employment Expansion Program \$728,000

Under Section 63J-1-602, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2019.

CHAPTER 341**H. B. 408**

Passed March 7, 2018
Approved March 20, 2018
Effective May 8, 2018

PUBLIC EDUCATION AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner
Cosponsors: Walt Brooks
Rebecca Chavez-Houck
Brad M. Daw
Justin L. Fawson
Timothy D. Hawkes
Karen Kwan
A. Cory Maloy
Carol Spackman Moss
Derrin R. Owens
Marie H. Poulson
Susan Pulsipher
Tim Quinn
V. Lowry Snow
Christine F. Watkins
Logan Wilde
Mike Winder

LONG TITLE**General Description:**

This bill creates the program Utah Leading through Effective, Actionable, and Dynamic Education.

Highlighted Provisions:

This bill:

- ▶ amends defined terms for the Utah Data Research Center; and
- ▶ enacts Title 53E, Chapter 10, Part 7, ULEAD, including:
 - defining terms;
 - creating and defining the duties of the Director Selection Committee;
 - enacting the qualifications, duties, and functions of the ULEAD director (director);
 - authorizing the director to collaborate or arrange with participating universities;
 - enacting language requiring the director to create and maintain electronic resources and a research clearinghouse; and
 - creating and defining the duties of the ULEAD Steering Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-14-102, as enacted by Laws of Utah 2017, Chapter 375 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 382

ENACTS:

53E-10-701, Utah Code Annotated 1953
53E-10-702, Utah Code Annotated 1953
53E-10-703, Utah Code Annotated 1953
53E-10-704, Utah Code Annotated 1953

53E-10-705, Utah Code Annotated 1953
53E-10-706, Utah Code Annotated 1953
53E-10-707, Utah Code Annotated 1953

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

Section 1. Section 35A-14-102 is amended to read:**35A-14-102. Definitions.**

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section 35A-14-203.

(2) "Center" means the Utah Data Research Center.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section 35A-14-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the Workforce Research and Analysis Division.

(7) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

(b) the State Board of Regents;

(c) the Utah System of Technical Colleges Board of Trustees;

(d) the Department of Workforce Services; and

(e) the Department of Health.

Section 2. Section 53E-10-701 is enacted to read:**Part 7. ULEAD****53E-10-701. Definitions.**

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Director" means the director of ULEAD appointed under this part.

(3) "Director Selection Committee" or "selection committee" means the committee created in Section 53E-10-703 that appoints the director.

(4) "Local education agency" or "LEA" means a public:

(a) school district;

(b) school; or

(c) charter school.

(5) "Participating institution" means a public or private research institution that enters into an arrangement with the director to provide research and other services described in this part.

(6) "Research clearinghouse" means a collection of information maintained and distributed by ULEAD in accordance with Section 53E-10-705.

(7) “Steering committee” means the committee that advises the director and is created in Section 53E-10-706.

(8) “ULEAD” means Utah Leading through Effective, Actionable, and Dynamic Education through the efforts of the director, participating institutions, and the steering committee as described in this part.

Section 3. Section 53E-10-702 is enacted to read:

53E-10-702. ULEAD established -- Duties -- Funding.

There is created the Utah Leading through Effective, Actionable, and Dynamic Education, a collaborative effort in research and innovation between the director, participating institutions, and education leaders to:

(1) gather and explain current education research in an electronic research clearinghouse for use by practitioners;

(2) initiate and disseminate research reports on innovative and successful practices by Utah LEAs, and guided by the steering committee, practitioners, and policymakers;

(3) promote statewide innovation and collaboration by:

(a) identifying experts in areas of practice;

(b) conducting conferences, webinars, and online forums for practitioners; and

(c) facilitating direct collaboration between schools; and

(4) (a) report to the Legislature and policymakers on innovative and successful K-12 practices; and

(b) in the report, propose policy changes to remove barriers to implementation of successful practices.

Section 4. Section 53E-10-703 is enacted to read:

53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

(1) The ULEAD director shall:

(a) (i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b) (i) be a full-time employee; and

(ii) report to the state superintendent of public instruction.

(2) The state superintendent shall:

(a) evaluate the director’s performance annually;

(b) report on the director’s performance to the selection committee; and

(c) provide space for the director and the director’s staff.

(3) The director may hire staff, using only money specifically appropriated to ULEAD.

(4) The director shall perform the following duties and functions:

(a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;

(b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:

(i) sharing innovative and effective practices shown to improve student learning;

(ii) identifying experts in specific areas of practice; and

(iii) maintaining a research clearinghouse and directory of researchers; and

(c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.

(5) The director shall:

(a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);

(b) identify Utah LEAs, or schools outside the public school system, that are:

(i) innovative in specific areas of practice; and

(ii) more effective or efficient than comparable LEAs in improving student learning;

(c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

(d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and

(e) (i) disseminate each innovative practice report to LEAs; and

(ii) publish innovative practice reports on the ULEAD website.

(6) In an innovative practice report, a participating institution shall:

(a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;

(b) identify through academically acceptable, evidence-based research methods the causes of the LEA’s successful practice;

(c) identify opportunities for LEAs to adopt or customize innovative or best practices;

(d) address limitations to successful replication or adaptation of the successful practice by other

LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;

(e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;

(f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and

(g) include:

(i) an executive summary describing the innovative practice report; and

(ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.

(7) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.

(8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.

(9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:

(a) the Legislature, amendments to state law; or

(b) the board, revisions to board rule or policy.

(10) The director shall:

(a) report on the activities of ULEAD annually to the board; and

(b) provide reports or other information to the board upon board request.

(11) The director shall:

(a) prepare an annual report on ULEAD research and other activities;

(b) on or before September 30, submit the annual report:

(i) to the Education Interim Committee and the Public Education Appropriations Subcommittee; and

(ii) in accordance with Section 68-3-14;

(c) publish the annual report on the ULEAD website; and

(d) disseminate the report to LEAs through electronic channels.

(12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices, featuring:

(a) Utah education leaders; and

(b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Section 5. Section 53E-10-704 is enacted to read:

53E-10-704. Director Selection Committee -- Membership -- Powers and duties -- Compensation.

(1) There is created the Director Selection Committee to appoint the director.

(2) The selection committee shall consist of the following nine members each appointed for two-year staggered terms, with the initial terms of the members described in Subsections (2)(a), (b), and (c) to be three years:

(a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) one member of the Senate, appointed by the president of the Senate;

(d) one member of the board, appointed by the chair of the board;

(e) one member of the Board of Regents, appointed by the chair of the Board of Regents;

(f) one member appointed by the state superintendent of public instruction;

(g) one member of the State Charter School Board, appointed by the chair of the State Charter School Board;

(h) one member of the Utah School Boards Association recognized in Section 53G-4-502, appointed by the association executive director; and

(i) one member of a state association that represents school superintendents, appointed by the association executive director.

(3) (a) A member of the selection committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) A majority of the members shall constitute a quorum for the transaction of selection committee business.

(5) (a) The selection committee shall select and appoint a director for a four-year term.

(b) The director may be appointed for more than one term.

(6) (a) In a year in which the director is appointed, the selection committee shall:

(i) solicit applications for the director position to be submitted no later than June 1;

(ii) hold at least two meetings to discuss candidates for the open director position; and

(iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.

(b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position occurs, the selection committee shall:

(i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;

(ii) hold at least two meetings to discuss candidates for the vacant position; and

(iii) no later than 60 business days after the day on which the position is vacated, select a candidate to fill the director position for the remainder of the term.

(7) (a) The selection committee:

(i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and

(ii) is the only person empowered to remove the director.

(b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.

(8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The selection committee shall:

(a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners; and

(b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program.

(10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 6. Section 53E-10-705 is enacted to read:

53E-10-705. Participating institutions.

(1) The director may arrange or collaborate with a participating institution:

(a) to conduct an innovative practice report or provide other research services, including research regarding barriers to adoption of practices studied by ULEAD;

(b) to assist an LEA to:

(i) facilitate communities of practice for replication or adaptation of best practices identified by ULEAD; and

(ii) advise teachers and school leaders on conducting their own research to improve education practices;

(c) to assist an LEA with an application to the board for waiver from a board rule in accordance with Section 53G-7-202 to allow replication or adaptation of best practices; or

(d) for any other purpose that is consistent with and advances the director's duties and functions.

(2) An agreement entered into by a participating institution with the board or an LEA to perform ULEAD work shall:

(a) include provisions allowing and governing external research data sharing; and

(b) comply with state and federal law.

(3) The director shall support federal and private research funding requests by a participating institution for research that is in support of the director's duties and functions.

Section 7. Section 53E-10-706 is enacted to read:

53E-10-706. Electronic resources -- Research clearinghouse.

(1) The board shall publish a ULEAD website containing information provided by the director as described in this part.

(2) The director shall within two years of appointment:

(a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and

(b) include in the research clearinghouse:

(i) research on K-12 education, including peer-reviewed research;

(ii) information on K-12 education innovation and best practices;

(iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;

(iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;

(v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section 35A-14-201 and data maintained by the board;

(vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and

(vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.

(3) The director shall publish:

(a) an electronic directory of K-12 education experts identified in ULEAD research and reports; and

(b) a monthly report to LEAs, via electronic channels provided by the board, highlighting

ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.

(4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Section 8. Section 53E-10-707 is enacted to read:

53E-10-707. ULEAD Steering Committee.

(1) (a) There is created the ULEAD Steering Committee.

(b) The director is the chair of the steering committee.

(2) The steering committee shall consist of the following members each appointed for a term of one year:

(a) the director;

(b) one member appointed by the chair of the board;

(c) the state superintendent of public instruction or the superintendent's designee;

(d) the staff director of the State Charter School Board or the director's designee;

(e) one member appointed by the office of the governor;

(f) one member, appointed by the director, who is a superintendent of a school district;

(g) one member, appointed by the director, of a local school board;

(h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;

(i) two principals or other public school leaders of charter schools, appointed by the director;

(j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and

(k) two members representing citizens or business, nominated by the members of the public and appointed by the director.

(3) (a) A member of the steering committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) (a) The steering committee shall hold a meeting at least semi annually in January and July or on dates otherwise chosen by the director.

(b) The board shall provide space for the steering committee to meet.

(5) The steering committee shall:

(a) discuss prospective and current ULEAD projects and findings;

(b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;

(c) facilitate connections between the director and Utah's political, business, education technology, and academic communities; and

(d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section 35A-14-201.

(6) In order to determine research priorities for ULEAD, the director shall consult with:

(a) members of the Legislature responsible for public education;

(b) members of Utah professional education associations, including principals and school boards; and

(c) policy-research centers based in Utah.

(7) The board or state superintendent of public instruction may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.

(8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

**CHAPTER 342
H. B. 444**

Passed March 7, 2018
Approved March 20, 2018
Effective May 8, 2018

**MARTHA HUGHES CANNON
STATUE OVERSIGHT COMMITTEE**

Chief Sponsor: Rebecca P. Edwards
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill creates the Martha Hughes Cannon Statue Oversight Committee.

Highlighted Provisions:

This bill:

- ▶ creates the Martha Hughes Cannon Statue Oversight Committee;
- ▶ provides that the committee is responsible for overseeing the creation and placement of a statue of Martha Hughes Cannon in the National Statuary Hall in the United States Capitol;
- ▶ describes the committee's powers and duties; and
- ▶ establishes a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

631-1-236, as last amended by Laws of Utah 2017, Chapter 192

ENACTS:

36-31-101, Utah Code Annotated 1953
36-31-102, Utah Code Annotated 1953
36-31-103, Utah Code Annotated 1953
36-31-104, Utah Code Annotated 1953

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

Section 1. Section 36-31-101 is enacted to read:

**CHAPTER 31. MARTHA HUGHES CANNON
CAPITOL STATUEOVERSIGHT
COMMITTEE**

36-31-101. Title.

This chapter is known as "Martha Hughes Cannon Capitol Statue Oversight Committee."

Section 2. Section 36-31-102 is enacted to read:

36-31-102. Definitions.

As used in this chapter, "committee" means the Martha Hughes Cannon Capitol Statue Oversight Committee created under Section 36-31-103.

Section 3. Section 36-31-103 is enacted to read:

36-31-103. Martha Hughes Cannon Capitol Statue Oversight Committee -- Creation -- Purpose -- Membership.

(1) There is created the Martha Hughes Cannon Capitol Statue Oversight Committee consisting of the following nine members:

(a) four members appointed by the speaker of the House of Representatives, one of whom the speaker shall appoint as cochair of the committee;

(b) four members appointed by the president of the Senate, one of whom the president shall appoint as cochair of the committee; and

(c) the state treasurer.

(2) A majority of committee members constitutes a quorum for the conduct of committee business.

(3) A committee member may not receive from public funds compensation, benefits, per diem, or expense reimbursement for the member's service on the committee.

(4) The committee shall select appropriate local and civic leaders and interested nonprofit organizations with which to partner to provide the committee:

(a) assistance in raising funds for use in fulfilling a committee duty described in Section 36-31-104; and

(b) any necessary staff or logistical support.

Section 4. Section 36-31-104 is enacted to read:

36-31-104. Committee duties.

(1) The committee shall:

(a) coordinate efforts to place a statue of Martha Hughes Cannon in the National Statuary Hall in the United States Capitol to replace the statue of Philo Farnsworth;

(b) ensure that efforts to place the statue of Martha Hughes Cannon conform with the requirements of 2 U.S.C. Chapter 30, Subchapter V, Part D, Miscellaneous;

(c) represent the state in interactions with the following in relation to the placement of the statue of Martha Hughes Cannon:

(i) the Joint Committee on the Library of Congress described in 2 U.S.C. Sec. 2132;

(ii) the architect of the capitol described in 2 U.S.C. Sec. 2132; and

(iii) any other federal entity;

(d) select a sculptor for the statue of Martha Hughes Cannon;

(e) ensure that the statue of Martha Hughes Cannon is created in marble or bronze, as required under 2 U.S.C. 92 Sec. 2131;

(f) approve the final design of the statue of Martha Hughes Cannon;

(g) ensure that the statue of Martha Hughes Cannon is unveiled in the National Statuary Hall in August of 2020, in commemoration of the month of the 100th anniversary of the ratification of the Nineteenth Amendment to the United States Constitution; and

(h) determine, in coordination with appropriate community leaders and local elected officials, an appropriate location for placement of the statue of Philo Farnsworth that is currently on display in the National Statuary Hall in the United States Capitol.

(2) The committee shall facilitate the creation of a nonprofit entity that is exempt from federal income tax under Section 501(c), Internal Revenue Code, to:

(a) collect charitable contributions to cover all costs associated with:

(i) the creation and placement of the statue of Martha Hughes Cannon in the National Statuary Hall in the United States Capitol;

(ii) the removal of the statue of Philo Farnsworth that is currently on display in the National Statuary Hall in the United States Capitol; and

(iii) the placement of the statue described in Subsection (2)(a)(ii) for display in a location designated by the committee under Subsection (1)(h);

(b) comply with the requirements of 2 U.S.C. Sec. 2132 regarding the cost of replacing a state's statue in the National Statuary Hall; and

(c) ensure that no state funds are used for any cost related to an item described in Subsection (2)(a).

Section 5. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates, Title 36.

(1) Section 36-12-20 is repealed June 30, 2018.

(2) Sections 36-26-101 through 36-26-104 are repealed December 31, 2027.

(3) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2021.

CHAPTER 343**S. B. 30**

Passed March 7, 2018

Approved March 20, 2018

Effective May 8, 2018

(Exception clause in Section 3)

AGGRAVATED MURDER AMENDMENTS

Chief Sponsor: Karen Mayne

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill clarifies and makes additions to the designation of aggravated murder victims, and creates a task force to study the Criminal Code.

Highlighted Provisions:

This bill:

- ▶ adds correctional officers, special function officers, search and rescue personnel, emergency medical personnel, ambulance personnel, and security officers to the list of potential aggravated murder victims;
- ▶ clarifies that all peace officers and emergency responders as defined in Utah Code are also to be designated as potential victims of aggravated murder; and
- ▶ creates a task force to study the criminal code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

76-5-202, as last amended by Laws of Utah 2017, Chapter 454

ENACTS:

36-29-103, Utah Code Annotated 1953

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

Section 1. Section 36-29-103 is enacted to read:**36-29-103. Criminal Code Evaluation Task Force.**

(1) As used in this section, "task force" means the Criminal Code Evaluation Task Force created in this section.

(2) There is created the Criminal Code Evaluation Task Force consisting of the following 15 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the director Utah Sentencing Commission or the director's designee;

(e) one member appointed by the presiding officer of the Utah Judicial Council;

(f) one member of the Utah Prosecution Council appointed by the chair of the Utah Prosecution Council;

(g) the executive director of the Utah Department of Corrections or the executive director's designee;

(h) the commissioner of the Utah Department of Public Safety or the commissioner's designee;

(i) the director of the Utah Office for Victims of Crime or the director's designee;

(j) an individual who represents an association of criminal defense attorneys, appointed by the president of the Senate; and

(k) an individual who represents an association of victim advocates, appointed by the speaker of the House of Representatives.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall review the state's criminal code and make recommendations regarding the proper classification of crimes by degrees of felony and misdemeanor.

(8) On or before November 30, 2018, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

Section 2. Section 76-5-202 is amended to read:

76-5-202. Aggravated murder.

(1) Criminal homicide constitutes aggravated murder if the actor intentionally or knowingly causes the death of another under any of the following circumstances:

(a) the homicide was committed by a person who is confined in a jail or other correctional institution;

(b) the homicide was committed incident to one act, scheme, course of conduct, or criminal episode during which two or more persons were killed, or during which the actor attempted to kill one or more persons in addition to the victim who was killed;

(c) the actor knowingly created a great risk of death to a person other than the victim and the actor;

(d) the homicide was committed incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, child abuse as defined in Subsection 76-5-109(2)(a), or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;

(e) the homicide was committed incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as defined in Subsection 76-9-704(2)(e);

(f) the homicide was committed for the purpose of avoiding or preventing an arrest of the defendant or another by a peace officer acting under color of legal authority or for the purpose of effecting the defendant's or another's escape from lawful custody;

(g) the homicide was committed for pecuniary gain;

(h) the defendant committed, or engaged or employed another person to commit the homicide pursuant to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;

(i) the actor previously committed or was convicted of:

(i) aggravated murder under this section;

(ii) attempted aggravated murder under this section;

(iii) murder, Section 76-5-203;

(iv) attempted murder, Section 76-5-203; or

(v) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (1)(i);

(j) the actor was previously convicted of:

(i) aggravated assault, Subsection 76-5-103(2);

(ii) mayhem, Section 76-5-105;

(iii) kidnapping, Section 76-5-301;

(iv) child kidnapping, Section 76-5-301.1;

(v) aggravated kidnapping, Section 76-5-302;

(vi) rape, Section 76-5-402;

(vii) rape of a child, Section 76-5-402.1;

(viii) object rape, Section 76-5-402.2;

(ix) object rape of a child, Section 76-5-402.3;

(x) forcible sodomy, Section 76-5-403;

(xi) sodomy on a child, Section 76-5-403.1;

(xii) aggravated sexual abuse of a child, Section 76-5-404.1;

(xiii) aggravated sexual assault, Section 76-5-405;

(xiv) aggravated arson, Section 76-6-103;

(xv) aggravated burglary, Section 76-6-203;

(xvi) aggravated robbery, Section 76-6-302;

(xvii) felony discharge of a firearm, Section 76-10-508.1; or

(xviii) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (1)(j);

(k) the homicide was committed for the purpose of:

(i) preventing a witness from testifying;

(ii) preventing a person from providing evidence or participating in any legal proceedings or official investigation;

(iii) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or

(iv) disrupting or hindering any lawful governmental function or enforcement of laws;

(l) the victim is or has been a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;

(m) the victim is ~~or has been a peace officer,~~ on duty in a verified position or the homicide is based on, is caused by, or is related to the victim's position, and the actor knew, or reasonably should have known, that the victim holds or has held the position of:

(i) a law enforcement officer, correctional officer, special function officer, or any other peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications;

(ii) an executive officer, prosecuting officer, jailer, or prison official[;];

(iii) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder as defined in Section 53-2b-102;

(iv) a judge or other court official, juror, probation officer, or parole officer[, and the victim is either on duty or the homicide is based on, is caused by, or is related to that official position, and the actor knew, or reasonably should have known, that the victim holds or has held that official position]; or

(v) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;

(n) the homicide was committed:

(i) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;

(ii) by means of any weapon of mass destruction as defined in Section 76-10-401; or

(iii) to target a law enforcement officer as defined in Section 76-5-210;

(o) the homicide was committed during the act of unlawfully assuming control of any aircraft, train, or other public conveyance by use of threats or force with intent to obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard, or to direct the route or movement of the public conveyance or otherwise exert control over the public conveyance;

(p) the homicide was committed by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;

(q) the victim was a person held or otherwise detained as a shield, hostage, or for ransom;

(r) the homicide was committed in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the victim before death;

(s) the actor dismembers, mutilates, or disfigures the victim's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or

(t) the victim, at the time of the death of the victim:

(i) was younger than 14 years of age; and

(ii) was not an unborn child.

(2) Criminal homicide constitutes aggravated murder if the actor, with reckless indifference to human life, causes the death of another incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major

participant in the commission or attempted commission of:

(a) child abuse, Subsection 76-5-109(2)(a);

(b) child kidnapping, Section 76-5-301.1;

(c) rape of a child, Section 76-5-402.1;

(d) object rape of a child, Section 76-5-402.3;

(e) sodomy on a child, Section 76-5-403.1; or

(f) sexual abuse or aggravated sexual abuse of a child, Section 76-5-404.1.

(3) (a) If a notice of intent to seek the death penalty has been filed, aggravated murder is a capital felony.

(b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(c) (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty. The notice shall be served on the defendant or defense counsel and filed with the court.

(ii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.

(d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

(e) If the defendant was younger than 18 years of age at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(4) (a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the defendant caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) This affirmative defense reduces charges only as follows:

(i) aggravated murder to murder; and

(ii) attempted aggravated murder to attempted murder.

(5) (a) Any aggravating circumstance described in Subsection (1) or (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

(b) A person who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (1) or (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 3. Effective date.

This bill takes effect on May 8, 2018, except that the amendments to Section 76-5-202 in this bill take effect on July 1, 2019.

CHAPTER 344**S. B. 35**

Passed February 7, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**WATER RIGHT FOR TROUT
 HABITAT REPEAL DATE EXTENSION**

Chief Sponsor: Allen M. Christensen
 House Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill extends the repeal date of the instream flow water right for trout habitat.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the instream flow water right for trout habitat found in Subsection 73-3-30(3).

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-273, as last amended by Laws of Utah 2008, Chapters 148, 311 and renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates, Title 73.

(1) Title 73, Chapter 27, State Water Development Commission, is repealed December 31, 2018.

(2) The instream flow water right for trout habitat established in Subsection 73-3-30(3) is repealed December 31, [2018] 2019.

CHAPTER 345**S. B. 37**

Passed February 12, 2018

Approved March 20, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

**SALES AND USE TAX
EXEMPTION AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ removes the requirement that a product purchased for resale be resold within the state to qualify for a sales and use tax exemption.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-12-104 is amended to read:****59-12-104. Exemptions.**

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

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

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

(a) construction materials except:

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

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

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

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

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

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

(i) to a passenger;

(ii) by a commercial airline carrier; and

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

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

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

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

(II) for:

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

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

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

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

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

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

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

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

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

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

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

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

(7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

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

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

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

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

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

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

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

(A) "syringe"; or

(B) "stoma supply";

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

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

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

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

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

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

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

(i) a medical facility; or

(ii) a nursing facility; and

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

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts with an economic life of three or more years by:

(a) a manufacturing facility, except as provided in Subsection (86), that:

(i) is located in the state; and

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

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in the operation of the web search portal;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the

tooling, equipment, or parts is vested in the United States government as evidenced by:

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

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

(16) sales of newspapers or newspaper subscriptions;

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

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

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

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

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

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

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

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

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

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

(19) sales of hay;

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

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

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

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

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

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

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

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

(i) the product is:

(A) purchased outside of this state;

- (B) brought into this state:
- (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- (II) by a nonresident person who is not living or working in this state at the time of the purchase;
- (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- (D) not used in conducting business in this state; and
- (ii) for:
- (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
- (B) a boat, the boat is registered outside of this state; or
- (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (24)(a) does not apply to:
- (i) a lease or rental of a product; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or
- (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);
- (25) a product purchased for resale ~~in this state,~~ in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;
- (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;
- (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;
- (28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;
- (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
- (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
- (i) sold or leased to or used by an authorized carrier; and
- (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

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

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

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

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”;

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

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

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

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

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

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

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

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

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

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

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

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

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

- (i) clearly identified; and
- (ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

- (a) purchased on or after July 1, 2010;
- (b) purchased by, on behalf of, or for the benefit of an international airport:

- (i) located within a county of the first class; and
- (ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

- (i) clearly identified;
- (ii) segregated; and
- (iii) installed or converted to real property:
 - (A) owned or operated by the international airport described in Subsection (66)(b); and
 - (B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

- (a) purchased on or after July 1, 2008;
- (b) purchased by, on behalf of, or for the benefit of a new airport:

- (i) located within a county of the second class; and
- (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

- (i) clearly identified;
- (ii) segregated; and
- (iii) installed or converted to real property:
 - (A) owned or operated by the new airport described in Subsection (67)(b);
 - (B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of

registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

- (i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

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

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

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

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;
- (83) amounts paid or charged for a purchase or lease of molten magnesium;
- (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:
- (i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and
- (ii) except for office:
- (A) equipment; or
- (B) supplies; and
- (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:
- (i) of 50% of the tax paid on the amounts paid or charged; and
- (ii) in accordance with Section 59-1-1410;
- (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years; and

(86) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility that:

(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) is located in the state; and

(d) uses the machinery, equipment, or normal operating repair or replacement parts in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(87) amounts paid or charged for a purchase or lease of equipment or normal operating repair or replacement parts with an economic life of less than three years by a manufacturing facility that:

(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) is located in the state; and

(d) uses the equipment or normal operating repair or replacement parts to manufacture hydrogen;

(88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle; and

(89) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2).

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2018.

CHAPTER 346**S. B. 45**

Passed February 22, 2018

Approved March 20, 2018

Effective May 8, 2018

**WATER LAW AMENDMENTS —
DILIGENCE CLAIMS**

Chief Sponsor: Margaret Dayton

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies provisions related to certain claims for water rights.

Highlighted Provisions:

This bill:

- ▶ requires the state engineer to include an evaluation of an asserted beneficial use in the report of a field investigation for a diligence claim; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-5-13, as last amended by Laws of Utah 2013, Chapters 221, 343, 429 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 429

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

Section 1. Section 73-5-13 is amended to read:

73-5-13. Claim to surface or underground water not otherwise represented -- Information required -- Corrections -- Filing -- Investigation -- Publication -- Judicial action to determine validity -- Rules.

(1) (a) A claimant to the right to the use of water, including both surface and underground water, whose right is not represented by a certificate of appropriation issued by the state engineer, by an application filed with the state engineer, by a court decree, or by a notice of claim filed pursuant to law, shall submit the claim to the state engineer in accordance with this section.

(b) Subsections (2) through (7) only apply to claims or corrected claims submitted to the state engineer in accordance with this section on or after May 14, 2013.

(2) (a) A claim submitted under this section shall be verified under oath by the claimant or the claimant's duly appointed representative and submitted on forms provided by the state engineer setting forth any information the state engineer requires, including:

- (i) the name and mailing address of the person making the claim;
- (ii) the quantity of water claimed in acre-feet or rate of flow in second-feet, or both, where appropriate;
- (iii) the source of supply;
- (iv) the priority date of the right;
- (v) the location of the point of diversion with reference to a United States land survey corner;
- (vi) the place of use;
- (vii) the nature and extent of use;
- (viii) the time during which the water has been used each year; and
- (ix) the date when the water was first used.

(b) The claim shall also include the following information, prepared by a Utah licensed engineer or a Utah licensed land surveyor:

- (i) measurements of the amount of water diverted;
- (ii) a statement that the quantity of water claimed either in acre-feet or cubic feet per second is consistent with the beneficial use claimed and the supply that the source is capable of producing; and
- (iii) a map showing the original diversion and conveyance works and where the water was placed to beneficial use, including irrigated lands, if irrigation is the claimed beneficial use.

(c) The state engineer may require additional information as necessary to evaluate any claim including:

- (i) affidavits setting forth facts of which the affiant has personal knowledge;
- (ii) authenticated or historic photographs, plat or survey maps, or surveyors' notes;
- (iii) authenticated copies of original diaries, personal histories, or other historical documents that document the claimed use of water; and
- (iv) other relevant records on file with any county recorder's, surveyor's, or assessor's office.

(3) (a) A claimant, or a claimant's successor in interest, as shown in the records of the state engineer may file a corrected claim that:

- (i) is designated as a corrected claim;
- (ii) includes the information described in Subsection (2); and
- (iii) bears the same number as the original claim.

(b) If a corrected claim that meets the requirements described in Subsection (3)(a) is filed before the state engineer publishes the original claim in accordance with Subsection (4)(a)(iv), the state engineer may not charge an additional fee for filing the corrected claim.

(c) The state engineer shall treat a corrected claim that is filed in accordance with Subsection

(3)(a) as if the corrected claim were the original claim.

(4) (a) When a claimant submits a claim that is acceptably complete under Subsection (2) and deposits money with the state engineer sufficient to pay the expenses of conducting a field investigation and publishing a notice of the claim, the state engineer shall:

- (i) file the claim;
- (ii) endorse the date of its receipt;
- (iii) assign the claim a water right number;
- (iv) publish a notice of the claim following the same procedures as provided in Section 73-3-6; and

(v) if the claimant is the federal government or a federal agency, provide a copy of the claim to the members of the Natural Resources, Agriculture, and Environment Interim Committee.

(b) Any claim not acceptably complete under Subsection (2) shall be returned to the claimant.

(c) The acceptance of any claim filed under this section by the state engineer may not be considered to be an adjudication by the state engineer of the validity of the claimed water right.

(5) (a) The state engineer shall:

- (i) conduct a field investigation of each claim filed; and
- (ii) prepare a report of the investigation.

(b) In preparing the report of the investigation described in Subsection (5)(a), the state engineer shall:

(i) apply Section 73-1-3; and

(ii) include an evaluation of the asserted beneficial uses as they existed at the time of the claimed priority date, specifically identifying any portion of the claim that was not placed to beneficial use in accordance with law.

~~(4b)~~ (c) The report of the investigation shall:

- (i) become part of the file on the claim; and
- (ii) be admissible in any administrative or judicial proceeding regarding the validity of the claim.

(6) (a) Any person who may be damaged by a diversion and use of water as described in a claim submitted pursuant to this section may file an action in district court to determine the validity of the claim, regardless of whether the state engineer has filed the claim in accordance with Subsection (4)(a).

(b) Venue for an action brought under Subsection (6)(a) shall be in the county where the point of diversion listed in the claim is located, or in a county where the place of use, or some part of it, is located.

(c) The action shall be brought against the claimant to the use of water or the claimant's successor in interest.

(d) In any action brought to determine the validity of a claim to the use of water under this section, the claimant shall have the initial burden of proof as to the validity of the claimed right.

(e) (i) A person filing an action challenging the validity of a claim to the use of water under this section shall notify the state engineer of the pendency of the action in accordance with state engineer rules.

(ii) Upon receipt of the notice, the state engineer may take no action on any change or exchange applications founded on the claim that is the subject of the pending litigation until the court adjudicates the matter.

(f) Upon the entering of any final order or decree in a judicial action to determine the validity of a claim under this section, the prevailing party shall file a certified copy of the order or decree with the state engineer, who shall incorporate the order into the state engineer's file on the claim.

(7) (a) In a general adjudication of water rights under Title 73, Chapter 4, Determination of Water Rights, after completion of final summons in accordance with Section 73-4-22, a district court may, by decree, prohibit future claims from being filed under this section in the general adjudication area, division, or subdivision.

(b) If the state engineer receives a claim for an area where a court has prohibited filing under Subsection (7)(a), the state engineer shall return the claim to the claimant without further action.

CHAPTER 347**S. B. 54**

Passed March 7, 2018

Approved March 20, 2018

Effective September 30, 2018

**MARRIAGE AND PREMARITAL
COUNSELING AND EDUCATION
AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Rebecca P. Edwards

Cosponsors: J. Stuart Adams

Curtis S. Bramble

Wayne A. Harper

Lyle W. Hillyard

Don L. Ipson

Kevin T. Van Tassel

LONG TITLE**General Description:**

This bill modifies provisions related to marriage.

Highlighted Provisions:

This bill:

- ▶ authorizes the county clerk to increase the marriage license fee and requires deposit of the increase amount into the General Fund as a nonlapsing dedicated credit unless certain conditions are met;
- ▶ addresses premarital counseling or education, including:
 - certifying completion of premarital counseling or education;
 - reducing the marriage license fee if requirements for premarital counseling or education are met;
 - providing what activities are included in premarital counseling and education; and
 - removing a specific penalty;
- ▶ outlines duties of the Utah Marriage Commission;
- ▶ provides for a five year sunset review; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Human Services - Executive director operations, as an ongoing appropriation;
 - from Dedicated Credit Revenue, \$300,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 17-16-21, as last amended by Laws of Utah 2013, Chapter 278
- 30-1-30, as enacted by Laws of Utah 1971, Chapter 64
- 30-1-34, as enacted by Laws of Utah 1971, Chapter 64
- 30-1-36, as enacted by Laws of Utah 1971, Chapter 64
- 62A-1-120, as last amended by Laws of Utah 2014, Chapter 387

63I-1-217, as enacted by Laws of Utah 2017, Chapter 313

63I-1-230, as renumbered and amended by Laws of Utah 2008, Chapter 382

63I-1-262, as last amended by Laws of Utah 2017, Chapter 459

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63J-1-602.1 (Effective 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 107, 194, and 383

REPEALS:

30-1-39, as enacted by Laws of Utah 1971, Chapter 64

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

Section 1. Section 17-16-21 is amended to read:**17-16-21. Fees of county officers.**

(1) As used in this section, "county officer" means ~~all of the~~ a county ~~officers~~ officer enumerated in Section 17-53-101 except a county ~~recorders, county constables, and county sheriffs~~ recorder, a county constable, or a county sheriff.

(2) (a) ~~Each~~ A county officer shall collect, in advance, for exclusive county use and benefit:

(i) ~~all fees~~ a fee established by the county legislative body under Section 17-53-211; and

(ii) any other ~~fees~~ fee authorized or required by law.

(b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:

(i) assess \$10 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit in the Children's Legal Defense Account.

(c) (i) As long as the Division of Child and Family Services, created in Section 62A-4a-103, has the responsibility under Section 62A-4a-105 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:

(A) collect \$10 in addition to whatever fee for a marriage license is established under authority of this section~~;~~ and in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional \$10; and

(B) to the extent actually paid, transmit \$10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.

(ii) (A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional \$10 referred to in Subsection (2)(c)(i).

(B) An applicant for a marriage license may choose not to pay the additional \$10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a marriage license.

(d) If a county operates an online marriage application system, the county clerk of that county:

(i) may assess \$20 in addition to the other fees for a marriage license established under this section;

(ii) except as provided in Subsection (2)(d)(iii), shall transmit \$20 from the marriage license fee to the state treasurer for deposit annually as follows:

(A) the first \$400,000 shall accrue to the Utah Marriage Commission, created in Section 62A-1-120, as dedicated credits for the operation of the Utah Marriage Commission; and

(B) proceeds in excess of \$400,000 shall be deposited into the General Fund; and

(iii) may not transmit \$20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section 30-1-34.

(3) This section does not apply to ~~[any fees]~~ a fee currently being assessed by the state but collected by a county ~~[officers]~~ officer.

Section 2. Section 30-1-30 is amended to read:

30-1-30. Premarital counseling or education -- State policy -- Applicability.

It is the policy of the state ~~[of Utah]~~ to enhance the possibility of couples to achieve more stable, satisfying, and enduring marital and family relationships by providing opportunities for and encouraging the use of premarital counseling ~~[prior to]~~ or education before securing a marriage license ~~[by persons under 19 years of age and by persons who have been previously divorced].~~

Section 3. Section 30-1-34 is amended to read:

30-1-34. Completion of counseling or education.

(1) ~~The county clerk of [any] a county [which has adopted this act shall issue a marriage license to those applicants who come within the premarital counseling requirements of this act when the applicants present a certificate from the premarital counseling board that the counseling has been completed or has been found to be adequate if the license application otherwise conforms to the requirements for issuance of a marriage license. For those applicants who would otherwise need approval of the district court in order to marry, the certificate shall take the place of court consent if the parents, guardian or custodial parent of the applicant have given their consent to the marriage.] that operates an online marriage application system and issues a marriage license to applicants who certify completion of premarital counseling or~~

~~education in accordance with Subsection (2) shall reduce the marriage license fee by \$20.~~

(2) (a) ~~To qualify for the reduced fee under Subsection (1), the applicants shall certify completion of premarital counseling or education in accordance with this Subsection (2).~~

(b) ~~To complete premarital counseling or education, the applicants:~~

(i) ~~shall obtain the premarital counseling or education from:~~

(A) ~~a licensed or ordained minister or the minister's designee who is trained by the minister or denomination to conduct premarital counseling or education;~~

(B) ~~an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;~~

(C) ~~an individual certified by a national organization recognized by the Utah Marriage Commission, created in Section 62A-1-120, as a family life educator;~~

(D) ~~a family and consumer sciences educator;~~

(E) ~~an individual who is an instructor approved by a premarital education curriculum that meets the requirements of Subsection (2)(b)(ii); or~~

(F) ~~an online course approved by the Utah Marriage Commission;~~

(ii) ~~shall receive premarital counseling or education that includes information on important factors associated with strong and healthy marriages, including:~~

(A) ~~commitment in marriage; and~~

(B) ~~effective communication and problem-solving skills, including avoiding violence and abuse in the relationship;~~

(iii) ~~shall complete at least three hours of premarital counseling or six hours of premarital education meeting the requirements of this Subsection (2); and~~

(iv) ~~shall complete the premarital counseling or education meeting the requirements of this Subsection (2) not more than one year before but at least 14 days before the day on which the marriage license is issued.~~

(c) ~~Although applicants are encouraged to take the premarital counseling or education together, each applicant may comply with the requirements of this Subsection (2) separately.~~

(3) ~~A provider of premarital counseling or education under this section is encouraged to use research-based relationship inventories.~~

Section 4. Section 30-1-36 is amended to read:

30-1-36. Activities included in premarital counseling or education.

(1) ~~Premarital counseling [as used in this act shall] may include [but not be limited to lectures,]~~

group counseling, individual counseling [and testing], and couple counseling.

(2) Premarital education may include:

(a) a lecture, class, seminar, or workshop provided by a person that meets the requirements of Subsection 30-1-34(2)(b)(i); or

(b) an online course approved by the Utah Marriage Commission as provided in Subsection 30-1-34(2)(b)(i)(F).

Section 5. Section 62A-1-120 is amended to read:

62A-1-120. Utah Marriage Commission.

(1) As used in this section, "commission" means the Utah Marriage Commission created by this section.

(2) There is created within the department the "Utah Marriage Commission."

(3) The commission shall consist of 17 members appointed as follows:

(a) two members of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives;

(c) six current or former representatives from marriage and family studies departments, social or behavioral sciences departments, health sciences departments, colleges of law, or other related and supporting departments at institutions of higher education in this state, as shall be appointed by the governor;

(d) five representatives selected and appointed by the governor from among the following groups:

(i) social workers who are or have been licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

(ii) psychologists who are or have been licensed under Title 58, Chapter 61, Psychologist Licensing Act;

(iii) physicians who are or have been board certified in psychiatry and are or have been licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(iv) marriage and family therapists who are or have been licensed under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;

(v) representatives of faith communities;

(vi) public health professionals;

(vii) representatives of domestic violence prevention organizations; or

(viii) legal professionals; and

(e) two representatives of the general public appointed by the members of the commission appointed under Subsections (3)(a) through (d).

(4) (a) A member appointed under Subsections (3)(c) through (e) shall serve for a term of four years. A member may be appointed for subsequent terms.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member shall serve until a replacement is appointed and qualified.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(5) (a) The commission shall annually elect a chair from its membership.

(b) The commission shall hold meetings as needed to carry out its duties. A meeting may be held on the call of the chair or a majority of the commission members.

(c) Nine commission members constitute a quorum and, if a quorum exists, the action of a majority of commission members present constitutes the action of the commission.

(6) (a) A commission member who is not a legislator may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall staff the commission.

(8) The commission shall:

(a) promote coalitions and collaborative efforts to uphold and encourage a strong and healthy culture of strong and lasting marriages and stable families;

(b) contribute to greater awareness of the importance of marriage and leading to reduced divorce and unwed parenthood in the state;

(c) promote public policies that support marriage;

(d) promote programs and activities that educate individuals and couples on how to achieve strong, successful, and lasting marriages, including promoting and assisting in the offering of:

(i) events;

(ii) classes and services, including those designed to promote strong, healthy, and lasting marriages and prevent domestic violence;

(iii) marriage and relationship education conferences for the public and professionals; and

(iv) enrichment seminars;

(e) actively promote measures designed to maintain and strengthen marriage, family, and the relationships between ~~[husband and wife]~~ spouses and parents and children; ~~[and]~~

(f) support volunteerism and private financial contributions and grants in partnership with the commission and in support of the commission's purposes and activities for the benefit of the state as provided in this section~~[-]~~;

(g) regularly publicize information on premarital counseling and education services available in the state that comply with Section 30-1-34;

(h) approve an online course meeting the requirements of Section 30-1-34; and

(i) for purposes of Section 30-1-34, recognize one or more national organizations that certify family life educators.

(9) Funding for the commission shall be as approved by the Legislature through annual appropriations and the added funding sought by the commission from private contributions and grants that support the duties of the commission described in Subsection (8).

Section 6. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates, Title 17.

(1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

~~[(4)]~~ (2) (a) Subsections 17-36-55(1)(b), (1)(c), and (3) are repealed July 1, 2018.

~~[(2)]~~ (b) When repealing the subsections listed in Subsection ~~[(4)]~~ (2)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make other modifications necessary to ensure that the remaining subsections are complete sentences, grammatically correct, and have correct numbering and cross references to accurately reflect the office's perception of the Legislature's intent.

Section 7. Section 63I-1-230 is amended to read:

63I-1-230. Repeal dates, Title 30.

Sections 30-1-34, 30-1-36, and 30-1-39 are repealed July 1, 2023.

Section 8. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

~~[(4)]~~ (2) Section 62A-4a-213 is repealed July 1, 2019.

~~[(2)]~~ (3) Section 62A-4a-202.9 is repealed December 31, 2019.

~~[(3)]~~ (4) Subsection 62A-15-1101(5) is repealed July 1, 2018.

Section 9. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(8) is repealed July 1, 2023.

~~[(12)]~~ (13) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(13)]~~ (14) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

~~[(14)]~~ (15) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

~~[(15)]~~ (16) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

~~[(16)]~~ (17) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(16)]~~ (17)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(16)]~~ (17)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(17)]~~ (18) Section 63N-2-512 is repealed on July 1, 2021.

~~[(18)]~~ (19) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(18)]~~ (19)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(19)]~~ (20) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(20)]~~ (21) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

~~[(21)]~~ (22) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 10. Section 63J-1-602.1 (Effective 09/30/18) is amended to read:

63J-1-602.1 (Effective 09/30/18). List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The Native American Repatriation Restricted Account created in Section 9-9-407.

(5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(6) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(7) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(8) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

~~[(8)]~~ (9) The Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5.

~~[(9)]~~ (10) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

~~[(10)]~~ (11) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

[~~(11)~~] (12) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

[~~(12)~~] (13) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

[~~(13)~~] (14) The primary care grant program created in Section 26-10b-102.

[~~(14)~~] (15) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

[~~(15)~~] (16) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

[~~(16)~~] (17) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~(17)~~] (18) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~(18)~~] (19) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~(19)~~] (20) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds and accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services - Executive Director Operations

<u>From Dedicated Credits Revenue</u>	<u>\$300,000</u>
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Schedule of Programs:

<u>Marriage Commission</u>	<u>\$300,000</u>
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Section 12. Repealer.

This bill repeals:

Section 30-1-39, Violation of counseling provisions -- Misdemeanor.

Section 13. Effective date.

This bill takes effect September 30, 2018.

CHAPTER 348**S. B. 61**

Passed February 14, 2018

Approved March 20, 2018

Effective May 8, 2018

**WATER RIGHTS
ADJUDICATION AMENDMENTS**

Chief Sponsor: Margaret Dayton

House Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill deals with the procedure for filing a claim for the right to use water.

Highlighted Provisions:

This bill:

- ▶ modifies the summons for a general adjudication of a water right;
- ▶ states that if the state engineer receives an untimely statement of claim, the state engineer shall return the claim to the claimant without further action;
- ▶ authorizes the state engineer to prepare and file an addendum to a proposed determination, under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-4-4, as last amended by Laws of Utah 2016, Chapter 72

73-4-9, as last amended by Laws of Utah 2016, Chapter 72

73-4-11, as last amended by Laws of Utah 2016, Chapter 72

73-5-13, as last amended by Laws of Utah 2013, Chapters 221, 343, 429 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 429

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

Section 1. Section 73-4-4 is amended to read:**73-4-4. Summons for general adjudication of water rights -- Requirements to serve summons individually and generally -- Statement of claim requirement.**

(1) (a) The state engineer shall, by mail, serve a summons to a claimant of record in the state engineer's office within a general adjudication area, division, or subdivision.

(b) (i) The state engineer may serve, by publication, a general summons to claimants in a general adjudication area, division, or subdivision, who are not of record in the state engineer's office, if the state engineer files an affidavit with the district court, verifying that the state engineer has, in accordance with Section 73-4-3, searched the

records of the state engineer's office for claimants in the general adjudication area, division, or subdivision.

(ii) The state engineer shall publish, in accordance with the Utah Rules of Civil Procedure, a general summons described in Subsection (1)(b)(i):

(A) once a week for five successive weeks in one or more newspapers, determined by the judge of the district court as most likely to give notice to the claimants served; and

(B) for five weeks, in accordance with Section 45-1-101.

(iii) Service of a general summons is completed upon the last required date of publication.

(c) The summons shall be substantially in the following form:

"In the District Court of _____ County, State of Utah, in the matter of the general adjudication of water rights in the described water source.

SUMMONS

The State of Utah to the said defendant:

You are hereby summoned [~~to appear and defend~~] in the above entitled action which is brought for the purpose of making a general determination of the water rights of the described water source. Upon the service of this summons upon you, you will thereafter be subject to the jurisdiction of the entitled court and, if you have or intend to claim a water right, it shall be your duty to follow further proceedings in the above entitled action and to defend and protect your water rights therein. The state engineer will give a further notice sent to your last-known address, that you must file a statement of claim in this action setting forth the nature of your claim, and said notice will specify the date upon which your statement of claim is due and thereafter you must file said claim within the time set and your failure so to do will constitute a default in the premises and a judgment may be entered against you declaring that you have no right to the use of water not claimed."

(2) If the state engineer is required, under this section, to serve a summons on the United States, the state engineer shall serve the summons in accordance with federal law.

Section 2. Section 73-4-9 is amended to read:**73-4-9. Failure to file a statement of claim.**

(1) The filing of each statement of claim shall be considered notice to all persons of the claim of the party making the same, and failing to make and deliver such statement of claim to the state engineer or the district court within the time prescribed by Section 73-4-5, or as extended pursuant to Section 73-4-10, shall be considered evidence of an intent to abandon the right.

(2) If a claimant fails to timely file a statement of claim, as provided in this chapter, for a right not of record in the state engineer's office, the claimant is forever barred and estopped from subsequently asserting the unclaimed right.

(3) If the state engineer receives an untimely statement of claim, the state engineer shall return the claim to the claimant without further action.

(4) If an untimely statement of claim is filed with the court, the state engineer shall take no further action unless a claimant's failure to file a timely claim is excused pursuant to Subsection 73-4-9.5(3).

(5) Subsections (3) and (4) apply whether the untimely claim is asserted pursuant to Section 73-4-5 or 73-5-13.

Section 3. Section 73-4-11 is amended to read:

73-4-11. Proposed determination by engineer to court -- Hydrographic survey map -- Notice -- Public meeting.

(1) After full consideration of the statements of claims, records, and files, and after an examination of the river system or water source involved, the state engineer shall for the general adjudication area, division, or subdivision:

- (a) complete a hydrographic survey map;
- (b) prepare a proposed determination of all rights to the use of the water and file it with the district court;
- (c) serve notice of completion of the proposed determination by publication and by mail, in accordance with Subsection 73-4-3(5), to each claimant of record in the state engineer's office within the general adjudication area, division, or subdivision, that includes:
 - (i) (A) a copy of the proposed determination; or
 - (B) instructions on how to obtain or access an electronic copy of the proposed determination; and
 - (ii) a statement describing the claimant's right to file an objection to the proposed determination within 90 days after the day on which the notice of completion of the proposed determination is served; and
- (d) hold a public meeting in the area, division, or subdivision covered by the proposed determination to explain the proposed determination to the claimants.

(2) A claimant who desires to object to the state engineer's proposed determination shall, within 90 days after the day on which the state engineer served the claimant with notice of completion of the proposed determination, file a written objection to the proposed determination with the district court.

(3) The state engineer shall distribute the waters from the natural streams or other natural sources:

(a) in accordance with the proposed determination or modification to the proposed determination by court order until a final decree is rendered by the court; or

(b) if the right to the use of the waters has been decreed or adjudicated, in accordance with the

decree until the decree is reversed, modified, vacated, or otherwise legally set aside.

(4) Following the proposed determination, the state engineer may prepare and file one or more addenda to one or more proposed determinations, provided the state engineer:

- (a) files the addendum with the court;
- (b) in the preamble, provides an explanation of the issues addressed in the addendum;
- (c) serves the addendum, in the same manner as provided in Subsection (1)(c), on each owner of record, according to the state engineer's records, of a perfected water right authorizing the diversion of water from within the area, division, or subdivision covered by the addendum; and
- (d) holds a public meeting in the same manner as provided in Subsection (1)(d).

Section 4. Section 73-5-13 is amended to read:

73-5-13. Claim to surface or underground water not otherwise represented -- Information required -- Corrections -- Filing -- Investigation -- Publication -- Judicial action to determine validity -- Rules.

(1) (a) A claimant to the right to the use of water, including both surface and underground water, whose right is not represented by a certificate of appropriation issued by the state engineer, by an application filed with the state engineer, by a court decree, or by a notice of claim filed pursuant to law, shall submit the claim to the state engineer in accordance with this section.

(b) Subsections (2) through (7) only apply to claims or corrected claims submitted to the state engineer in accordance with this section on or after May 14, 2013.

(2) (a) A claim submitted under this section shall be verified under oath by the claimant or the claimant's duly appointed representative and submitted on forms provided by the state engineer setting forth any information the state engineer requires, including:

- (i) the name and mailing address of the person making the claim;
- (ii) the quantity of water claimed in acre-feet or rate of flow in second-feet, or both, where appropriate;
- (iii) the source of supply;
- (iv) the priority date of the right;
- (v) the location of the point of diversion with reference to a United States land survey corner;
- (vi) the place of use;
- (vii) the nature and extent of use;
- (viii) the time during which the water has been used each year; and
- (ix) the date when the water was first used.

(b) The claim shall also include the following information, prepared by a Utah licensed engineer or a Utah licensed land surveyor:

(i) measurements of the amount of water diverted;

(ii) a statement that the quantity of water claimed either in acre-feet or cubic feet per second is consistent with the beneficial use claimed and the supply that the source is capable of producing; and

(iii) a map showing the original diversion and conveyance works and where the water was placed to beneficial use, including irrigated lands, if irrigation is the claimed beneficial use.

(c) The state engineer may require additional information as necessary to evaluate any claim including:

(i) affidavits setting forth facts of which the affiant has personal knowledge;

(ii) authenticated or historic photographs, plat or survey maps, or surveyors' notes;

(iii) authenticated copies of original diaries, personal histories, or other historical documents that document the claimed use of water; and

(iv) other relevant records on file with any county recorder's, surveyor's, or assessor's office.

(3) (a) A claimant, or a claimant's successor in interest, as shown in the records of the state engineer may file a corrected claim that:

(i) is designated as a corrected claim;

(ii) includes the information described in Subsection (2); and

(iii) bears the same number as the original claim.

(b) If a corrected claim that meets the requirements described in Subsection (3)(a) is filed before the state engineer publishes the original claim in accordance with Subsection (4)(a)(iv), the state engineer may not charge an additional fee for filing the corrected claim.

(c) The state engineer shall treat a corrected claim that is filed in accordance with Subsection (3)(a) as if the corrected claim were the original claim.

(4) (a) When a claimant submits a claim that is acceptably complete under Subsection (2) and deposits money with the state engineer sufficient to pay the expenses of conducting a field investigation and publishing a notice of the claim, the state engineer shall:

(i) file the claim;

(ii) endorse the date of its receipt;

(iii) assign the claim a water right number;

(iv) publish a notice of the claim following the same procedures as provided in Section 73-3-6; and

(v) if the claimant is the federal government or a federal agency, provide a copy of the claim to the

members of the Natural Resources, Agriculture, and Environment Interim Committee.

(b) Any claim not acceptably complete under Subsection (2) shall be returned to the claimant.

(c) The acceptance of any claim filed under this section by the state engineer may not be considered to be an adjudication by the state engineer of the validity of the claimed water right.

(5) (a) The state engineer shall:

(i) conduct a field investigation of each claim filed; and

(ii) prepare a report of the investigation.

(b) The report of the investigation shall:

(i) become part of the file on the claim; and

(ii) be admissible in any administrative or judicial proceeding regarding the validity of the claim.

(6) (a) Any person who may be damaged by a diversion and use of water as described in a claim submitted pursuant to this section may file an action in district court to determine the validity of the claim, regardless of whether the state engineer has filed the claim in accordance with Subsection (4)(a).

(b) Venue for an action brought under Subsection (6)(a) shall be in the county where the point of diversion listed in the claim is located, or in a county where the place of use, or some part of it, is located.

(c) The action shall be brought against the claimant to the use of water or the claimant's successor in interest.

(d) In any action brought to determine the validity of a claim to the use of water under this section, the claimant shall have the initial burden of proof as to the validity of the claimed right.

(e) (i) A person filing an action challenging the validity of a claim to the use of water under this section shall notify the state engineer of the pendency of the action in accordance with state engineer rules.

(ii) Upon receipt of the notice, the state engineer may take no action on any change or exchange applications founded on the claim that is the subject of the pending litigation until the court adjudicates the matter.

(f) Upon the entering of any final order or decree in a judicial action to determine the validity of a claim under this section, the prevailing party shall file a certified copy of the order or decree with the state engineer, who shall incorporate the order into the state engineer's file on the claim.

(7) (a) In a general adjudication of water rights under Title 73, Chapter 4, Determination of Water Rights, after completion of final summons in accordance with Section 73-4-22, a district court may, by decree, prohibit future claims from being filed under this section in the general adjudication area, division, or subdivision.

~~(b) If the state engineer receives a claim for an area where a court has prohibited filing under~~

~~Subsection (7)(a), the state engineer shall return the claim to the claimant without further action.]~~

(b) If the state engineer receives a claim for an area where a court has prohibited filing under Subsection (7)(a) or Section 73-4-9.5, or the claim is untimely as provided in Section 73-4-5, the state engineer shall return the claim to the claimant without further action.

CHAPTER 349**S. B. 96**

Passed March 6, 2018
Approved March 20, 2018
Effective May 8, 2018

CANAL AMENDMENTS

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

LONG TITLE**General Description:**

This bill changes the procedure to modify a water conveyance facility.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a process for a property owner and the owner of a water conveyance facility to approve and move forward with a plan to modify a water conveyance facility;
- ▶ states that the Office of the Property Rights Ombudsman shall provide mediation and arbitration services to a property owner and facility owner when requested; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-43-204, as last amended by Laws of Utah 2014, Chapter 59

73-1-15, as last amended by Laws of Utah 2005, Chapter 215

ENACTS:

73-1-15.5, Utah Code Annotated 1953

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

Section 1. Section 13-43-204 is amended to read:**13-43-204. Office of the Property Rights Ombudsman -- Arbitration or mediation of disputes.**

(1) If requested by the private property owner, or in the case of a water conveyance facility either the private property owner or the facility owner of the water conveyance facility, and if otherwise appropriate, the Office of the Property Rights Ombudsman shall mediate, or conduct or arrange arbitration for^[7]:

(a) a dispute between the owner and a government entity or other type of condemning entity:

~~(a)~~ (i) involving taking or eminent domain issues;

~~(b)~~ (ii) involved in an action for eminent domain under Title 78B, Chapter 6, Part 5, Eminent Domain; or

~~(e)~~ (iii) involving relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act^[7]; or

(b) the private property owner and the facility owner of a water conveyance facility as described in Section 73-1-15.5 regarding:

(i) the relocation of the water conveyance facility; or

(ii) a modification to the method of water delivery of the water conveyance facility.

(2) If arbitration or mediation is requested by a private property owner under this section, Section 57-12-14, or 78B-6-522, or either the private property owner or the facility owner of a water conveyance facility under Section 73-1-15.5, and arranged by the Office of the Property Rights Ombudsman, the ~~government entity or condemning entity~~ parties shall participate in the mediation or arbitration as if the matter were ordered to mediation or arbitration by a court.

(3) (a) (i) In conducting or arranging for arbitration under Subsection (1), the Office of the Property Rights Ombudsman shall follow the procedures and requirements of Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(ii) In applying Title 78B, Chapter 11, Utah Uniform Arbitration Act, the arbitrator and parties shall treat the matter as if:

(A) it were ordered to arbitration by a court; and

(B) the Office of the Property Rights Ombudsman or other arbitrator chosen as provided for in this section was appointed as arbitrator by the court.

(iii) For the purpose of an arbitration conducted under this section, if the dispute to be arbitrated is not already the subject of legal action, the district court having jurisdiction over the county where the private property involved in the dispute is located is the court referred to in Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(iv) An arbitration award under this chapter may not be vacated under the provisions of Subsection 78B-11-124(1)(e) because of the lack of an arbitration agreement between the parties.

(b) The Office of the Property Rights Ombudsman shall issue a written statement declining to mediate, arbitrate, or to appoint an arbitrator when, in the opinion of the Office of the Property Rights Ombudsman:

(i) the issues are not ripe for review;

(ii) assuming the alleged facts are true, no cause of action exists under United States or Utah law;

(iii) all issues raised are beyond the scope of the Office of the Property Rights Ombudsman's statutory duty to review; or

(iv) the mediation or arbitration is otherwise not appropriate.

(c) (i) The Office of the Property Rights Ombudsman shall appoint another person to arbitrate a dispute when:

(A) either party objects to the Office of the Property Rights Ombudsman serving as the arbitrator and agrees to pay for the services of another arbitrator;

(B) the Office of the Property Rights Ombudsman declines to arbitrate the dispute for a reason other than those stated in Subsection (3)(b) and one or both parties are willing to pay for the services of another arbitrator; or

(C) the Office of the Property Rights Ombudsman determines that it is appropriate to appoint another person to arbitrate the dispute with no charge to the parties for the services of the appointed arbitrator.

(ii) In appointing another person to arbitrate a dispute, the Office of the Property Rights Ombudsman shall appoint an arbitrator who is agreeable to:

(A) both parties; or

(B) the Office of the Property Rights Ombudsman and the party paying for the arbitrator.

(iii) The Office of the Property Rights Ombudsman may, on its own initiative or upon agreement of both parties, appoint a panel of arbitrators to conduct the arbitration.

(iv) The Department of Commerce may pay an arbitrator per diem and reimburse expenses incurred in the performance of the arbitrator's duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(d) In arbitrating a dispute, the arbitrator shall apply the relevant statutes, case law, regulations, and rules of Utah and the United States in conducting the arbitration and in determining the award.

(e) (i) The property owner and government entity, or other condemning entity, may agree in advance of arbitration that the arbitration is binding and that no de novo review may occur.

(ii) The private property owner and facility owner of a water conveyance facility, as described in Section 73-1-15.5, may agree in advance of arbitration that the arbitration is binding and that no de novo review may occur.

(f) Arbitration by or through the Office of the Property Rights Ombudsman is not necessary before bringing legal action to adjudicate any claim.

(g) The lack of arbitration by or through the Office of the Property Rights Ombudsman does not constitute, and may not be interpreted as constituting, a failure to exhaust available administrative remedies or as a bar to bringing legal action.

(h) Arbitration under this section is not subject to Title 63G, Chapter 4, Administrative Procedures Act, or Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

(i) Within 30 days after an arbitrator issues a final award, and except as provided in Subsection

(3)(e), any party to the arbitration may submit the dispute, the award, or any issue upon which the award is based, to the district court for review by trial de novo.

(4) The filing with the Office of the Property Rights Ombudsman of a request for mediation or arbitration of a constitutional taking issue does not stay:

(a) a county or municipal land use decision;

(b) a land use appeal authority decision; or

(c) the occupancy of the property.

(5) A member of the Office of the Property Rights Ombudsman, or an arbitrator appointed by the office, may not be compelled to testify in a civil action filed concerning the subject matter of any review, mediation, or arbitration by the Office of the Property Rights Ombudsman.

Section 2. Section 73-1-15 is amended to read:

73-1-15. Obstructing canals or other watercourses -- Penalties.

(1) (a) Whenever any person has a right-of-way of any established type or title for any canal or other watercourse it shall be unlawful for any person to place or maintain in place any obstruction, or change of the water flow by fence or otherwise, along or across or in such canal or watercourse, except as where said watercourse inflicts damage to private property, without first:

(i) receiving written permission for the change and providing gates sufficient for the passage of the owner or owners of such canal or watercourse[-]; or

(ii) complying with the requirements of Section 73-1-15.5.

(b) That the vested rights in the established canals and watercourse shall be protected against all encroachments.

(c) That indemnifying agreements may be entered as may be just and proper by governmental agencies.

(2) Any person violating this section is guilty of a crime punishable under Section 73-2-27.

(3) Any person who commits an act defined as a crime under this section is also liable for damages or other relief and costs in a civil action to any person injured by that act.

(4) (a) A civil action under this section may be brought independent of a criminal action.

(b) Proof of the elements of a civil action under this section need only be made by a preponderance of the evidence.

Section 3. Section 73-1-15.5 is enacted to read:

73-1-15.5. Relocation of easements for a water conveyance facility -- Alteration of a water conveyance facility.

(1) As used in this section:

(a) “Facility owner” means an individual, entity, mutual water company, or unincorporated organization:

- (i) operating a water conveyance facility;
- (ii) owning any interest in a water conveyance facility; or
- (iii) having a property interest in real property based on the presence of the water conveyance facility located and operating on the real property.

(b) (i) “Water conveyance facility” means a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse.

(ii) “Water conveyance facility” does not mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for culinary or industrial water, or any federal water project facility.

(2) Unless prohibited by the terms of a written grant of easement or an agreement for which consideration was given, a property owner may make reasonable changes in the location and method of delivery of a water conveyance facility located on the property owner’s real property after:

- (a) having a licensed engineer:
 - (i) redesign the water conveyance facility, which may include relocating the water conveyance facility to a new location on the property owner’s real property or on the real property of another person who consents to the relocation; and
 - (ii) certify that the engineered redesign of the water conveyance facility and method of delivery meets the requirements of Subsection (4);
- (b) providing the plans designed by the licensed engineer under Subsection (2)(a)(i) to the facility owner;
- (c) allowing the facility owner a reasonable time to review the plans designed by the licensed engineer under Subsection (2)(a)(i), provide comments to the plans, and subject to Subsection (3), require changes and approve the planned redesign before commencing the modifications;
- (d) allowing the facility owner to inspect the modified water conveyance facility during construction of the modification and require reasonable changes if construction of the modification is not occurring according to an approved redesign plan as required by Subsection (3)(b); and
- (e) providing the facility owner with the ability to reasonably access, operate, maintain, and replace the modified water conveyance facility.

(3) A facility owner:

- (a) may require a change to the plans designed by the licensed engineer under Subsection (2)(a)(i) only if the change is:
 - (i) directly related to a reasonably anticipated negative impact, resulting from the relocation of the

water conveyance facility or a change in the method of water delivery; and

(ii) the least costly means of addressing the anticipated negative impact described in Subsection (3)(a)(i) after taking into account the provisions of Subsection (4); and

(b) shall approve the plans designed by the licensed engineer under Subsection (2)(a)(i) if:

(i) the plans reasonably address any anticipated negative impacts resulting from the relocation of the water conveyance facility or a change in the method of water delivery;

(ii) the property owner has proposed reasonable terms or conditions to satisfy the provisions of Subsection (4); and

(iii) the property owner satisfies the provisions of Subsection (2).

(4) A property owner may not relocate a water conveyance facility or change the method of delivery of a water conveyance facility in accordance with Subsection (2) if the modification:

(a) significantly decreases the utility of the water conveyance facility for its current use;

(b) increases the burden on the facility owner’s use of the water conveyance facility in a way not compensated for by the property owner; or

(c) frustrates the purpose of the water conveyance facility.

(5) (a) A property owner or a facility owner may request the Office of the Property Rights Ombudsman to mediate any dispute over the application of this section.

(b) A property owner and a facility owner may jointly request the Office of the Property Rights Ombudsman to arbitrate any dispute over the application of this section.

(6) A property owner relocating a water conveyance facility under this section is responsible for:

(a) the reasonable, actual costs incurred in modifying the water conveyance facility, including:

- (i) planning and construction costs;
- (ii) the actual engineering and inspection costs during construction;

(iii) costs reasonably and necessarily incurred by the facility owner related to the modification of the water conveyance facility; and

(iv) legal costs incurred by the facility owner in reviewing and approving plans and proposing modifications, limited to the lesser amount of actual attorney fees incurred or \$5,000; and

(b) the costs of preparing instruments associated with any new easement for the modified water conveyance facility, as described in Subsection (8).

(7) In an action where a claim is made that a provision of this section has been violated, a court may, in addition to any other relief granted, award costs and reasonable attorney fees:

(a) to the facility owner if the court finds that the property owner failed to comply with the plan approved in accordance with Subsection (3); or

(b) to the property owner if the court finds that the facility owner made unreasonable demands in reviewing the property owner's proposed plans or in requiring changes to the proposed or approved plans.

(8) (a) If a water conveyance facility is relocated under this section, the facility owner shall record an instrument extinguishing the existing easement in exchange for the grant of a new easement for the relocated water conveyance facility by the property owner burdened by the modified water conveyance facility.

(b) The instruments extinguishing the previous easement and granting the new easement shall be:

(i) in a form mutually acceptable to the facility owner and the property owner; and

(ii) recorded in the county in which the modified water conveyance facility is located.

(c) The property owner shall pay all recording fees for the instruments described in Subsections (8)(a) and (b).

CHAPTER 350**S. B. 114**

Passed February 28, 2018

Approved March 20, 2018

Effective May 8, 2018

**DISPOSAL OF COUNTY
PROPERTY AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Merrill F. Nelson

LONG TITLE**General Description:**

This bill modifies provisions related to the disposal of county property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the amount for which a county may dispose of a significant parcel of real property;
- ▶ states that a county may require a potential purchaser or lessee to provide certain information;
- ▶ addresses a county's treatment of an unsolicited offer to purchase or lease a significant parcel of real property; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-50-312, as last amended by Laws of Utah 2007, Chapter 291

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

Section 1. Section 17-50-312 is amended to read:**17-50-312. Acquisition, management, and disposal of property.**

(1) As used in this section:

(a) "Adjusted present value" means:

(i) the disposition price; plus

(ii) the anticipated future value.

(b) (i) "Anticipated future value" means the total value of all reasonably anticipated future benefits to a county from the disposal of a significant parcel of real property, including:

(A) increased tax revenues; and

(B) job creation or maintenance.

(ii) "Anticipated future value" does not include the present fair market value of the significant parcel of real property.

(c) "Dispose" means to sell or lease.

(d) "Disposition price" means the price a potential purchaser or lessee offers to pay in exchange for the sale or lease of a significant parcel of real property.

[4] (2) Subject to Subsection [4] (5), a county may purchase, receive, hold, sell, lease, convey, or otherwise acquire and dispose of any real or personal property or any interest in such property if the action is in the public interest and complies with other law.

[2] (3) Any property interest acquired by the county shall be held in the name of the county unless specifically otherwise provided by law.

[3] (4) The county legislative body shall provide by ordinance, resolution, rule, or regulation for the manner in which property shall be acquired, managed, and disposed of.

[4] (5) (a) Before a county may dispose of a significant parcel of real property, the county shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection [4] (5)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each county shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection [4] (5)(a); and

(ii) reasonable notice for purposes of Subsection [4] (5)(a)(i).

(6) (a) A county may dispose of a significant parcel of real property in exchange for less than the present fair market value of the significant parcel of real property if the adjusted present value of the significant parcel of real property is equal to or greater than the present fair market value of the significant parcel of real property.

(b) Subsection (6)(a) does not affect a county's authority to dispose of a significant parcel of real property in a manner different from Subsection (6)(a) and in accordance with applicable law.

(7) Before a county agrees to dispose of a significant parcel of real property, the county may require the potential purchaser or lessee to provide evidence that:

(a) the potential purchaser's or lessee's offer is bona fide;

(b) the potential purchaser or lessee has the ability to pay the disposition price; or

(c) any future benefits to the county from the disposal of the significant parcel of real property are reasonably anticipated.

(8) If a county receives an unsolicited offer to purchase or lease a significant parcel of real property:

(a) the county is not required to consider the offer; and

(b) a person may not consider the offer in determining the present fair market value of the

significant parcel of real property, unless considering the offer is warranted under generally accepted standards of professional appraisal practice.

(9) A county may presume that the present fair market value of a significant parcel of real property is equal to the average of two appraised values each of which is based upon fair market value and calculated by a unique, independent appraiser who is licensed or certified in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

CHAPTER 351**S. B. 135**

Passed March 6, 2018

Approved March 20, 2018

Effective May 8, 2018

INSURANCE CONTRACTS AMENDMENTS

Chief Sponsor: Lincoln Fillmore

House Sponsor: Brian S. King

Cosponsors: Jacob L. Anderegg

Allen M. Christensen

Jim Dabakis

Gene Davis

Luz Escamilla

Deidre M. Henderson

Lyle W. Hillyard

Jani Iwamoto

Peter C. Knudson

Karen Mayne

Evan J. Vickers

Brian Zehnder

LONG TITLE**General Description:**

This bill amends provisions related to insurance contracts.

Highlighted Provisions:

This bill:

- ▶ prohibits discretionary clauses in certain insurance contracts; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-21-314, as last amended by Laws of Utah 2015, Chapter 244

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

Section 1. Section 31A-21-314 is amended to read:**31A-21-314. Prohibited provisions.**

(1) As used in this section:

(a) “Reserving discretionary authority” means a policy provision that:

(i) has the effect of conferring discretion on an insurer, or other claim administrator, to:

(A) determine eligibility for benefits; or

(B) interpret the terms or provisions of the policy, contract, certificate, or agreement; and

(ii) could lead to a deferential standard of review by a reviewing court.

(b) “Reserving discretionary authority” does not include a policy provision that:

(i) informs an insured that, as part of the insurer’s routine operations, the insurer applies the terms of the contract for:

(A) making a decision, including making a determination regarding eligibility, or receipt of benefits or claims; or

(B) explaining the insurer’s policies and procedures; and

(ii) does not give rise to a deferential standard of review by a reviewing court.

[4] (2) An insurance policy subject to this chapter may not contain ~~any~~ a provision:

(a) requiring ~~it~~ the insurance policy to be construed according to the laws of another jurisdiction except as necessary to meet the requirements of compulsory insurance laws of other jurisdictions;

(b) depriving Utah courts of jurisdiction over an action against the insurer, except as provided in permissible arbitration provisions; ~~or~~

(c) limiting the right of action against the insurer to less than three years from the date the cause of action accrues~~[-];~~ or

(d) for life insurance or accident and health insurance, reserving discretionary authority.

[2] (3) For purposes of Subsection ~~[(1)]~~ (2)(c), the cause of action accrues on a fidelity bond on the date the insurer first denies all or part of a claim made under the fidelity bond.

CHAPTER 352**S. B. 139**

Passed March 8, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**PUBLIC-PRIVATE
 PARTNERSHIP AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies and enacts provisions relating to public-private partnerships.

Highlighted Provisions:

This bill:

- ▶ provides a process for a person to submit to a procurement unit an unsolicited proposal for a public-private partnership, including:
 - requirements for an unsolicited proposal;
 - a process for considering and evaluating unsolicited proposals; and
 - limitations on a procurement unit's awarding a contract pursuant to an unsolicited proposal; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

63G-6a-103, as last amended by Laws of Utah 2017, Chapters 181, 348, 376, 382, 463 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 382

ENACTS:

63G-6a-712, Utah Code Annotated 1953

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

Section 1. Section 63G-2-305 is amended to read:**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties[~~s~~];

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

[~~(a)~~] (i) an invitation for bids;

[~~(b)~~] (ii) a request for proposals;

[~~(c)~~] (iii) a request for quotes;

[~~(d)~~] (iv) a grant; or

[~~(e)~~] (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures,

policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel,

that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would

reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or

any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:
 - (A) relating to research; and
 - (B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

- (II) a sponsor of sponsored research;
- (iii) unpublished manuscripts;
- (iv) creative works in process;
- (v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

- (a) a production facility; or
- (b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

- (a) the safety of the general public; or
- (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; and

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist.

Section 2. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in:

(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;

(g) for the State Board of Education, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules; or

(j) for any other procurement unit, the board.

(2) "Approved vendor" means a ~~vendor~~ person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Building board" means the State Building Board, created in Section 63A-5-101.

(9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

~~[(27)]~~ (26) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

~~[(28)]~~ (27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

~~[(26)]~~ (28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

(30) "Director" means the director of the division.

(31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(32) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(36) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(37) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(38) "Head of a procurement unit" means:

(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) for an executive branch procurement unit:

(i) the director of the division; or

(ii) any other person designated by the board, by rule;

(c) for a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;

(f) for a special service district, the governing body of the special service district or a designee of the governing body;

(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees; or

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education.

(39) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance;
or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local district" means the same as that term is defined in Section 17B-1-102.

(49) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) "Municipality" means a city, town, or metro township.

(53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) a local government procurement unit;

(vi) a local district;

(vii) a special service district;

(viii) a local building authority;

(ix) a conservation district;

(x) a public corporation; or

(xi) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[68] (67) “Public transit district” means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[67] (68) “Public-private partnership” means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) “Qualified vendor” means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) “Real property” means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) “Request for information” means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) “Request for proposals” means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

(74) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) “Responsive” means conforming in all material respects to the requirements of a solicitation.

(78) “Sealed” means manually or electronically secured to prevent disclosure.

(79) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) “Small purchase process” means the procurement process described in Section 63G-6a-506.

(81) “Sole source contract” means a contract resulting from a sole source procurement.

(82) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) “Solicitation” means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) “Solicitation response” means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) “Special service district” means the same as that term is defined in Section 17D-1-102.

(86) “Specification” means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) “Standard procurement process” means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

(89) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) “Subcontractor”:

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person’s contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) “Supply” means a good, material, technology, piece of equipment, or any other item of personal property.

(92) “Tie bid” means that the lowest responsive bids of responsible bidders are identical in price.

(93) “Time and materials contract” means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(94) “Transitional costs”:

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) “Trial use contract” means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) “Vendor”:

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor; ~~and~~

(iv) a design professional[-]; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 3. Section 63G-6a-712 is enacted to read:

63G-6a-712. Unsolicited proposals.

(1) As used in this section, “unsolicited proposal”:

(a) means a written proposal:

(i) for a public-private partnership for:

(A) an infrastructure project; or

(B) a project to collect, analyze, and distribute health data to improve health and health care and to facilitate interaction regarding health and health care issues; and

(ii) that is not submitted in response to a solicitation; and

(b) does not include an initial proposal, as defined in Section 63G-6a-711.

(2) (a) Subject to Subsection (2)(b), a person may submit an unsolicited proposal to a procurement unit at any time.

(b) An unsolicited proposal may not be used to seek a procurement unit’s consideration of a proposal after the expiration of the time for submitting proposals in response to a request for proposals.

(3) An unsolicited proposal shall include:

(a) a reference to this section and a statement that the unsolicited proposal is submitted under this section;

(b) a conceptual description of the project that constitutes the procurement item that is the subject of the proposed public-private partnership;

(c) a description of the economic benefit of the project to the state and the procurement unit;

(d) information concerning the services or facilities currently being provided by the state or procurement unit that are similar to the project;

- (e) an estimate of the project costs for:
- (i) design;
 - (ii) implementation;
 - (iii) operation and maintenance; and
 - (iv) any other related project cost; and
- (f) the name, address, telephone number, and email address of an individual who may be contacted for further information concerning the unsolicited proposal.
- (4) A procurement unit is not required to consider an unsolicited proposal.
- (5) A procurement unit may charge a person submitting an unsolicited proposal a fee to cover the actual cost of processing, considering, and evaluating the unsolicited proposal.
- (6) A procurement unit that receives an unsolicited proposal may not award a contract for the procurement item described in the unsolicited proposal unless:
- (a) the procurement unit first engages in a standard procurement process for proposals to provide the procurement item described in the unsolicited proposal; or
 - (b) awarding the contract without the procurement unit engaging in a standard procurement process is allowed under Section 63G-6a-802.
- (7) If a procurement unit engages in a standard procurement process pursuant to Subsection (6)(a):
- (a) the procurement unit shall treat an unsolicited proposal as though it were submitted as a proposal in response to the solicitation; and
 - (b) a person who has submitted an unsolicited proposal may, within the time provided in the solicitation for the submission of proposals, modify the unsolicited proposal to the extent necessary to address matters raised in the solicitation that were not addressed in the initial unsolicited proposal.
- (8) An applicable rulemaking authority may make rules to govern the submission, processing, consideration, and evaluation of an unsolicited proposal, including fees relating to the unsolicited proposal.
- (9) An unsolicited proposal is subject to Chapter 2, Government Records Access and Management Act, including, if applicable, provisions relating to a written claim of business confidentiality, as provided in Section 63G-2-309, for trade secrets, commercial information, or nonindividual financial information described in Subsection 63G-2-305(1) or (2).

CHAPTER 353**S. B. 142**

Passed March 6, 2018

Approved March 20, 2018

Effective July 1, 2018

**VICTIMS OF DOMESTIC VIOLENCE
SERVICES ACCOUNT AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies provisions relating to the Victims of Domestic Violence Services Account.

Highlighted Provisions:

This bill:

- ▶ amends the percentage of the criminal conviction surcharge that is allocated to the Victims of Domestic Violence Services Account;
- ▶ repeals the percentage of the criminal conviction surcharge that is allocated to the Office of the Attorney General for domestic violence prosecution training; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

51-9-406, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 51-9-406 is amended to read:**51-9-406. Victims of Domestic Violence Services Account established -- Funding -- Uses.**

(1) There is created a restricted account in the General Fund known as the Victims of Domestic Violence Services Account.

(2) [(a)] The Division of Finance shall allocate to the Victims of Domestic Violence Services Account from the collected surcharge established in Section 51-9-401[;-(i)-4%] 4.5% for the Division [~~for Domestic Violence~~] of Child and Family Services, but not to exceed the amount appropriated by the Legislature[;and].

[(ii) .5% for the Office of the Attorney General, but not to exceed the amount appropriated by the Legislature.]

[(b) The attorney general shall use the allocation for training municipal and county attorneys in the prosecution of domestic violence offenses.]

Section 2. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 354**S. B. 147**

Passed March 1, 2018
Approved March 20, 2018
Effective May 8, 2018

NURSING INITIATIVE

Chief Sponsor: Ann Millner
House Sponsor: Robert M. Spendlove

LONG TITLE**General Description:**

This bill provides a process to provide funding to meet the projected demand for individuals to enter a nursing profession.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Medical Education Council to project the demand for individuals to enter a nursing profession;
- ▶ provides a process for the Legislature to provide funding to certain programs that prepare an individual to enter a nursing profession;
- ▶ requires the State Board of Regents to report to the Higher Education Appropriations Subcommittee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-24-303, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

53B-26-201, Utah Code Annotated 1953
53B-26-202, Utah Code Annotated 1953

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

Section 1. Section 53B-24-303 is amended to read:**53B-24-303. Duties of council.**

The council shall:

- (1) submit an application in accordance with federal law for a demonstration project to the Centers for Medicare and Medicaid Services before December 31, 1997, for the purpose of receiving and disbursing federal funds for direct and indirect graduate medical education expenses;
- (2) seek private and public contributions for the program;
- (3) study and recommend options for financing graduate medical education to the [~~State Board of Regents~~] board and the Legislature;
- (4) advise the [~~State Board of Regents~~] board and the Legislature on the status and needs of health care professionals in training;

(5) determine the method for reimbursing institutions that sponsor health care professionals in training;

(6) determine the number and type of positions for health care professionals in training for which program money may be used; [~~and~~]

(7) distribute program money for graduate medical education in a manner that:

(a) prepares postgraduate medical residents, as defined by the accreditation council on graduate medical education, for inpatient, outpatient, hospital, community, and geographically diverse settings;

(b) encourages the coordination of interdisciplinary clinical training among health care professionals in training;

(c) promotes stable funding for the clinical training of health care professionals in training; and

(d) only funds accredited clinical training programs[~~;~~]; and

(8) project the demand for individuals to enter a nursing profession as described in Section 53B-26-202.

Section 2. Section 53B-26-201 is enacted to read:**Part 2. Nursing Initiative****53B-26-201. Definitions.**

As used in this part:

(1) "Eligible program" means a program that:

(a) prepares an individual for a nursing profession;

(b) is an approved education program, as defined in Section 58-31b-102; and

(c) is offered by an institution.

(2) "Full-time" means:

(a) for an institution described in Subsection 53B-1-102(1)(a), the number of credit hours the board determines is full-time enrollment for a student; or

(b) for an institution described in Subsection 53B-1-102(1)(b), 900 membership hours.

(3) "Institution" means an institution of higher education described in Section 53B-1-102.

(4) "License classification" means a classification applied to a nursing license described in Section 58-31b-301.

(5) "Nursing profession" means a profession for which an individual is required to be licensed under Title 58, Chapter 31, Nurse Practice Act.

(6) "Region" means an economic service area described in Section 35A-2-101.

(7) "Program of instruction" means the same as that term is defined in Section 53B-16-102.

Section 3. Section 53B-26-202 is enacted to read:

53B-26-202. Nursing Initiative -- Medical Education Council reporting requirement -- Proposals -- Funding.

(1) Every even-numbered year, the Medical Education Council created in Section 53B-24-302 shall:

(a) project the demand, by license classification, for individuals to enter a nursing profession in each region;

(b) receive input from at least one medical association in developing the projections described in Subsection (1)(a); and

(c) report the projections described in Subsection (1)(a) to:

(i) the State Board of Regents;

(ii) the Utah System of Technical Colleges Board of Trustees; and

(iii) the Higher Education Appropriations Subcommittee.

(2) To receive funding under this section, on or before January 5, an eligible program shall submit to the Legislature, through the budget process for the State Board of Regents or the Utah System of Technical Colleges, as applicable, a proposal that describes:

(a) a program of instruction offered by the eligible program that is responsive to a projection described in Subsection (1)(a);

(b) the following information about the eligible program:

(i) expected student enrollment;

(ii) attainment rates;

(iii) job placement rates; and

(iv) passage rates for exams required for licensure for a nursing profession;

(c) the instructional cost per full-time equivalent student enrolled in the eligible program;

(d) financial or in-kind contributions to the eligible program from:

(i) the health care industry; or

(ii) an institution; and

(e) a funding request, including justification for the request.

(3) The Legislature shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal:

(A) contains the elements described in Subsection (2);

(B) expands the capacity to meet the projected demand described in Subsection (1)(a); and

(C) has health care industry or institution support; and

(ii) the program of instruction described in the proposal:

(A) is cost effective;

(B) has support from the health care industry or an institution; and

(C) has high passage rates on exams required for licensure for a nursing profession;

(b) determine the extent to which to fund the proposal; and

(c) appropriate the amount of money determined under Subsection (3)(b) to the eligible program's institution.

(4) An institution that receives funding under this section shall use the funding to increase the number of students enrolled in the eligible program for which the institution receives funding.

(5) On or before November 1, 2020, and annually thereafter, the board shall report to the Higher Education Appropriations Subcommittee on the elements described in Subsection (2) for each eligible program funded under this section.

CHAPTER 355**S. B. 168**

Passed March 5, 2018
Approved March 20, 2018
Effective May 8, 2018

**UTAH AGRICULTURAL
CODE AMENDMENTS**

Chief Sponsor: Margaret Dayton
House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill amends provisions of the Utah Commercial Feed Act, Utah Seed Act, Utah Noxious Weed Act, and the Utah Livestock Brand and Anti-Theft Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the circumstances under which the department can refuse or cancel a commercial feed registration;
- ▶ changes labeling requirements for commercial feed;
- ▶ changes labeling requirements for seed;
- ▶ adds nonprofit organization to the list of entities that:
 - the department can enter into a cooperative agreement with; and
 - can receive money from the Invasive Species Mitigation Account;
- ▶ specifies requirements for transporting domesticated elk;
- ▶ specifies unlawful acts; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-16-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-16-201, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-16-202, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-17-114, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-17-115, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-24-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-24-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-24-303, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-24-307, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-24-502, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-39-205, as last amended by Laws of Utah 2017, Chapter 345

- 4-39-304, as last amended by Laws of Utah 2017, Chapter 345
- 4-39-305, as last amended by Laws of Utah 2017, Chapter 345
- 4-39-306, as last amended by Laws of Utah 2017, Chapter 345
- 4-39-401, as last amended by Laws of Utah 2017, Chapter 345

RENUMBERS AND AMENDS:

- 4-12-101, (Renumbered from 4-12-1, as last amended by Laws of Utah 1992, Chapter 30)
- 4-12-102, (Renumbered from 4-12-2, as last amended by Laws of Utah 2007, Chapter 179)
- 4-12-103, (Renumbered from 4-12-3, as last amended by Laws of Utah 2008, Chapter 382)
- 4-12-104, (Renumbered from 4-12-4, as last amended by Laws of Utah 2017, Chapter 345)
- 4-12-105, (Renumbered from 4-12-5, as last amended by Laws of Utah 2007, Chapter 179)
- 4-12-106, (Renumbered from 4-12-6, as enacted by Laws of Utah 1979, Chapter 2)
- 4-12-107, (Renumbered from 4-12-7, as enacted by Laws of Utah 1979, Chapter 2)
- 4-12-108, (Renumbered from 4-12-8, as enacted by Laws of Utah 1979, Chapter 2)

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

Section 1. Section 4-12-101, which is renumbered from Section 4-12-1 is renumbered and amended to read:**CHAPTER 12. UTAH COMMERCIAL
FEED ACT****[4-12-1]. 4-12-101. Title.**

This chapter is known as the "Utah Commercial Feed Act."

Section 2. Section 4-12-102, which is renumbered from Section 4-12-2 is renumbered and amended to read:**[4-12-2]. 4-12-102. Definitions.**

As used in this chapter:

(1) "Adulterated commercial feed" means any commercial feed that:

(a) (i) that contains any poisonous or deleterious substance that may render it injurious to health;

(ii) that contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of 21 U.S.C. Sec. 346, other than a pesticide chemical in or on a raw agricultural commodity or a food additive;

(iii) that contains any food additive or color additive that is unsafe within the meaning of 21 U.S.C. Sec. 348 or 379e;

(iv) that contains a pesticide chemical in or on a raw agricultural commodity which that is unsafe within the meaning of 21 U.S.C. Sec. 346a unless it

is used in or on the raw agricultural commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on ~~[such]~~ the processed feed is removed to the extent possible through good manufacturing practices as prescribed by rules of the department so that the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;

(v) ~~[that]~~ contains viable weed seeds in amounts exceeding limits established by rule of the department; ~~[or]~~

(vi) ~~[that]~~ contains a drug that does not conform to good manufacturing practice as prescribed by federal regulations promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for medicated feeds unless the department determines that ~~[such]~~ the regulations are not appropriate to the conditions that exist in this state; ~~[or]~~

(vii) contains any filthy, putrid, or decomposed substance, or is otherwise unfit for feed; or

(viii) has been prepared, packed, or held under unsanitary conditions; or

(b) ~~[that]~~ has a valuable constituent omitted or abstracted from it, in whole or in part, or its composition or quality falls below or differs from that represented on its label or in labeling.

(2) "Brand name" means ~~[any word, name, symbol, or device that identifies the distributor or registrant of a commercial feed.]~~ one or more words, names, symbols, or devices that:

(a) identify a distributor or registrant's commercial feed; and

(b) distinguish the distributor or registrant's commercial feed from the commercial feed of others.

~~[(3) "Commercial feed" means all materials, except unadulterated whole unmixed seeds or unadulterated physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed; provided, that the department may exempt from this definition by rule, or from specific sections of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if the commodities, compounds, or substances are not inter-mixed or mixed with other materials, and are not adulterated within the meaning of Subsection (1)(a).]~~

(3) (a) "Commercial feed" means all materials that are distributed for use as feed or for mixing in feed.

(b) "Commercial feed" does not include:

(i) unadulterated, whole, unmixed seeds;

(ii) unadulterated, physically altered, entire, unmixed seeds; or

(iii) any unadulterated commodity that the department specifies by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances, unless the commodities, compounds, or substances are intermixed or mixed with other materials.

(4) "Contract feeder" means a person who:

(a) is an independent contractor; and

(b) in accordance with the terms of a contract:

(i) is provided commercial feed;

(ii) feeds the commercial feed to an animal; and

(iii) receives remuneration that is calculated in whole or in part by feed consumption, mortality, profit, product amount, or product quality.

~~[(4)]~~ (5) "Customer-formula feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

~~[(5)]~~ (6) "Distribute" means to:

(a) offer for sale, sell, exchange, or barter commercial feed; or

(b) supply, furnish, or otherwise provide commercial feed to a contract feeder.

~~[(6)]~~ (7) "Drug" means any article intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than ~~[man and articles other than feed intended]~~ humans; and

(b) to affect the structure or any function of the animal body, unless the article is feed.

~~[(7)]~~ (8) "Feed ingredient" means each constituent material in a commercial feed.

~~[(8)]~~ (9) "Label" means any written, printed, or graphic matter upon or accompanying a commercial feed.

~~[(9)]~~ (10) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed for distribution.

~~[(10)]~~ (11) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

~~[(11)]~~ (12) (a) "Misbranded" means any commercial feed, whether in a container or in bulk, that bears a label that:

(i) is false or misleading in any particular~~[-or that bears a label that]~~; or

(ii) does not strictly conform to the labeling requirements of Section ~~[4-12-5]~~ 4-12-105.

(b) "Misbranded" includes commercial feed that is distributed under the name of another commercial feed.

~~[(12)]~~ (13) "Official sample" means a sample of commercial feed taken by the department in

accordance with this chapter and designated as “official.”

~~(13)~~ (14) “Percent” or “percentage” means percentage by weight.

(15) “Pet” means a domesticated dog or cat.

(16) “Pet food” means a commercial feed prepared and distributed for consumption by a pet.

(17) “Product name” means the name of the commercial feed that:

(a) identifies the kind, class, or specific use of the commercial feed; and

(b) distinguishes the commercial feed from all other products bearing the same brand name.

(18) “Quantity statement” means the net weight in mass, liquid measurement, or count.

(19) “Specialty pet” means any animal normally maintained in a household for nonproduction purposes, including rodents, ornamental birds, ornamental fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits.

(20) “Specialty pet food” means a commercial feed prepared and distributed for consumption by a specialty pet.

~~(14)~~ (21) “Ton” means a net weight of 2,000 pounds avoirdupois.

Section 3. Section 4-12-103, which is renumbered from Section 4-12-3 is renumbered and amended to read:

~~4-12-3]. 4-12-103. Department authorized to make and enforce rules -- Cooperation with state and federal agencies authorized.~~

(1) The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce ~~[such rules as in its judgment are necessary]~~ rules to administer and enforce this chapter and may cooperate with, or enter into agreements with, other agencies of this state, other states, and agencies of the United States in the administration and enforcement of this chapter.

(2) The department shall by rule adopt the following, unless the department determines that they are inconsistent with the provisions of this chapter or are not appropriate to conditions that exist in this state:

(a) the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization; and

(b) any federal regulation made pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, U.S.C. Sec. 301 et seq., unless the department does not have the authority under this chapter to make a corresponding rule.

Section 4. Section 4-12-104, which is renumbered from Section 4-12-4 is renumbered and amended to read:

~~4-12-4]. 4-12-104. Distribution of commercial and customer-formula feed -- Registration or license required -- Application -- Fees -- Expiration -- Renewal.~~

(1) (a) ~~[Nø]~~ A person may not distribute a commercial feed in this state ~~[which is not registered with]~~ without a registration from the department. ~~[Application for registration shall be made to the department upon]~~

(b) Except as provided by Subsection (3)(a), a person shall apply for a registration from the department for each brand name of commercial feed by:

(i) submitting forms prescribed and furnished by ~~[it accompanied with]~~ the department; and

(ii) paying an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), ~~[for each brand name of commercial feed registered].~~

(c) Upon receipt of ~~[a proper application and payment of the appropriate fee]~~ the appropriate application forms and fee payment, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the registration is issued, subject to suspension or revocation for cause.

(2) (a) Subject to Subsection (2)(b), the department may:

(i) refuse registration to any commercial feed found to not be in compliance with this chapter; and

(ii) cancel the registration of any commercial feed found to not be in compliance with this chapter.

(b) A registration may not be refused or canceled unless the department gives the registrant an opportunity to:

(i) be heard before the department; and

(ii) amend the registrant’s application in order to comply with the requirements of this chapter.

~~(2)~~ (3) (a) A person who distributes customer-formula feed is not required to register ~~[such]~~ the feed, but is required to obtain a ~~[permit]~~ license from the department before distribution. ~~[Application for a customer-formula feed distribution permit shall be made to the department upon]~~

(b) A person shall apply for a license to distribute customer-formula feed from the department by:

(i) submitting forms prescribed and furnished by ~~[it accompanied with an annual permit fee]~~ the department; and

(ii) paying an annual license fee, determined by the department pursuant to Subsection 4-2-103(2).

(c) Upon receipt ~~[by the department of a proper application and payment of the appropriate fee as~~

~~prescribed by the department~~ of the appropriate application forms and fee payment, the commissioner shall issue a ~~[permit]~~ license to the applicant allowing the applicant to distribute customer-formula feed in this state through December 31 of the year in which the ~~[permit]~~ license is issued, subject to suspension or revocation for cause.

~~[(3)]~~ (4) (a) Each commercial feed registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(b) Each registration renewal fee shall be paid on or before December 31 of each year.

~~[(4)—A]~~ (5) (a) Each customer-formula feed ~~[permit]~~ license is renewable for a period of one year upon the payment of an annual ~~[permit]~~ license renewal fee in an amount equal to the current applicable original ~~[permit]~~ license fee.

(b) Each ~~[permit]~~ license renewal fee shall be paid on or before December 31 of each year.

Section 5. Section 4-12-105, which is renumbered from Section 4-12-5 is renumbered and amended to read:

[4-12-5]. 4-12-105. Labeling requirements for commercial and customer-formula feed specified.

(1) ~~[Each]~~ Except for customer-formula feed, each container of commercial feed~~[,]—except customer-formula feed[,]~~ distributed in this state shall bear a label ~~[setting forth]~~ specifying:

(a) the name and principal mailing address of the manufacturer, distributor, or registrant;

(b) the product ~~[or]~~ name and brand name, if any, under which ~~[it]~~ the commercial feed is distributed;

(c) the ~~[feed ingredients]~~ common name of each feed ingredient used in the commercial feed, stated in the manner prescribed by rule of the department, unless the department finds that a full statement of ingredients is not required to serve the interests of a consumer;

~~[(d) the net cumulative weight of the container and contents;]~~

(d) the guaranteed analysis of the feed, expressed on an as-is basis:

(i) advising the user of the feed composition; or

(ii) supporting claims made in the labeling;

(e) a quantity statement for the feed;

~~[(e)]~~ (f) the lot number or some other means of lot identification; ~~[and]~~

(g) adequate direction for the feed's safe and effective use; and

~~[(f)]~~ (h) precautionary statements, if necessary, or any information prescribed by rule of the

department considered necessary for the safe and effective use of the feed.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may by rule authorize a label to use a collective term for a group of ingredients that perform a similar function.

~~[(2) (a) Each]~~ (3) (a) Except for customer-formula feed, each bulk shipment of commercial feed~~[,]—except customer-formula feed[,]~~ distributed in this state shall be accompanied ~~[with]~~ by a printed or written statement specifying the information in ~~[Subsection]~~ Subsections (1)(a) through ~~[(f) of this section]~~ (h).

(b) The statement shall be delivered to the purchaser at the time the bulk feed is delivered.

~~[(3)]~~ (4) Each container or bulk shipment of customer-formula feed distributed in this state shall ~~[bear a label or]~~ be accompanied ~~[with an invoice setting forth]~~ by a label, invoice, delivery slip, or other shipping document specifying:

(a) the name and principal mailing address of the manufacturer;

(b) the name and principal mailing address of the purchaser;

(c) the date of delivery;

~~[(d) the net weight of each registered commercial feed used in the mixture and the net weight of each other ingredient used; and]~~

(d) the product name of each commercial feed;

(e) the quantity statement of each commercial feed;

(f) the net weight for each ingredient used that is not a commercial feed;

(g) except as provided in Subsection (5), the quantity statement of each ingredient used in the mixture, stated in terms the department determines necessary to advise the user of the feed composition or to support claims made on the label;

(h) directions for the feed's use;

(i) precautionary statements, if applicable; and

~~[(e)]~~ (j) any information ~~[prescribed by rule of the department]~~ considered necessary for the safe and effective use of the customer-formula feed as prescribed by rule of the department.

(5) If the manufacturer of a customer-formula feed intends to protect a proprietary formula, the information required by Subsection (4)(g) may be substituted with a guaranteed analysis of each nutritional component the feed intends to deliver, stated in terms the department determines necessary to advise the user of the feed composition.

(6) If a customer-formula feed contains a drug, the label shall include the:

(a) purpose of the medication;

(b) established name of each active drug ingredient; and

(c) amount of each drug included in the final mixture, expressed by weight, grams per ton, or milligrams per pound.

Section 6. Section 4-12-106, which is renumbered from Section 4-12-6 is renumbered and amended to read:

[4-12-6]. 4-12-106. Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Results to be forwarded to registrant or licensee -- Warrants.

(1) [The] In order to determine compliance with this chapter, the department:

(a) shall periodically sample, inspect, analyze, and test commercial feeds distributed within this state [and may enter any public or private premises or vehicle for the purpose of determining compliance with this chapter. It may also in conjunction with such activities inspect records to determine compliance with this chapter.];

(b) may enter during normal business hours, within reasonable limits, and in a reasonable manner, any:

(i) factory;

(ii) warehouse; or

(iii) establishment in which commercial feed is manufactured, processed, packed, or held for distribution; and

(c) may enter any vehicle used to transport or hold commercial feed in order to inspect:

(i) equipment;

(ii) finished and unfinished materials;

(iii) containers;

(iv) records; and

(v) labels.

(2) [Methods] The department's methods for sampling and for analyses of feed ingredients, mineral ingredients, or other ingredients, or for analyses of [commercial feed mixtures (customer-formula feeds)] customer-formula feeds, shall be [made] in accordance with methods published by the Association of Official Analytical Chemists or other generally recognized methods.

(3) The [department shall be guided by the] official sample shall guide the department in determining whether a commercial feed is misbranded, adulterated, or otherwise deficient.

(4) The department shall:

(a) forward the results of all tests of official samples [shall be forwarded by the department to the registrant or permittee, as the case may be, to] to the manufacturer, distributor, licensee, or registrant using the address specified on the container, label, or on the written statement or invoice[- In addition, the department shall]; and

(b) furnish to the manufacturer, distributor, licensee, or registrant [or permittee] part of any official sample [which it] that the department determines is misbranded or adulterated upon written request to the department [made] by the manufacturer, distributor, licensee, or registrant within 30 days after receipt of the unsatisfactory test results.

(5) [The department may proceed immediately, if admittance is refused,] If the department is refused admittance authorized by Subsections (1)(b) and (1)(c), the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

Section 7. Section 4-12-107, which is renumbered from Section 4-12-7 is renumbered and amended to read:

[4-12-7]. 4-12-107. Suspension or revocation authorized -- Refusal to register or issue license authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

(1) [The] Upon satisfactory evidence that a manufacturer, distributor, licensee, or registrant has used fraudulent or deceptive practices in the registration, licensing, or distribution of a commercial feed or customer-formula feed, the department may:

(a) suspend or revoke the registration [or permit, respectively,] or license of any brand name of commercial feed or customer-formula feed[;] or

(b) refuse to register [or issue a permit for] or license any brand name or product of commercial feed[, upon satisfactory evidence that the registrant or permittee has used fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a permit, or in its distribution in this state] or customer-formula feed.

(2) (a) The department may issue a "stop sale, use, or removal order" to the distributor or owner of any [designated] commercial feed or lot of commercial feed [which] that it finds or has reason to believe is misbranded, adulterated, or [is] otherwise in violation of this chapter.

(b) The order described in Subsection (2)(a) shall be in writing and no commercial feed subject to [it] the order shall be moved, offered, or exposed for sale, except upon subsequent written release by the department.

(c) Before [a] an order release is issued, the department may require the distributor or owner of the "stopped" commercial feed or lot of commercial feed to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) (a) The department is authorized in a court of competent jurisdiction to seek:

(i) an order of seizure or condemnation of a commercial feed [~~which violates this chapter or, upon proper grounds, to obtain~~];

(ii) a temporary restraining order; or

(iii) a permanent injunction to prevent the violation of this chapter.

(b) No bond shall be required of the department in an injunctive proceeding brought under this section.

(4) If the court orders condemnation [~~is ordered,~~] of a commercial feed, the commercial feed shall be disposed of as the court directs [~~;~~ ~~provided, that in no event shall it order condemnation without giving the~~], provided the order gives the manufacturer, distributor, licensee, or registrant [~~or other person~~] an opportunity to apply to the court for permission to:

(a) relabel, reprocess, or otherwise bring the commercial feed into conformance [~~— or — for permission to remove it~~] with this chapter and administrative rules; or

(b) remove the commercial feed from the state.

(5) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the commercial feed.

Section 8. Section 4-12-108, which is renumbered from Section 4-12-8 is renumbered and amended to read:

[4-12-8]. 4-12-108. Unlawful acts specified.

[~~No~~] A person in this state [~~shall~~] may not:

(1) manufacture or distribute adulterated or misbranded commercial feed;

(2) adulterate or misbrand any commercial feed;

(3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs, husks, or bulbs [~~which~~] that are adulterated;

(4) remove or dispose of any commercial feed in violation of a "stop sale, use, or removal order [~~;~~ ~~or~~];

(5) distribute any commercial feed [~~which~~] that is not registered or any customer-formula feed [~~which~~] that is not [~~subject to permit.~~] licensed; or

(6) reuse a bag or tote previously used for commercial feed, including customer-formula feed, unless the user:

(a) appropriately cleans the bag or tote; and

(b) documents the clean-out procedure used on the bag or tote.

Section 9. Section 4-16-102 is amended to read:

4-16-102. Definitions.

As used in this chapter:

(1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.

(2) "Agricultural seeds" mean seeds of grass, forage plants, cereal crops, fiber crops, sugar beets, seed potatoes, or any other kinds of seed or mixtures of seed commonly known within this state as agricultural or field seeds.]

(2) "Agricultural seed" includes:

(a) grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as agricultural seed;

(b) lawn seed;

(c) combinations of the seed described in Subsections (2)(a) and (2)(b); and

(d) noxious weed seed, if the department determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that a noxious weed seed is being used as agricultural seed.

(3) "Blend" means seed consisting of more than one variety of a kind, each in excess of 5% by weight of the whole.

(4) "Brand" means a word, name, symbol, number, or design used to:

(a) identify the seed of one person; and

(b) distinguish the seed of one person from the seed of another person.

(5) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification.

(6) (a) "Complete record" means all information that relates to the:

(i) origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state; or

(ii) treatment, germination, kind, and variety of each lot of vegetable or flower seed sold in this state.

(b) "Complete record" includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations.

(7) "Conditioning" means drying, cleaning, scarifying, and other operations that:

(a) could change the purity or germination of a seed; and

(b) require a seed lot to be retested to determine the label information.

(8) "Dormant" means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.

~~[(3)] (9) [“Flower seeds” mean seeds] “Flower seed” includes the seed of herbaceous plants that are:~~

~~(a) grown for their blooms, ornamental foliage, or other ornamental [plants] parts; and~~

~~(b) commonly known and sold under the name of flower [seeds] or wildflower seed in this state.~~

~~[(4)] (10) “Foundation seed,” “registered seed,” or “certified seed” means seed that is produced and labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.~~

~~(11) “Germination” means the emergence and development from the seed embryo of those essential structures that are, for the kind of seed in question, indicative of the ability to produce a normal plant under favorable conditions.~~

~~(12) “Hard seed” means seed that remains hard at the end of the prescribed germination test period because the seed has not absorbed water due to an impermeable seed coat.~~

~~[(5)] (13) (a) “Hybrid” means the first generation seed of a cross produced by controlling pollination and by combining:~~

~~(i) two or more inbred lines;~~

~~(ii) one inbred or a single cross with an open-pollinated variety; or~~

~~(iii) two varieties or species, except open-pollinated varieties of corn, Zea mays.~~

~~(b) [The] “Hybrid” does not mean the second generation [and] or subsequent generations from the crosses referred to in Subsection [(5)(a) are not to be regarded as hybrids] (13)(a).~~

~~[(c) Hybrid designations shall be treated as variety names.]~~

~~(14) “Inert matter” means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.~~

~~[(6)] (15) “Kind” means one or more related species or subspecies of seed [which] that singly or collectively [is] are known by one common name, for example, corn, oats, alfalfa, and timothy.~~

~~[(7)] (16) (a) “Label” means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.~~

~~(b) “Label” includes [representations on invoices, bills, and letterheads.] a representation on an invoice, bill, or letterhead.~~

~~(17) “Labeling” includes a tag or other device attached to, written, stamped, or printed on a container or accompanying a lot of bulk seeds that:~~

~~(a) claims to specify the information required on the seed label by this chapter; and~~

~~(b) may include other information related to the labeled seed.~~

~~[(8)] (18) “Lot” means a definite quantity of seed identified by a number or other mark, every [part] portion or bag of which is uniform within recognized tolerances[.] for the factors that appear in the labeling.~~

~~(19) “Mixture” or “mix” or “mixed” means seed consisting of more than one kind, each in excess of 5% by weight of the whole.~~

~~(20) “Mulch” means a protective covering of a suitable substance placed with seed that:~~

~~(a) acts to retain sufficient moisture to support seed germination and sustain early seedling growth;~~

~~(b) aids in the prevention of the evaporation of soil moisture;~~

~~(c) aids in the control of weeds; and~~

~~(d) aids in the prevention of erosion.~~

~~[(9)] (21) “[Noxious weed seeds” mean weed seeds] Noxious weed seed” means weed seed declared noxious by the commissioner in accordance with Section 4-17-103.~~

~~(22) (a) “Off-type” means a seed or plant not part of the variety because the seed or plant deviates in one or more characteristics from the variety.~~

~~(b) “Off-type” may include a seed or plant that:~~

~~(i) is of another variety;~~

~~(ii) is not necessarily any variety;~~

~~(iii) results from cross-pollination by another kind or variety; or~~

~~(iv) results from uncontrolled self-pollination during production of hybrid seeds.~~

~~(23) “Origin” means:~~

~~(a) for an indigenous stand of trees, the area on which the trees are growing; and~~

~~(b) for a nonindigenous stand of trees, the place from which the seeds or plants originated.~~

~~(24) “Other crop seed” means the seed of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined by rule.~~

~~(25) “Person” means an individual, partnership, corporation, company, association, receiver, trustee, or agent.~~

~~[(10) “Pure seed,” “germination,” or other terms in common use for testing seeds for purposes of labeling shall have ascribed to them the meaning set forth for such terms in the most recent edition of “Rules for Seed Testing” published by the Association of Official Seed Analysts.]~~

~~(26) “Pure seed” means seed exclusive of inert matter and all other seed not of the seed being considered as determined by methods defined by rule.~~

(11) (27) [~~“Seeds”~~ “Seed for sprouting”] means [~~seeds~~] seed sold for sprouting for salad or culinary purposes.

(12) (28) “Sowing” means the placement of agricultural [~~seeds, vegetable seeds, flower seeds, tree and shrub seeds, or seeds~~] seed, vegetable seed, flower seed, tree and shrub seed, or seed for sprouting in a selected environment for the purpose of obtaining plant growth.

(29) “Tetrazolium test (TZ)” means a biochemical seed viability test using the compound 2, 3, 5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 Edition.

(30) “Total viable” is:

(a) equal to the sum of percentage germination, percentage dormant seed, and percentage hard seed; or

(b) determined by a tetrazolium test for species identified in the rules for testing or for species for which there are no rules for testing.

(13) [~~“Treated” means seed that has received an application of a substance to reduce, control, or repel certain disease organisms, fungi, insects or other pests which may attack the seed or its seedlings, or has received some other treatment to improve its planting value.~~]

(31) “Treated” means that a seed has received an application of a substance or been subjected to a process about which a claim is made.

(14) (32) “Tree and shrub [seeds] mean seeds” seed” includes seed of woody plants commonly known and sold [~~under the name of~~] as tree and shrub seeds in this state.

(33) “Type” means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(34) (a) “Variant” means a seed or plant that:

(i) is distinct within the variety but occurs naturally in the variety;

(ii) is stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted; and

(iii) was originally a part of the variety as released.

(b) “Variant” does not include an off-type.

(15) (35) “Variety” means a subdivision of a kind [~~characterized by growth, yield, plant, fruit, seed, or other characteristic, which differentiate it from other plants of the same kind.~~] that is:

(a) distinct, meaning a variety can be differentiated by one or more identifiable

morphological, physiological, or other characteristics from all other varieties of public knowledge;

(b) uniform, meaning that variations in essential and distinctive characteristics are describable; and

(c) stable, meaning a variety’s essential and distinctive characteristics and uniformity will remain unchanged when reproduced or reconstituted as required by the category of variety.

(16) (36) “Vegetable [seeds] mean seeds” seed” includes the seed of those crops that are:

(a) grown in gardens or on truck farms [that are]; and

(b) generally known and sold under the name of vegetable [seeds, plants, bulbs, and ground stocks] or herb seed in this state.

(17) “Weed seeds” mean seeds of any plant generally recognized as a weed within this state.]

(37) “Weed seed” means the seed of all plants generally recognized as weeds within this state, as determined by methods defined by rule.

Section 10. Section 4-16-201 is amended to read:

4-16-201. Labeling requirements specified for agricultural seed, components and mixtures of lawn and turf seed, vegetable seed, flower seed, tree and shrub seed, and seed for sprouting.

(1) Each container of seed that is transported, sold, offered, or exposed for sale within this state shall bear thereon or have attached thereto a printed label that:

(a) is in a conspicuous place;

(b) is plainly written in the English language;

(c) specifies the information required by this chapter; and

(d) does not modify or deny the information required by this chapter in the labeling or on another label attached to the container.

(1) (2) Each container of agricultural seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) [~~the common~~] name of the [~~kind or~~] kind and variety [of] for each seed component in excess of 5% [~~by weight~~] of the whole and the [~~percent~~] percentage by weight of each component in the order of its predominance in columnar form, provided that:

(i) if any component is required by rule of the department to be labeled as a variety, the label, in addition to stating the common name of the seed, shall specify the name of the variety or, if allowed by rule of the department, state “Variety Not Stated”;]

(ii) if any component is a hybrid seed, that fact shall be stated on the label; and]

~~[(iii) if more than one component is required to be named, the word “mixture” shall appear;]~~

(i) the label shall specify the name of the variety or state “Variety Not Stated” or “VNS,” for any component that is required by rule of the department to be labeled as a variety;

(ii) a hybrid shall be labeled as a hybrid;

(iii) the word “mix,” “mixture,” or “blend” shall appear, if more than one component is required to be named; and

(iv) the total of the percentages described in Subsections (2)(a), (2)(d), 2(e), and (2)(f) shall equal 100%;

(b) [the] name and address of the person who labeled the seed, or the person who sells, offers, or exposes [it] the seed for sale in this state;

(c) [the] lot number or other lot identification;

(d) [the] percentage by weight of all weed seeds;

(e) [the] percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection (2)(a);

(f) [the] percentage by weight of inert matter;

(g) [the] name and rate of occurrence per pound of each kind of restricted [~~noxious-weed~~] noxious weed seed present for which tolerance is permitted;

(h) [the] origin, if known, of alfalfa, red clover, or field corn seed and, if the origin is unknown, that fact shall be stated; [and]

(i) [the] month and year seed tests were conducted for each named agricultural seed, specifying:

(i) [percent] percentage of germination, exclusive of hard or dormant seed; and

(ii) [percent] percentage of hard or dormant seed, if present; and

~~[(iii) total percent of germination and hard seed.]~~

(j) net weight.

(3) Coated seed shall be labeled with the:

(a) information required by Subsections 4-16-201(2)(a) through (2)(e) and (2)(g);

(b) percentage by weight of pure seed exclusive of coating material;

(c) percentage by weight of coating material;

(d) percentage by weight of inert material exclusive of coating material; and

(e) percentage of germination, determined on 400 pellets with or without seed.

[(2)] (4) Each container of [seed mixtures for lawn or] lawn and turf seed or lawn and turf seed mixture offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

~~(a) [the common] name of the [kind or] kind and variety [of each agricultural] for each lawn and turf seed component in excess of 5% [by weight] of the whole, and the percentage by weight of [pure seed in] each component in the order of its predominance in columnar form[;], provided that:~~

(i) the label shall specify the name of the variety or state “Variety Not Stated” or “VNS,” for any component that is required by rule of the department to be labeled as a variety;

(ii) a hybrid shall be labeled as a hybrid; and

(iii) the total of the percentages described in Subsections (4)(a), (4)(d), (4)(e), and (4)(f) shall equal 100%;

(b) [the] name and address of the person who labeled the seed, or the person who sells, offers, or exposes [it] the seed for sale in this state;

(c) [the] lot number or other lot identification;

(d) [the] percentage by weight of all weed seeds;

(e) [the] percentage by weight of agricultural [seeds] or crop seeds other than those [required to be] named on the label pursuant to Subsection (4)(a);

(f) [the] percentage by weight of inert matter;

(g) [the] name and rate of occurrence per pound of each kind of restricted [~~noxious-weed~~] noxious weed seed present for which tolerance is permitted;

(h) [the] month and year seed tests were conducted for each named lawn and turf seed, specifying:

(i) [percent] percentage of germination, exclusive of hard or dormant seed; and

(ii) [percent] percentage of hard or dormant seed, if present;

~~[(i) the word “mixed” or “mixture”; and]~~

(i) the word “mix,” “mixture,” or “blend,” if more than one component is required to be named; and

(j) [its] net weight.

~~[(3)] (5) [Each container of vegetable seeds weighing one pound or less offered or exposed for sale or] Vegetable seed in packets prepared for home gardens or household plantings or vegetable seed preplanted in containers, mats, tapes, or other planting devices shall be labeled with the following information:~~

(a) [the common] name of the kind and variety of seed[;], provided that a hybrid shall be labeled as a hybrid;

(b) [the] name and address of the person who labeled the seed, or the person who sells, offers, or exposes [it] the seed for sale in this state;

(c) (i) [the] calendar month and year the [seed was tested or the year for which the seed was packaged;] germination test was completed and sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of test;

(ii) year for which the seed was packaged for sale, stated as "Packed for yy," and year of the seed sell by date, stated as "Sell by yy"; or

(iii) calendar month and year the germination test was completed and the percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of test;

(d) [if germination of the seed is] seed with germination less than the germination standard last established for the seed by the department, [the label] shall specify the:

(i) percentage of germination, exclusive of hard or dormant seed;

(ii) percentage of hard or dormant seed, if present; and

[~~(iii) the calendar month and year the germination test was completed to determine the percentages; and]~~

[~~(iv) (iii) the words "Below Standard" in not less than eight-point type; and]~~

[~~(e) if the seeds are placed in a germination medium, mat, tape, or other device which makes it difficult to determine the quantity of the seed without removing the seeds, a]~~

(e) statement to indicate the minimum number of seeds in the container[-], if the seed are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of the seed without removing the seed;

(f) lot number or other lot identification; and

(g) the word "mix," "mixture," or "blend," if more than one component is required to be named.

[~~(4) Each container of vegetable seeds weighing more than one pound offered or exposed for sale or transported for sowing into this state]~~

(6) Vegetable seed not described in Subsection (5) shall be labeled with the following information:

(a) [the common] name of each kind and variety [of seed component] present in excess of 5% [by weight] of the whole and the percentage by weight of each in order of its predominance[;] in columnar form, provided that a hybrid shall be labeled as a hybrid;

(b) [the] name and address of the person who labeled the seed, or the person who sells, offers, or exposes [it] the seed for sale in this state;

(c) [the] lot number or other lot identification;

(d) [the] month and year seed tests were conducted, for each named vegetable seed, specifying the:

(i) [the] percentage of germination, exclusive of hard or dormant seed; and

(ii) [the] percentage of hard or dormant seed, if present; and

(e) [the] name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted[-]; and

(f) the word "mix," "mixture," or "blend," if more than one component is required to be named.

[~~(5) (7) Each container of flower seeds prepared in packets]~~ Each packet of flower seed prepared for use in home flower gardens or household plantings or flower [seeds] seed in preplanted containers, mats, tapes, or other planting devices [and offered or exposed for sale in this state] shall be labeled with the following information:

(a) [the common] name of the kind and variety [of the seeds] or a statement of [the] type and performance characteristics of the seed[;] as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

(i) a hybrid shall be labeled as a hybrid; and

(ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;

(b) [the] name and address of the person who labeled the seed, or the person who sells, offers, or exposes [it] the seed for sale in this state;

(c) (i) [the] calendar month and year [the seed was tested or the year for which the seed was packaged;] the germination test was completed and the sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of the test;

(ii) year for which the seed was packed for sale, stated as "Packed for yy," and year of the seed sell by date, stated as "Sell by yy"; or

(iii) calendar month and year the germination test was completed and percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of the test;

(d) [if germination of the seed is] seed with germination less than the germination standard last established by the department, [the label] shall specify the:

(i) percentage of germination, exclusive of hard or dormant seed;

(ii) percentage of hard or dormant seed, if present; and

(iii) [the] words "Below Standard" in not less than eight-point type; and

[~~(e) if the seeds are placed in a germination medium, mat, tape, or other device which makes it difficult to determine the quantity of seed without removing the seeds, a]~~

(e) statement to indicate the minimum number of seeds in the container[-], if the seeds are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of seed without removing the seed.

~~[(6) Each container of flower seeds in other than packets prepared for use in home flower gardens or household plantings and other than in preplanted containers, mats, tapes, and other devices]~~

(8) Flower seed not described in Subsection (7) offered or exposed for sale in this state shall be labeled with the following information:

(a) ~~[the common]~~ name of the kind and variety ~~[of the seed or a]~~ or statement of the type and performance characteristics of the seed~~;~~ as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

(i) a hybrid shall be labeled as a hybrid; and

(ii) the word “mix,” “mixture,” or “blend” shall appear, if more than one component is required to be named;

(b) genus and species of wildflower and the subspecies, if appropriate, of wildflower;

~~[(b)]~~ (c) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells, offers, or exposes ~~[it]~~ the seed for sale in this state;

~~[(e)]~~ (d) ~~[the]~~ lot number or other lot identification;

~~[(d) the month and year the seed was tested, or the year for which it was packaged; and]~~

~~[(e) for those kinds of seeds for which standard testing procedures are prescribed;]~~

~~[(i) the]~~ (e) percentage of germination, exclusive of hard or dormant seed; ~~[and]~~

~~[(ii) the]~~ (f) percentage of hard or dormant seed, if present~~[-];~~

(g) calendar month and year that testing was completed to determine percentages described in Subsections (8)(e) and (8)(f); and

(h) wildflower seed with a pure seed percentage of less than 90% shall specify the percentage by weight of:

(i) each component listed in order of predominance;

(ii) weed seed if present; and

(iii) inert matter.

~~[(7)]~~ (9) Each container of tree and shrub ~~[seeds]~~ seed that is sold, offered, or exposed for sale or transported for sowing into this state shall ~~[be labeled with the following information]:~~

(a) bear a label as required by Subsection 4-16-201(1), unless:

(i) each bag or other container is clearly identified by a lot number stenciled on the container or the seed is in bulk; and

(ii) under a contractual agreement the seed may bear a label by invoice accompanying the shipment or an analysis tag attached to the invoice; and

(b) bear on the label the following information:

~~[(a)]~~ (i) ~~[the common]~~ name of the ~~[species of]~~ seed and name of the subspecies, if appropriate;

~~[(b)]~~ (ii) ~~[the]~~ scientific name of the genus and species and scientific name of the subspecies, if appropriate;

~~[(e)]~~ (iii) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells, offers, or exposes ~~[it]~~ the seed for sale in this state;

~~[(d)]~~ (iv) ~~[the]~~ lot number or other lot identification;

~~[(e)]~~ (v) information as to origin as follows:

~~[(i)]~~ (A) ~~[for]~~ seed collected from a predominantly indigenous stand~~[-]~~ shall specify the area of collection given by latitude and longitude, ~~[or]~~ geographic description, or political subdivision such as state or county; and

~~[(ii)]~~ (B) ~~[for]~~ seed collected from other than a predominantly indigenous stand~~[-]~~ shall specify identity of the area of collection and the origin of the stand or state “origin not indigenous”;

~~[(f)]~~ (vi) ~~[the]~~ elevation or the upper and lower limits of elevation within which ~~[said]~~ the seed was collected;

~~[(g)]~~ (vii) purity as a percentage of pure seed by weight;

~~[(h) for those species for which standard germination testing procedures are prescribed by the commissioner, the following:]~~

~~[(i)]~~ (viii) percentage of germination, exclusive of hard or dormant seed;

~~[(ii)]~~ (ix) percentage of hard or dormant seed, if present; and

~~[(iii)]~~ (x) ~~[the]~~ calendar month and year the germination test was completed to determine ~~[such percentages; and]~~ percentages described in Subsections (9)(b)(viii) and (9)(b)(ix).

~~[(i) for those species for which standard germination testing procedures have not been prescribed by the commissioner, the calendar year in which the seed was collected.]~~

~~[(8)]~~ (10) Each container of ~~[seeds]~~ seed for sprouting that is offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) ~~[the]~~ name and address of the person who labeled the seed, or the person who sells, offers, or exposes ~~[it]~~ the seed for sale in this state;

(b) ~~[the commonly accepted]~~ name of the kind or kinds in order of predominance;

(c) lot number~~[-]~~ or other identification;

(d) percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter, and weed seeds, if any;

(e) percentage of germination of each pure seed component~~[- and]~~, exclusive of hard or dormant seed;

(f) percentage of hard or dormant seed, if present;

~~[(f)] (g) [the] calendar month and year the [seed was tested] test was completed to determine percentages described in Subsections (10)(d) through (10)(f) or the year for which the seed was packaged[-]; and~~

~~[(9) Any written or printed matter of any label shall appear in English.]~~

(h) the word “mix,” “mixture,” or blend,” if more than one component is required to be named.

(11) A combination mulch, seed, and fertilizer product shall:

(a) contain a minimum of 70% mulch;

(b) bear a label with the word “combination” followed by the words “mulch - seed - fertilizer” on the upper 30% of the principal display panel, provided that the:

(i) word “combination” shall be the largest and most conspicuous type on the container and equal to or larger than the product name; and

(ii) words “mulch - seed - fertilizer” shall be no smaller than one-half the size of the word “combination” and in close proximity to the word “combination”; and

(c) bear an analysis label, for agricultural and lawn and turf seed placed in a germination medium, mat, tape, or other device or mixed with mulch, specifying the following information:

(i) name of each kind and variety;

(ii) product name;

(iii) lot number;

(iv) percentage by weight of pure seed of each kind and variety named, including those less than 5% of the whole, provided that the total of the percentages described in Subsections (11)(c)(iv) through (11)(c)(vii) shall equal 100%;

(v) percentage by weight of other crop seed;

(vi) percentage by weight of inert matter, which may not be less than 70%;

(vii) percentage by weight of weed seed;

(viii) name and number of noxious weed seed per pound, if present;

(ix) percentage of germination of each kind or kind and variety named;

(x) percentage hard or dormant seed, if appropriate;

(xi) date of germination test; and

(xii) name and address of tagger.

(12) A product containing a combination of seed and granular fertilizer shall be labeled with the following information:

(a) the word “combination” followed by the words “seed-fertilizer” on the upper 30% of the principal display panel provided that:

(i) the word “combination” must be the largest and most conspicuous type on the container and equal to or larger than the product name; and

(ii) the words “seed-fertilizer” shall be no smaller than one-half the size of the word “combination” and in close proximity to the word “combination”; and

(b) an analysis label specifying the information listed in Subsection (11)(c) and the percentage by weight of the fertilizer, listed on a separate line as a component of the inert matter.

Section 11. Section 4-16-202 is amended to read:

4-16-202. Distribution of seeds -- Germination tests required -- Date to appear on label -- Seed to be free of noxious weed seed -- Special requirements for treated seeds -- Prohibitions.

(1) ~~[No]~~ A person in this state ~~[shall]~~ may not offer or expose for sale or sowing any seed for sprouting or any agricultural, vegetable, flower, or tree and shrub seed ~~[or seeds for sprouting for sale or sowing]~~ unless:

(a) (i) for agricultural ~~[seeds]~~ seed, including mixtures of agricultural ~~[seeds]~~ seed:

(A) a test to determine the percentage of germination has been performed within 18 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and

(B) the date of the test appears on the label;

(ii) for vegetable, flower, or tree and shrub seed or ~~[seeds]~~ seed for sprouting:

(A) a test to determine the percentage of germination has been performed within ~~[nine]~~ 12 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and

(B) the date of the test appears on the label;

(iii) for hermetically sealed agricultural, vegetable, flower, or tree and shrub seed:

(A) a test to determine the percentage of germination has been performed within 36 months, exclusive of the month the seed is tested and the date the seed is offered for sale; ~~provided, that hermetically sealed seeds may be offered or exposed for sale after 36 months if they], or the seed have been retested for germination within nine months, exclusive of the month the seed is retested and the date the [seeds] seed are offered or exposed for sale; and~~

(B) the date of the test appears on the label;

(b) ~~[its]~~ the package or other container is truthfully labeled and in accordance with Section 4-16-201; and

(c) ~~[it]~~ the seed is free of noxious weed seed, subject to any tolerance as may be prescribed by the

department through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The label on any package or ~~other~~ container of an agricultural, vegetable, flower, lawn and turf, or tree and shrub seed ~~which~~ or seed mixture that has been treated and for which a claim is made on account of the treatment, in addition to the labeling requirements specified in Section 4-16-201, shall:

(a) state that the ~~seeds~~ seed have been treated;

(b) state the commonly accepted name, generic chemical name, or abbreviated chemical name of the substance used for treatment;

(c) ~~if the seed is treated with an inoculant,~~ state the date beyond which the inoculant is not considered effective, if the seed is treated with an inoculant; and

(d) (i) include a caution statement consistent with rules of the department if the treatment substance remains with the seed in an amount which is harmful to vertebrate animals; ~~provided, that the~~ and

(ii) subject to Subsection (2)(d)(i), state in a caution statement for mercurials and similarly toxic substances, as defined by rule of the department, ~~shall state~~ that the seed has been treated with poison with "POISON" printed in red letters on a background of distinctly contrasting color together with a representation of the skull and crossbones.

(3) A person may not:

(a) use the word "trace" as a substitute for a statement required under this chapter;

(b) disseminate any false or misleading advertisement about agricultural, vegetable, flower, or tree and shrub seed or ~~seeds~~ seed for sprouting; or

(c) detach, alter, or destroy any label or substitute any seed in a manner ~~which~~ that defeats the purpose of this chapter.

Section 12. Section 4-17-114 is amended to read:

4-17-114. Invasive Species Mitigation Account created.

(1) (a) As used in this section, "project" means an undertaking that:

~~(a)~~ (i) rehabilitates or treats an area infested with, or threatened by, an invasive species; or

~~(b)~~ (ii) conducts research related to invasive species.

(b) As used in this section, "project" includes items and processes required prior to the implementation of an undertaking described in Subsection (1)(a).

(2) (a) There is created a restricted account within the General Fund known as the "Invasive Species Mitigation Account."

(b) The restricted account shall consist of:

(i) money appropriated by the Legislature;

(ii) grants from the federal government; and

(iii) grants or donations from a person.

(3) (a) ~~[After consulting with the Department of Natural Resources and the Conservation Commission, the]~~ The department may expend money in the restricted account:

(i) on a project implemented by:

(A) the department; or

(B) the Conservation Commission created in Section 4-18-104; or

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

(A) ~~a~~ state agency;

(B) ~~a~~ federal agency;

(C) ~~a~~ federal, state, tribal, or private landowner;

(D) ~~a~~ political subdivision;

(E) ~~a~~ county weed board;

(F) ~~a~~ cooperative weed management area; ~~or~~

(G) nonprofit organization; or

~~(G) a~~ (H) university.

(b) The department may use up to 10% of restricted account funds appropriated under Subsection (2)(b)(i) on:

(i) department administration; or

(ii) project planning, monitoring, and implementation expenses.

(c) A project that receives funds from the Invasive Species Mitigation Account may not spend more than 10% of an award of funds on planning and administration costs.

(d) A federal landowner that receives restricted account funds for a project shall match the funds received from the restricted account with an amount that is equal to or greater than the amount received from the restricted account.

(4) In giving a grant, the department shall consider the effectiveness of a project in the rehabilitation or treatment of an area infested with, or threatened by, an invasive species.

Section 13. Section 4-17-115 is amended to read:

4-17-115. Cooperative agreements and grants to rehabilitate areas infested with or threatened by invasive species.

~~[After consulting with the Department of Natural Resources and the Conservation Commission, the]~~ The department may:

(1) enter into a cooperative agreement with a political subdivision, a state agency, a federal agency, a tribe, a county weed board, a cooperative weed management area, a nonprofit organization, a university, or a private landowner to:

(a) rehabilitate or treat an area infested with, or threatened by, an invasive species; or

(b) conduct research related to invasive species;

(2) expend money from the Invasive Species Mitigation Account created in Section 4-17-114; and

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

(a) administer this section; and

(b) give grants from the Invasive Species Mitigation Account.

Section 14. Section 4-24-102 is amended to read:

4-24-102. Definitions.

As used in this chapter:

(1) "Brand" means any identifiable mark applied to livestock ~~[which]~~ that is intended to show ownership and the mark's location.

(2) "Carcass" means any part of the body of an animal, including entrails and edible meats.

(3) "Domesticated elk" means the same as that term is defined in Section 4-39-102.

(4) "Hide" means any skins or wool removed from livestock.

(5) "Livestock" means cattle, calves, horses, mules, sheep, goats, or hogs~~[, or domesticated elk]~~.

(6) (a) "Livestock market" means a public market place consisting of pens or other enclosures where cattle, calves, horses, or mules are received on consignment and kept for subsequent sale, either through public auction or private sale.

(b) "Livestock market" does not mean:

(i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock breeder, or feeder who is going out of business; or

(ii) a place where an association of livestock breeders under the association's own management~~[,]~~ offers registered livestock or breeding sires for sale ~~[and]~~, assumes all responsibility for the sale, guarantees title to the livestock or sires sold, and arranges with the department for brand inspection of all animals sold.

(7) "Mark" means any cutting and shaping of the ears or brisket area of livestock ~~[which]~~ that is intended to show ownership.

(8) "Open range" means land upon which cattle, sheep, or other domestic animals are grazed or permitted to roam by custom, license, lease, or permit.

(9) "Slaughterhouse" means any building, plant, or establishment where animals are harvested, dressed, or processed and their meat or meat products produced for human consumption.

Section 15. Section 4-24-104 is amended to read:

4-24-104. Livestock Brand Board created -- Composition -- Terms -- Removal -- Quorum for transaction of business -- Compensation -- Duties.

(1) There is created the Livestock Brand Board consisting of seven members appointed by the governor as follows:

(a) ~~[four cattle ranchers]~~ one feeder operator recommended by the Utah Cattlemen's Association~~[, one of whom shall be a feeder operator];~~

(b) three cattle ranchers, one from each of the state's brand districts;

~~[(b)]~~ (c) one dairyman recommended by the Utah Dairymen's Association;

~~[(e)]~~ (d) one livestock market operator recommended jointly by the Utah Cattlemen's Association and the Utah Dairymen's Association ~~[and the Livestock Market Association];~~ and

~~[(d)]~~ (e) one horse breeder recommended by the Utah Horse Council.

(2) If a nominee is rejected by the governor, the recommending association shall submit another nominee.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) (a) A member may, at the discretion of the governor, be removed at the request of the association that recommended the appointment.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) ~~(a)~~ One member elected by the board shall serve as chair for a term of one year and be responsible for the call and conduct of meetings of the Livestock Brand Board.

~~(b)~~ Attendance of a simple majority of the members at a duly called meeting shall constitute a quorum for the transaction of official business.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The Livestock Brand Board with the cooperation of the department shall direct the

procedures and policies to be followed in administering and enforcing this chapter.

Section 16. Section 4-24-303 is amended to read:

4-24-303. Livestock -- Verification of ownership through brand inspection -- Issuance of certificate of brand inspection -- Brand inspector may demand evidence of ownership -- Brand inspection of livestock seized by the federal government prohibited -- Exception.

(1) A brand inspector, as an agent of the department, shall verify livestock ownership by conducting a brand inspection during daylight hours.

(2) After conducting the brand inspection, the brand inspector, if satisfied that the livestock subject to inspection bears registered brands or marks owned by the owner of the livestock, shall issue a brand inspection certificate to the owner or owner's agent.

(3) The brand inspector shall record the number, sex, breed, and brand or mark on each animal inspected together with the owner's name.

(4) If any livestock subject to inspection bears a brand or mark other than that of the owner, or if no brand or mark appears on ~~such~~ the livestock, the brand inspector may demand evidence of ownership before issuing a brand inspection certificate.

(5) A brand inspector may not issue a brand inspection certificate for any privately owned livestock seized by the federal government unless the:

(a) ~~the~~ brand inspector receives consent from the livestock's owner;

(b) ~~the~~ owner is unknown; or

(c) ~~the~~ brand inspector receives a copy of a court order authorizing the seizure.

(6) Breed papers alone do not constitute proof of ownership, but may be considered as a factor in determining ownership.

Section 17. Section 4-24-307 is amended to read:

4-24-307. Transportation of sheep, cattle, horses, domesticated elk, or mules -- Brand certificate or other evidence of ownership required -- Moving domesticated elk intrastate -- Transit permit -- Contents.

(1) ~~No~~ Except as described in Subsection (2) and Section 4-39-305, a person may not transport any sheep, cattle, horses, domesticated elk, or mules without having an official state brand certificate or other proof of ownership in ~~his~~ the person's possession.

(2) A person may transport domesticated elk without an official state brand certificate or other proof of ownership if the person:

(a) only moves domesticated elk accompanied by an intrastate transfer form provided by the department;

(b) reports the move to the department within five days;

(c) only moves domesticated elk from a licensed facility to another licensed facility owned by the same person; and

(d) only moves domesticated elk intrastate.

(3) An official state brand inspection certificate shall accompany all domesticated elk sold or slaughtered.

~~[(2)]~~ (4) Each person transporting livestock for another person shall have a transit permit signed by the owner or the owner's authorized agent specifying the:

(a) name of the person driving the vehicle;

(b) date of transportation;

(c) place of origin or loading;

(d) destination;

(e) date of issuance;

(f) number of animals being transported; and

(g) full description of an animal being transported.

Section 18. Section 4-24-502 is amended to read:

4-24-502. Unlawful acts specified -- Allegation concerning evidence of ownership relative to hides.

(1) It is unlawful for any person to:

(a) permit any cattle, calves, horses, mules, or sheep, except unweaned calves or colts, that are not branded or marked in accordance with this chapter, to forage upon an open range in this state or outside an enclosure;

(b) brand or mark any livestock with a brand or mark ~~which~~ that is not a matter of record on the central brand and mark registry;

(c) obliterate, change, or remove a recorded brand or mark; ~~or~~

(d) destroy, mutilate, or conceal any hide with intent to, or for the purpose of, removing evidence of ownership of the hide, or ownership of the animal from which the hide was removed~~[-]~~;

(e) hold or ship an estray or livestock owned by another without notifying the owner, a brand inspector, or law enforcement; or

(f) offer for sale an estray or the livestock owned by another.

(2) In any prosecution for violation of this section~~[-]~~;

(a) the state ~~need not~~ does not need to allege the ownership of the hide~~[-]~~ or the animal or carcass from which the hide was removed; and

(b) the complaint or information [being] is sufficient if [it] the complaint or information alleges that ownership is unknown and that the hide is not the property of the defendant.

Section 19. Section 4-39-205 is amended to read:

4-39-205. License renewal.

(1) To renew a license, the licensee shall submit to the department the following:

(a) renewal fee;

[~~(a)~~] (b) [~~an inspection certificate~~] paperwork showing that the:

(i) [the] domesticated elk, on the domesticated elk facility, have been inspected and certified by the department for health, proof of ownership, and genetic purity certification for all elk imported into the state; and

(ii) [the] facility has been properly maintained, as provided in this chapter, during the immediately preceding 60-day period; and

[~~(b)~~] (c) [a] record of each purchase of domesticated elk and transfer of domesticated elk into the facility, which shall include the following information:

(i) name, address, and health approval number of the source;

(ii) date of transaction; and

(iii) number and sex.

(2) (a) If the [~~application for renewal is~~] renewal fee and paperwork are not received on or before April 30, a late fee will be charged.

(b) A license may not be renewed until the fee is paid.

(3) If the application and fee for renewal are not received on or before July 1, the license may not be renewed, and a new license shall be required.

Section 20. Section 4-39-304 is amended to read:

4-39-304. Marking domesticated elk.

(1) Each domesticated elk[, ~~not previously tattooed,~~] shall be marked by either [~~a tattoo, as provided in Subsection (2),~~] an official USDA tag or by an electronic identification tag, as provided in Subsection [(3)] (2):

(a) within 30 days of a change of ownership; or

(b) in the case of newborn calves, within 15 days after being weaned, but in any case, no later than [~~September 15~~] January 31.

[~~(2) If a domesticated elk is identified with a tattoo, the tattoo shall:~~]

[~~(a) be placed peri-anally or inside the right ear; and~~]

[~~(b) consist of a four-digit herd number assigned by the department over a three-digit individual animal number assigned by the owner.~~]

[~~(3)~~] (2) If a domesticated elk is identified with an electronic identification tag, it shall be placed in the right ear.

Section 21. Section 4-39-305 is amended to read:

4-39-305. Transportation of domesticated elk to or from domesticated elk facilities.

[~~Any domesticated elk transferred to or from a domesticated elk facility within the state shall be:~~]

[~~(1) accompanied by an intrastate movement of domesticated elk form specifying the following:~~]

[~~(a) the name, address, and facility license number of the source;~~]

[~~(b) the number, sex, and individual identification number; and~~]

[~~(c) the name, address, and facility license number of the destination;~~]

[~~(2) accompanied by proof of genetic purity as provided in Section 4-39-301; and~~]

[~~(3) inspected by the department as provided in Section 4-39-306.~~]

(1) A person may transport domesticated elk without an official state brand certificate or other proof of ownership if the person:

(a) only moves domesticated elk accompanied by an intrastate transfer form provided by the department;

(b) reports the move to the department within five days;

(c) only moves domesticated elk from a licensed facility to another licensed facility owned by the same person; and

(d) only moves domesticated elk intrastate.

(2) An official state brand inspection certificate shall accompany all domesticated elk sold or slaughtered.

Section 22. Section 4-39-306 is amended to read:

4-39-306. Inspection before movement, sale, or slaughter.

(1) Each domesticated elk facility licensee shall have the domesticated elk inspected by the department before [~~any transportation,~~] sale[, or slaughter.

(2) [~~Any~~] Except as provided by Section 4-39-305, any person transporting or possessing domesticated elk or domesticated elk products shall have the appropriate brand inspection certificate in the person's possession.

Section 23. Section 4-39-401 is amended to read:

4-39-401. Escape of domesticated elk -- Liability.

(1) ~~[It is the owner's responsibility to]~~ The owner shall try to capture ~~[any]~~ domesticated elk that ~~[may have escaped]~~ escape.

(2) The escape of a domesticated elk shall be reported immediately to the ~~[state veterinarian or a brand inspector]~~ domestic elk program manager, who shall notify the Division of Wildlife Resources.

(3) If the domesticated elk is not recovered within 72 hours of the escape, the department, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.

(4) The owner shall reimburse the state or a state agency for any reasonable recapture costs ~~[that may be]~~ incurred in the recapture or destruction of ~~[the animal]~~ an escaped domesticated elk.

(5) ~~[Any]~~ An escaped domesticated elk taken by a licensed hunter in a manner that complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the Wildlife Board shall be considered ~~[to be]~~ a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.

(6) The owner shall be responsible ~~[to contain]~~ for containing the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

CHAPTER 356**S. B. 178**

Passed February 28, 2018

Approved March 20, 2018

Effective May 8, 2018

INTERLOCAL ENTITIES AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends the definition of a public body under the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a public body under the Open and Public Meetings Act to exclude a taxed interlocal entity; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-103, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441

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

Section 1. Section 52-4-103 is amended to read:**52-4-103. Definitions.**

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;

(d) text messaging, as that term is defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance gathering or social gathering; or
- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

- (i) no public funds are appropriated for expenditure during the time the public body is convened; and
- (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section ~~[53A-1-160]~~ 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose

employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section ~~[53A-1-1601]~~ 53G-7-1101.

(b) "Public body" includes:

(i) ~~[as defined in Section 11-13-103,]~~ an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103; and

(ii) ~~[as defined in Section 11-13a-102,]~~ a governmental nonprofit corporation as that term is defined in Section 11-13a-102.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section ~~[53A-1a-108.1; or]~~ 53G-7-1203;

(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201[.]; or

(v) a taxed interlocal entity, as that term is defined in Section 11-13-602.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

CHAPTER 357**S. B. 181**

Passed March 8, 2018
 Approved March 20, 2018
 Effective May 8, 2018

**INFERTILITY INSURANCE
 COVERAGE PILOT PROGRAM**

Chief Sponsor: Luz Escamilla
 House Sponsor: LaVar Christensen

LONG TITLE**General Description:**

This bill amends provisions of the Public Employees' Benefit and Insurance Program Act.

Highlighted Provisions:

This bill:

- ▶ requires the Public Employees' Health Plan to create a 3-year pilot program to cover a portion of the cost of using an assisted reproductive technology; and
- ▶ creates a sunset date for the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-249, as enacted by Laws of Utah 2016, Chapter 280

ENACTS:

49-20-418, Utah Code Annotated 1953

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

Section 1. Section 49-20-418 is enacted to read:

49-20-418. Expanded infertility treatment coverage pilot program.

(1) As used in this section:

(a) "Assisted reproductive technology" means the same as the term is defined in 42 U.S. Code Sec. 26-3a-7a.

(b) "Physician" means the same as the term is defined in Section 58-67-102.

(c) "Pilot program" means the expanded infertility treatment coverage pilot program described in Subsection (2).

(d) "Qualified individual" means a covered individual who is eligible for maternity benefits under the program.

(2) (a) Beginning plan year 2018-19, and ending plan year 2020-21, the program shall offer a 3-year pilot program within the state risk pool that provides coverage to a qualified individual for the use of an assisted reproductive technology.

(b) The pilot program shall offer a one-time, lifetime maximum benefit of \$4,000 toward the

costs of using an assisted reproductive technology for each qualified individual.

(c) The benefit described in Subsection (2)(b) is subject to the same cost sharing requirements as the covered individual's plan.

(3) Coverage offered under the pilot program applies if:

(a) the patient who will use the assisted reproductive technology is a qualified individual;

(b) (i) the patient's physician verifies that the patient or the patient's spouse has a demonstrated condition recognized by a physician as a cause of infertility; or

(ii) the patient attests that the patient is unable to conceive a pregnancy or carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception;

(c) the patient attests that the patient has been unable to attain a successful pregnancy through any less-costly, potentially effective infertility treatments for which coverage is available under the health benefit plan; and

(d) the use of the assisted reproductive technology procedure is performed at a medical facility that conforms to the minimal standards for programs of assisted reproductive technology procedures adopted by the American Society for Reproductive Medicine.

(4) Coverage offered under the pilot program:

(a) may not exceed \$4,000 over the lifetime of each qualified individual;

(b) shall satisfy, in accordance with Subsection 31A-22-610.1(1)(c)(ii), the requirement to provide an adoption indemnity benefit to a qualified individual under Section 31A-22-610.1; and

(c) does not apply to a qualified individual if the qualified individual has received the adoption indemnity benefit required under Section 31A-22-610.1.

(5) (a) The purpose of the pilot program is to study the efficacy of providing coverage for the use of an assisted reproductive technology and is not a mandate for coverage of an assisted reproductive technology within all health plans offered by the program.

(b) Before November 30, 2021, the program shall report to the Social Services Appropriations Subcommittee regarding the costs and benefits of the pilot program.

(6) Under Section 63J-1-603, the Legislature intends that the cost of the pilot program will be paid from money above the minimum recommended level in the public employees' state risk pool reserve.

Section 2. Section 63I-1-249 is amended to read:

63I-1-249. Repeal dates, Title 49.

(1) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2022.

(2) Section 49-20-418 is repealed January 1, 2022.

CHAPTER 358**S. B. 202**

Passed March 6, 2018

Approved March 20, 2018

Effective May 8, 2018

AFTER SCHOOL PROGRAM AMENDMENTS

Chief Sponsor: Luz Escamilla

House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill authorizes a grant program to provide funding for certain programs offered to elementary and secondary students outside of the regular school day.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a grant program to provide funding for certain educational opportunities offered outside of the regular school day;
- ▶ requires applicants to the grant program to identify and certify the availability of private matching funds before receiving a grant;
- ▶ requires the State Board of Education to work with the Department of Workforce Services to compile data and report on the impact of grant funding; and
- ▶ grants rulemaking authority.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to State Board of Education - Initiative Programs, as an ongoing appropriation:
 - from General Fund, \$125,000; and
- ▶ to Department of Workforce Services - Office of Childcare, as an ongoing appropriation:
 - from General Fund, \$125,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53F-5-209, Utah Code Annotated 1953

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

Section 1. Section 53F-5-209 is enacted to read:**53F-5-209. Educational Improvement Opportunities Outside of the Regular School Day Grant Program.**

(1) As used in this section:

(a) "Applicant" means an LEA, private provider, nonprofit provider, or municipality that provides an existing program and applies for a grant under the provisions of this section.

(b) "Board" means the State Board of Education.

(c) "Existing program" means a currently funded and operating program, as described in Subsections 53E-3-508(1)(a) and (b).

(d) "Grant program" means the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in Subsection (2).

(e) "Grantor" means:

(i) for an LEA that receives a grant under this section, the board; or

(ii) for a private provider, nonprofit provider, or municipality that receives a grant under this section, the Department of Workforce Services.

(f) "Local education agency" or "LEA" means a school district or charter school.

(2) There is created the Educational Improvement Opportunities Outside of the Regular School Day Grant Program to provide grant funds for an existing program to improve and develop the existing program in accordance with the high quality standards described in Section 53E-3-508.

(3) Subject to legislative appropriation and in accordance with Subsection (7):

(a) the board shall:

(i) solicit LEA applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5); and

(b) the Department of Workforce Services shall:

(i) solicit private provider, nonprofit provider, or municipality applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5).

(4) To receive a grant under this section, an applicant shall submit a proposal to the grantor describing:

(a) how the applicant proposes to develop and improve the existing program to meet the standards described in Section 53E-3-508;

(b) information necessary for the board to determine the impact of the applicant's program on the academic performance of participating students;

(c) the total number of students the applicant proposes to serve through the existing program;

(d) the estimated percentage of the students described in Subsection (4)(c) who qualify for free or reduced lunch; and

(e) the estimated cost of the applicant's existing program, per student.

(5) In awarding a grant under Subsection (3), the grantor shall consider:

(a) how an applicant's existing program proposes to meet the standards described in Section 53E-3-508; and

(b) the percentage of students in that program who qualify for free and reduced lunch.

(6) An applicant that receives a grant under this section shall:

(a) use the grant to improve an existing program in accordance with the standards described in Section 53E-3-508; and

(b) annually report to the grantor:

(i) the number of students served by the existing program;

(ii) the academic outcomes that the program is expected to have on participating students;

(iii) program attendance rates of participating students; and

(iv) other information required by the grantor.

(7) (a) To receive a distribution of grant money under this section, an applicant shall identify and certify the availability of private matching funds in the amount of the grant to be distributed to the applicant.

(b) Neither the board nor the Department of Workforce Services shall be expected to seek private matching funds for this grant program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer this section that include:

(a) specific criteria to determine academic performance;

(b) application and reporting procedures; and

(c) criteria for an existing program to qualify for a grant under this section.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Workforce Services shall make rules to administer the grant program as described in Subsection (3)(b).

(10) In accordance with 34 C.F.R. Sec. 99.35, the board shall designate the Department of Workforce Services as an authorized representative for the purpose of sharing student data and evaluating and reporting the impact and effectiveness of the grant program.

(11) The board and the Department of Workforce Services may utilize up to 10% of the funds appropriated for administrative costs associated with the grant program and the report described in Subsection (12).

(12) The board shall report to the Education Interim Committee before November 30, 2019, regarding:

(a) the grant program's effect on the quality of existing programs that participate in the grant program; and

(b) the impact of the existing programs on the academic performance of participating students.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending

June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Initiative Programs

From General Fund \$125,000

Schedule of Programs:

<u>Educational Improvement Opportunities Outside of the Regular School Day Grant Program</u>	<u>\$125,000</u>
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ITEM 2

To Department of Workforce Services -- Office of Childcare

From General Fund \$125,000

Schedule of Programs:

<u>Educational Improvement Opportunities Outside of the Regular School Day Grant Program</u>	<u>\$125,000</u>
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CHAPTER 359**S. B. 203**

Passed March 7, 2018
 Approved March 20, 2018
 Effective May 8, 2018

TERMINATION OF PARENTAL RIGHTS AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends provisions related to the termination of parental rights.

Highlighted Provisions:

This bill:

- ▶ clarifies the roles of the attorney general and the guardian ad litem regarding the termination of parental rights when a child is in the custody of the Division of Child and Family Services;
- ▶ clarifies the right to appointed counsel when an indigent parent's parental rights may be terminated in a private action;
- ▶ requires the state to pay the cost for appointed counsel when an indigent parent's parental rights may be terminated in a private action;
- ▶ requires that a parent whose parental rights may be terminated in a private action be given notice of the right to appointed counsel if the court determines that the parent is indigent; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-4a-113, as last amended by Laws of Utah 2008, Chapters 3 and 299
 78A-6-115, as last amended by Laws of Utah 2017, Chapter 330
 78A-6-314, as last amended by Laws of Utah 2016, Chapter 231
 78A-6-506, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78A-6-902, as last amended by Laws of Utah 2012, Chapter 293
 78A-6-1111, as last amended by Laws of Utah 2016, Chapters 33 and 177
 78B-6-110, as last amended by Laws of Utah 2014, Chapter 410
 78B-6-112, as last amended by Laws of Utah 2012, Chapter 340

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

Section 1. Section 62A-4a-113 is amended to read:**62A-4a-113. Division's enforcement authority -- Responsibility of attorney general to represent division.**

(1) The division shall take legal action that is necessary to enforce the provisions of this chapter.

(2) (a) Subject to ~~the provisions of~~ Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of this chapter, in addition to the requirements of Title 78A, Chapter 6, Juvenile Court Act of 1996, relating to protection ~~and~~, custody ~~of~~, and parental rights termination for abused, neglected, or dependent minors. The attorney general may contract with the local county attorney to enforce the provisions of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996.

(b) It is the responsibility of the attorney general's office to:

(i) advise the division regarding decisions to remove a minor from the minor's home;

(ii) represent the division in all court and administrative proceedings related to abuse, neglect, and dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and

(iii) be available to and advise caseworkers on an ongoing basis.

(c) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights. Those attorneys shall devote their full time and attention to that representation and, insofar as it is practicable, shall be housed in or near various offices of the division statewide.

(3) As of July 1, 1998, the attorney general's office shall represent the division with regard to actions involving minors who have not been adjudicated as abused or neglected, but who are otherwise committed to the custody of the division by the juvenile court, and who are classified in the division's management information system as having been placed in custody primarily on the basis of delinquent behavior or a status offense. Nothing in this section may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Section 78A-6-115.

Section 2. Section 78A-6-115 is amended to read:**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be

released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) [The] Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history

and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in its discretion, consider evidence of statements made by a child under eight years of age to a person in a trust relationship.

Section 3. Section 78A-6-314 is amended to read:

78A-6-314. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor's home.

(b) If reunification services were not ordered at the dispositional hearing, a permanency hearing shall be held within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services were ordered by the court in accordance with Section 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(3) In making a determination under Subsection (2)(a), the court shall review and consider:

(a) the report prepared by the Division of Child and Family Services;

(b) any admissible evidence offered by the minor's guardian ad litem;

(c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);

(d) any evidence regarding the efforts or progress demonstrated by the parent; and

(e) the extent to which the parent cooperated and utilized the services provided.

(4) With regard to a case where reunification services were ordered by the court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the court shall, unless the time for the provision of reunification services is extended under Subsection (8):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the court pursuant to Section 78A-6-312; and

(c) establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The court may order another planned permanent living arrangement for a minor 16 years old or older upon entering the following findings:

(a) the Division of Child and Family Services has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 78A-6-306(6)(e);

(b) the Division of Child and Family Services has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Sections 62A-4a-210 through 62A-4a-212;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the court may not extend reunification services beyond 12 months after the day on which the minor was initially removed from the minor's home, in accordance with the provisions of Section 78A-6-312.

(7) (a) Subject to Subsection (7)(b), the court may extend reunification services for no more than 90 days if the court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the court may not extend any reunification services beyond 15 months after the day on which the minor was initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis

for the court to extend services for that parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the child;

(ii) the court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the court specifies the time period in which it is likely that reunification will occur.

(d) A court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a court shall take into consideration the status of the minor siblings of the minor.

(8) The court may, in its discretion:

(a) enter any additional order that it determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor has been terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

(b) If the division opposes the plan to terminate parental rights, the court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 78A-6-316(2).

(10) (a) Any party to an action may, at any time, petition the court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the court so determines, it shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a court's ability to terminate reunification services at any time prior to a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed prior to the date scheduled for a permanency hearing, the court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the court shall first make a finding regarding whether reasonable efforts have been made by the Division of Child and Family Services to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 78A-6-312.

(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

(13) If a court determines that a child will not be returned to a parent of the child, the court shall consider appropriate placement options inside and outside of the state.

Section 4. Section 78A-6-506 is amended to read:

78A-6-506. Notice -- Nature of proceedings.

(1) After a petition for termination of parental rights has been filed, notice ~~[of that fact and of the time and place of the hearing shall be provided, in accordance with the Utah Rules of Civil Procedure,]~~ shall:

(a) be provided to the parents, the guardian, the person or agency having legal custody of the child, and [to] any person acting in loco parentis to the child[-]; and

(b) indicate the:

(i) nature of the petition;

(ii) time and place of the hearing;

(iii) right to counsel; and

(iv) right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.

(2) A hearing shall be held specifically on the question of termination of parental rights no sooner

than 10 days after service of summons is complete. A verbatim record of the proceedings shall be taken and the parties shall be advised of their right to counsel, including the appointment of counsel for an indigent parent or legal guardian facing any action initiated by a private party under this part or termination of parental rights under Section 78B-6-112. The summons shall contain a statement to the effect that the rights of the parent or parents are proposed to be permanently terminated in the proceedings. That statement may be contained in the summons originally issued in the proceeding or in a separate summons subsequently issued.

(3) The proceedings are civil in nature and are governed by the Utah Rules of Civil Procedure. The court shall in all cases require the petitioner to establish the facts by clear and convincing evidence, and shall give full and careful consideration to all of the evidence presented with regard to the constitutional rights and claims of the parent and, if a parent is found, by reason of [his] the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.

Section 5. Section 78A-6-902 is amended to read:

78A-6-902. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section 62A-4a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each child who may become the subject of a petition alleging abuse, neglect, or dependency, from the earlier of the day that:

(a) the child is removed from the child's home by the division; or

(b) the petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the Division of Child and Family Services in accordance with Section 62A-4a-205;

(b) prior to representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the Division of Child and Family Services to:

(i) maintain a minor in the minor's home; or

(ii) reunify a child with the child's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor; ~~and~~

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services[-]; and

(j) makes all necessary court filings to advance the guardian ad litem's position regarding the best interest of the child.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

(b) All volunteers, paralegals, and staff utilized pursuant to this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the child's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the child;

(C) counseling for the parent, if mandated by the court or recommended by the Division of Child and Family Services; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess those fees or costs against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be impecunious.

(d) For purposes of Subsection (6)(c)(ii)(B), if a person claims to be impecunious, the court shall:

(i) require that person to submit an affidavit of impecuniosity as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The child's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian ad litem's duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the child unless the child:

(i) instructs the guardian ad litem to not disclose the child's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(9) An attorney guardian ad litem shall be provided access to all Division of Child and Family Services records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what constitutes the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's Division of Child and Family Services caseworker, but may not:

(i) rely exclusively on the conclusions and findings of the Division of Child and Family Services; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a Division of Child and Family Services caseworker.

(c) A guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a Division of Child and Family Services caseworker is present for a purpose other than the guardian ad litem's visit with the client.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the guardian ad litem makes a recommendation regarding the best interest of the child, the court shall require the guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise. This subsection supersedes Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), records released in accordance with Subsection (12)(b) shall be maintained as confidential by the Legislature.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in its audits and reports to the Legislature.

(d) (i) Subsection (12)(b) constitutes an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility:

(I) to provide a guardian ad litem program; and

(II) as *parens patriae*, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 6. Section 78A-6-1111 is amended to read:

78A-6-1111. Right to counsel -- Appointment of counsel for indigent -- Costs.

(1) (a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings.

(b) In any action initiated by a private party^[7]:

(i) the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense^[-]; and

(ii) the court shall appoint counsel designated by the county where the petition is filed to represent a parent or legal guardian facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under Section 78B-6-112, if the parent or legal guardian:

(A) qualifies as indigent under Section 77-32-202; and

(B) does not, after being fully advised of the right to counsel, knowingly, intelligently, and voluntarily waive the right to counsel.

(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.

(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that the minor has the right to be represented by counsel at every stage of the proceedings.

(i) In cases where a petition or information alleging a felony-level offense is filed, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor

may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.

(ii) In all other cases in which a petition is filed the right to counsel may not be waived by a minor unless there has been a finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel.

(iii) If the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.

(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.

(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes or may apply for a grant for reimbursement, as provided in Subsection (6).

(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify court orders in a proceeding initiated by, a private party, except ~~that in a private action to terminate parental rights the court may appoint counsel to represent an indigent parent if it finds that the failure to appoint counsel will result in a deprivation of due process~~ as provided under Subsection (1)(b).

(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.

(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county for the cost of appointed counsel.

(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g).

(6) If a county incurs expenses in providing defense services to indigent individuals facing any action initiated by a private party under Title 78A,

Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under Section 78B-6-112, the county may apply for a grant for reimbursement from the Utah Indigent Defense Commission under Section 77-32-806.

Section 7. Section 78B-6-110 is amended to read:

78B-6-110. Notice of adoption proceedings.

(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and

(ii) has a duty to protect his own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.

(2) Notice of an adoption proceeding shall be served on each of the following persons:

(a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:

(i) waiver;

(ii) relinquishment;

(iii) actual consent, as described in Subsection (12); or

(iv) judicial action;

(b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health, in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the adoptee;

(d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;

(e) the adoptee's spouse, if any;

(f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;

(g) a person who is:

(i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and

(ii) holding himself out to be the child's father; and

(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption,

unless the court finds that the mother's spouse is not the child's father under Section 78B-15-607.

(3) (a) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(d):

(i) initiate proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i) with the office of vital statistics within the Department of Health.

(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3-307.

(c) The Department of Health shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.

(d) When the state registrar of vital statistics receives a completed form, the registrar shall:

(i) record the date and time the form was received; and

(ii) immediately enter the information provided by the unmarried biological father in the confidential registry established by Subsection 78B-6-121(3)(c).

(e) The action and notice described in Subsection (3)(a):

(i) may be filed before or after the child's birth; and

(ii) shall be filed prior to the mother's:

(A) execution of consent to adoption of the child; or

(B) relinquishment of the child for adoption.

(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(5) The notice required by this section:

(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;

(b) shall be served at least 30 days prior to the final dispositional hearing;

(c) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a), within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;

(d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on

which the person is served with notice of an adoption proceeding;

(e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption; ~~and~~

(f) shall state where the person may obtain a copy of the petition for adoption[-]; and

(g) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.

(6) (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.

(ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to a person who has initiated a paternity proceeding and filed notice of that action

with the state registrar of vital statistics in the Department of Health in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:

(a) intervene in the adoption; and

(b) present evidence to the court relevant to the best interest of the child.

(12) In order to be excused from the requirement to provide notice as described in Subsection (2)(a) on the grounds that the person has provided consent to the adoption proceeding under Subsection (2)(a)(iii), the consent may not be implied consent, as described in Section 78B-6-120.1.

Section 8. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A district court has jurisdiction ~~to hear and decide a petition~~ to terminate parental rights in a child if the party who filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate ~~a person's~~ an individual's parental rights in a child if:

(a) the ~~person~~ individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the ~~person~~ individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the ~~person~~ individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the ~~person~~ individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the ~~person~~ individual is not a parent of the child; or

(e) the ~~person's~~ individual's parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, if terminating the person's parental rights is in the best interests of the child.

(6) The court shall appoint counsel designated by the county where the petition is filed to represent a party who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or whose parental rights are subject to termination under this section, if:

(a) the court determines that the party is indigent under Section 77-32-202; and

(b) the party does not, after being fully advised of the right to counsel, knowingly, intelligently and voluntarily waive the right to counsel.

(7) If a county incurs expenses in providing defense services to indigent individuals facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under this section, the county may apply for a grant for reimbursement from the Utah Indigent Defense Commission under Section 77-32-806.

CHAPTER 360**S. B. 226**

Passed March 8, 2018
Approved March 20, 2018
Effective January 1, 2019

URBAN FARMING AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Logan Wilde

LONG TITLE**General Description:**

This bill deals with urban farming.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “urban farming”;
- ▶ authorizes a county to authorize urban farming; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-1702, as last amended by Laws of Utah 2014, Chapter 413

ENACTS:

59-2-1714, Utah Code Annotated 1953

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

Section 1. Section 59-2-1702 is amended to read:**59-2-1702. Definitions.**

As used in this part:

(1) “Actively devoted to urban farming” means that:

(a) land is devoted to active urban farming activities;

(b) the land produces greater than 50% of the average agricultural production per acre:

- (i) as determined under Section 59-2-1703; and
- (ii) for the given type of land and the given county or area.

(2) “Rollback tax” means the tax imposed under Section 59-2-1705.

(3) (a) Subject to Subsection (3)(b), “urban farming” means cultivating food:

(i) with a reasonable expectation of profit from the sale of the food; and

(ii) from irrigated land located in a county that has adopted an ordinance governing urban farming in the county, pursuant to Section 59-2-1714.

~~[(A) of the first class, as defined in Section 17-50-501; or]~~

~~[(B) of the second class, as defined in Section 17-50-501, if the county is at least 98% urban, as determined by the United States Census Bureau.]~~

(b) “Urban farming” does not include:

- (i) cultivating food derived from an animal; or
- (ii) grazing.

(4) “Withdrawn from this part” means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707; or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Section 2. Section 59-2-1714 is enacted to read:**59-2-1714. County regulation.**

A county in this state may adopt an ordinance, authorizing residents of the county to:

- (1) participate in urban farming; and
- (2) utilize the provisions of this part as described in this part.

Section 3. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 361**S. B. 231**

Passed March 8, 2018

Approved March 20, 2018

Effective May 8, 2018

STATE BUILDING CODE AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill amends Statewide Amendments Incorporated as Part of State Construction Code.

Highlighted Provisions:

This bill:

- ▶ amends a provision of the International Building Code to provide that an individual who performs fireproof coating may obtain certain certification;
- ▶ amends a provision of the International Residential Code regarding when a drainage system is not required; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-3-104, as last amended by Laws of Utah 2016, Chapter 249

15A-3-202, as last amended by Laws of Utah 2017, Chapter 236

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

Section 1. Section 15A-3-104 is amended to read:**15A-3-104. Amendments to Chapters 7 through 9 of IBC.**

(1) In IBC, Section 704.13.2, the following sentence is added to the end of the section: "An individual spraying fire-resistant materials may obtain a certificate that demonstrates that the individual has undergone training on how to spray fire-resistant materials to manufacturer's specifications."

~~(1)~~ (2) IBC, Section (F)901.8, is deleted and replaced with the following: "(F)901.8 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:

901.8.1 A minimum clear and unobstructed distance of 12-inches shall be provided from the installed equipment to the elements of permanent construction.

901.8.2 A minimum clear and unobstructed distance of 12-inches shall be provided between all other installed equipment and appliances.

901.8.3 A clear and unobstructed width of 36-inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.8.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36-inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34-inches and a clear height of the door opening shall not be less than 80-inches.

901.8.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72-inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68-inches and a clear height of the door opening shall not be less than 80-inches."

~~(2)~~ (3) In IBC, Section (F)903.2.2, the words "the entire floor" are deleted and replaced with "a building" and the last paragraph is deleted.

~~(3)~~ (4) IBC, Section (F)903.2.4, condition 2, is deleted and replaced with the following: "2. A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

~~(4)~~ (5) IBC, Section (F)903.2.7, condition 2, is deleted and replaced with the following: "2. A Group M fire area is located more than three stories above the lowest level of fire department vehicle access."

~~(5)~~ (6) IBC, Sections (F)903.2.8, (F)903.2.8.1, (F)903.2.8.2, and (F)903.2.8.4, are deleted and replaced with the following: "(F)903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction."

~~(6)~~ (7) IBC, Sections (F)903.2.8.3 and (F)903.2.8.3.1, are renumbered to (F)903.2.8.1 and (F)903.2.8.1.1.

[~~(7)~~ (8) IBC, Section (F)903.2.8.3.2, is renumbered to (F)903.2.8.1.2 and the following exception is added:

“Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.”

[~~(8)~~ (9) IBC, Section (F)903.2.8.4, is deleted.

[~~(9)~~ (10) IBC, Section (F)903.2.9, condition 2, is deleted and replaced with the following: “2. A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

[~~(10)~~ (11) IBC, Section (F)904.12, is deleted and replaced with the following: “(F)904.12 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer’s installation instructions.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled, and installed in accordance with Section 304.1 of the International Mechanical Code.”

[~~(11)~~ (12) IBC, Sections (F)904.12.3, (F)904.12.3.1, (F)904.12.4, and (F)904.12.4.1, are deleted.

[~~(12)~~ (13) In IBC, Section 905, a new subsection, Section (F)905.3.9, is added as follows:

“Open Parking Garages. Open parking garages shall be equipped with an approved Class 1 manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class 1 manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.”

[~~(13)~~ (14) In IBC, Section (F)905.8, the exception is deleted and replaced with the following:

“Exception: Where subject to freezing and approved by the fire code official.”

[~~(14)~~ (15) In IBC, Section (F)907.2.3 Group E, the first sentence is deleted and rewritten as follows: “A manual fire alarm system that activates the occupant notification system in accordance with Section (F)907.5 shall be installed, in accordance with Section (F)907.6 and administrative rules made by the State Fire Prevention Board in Group E occupancies.”

[~~(15)~~ (16) IBC, Sections (F)915 through (F)915.6, are deleted and replaced with the following:

“(F)915 Where required.

Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer’s instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.

(F)915.1 Interconnection.

Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4, or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

(F)915.2 Power source.

In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with a battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions.

1. Carbon monoxide alarms are not required to be equipped with a battery backup where they are connected to an emergency electrical system.

2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available that could provide access for hard wiring without the removal of interior finishes.

(F)915.3 Group E.

A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Section 915. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.

(F)915.3.1 Where required.

In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.

(F)915.3.2 Detection equipment.

Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer's instructions and be listed as complying with, for single station detectors, UL 2034 and, for system detectors, UL 2075.

(F)915.3.3 Locations.

Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.

(F)915.3.4 Combination detectors.

A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.

(F)915.3.5 Power source.

Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection.

(F)915.3.6 Maintenance.

Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end of life signals shall be replaced."

Section 2. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as

required by Section R703.8 to prevent water from entering the weather-resistant barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(3) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(4) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

(5) In IRC, Section R202, the definition for "CONDITIONED SPACE" is modified by deleting the words at the end of the sentence "being heated or cooled by any equipment or appliance" and replacing them with the following: "enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:

1. Openings directly into an adjacent conditioned space.
2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.
3. Un-insulated duct, piping or other heat or cooling source within the space."

(6) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

(7) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

(8) In IRC, Section R202, the definition of “Potable Water” is deleted and replaced with the following: “POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

(9) IRC, Figure R301.2(5), is deleted and replaced with Table R301.2(5a) and Table R301.2(5b) as follows:

“TABLE NO. R301.2(5a)
STATE OF UTAH - REGIONAL
SNOW LOAD FACTORS

COUNTY	P ₀	S	A ₀
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

"TABLE NO. R301.2(5b)
REQUIRED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS^{1,2}

The following jurisdictions require design snow load values that differ from the Equation in the Utah Snow Load Study.

County	City	Elevation	Ground Snow Load (psf)	Roof Snow Load (psf) ⁶
Carbon	Price ³	5550	43	30
	All other county locations ⁵	--	--	--
Davis	Fruit Heights ³	4500 - 4850	57	40
Emery	Green River ³	4070	36	25
Garfield	Panguitch ³	6600	43	30
Rich	Woodruff ³	6315	57	40
	Laketown ⁴	6000	57	40
	Garden City ⁵	--	--	--
	Randolph ⁴	6300	57	40
San Juan	Monticello ³	6820	50	35
Summit	Coalville ³	5600	86	60
	Kamas ⁴	6500	114	80
Tooele	Tooele ³	5100	43	30
Utah	Orem ³	4650	43	30
	Pleasant Grove ⁴	5000	43	30
	Provo ⁵	--	--	--
Wasatch	Heber ⁵	--	--	--
Washington	Leeds ³	3460	29	20
	Santa Clara ³	2850	21	15
	St. George ³	2750	21	15
	All other county locations ⁵	--	--	--
Wayne	Loa ³	7080	43	30

¹The IRC requires a minimum live load - See R301.6.

²This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation. Otherwise, contact the local Building Official.

³Values adopted from Table VII of the Utah Snow Load Study.

⁴Values based on site-specific study. Contact local Building Official for additional information.

⁵Contact local Building Official.

⁶Based on $C_e = 1.0$, $C_t = 1.0$ and $I_s = 1.0$ "

(10) IRC, Section R301.6, is deleted and replaced with the following: “R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, the ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A - A_o)^2)/0.5$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .

WHERE: P_g = Ground snow load at a given elevation (psf);

P_o = Base ground snow load (psf) from Table No. R301.2(5a);

S = Change in ground snow load with elevation (psf/100 ft.) From Table No. R301.2(5a);

A = Elevation above sea level at the site (ft./1,000); A_o = Base ground snow elevation from Table R301.2(5a) (ft./1,000).

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments.

Where the minimum roof live load in accordance with Table R301.6 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.”

(11) In IRC, Section R302.5.1, the words “self-closing device” are deleted and replaced with “self-latching hardware”.

(12) IRC, Section R302.13, is deleted.

(13) In IRC, Section R303.4, the number “5” is changed to “3” in the first sentence.

(14) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: “R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread’s leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk

line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.”

(15) IRC, Section R312.2, is deleted.

(16) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: “R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D.”

(17) In IRC, Section 315.3, the following words are added to the first sentence after the word “installed”: “on each level of the dwelling unit and”.

(18) In IRC, Section R315.5, a new exception, 3, is added as follows:

“3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes.”

(19) A new IRC, Section R315.7, is added as follows: “ R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for

interconnection without the removal of interior finishes.”

(20) In IRC, Section R403.1.6, a new Exception 3 is added as follows: “3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

(21) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: “Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

(22) In IRC, Section R404.1, a new exception is added as follows: “Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules.”

(23) In IRC, Section R405.1, a new exception is added as follows: “Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system.”

CHAPTER 362

H.B. 2

Passed March 6, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**NEW FISCAL YEAR SUPPLEMENTAL
 APPROPRIATIONS ACT**

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ authorizes capital outlay amounts for certain internal service funds;
- ▶ authorizes full time employment levels for certain internal service funds; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$508,654,100 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$66,716,600 from the General Fund;
- ▶ \$143,961,000 from the Education Fund;
- ▶ \$297,976,500 from various sources as detailed in this bill.

This bill appropriates \$20,126,600 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$95,400 in business-like activities for fiscal year 2019.

This bill appropriates \$4,224,800 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ (\$5,175,200) from the General Fund;
- ▶ \$9,400,000 from various sources as detailed in this bill.

This bill appropriates (\$3,000,000) in fiduciary funds for fiscal year 2019, all of which is from the General Fund.

Other Special Clauses:

This bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 1

To Attorney General

From General Fund	12,902,600
From Federal Funds	715,500
From General Fund Restricted -	
Constitutional Defense	393,100
From General Fund Restricted -	
Tobacco Settlement Account	66,000
Schedule of Programs:	
Administration	500,000
Child Protection	(88,500)
Civil	12,950,200
Criminal Prosecution	715,500

Item 2

To Attorney General - Children's Justice Centers

From General Fund	500,000
From Federal Funds	400
Schedule of Programs:	
Children's Justice Centers	500,400

Item 3

To Attorney General - Prosecution Council

From Federal Funds	2,800
Schedule of Programs:	
Prosecution Council	2,800

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole

From General Fund	490,300
From General Fund, One-Time	100,400
Schedule of Programs:	
Board of Pardons and Parole	590,700

UTAH DEPARTMENT OF CORRECTIONS

Item 5

To Utah Department of Corrections -

Programs and Operations	
From General Fund	1,079,500
Schedule of Programs:	
Adult Probation and Parole	
Programs	1,079,500

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole Agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds for FY 2018 and FY 2019.

The Legislature grants authority to the Department of Corrections, Executive

Director's Transition Team, to purchase one vehicle with Department funds FY 2018 and FY 2019.

The Legislature intends that \$1,079,500 in funding be used for either the Jail Contracting program, housing inmates at the prison, or community supervision through the adult probation and parole.

Item 6

To Utah Department of Corrections - Jail Contracting
From General Fund 680,100
Schedule of Programs:
Jail Contracting 680,100

Under Section 64-13e-105 the Legislature intends that the final state daily incarceration rate be set at \$72.38 for FY 2019.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 7

To Judicial Council/State Court Administrator - Administration
From General Fund 183,700
From General Fund, One-Time 500,000
Schedule of Programs:
Administrative Office 183,700
Courts Security 500,000

The Legislature intends that salaries for District Court judges be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature, the salary for a District Court judge for the fiscal year beginning July 1, 2018 and ending June 30, 2019 shall be \$166,300 as established in Laws of Utah 2017 Chapter 457, Item 81. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest \$50.

GOVERNOR'S OFFICE

Item 8

To Governor's Office - CCJJ Salt Lake County Jail Bed Housing

The Legislature intends that the appropriations to the Utah Commission on Criminal and Juvenile Justice Salt Lake County Bed Housing be used for either one or both of the following purposes: (1) to administer the contracting and payment of funds to any county that contracts with a county of the first class to house prisoners from a correctional facility in the county of the first class. The Legislature intends that these funds be used for housing up to 300 prisoners in county correctional facilities at \$26 per day, per prisoner. The funds may be used to pay for state probationary inmates or parole inmates which the county of the first class houses or contracts out to other counties. The Legislature intends that payment of these

funds be contingent upon a recipient county first entering into a contract between the counties according to these terms; or (2) to fund operational support for the opening of the new 368 bed pod of the Salt Lake County Oxbow Jail which is scheduled to open at the beginning of Fiscal Year 2019.

Item 9

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 150,000
From General Fund, One-Time 800,000
Schedule of Programs:
CCJJ Commission 150,000
County Incentive Grant Program 800,000

Item 10

To Governor's Office
From Dedicated Credits Revenue 311,300
Schedule of Programs:
Lt. Governor's Office 311,300

Under provisions of Section 67-22-1, Utah Code Annotated, the Legislature intends that salaries for Governor be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature the Governors salary for the fiscal year beginning July 1, 2018 and ending June 30, 2019 shall be \$156,825. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.

Item 11

To Governor's Office - Governor's Office of Management and Budget
From General Fund (2,800)
From General Fund Restricted - School Readiness Account 1,700
Schedule of Programs:
Administration (1,100)

Item 12

To Governor's Office - Indigent Defense Commission
From General Fund Restricted - Indigent Defense Resources 500,000
From General Fund Restricted - Indigent Defense Resources, One-Time 500,000
Schedule of Programs:
Indigent Defense Commission 1,000,000

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 13

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
From General Fund (7,631,200)
From Federal Funds (1,646,500)
From Dedicated Credits Revenue (910,300)
From Revenue Transfers 1,300,000
Schedule of Programs:
Administration (2,822,600)
Community Programs (13,418,900)
Correctional Facilities 11,746,500
Early Intervention Services 154,800

Rural Programs	(4,568,700)
Youth Parole Authority	20,900

The Legislature intends that the Division of Juvenile and Justice Services track and report on the aggregate cost per juvenile and cost per juvenile in both urban and rural settings by Secure Care, Detention, Early Intervention Services, and Community Placements and develop appropriate targets for each measure by August 1, 2018, to the Executive Offices and Criminal Justice Appropriations Subcommittee; and annually thereafter track and report on these costs.

The Legislature intends that the Division of Juvenile and Justice Services track and report on two-year recidivism rates by felonies and misdemeanors in both Secure Care and Community Placements by August 1, 2018, to the Executive Offices and Criminal Justice Appropriations Subcommittee; and annually thereafter track and report on these rates.

The Legislature intends that the Division of Juvenile Justice Services shall develop and report on a long-term strategic plan by August 1, 2018, to the Executive Office and Criminal Justice Appropriations Subcommittee; and annually thereafter report on updates to the plan.

The Legislature intends that the Division of Juvenile and Justice Services shall develop and report progress on a performance dashboard by August 1, 2018, to the Executive Offices and Criminal Justice Appropriations Subcommittee; and annually thereafter report on these performance measures.

Item 14

To Department of Human Services - Division of Juvenile Justice Services - Community Providers

From General Fund	19,452,700
From General Fund, One-Time	(414,000)
From Federal Funds	2,084,500
From Dedicated Credits Revenue	910,300
From Revenue Transfers	(1,300,000)

Schedule of Programs:

Administration	3,105,000
Provider Payments	17,628,500

The Legislature intends that expenditures from the Community Providers Line Item are limited to service delivery to juveniles through private providers and/or local authorities where available. Not more than 15% of the funds appropriated to this new line item shall be expensed for Department of Human Services administrative costs.

The Legislature intends that the Department of Human Services shall collect and report on performance measures for the Community Providers Line Item by August 1, 2018 to the Executive Office and Criminal Justice Appropriations Subcommittee; and annually thereafter report and track these measures. The performance measures shall include quality measures and outcome

measures, as well as the following measures: (1) number of youth served by private providers and/or local authorities; (2) community/family involvement of a juvenile while receiving services from a private provider and/or local authority; (3) number of calls for a mobile crisis response team; and (4) number of juveniles who receive a new charge within two years after successful completion of services from a private provider and/or local authority.

The Legislature intends that the Department of Human Services fund an independent consultant/actuary up to \$100,000 from the Community Provider Line Item to annually review DHS provider rates for juveniles and advise the Legislature on provider rates.

OFFICE OF THE STATE AUDITOR

Item 15

To Office of the State Auditor - State Auditor

From Dedicated Credits Revenue	932,300
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Schedule of Programs:

State Auditor	932,300
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The Legislature intends that the State Auditor direct bill the Utah State Board of Education for costs associated with statutorily required financial audits of public education.

DEPARTMENT OF PUBLIC SAFETY

Item 16

To Department of Public Safety - Peace Officers' Standards and Training

From Uninsured Motorist Identification Restricted Account, One-Time	500,000
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Schedule of Programs:

Basic Training	500,000
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Item 17

To Department of Public Safety - Programs & Operations

From General Fund	1,927,700
From General Fund, One-Time	60,000
From Dedicated Credits Revenue	180,000

From General Fund Restricted -

DNA Specimen Account	1,000,000
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From General Fund Restricted -

Fire Academy Support	2,799,100
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From General Fund Restricted -

Firearm Safety Account	65,000
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From General Fund Restricted - Public

Safety Honoring Heroes Account	100,000
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Schedule of Programs:

CITS Bureau of Criminal Identification	65,000
CITS Communications	450,000
CITS State Bureau of Investigation	560,000
CITS State Crime Labs	1,637,700

Department Commissioner's

Office	(2,249,000)
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Department Intelligence Center

220,000

Fire Marshall - Fire Fighter

Training	3,099,100
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Highway Patrol - Field

Operations	1,000,000
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Highway Patrol - Technology Services 1,349,000

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers authorized and funded by the legislature for FY 2019.

In accordance with Utah Code Ann. 24-3-103 the Department of Public Safety is requesting authority to transfer all firearms received from court adjudications (Criminal Evidence) to the department for its use. These firearms will be transferred to the State Crime Laboratory and department training section for official use only. In addition, all ammunition received by the department with these firearms will be used by the State Crime Laboratory and training section for official use only. All other evidentiary property of value that has been adjudicated and received by the department will be transferred to State Surplus for auction.

According to Senate Bill 198 passed in the 2017 General Session, a public safety answering point shall maintain in a separate emergency telecommunications service fund any funds dispersed to the public safety answering point from the Tax Commission under Section 69-2-302, from proceeds of the 911 emergency services charge levied under Section 69-2-402. This bill also stated that any unexpended funds at the end of a fiscal year in a public safety answering point's emergency telecommunications service fund not lapse. However, this was not coordinated with Section 63J-1-602.5 List of Nonlapsing Funds and Accounts Title 64 and Thereafter. The Legislature intends that these funds not lapse at the end of FY2018 and shall be used as outlined in Section 69-2-301.

The Legislature intends that any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair be used by the department for its operations.

STATE TREASURER

Item 18

To State Treasurer
From Dedicated Credits Revenue 120,000
Schedule of Programs:
Treasury and Investment 120,000

UTAH COMMUNICATIONS AUTHORITY

Item 19

To Utah Communications Authority -
Administrative Services Division
From General Fund Restricted - Statewide
Unified E-911 Emergency Account,
One-Time 5,740,000
From General Fund Restricted - Utah
Statewide Radio System Acct.,
One-Time 1,125,000
Schedule of Programs:
911 Division 5,740,000

Administrative Services Division 1,125,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 20

To Department of Administrative
Services - Executive Director
From General Services - Cooperative
Contract Mgmt, One-Time 200,000
From Beginning Nonlapsing
Balances (200,000)
From Closing Nonlapsing Balances 200,000
Schedule of Programs:
Executive Director 200,000

Item 21

To Department of Administrative
Services - Finance - Mandated

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

Item 22

To Department of Administrative
Services - Inspector General of Medicaid
Services

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of the states share of Medicaid collections during FY2019 to pay the Attorney Generals Office for the state costs of the one attorney FTE that the Office of the Inspector General is using.

CAPITAL BUDGET

Item 23

To Capital Budget - Capital Development -
Higher Education
From Capital Projects Fund,
One-Time 90,357,500
Schedule of Programs:
Davis Technical College Allied
Health Building 34,364,500
USU Biological and Natural
Resources Renovation 23,000,000
MTC Thanksgiving Point Technology
Building 32,993,000

Item 24

To Capital Budget - Capital Development -
Other State Government
From Capital Projects Fund,
One-Time 600,000
Schedule of Programs:
DHA Artifacts and Arts Collection
Facility 600,000

Item 25

To Capital Budget - Capital Development -
Public Education
From Education Fund, One-Time 713,000
Schedule of Programs:

USDB Springville 713,000

Item 26

To Capital Budget – Capital Development Fund
 From General Fund, One-Time 600,000
 From Education Fund, One-Time 90,357,500
 Schedule of Programs:
 Capital Development Fund 90,957,500

Item 27

To Capital Budget – Capital Improvements
 The Legislature intends that the Division of Facilities Construction and Management use up to \$535,000 ongoing beginning in FY 2019 from appropriations for Capital Improvements to fund project manager, cost estimator, and/or data analyst positions.

Item 28

To Capital Budget – Pass-Through
 From General Fund 2,500,000
 From General Fund, One-Time 6,000,000
 Schedule of Programs:
 Olympic Park Improvement 8,500,000

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

Item 29

To State Board of Bonding Commissioners - Debt Service - Debt Service
 From General Fund, One-Time (46,000,000)
 Schedule of Programs:
 G.O. Bonds – State Govt (46,000,000)

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 30

To Department of Technology Services - Chief Information Officer
 From Beginning Nonlapsing Balances . . . 850,000
 From Closing Nonlapsing Balances (850,000)

Item 31

To Department of Technology Services - Integrated Technology Division
 From Dedicated Credits Revenue 168,000
 Schedule of Programs:
 Automated Geographic Reference Center 168,000

TRANSPORTATION

Item 32

To Transportation – Construction Management
 From Transportation Fund (2,300,000)
 From Transportation Fund,
 One-Time (1,650,000)
 Schedule of Programs:
 Federal Construction – New (3,950,000)

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends

that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

The Legislature intends that the Department of Transportation use \$400,000 from the Transportation Fund for improvements to Lost Creek Road in Morgan County to help restore the road to acceptable standards as part of previous commitments by the county to manage Lost Creek Reservoir.

The Legislature intends that the Department of Transportation use \$1,700,000 from the Transportation Fund to construct a sound barrier along Interstate 80 at Glendale Avenue.

The Legislature intends that the Department of Transportation use up to \$3,200,000 total in FY 2018, FY 2019, and FY 2020 from the Transportation Fund to conduct an environmental impact study for the proposed Eastern Utah Connector Highway.

Item 33

To Transportation – Mineral Lease

The Legislature intends that the funds appropriated from the Federal Mineral Lease Account shall be used for improvement or reconstruction of highways that have been heavily impacted by energy development. The Legislature further intends that if private industries engaged in developing the State’s natural resources are willing to participate in the cost of the construction of highways leading to their facilities, that local governments consider that highway as a higher priority as they prioritize the use of Mineral Lease Funds received through 59-21-1(4)(C)(i). The funds appropriated for improvement or reconstruction of energy impacted highways are nonlapsing.

Item 34

To Transportation – Operations/
 Maintenance Management
 From Transportation Fund 2,300,000
 From Transportation Fund,
 One-Time 1,650,000
 Schedule of Programs:
 Region 2 3,650,000
 Traffic Operations Center 300,000

The Legislature intends that upon completion of the FY 2018 winter maintenance, unused funds in the Operations/Maintenance Management line item may be used by the Department of Transportation to meet unmet equipment needs.

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

Item 35

To Transportation - Safe Sidewalk Construction

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 36

To Transportation - Support Services
From General Fund, One-Time 1,400,000
Schedule of Programs:
Administrative Services 1,400,000

The Legislature intends that the \$1,400,000 one-time provided by this item be used to make road, gutter and sidewalk improvements related to homeless resource center development.

Item 37

To Transportation - Transportation Investment Fund Capacity Program

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 38

To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund 1,250,800
Schedule of Programs:
Executive Director 268,400
Stores and Agencies 982,400

DEPARTMENT OF COMMERCE

Item 39

To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 50,000
Schedule of Programs:
Corporations and Commercial Code 50,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 40

To Governor's Office of Economic Development - Administration
From General Fund, One-Time 775,000
Schedule of Programs:
Administration 775,000

The Legislature intends that up to \$775,000 of the funds allocated to this line item are to be used for an statewide economic development organization for the promotion of high-paying jobs in northern Utah through a regional economic development approach focused on workforce development, infrastructure, land use and development, and other economic analysis and programming.

Item 41

To Governor's Office of Economic Development - Business Development
From General Fund 325,000
Schedule of Programs:
Corporate Recruitment and Business Services 325,000

Item 42

To Governor's Office of Economic Development - Office of Tourism
From General Fund Rest. - Motion Picture Incentive Acct., One-Time 200,000
Schedule of Programs:
Film Commission 200,000

Item 43

To Governor's Office of Economic Development - Pass-Through
From General Fund 2,000,000
From General Fund, One-Time 3,555,000
Schedule of Programs:

Pass-Through 5,555,000

DEPARTMENT OF HERITAGE AND ARTS

Item 44

To Department of Heritage and Arts -
 Division of Arts and Museums
 From General Fund 90,000
 Schedule of Programs:
 Community Arts Outreach 90,000

Item 45

To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 75,000
 Schedule of Programs:
 Indian Affairs 75,000

Item 46

To Department of Heritage and Arts -
 Pass-Through
 From General Fund 307,500
 From General Fund, One-Time 2,225,000
 Schedule of Programs:
 Pass-Through 2,532,500

Item 47

To Department of Heritage and Arts -
 State History
 From General Fund 125,000
 Schedule of Programs:
 Historic Preservation and
 Antiquities 125,000

UTAH STATE TAX COMMISSION

Item 48

To Utah State Tax Commission -
 Tax Administration
 From General Fund 125,000
 Schedule of Programs:
 Administration Division 125,000

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 49

To Utah Science Technology and
 Research Governing Authority -
 Research Capacity Building
 From Beginning Nonlapsing
 Balances (4,600,000)
 Schedule of Programs:
 USU Start Up, Carry Over,
 Commercialization (4,600,000)

Item 50

To Utah Science Technology and Research
 Governing Authority - Support Programs
 From General Fund (27,000)
 Schedule of Programs:
 Incubation Programs (27,000)

Item 51

To Utah Science Technology and Research
 Governing Authority - USTAR Administration
 From General Fund 27,000
 Schedule of Programs:
 Administration 27,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 52

To Department of Health - Children's Health
 Insurance Program
 From General Fund 13,200,000
 From General Fund, One-Time (13,200,000)
 From Federal Funds 49,400,000
 From Federal Funds, One-Time ... (27,300,000)
 From General Fund Restricted -
 Medicaid Restricted Account,
 One-Time 9,400,000
 Schedule of Programs:
 Children's Health Insurance
 Program 31,500,000

The Department of Health may use up to a combined maximum of \$9,400,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2018 and FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2018 and FY 2019 when combined with federal matching funds.

Item 53

To Department of Health - Disease
 Control and Prevention
 From General Fund (49,500)
 From Dedicated Credits Revenue 912,000
 Schedule of Programs:
 Office of the Medical Examiner 862,500

The Legislature intends that the Department of Health, Division of Disease Control and Prevention, Office of the Medical Examiner may purchase 5 additional vehicles with department funds in Fiscal Year 2019.

Item 54

To Department of Health - Executive
 Director's Operations

The Legislature intends that the Department of Health prepare proposed performance measures for all new funding of \$10,000 or more for building blocks and give this information to the Office of the Legislative Fiscal Analyst by April 1, 2018. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2018 with another report two months after the close of the fiscal year where the funding was provided.

Item 55

To Department of Health - Family Health
 and Preparedness
 From General Fund 150,000

Schedule of Programs:
 Health Facility Licensing and
 Certification 150,000

Item 56

To Department of Health - Medicaid and Health
 Financing
 From General Fund (67,500)
 From Nursing Care Facilities Provider
 Assessment Fund 67,500

Item 57

To Department of Health - Medicaid Services
 From General Fund 21,506,000
 From General Fund, One-Time (3,172,500)
 From Federal Funds 49,607,400
 From Federal Funds, One-Time 28,345,900
 From General Fund Restricted -
 Medicaid Restricted Account,
 One-Time 9,400,000
 From Nursing Care Facilities Provider
 Assessment Fund 2,184,000

Schedule of Programs:
 Accountable Care Organizations ... 56,177,500
 Home and Community Based
 Waivers 1,654,000
 Home Health and Hospice 412,900
 Medicaid Expansion 2017 9,471,600
 Nursing Home 6,987,300
 Other Services 33,167,500

The Department of Health may use up to a combined maximum of \$9,400,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2018 and FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2018 and FY 2019 when combined with federal matching funds.

Item 58

To Department of Health - Primary
 Care Workforce Financial Assistance
 From General Fund, One-Time 250,000
 Schedule of Programs:
 Primary Care Workforce Financial
 Assistance 250,000

DEPARTMENT OF HUMAN SERVICES

Item 59

To Department of Human Services - Division
 of Aging and Adult Services
 From General Fund 317,000
 Schedule of Programs:
 Aging Waiver Services 17,000
 Local Government Grants -
 Formula Funds 300,000

Item 60

To Department of Human Services - Division
 of Child and Family Services
 From General Fund 1,618,600
 From General Fund, One-Time 414,000
 From Federal Funds 125,100

From Federal Funds, One-Time 3,000,000
 Schedule of Programs:
 Adoption Assistance 26,400
 Domestic Violence 1,480,100
 Out-of-Home Care 451,200
 Service Delivery 3,200,000

The Legislature intends that up to \$414,000 appropriated to the Division of Child and Family Services is used to achieve rate parity between the Division of Child and Family Services and the Division of Juvenile Justice Services for youth in custody.

Item 61

To Department of Human Services -
 Executive Director Operations
 From General Fund 364,300
 Schedule of Programs:
 Executive Director's Office 364,300

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding of \$10,000 or more for building blocks and give this information to the Office of the Legislative Fiscal Analyst by April 1, 2018. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2018 with another report two months after the close of the fiscal year where the funding was provided.

Item 62

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund 12,065,800
 From General Fund, One-Time (77,000)
 From Revenue Transfers 24,504,500
 From Revenue Transfers, One-Time .. (178,400)
 Schedule of Programs:
 Community Supports Waiver 36,264,900
 Non-waiver Services 50,000

The Legislature intends that the Department of Human Services, in conjunction with the Department of Workforce Services and the Utah State Board of Education, develop a comprehensive plan to ensure the effective transition of students with disabilities from public education to appropriate non-segregated employment and to provide the plan to the Office of the Legislative Fiscal Analyst no later than October 1, 2018. The Legislature intends that this effort should be collaborative across agencies and each agency shall delegate appropriate resources and staff to satisfy this request. The Division of Services for People with Disabilities shall act as the lead agency. The plan shall include: (1) identification of the current status and effectiveness of transition services for students with disabilities in public education as they transition to employment; (2) identification of all known

barriers to access for needed transition and employment services; (3) identification of services needed to provide employment appropriate for individuals with disabilities based upon their unique abilities and needs; (4) identification of needs to ensure that the demand for those services can be met by private contract providers and state agencies; (5) a description of how to maximize state and federal funds and other funding sources that may be available to help implement the plan; (6) a report on the number of individuals with disabilities both currently enrolled in public education and those who have already transitioned from public education and their currently projected employment or their current employment status; (7) a report on the various types of needed transition and employment services, including an estimate of the number of individuals with disabilities who need appropriate employment and support services but are not currently receiving them; (8) an estimate of the number of people who would become eligible for transition from public education to employment each year for the next ten years; (9) a proposal for ways to target available funds to maximize appropriate transition and employment services; (10) any limitations that need to be considered, such as federal requirements; (11) steps that could be taken to make sure that individuals with disabilities are considered on an individual basis in accordance with federal and state disabilities policies; (12) a schedule of needed funding; (13) a discussion of innovative and creative ways that private partners and charities could work with the program to meet those needs; and (14) any other considerations needed to work towards the goal that by FY 2021 all individuals with disabilities transition from public education to employment in an appropriate job in an integrated setting.

The Legislature intends that the Department of Human Services, in conjunction with the Departments of Health and Workforce Services as needed, study and report on effective management strategies for the Division of Services for People with Disabilities (DSPD) waiting list. The result of the study shall be reported to the Office of the Legislative Fiscal Analyst no later than October 1, 2018. The report shall include: (1) identification of barriers to access for needed services; (2) identification of needs to better understand the demand for those services and how the need can be met by private contract providers and state agencies; (3) a description of how to maximize federal matching funds and other funding sources that may be available; (4) a report on the number of people needing various types of services including an estimate of the number of people who need services but are not currently on the waiting list; (5) an estimate of the number of people who would become

eligible to be on the waiting list each year for the next ten years; (6) a proposal for ways to target available funds to the most beneficial services and how providing limited benefits to some people could allow more people to be served; (7) limitations that need to be considered, such as federal requirements, noting areas where waiver authority could be reasonably requested and granted; (8) steps that could be taken to make sure that only those who truly need government support are determined to be eligible; (9) a projection of costs associated with providing services to individuals identified in the study; (10) a discussion of innovative and creative ways that private partners and charities could work with the program to meet those needs; and (11) any other considerations related to effective management strategies for the DSPD waiting list.

Item 63

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund	5,545,800
From General Fund, One-Time	(315,100)
From Revenue Transfers	(60,100)
Schedule of Programs:	
Community Mental Health Services ...	550,000
Local Substance Abuse Services	1,000,000
State Hospital	2,735,700
State Substance Abuse Services	884,900

The Legislature intends that 100% of the \$600,000 ongoing General Fund allocated for the budget request "Psychiatric Technician Wages at the Utah State Hospital" be used to increase the wages of psychiatric technicians.

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 64

To Department of Workforce Services - Administration

From Navajo Revitalization Fund	10,000
From OWHT-Fed Home Income	7,000
From OWHT-Low Income Housing-PI	6,000
From Qualified Emergency Food Agencies Fund	1,500
From General Fund Restricted - Special Admin. Expense Account, One-Time	75,000
From Uintah Basin Revitalization Fund ...	3,500
From Unemployment Compensation Fund, One-Time	118,000
Schedule of Programs:	
Administrative Support	221,000

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding of \$10,000 or more for building blocks and give this information to the Office of the

Legislative Fiscal Analyst by April 1, 2018. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2018 with another report two months after the close of the fiscal year where the funding was provided.

Item 65

To Department of Workforce Services -
 Housing and Community Development
 From General Fund 180,000
 From General Fund, One-Time 1,275,000
 Schedule of Programs:
 Community Development 1,455,000

The Legislature recommends that Workforce Services publish online all HUD outcome measures for Utah from the federal fiscal year ending on September 30th before December 1st of that same year.

The Legislature recommends that the State Homeless Coordinating Committee re-allocate resources to provide Diversion services to individuals who currently are ineligible to receive these services due to TANF funding restrictions.

Item 66

To Department of Workforce Services -
 Operations and Policy
 From Navajo Revitalization Fund 2,000
 From OWHT-Fed Home Income 13,500
 From OWHT-Low Income Housing-PI ... 12,000
 From Permanent Community Impact
 Loan Fund 500
 From Qualified Emergency Food
 Agencies Fund 2,500
 From General Fund Restricted -
 Special Admin. Expense Account,
 One-Time 2,773,000
 From Uintah Basin Revitalization Fund ... 1,000
 From Unemployment Compensation
 Fund, One-Time 1,973,800
 Schedule of Programs:
 Information Technology 2,005,300
 Other Assistance 2,773,000

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 67

To Department of Workforce Services - State
 Office of Rehabilitation
 From General Fund 1,275,000
 From General Fund, One-Time (1,275,000)
 From Navajo Revitalization Fund 500
 From OWHT-Fed Home Income 500
 From OWHT-Low Income Housing-PI 500

From Qualified Emergency Food
 Agencies Fund 500
 From General Fund Restricted -
 Special Admin. Expense Account,
 One-Time 2,000
 From Uintah Basin Revitalization Fund 500
 From Unemployment Compensation
 Fund, One-Time 2,300
 Schedule of Programs:
 Executive Director 6,800

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 68

To Department of Workforce Services -
 Unemployment Insurance
 From Navajo Revitalization Fund 500
 From OWHT-Fed Home Income 700
 From OWHT-Low Income Housing-PI 700
 From Permanent Community Impact
 Loan Fund 500
 From Qualified Emergency Food
 Agencies Fund 500
 From General Fund Restricted -
 Special Admin. Expense Account,
 One-Time 950,000
 From Uintah Basin Revitalization Fund 500
 From Unemployment Compensation
 Fund, One-Time 905,900
 Schedule of Programs:
 Unemployment Insurance
 Administration 1,859,300

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 69

To University of Utah - Education and General
 From General Fund 1,622,400
 From General Fund, One-Time 2,000,000
 From Education Fund 7,415,800
 From Education Fund, One-Time 225,000
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,872,900
 Schedule of Programs:
 Education and General 13,136,100

The Legislature authorizes the University of Utah to replace 25 vehicles in its motor pool.

Item 70

To University of Utah - School of Medicine
 From Education Fund 173,200
 Schedule of Programs:
 School of Medicine 173,200

Item 71

To University of Utah - Cancer Research and
 Treatment

From General Fund, One-Time (2,000,000)
 Schedule of Programs:
 Cancer Research and Treatment . . . (2,000,000)

Item 72

To University of Utah - School of Dentistry
 From Education Fund 500,000
 Schedule of Programs:
 School of Dentistry 500,000

Item 73

To University of Utah - Poison Control Center
 From General Fund 535,000
 Schedule of Programs:
 Poison Control Center 535,000

UTAH STATE UNIVERSITY

Item 74

To Utah State University - Education and General
 From General Fund 3,011,500
 From Education Fund 4,803,400
 From Education Fund, One-Time (193,500)
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,343,400
 Schedule of Programs:
 Education and General 8,903,300
 USU - School of Veterinary Medicine (700)
 Operations and Maintenance 62,200

Item 75

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 40,400
 Schedule of Programs:
 USU - Eastern Education and
 General 40,400

Item 76

To Utah State University - Uintah Basin Regional
 Campus
 From General Fund (2,264,900)
 From Education Fund (1,910,200)
 From Dedicated Credits Revenue (2,282,000)
 From General Fund Restricted -
 Infrastructure and Economic
 Diversification Investment Account (250,000)
 From Revenue Transfers 14,900
 From Beginning Nonlapsing Balances (288,900)
 From Closing Nonlapsing Balances 288,900
 Schedule of Programs:
 Uintah Basin Regional Campus (6,692,200)

Item 77

To Utah State University -
 Southeastern Continuing Education Center
 From General Fund (577,700)
 From Education Fund (287,100)
 From Dedicated Credits Revenue (1,597,000)
 From Revenue Transfers 10,400
 From Beginning Nonlapsing
 Balances (217,000)
 From Closing Nonlapsing Balances 217,000
 Schedule of Programs:
 Southeastern Continuing Education
 Center (2,451,400)

Item 78

To Utah State University - Regional Campuses
 From General Fund 4,480,000
 From Education Fund 9,939,500
 From Dedicated Credits Revenue 26,037,000
 From General Fund Restricted -
 Infrastructure and Economic
 Diversification Investment Account 250,000
 From Revenue Transfers 1,100,000
 From Beginning Nonlapsing
 Balances 1,585,900
 From Closing Nonlapsing Balances (1,585,900)
 Schedule of Programs:
 Administration 5,175,700
 Uintah Basin Regional Campus 9,118,300
 Brigham City Regional Campus 15,562,700
 Tooele Regional Campus 11,949,800

Item 79

To Utah State University - Brigham City
 Regional Campus
 From General Fund (987,600)
 From Education Fund (4,070,600)
 From Dedicated Credits Revenue (12,499,000)
 From Revenue Transfers (1,189,500)
 From Beginning Nonlapsing
 Balances (729,500)
 From Closing Nonlapsing Balances 729,500
 Schedule of Programs:
 Brigham City Regional
 Campus (18,746,700)

Item 80

To Utah State University - Tooele
 Regional Campus
 From General Fund (649,800)
 From Education Fund (2,571,600)
 From Dedicated Credits Revenue (9,659,000)
 From Revenue Transfers 64,200
 From Beginning Nonlapsing
 Balances (350,500)
 From Closing Nonlapsing Balances 350,500
 Schedule of Programs:
 Tooele Regional Campus (12,816,200)

Item 81

To Utah State University - Water
 Research Laboratory
 From Education Fund (20,300)
 Schedule of Programs:
 Water Research Laboratory (20,300)

Item 82

To Utah State University - Agriculture Experiment
 Station
 From Education Fund 91,200
 Schedule of Programs:
 Agriculture Experiment Station 91,200

Item 83

To Utah State University - Cooperative Extension
 From Education Fund 88,400
 Schedule of Programs:
 Cooperative Extension 88,400

Item 84

To Utah State University - Blanding Campus
 From Education Fund (8,100)
 Schedule of Programs:

Blanding Campus (8,100)

WEBER STATE UNIVERSITY

Item 85

To Weber State University - Education and General
 From General Fund 970,500
 From Education Fund 4,268,700
 From Education Fund, One-Time 20,000
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 713,400
 Schedule of Programs:
 Education and General 5,972,600
 The Legislature authorizes Weber State University to purchase two new vehicles for its motor pool.

SOUTHERN UTAH UNIVERSITY

Item 86

To Southern Utah University - Education and General
 From General Fund 852,800
 From Education Fund 2,506,100
 From Education Fund, One-Time 122,600
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 319,800
 Schedule of Programs:
 Education and General 3,801,300
 The Legislature authorizes Southern Utah University to replace four vehicles and purchase one new vehicle for its motor pool.

UTAH VALLEY UNIVERSITY

Item 87

To Utah Valley University - Education and General
 From General Fund 1,407,800
 From Education Fund 5,333,100
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,000,900
 Schedule of Programs:
 Education and General 7,741,800
 The Legislature authorizes Utah Valley University to purchase five new vehicles for its motor pool.

SNOW COLLEGE

Item 88

To Snow College - Education and General
 From General Fund 159,600
 From Education Fund 3,407,700
 From Education Fund, One-Time 5,000,000
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 180,900
 Schedule of Programs:
 Education and General 3,748,200
 Operations and Maintenance 5,000,000
 The Legislature authorizes Snow College to purchase four new vehicles for its motor pool.

Item 89

To Snow College - Career and Technical Education
 From Education Fund 6,900
 Schedule of Programs:
 Career and Technical Education 6,900

DIXIE STATE UNIVERSITY

Item 90

To Dixie State University - Education and General
 From General Fund 537,200
 From Education Fund 3,517,200
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 289,800
 Schedule of Programs:
 Education and General 4,344,200

SALT LAKE COMMUNITY COLLEGE

Item 91

To Salt Lake Community College - Education and General
 From General Fund 374,500
 From Education Fund 2,895,700
 From Education Fund, One-Time 588,300
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 778,900
 Schedule of Programs:
 Education and General 4,637,400
 The Legislature authorizes Salt Lake Community College to replace ten vehicles and purchase three new vehicles for its motor pool.

Item 92

To Salt Lake Community College -
 School of Applied Technology
 From Education Fund 33,400
 Schedule of Programs:
 School of Applied Technology 33,400

STATE BOARD OF REGENTS

Item 93

To State Board of Regents - Administration
 From Education Fund 18,900
 Schedule of Programs:
 Administration 18,900

Item 94

To State Board of Regents - Student Assistance
 From General Fund 5,100
 From Education Fund 3,950,200
 Schedule of Programs:
 Regents' Scholarship 3,408,600
 Student Financial Aid 16,300
 Minority Scholarships 200
 New Century Scholarships 509,900
 Success Stipend 7,000
 Western Interstate Commission
 for Higher Education 4,200
 T.H. Bell Teaching Incentive Loans
 Program 7,400
 Veterans Tuition Gap Program 600
 Public Safety Officer Career
 Advancement Reimbursement 1,000
 Student Prosperity Savings Program 100

Item 95

To State Board of Regents - Student Support
 From General Fund (35,700)
 From Education Fund 800
 Schedule of Programs:
 Services for Hearing Impaired
 Students 4,000
 Concurrent Enrollment 2,300

Articulation Support 1,400
 Campus Compact (42,600)

Item 96

To State Board of Regents - Technology
 From Education Fund 757,800
 Schedule of Programs:
 Higher Education Technology
 Initiative 22,900
 Utah Academic Library Consortium ... 734,900

Item 97

To State Board of Regents - Economic Development
 From General Fund 200
 From Education Fund (3,978,300)
 Schedule of Programs:
 Engineering Initiative (3,980,000)
 Engineering Loan Repayment 200
 Economic Development Initiatives 1,700

Item 98

To State Board of Regents - Education Excellence
 From Education Fund (1,449,600)
 From Education Fund, One-Time (249,100)
 From Education Fund Restricted -
 Performance Funding Rest. Acct. ... (6,500,000)
 Schedule of Programs:
 Education Excellence (1,698,700)
 Performance Funding (6,500,000)

Item 99

To State Board of Regents - Math
 Competency Initiative
 From Education Fund 9,600
 Schedule of Programs:
 Math Competency Initiative 9,600

Item 100

To State Board of Regents - Medical
 Education Council
 From General Fund 9,000
 Schedule of Programs:
 Medical Education Council 9,000

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 101

To Utah System of Technical
 Colleges - Bridgerland Technical College
 From Education Fund 576,000
 Schedule of Programs:
 Bridgerland Technical College 576,000

Item 102

To Utah System of Technical Colleges -
 Davis Technical College
 From Education Fund 1,464,500
 From Education Fund, One-Time (661,300)
 Schedule of Programs:
 Davis Technical College 803,200

Item 103

To Utah System of Technical Colleges -
 Dixie Technical College
 From Education Fund 610,600
 Schedule of Programs:
 Dixie Technical College 610,600

Item 104

To Utah System of Technical Colleges -
 Mountainland Technical College

From Education Fund 1,352,000
 From Education Fund, One-Time (683,700)
 Schedule of Programs:
 Mountainland Technical College 668,300

Item 105

To Utah System of Technical Colleges -
 Ogden-Weber Technical College
 From Education Fund 304,400
 Schedule of Programs:
 Ogden-Weber Technical College 304,400

Item 106

To Utah System of Technical Colleges -
 Southwest Technical College
 From Education Fund 481,600
 Schedule of Programs:
 Southwest Technical College 481,600

Item 107

To Utah System of Technical Colleges -
 Tooele Technical College
 From Education Fund 216,500
 Schedule of Programs:
 Tooele Technical College 216,500

Item 108

To Utah System of Technical Colleges -
 Uintah Basin Technical College
 From Education Fund 304,400
 Schedule of Programs:
 Uintah Basin Technical College 304,400

Item 109

To Utah System of Technical Colleges -
 USTC Administration
 From Education Fund 2,400,000
 Schedule of Programs:
 Equipment 2,400,000

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

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 110

To Department of Agriculture and Food -
 Administration
 From General Fund (6,900)
 From Dedicated Credits Revenue 428,000
 From Dedicated Credits Revenue,
 One-Time 500,000
 Schedule of Programs:
 Chemistry Laboratory 121,100
 General Administration 800,000

The Legislature intends that the Department of Agriculture and Food submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

Item 111

To Department of Agriculture and Food - Animal Health

From General Fund Restricted -
 Livestock Brand 800,000
 Schedule of Programs:
 Brand Inspection 800,000

Item 112

To Department of Agriculture and Food -
 Plant Industry
 From General Fund 500,000
 From Dedicated Credits Revenue 361,400
 Schedule of Programs:
 Grazing Improvement Program 500,000
 Plant Industry 361,400

Item 113

To Department of Agriculture and Food -
 Regulatory Services
 From Dedicated Credits Revenue 71,000
 Schedule of Programs:
 Regulatory Services 71,000

Item 114

To Department of Agriculture and Food -
 Resource Conservation
 From General Fund, One-Time 220,000
 From Dedicated Credits Revenue 10,000
 Schedule of Programs:
 Resource Conservation 230,000

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 115

To Department of Environmental Quality -
 Air Quality
 From Federal Funds 968,900
 From Federal Funds, One-Time 7,540,000
 Schedule of Programs:
 Air Quality 8,508,900

Item 116

To Department of Environmental Quality -
 Drinking Water
 From Federal Funds 66,000
 From Dedicated Credits Revenue 106,400
 Schedule of Programs:
 Drinking Water 172,400

Item 117

To Department of Environmental Quality -
 Environmental Response and Remediation
 From Federal Funds 500,600
 From Dedicated Credits Revenue 149,900
 Schedule of Programs:
 Environmental Response and
 Remediation 650,500

Item 118

To Department of Environmental Quality -
 Executive Director's Office
 From General Fund 3,174,200
 Schedule of Programs:
 Executive Director's Office 3,174,200

The Legislature intends that the Executive Director of the Department of Environmental Quality expend the General Fund appropriations provided by this item as follows: Air Quality Stack Test Auditor

\$118,000; Air Quality Technical Analysis Scientist \$118,700; Air Quality State Implementation Plan (SIP) \$113,300; Air Quality Science for Solutions \$500,000; Mobile Monitoring Data Collection \$100,000; Local Health Department Supplement \$500,000; and Commercial Waste Fee Changes \$1,724,200. When preparing the fiscal year 2020 base budget, the Legislature intends that the Legislative Fiscal Analyst distribute ongoing amounts to line items within the Department of Environmental Quality as appropriate.

The Legislature intends that the Department of Environmental Quality submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

Item 119

To Department of Environmental Quality - Waste Management and Radiation Control
 From General Fund Restricted -
 Environmental Quality, One-Time 200,000
 Schedule of Programs:
 Waste Management and Radiation
 Control 200,000

Item 120

To Department of Environmental Quality -
 Water Quality
 From Dedicated Credits Revenue 387,200
 From General Fund Restricted -
 Sovereign Lands Management,
 One-Time 678,500
 Schedule of Programs:
 Water Quality 1,065,700

GOVERNOR'S OFFICE

Item 121

To Governor's Office - Office of
 Energy Development
 From General Fund 18,200
 From General Fund, One-Time 500,000
 From Federal Funds 775,800
 From Dedicated Credits Revenue 131,400
 From Utah State Energy Program
 Revolving Loan Fund (ARRA) 101,800
 Schedule of Programs:
 Office of Energy Development 1,527,200

The Legislature intends that the Office of Energy Development submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

DEPARTMENT OF NATURAL RESOURCES

Item 122

To Department of Natural Resources - Administration

The Legislature intends that the Department of Natural Resources submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

The Legislature intends that the Department of Natural Resources transfer \$50,000 to the Bear Lake Commission to be expended only as a one-to-one match with funds from the State of Idaho.

The Legislature intends the Executive Director of the Department of Natural Resources appoint a working group of subject matter experts to study various issues related to water quality, water rights, and water supply in the state, including extraterritorial jurisdiction, watershed management, forest health, and property rights. The Executive Director may appoint members of the Executive Water Task Force, the Legislative Water Development Commission, or any other individual to the working group. The working group will report regularly to the Natural Resources, Agriculture, and Environment Interim Committee during the 2018 interim. The Executive Director shall deliver a final report on the working groups conclusions and recommendations to the Natural Resources, Agriculture, and Environment Interim Committee by September 30, 2018.

Item 123

To Department of Natural Resources - DNR Pass Through

From General Fund, One-Time 250,000
 From General Fund Restricted - Sovereign Lands Management, One-Time 50,000
 Schedule of Programs:
 DNR Pass Through 300,000

Item 124

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

From General Fund Restricted - Sovereign Lands Management 150,000
 From General Fund Restricted - Sovereign Lands Management, One-Time 1,300,000
 Schedule of Programs:
 Lands Management 100,000
 Project Management 1,350,000

The Legislature intends that all entities occupying the DNR Cedar City Office Complex and the DNR Richfield Office Complex pay annually their proportionate

share of leased space based on the construction costs amortized over a 30-year period and deposit the funds into the Sovereign Lands Management Account.

Item 125

To Department of Natural Resources - Parks and Recreation

From General Fund Restricted - State Park Fees 2,260,000
 From General Fund Restricted - State Park Fees, One-Time 3,450,000
 Schedule of Programs:
 Park Operation Management 5,500,000
 Recreation Services 210,000

Item 126

To Department of Natural Resources - Parks and Recreation Capital Budget

From General Fund, One-Time 400,000
 From Dedicated Credits Revenue 150,000
 From General Fund Restricted - Off-highway Vehicle, One-Time 350,000
 From General Fund Restricted - State Park Fees, One-Time 3,850,000
 Schedule of Programs:
 Donated Capital Projects 150,000
 Major Renovation 400,000
 Renovation and Development 4,200,000

Item 127

To Department of Natural Resources - Species Protection

From General Fund Restricted - Species Protection 150,000
 From General Fund Restricted - Species Protection, One-Time 100,000
 Schedule of Programs:
 Species Protection 250,000

Item 128

To Department of Natural Resources - Water Resources

From General Fund Restricted - Water Infrastructure Restricted Account, One-Time 500,000
 From Water Resources Conservation and Development Fund, One-Time 8,425,000
 Schedule of Programs:
 Administration 500,000
 Construction 8,425,000

The Legislature intends that the \$500,000 one-time appropriation from the Water Infrastructure Restricted Account not lapse at the close of FY 2019.

Item 129

To Department of Natural Resources - Watershed

From General Fund Restricted - Wildlife Resources, One-Time 2,000,000
 Schedule of Programs:
 Watershed 2,000,000

Item 130

To Department of Natural Resources - Wildlife Resources

From General Fund Restricted - Wildlife Resources 250,000
 From General Fund Restricted - Wildlife Resources, One-Time 600,000

Schedule of Programs:

Conservation Outreach	250,000
Wildlife Section	600,000

The Legislature intends that the Utah Division of Wildlife Resources spend up to \$300,000 from the General Fund Restricted - Wildlife Resources account to purchase fish from private sources in state fiscal year 2019. Expenditures of these funds are limited to \$150,000 for warm water fish species and \$150,000 for trout.

The Legislature intends that the Division of Wildlife Resources maintain its efforts to prevent aquatic invasive species spread into Bear Lake in FY 2019, with at least \$100,000 to be spent on check stations for boats entering Bear Lake Valley, boat decontamination, public education, and related activities.

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 131

To Public Lands Policy Coordinating Office	
From General Fund	900,000

Schedule of Programs:

Public Lands Policy Coordinating Office	900,000
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The Legislature intends that the Public Lands Policy Coordinating Office submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The agency shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

The Legislature intends the Public Lands Policy Coordinating Office to carry out its statutorily defined duties, and to disseminate information regarding and advance the transfer of certain public lands to the state in accordance with 63L-6-101 et. seq. through: (1) Education; (2) Negotiation; (3) Legislation; and (4) Litigation, as applicable. The Public Lands Policy Coordinating Office shall report on its activities related to the foregoing to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and the Natural Resources, Agriculture, and Environment Interim Committee by October 30, 2019.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 132

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund, One-Time	346,300

Schedule of Programs:

Director	300,000
Surface	46,300

The Legislature intends that the School and Institutional Trust Lands Administration submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The agency shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

RETIREMENT AND INDEPENDENT ENTITIES

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 133

To Utah Education and Telehealth Network	
From Education Fund	2,850,000
From Education Fund, One-Time	2,700,000

Schedule of Programs:

Course Management Systems	1,900,000
Technical Services	3,650,000

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 134

To Capitol Preservation Board	
From General Fund	233,300
From Dedicated Credits Revenue	33,300

Schedule of Programs:

Capitol Preservation Board	266,600
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LEGISLATURE

Item 135

To Legislature - Senate	
From General Fund	51,100
From General Fund, One-Time	(7,300)

Schedule of Programs:

Administration	43,800
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Item 136

To Legislature - House of Representatives	
From General Fund	91,000
From General Fund, One-Time	(17,500)

Schedule of Programs:

Administration	73,500
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Item 137

To Legislature - Legislative Printing	
From General Fund	6,300

Schedule of Programs:

Administration	6,300
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Item 138

To Legislature - Office of Legislative Research and General Counsel	
From General Fund	356,800
From General Fund, One-Time	350,000

Schedule of Programs:

Administration	706,800
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Item 139

To Legislature - Office of the Legislative Fiscal Analyst	
From General Fund	79,000

Schedule of Programs:

Administration and Research 79,000

The Legislature intends that, when preparing the Fiscal Year 2020 base budget and compensation bills, the Legislative Fiscal Analyst shall include in the compensation bill a 75% General Fund-Education Fund / 25% Dedicated Credits mix for each Education and General line item and other instructional line items containing General Fund, Education Fund, and Dedicated Credits, with the exception that the Salt Lake Community College School of Applied Technology line item shall include 100% General Fund-Education Fund. The Legislature also intends that the Legislative Fiscal Analyst shall include in the compensation bill for the Utah College of Applied Technology 100% General Fund-Education Fund.

Item 140

To Legislature - Legislative Support
 From General Fund 54,300
 From General Fund, One-Time 24,800
 Schedule of Programs:
 Administration 79,100

Item 141

To Legislature - Legislative Services
 From General Fund 2,005,300
 From General Fund, One-Time 1,750,000
 Schedule of Programs:
 Human Resources 5,300
 State Capitol Personnel and
 Renovation 3,750,000

Item 142

To Legislature - Office of the Legislative Auditor General
 From General Fund 108,200
 Schedule of Programs:
 Administration 108,200

UTAH NATIONAL GUARD

Item 143

To Utah National Guard
 From General Fund 323,000
 From General Fund, One-Time (58,500)
 From Federal Funds 65,600
 Schedule of Programs:
 Administration 90,000
 Operations and Maintenance 115,100
 Tuition Assistance 125,000

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 144

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From General Fund, One-Time 1,075,000
 From Federal Funds 179,600
 Schedule of Programs:
 Administration 1,000,000
 Cemetery 92,400

Outreach Services 75,000
 State Approving Agency 87,200

The Legislature intends that the \$500,000 General Fund one-time appropriated to the Utah Department of Veterans' and Military Affairs be used for a home buyer down payment assistance program for veterans and currently serving military personnel as defined by the department. The Legislature further intends that the department is authorized to enter into financial and administrative arrangements with the Olene Walker Housing Loan Fund and the Housing and Community Development Division to develop and implement the program.

The Legislature intends that the Department of Veterans' and Military be allowed to increase its vehicle fleet for nursing home operations by up to two vehicles in FY 2018 or FY 2019 with funding from existing appropriations.

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 145

To Department of Health - Traumatic Brain Injury Fund
 From Beginning Fund Balance 1,050,000
 Schedule of Programs:
 Traumatic Brain Injury Fund 1,050,000

The Legislature intends that the \$50,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$50,000 funds not otherwise designated as nonlapsing to the Department of Health - Family Health and Preparedness line item being retained as nonlapsing in Fiscal Year 2018.

The Legislature intends that the \$350,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$350,000 funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item being retained as nonlapsing in Fiscal Year 2018.

The Legislature intends that the \$550,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item being retained as nonlapsing in Fiscal Year 2018.

The Legislature intends that the \$100,000 in Beginning Nonlapsing provided to the

Traumatic Brain Injury Fund is dependent upon up to \$100,000 funds not otherwise designated as nonlapsing to the Department of Health - Executive Director's Operations line item being retained as nonlapsing in Fiscal Year 2018.

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 146

To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund
 From Federal Funds 19,076,600
 Schedule of Programs:
 Veterans' Nursing Home Fund 19,076,600

Subsection 1(c). Business-like Activities.

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

INFRASTRUCTURE AND GENERAL GOVERNMENT

**DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUND
INTERNAL SERVICE FUNDS**

Item 147

To Department of Administrative Services Internal Service Fund Internal Service Funds - Division of Facilities Construction and Management - Facilities Management

The Legislature intends that the DFCM Internal Service Fund may add up to three FTE's and up to two vehicles beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTE's or vehicles will be reviewed and may be approved by the Legislature in the next legislative session.

The Legislature intends that the DFCM Internal Service Fund may add three vehicles to their current authorized level to provide the means to service the buildings recently added to their maintenance inventory.

Item 148

To Department of Administrative Services Internal Service Fund Internal Service Funds - Division of Purchasing and General Services
 From Beginning Fund Balance 200,000
 From Closing Fund Balance (200,000)

**DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUND
INTERNAL SERVICE FUNDS**

Item 149

To Department of Technology Services Internal Service Fund Internal Service Funds - Enterprise Technology Division
 From Dedicated Credits Revenue (168,000)
 Schedule of Programs:
 ISF - Enterprise Technology Division (168,000)

RETIREMENT AND INDEPENDENT ENTITIES

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 150

To Department of Human Resource Management - Human Resources Internal Service Fund
 From Dedicated Credits Revenue 263,400
 Schedule of Programs:
 Administration 15,200
 ISF - Field Services 238,400
 ISF - Payroll Field Services 1,200
 Policy 8,600

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 151

To General Fund Restricted - Fire Academy Support Account
 From General Fund (1,800,000)
 Schedule of Programs:
 General Fund Restricted - Fire Academy Support Account (1,800,000)

Item 152

To General Fund Restricted - Firearm Safety Account
 From General Fund 24,800
 Schedule of Programs:
 General Fund Restricted - Firearm Safety Account 24,800

Item 153

To General Fund Restricted - Indigent Defense Resources Account
 From General Fund 500,000
 From General Fund, One-Time 500,000
 Schedule of Programs:
 General Fund Restricted - Indigent Defense Resources Account 1,000,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 154

To General Fund Restricted - Motion Picture Incentive Fund

From General Fund 200,000
 Schedule of Programs:
 General Fund Restricted - Motion
 Picture Incentive Fund 200,000

SOCIAL SERVICES

Item 155

To Medicaid Expansion Fund
 From General Fund, One-Time (4,600,000)
 From General Fund Restricted -
 Medicaid Restricted Account,
 One-Time 9,400,000
 Schedule of Programs:
 Medicaid Expansion Fund 4,800,000

The Legislature intends that the income eligibility ceiling for FY 2019 shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i. 0% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. 55% for an individual with a dependent child.

The Department of Health may use up to a combined maximum of \$9,400,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children’s Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2018 and FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2018 and FY 2019 when combined with federal matching funds.

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

**EXECUTIVE OFFICES
 AND CRIMINAL JUSTICE**

DEPARTMENT OF PUBLIC SAFETY

Item 156

To Department of Public Safety -
 Firefighters Retirement Trust & Agency Fund
 From General Fund (3,000,000)
 Schedule of Programs:
 Firefighters Retirement Trust &
 Agency Fund (3,000,000)

Section 2. Effective Date.
 This bill takes effect on July 1, 2018.

CHAPTER 363

H.B. 8

Passed March 6, 2018
Approved March 21, 2018
Effective May 8, 2018

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Mike Schultz
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
authorizes certain state agency fees;
authorizes internal service fund rates;
adjusts funding for the impact of Internal Service Fund rate changes; and,
provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$3,221,400 in operating and capital budgets for fiscal year 2019, including:

- \$1,165,600 from the General Fund;
\$295,800 from the Education Fund;
\$1,760,000 from various sources as detailed in this bill.

This bill appropriates \$64,200 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$300 in business-like activities for fiscal year 2019.

This bill appropriates \$14,500 in restricted fund and account transfers for fiscal year 2019, all of which is from the General Fund.

This bill appropriates \$1,000 in fiduciary funds for fiscal year 2019.

Other Special Clauses:

This bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for Internal Service Fund rate adjustments for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General
From General Fund 40,200
From Federal Funds 500
From Dedicated Credits Revenue 2,800
From General Fund Restricted -
Constitutional Defense 300
From Revenue Transfers 200
Schedule of Programs:
Administration 26,300
Child Protection 8,700
Civil 4,900
Criminal Prosecution 4,100

Item 2

To Attorney General - Children's Justice Centers
From General Fund 100
Schedule of Programs:
Children's Justice Centers 100

Item 3

To Attorney General - Prosecution Council
From General Fund (100)
From General Fund Restricted -
Public Safety Support (300)
From Revenue Transfers (200)
Schedule of Programs:
Prosecution Council (600)

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole
From General Fund 11,900
Schedule of Programs:
Board of Pardons and Parole 11,900

UTAH DEPARTMENT OF CORRECTIONS

Item 5

To Utah Department of Corrections -
Programs and Operations
From General Fund 357,100
From Federal Funds 100
From Dedicated Credits Revenue 2,500
Schedule of Programs:
Adult Probation and Parole
Administration 11,300
Adult Probation and Parole Programs 37,800
Department Administrative Services 169,800
Department Executive Director 110,800
Department Training 100
Prison Operations Administration 1,100
Prison Operations Central Utah/
Gunnison 6,800
Prison Operations Draper Facility 17,500
Prison Operations Inmate Placement 400
Programming Skill Enhancement 2,800
Programming Treatment 1,300

Item 6

To Utah Department of Corrections -
Department Medical Services

From General Fund 22,500
 From Dedicated Credits Revenue 400
 Schedule of Programs:
 Medical Services 22,900

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR**

Item 7

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 8,700
 From Dedicated Credits Revenue 300
 From General Fund Restricted -
 Court Trust Interest 300
 Schedule of Programs:
 Administrative Office 5,600
 Data Processing (100)
 District Courts 2,500
 Juvenile Courts 1,300

Item 8

To Judicial Council/State Court Administrator -
 Contracts and Leases
 From General Fund 71,600
 From Dedicated Credits Revenue 1,100
 From General Fund Restricted -
 State Court Complex Account 20,200
 Schedule of Programs:
 Contracts and Leases 92,900

Item 9

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 200
 Schedule of Programs:
 Guardian ad Litem 200

Item 10

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 3,500
 Schedule of Programs:
 Jury, Witness, and Interpreter 3,500

GOVERNOR'S OFFICE

Item 11

To Governor's Office - Character Education
 From General Fund 100
 Schedule of Programs:
 Character Education 100

Item 12

To Governor's Office - Commission on Criminal and
 Juvenile Justice
 From General Fund 600
 From Federal Funds 900
 From Crime Victim Reparations Fund 1,900
 Schedule of Programs:
 CCJJ Commission (900)
 Judicial Performance Evaluation
 Commission 900
 Sentencing Commission 300
 Substance Use and Mental Health
 Advisory Council 100
 Utah Office for Victims of Crime 3,000

Item 13

To Governor's Office

From General Fund (33,500)
 From Dedicated Credits Revenue (12,300)
 Schedule of Programs:
 Administration (17,400)
 Governor's Residence 100
 Lt. Governor's Office (28,500)

Item 14

To Governor's Office - Governor's Office
 of Management and Budget
 From General Fund (13,500)
 From General Fund Restricted - School
 Readiness Account (2,800)
 Schedule of Programs:
 Administration (16,500)
 Operational Excellence (1,100)
 Planning and Budget Analysis 1,300

Item 15

To Governor's Office - Indigent
 Defense Commission
 From General Fund Restricted - Indigent
 Defense Resources 300
 Schedule of Programs:
 Indigent Defense Commission 300

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

Item 16

To Department of Human Services - Division
 of Juvenile Justice Services - Programs
 and Operations
 From General Fund 41,100
 From Federal Funds 2,600
 From Dedicated Credits Revenue 300
 From Revenue Transfers 400
 Schedule of Programs:
 Administration 3,200
 Correctional Facilities 6,900
 Early Intervention Services 11,800
 Rural Programs 11,600
 Youth Parole Authority 300
 Case Management 10,600

OFFICE OF THE STATE AUDITOR

Item 17

To Office of the State Auditor - State Auditor
 From General Fund 500
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 State Auditor 700

DEPARTMENT OF PUBLIC SAFETY

Item 18

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted
 Account 111,200
 From Pass-through 100
 Schedule of Programs:
 Driver License Administration 1,000
 Driver Records 54,600
 Driver Services 55,700

Item 19

To Department of Public Safety -
 Emergency Management

From General Fund 900
 From Federal Funds 11,800
 Schedule of Programs:
 Emergency Management 12,700

Item 20

To Department of Public Safety - Highway Safety
 From Federal Funds 1,100
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Highway Safety 1,300

Item 21

To Department of Public Safety - Peace
 Officers' Standards and Training
 From General Fund (100)
 From Dedicated Credits Revenue (100)
 From General Fund Restricted -
 Public Safety Support (5,200)
 Schedule of Programs:
 Basic Training (1,400)
 POST Administration 1,600
 Regional/Inservice Training (5,600)

Item 22

To Department of Public Safety -
 Programs & Operations
 From General Fund 138,500
 From Federal Funds 2,600
 From Dedicated Credits Revenue 48,400
 From General Fund Restricted -
 Concealed Weapons Account 17,600
 From Department of Public Safety
 Restricted Account 8,200
 From General Fund Restricted -
 DNA Specimen Account 700
 From General Fund Restricted -
 Fire Academy Support 3,000
 From General Fund Restricted - Motor
 Vehicle Safety Impact Acct. 1,500
 From General Fund Restricted - Reduced
 Cigarette Ignition Propensity &
 Firefighter Protection Account 100
 From General Fund Restricted -
 Statewide Warrant Operations 3,000
 From Revenue Transfers 1,800
 Schedule of Programs:
 CITS Administration (200)
 CITS Bureau of Criminal
 Identification 65,100
 CITS Communications 6,300
 CITS State Crime Labs 8,100
 Department Commissioner's Office 93,400
 Department Fleet Management 100
 Department Grants 4,300
 Department Intelligence Center 1,400
 Fire Marshall - Fire Operations 3,300
 Highway Patrol - Administration 1,000
 Highway Patrol - Commercial
 Vehicle (2,000)
 Highway Patrol - Federal/State Projects 300
 Highway Patrol - Field Operations 29,400
 Highway Patrol - Protective Services 1,400
 Highway Patrol - Safety Inspections 800
 Highway Patrol - Special Enforcement 100
 Highway Patrol - Special Services 2,700
 Highway Patrol - Technology
 Services (5,300)

Information Management -
 Operations 15,200

STATE TREASURER**Item 23**

To State Treasurer
 From General Fund 1,200
 From Dedicated Credits Revenue 700
 From Unclaimed Property Trust (19,800)
 Schedule of Programs:
 Treasury and Investment 1,900
 Unclaimed Property (19,800)

UTAH COMMUNICATIONS AUTHORITY**Item 24**

To Utah Communications Authority -
 Administrative Services Division
 From General Fund Restricted - Utah
 Statewide Radio System Acct. 500
 Schedule of Programs:
 Administrative Services Division 500

**INFRASTRUCTURE AND
GENERAL GOVERNMENT****DEPARTMENT OF
ADMINISTRATIVE SERVICES****Item 25**

To Department of Administrative Services -
 Administrative Rules
 From General Fund 700
 Schedule of Programs:
 DAR Administration 700

Item 26

To Department of Administrative Services -
 Building Board Program
 From Capital Projects Fund 1,100
 Schedule of Programs:
 Building Board Program 1,100

Item 27

To Department of Administrative Services -
 DFCM Administration
 From General Fund 10,200
 From Dedicated Credits Revenue 3,500
 From Capital Projects Fund 9,500
 Schedule of Programs:
 DFCM Administration 23,200

Item 28

To Department of Administrative Services -
 Executive Director
 From General Fund (40,700)
 Schedule of Programs:
 Executive Director (40,700)

Item 29

To Department of Administrative Services -
 Finance Administration
 From General Fund 32,300
 From Dedicated Credits Revenue (3,800)
 From General Fund Restricted -
 Internal Service Fund Overhead (29,600)
 Schedule of Programs:
 Finance Director's Office 600
 Financial Information Systems (53,300)
 Financial Reporting 800

Payables/Disbursing	15,000
Payroll	7,200
Technical Services	28,600

Item 30

To Department of Administrative Services -	
Inspector General of Medicaid Services	
From General Fund	(400)
From Revenue Transfers	(800)
Schedule of Programs:	
Inspector General of Medicaid	
Services	(1,200)

Item 31

To Department of Administrative Services -	
Judicial Conduct Commission	
From General Fund	1,800
Schedule of Programs:	
Judicial Conduct Commission	1,800

Item 32

To Department of Administrative Services -	
Purchasing	
From General Fund	2,600
Schedule of Programs:	
Purchasing and General Services	2,600

Item 33

To Department of Administrative Services -	
State Archives	
From General Fund	(4,100)
Schedule of Programs:	
Archives Administration	(4,800)
Open Records	200
Patron Services	100
Preservation Services	100
Records Analysis	100
Records Services	200

CAPITAL BUDGET

Item 34

To Capital Budget - Capital Improvements	
From General Fund	300
From Education Fund	300
Schedule of Programs:	
Capital Improvements	600

DEPARTMENT OF TECHNOLOGY SERVICES

Item 35

To Department of Technology Services -	
Chief Information Officer	
From General Fund	3,600
Schedule of Programs:	
Chief Information Officer	3,600

Item 36

To Department of Technology Services -	
Integrated Technology Division	
From General Fund	(21,400)
From Federal Funds	(6,500)
From Dedicated Credits Revenue	(20,700)
From General Fund Restricted - Statewide	
Unified E-911 Emergency Account	(7,100)

Schedule of Programs:	
Automated Geographic Reference	
Center	(55,700)

TRANSPORTATION

Item 37

To Transportation - Aeronautics	
From Aeronautics Restricted Account	1,000
Schedule of Programs:	
Administration	1,000

Item 38

To Transportation - Construction Management	
From Transportation Fund	(100)
Schedule of Programs:	
Federal Construction - New	(100)

Item 39

To Transportation - Engineering Services	
From Transportation Fund	900
Schedule of Programs:	
Engineering Services	100
Materials Lab	100
Preconstruction Admin	100
Program Development	500
Right-of-Way	100

Item 40

To Transportation - Operations/	
Maintenance Management	
From Transportation Fund	(17,400)
Schedule of Programs:	
Field Crews	500
Lands and Buildings	200
Maintenance Administration	100
Maintenance Planning	100
Region 1	300
Region 2	400
Region 3	400
Region 4	600
Shops	(21,500)
Traffic Operations Center	1,100
Traffic Safety/Tramway	400

Item 41

To Transportation - Region Management	
From Transportation Fund	2,400
Schedule of Programs:	
Region 1	500
Region 2	1,000
Region 3	300
Region 4	600

Item 42

To Transportation - Support Services	
From Transportation Fund	280,700
Schedule of Programs:	
Administrative Services	400
Comptroller	300
Data Processing	249,200
Human Resources Management	27,600
Internal Auditor	100
Ports of Entry	900
Procurement	100
Risk Management	2,100

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 43

To Department of Alcoholic Beverage Control -
DABC Operations
From Liquor Control Fund 176,400
Schedule of Programs:
Administration (3,800)
Executive Director 600
Operations 151,700
Stores and Agencies 24,100
Warehouse and Distribution 3,800

DEPARTMENT OF COMMERCE

Item 44

To Department of Commerce - Commerce
General Regulation
From General Fund 100
From Dedicated Credits Revenue 3,000
From General Fund Restricted -
Commerce Service Account (44,900)
From General Fund Restricted -
Factory Built Housing Fees 200
From General Fund Restricted -
Public Utility Restricted Acct. 800
Schedule of Programs:
Administration (94,500)
Building Operations and
Maintenance 26,300
Consumer Protection 700
Corporations and Commercial Code 3,200
Occupational and Professional
Licensing 21,600
Office of Consumer Services 200
Public Utilities 600
Real Estate 600
Securities 500

**GOVERNOR'S OFFICE
OF ECONOMIC DEVELOPMENT**

Item 45

To Governor's Office of Economic Development -
Administration
From General Fund 1,100
From Dedicated Credits Revenue 400
Schedule of Programs:
Administration 1,500

Item 46

To Governor's Office of Economic Development -
Business Development
From General Fund 2,100
From Federal Funds 200
From Dedicated Credits Revenue 100
Schedule of Programs:
Corporate Recruitment and Business
Services 1,200
Outreach and International Trade 1,200

Item 47

To Governor's Office of Economic Development -
Office of Tourism
From General Fund 2,100

From General Fund Restricted -
Motion Picture Incentive Acct. 400
Schedule of Programs:
Administration 1,500
Film Commission 600
Operations and Fulfillment 400

Item 48

To Governor's Office of Economic Development -
Pete Suazo Utah Athletics Commission
From General Fund 100
Schedule of Programs:
Pete Suazo Utah Athletics Commission ... 100

Item 49

To Governor's Office of Economic Development -
STEM Action Center
From General Fund 600
From Dedicated Credits Revenue 600
Schedule of Programs:
STEM Action Center 1,200

FINANCIAL INSTITUTIONS

Item 50

To Financial Institutions - Financial
Institutions Administration
From General Fund Restricted -
Financial Institutions 3,700
Schedule of Programs:
Administration 3,700

DEPARTMENT OF HERITAGE AND ARTS

Item 51

To Department of Heritage and Arts -
Administration
From General Fund (2,000)
From Dedicated Credits Revenue (400)
Schedule of Programs:
Administrative Services (1,500)
Executive Director's Office 3,800
Information Technology (4,800)
Utah Multicultural Affairs Office 100

Item 52

To Department of Heritage and Arts -
Division of Arts and Museums
From General Fund 1,300
Schedule of Programs:
Administration 1,200
Community Arts Outreach 100

Item 53

To Department of Heritage and Arts -
Commission on Service and Volunteerism
From Federal Funds 200
Schedule of Programs:
Commission on Service and Volunteerism . 200

Item 54

To Department of Heritage and Arts -
Indian Affairs
From General Fund 100
Schedule of Programs:
Indian Affairs 100

Item 55

To Department of Heritage and Arts - State History
From General Fund 2,400
From Federal Funds 200

Schedule of Programs:

Administration	1,700
Historic Preservation and Antiquities	400
Library and Collections	300
Public History, Communication and Information	200

Item 56

To Department of Heritage and Arts - State Library

From General Fund	800
From Dedicated Credits Revenue	400

Schedule of Programs:

Administration	300
Blind and Disabled	800
Library Resources	100

INSURANCE DEPARTMENT

Item 57

To Insurance Department - Insurance Department Administration

From Federal Funds	(3,600)
From General Fund Restricted - Captive Insurance	3,800
From General Fund Restricted - Insurance Department Acct.	(28,400)
From General Fund Rest. - Insurance Fraud Investigation Acct.	4,800
From General Fund Restricted - Technology Development	100

Schedule of Programs:

Administration	(32,200)
Captive Insurers	3,800
Electronic Commerce Fee	100
Insurance Fraud Program	5,000

LABOR COMMISSION

Item 58

To Labor Commission

From General Fund	36,000
From Federal Funds	2,000
From Dedicated Credits Revenue	200
From Employers' Reinsurance Fund	500
From General Fund Restricted - Industrial Accident Account	15,100
From General Fund Restricted - Workplace Safety Account	200

Schedule of Programs:

Adjudication	1,500
Administration	15,600
Antidiscrimination and Labor	2,900
Boiler, Elevator and Coal Mine Safety Division	2,900
Building Operations and Maintenance	14,600
Industrial Accidents	14,300
Utah Occupational Safety and Health	2,200

PUBLIC SERVICE COMMISSION

Item 59

To Public Service Commission

From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	2,600
From General Fund Restricted - Public Utility Restricted Acct.	(2,800)

Schedule of Programs:

Administration	(2,800)
Building Operations and Maintenance	2,600

UTAH STATE TAX COMMISSION

Item 60

To Utah State Tax Commission - License Plates Production

From Dedicated Credits Revenue	100
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Schedule of Programs:

License Plates Production	100
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Item 61

To Utah State Tax Commission - Tax Administration

From General Fund	74,700
From Education Fund	52,300
From Federal Funds	100
From Dedicated Credits Revenue	11,600
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account	2,500
From General Fund Rest. - Sales and Use Tax Admin Fees	22,500
From Uninsured Motorist Identification Restricted Account	200

Schedule of Programs:

Administration Division	3,800
Auditing Division	2,900
Motor Vehicle Enforcement Division	2,500
Motor Vehicles	26,400
Property Tax Division	3,500
Seasonal Employees	100
Tax Payer Services	15,200
Tax Processing Division	9,700
Technology Management	99,800

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 62

To Utah Science Technology and Research Governing Authority - Support Programs

From General Fund	400
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Schedule of Programs:

Regional Outreach	300
SBIR/STTR Assistance Center	100

Item 63

To Utah Science Technology and Research Governing Authority - USTAR Administration

From General Fund	3,200
From Dedicated Credits Revenue	200

Schedule of Programs:

Administration	2,700
Project Management & Compliance	700

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 64

To Department of Health - Children's Health Insurance Program

From General Fund	(400)
From Federal Funds	(1,300)
From Dedicated Credits Revenue	(100)

Schedule of Programs:

Children's Health Insurance Program ..	(1,800)
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Item 65

To Department of Health - Disease Control and Prevention	
From General Fund	(6,600)
From Federal Funds	(27,000)
From Dedicated Credits Revenue	(10,800)
From General Fund Restricted - State Lab Drug Testing Account	(600)
From Revenue Transfers	(2,500)
Schedule of Programs:	
Clinical and Environmental	
Laboratory Certification Programs	(100)
Epidemiology	(22,100)
General Administration	(300)
Health Promotion	(14,100)
Laboratory Operations and Testing	(10,300)
Office of the Medical Examiner	(600)

Item 66

To Department of Health - Executive Director's Operations	
From General Fund	72,400
From Federal Funds	73,800
From Dedicated Credits Revenue	4,500
From Revenue Transfers	1,200
Schedule of Programs:	
Adoption Records Access	700
Center for Health Data and Informatics	9,800
Executive Director	12,800
Office of Internal Audit	(1,200)
Program Operations	129,800

Item 67

To Department of Health - Family Health and Preparedness	
From General Fund	4,000
From Federal Funds	7,100
From Dedicated Credits Revenue	(9,600)
From Revenue Transfers	(900)
Schedule of Programs:	
Child Development	14,900
Children with Special Health Care Needs	(1,300)
Director's Office	(900)
Emergency Medical Services and Preparedness	(13,400)
Health Facility Licensing and Certification	(9,000)
Maternal and Child Health	10,900
Primary Care	(300)
Public Health and Health Care Preparedness	(300)

Item 68

To Department of Health - Medicaid and Health Financing	
From General Fund	(2,700)
From Federal Funds	(17,100)
From Dedicated Credits Revenue	(5,200)
From Nursing Care Facilities Provider Assessment Fund	(500)
From Revenue Transfers	(500)
Schedule of Programs:	
Authorization and Community Based Services	(7,600)
Contracts	16,900
Coverage and Reimbursement Policy	(4,500)
Director's Office	(4,700)

Eligibility Policy	(4,700)
Financial Services	(18,100)
Managed Health Care	(5,400)
Medicaid Operations	2,100

Item 69

To Department of Health - Medicaid Services	
From General Fund	4,200
From Federal Funds	12,900
From Dedicated Credits Revenue	(100)
Schedule of Programs:	
Other Services	(400)
Pharmacy	(100)
Provider Reimbursement Information System for Medicaid	17,500

DEPARTMENT OF HUMAN SERVICES**Item 70**

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	6,300
From Federal Funds	500
Schedule of Programs:	
Administration - DAAS	1,000
Adult Protective Services	5,700
Aging Waiver Services	100

Item 71

To Department of Human Services - Division of Child and Family Services	
From General Fund	53,800
From Federal Funds	36,400
From Dedicated Credits Revenue	100
Schedule of Programs:	
Administration - DCFS	2,300
Child Welfare Management Information System	77,900
Facility-Based Services	(200)
Minor Grants	2,500
Service Delivery	7,800

Item 72

To Department of Human Services - Executive Director Operations	
From General Fund	12,600
From Federal Funds	10,300
From Revenue Transfers	4,000
Schedule of Programs:	
Executive Director's Office	3,500
Fiscal Operations	5,100
Information Technology	15,600
Legal Affairs	100
Office of Licensing	1,000
Office of Services Review	1,200
Utah Developmental Disabilities Council	400

Item 73

To Department of Human Services - Office of Public Guardian	
From General Fund	300
From Revenue Transfers	200
Schedule of Programs:	
Office of Public Guardian	500

Item 74

To Department of Human Services - Office of Recovery Services	
From General Fund	38,000
From Federal Funds	58,400

From Dedicated Credits Revenue	17,400
From Revenue Transfers	4,500
Schedule of Programs:	
Attorney General Contract	300
Child Support Services	53,800
Children in Care Collections	(200)
Electronic Technology	50,200
Financial Services	14,400
Medical Collections	(200)

Item 75

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	4,100
From Federal Funds	200
From Dedicated Credits Revenue	(500)
From Revenue Transfers	(2,200)
Schedule of Programs:	
Administration - DSPD	7,400
Service Delivery	5,800
Utah State Developmental Center	(11,600)

Item 76

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	12,000
From Federal Funds	(38,000)
From Dedicated Credits Revenue	500
From Revenue Transfers	3,700
Schedule of Programs:	
Administration - DSAMH	2,300
Community Mental Health Services	(38,600)
State Hospital	14,400
State Substance Abuse Services	100

DEPARTMENT OF WORKFORCE SERVICES

Item 77

To Department of Workforce Services - Administration	
From General Fund	22,400
From Federal Funds	49,800
From Dedicated Credits Revenue	900
From Permanent Community Impact	
Loan Fund	800
From Revenue Transfers	11,600
Schedule of Programs:	
Administrative Support	40,700
Communications	100
Executive Director's Office	9,800
Human Resources	34,900

Item 78

To Department of Workforce Services - General Assistance	
From General Fund	100
Schedule of Programs:	
General Assistance	100

Item 79

To Department of Workforce Services - Housing and Community Development	
From General Fund	(100)
From Federal Funds	(800)
From General Fund Restricted - Pamela Atkinson Homeless Account	
From Permanent Community Impact	(200)
Loan Fund	1,000

Schedule of Programs:	
Community Development	100
Community Development Administration	
Administration	1,100
Community Services	100
HEAT	(800)
Homeless Committee	(600)
Housing Development	100
Weatherization Assistance	(100)

Item 80

To Department of Workforce Services - Operations and Policy	
From General Fund	106,800
From Federal Funds	441,400
From Dedicated Credits Revenue	16,900
From Revenue Transfers	246,100
Schedule of Programs:	
Eligibility Services	96,600
Facilities and Pass-Through	27,500
Information Technology	683,600
Workforce Development	3,300
Workforce Research and Analysis	200

Item 81

To Department of Workforce Services - State Office of Rehabilitation	
From General Fund	700
From Federal Funds	2,400
Schedule of Programs:	
Blind and Visually Impaired	200
Deaf and Hard of Hearing	(100)
Disability Determination	1,100
Executive Director	(200)
Rehabilitation Services	2,100

Item 82

To Department of Workforce Services - Unemployment Insurance	
From General Fund	600
From Federal Funds	22,500
From Dedicated Credits Revenue	600
Schedule of Programs:	
Adjudication	300
Unemployment Insurance Administration	
Administration	23,400

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 83

To University of Utah - Education and General	
From Education Fund	56,200
From Dedicated Credits Revenue	59,700
Schedule of Programs:	
Education and General	115,900

UTAH STATE UNIVERSITY

Item 84

To Utah State University - Education and General	
From Education Fund	78,600
From Dedicated Credits Revenue	62,300
Schedule of Programs:	
Education and General	140,900

Item 85

To Utah State University - USU - Eastern Education and General	
From Education Fund	(11,200)

From Dedicated Credits Revenue (2,800)
 Schedule of Programs:
 USU - Eastern Education and
 General (14,000)

WEBER STATE UNIVERSITY

Item 86

To Weber State University - Education
 and General
 From Education Fund 21,300
 From Dedicated Credits Revenue 18,700
 Schedule of Programs:
 Education and General 40,000

SOUTHERN UTAH UNIVERSITY

Item 87

To Southern Utah University - Education
 and General
 From Education Fund 21,000
 From Dedicated Credits Revenue 22,900
 Schedule of Programs:
 Education and General 43,900

UTAH VALLEY UNIVERSITY

Item 88

To Utah Valley University - Education and General
 From Education Fund 24,900
 From Dedicated Credits Revenue 28,000
 Schedule of Programs:
 Education and General 52,900

SNOW COLLEGE

Item 89

To Snow College - Education and General
 From Education Fund 2,100
 From Dedicated Credits Revenue 1,300
 Schedule of Programs:
 Education and General 3,400

DIXIE STATE UNIVERSITY

Item 90

To Dixie State University - Education and General
 From Education Fund 26,900
 From Dedicated Credits Revenue 20,600
 Schedule of Programs:
 Education and General 47,500

SALT LAKE COMMUNITY COLLEGE

Item 91

To Salt Lake Community College - Education
 and General
 From Education Fund 21,900
 From Dedicated Credits Revenue 15,100
 Schedule of Programs:
 Education and General 37,000

STATE BOARD OF REGENTS

Item 92

To State Board of Regents - Administration
 From General Fund 32,400
 Schedule of Programs:
 Administration 32,400

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 93

To Utah System of Technical Colleges -
 Bridgerland Technical College
 From General Fund 2,300
 From Education Fund 4,800
 From Dedicated Credits Revenue 800
 Schedule of Programs:
 Bridgerland Technical College 7,900

Item 94

To Utah System of Technical Colleges -
 Davis Technical College
 From General Fund 1,200
 From Education Fund 2,900
 From Dedicated Credits Revenue 400
 Schedule of Programs:
 Davis Technical College 4,500

Item 95

To Utah System of Technical Colleges -
 Dixie Technical College
 From Education Fund 2,100
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Dixie Technical College 2,200

Item 96

To Utah System of Technical Colleges -
 Mountainland Technical College
 From Education Fund 3,800
 From Dedicated Credits Revenue 400
 Schedule of Programs:
 Mountainland Technical College 4,200

Item 97

To Utah System of Technical Colleges -
 Ogden-Weber Technical College
 From General Fund 2,500
 From Education Fund 4,500
 From Dedicated Credits Revenue 800
 Schedule of Programs:
 Ogden-Weber Technical College 7,800

Item 98

To Utah System of Technical Colleges -
 Southwest Technical College
 From General Fund 100
 From Education Fund 2,900
 From Dedicated Credits Revenue 300
 Schedule of Programs:
 Southwest Technical College 3,300

Item 99

To Utah System of Technical Colleges -
 Tooele Technical College
 From General Fund 200
 From Education Fund 800
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Tooele Technical College 1,100

Item 100

To Utah System of Technical Colleges -
 Uintah Basin Technical College
 From General Fund (100)
 From Education Fund (500)
 Schedule of Programs:
 Uintah Basin Technical College (600)

Item 101

To Utah System of Technical Colleges -
 USTC Administration

From General Fund	(400)
From Education Fund	(500)
Schedule of Programs:	
Administration	(900)

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

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 102

To Department of Agriculture and Food - Administration	
From General Fund	17,500
From Federal Funds	3,600
From Dedicated Credits Revenue	700
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account	300
From Revenue Transfers	400
Schedule of Programs:	
Chemistry Laboratory	300
General Administration	22,200

Item 103

To Department of Agriculture and Food - Animal Health	
From Federal Funds	300
From General Fund Restricted - Livestock Brand	(800)
Schedule of Programs:	
Animal Health	100
Brand Inspection	(1,300)
Meat Inspection	700

Item 104

To Department of Agriculture and Food - Marketing and Development	
From General Fund	200
Schedule of Programs:	
Marketing and Development	200

Item 105

To Department of Agriculture and Food - Plant Industry	
From General Fund	300
From Federal Funds	(700)
From Dedicated Credits Revenue	100
From Agriculture Resource Development Fund	100
From Revenue Transfers	100
From Pass-through	(100)
Schedule of Programs:	
Environmental Quality	(200)
Grain Inspection	200
Grazing Improvement Program	800
Insect Infestation	(400)
Plant Industry	(600)

Item 106

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	900
From Revenue Transfers	800
From General Fund Rest. - Agriculture and Wildlife Damage Prevention	700
Schedule of Programs:	

Predatory Animal Control	2,400
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Item 107

To Department of Agriculture and Food - Regulatory Services	
From General Fund	1,900
From Federal Funds	400
From Dedicated Credits Revenue	2,000
Schedule of Programs:	
Regulatory Services	4,300

Item 108

To Department of Agriculture and Food - Resource Conservation	
From General Fund	(100)
From Agriculture Resource Development Fund	(100)
Schedule of Programs:	
Resource Conservation	(200)

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 109

To Department of Environmental Quality - Air Quality	
From General Fund	2,000
From Federal Funds	2,000
From Dedicated Credits Revenue	1,800
Schedule of Programs:	
Air Quality	5,800

Item 110

To Department of Environmental Quality - Drinking Water	
From General Fund	1,500
From Federal Funds	5,100
From Dedicated Credits Revenue	200
From Water Dev. Security Fund - Drinking Water Loan Program	1,200
From Water Dev. Security Fund - Drinking Water Origination Fee	300
Schedule of Programs:	
Drinking Water	8,300

Item 111

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	(500)
From Federal Funds	(2,800)
From Dedicated Credits Revenue	(400)
From Petroleum Storage Tank Cleanup Fund	(400)
From Petroleum Storage Tank Trust Fund	(1,100)
From General Fund Restricted - Voluntary Cleanup	(400)
Schedule of Programs:	
Environmental Response and Remediation	(5,600)

Item 112

To Department of Environmental Quality - Executive Director's Office	
From General Fund	9,900
From Federal Funds	1,400
From General Fund Restricted - Environmental Quality	5,100
Schedule of Programs:	
Executive Director's Office	16,400

Item 113

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund	300
From Federal Funds	600
From Dedicated Credits Revenue	1,000
From General Fund Restricted - Environmental Quality	2,900
From General Fund Restricted - Used Oil Collection Administration	400
From Waste Tire Recycling Fund	100
Schedule of Programs: Waste Management and Radiation Control	5,300

Item 114

To Department of Environmental Quality - Water Quality	
From General Fund	2,200
From Federal Funds	3,200
From Dedicated Credits Revenue	1,100
From Revenue Transfers	200
From Water Dev. Security Fund - Utah Wastewater Loan Program	1,100
From Water Dev. Security Fund - Water Quality Origination Fee	100
Schedule of Programs: Water Quality	7,900

GOVERNOR'S OFFICE**Item 115**

To Governor's Office - Office of Energy Development	
From General Fund	1,400
From Federal Funds	400
From Dedicated Credits Revenue	100
From Utah State Energy Program Revolving Loan Fund (ARRA)	100
Schedule of Programs: Office of Energy Development	2,000

DEPARTMENT OF NATURAL RESOURCES**Item 116**

To Department of Natural Resources - Administration	
From General Fund	(2,700)
Schedule of Programs: Administrative Services	(3,100)
Executive Director	(100)
Law Enforcement	(500)
Public Information Office	1,000

Item 117

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	(28,800)
From Federal Funds	(8,800)
From Dedicated Credits Revenue	4,900
From General Fund Restricted - Sovereign Lands Management	(40,100)
Schedule of Programs: Division Administration	(81,200)
Fire Management	500
Fire Suppression Emergencies	900
Forest Management	400
Lands Management	800
Lone Peak Center	4,000

Program Delivery	1,700
Project Management	100

Item 118

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	12,400
From Federal Funds	26,300
From Dedicated Credits Revenue	200
From General Fund Restricted - Oil & Gas Conservation Account	22,300
Schedule of Programs: Abandoned Mine	200
Administration	13,000
Coal Program	27,600
Minerals Reclamation	100
Oil and Gas Program	20,300

Item 119

To Department of Natural Resources - Parks and Recreation	
From General Fund	500
From Federal Funds	700
From Dedicated Credits Revenue	100
From General Fund Restricted - Boating	(2,000)
From General Fund Restricted - Off-highway Vehicle	(2,700)
From General Fund Restricted - State Park Fees	(1,200)
Schedule of Programs: Executive Management	300
Park Operation Management	12,300
Recreation Services	900
Support Services	(18,100)

Item 120

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	1,600
Schedule of Programs: Species Protection	1,600

Item 121

To Department of Natural Resources - Utah Geological Survey	
From General Fund	3,300
From Federal Funds	100
From Dedicated Credits Revenue	700
From General Fund Restricted - Mineral Lease	400
Schedule of Programs: Administration	(2,200)
Energy and Minerals	200
Geologic Hazards	100
Geologic Information and Outreach	5,800
Geologic Mapping	100
Ground Water	400
Technical Services	100

Item 122

To Department of Natural Resources - Water Resources	
From General Fund	1,700
From Federal Funds	300
From Water Resources Conservation and Development Fund	1,700
Schedule of Programs: Construction	1,500

Interstate Streams	100
Planning	2,100

Item 123

To Department of Natural Resources - Water Rights	
From General Fund	30,100
From Federal Funds	100
From Dedicated Credits Revenue	2,000
Schedule of Programs:	
Adjudication	700
Administration	1,800
Applications and Records	4,000
Canal Safety	300
Dam Safety	600
Field Services	100
Technical Services	24,700

Item 124

To Department of Natural Resources - Wildlife Resources	
From General Fund	500
From Federal Funds	12,100
From Dedicated Credits Revenue	(400)
From General Fund Restricted - Boating ...	300
From General Fund Restricted - Mule Deer Protection Account	100
From General Fund Restricted - Predator Control Account	300
From Revenue Transfers	(400)
From General Fund Restricted - Wildlife Resources	7,500
Schedule of Programs:	
Administrative Services	800
Aquatic Section	10,200
Conservation Outreach	4,100
Director's Office	(10,900)
Habitat Section	5,300
Law Enforcement	4,500
Wildlife Section	6,000

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 125

To Public Lands Policy Coordinating Office	
From General Fund	(13,300)
From General Fund Restricted - Constitutional Defense	(9,000)
Schedule of Programs:	
Public Lands Policy Coordinating Office	(22,300)

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 126

To School and Institutional Trust Lands Administration - Land Stewardship and Restoration	
From Land Grant Management Fund	(100)
Schedule of Programs:	
Land Stewardship and Restoration	(100)

Item 127

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund ...	(22,900)
Schedule of Programs:	

Accounting	100
Administration	(18,500)
Auditing	100
Grazing and Forestry	(200)
Information Technology Group	(4,900)
Legal/Contracts	100
Mining	100
Oil and Gas	100
Surface	200

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 128

To State Board of Education - Child Nutrition	
From Federal Funds	400
From Dedicated Credit - Liquor Tax	100
Schedule of Programs:	
Child Nutrition	500

Item 129

To State Board of Education - Educator Licensing	
From Education Fund	200
Schedule of Programs:	
Educator Licensing	200

Item 130

To State Board of Education - State Administrative Office	
From General Fund	(100)
From Education Fund	(23,600)
From Federal Funds	1,000
From General Fund Restricted - Mineral Lease	(3,900)
From General Fund Restricted - Land Exchange Distribution Account	(100)
From Revenue Transfers	800
From Uniform School Fund Restricted - Trust Distribution Account	100
Schedule of Programs:	
Board and Administration	(28,500)
Financial Operations	200
Indirect Cost Pool	800
Information Technology	700
School Trust	100
Special Education	500
Student Advocacy Services	400

Item 131

To State Board of Education - General System Support	
From Education Fund	500
From Federal Funds	800
From Dedicated Credits Revenue	100
Schedule of Programs:	
Teaching and Learning	500
Assessment and Accountability	500
Career and Technical Education	400

Item 132

To State Board of Education - State Charter School Board	
From Education Fund	100
Schedule of Programs:	
State Charter School Board	100

Item 133

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	3,500

From Dedicated Credits Revenue	200
From Revenue Transfers	400
Schedule of Programs:	
Educational Services	3,500
Support Services	600

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 134

To School and Institutional Trust Fund Office	
From School and Institutional Trust	
Fund Management Account	800
Schedule of Programs:	
School and Institutional Trust	
Fund Office	800

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 135

To Career Service Review Office	
From General Fund	300
Schedule of Programs:	
Career Service Review Office	300

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 136

To Legislature - Senate	
From General Fund	500
Schedule of Programs:	
Administration	500

Item 137

To Legislature - House of Representatives	
From General Fund	1,000
Schedule of Programs:	
Administration	1,000

Item 138

To Legislature - Legislative Printing	
From General Fund	400
From Dedicated Credits Revenue	200
Schedule of Programs:	
Administration	600

Item 139

To Legislature - Office of Legislative Research and General Counsel	
From General Fund	2,600
Schedule of Programs:	
Administration	2,600

Item 140

To Legislature - Office of the Legislative Fiscal Analyst	
From General Fund	1,400
Schedule of Programs:	
Administration and Research	1,400

Item 141

To Legislature - Office of the Legislative Auditor General	
From General Fund	1,000
Schedule of Programs:	

Administration	1,000
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UTAH NATIONAL GUARD

Item 142

To Utah National Guard	
From General Fund	(14,400)
Schedule of Programs:	
Operations and Maintenance	(14,400)

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 143

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs	
From General Fund	5,600
From Federal Funds	200
Schedule of Programs:	
Administration	500
Cemetery	200
Outreach Services	5,000
State Approving Agency	100

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 144

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund	
From Dedicated Credits Revenue	(700)
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund	(700)

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 145

To Department of Administrative Services - State Debt Collection Fund	
From Dedicated Credits Revenue	6,200
Schedule of Programs:	
State Debt Collection Fund	6,200

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 146

To Department of Commerce - Consumer Protection Education and Training Fund	
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From Licenses/Fees	100
Schedule of Programs:	
Consumer Protection Education and Training Fund	100

Item 147

To Department of Commerce - Securities Investor Education/Training/Enforcement Fund	
From Licenses/Fees	100
Schedule of Programs:	
Securities Investor Education/Training/ Enforcement Fund	100

PUBLIC SERVICE COMMISSION

Item 148

To Public Service Commission - Universal Public Telecom Service	
From Dedicated Credits Revenue	200
Schedule of Programs:	
Universal Public Telecommunications Service Support	200

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 149

To Capitol Preservation Board - State Capitol Restricted Special Revenue Fund	
From Dedicated Credits Revenue	15,600
Schedule of Programs:	
State Capitol Fund	15,600

UTAH NATIONAL GUARD

Item 150

To Utah National Guard - National Guard MWR Fund	
From Dedicated Credits Revenue	100
Schedule of Programs:	
National Guard MWR Fund	100

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 151

To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund	
From Federal Funds	42,400
From Dedicated Credits Revenue	100
From Interest Income	100
Schedule of Programs:	
Veterans' Nursing Home Fund	42,600

Subsection 1(c). Business-like Activities.

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

amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 152

To Utah Department of Corrections - Utah Correctional Industries	
From Dedicated Credits Revenue	800
Schedule of Programs:	
Utah Correctional Industries	800

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 153

To Department of Agriculture and Food - Agriculture Loan Programs	
From Agriculture Resource Development Fund	(300)
From Utah Rural Rehabilitation Loan State Fund	(200)
Schedule of Programs:	
Agriculture Loan Program	(500)

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 154

To General Fund Restricted - Wildlife Resources	
From General Fund	14,500
Schedule of Programs:	
General Fund Restricted - Wildlife Resources	14,500

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

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 155

To Department of Administrative Services - Utah Navajo Royalties Holding Fund	
From Trust and Agency Funds	1,000
Schedule of Programs:	
Navajo Trust Fund	1,000

Section 2. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee

statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2018 and ending June 30, 2019.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Administration
Government Records Access and Management Act
Document certification 2.00
CD Duplication (per CD) 5.00
Plus actual staff costs
DVD Duplication (per DVD) 10.00
Plus actual staff costs
Photocopies
Non-color (per page) 0.25
Color (per page) 0.40
11 x 17 (per page) 1.00
Odd size Actual cost
Document faxing (per page) 1.00
Long distance faxing for over 10 pages 1.00
Record preparation Actual cost
Record preparation 2.00
Plus actual postage costs
Other media Actual cost
Other services Actual cost
Civil
Attorney General V - Office Rate 105.34
Attorney General III - IV - Office Rate 85.04
Attorney General I - II - Office Rate 56.21
Paralegal - Office Rate 56.82
Support - Office Rate 49.70
Clerk - Office Rate 17.87
Attorney General V - Co-Located Rate 103.37
Attorney General III - IV - Co-Located Rate 83.45
Attorney General I - II - Co-Located Rate 56.21
Paralegal - Co-Located Rate 55.76
Support - Office Rate 48.77
Clerk - Co-Located Rate 17.54

ISF - ATTORNEY GENERAL

Hourly Attorney Rate in CSRO Disputes . . . 97.00

BOARD OF PARDONS AND PAROLE

Records Copies (per page) 0.25
Audiotape of Hearing 10.00
Government Records Access and Management Act Response Actual cost
Copies over 100 pages
CD 10.00

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director

Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)
Odd size photocopies (per page) Actual cost
Fee entitled "Odd size photocopies" applies to the entire Department of Corrections.
Document Certification 2.00
Fee entitled "Document Certification" applies to the entire Department of Corrections.
Local document faxing (per page) 0.50
Fee entitled "Local Document Faxing" applies to the entire Department of Corrections.
Long distance document faxing (per page) 2.00
Fee entitled "Long Distance Document Faxing" applies to the entire Department Of Corrections.
Staff time to search, compile, and otherwise prepare record Actual cost
Fee entitled "Staff time to search, compile, and otherwise prepare record" applies to the entire Department of Corrections.
Mail and ship preparation, plus actual postage costs Actual cost
Fee entitled "Mail and ship preparation, plus actual postage costs" applies to the entire Department of Corrections.
CD Duplication (per CD) 5.00
Fee entitled "CD Duplication" applies to the entire Department of Corrections.
DVD Duplication (per DVD) 10.00
Fee entitled "DVD Duplication" applies to the entire Department of Corrections.
Other media Actual cost
Fee entitled "Other Media" applies to the entire Department of Corrections.
Other services Actual cost
Fee entitled "Other Services" applies to the entire Department of Corrections.
8.5 x 11 photocopy (per page) 0.25
Fee entitled "8.5 x 11 photocopy" applies to the entire Department of Corrections.
Parole/Probation Supervision
OSDC Supervision Collection 30.00
Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.
Resident Support 6.00
Fee entitled "Resident Support" applies for the entire Department of Corrections.
Department Wide
Restitution for Prisoner Damages . . Actual cost
Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.
False Information Fines . . Range: \$1 - \$84,200
Fee entitled "False Information Fines" applies for the entire Department of Corrections.
Sale of Services Actual cost
Fee entitled "Sale of Services" applies for the entire Department of Corrections.

Inmate Leases & Concessions	11.00
Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.	
Patient Social Security Benefits Collections Amount Based on Actual Collected	
Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.	
Sale of Goods and Materials	Actual cost
Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.	
Buildings Rental	Contractual
Fee entitled "Building Rental" applies for the entire Department of Corrections.	
Victim Rep Inmate Withheld	Range: \$1 - \$50,000
Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.	
Sundry Revenue Collection	Miscellaneous collections
Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.	
Offender Tuition	
Offender Tuition Payments	Actual cost
Fee entitled "Offender Tuition Payments" applies to the entire Department of Corrections.	

DEPARTMENT MEDICAL SERVICES

Medical Services	
Medical	
Prisoner Various Prostheses Co-pay	1/2 cost
Inmate Support Collections	Actual cost

UTAH CORRECTIONAL INDUSTRIES

UCi	
Sale of Goods and Materials	Cost plus profit
Sale of Services	Cost plus profit

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office	
Email	
Up to 10 pages	5.00
Up to 10 pages	5.00
Audio tape	10.00
Video tape	15.00
CD	10.00
Reporter Text (per half day)	25.00
Personnel time after 15 min (per 15 minutes)	Cost of Employee Time
Electronic copy of Court Proceeding (per half day)	10.00
Court Records Online	
Subscription	
Over 200 records (per search)	0.10
200 records (per month)	30.00

Online Services Setup	25.00
Fax	
Up to 10 pages	5.00
After 10 pages (per page)	0.50
Mailings	Actual cost
Preprinted Forms	Cost based on number and size
State Court Administrator	
Copies (per page)	0.25
Microfiche (per card)	1.00

GOVERNOR'S OFFICE

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Extraditions	
Extraditions Services-Restitution Court Ordered Utah Office for Victims of Crime	
Utah Crime Victims Conference	150.00
Sundry Collections	Variable
Utah Victim Assistance Academy	500.00
Lt. Governor's Office	
Lobbyist	
Lobbyist Badge Replacement	10.00
Election Information	
Copy of Election Results	35.00
Copy of Complete Voter Information	
Database	1,050.00
Notary	
Notary Commission	95.00
Notary Test Retake Within 30 Days	40.00
Certifications	
Apostille	20.00
Apostille for Adoption	10.00
Certificate of Authentication	20.00
Certificate of Authentication for	
Adoption	10.00
Special Certificate	10.00
Photocopies (per page)	0.25
International Postage	10.00
Expedited Processing	
Within two hours if presented before 3:00 p.m.	75.00
End of next business day	35.00

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

Operational Excellence	
Conference Registration (per unit / day)	Varies by Type

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

PROGRAMS AND OPERATIONS

Administration	
Government Records Access and Management Act	
Paper (per side of sheet)	0.25
Audio tape (per tape)	5.00
Video tape (per tape)	15.00
Mailing	Actual cost
Compiling and reporting in another format (per hour)	25.00
Programmer/analyst assistance required (per hour)	50.00

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour) 20.00
 Professional Services Actual Cost
 This fee is to reimburse the State Auditor
 for the actual costs of audit services provided.
 Record Access Fee Actual Cost

DEPARTMENT OF PUBLIC SAFETY

DRIVER LICENSE

Driver License Administration
 Commercial Driver School
 License
 Original 100.00
 Annual Renewal 100.00
 Duplicate 10.00
 Instructor 30.00
 Annual Instructor Renewal 20.00
 Duplicate Instructor 6.00
 Branch Office Original 30.00
 Branch Office Annual Renewal 30.00
 Branch Office Reinstatement 75.00
 Instructor/Operation Reinstatement 75.00
 School Reinstatement 75.00
 Commercial Driver License Intra-state
 Medical Waiver 25.00
 Certified Record
 first 15 pages 10.75
 Includes Motor Vehicle Record
 16 to 30 pages 15.75
 Includes Motor Vehicle Record
 31 to 45 pages 20.75
 Includes Motor Vehicle Record
 46 or more pages 25.75
 Includes Motor Vehicle Record
 Copy of Full Driver History 7.00
 Copies of any other record 5.00
 Includes tape recording, letter, medical
 copy, arrests
 Verification
 Driver Address Record Verification 3.00
 Validate Service 0.75
 Pedestrian Vehicle Permit 13.00
 Citation Monitoring Verification 0.06
 Ignition Interlock System
 License
 Provider
 Original 100.00
 Annual Renewal 100.00
 Duplicate 10.00
 Provider Branch Office Inspection ... 30.00
 Provider Branch Office Annual
 Inspection 30.00
 Installer
 Original 30.00
 Annual Renewal 30.00
 Duplicate 6.00
 Provider
 Reinstatement 75.00
 Installer 75.00
 Driver Records

Online services 3.00
 Utah Interactive Convenience Fee
 Driver Services
 Commercial Driver License third party testing
 License
 Original Tester 100.00
 Annual Tester Renewal 100.00
 Duplicate Tester 10.00
 Original Examiner 30.00
 Annual Examiner Renewal 20.00
 Duplicate Examiner 6.00
 Examiner Reinstatement 75.00
 Tester Reinstatement 75.00

EMERGENCY MANAGEMENT

PIO Conference Registration Fees 225.00
 PIO Conference Late Registration Fee 250.00
 PIO Half Conference Registration Fee ... 100.00
 PIO Conference Guest Fee 200.00
 Utah Expo Registration Fee 5.00
 Utah Certified Emergency
 Manager (per Application) 100.00

**PEACE OFFICERS'
 STANDARDS AND TRAINING**

Basic Training
 Cadet Application
 Satellite Academy Technology Fee 25.00
 Online Application Processing Fee 35.00
 Rental
 Pursuit Interventions Technique
 Training Vehicles 100.00
 Firing Range 300.00
 Shoot House 150.00
 Camp William Firing Range 200.00
 Dorm Room 10.00
 K-9 Training (out of state agencies) ... 2,175.00
 Duplicate POST Certification 5.00
 Duplicate Certificate, Wallet Card 5.00
 Duplicate Radar or Intox Card 2.00
 Peace Officers' Standards and Training (POST)
 Reactivation/Waiver 75.00
 Supervisor Class 50.00
 West Point Class 150.00
 Law Enforcement Officials and
 Judges Firearms Course 1,000.00

PROGRAMS & OPERATIONS

CITS Bureau of Criminal Identification
 Concealed Firearm Permit Instructor
 Registration 35.00
 Replication Fee for Rap Back
 Enrollment (per Individual) 10.00
 Record Challenge Fee (per Request) 15.00
 Paper Arrest (OTN) Fingerprint
 Card Packets (per card packet) 15.00
 Board of Pardons Expungement
 Processing 50.00
 TAC Conference Registration 100.00
 Fingerprint Services 15.00
 Print Other State Agency Cards 5.00
 State Agency ID set up 50.00
 Child ID Kits 1.00
 Extra Copies Rap Sheet 15.00
 Extra Fingerprint Cards 5.00

Automated Fingerprint Identification	
System Database Retention	5.00
Ce concealed weapons permit renewal	
Utah Interactive Convenience Fee	0.75
Photos	15.00
Application for Removal From White Collar Crime Registry	120.00
Application for Removal From White Collar Crime Registry	
Sex Offender Kidnap Registry	
Application for removal from registry	168.00
Eligibility Certificate for removal from registry	25.00
Expungements	
Special certificates of eligibility	65.00
Application	65.00
Certificate of Eligibility	65.00
CITS State Crime Labs	
Additional DNA Casework per sample - full analysis	894.00
DNA Casework per sample - Quantitation only	459.00
Drugs - controlled substances per item of evidence	355.00
Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Training Course Materials	
Reimbursement (per Person)	250.00
Training Course Materials Reimbursement	
Department Commissioner's Office	
Courier Delivery	Actual cost
Fax (per page)	1.00
Mailing	Actual cost
Audio/Video/Photos (per CD)	25.00
Developed photo negatives (per photo)	1.00
Printed Digital Photos (per paper)	2.00
1, 2, or 4 photos per sheet (8x11) based on request	
Department Sponsored Conferences	
Registration (per registrant)	275.00
Late Registration (per registrant)	300.00
Vendor Fee (per Vendor)	700.00
Copies	
Color (per page)	1.00
Over 50 pages (per page)	0.50
1-10 pages	5.00
11-50 pages	25.00
Miscellaneous Computer Processing (per hour)	Cost of Employee Time
Fire Marshall - Fire Operations	
Inspection For Fire Clearance	
Re-Inspection Fee (per Re-Inspection)	250.00
Liquid Petroleum Gas	
License	
Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch Office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00
Five Year Examination	30.00
Certificate	40.00

Dispenser Operator B	20.00
Plan Reviews	
More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections (per hour)	50.00
Re-inspection	250.00
3rd inspection or more	
Private Container Inspection	
More than one container	150.00
One container	75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems	
License	300.00
Combination	150.00
Branch Office License	150.00
Certificate of Registration	40.00
Duplicate Certificate of Registration	40.00
License Transfer	50.00
Application for exemption	150.00
Examination	30.00
Re-examination	30.00
Five year examination	30.00
Automatic Fire Sprinkler Inspection and Testing	
Certificate of Registration	30.00
Examination	20.00
Re-examination	20.00
Three year extension	20.00
Fire Alarm Inspection and Testing	
Certificate of Registration	40.00
Examination	30.00
Re-examination	30.00
Three year extension	30.00
Highway Patrol - Administration	
Online Traffic Reports Utah	
Interactive Convenience Fee	2.50
UHP Conference Registration Fee	250.00
Photogramatry	100.00
Cessna (per hour)	155.00
Plus meals and lodging	
Helicopter (per hour)	1,350.00
Plus meals and lodging	
Court order requesting blood samples be sent to outside agency	40.00
Highway Patrol - Federal/State Projects	
Transportation and Security Details (per hour)	100.00
Plus mileage	
Highway Patrol - Safety Inspections	
Safety Inspection Program	
Inspection Station	
Permit application fee	100.00
Station physical address change	100.00
Replacement of lost permit	2.25
Safety Inspection Manual	5.50
Stickers (book of 25)	4.50
Sticker reports (book of 25)	3.00
Inspection certificates for passenger/light truck (book of 50)	3.00
Inspection certificates for ATV (book of 25)	3.00
Inspector	
Certificate application fee	7.00
Valid for 5 years	
Certificate renewal fee	4.50

Replacement of lost certificate 1.00

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

DFCM ADMINISTRATION

Program Management

Non-state Funded Project Fees
 Projects <\$100K (per Project) 3.5%
 Projects >= \$100K and <\$500K
 (per Project) . . \$3500 + 1.5% over \$100,000
 Projects >= \$500K and <\$2.5M
 (per Project) . \$9500 + 0.75% over \$500,000
 Projects >= \$2.5M and <\$10M
 (per Project) \$24,500 + 0.5% over \$2,500,000
 Projects >= \$10M and <\$50M
 (per Project) \$62,000 + .15% over \$10,000,000
 Projects >= \$50M
 (per Project) \$122,000 + 0.1% over
 \$50,000,000

EXECUTIVE DIRECTOR

Government Records Access and
Management Act

Electronic copies, material
 cost (per DVD) 0.30
 Photocopies, black & white (per Copy) 0.10
 Photocopies, color (per Copy) 0.25
 Photocopy labor cost (per Utah
 Statute 63G-2-203(2))
 (per page) Actual Cost
 Certified copy of a document
 (per certification) 4.00
 Long distance fax within US
 (per fax number) 2.00
 Long distance fax outside US
 (per fax number) 5.00
 Electronic Documents (per USB (GB)) . . Actual
 Cost
 Mail within US (per address) 2.00
 Mail outside US (per address) 5.00
 Research or services Actual cost
 Extended research or service Actual cost
 Electronic Copies, Material
 cost (per CD) 0.30

**FINANCE - MANDATED -
PARENTAL DEFENSE**

Parental Defense

Continuing Legal Education (CLE)
 fee (per CLE Hour) 25.00
 Parental Defense Fund - Parental
 Defense Conference Fee (per Person) . . . 150.00

FINANCE ADMINISTRATION

Finance Director's Office
 Transparency
 Utah Public Finance Website
 large data download 1.00

Revenue kept by Utah Interactive up to
 \$10,000. \$1 per download
 Financial Information Systems
 Credit Card Payments Variable

Contract rebates

Automated Payables (per Invoice Page) 0.25
 UDOT Actual cost
 Financial Reporting
 Loan Servicing 125.00
 ISF Accounting Services Actual cost
 Cash Mgt Improvement Act Interest
 Calculation Actual cost
 Bond Accounting Services Actual cost
 Single Audit Billing to State Auditor's
 Office Actual Cost
 Payables/Disbursing
 Disbursements
 Tax Garnishment Request 10.00
 Payroll Garnishment Request 25.00
 Collection Service 15.00
 IRS Collection Service 25.00
 Technical Services
 Financial Transparency Database
 Subscription Fee
 (per Actual Costs) Actual Costs

STATE ARCHIVES

Archives Administration

Data Base Download (plus Work Setup Fee)
 (per Record) 0.10
 Patron Services
 Copy - Paper to PDF (copier use
 by patron) 0.05
 Digital Collection Setup Host fee 300.00
 Local Commercial License 10.00
 National Commercial License 50.00
 Copy - Paper to PDF (copier use by staff) . . . 0.25
 General
 Certified Copy of a Document 4.00
 Photo Reproductions
 Digital Imaging 300 dpi or higher 10.00
 Mailing and Fax Charges
 Within USA
 Mailing in USA - 1 to 10 Pages 3.00
 Mailing in USA - Microfilm
 1 to 2 Reels 4.00
 Mailing in USA - Each additional
 Microfilm Reel 1.00
 Mailing in USA - CD/DVD/USB 4.00
 Mailing in USA - Add Postage for
 each 10 pages 1.00
 International
 Mailing International - 1 to 10 pages . . . 5.00
 Mailing International -
 Each additional 10 pages 1.00
 Mailing International -
 Microfilm 1 to 2 Reels 6.00
 Mailing International - Each
 additional Microfilm Reel 2.00
 Mailing International -
 CD/DVD/ USB 6.00
 Fax
 International Fax Fee
 (plus copy charge) 5.00
 Plus copy charge
 Long Distance Fax
 (plus copy charge) 2.00

Plus copy charge	
Local Fax (plus copy charge)	1.00
Plus copy charge	
Copy Charges	
Audio	
Copy Charges - Audio Recordings	10.00
Price excludes cost of medium	
Documents	
Copy Charges - 11 x 14 and	
11 x 17 by staff, limit 50	0.50
Copy Charges - 11 x 14 and	
11 x 17 by patron	0.25
8.5x11	
Copy - 8.5 x 11 by staff, limit 50	0.25
Copy - 8.5 x 11 by patron	0.10
Microfilm/Microfiche	
Digital	
Copy - Digital by staff, limit 25	1.00
Copy - Digital by patron	0.15
Paper	
Copy Microfilm - Paper by staff,	
limit 25	1.00
Copy Microfilm - Paper by patron	0.25
Video	
Copy Video - Video Recording (excludes	
cost of medium)	20.00
Price excludes cost of medium	
Other	
Archivist Handling fee (per hr.)	
(per hour)	At Cost
Special Request	At Cost
Supplies	
Supplies - USB Flash Drive	
(per gigabyte)	5.00
Supplies - CD (per disk)	0.30
Supplies - DVD (per disk)	0.40
Electronic File on-line (per File)	2.50
Preservation Services	
Work Setup Fee (WSF)	17.00
Microfiche production fee per image	
plus (WSF) (per image)	0.045
Newspaper filming per page plus (WSF)	
(per image)	0.30
General	
16mm master film	13.00
Digital Copies of Electronic Rolls of	
Microfilm plus medium cost	10.00
35mm master film	35.00
16mm diazo duplicate copy	12.00
35mm diazo duplicate copy	14.00
16mm silver duplicate copy	30.00
35mm silver duplicate copy	24.00
Frames filmed (Standard)	0.05
Frames filmed (Custom)	0.08
Books filmed (per Page)	0.15
Electronic image to microfilm	
(per Reel)	45.00
Microfilm to CD/DVD/USB (per reel)	40.00
Microfilm Lab Processing Setup Fee	5.00
Microfilm to digital PDF conversion	5.00

STATE DEBT COLLECTION FUND

Attorney / Legal fee	\$100 per hour
Office of State Debt Collection	
Collection Penalty	6.0%
Labor Commission Wage Claim Attorney Fees	

Labor Commission Wage Claims	Variable
10% of partial payments; 1/3 of claim or	
\$500, whichever is greater for full payments	
Collection Interest	Prime + 2%
Post Judgment Interest	Variable
Administrative Collection	18%
18% of amount collected (21.95%	
effective rate)	
Non sufficient Check Collection	20.00
Non sufficient Check Service Charge	20.00
Garnishment Request	Actual cost
Legal Document Service	Actual cost
Greater of \$20 or Actual	
Credit card processing fee charged	
to collection vendors	1.75%
Court Filing, Deposition/Transcript	
/Skip Tracing	Actual cost

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUND

DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT - FACILITIES MANAGEMENT

Unified Lab #2	865,836.54
Cedar City DNR	62,790.16
Ivins VA Nursing Hom	83,064.39
Spanish Fork Veterinary Lab	35,716.03
Payson VA Nursing Home	79,105.70
Vernal Drivers License	34,615.00
Ogden VA Nursing Home	52,945.37
Garage-Journey Boiler Operator	55.00
Garage-Journey Carpenter	50.00
Garage-Journey Plumber	51.00
Utah State Developmental	
Center	2,298,357.00
Lone Peak Forestry & Fire	38,020.65
Alcoholic Beverage Control	
Stores	1,665,481.50
Price Public Safety	65,897.00
Ogden Juvenile Court	444,038.00
Garage-Administrative Staff	48.00
Garage - Apprentice Maintenance	42.00
Garage-Electronic Resource	46.00
Garage-Facilities Manager	58.00
Garage-Groundskeeper II	36.00
Garage - Grounds Manager	40.00
Garage-Grounds Supervisor	38.00
Garage-Journey Electrician	53.00
Garage-Journey HVAC	51.00
Garage-Journey Maintenance	47.00
Garage-Maintenance Supervisor	50.00
Garage-Mechanic	40.00
Garage-Office Technician	38.00
Garage-Temp Groundskeeper	21.00
Wasatch Courts	9,577.00
Chase Home	17,428.00
Vernal DNR	80,394.00
Clearfield Warehouse C6 -	
Archives	149,410.32
Clearfield Warehouse C7 -	
DNR/DPS	102,837.00
Cedar City A P & P	28,444.00
N UT Fire Dispatch Center	30,438.66
UCAT Admin	47,882.00
Veteran's Memorial Cemetery	24,464.00

Alcoholic Beverage Control	
Administration	685,415.00
Juab County Court	76,798.00
Agriculture	356,706.00
Adult Probation and Parole	
Freemont Office Building	192,375.00
Archives	110,619.00
Brigham City Court	169,400.00
Brigham City Regional Center	573,808.00
Calvin Rampton Complex	1,602,863.00
Cannon Health	860,515.00
Capitol Hill Complex	3,809,700.00
Cedar City Courts	103,520.00
Cedar City Regional Center	72,008.00
Department of Administrative Services Surplus Property	59,747.00
Department of Public Safety	
DPS Crime Lab	42,000.00
Drivers License	185,577.00
Farmington Public Safety	68,425.00
Fairpark Driver's License Division	61,571.00
Dixie Drivers License	62,928.00
Driver License West Valley	98,880.00
Division of Services for the Blind and Visually Impaired Training	
Housing	49,736.00
Farmington 2nd District Courts	537,465.00
Glendinning Fine Arts Center	45,000.00
Governor's Residence	152,156.00
Heber M. Wells	936,679.00
Highland Regional Center	331,766.40
Human Services	
Clearfield East	127,306.00
Ogden Academy Square	299,834.00
DHS - Vernal	74,117.00
Layton Court	80,896.00
Logan 1st District Court	379,267.00
Medical Drive Complex	260,640.00
Moab Regional Center	112,533.00
Murray Highway Patrol	141,738.00
Natural Resources	745,072.00
Natural Resources Price	124,323.00
Natural Resources Richfield (Forestry)	41,519.52
Navajo Trust Fund Administration	132,640.00
Office of Rehabilitation Services	204,156.00
Ogden Court	467,740.00
Ogden Juvenile Probation	211,134.00
Ogden Regional Center	749,366.80
Orem Circuit Court	90,792.00
Orem Public Safety	105,640.00
Orem Region Three Department of Transportation	141,192.00
Provo Court	299,400.00
Provo Juvenile Courts	173,940.00
Provo Regional Center	664,011.00
Public Safety Depot Ogden	34,822.00
Richfield Court	106,535.68
Richfield Dept. of Technology	
Services Center	39,000.00
Richfield Regional Center	75,499.00
Rio Grande Depot	493,565.00
Salt Lake Court	1,868,160.00
Salt Lake Government	
Building #1	972,934.00
Salt Lake Regional Center - 1950 West	250,492.00
St. George Courts	465,353.00

St. George DPS	49,572.00
St. George Tax Commission	64,224.00
State Library	183,714.00
State Library State Mail	156,261.00
State Library visually impaired	124,027.00
Taylorville Center for the Deaf	138,681.00
Taylorville Office Building	185,250.00
Tooele Courts	311,351.00
Unified Lab	883,894.00
Utah Arts Collection	43,900.00
Utah State Office of Education	410,669.00
Utah State Tax Commission	970,200.00
Vernal 8th District Court	248,649.00
Vernal Division of Services for People with Disabilities	31,330.00
Vernal Juvenile Courts	20,256.00
West Jordan Courts	557,835.00
West Valley 3rd District Court	118,350.00
Work Force Services	
1385 South State	308,430.70
Administration	685,930.00
DWS Brigham City	46,304.00
Call Center	200,317.00
Cedar City	78,461.00
Clearfield/Davis Co.	180,633.00
Logan	110,088.00
Metro Employment Center	252,776.00
Midvale	135,640.00
Ogden	153,748.00
Provo	144,970.00
Richfield	58,072.00
South County Employment Center	176,196.00
St. George	66,452.00
Vernal	73,702.00
Ogden Division of Motor Vehicles and Drivers License	71,964.00
Ogden Radio Shop	16,434.00

DIVISION OF FINANCE

ISF - Consolidated Budget and Accounting	
Basic Accounting and Transactions (per hour)	40.00
Financial Management (per hour)	73.00
ISF - Purchasing Card	
Purchasing Card	Variable
Contract rebates	

DIVISION OF FLEET OPERATIONS

ISF - Fuel Network	
Charge (per gallon)	0.075
greater than or equal to 60,000 gal./yr	
Charge at low volume sites (per gallon)	0.105
less than 60,000 gal./yr.	
Percentage of transaction value	
at all sites	3.0%
Accounts receivable late fee	
Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
CNG Maintenance and Depreciation (per gallon)	1.15
ISF - Motor Pool	
Telematics GPS tracking	Actual cost
Commercial Equipment	
Rental	Cost plus \$12 Fee

Administrative Fee for Do-Not Replace Vehicles (per Month)	51.29
Service Fee (per 12)	\$12 Service Fee
General MP Info Research Fee (per 12)	\$12 Per Hour
Lost or damaged fuel/maint card replacement fee (per 2)	\$2 Fee
Vehicle Complaint Processing Fee (per 20)	\$20 Fee
Operator negligence and vehicle abuse fees (per 0) Varies (abuse or driver neglect cases only)	
Lease Rate (per month, per vehicle)	See formula
Contract price less salvage value divided by current life cycle.	
Mileage	See formula
Maintenance and repair costs for a particular class of vehicle, divided by total miles for that class	
Fuel Pass-through	Actual cost
Equipment rate for Public Safety vehicles	Actual cost
Additional Management Daily Pool Rates - Actual Cost From Vendor Contract - Actual Cost ..	Actual Cost
Administrative Fee for Overhead	42.00
Management Information System (per month)	3.00
Vehicle Feature and Miscellaneous Equipment Upgrade	Actual cost
Vehicle Class Differential Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault Vehicle Detail Cleaning Service	40.00
Excessive Maintenance, Accessory Fee	Variable
Accounts receivable late fee Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance
Accident deductible rate charged (per accident)	Actual cost
Operator negligence and vehicle abuse	Variable
Statutory Maintenance Non-Compliance 10 days late (per vehicle per month) ..	100.00
20 days late (per vehicle per month) ..	200.00
30+ days late (per vehicle per month)	300.00
Seasonal Use Vehicle Lease	155.02
ISF - Travel Office	
Travel Travel Agency Service Regular	26.00
Online	16.00
State Agent	21.00
Group 16-25 people	23.50
26-45 people	21.00
46+ people	18.50
School District Agent	16.00

**DIVISION OF PURCHASING
AND GENERAL SERVICES**

ISF - Central Mailing

State Mail Courier Courier - Zone 1	2.26
Courier - Zone 2	3.88
Courier - Zone 3	8.04
Courier - Zone 4	9.70
Courier - Zone 5	14.35
Courier - Zone 6	17.79
Courier - Zone 7	21.73
Courier - Zone 8	26.42
Courier - Zone 9	28.49
Courier - Zone 10	33.22
Courier - Zone 11	36.02
Courier - Zone 12	39.87
Production Incoming OCR Sort	0.103
Business Reply/Postage Due	0.54
Special Handling/Labor (per hour)	85.00
Auto Fold	0.024
Label Generate	0.155
Label Apply	0.15
Auto Tab	0.35
Meter/Seal	0.028
Optical Character Reader	0.028
Additional Insert	0.01
Accountable Mail	1.45
Intelligent Inserting	0.033
ISF - Cooperative Contracting Cooperative Contracts Administrative	Up to 1.0%
ISF - Federal Surplus Property Surplus Federal Shipping and handling charges	See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges	
Accounts receivable late fees Past 30 days	5% of balance
Past 60 days	10% of balance
ISF - Print Services Contract Management (per impression)	0.005
Self Service Copy Rates	0.004
Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results	
ISF - State Surplus Property Surplus Surcharge for use of a Financial Transaction Card	Up to 3%
Surcharge applies only to the amount charged to a financial transaction card	
Online Sales Non-Vehicle ..	50% of net proceeds
Miscellaneous Property Pick-up Process State Agencies Total Sales Proceeds	See formula
Less prorated rebate of retained earnings	
Handheld Devices (PDAs and wireless phones) Less than 1 year old	75% of actual cost
\$30 minimum	
1 year and older ..	50% of cost - \$30 minimum
Unique Property Processing	Negotiated % of sales price
Electronic/Hazardous Waste Recycling	Actual cost
Vehicles and Heavy Equipment	6.5% of Net Sale Price plus \$100 per Vehicle
Default Auction Bids	10% of sales price

Labor (per hour)	26.00
Half hour minimum	
Copy Rates (per copy)	0.10
Semi Truck and Trailer Service (per mile)	1.08
Two-ton Flat Bed Service (per mile)	0.61
Forklift Service (per hour)	23.00
4-6000 lbs	
On-site sale away from Utah State Agency Surplus Property yard ... 7% of net sale price	
Storage	
Building (per cubic foot per month)	0.43
Fenced lot (per square foot per month)	0.23
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance

RISK MANAGEMENT

ISF - Risk Management Administration	
Learning Management System	
Learning Management System - Enterprise Rate (per Hour)	55.00
Learning Management System - Garage Rate (per Hour)	55.00
Liability Premiums	
Administrative Services	326,366.00
Agriculture	58,373.00
Alcoholic Beverage Control	74,458.00
Attorney General's Office	146,107.00
Auditor	10,613.00
Board of Pardons	16,213.66
Capitol Preservation Board	9,658.00
Career Service Review Office	967.00
Commerce	89,947.00
Commission on Criminal and Juvenile Justice	4,127.05
Heritage and Arts	35,424.00
Corrections	794,469.34
Courts	291,625.00
Utah Office for Victims of Crime	2,897.80
Education	213,385.00
Deaf and Blind School	67,385.00
Environmental Quality	94,280.00
Fair Park	23,684.00
Financial Institutions	13,909.00
Governor	20,621.37
Governor's Office of Management and Budget	18,220.39
Governor's Office of Economic Development	60,006.39
Health	309,193.00
Heber Valley Railroad	3,192.00
House of Representatives	9,308.00
Human Resource Management	26,963.00
Human Services	716,208.00
Labor Commission	29,724.00
Insurance	106,183.00
Legislative Fiscal Analyst	8,815.00
Legislative Auditor	7,879.00
Legislative Printing	1,608.00
Legislative Research & General Counsel	18,649.00
Medical Education Council	
National Guard	64,838.00
Natural Resources	338,827.00
Public Lands	9,638.00

Public Safety	525,299.00
Public Service Commission	7,067.00
School and Institutional Trust Fund	1,707.00
School and Institutional Trust Lands	23,018.00
Senate	5,547.00
Tax Commission	142,821.00
Technology Services	190,440.00
Treasurer	6,753.00
Utah Communications Network	8,092.00
Utah Science and Technology and Research	9,294.00
Veteran's Affairs	44,262.00
Workforce Services	485,289.00
Transportation	2,459,000.00
Board of Regents	84,589.83
Dixie State University	165,600.63
Salt Lake Community College	257,549.76
Snow College	74,789.91
Southern Utah University	132,105.87
Bridgerland Technology College	24,746.67
Davis Technology College	28,586.61
Ogden Weber Technology College	29,939.13
Uintah Basin Technology College	16,123.77
Tooele Technology College	6,869.07
Dixie Technology College	13,071.24
Mountainland Technology College	21,177.00
Southwest Technology College	10,866.96
University of Utah	1,320,459.66
Utah State University	637,456.95
Utah Valley University	413,900.37
Weber State University	287,811.81
School Districts	9,863,559.00
Property Insurance Rates	
Net Estimated Premium	16,215,080.00
Parametric Earthquake Premiums	330,000.00
Gross Premium for Buildings	
Existing Insured Buildings	
Existing Insured Buildings See formula Building value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Newly Insured Buildings	
Newly Insured Buildings	See formula
Building value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Building Demographic Discounts	
Fire Suppression Sprinklers .. 15% discount	
Smoke alarm/Fire detectors ... 5% discount	
Flexible water/Gas connectors . 1% discount	
Surcharges	
Lack of compliance with Risk Mgt. recommendations	10% surcharge
Building built prior to 1950	10% surcharge
Agency Discount1 (REAF) ...	63.5% discount

Agency Discount2 See formula
 Agency specific discount negotiated w/ Risk Mgt
 Gross Premium for Contents
 Existing Insured Buildings
 Existing Insured Buildings See formula
 Content value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code
 Newly Insured Buildings
 Newly Insured Buildings See formula
 Content value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code
 Gross Premium Discounts/Penalties
 Non-Compliance Penalty -
 Meeting Minutes 5% Penalty
 Up to 5% penalty for non-compliance with Risk loss control activities, namely submitting Risk control meeting minutes on a quarterly basis.
 Non-Compliance Penalty - Self
 Inspection Survey 10% Penalty
 Up to 10% penalty for non-compliance with Risk loss control activities, namely submitting the annual Self Inspection Survey.
 Liability Premiums
 Specialized Lines of Coverage See Formula
 Specialized lines of insurance outside of typical coverage lines. Pass through costs direct from insurance provider.
 Automobile/Physical Damage Premiums
 Public Safety rate for value less than \$35,000 (per vehicle) 175.00
 Higher Education rate for value less than \$35,000 (per vehicle) 125.00
 Other state agency rate for value less than \$35,000 (per vehicle) 150.00
 School bus rate (per vehicle) 200.00
 School district rate for value less than \$35,000 (per vehicle) 50.00
 Rate for value more than \$35,000 (per \$100 of value) 0.80
 Other vehicles or related equipment
 State and Higher Education (per vehicle) 75.00
 School District (per vehicle) 50.00
 Standard deductible (per incident) 1,500.00
 Up to this amount with discounts available for compliance with specifically identified Risk Management loss control activities.
 Course of Construction Premiums
 Rate per \$100 of value 0.053
 Charged once per project (unless scope changes)
 Charter Schools
 Liability (\$2 million coverage)

Charter School Pre-opening Liability
 Coverage (per School) 1,000.00
 Charter School Liability (\$1,000 minimum) (per student) 9.00
 Property (\$1,000 deductible per occurrence)
 Cost per \$100 in value,
 \$100 minimum 0.10
 Comprehensive/Collision (\$750 deductible per occurrence)
 Cost per year per vehicle 150.00
 ISF - Workers' Compensation
 Workers Compensation Rates
 UDOT 1.25% per \$100 wages
 State Agencies 0.70% (except UDOT)
 Aviation (per PILOT-YEAR) \$2,200

**DEPARTMENT OF TECHNOLOGY
 SERVICES INTERNAL SERVICE FUND**

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division
 Network Services
 Network Services (per Device/Month) 47.83
 Network Services -
 10 GB (per Connection/Month) 191.32
 Network Services (other State agencies) (per Device/Month) 51.71
 Other Network Services Direct cost + 10%
 Miscellaneous Data
 Circuits Direct cost + 10%
 Security (per Device/Month) 23.92
 Other Security Services SBA
 Security Assessment/Insurance (per Tier) Table
 Server Count: 0-4 \$12,500 5-34 \$25,000
 35-84 \$50,000 >84 \$100,000
 Desktop Services
 Desktop Support (per Device/Month) 67.84
 On-Call Support (per Hour) Actual Cost
 Hosted Email (per Account/Month) 5.45
 Email Encryption (per Account/Month) . . . 1.11
 Google Vault (per Account/Month) 2.64
 Google Unlimited (per Account/Month) 1.00
 Software Resale Direct cost + 6%
 Virtual Applications SBA
 Communication Services
 Telephone Technician Labor
 (per Hour) 75.35
 Universal Telecom Rate
 (per Line/Month) 32.72
 Long Distance (per Minute) 0.03
 1-800 Usage (per Minute) 0.03
 Jabber (per User/Month) 2.73
 Other Voice Services Direct cost + 10%
 International Long
 Distance Direct cost + 10%
 IP Contact Center (per
 Core License/Month) 28.25
 Call Management Systems SBA
 Print Services
 High Speed Laser Print (per image) 0.0374
 Other Print Services Direct cost + 10%
 Hosting Services
 Oracle Database Hosting Core
 Model (per Core/Month) 775.42
 Oracle Database Hosting Shared
 Model (per GB/Month) 23.22

SQL Database Hosting Core	
Model (per Core/Month)	527.04
SQL Database Hosting Shared	
Model (per GB/Month)	10.44
Database Consulting (per Hour)	81.31
Server Administration	
(per OS/Month)	412.76
Processing (CPU) (per CPU/Month)	45.13
Memory (per GB/Month)	7.47
Storage (per GB/Month)	0.0898
Back-up & Archive Storage	
(per GB/Month)	0.1296
File-Share (per GB/month)	0.0898
Network Attached Storage	
(per GB/Month)	0.0807
Object Storage (per GB/Month)	0.0198
Public Cloud Administration	SBA
Other Hosting Services	SBA
Shared Application Hosting	
(per Instance/Hour)	0.081
Web Application Hosting	
(per Instance/Month)	49.57
Data Center Rack Space - Full	
Rack (per Rack/Month)	485.83
Data Center Rack Space -	
Rack U (per Rack U/Month)	16.19
Mainframe Services	
Mainframe Disk (per MB/Month)	0.0053
Mainframe Tape (per MB/Month)	0.0007
Mainframe Consulting (per Hour)	81.31
Mainframe Computing	SBA
Application Services	
Application Services Tier 1 (per Hour) ...	65.58
Application Services Tier 2 (per Hour) ...	81.31
Application Services Tier 3 (per Hour) ...	91.52
Application Services Tier 4	
(per Hour)	103.62
Master Engineer/Consultant/Other	SBA
Miscellaneous	
DTS Consulting Charge (per hour)	81.31

**DEPARTMENT OF
TECHNOLOGY SERVICES**

INTEGRATED TECHNOLOGY DIVISION

Automated Geographic Reference Center	
AGRC	
GPS Subscriptions (per year)	600.00
AGRC Plots (AGRC) (per Linear Foot)	6.00
GIT Professional Labor (per hour)	Table
Application Maintenance Tiered Rate: Tier	
1 65.58 Tier 2 81.31 Tier 3 91.52 Tier 4 103.62	

TRANSPORTATION

AERONAUTICS

Airplane Operations	
Aircraft Rental	
Cessna (per hour)	195.00
King Air C90B (per hour)	935.00
King Air B200 (per hour)	1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE	
Event Coordination, Inspection and	
Monitoring (Regular Hours)	
(per Hour)	60.00
Event Coordination, Inspection and	
Monitoring (NonRegular Hours)	
(per Hour)	80.00
Special Event Application Review	
(Single Region) (per Event)	250.00
Special Event Application Review	
(Multi-Region) (per Event)	500.00
Expedited Review Fee (per Event)	600.00
Outdoor Advertising	
New Permit (R299 Form) (per year)	950.00
Permit Renewal & Admin Services Fee ..	90.00
Permit Renewal Late Fee (per Sign)	300.00
Sign Alteration Permit (R407 Form)	
(per Sign)	950.00
Transfer of Ownership Permit	250.00
Retroactive Permit Fee Penalty	
(per Sign)	250.00
Impound and Storage Fees	25.00

**OPERATIONS/
MAINTENANCE MANAGEMENT**

Region 4	
Lake Powell Ferry Rates	
Foot passengers	10.00
Motorcycles	15.00
Vehicles under 20'	25.00
Vehicles over 20' (per additional foot)	1.50
Traffic Safety/Tramway	
Tramway Registration	
Two-car or Multicar Aerial Passenger Tramway	
Aerial Tramway - 101 Horse Power	
or over	2,030.00
Aerial Tramway - 100 Horse Power	
or under	1,010.00
Tramway Surcharge for winter and	
summer use	15%

This is a surcharge to the registration fee for passenger ropeways that are operated year round. 15% will be added to the registration fee for those ropeways.

Chair Lift	
Fixed Grip	
2 passenger	630.00
3 passenger	750.00
4 passenger	875.00
Conveyor, Rope Tow	260.00
Funicular - single or double	
reversible	2,030.00
Rope Tow, J-bar, T-bar, or	
platter pull	260.00
Detachable Grip Chair or Gondola	
3 passenger	1,510.00
4 passenger	1,625.00
6 passenger	1,750.00
8 passenger	1,880.00
Gondola - cabin capacity	
from 5 to 8	1,010.00
Gondola - cabin capacity	
greater than 8	2,030.00

SUPPORT SERVICES

Administrative Services	
Express Lane - Administrative Fee	2.50
Tow Truck Driver Certification	200.00
Access Management Application	
Type 1	75.00
Type 2	475.00
Type 3	1,000.00
Type 4	2,300.00
Access Violation Fine (per day)	100.00
Encroachment Permits	
Landscaping	30.00
Manhole Access	30.00
Inspection (per hour)	60.00
Overtime Inspection (per hour)	80.00
Utility Permits	
Low Impact	30.00
Medium Impact	135.00
High Impact	300.00
Excess Impact	500.00
Express Lanes	
Variable priced toll	Between \$0.25 - \$4.00

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

DABC OPERATIONS

Administration	
Customized Reports Produced by	
Request (per hour)	50.00
Stock Location Report	25.00
Photocopies	0.15
Returned Check Fee	20.00
Application to Relocate Alcoholic Beverages	
Due to Change or Residence	20.00
Research (per hour)	30.00
Video/DVD	25.00
Price Lists	
Master Category	8.00
\$96 Yearly	
Alpha by Product	8.00
\$96 Yearly	
Numeric by Code	8.00
\$96 Yearly	
Military	8.00
\$96 Yearly	
Executive Director	
Compliance Licensee Lists	10.00
Licensee Rules	20.00
Utah Code	30.00
Label Approval Fee	30.00
Training Fee	25.00

H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well

as provide education to prevent any future violations.	
Warehouse and Distribution	
Restacking Shifted/Collapsed Loads (per Month)	100.00
Reconfigure Pallets (per Month)	50.00
Missed Appointment Without Notice (per Month)	500.00
Missed Appointment with Less than 24 Hour Notice (per Month)	200.00
Non Compliant Labeling (per cases/month)	25.00

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration	
Commerce Department	
All Divisions	
Booklets	Variable
Administrative Expungement Application	200.00
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy)	0.30
Verification of Licensure/Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	15.00
BCI Fingerprint File Search	25.00
With \$5 Rapback add on	
Fingerprint Processing for non-department	10.00
Government Records and Management Act Requested Information Booklet	10.00
Duplication Charge CD	12.00
Government Records and Management Act record	
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00
Employer Legal Status Voluntary Certification (Bi-annual)	3.00
Property Rights Ombudsman	
Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing Education	25.00
Books	
Citizens Guide to Land Use	
Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00
Administration	
Home Owner Associations	
HOA Registration	37.00
Change in HOA Registration	10.00
Consumer Protection	
Charitable Solicitation Act	
Charity	75.00

Transportation Network Company	One time registration or as changes are needed
Transportation network Company	Partnerships
Registration 5,000.00	Limited Liability Partnership 70.00
Transportation Network Company	Previously under Limited Partnership, now LLP's
License Renewal 5,000.00	Other
Immigration Consultants	Pharmacy Benefit Manager 100.00
Initial Registration Fee 200.00	Articles of Incorporation
License Renewal Fee 200.00	Domestic Nonprofit 30.00
Pawnshop Registry	Foreign Profit 70.00
Pawnbroker Late Fee 50.00	Foreign Nonprofit 30.00
Charitable Solicitation Act	Reinstatement
Professional Fund Raiser 250.00	Profit 70.00
Telephone Solicitation	Requalification/Reinstatement
Telemarketing Registration 500.00	Nonprofit 30.00
Health Spa	Changes of Corporate Status
Health Spa 100.00	Amend/Restate/Merge-Profit 37.00
Credit Services Organization	Amend/Restate/Merge-Nonprofit 17.00
Credit Services Organization 250.00	Amendment-Foreign 37.00
Debt Management Services	Pre-authorization of document 25.00
Organizations 250.00	Statement of Correction 12.00
Business Opportunity Disclosure Register	Conversion 37.00
Exempt 100.00	Annual Report
Approved 200.00	Profit 15.00
Child Protection Register	Nonprofit 10.00
Child Protection Registry (per email) 0.005	Limited Partnership 15.00
Rate up to 20,000 and 40,000 units per calendar month, discounted thereafter.	Limited Liability Company 15.00
Child Protection Registry	On-line 15.00
Step Volume 20,000-40,000 units in a month (\$.00485) Variable	Change Form 15.00
Previous fee is \$.005. 3% discount off previous step for each additional 20,000 units in calendar month. 3% discount for transactions 40-60K & each 20K step thereafter in a calendar month.	Certification
3% discount off previous step for each additional 20,000 units in calendar month Variable	Corporate Standing 12.00
Pawnshop Registry	Corporate Standing-Long Form 20.00
Out of State Pawnshop Database	Commercial Registered Agent
Request 750.00	Registration 52.00
Pawnshop/2nd hand store	Changes 52.00
Registration 300.00	Terminations 52.00
Law Enforcement Registration 2.00	Corporation Search
Proprietary Schools	In House 10.00
Initial Application 500.00	Limited Partnership
Renewal Application 1% of gross revenue	Certificate/Qualification 70.00
Registration Review 1% of gross revenue	Reinstate 70.00
Miscellaneous Fees	Amend/Restate/Merge 37.00
Late Renewal (per month) 25.00	Statement of Correction 12.00
Miscellaneous	Conversion 37.00
Microcassette Copying (per tape) Variable	DBA
Proprietary Schools Registration	Registration 22.00
Application 1% of gross revenue	Renewals 22.00
\$500 min; \$2,500 max	Business/Real Estate Investment
Proprietary Schools	Trust 22.00
Accredited Institution Certificate of Exemption	Trademark/Electronic Trademark
Registration/Renewal . . . 1% of gross revenue	Initial Application and 1st Class Code . . . 50.00
Up to \$2,500 or \$1,500 min	Each Additional Class Code 25.00
Non-Profit Exemption	Renewals 50.00
Certificate Registration/Renewal . . . 1,500.00	Assignments 25.00
Corporations and Commercial Code	Unincorporated Cooperative Association
Articles of Incorporation	Articles of Incorporation/Qualification . . . 22.00
Domestic Profit 70.00	Annual Report 7.00
Partnerships	Limited Liability Company
General Partnerships 22.00	Articles of Organization/Qualification . . . 70.00
5 year renewal	Reinstate 70.00
Other	Amend/Merge 37.00
Statement Authority 15.00	Statement of Correction 12.00
	Conversion 37.00
	Other
	Late Renewal 10.00
	Out of State Motorist Summons 12.00
	Collection Agency Bond 32.00

Unregistered Foreign Business	12.00
Foreign Name Registration	22.00
Statement of Certification	12.00
Name Reservation	22.00
Telecopier Transmittal	5.00
Telecopier Transmittal (per page)	1.00
Commercial Code Lien Filing	
UCC I Filings (per page)	12.00
UCC Addendum (per page)	12.00
UCC III Assignment/Amendment	12.00
UCC III Continuation	12.00
UCC III Termination	Variable
CFS-1	12.00
CFS Addendum	12.00
CFS-3	12.00
CFS-2	12.00
CFS Registrant	25.00
Master List	25.00
Lien Search	
Search	12.00
Transactions Through Utah Interactive	
Registered Principal Search	3.00
Business Entity Search Principals	1.00
Certificate of Good Standing	12.00
Subscription	75.00
UCC Searches	12.00
List Compilation Customized	Variable
One Stop Business Registration	Variable
Occupational and Professional Licensing	
Cosmetologist/Barber	
Esthetician / Nail Technician	
Apprentice Cosmetology	
disciplines Registration / Renewal ...	20.00
Deception Detection	
Deception Detection Examiner	
Administrator Application	50.00
Deception Detection Examiner	
Administrator Renewal	32.00
Commercial Interior Design	
Commercial Interior Design	
Certification New Application	70.00
Commercial Interior Design	
Certification Renewal	47.00
Hair Design	
Hair Designer New Application Filing ...	60.00
Hair Designer License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing and	
Renewal	100.00
Plumber	
General Plumbing Contractor New	
Application Filing	175.00
General Plumbing Contractor	
Renewal	113.00
Residential Plumbing Contractor	
New Application Filing	175.00
Electrician	
General Electrical Contractor New	
Application Filing	175.00
Residential Electrical Contractor	
New Application Filing	175.00
Residential Electrical Contractor	
Renewal	113.00
General Electrical Contractor	
Renewal	113.00
Plumber	
Residential Plumbing Contractor	
Renewal	113.00

Physician and Surgeon	
Restricted Associate Physician New	
Application Filing	210.00
Restricted Associate Physician	
Renewal	113.00
Cosmetologist/Barber	
Barber Renewal	52.00
Acupuncturist	
New Application Filing	110.00
Dentist Educator	
New Application	110.00
New Application Filing	
Renewal	63.00
Electrician	
Apprentice Electrician tracking	
per credit hour	0.24
Massage	
Apprentice Renewal	20.00
Plumber	
Plumber CE Course approval	40.00
Plumber CE Course Attendee Tracking /	
per hour	1.00
Apprentice Plumber CE attendance	
tracking/ per hour	0.24
Substance Use Disorder Counselor (Licensed)	
Licensed Advanced New Application	85.00
Licensed Advanced Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Advanced Counselor	70.00
Certified Advanced Counselor Intern ...	70.00
Pharmacy	
Dispensing Medical Practitioner	
New Application Filing	110.00
Dispensing Medical Practitioner	
License Renewal	63.00
Dispensing Medical Practitioner	
Clinic Pharmacy New Application	200.00
Dispensing Medical Practitioner	
Clinic Pharmacy License Renewal	103.00
Pharmacy Technician Trainee	50.00
Music Therapy	
Certified Music Therapist New	
Application	70.00
Certified Music Therapist Application	
Renewal	47.00
Physical Therapy	
Dry Needle Registration	50.00
Psychologist	
Behavioral Analyst New Application	
Filing	120.00
Behavioral Analyst License Renewal	93.00
Assistant Behavioral Analyst New	
Application Filing	120.00
Assistant Behavioral Analyst License	
Renewal	93.00
Behavioral Specialist License	
Renewal	78.00
Assistant Behavioral Specialist	
New Application Filing	85.00
Assistant Behavioral Specialist	
License Renewal	78.00
Physician and Surgeon	
Physician and Surgeon Compact	
Existing Licensee Fee	40.00
Interstate Compact New License	
Application Filing	200.00
Interstate Compact License Renewal ...	183.00

Acupuncturist License Renewal	63.00	School New Application Filing	110.00
Alarm Company		School License Renewal	110.00
Company Application Filing	330.00	Barber New Application	60.00
Company License Renewal	203.00	School License Renewal	52.00
Agent Application Filing	60.00	Barber Instructor Certificate	60.00
Agent License Renewal	42.00	Deception Detection	
Agent Temporary Permit	20.00	Examiner New Application Filing	50.00
Architect		Examiner License Renewal	32.00
New Application Filing	110.00	Intern New Application Filing	35.00
License Renewals	63.00	Intern License Renewal	32.00
Education and Enforcement Surcharge . .	10.00	Dentist	
Armored Car		New Application Filing	110.00
Registration	330.00	License Renewals	63.00
Renewal	203.00	Anesthesia Upgrade New Application . . .	60.00
Security Officer Registration	60.00	Dental Hygienist	
Security Officer Renewal	42.00	New Application Filing	60.00
Education Approval	300.00	License Renewal	37.00
Education Renewal	103.00	Anesthesia Upgrade New Application . . .	35.00
Athletic Agents		Direct Entry Midwife	
New Application Filing	510.00	New Application Filing	100.00
License Renewal	510.00	License Renewal	63.00
Athletic Trainer		Electrician	
New Application Filing	70.00	New Application Filing	110.00
License Renewal	47.00	License Renewal	63.00
Building Inspector		Continuing Education Course	
New Application Filing	85.00	Approval	40.00
License Renewal	63.00	Continuing Education (per credit	
Certified Court Reporter		hour tracking)	1.00
New Application Filing	45.00	Electrologist	
License Renewal	42.00	New Application Filing	50.00
Certified Dietician		License Renewals	32.00
New Application Filing	60.00	Instructor Certificate	60.00
License Renewals	37.00	School New Application Filing	110.00
Certified Nurse Midwife		School License Renewal	110.00
New Application Filing	100.00	Elevator Mechanic	
License Renewal	63.00	New Application Filing	110.00
Intern-New Application Filing	35.00	License Renewal	63.00
Certified Public Accountant		Continuing Education Course	
Individual CPA Application Filing	85.00	Approval	40.00
Individual License/Certificate Renewal . .	63.00	Continuing Education (per credit	
CPA Firm Application for Registration . .	90.00	hour tracking)	1.00
CPA Firm Registration Renewal	52.00	Engineer, Professional	
Chiropractic Physician		New Application Filing	110.00
New Application Filing	200.00	Engineer License Renewal	63.00
License Renewal	103.00	Structural Engineer New Application	
Contractor		Filing	110.00
New Application Filing	175.00	Structural Engineer License Renewal . . .	63.00
License Renewals	113.00	Engineer	
New / Change Qualifier	50.00	Education and Enforcement Surcharge . .	10.00
Corporation Conversion	35.00	Environmental Health Scientist	
Continuing Education Course Approval . .	40.00	New Application Filing	60.00
Continuing Education (per credit		License Renewal	37.00
hour tracking)	1.00	New Application Filing	60.00
Controlled Substance		In training	
New Application Filing	100.00	Esthetician	
License Renewal	78.00	New Application Filing	60.00
Controlled Substance Handler		License Renewals	52.00
Facility New Application Filing	90.00	Instructor Certificate	60.00
Facility License Renewal	68.00	Master Esthetician New Application	
Individual New Application Filing	90.00	Filing	85.00
Individual License Renewal	68.00	Master Esthetician License Renewal	68.00
Controlled Substance Precursor		School New Application Filing	110.00
Distributor New Application Filing	210.00	School License Renewal	110.00
License Renewal	113.00	Factory Built Housing	
Cosmetologist/Barber		Dealer New Application Filing	30.00
New Application Filing	60.00	Dealer License Renewal	30.00
License Renewal	52.00	On-site Plant Inspection	
Instructor Certificate	60.00	(per hour)	\$50 per hour plus expenses

Factory Built Housing Education and Enforcement	25.00
Funeral Services	
Director New Application Filing	160.00
Director License Renewal	88.00
Intern New Application Filing	85.00
Establishment New Application Filing	250.00
Establishment License Renewal	250.00
Genetic Counselor	
New Application Filing	150.00
License Renewal	138.00
Geologist	
New Application Filing	150.00
License Renewal	123.00
Education and Enforcement Fund	15.00
Handyman Affirmation	
Handyman Exemption Registration/Renewal	35.00
Health Facility Administrator	
New Application Filing	120.00
License Renewals	83.00
Hearing Instrument Specialist	
New Application Filing	150.00
License Renewal	103.00
Intern New Application Filing	35.00
Hunting Guide	
New Application Filing	75.00
License Renewal	50.00
Landscape Architect	
New Application Filing	110.00
License Renewal	63.00
Examination Record	30.00
Education and Enforcement Fund	10.00
Land Surveyor	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge ..	10.00
Marriage and Family Therapist	
Therapist New Application Filing	120.00
Therapist License Renewal	93.00
Associate New Application Filing	85.00
Externship New Application Filling	85.00
Massage	
Therapist New Application Filing	60.00
Therapist License Renewal	52.00
Apprentice New Application Filing	35.00
Medical Language Interpreter	
New Application Filing	50.00
Interpreter Renewal	25.00
Nail Technician	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Naturopathic Physician	
New Application Filing	200.00
License Renewals	103.00
Nursing	
Licensed Practical Nurse New Application Filing	60.00
Licensed Practical Nurse License Renewal	58.00
Registered Nurse New Application Filing	60.00
Registered Nurse License Renewal	58.00

Advanced Practice RN New Application Filing	100.00
Advanced Practice RN License Renewal	68.00
Advanced Practice RN-Intern New Application Filing	35.00
Certified Nurse Anesthetist New Application Filing	100.00
Certified Nurse Anesthetist License Renewal	68.00
Educational Program Approval-Initial Visit	500.00
Educational Program Approval-Follow-up	250.00
Medication Aide Certified New Application Filing	50.00
Medication Aide Certified License Renewal	42.00
Occupational Therapist	
Occupational Therapist New Application Filing	70.00
Occupational Therapist License Renewal	47.00
Occupational Therapist Assistant New Application Filing	70.00
Occupational Therapist Assistants License Renewal	47.00
Online Contract Pharmacy	
New Application	200.00
Renewal	103.00
Online Internet Facilitator	
New Application	7,000.00
Renewal	7,000.00
Optometrist	
New Application Filing	140.00
License Renewal	93.00
Osteopathic Physician Online Prescriber	
New Application	200.00
License Renewal	183.00
Outfitter	
New License Filing	150.00
Renewal License	50.00
Osteopathic Physician and Surgeon	
New Application Filing	200.00
License Renewals	183.00
Pharmacy	
Pharmacist New Application Filing	110.00
Pharmacist License Renewal	63.00
Pharmacy Intern New Application Filing	100.00
Pharmacy Technician New Application Filing	60.00
Pharmacy Technician License Renewal ..	47.00
Class A New Application Filing	200.00
Class A License Renewal	103.00
Class B New Application	200.00
Class B License Renewal	103.00
Class C New Application	200.00
Class C License Renewal	103.00
Class D New Application	200.00
Class D License Renewal	103.00
Class E New Application	200.00
Class E License Renewal	103.00
Physical Therapy	
New Application Filing	70.00
License Renewal	47.00

Physical Therapy Assistant		Certificate of Compliance	30.00
New Application Filing	60.00	Respiratory Care Practitioner	
License Renewal	47.00	New Application Filing	60.00
Physician/Surgeon		License Renewal	52.00
New Application Filing	200.00	Security Services	
License Renewal	183.00	Contract Security Company Application	
Physician Assistant		Filing	330.00
New Application Filing	180.00	Contract Security Company Renewal	203.00
License Renewals	123.00	Replace/Change Qualifier	50.00
Physician Online Prescriber		Education Program Approval	300.00
New Application	200.00	Education Program Approval	
License Renewal	183.00	Renewal	103.00
Plumber		Armed Security Officer New	
New Application Filing	110.00	Application Filing	60.00
License Renewals	63.00	Armed Security Officer New License	
Podiatric Physician		Renewal	42.00
New Application Filing	200.00	Unarmed Security Officer New	
License Renewal	103.00	Application Filing	60.00
Pre-Need Funeral Arrangement		Unarmed Security Officer New	
Sales Agent New Application Filing	85.00	License Renewal	42.00
Sales Agent License Renewal	73.00	Social Worker	
Private Probation Provider		Clinical Social Worker New	
New Application Filing	85.00	Application Filing	120.00
License Renewal	63.00	Clinical Social Worker License	
Clinical Mental Health Counselor		Renewal	93.00
New Application Filing	120.00	Certified Social Worker New	
License Renewals	93.00	Application Filing	120.00
Professional Counselor Associate		Certified Social Worker License	
New Application Filing	85.00	Renewal	93.00
Associate Clinical Mental Health		Certified Social Worker Intern New	85.00
Extern New Application	85.00	Certified Social Worker Externship	85.00
Psychologist		Social Service Worker New	
New Application Filing	200.00	Application Filing	85.00
License Renewal	128.00	Social Service Worker License	
Certified Psychology Resident		Renewal	78.00
New App Filing	85.00	Speech Language Pathologist/Audiologist	
Radiology		Speech Language Pathologist New	
Radiology Technologist New		Application Filing	70.00
Application Filing	70.00	Speech Language Pathologist	
Radiology Technologist License		License Renewal	47.00
Renewal	47.00	Audiologist New Application Filing	70.00
Radiology Practical Technologist		Audiologist License Renewal	47.00
New Application Filing	70.00	Speech Language Pathologist / Audiologist	
Radiology Practical Technologist		Speech Language Pathologist and	
License Renewal	47.00	Audiologist New Application Filing	70.00
Recreation Therapy		Speech Language Pathologist and	
Master Therapeutic Recreational		Audiologist License Renewal	47.00
Specialist New Application Filing	70.00	Substance Use Disorder Counselor (Licensed)	
Master Therapeutic Recreational		New Application Filing	85.00
Specialist License Renewal	47.00	License Renewal	78.00
Therapeutic Recreational Specialist		Substance Use Disorder Counselor (Certified)	
New Application Filing	70.00	Certified Substance Counselor	70.00
Therapeutic Recreational Specialist		Certified Counselor Intern	70.00
License Renewal	47.00	Certified Substance Extern	70.00
Therapeutic Recreational Technical		Veterinarian	
New License Application	70.00	New Application Filing	150.00
Therapeutic Recreational Technician		License Renewal	73.00
License Renewal	47.00	Intern New Application Filing	35.00
Residence Lien Recovery Fund		Vocational Rehab Counselor	
Initial Assessment	195.00	New Application Filing	70.00
Registration Processing		License Renewal	47.00
Fee-Voluntary Registrants	25.00	Other	
Post-claim Laborer Assessment	20.00	Inactive/Reactivation/Emeritus	
Beneficiary Claim	120.00	License	50.00
Laborer Beneficiary Claim	15.00	Temporary License	50.00
Reinstatement of Lapsed Registration	50.00	Late Renewal	20.00
Late	20.00	License/Registration Reinstatement	50.00

Duplicate License	10.00
Disciplinary File Search (per order document)	12.00
Change Qualifier	50.00
UBC Seminar	Variable
surcharge of 1% of Building Permits in accordance w/ UCA-15a-1-209-5-a	
UBC Building Permit surcharge	Variable
State Construction Registry	
Online	
Notice of Commencement	7.50
Appended Notice of Commencement online	7.50
Preliminary Notice	1.00
Notice of Completion	7.50
Required Notifications	Variable
Requested Notifications	10.00
Receipt Retrieval	
Within 2 years	1.00
Beyond 2 years	5.00
Public Search	1.00
Annual account set up	
Auto bill to credit card	60.00
Invoice	100.00
Notice of Construction Loan	8.00
Notice of Intent to Complete	8.00
Notice of Retention	1.25
Notice of Remaining to Complete	1.25
Offline	
Notice of Commencement	15.00
Appended Notice of Commencement - On-line	15.00
Preliminary Notice	6.00
Notice of Completion	15.00
Required Notifications	6.00
Requested Notifications	25.00
Receipt Retrieval	
Within 2 years	6.00
Beyond 2 years	12.50
Public Search	Variable
Annual account set up	
Auto bill to credit card	75.00
Invoice	125.00
Notice of Construction Loan	15.00
Notice of Intent to Complete	16.00
Notice of Retention	8.00
Notice of Remaining to Complete	6.00
Notice of Loan Default	Variable
Building Permit	Variable
Filed by city	
Withdrawal of Preliminary Notice	Variable
Construction Ownership	
Ownership Status Report	20.00
Ownership Listing/Change	20.00
Physician Educator	
Physician Educator I new application ...	200.00
Physician Educator I renewal	183.00
Physician Educator II new application	200.00
Physician Educator I renewal	183.00
Radiologist Assistant	
New Application Filing	70.00
License Renewal	47.00
Residence Lien Recovery Fund	
Special Assessment	105.00
Real Estate	

Broker/Sales Agent	
Property Management Sales Agent Designation	50.00
Appraisers	
Appraisal Education Special Event Provider Fee	250.00
Appraisal Education Special Event (per day)	150.00
Licensed and Certified Application	250.00
Mortgage Broker	
Mortgage Loan Originator New Application	100.00
Mortgage Loan Originator Renewal	30.00
Sales Agent	
New Application (2 year)	100.00
Renewal	48.00
Education	
Real Estate Education Broker	18.00
Continuing Education Registration	10.00
Real Estate Education Agent	12.00
Appraisers	
Licensed and Certified Renewal	350.00
National Register	80.00
Certifications	
Real Estate Prelicense School Certification	100.00
Real Estate Prelicense Instructor Certification	75.00
Appraisers	
Temporary Permit	100.00
Appraiser Trainee Registration	100.00
Real Estate Education	
Real Estate Continuing Education Course Certification	75.00
Real Estate Continuing Education Instructor Certification	50.00
Appraisers	
Appraiser expert witness	200.00
Appraiser Trainee Renewal	100.00
Certifications	
Real Estate Branch Schools	100.00
Appraiser Prelicense Course Certification	70.00
Appraisers	
Appraiser Pre-License School Application	100.00
Appraiser Pre-License Instructor Application	75.00
Certifications	
Appraiser CE Instructor Application/ Renewal	75.00
Appraisers	
Appraiser CE Course Application/ Renewal	75.00
Appraiser Temporary Permit Extension	100.00
One time only	
Appraisal Management Company	
Appraisal Management Company	350.00
Appraisal Management Company Renewal	350.00
Appraisal Management Company Late ...	50.00
Broker	
New Application	100.00

2 year	
Renewal	48.00
Broker/Sales Agent	
Activation	15.00
New Company	200.00
Company Broker Change	50.00
Company Name Change	100.00
Verification (per copy)	20.00
General Division	
Duplicate License	10.00
Certifications/Computer Histories	20.00
Late Renewal	50.00
Reinstatement	100.00
Branch Office	200.00
No Action Letter	120.00
Trust Account Seminar	5.00
Continuing Education Instructor/ Course Late	25.00
Mortgage Broker	
Mortgage Lending Manager	
Application	100.00
Renewal	30.00
Mortgage Lender Entities	
Application	200.00
Renewal	200.00
Mortgage DBA	200.00
Activation	15.00
Subdivided Land	
Exemption	
HUD	100.00
Water Corporation	50.00
Temporary Permit	100.00
Application	500.00
Charge over 30	3.00
Inspection Deposit	300.00
Consolidation	200.00
Charge	3.00
Renewal Report	203.00
Timeshare and Camp Resort	
Salesperson	100.00
New and renewal	
Registration	500.00
Per unit charge over 100	3.00
Inspection Deposit	300.00
Consolidation	200.00
Per unit charge	3.00
Temporary Permit	100.00
Renewal Reports	203.00
Supplementary Filing	
Supplementary Filing	200.00
Mortgage Education	
Individual	36.00
Entity	50.00
Mortgage Prelicense School	
Certification	100.00
Mortgage Prelicense	
Instructor Certification/Renewal	75.00
Mortgage Branch Schools	100.00
Mortgage Continuing Education	
Course Certification Application	
Renewal	75.00
Mortgage Continuing Education	
Instructor Certification	50.00
Mortgage Out of State Records	
Inspection	500.00
Securities	

Title III Crowd Funding Timely	
Notice Filing	100.00
Title III Crowd Funding Notice	
Filing Late Fee	500.00
Securities Registration	
Qualification Registration	300.00
Covered Securities Notice Filings	
Regulation A timely Securities Filing	100.00
Late Fee Regulation A Filing	500.00
Securities Registration	
Coordinated Registration	300.00
Transactional Exemptions	
Transactional Exemptions	60.00
No-action and Interpretative	
Opinions	120.00
Licensing	
Agent	60.00
Broker/Dealer	200.00
Investment Advisor	
New and renewal	100.00
Investment Advisor Representative	
New and renewal	50.00
Certified Dealer	
New and Renewal	500.00
Certified Adviser	
New and Renewal	500.00
Covered Securities Notice Filings	
Investment Companies	600.00
All Other Covered Securities	100.00
Late Fee Rule 506 Notice Filing	500.00
Less than 15 days after sale	
Federal Covered Adviser	
New and Renewal	100.00
Securities Exemptions	
Securities Exemptions	60.00
Other	
Late Renewal	20.00
Fairness Hearing	1,500.00
Statute Booklet	Variable
Small Corp. Offering Registration	
(SCOR)	Variable
Rules and form booklet	Variable
Excluding SCOR	
Postage and Handling	Variable

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

ADMINISTRATION

Odd size photocopies (per Page)	Actual Cost
8.5 x 11 photocopy (per page)	0.25
Document Certification	2.00
Local Document Faxing (per page)	0.50
Long Distance Document Faxing	
(per page)	2.00
Staff time to search, compile and	
prepare records (per Hour)	Actual Cost
Mail and ship preparation, plus	
actual postage (per Hour)	Actual Cost
Media Storage Duplication (per Hour)	10.00
Avenue H Technology Provider Renewal	14.00
Health Exchange Call Center	2.50

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services

Market Tax Credit Fee	100,000.00
Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.	
Private Activity Bond	
Confirmation per million volume cap (per million of allocated volume cap)	300.00
Original application: under \$3 million	1,500.00
Original application: \$3-\$5 million	2,000.00
Original application: over \$5 million	3,000.00
Private Activity Bond Re-application	
Re-application: under \$3 million	750.00
Re-application: \$3-\$5 million	1,000.00
Re-application: over \$5 million	1,500.00
Private Activity Bond Extension	
Second 90 Day Extension	2,000.00
Third 90 Day Extension	4,000.00
Each Additional 90 Day Extension	4,000.00

OFFICE OF TOURISM

Operations and Fulfillment	
Calendars	
Calendar sales: Individual (purchases of less than 30)	10.00
Calendar sales: Bulk (non state agencies)	8.00
Calendar sales: Bulk (state agencies)	6.00
Calendar sales: Office of Tourism, Film, and Global Branding employees	5.00
These fees may apply to one or more programs within the Office of Tourism Line Item.	
Calendar Envelopes	0.50
Posters	
Posters: Framed wall posters	55.00
Posters: Non framed wall posters	2.99
Shirts	
T-shirt sales (cost per shirt)	10.00
Commissions	
Tourism promotional items re-seller commission	12%
UDOT Signage Commissions	54,000.00

PETE SUAZO UTAH ATHLETICS COMMISSION

Boxing Events	
Boxing Event: <500 Seats	500.00
Boxing Event: 500 - 1,000 Seats	500.00
Boxing Event: 1,000 - 3,000 Seats	750.00
Boxing Event: 3,000 - 5,000 seats	1,500.00
Boxing Event: 5,000 - 10,000 Seats	1,500.00
Boxing Event: >10,000 Seats	1,500.00
Unarmed Combat Event	
Unarmed Combat Event: <500 seats	500.00
Unarmed Combat Event: 500 - 1,000 Seats	500.00
Unarmed Combat Event: 1,000 - 3,000 Seats	750.00
Unarmed Combat Event: 3,000 - 5,000 seats	1,500.00
Unarmed Combat Event: 5,000 - 10,000 Seats	1,500.00

Unarmed Combat Event:	
>10,000 Seats	1,500.00
Licenses and Badges	
Promoter (per License)	250.00
Official, Manager, Matchmaker (per License)	50.00
Judge, Referee, Matchmaker, Contestant Manager Licenses	
Contestant, Second (Corner) (per License)	30.00
Amateur, Professional, Second (Corner), Timekeeper Licenses	
ID Badges (per Badge)	10.00
Drug Tests, Fight Fax, Contestant ID Badge	
Additional Inspector	100.00
Event Registration	100.00
Fee to reserve a date on the Pete Suazo Utah Athletic Commission event calendar	
Broadcast Revenue	3,000.00
3% of the first \$500,000 and 1% of the next \$1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or charges, except in no case shall the fee be more than \$25,000, nor less than \$100.	

FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS ADMINISTRATION

Administration	
Photocopies	0.25

DEPARTMENT OF HERITAGE AND ARTS

ADMINISTRATION

Administrative Services	
Department Merchandise	
General Merchandise - Level 1 (per Item)	5.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 2 (per Item)	10.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 3 (per Item)	15.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 4 (per Item)	20.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 5 (per Item)	50.00

Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
General Merchandise - Level 6 (per Item) 100.00	Conference Sponsorship Level 2 500.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
Department Conference	Conference Sponsorship Level 3 650.00
Conference Level 1 - Early	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
Registration (per Person) 20.00	Conference Sponsorship Level 4 1,000.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
Conference Level 1 - Regular	Conference Sponsorship Level 5 2,500.00
Registration (per Person) 25.00	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Conference Sponsorship Level 6 5,000.00
Conference Level 1 - Late	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
Registration (per Person) 30.00	Conference Sponsorship Level 7 10,000.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.
Conference Level 1 - Vendor/Display Table - registration not included (per Table) 50.00	General Training and Workshop
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	General Training/Workshop Participation -
Conference Level 2 - Early	Level 1 (per Person) 5.00
Registration (per Person) 45.00	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	General Training/Workshop Participation -
Conference Level 2 - Regular	Level 2 (per Person) 10.00
Registration (per Person) 50.00	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	General Training/Workshop Participation -
Conference Level 2 - Late	Level 3 (per Person) 15.00
Registration (per Person) 55.00	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	General Training/Workshop Participation -
Conference Level 2 - Vendor/Display Table - registration not included (per Table) 100.00	Level 4 (per Person) 25.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Conference Level 3 - Student/Group/Change Leader Registration (per Person) 70.00	General Training/Workshop Participation -
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Level 5 (per Person) 30.00
Conference Level 3 - Early	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Registration (per Person) 80.00	General Training/Workshop Participation -
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Level 6 (per Person) 40.00
Conference Level 3 - Regular	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Registration (per Person) 95.00	General Training/Workshop Participation -
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Level 7 (per Person) 50.00
Conference Level 3 - Late	Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Registration (per Person) 100.00	General Training/Workshop Participation -
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	Level 8 (per Person) 60.00
Conference Level 3 - Vendor/Display Table Fee - registration not included (per Table) 150.00	
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.	
Conference Sponsorship	
Conference Sponsorship Level 1 350.00	

Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 9 (per Person) 125.00
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 10 (per Person) 300.00
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Materials
 Fee (per Person) 15.00
 Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

Government Records Access and Management Act Photocopies (per page) 0.25
 GRAMA fees apply for the entire Department of Heritage and Arts

Information Technology
 Preservation Pro (per unit 1-20, depending on usage) 50.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach

Change Leader Registration Level 5 500.00

MWAC Registration Level 1 75.00

MWAC Registration Level 2 85.00

MWAC Registration Level 3 95.00

MWAC Registration Level 4 100.00

MWAC Registration Level 5 110.00

MWAC Registration Level 6 125.00

Community Outreach

Traveling Exhibit Fees 125.00

Traveling Exhibit Fees Title I Schools .. 100.00

Mountain West Arts Conference Registration

MWAC Governor's Leadership in the Arts Luncheon 60.00

MWAC Governor's Leadership in the Arts Luncheon Late Registrant 65.00

Community/State Partnership Change Leader Registration

Change Leader Registration Level 1 100.00

Change Leader Registration Level 2 200.00

Change Leader Registration Level 3 300.00

Change Leader Registration Level 4 400.00

DIVISION OF ARTS AND MUSEUMS - OFFICE OF MUSEUM SERVICES

Office of Museum Services

Museum Environmental Monitoring
 Kit Rental/Shipping (per Period) 40.00

Museum Environmental Monitoring
 Kit Deposit 150.00

HISTORICAL SOCIETY

State Historical Society

Utah Historical Society Annual Membership

Student/Senior 25.00

Individual 30.00

Business/Sustaining 40.00

Patron 60.00

Sponsor 100.00

Lifetime 500.00

Utah Historical Quarterly (per issue) 7.00

Publication Royalties 1.00

STATE HISTORY

Historic Preservation and Antiquities

Anthropological Remains Recovery (per Recovery or Analysis and reporting) 2,500.00
 Fee is for recovery or analysis and reporting services.

Literature Search - Self Service w/ Scans (per 1/2 Hour) 25.00

Literature Search - Staff Performed w/ Scans (per 1/2 Hour) 50.00

GIS Search - Staff Performed (per 1/4 Hour) 15.00

Literature Search/GIS Search - no show fee (per incident) 60.00

GIS Data Cut and Transfer (per Section) 15.00

Library and Collections

B/W Historic Photo

4x5 B/W Historic Photo 7.00

5x7 B/W Historic Photo 10.00

8x10 B/W Historic Photo 15.00

Self Serve Photo 0.50

Digital Image 300 dpl> 10.00

Expedited Photo Processing 2.00

Historic Collection Use 10.00

Research Center

Self Copy 8.5x11 0.10

Self Copy 11x17 0.25

Staff Copy 8.5x11 0.25

Staff Copy 11x17 0.50

Digital Self Scan/Save (per Page) 0.05

Digital Staff Scan/Save (per Page) 0.25

Microfilm Self Copy (per page) 0.25

Microfilm Self Scan/Save (per Page) 0.15

Microfilm Staff Scan/Save or Copy (per page) 1.00

Audio Recording (per item) 10.00

Video Recording (per item) 20.00

Diazo print

16 mm diazo print (per roll) 10.00

35 mm diazo print (per roll) 12.00

Silver print

16 mm silver print (per roll) 18.00

35 mm silver print (per roll) 20.00

Microfilm Digitization 40.00

Digital Format Conversion 5.00

Surplus Photo 1.00

Mailing Charges 1.00

Fax Request 1.00

STATE LIBRARY

Blind and Disabled

Full Library Services to States

With Machines 150.00

Lost Library Book Charge 500.00

Basic Braille Services to States 85.00

Full Library Services to States

Without Machines 145.00

Braille and Audio Service to LDS Church	2.50
Library of Congress Contract (MSCW) (per Annual)	999,600.00
Library Development Bookmobile Services (per Annual)	856,700.00
Average fee of bookmobile services over the nine service areas.	
Library Resources Cataloging Services	7,000.00
Catalog Express Utilization	0.58
Catalog Express Overage	1.17

INSURANCE DEPARTMENT**BAIL BOND PROGRAM**

Restricted Revenue Bail Bond Agency Resident initial or renewal license if renewed prior to renewal deadline	250.00
Annual license period Reinstatement of lapsed license	300.00
Annual license period	

HEALTH INSURANCE ACTUARY

Restricted Revenue Health Insurance Actuarial Review Assessment Assessment for Actuary	150,000.00
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**INDIVIDUAL & SMALL EMPLOYER RISK
ADJUSTMENT ENTERPRISE FUND**

Individual & Small Employer Risk Adjustment Enterprise Risk Adjustment (per 0.96)	0.96
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**INSURANCE DEPARTMENT
ADMINISTRATION**

Administration Global license fees for Admitted Insurers Certificate of Authority Initial License Application	1,000.00
Independent Review - Initial Application	250.00
Initial individual license (per 35.00)	2,800.00
Renewal individual license (per 35.00)	35.00
Reinstatement individual license (per 60.00)	60.00
Initial agency license (per 40.00)	800.00
Renewal agency license (per 40.00)	40.00
Reinstatement agency license (per 65.00)	65.00
Continuing Care Provider - Initial registration application	6,900.00
Continuing Care Provider - Disclosure Statement	600.00
Continuing Care Provider - Annual Registration Renewal	6,900.00
Continuing Care Provider - Annual Renewal Disclosure Statement	600.00
Continuing Care Provider - Reinstatement Fee	6,950.00
Non-electronic payment processing fee (per 25.00)	25.00

Insurance removal of public access to administrative actions (per 185.00) ...	185.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Amendment	250.00
Orderly Plan of Withdrawal	50,000.00
Form A Filing	2,000.00
Redomestication Filing	2,000.00
Organizational Permit for Mutual Insurer	1,000.00
Insurer Examinations	72.00
Agency cost Global Service Fees for Admitted Insurers Zero premium volume	Insurance Rule R590-102-5(4)(d)(i)
More than \$0 to less than \$1M premium volume	700.00
\$1M to less than \$3M premium volume	1,100.00
\$3M to less than \$6 M premium volume	1,550.00
\$6M to less than \$11M premium volume	2,100.00
\$11M to less than \$15M premium volume	2,750.00
\$15M to less than \$20M premium volume	3,500.00
\$20M or more in premium volume	4,350.00
Global license fees for Surplus Lines Insurers, Accredited/Trusteed Reninsurer Surplus Lines Insurers, Accredited/Trusteed Reinsurers, Employee Welfare Fund Initial	1,000.00
Annual	500.00
Late Annual	550.00
Reinstatement	1,000.00
Global license fees for Other Organizations Other Organizations Initial License Application	250.00
Renewal	200.00
Late Renewal	250.00
Reinstatement	250.00
Annual Service	200.00
Life Settlement Provider Initial license application	1,000.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Annual service	600.00
Global Individual License Res/non-res full line producer license or renewal per two-year license period Initial, or renewal if renewed prior to renewal deadline	70.00
Reinstatement of Lapsed License	120.00
Res/non-res limited line producer license or renewal per two-year licensing period Initial or renewal if renewed prior to renewal deadline	45.00
Reinstatement of lapsed license	95.00
Res/non-res full line producer license or renewal per two-year license period Dual Title License Form Filing	25.00
Addition of producer classification or line of authority to individual producer license	25.00

Global Full Line and Limited Line Agency License	
Res/non-res initial or renewal license	
if renewed prior to renewal deadline . . .	75.00
Reinstatement of lapsed license	125.00
Addition of agency class or line of	
authority to agency license	25.00
Resident Title initial or renewal	
license if renewed prior to renewal	
deadline	100.00
Resident Title Reinstatement of	
Lapsed License	150.00
Health Insurance Purchasing Alliance	
Res/non-res initial or renewal license if	
renewed prior to renewal deadline	500.00
Per annual license period	
Late Renewal	550.00
Reinstatement of lapsed license	550.00
Continuing Education	
CE provider initial or renewal license	
prior to renewal deadline	250.00
CE provider reinstatement of	
lapsed license	300.00
CE provider post approval or	
\$5 per hour, whichever is more	25.00
Other	
Photocopy (per page)	0.50
Copy Complete Annual Statement	40.00
Accepting Service of legal process	10.00
Returned check charge	20.00
Workers' Comp schedule	5.00
Address Correction	35.00
Production of Lists	
Printed (per page)	1.00
Information already in list format	
Electronic	
Base fee	50.00
1 CD and up to 30 minutes of staff time	
Additional fee billed by invoice	50.00
For each additional 30 minutes or fraction	
thereof	
Additional CD (per CD)	1.00
Restricted Special Revenue Fees	
Title Insurance Recovery, Education, and	
Research Fund	
Initial Title Agency License	1,000.00
Renewal Title Agency License	
Band A-\$0-\$1 million premium	
volume	125.00
Band B->\$1-\$10 million premium	
volume	250.00
Band C->\$10-\$20 million premium	
volume	375.00
Band D->\$20 million premium	
volume	500.00
Individual Title Licensee Initial	
or Renewal License	15.00
Professional Employers Organization	
Standard - Initial/Renewal	2,000.00
Standard - Late Renewal or	
Reinstatement	2,050.00
Certified by an Assurance Organization -	
Initial	2,000.00
Certified by an Assurance	
Organization - Renewal	1,000.00
Certified Late Renewal or	
Reinstatement	1,050.00
Small Operator	

Small Operator - Initial	2,000.00
Small Operator - Renewal	1,000.00
Small Operator - Late	
Renewal or Reinstatement	1,050.00
Captive Insurers	
Captive Insurer	
Initial license application	200.00
Captive Cell Initial Application	
(per 200)	200.00
Captive Cell Initial License	
(per 1000)	1,000.00
Captive Cell License Renewal	
(per 1000)	1,000.00
Captive Cell Late Renewal (per 50)	50.00
Initial license application	
review	Captive - Actual cost
Initial license issuance	5,000.00
Renewal	5,000.00
Late Renewal	5,050.00
Reinstatement	5,050.00
Captive Insurer Examination	
Reimbursements	Variable
Criminal Background Checks	
Fingerprinting	
Bureau of Criminal Investigation	20.00
Federal Bureau of Investigation	12.00
Electronic Commerce Fee	
Electronic Commerce Restricted	
E-commerce and internet technology services	
Insurer: admitted, surplus lines	75.00
Captive Insurer	250.00
Other organization and life settlement	
provider	50.00
CE Provider	20.00
Agency and Health Insurance	
Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database	
Base	45.00
1 DVD and up to 30 minutes access and staff	
help	
Additional requests	45.00
Each additional 30 minutes or fraction	
thereof	
Additional DVD (per DVD)	2.00
Electronic Commerce Restricted	
Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program	
Restricted Revenue	
Guaranteed Asset Protection Waiver	
Registration/Annual	1,000.00
GAP Waiver Assessment	50.00
Insurance Fraud Program	
Restricted Revenue	
Fraud Investigation Division	
Zero to \$1M premium volume	200.00
>\$1M to less than \$2.5M	
premium volume	450.00
\$2.5M to less than \$5M	
premium volume	800.00
\$5M to less than \$10M	
premium volume	1,600.00
\$10M to less than \$50M	
premium volume	6,100.00

\$50M or more in premium volume	15,000.00
Fraud Division Investigative Recovery	Variable
Fraud division assessment late fee	50.00
Relative Value Study	
Restricted Revenue	
Relative Value Study	
Relative Value Study Book	10.00
Code Books	57.00
Cost to agency	
Mailing fee for books	3.00

TITLE INSURANCE PROGRAM

Restricted Revenue	
Title Insurance Regulation Assessment	100,000.00

LABOR COMMISSION

Administration	
Industrial Accidents Division	
Workers Compensation	
Coverage Waiver	50.00
Seminar Fee (alternate years) (per registrant)	Not to exceed 500.00
Premium Assessment	
Workplace Safety Fund (per premium)	0.25%
Employers Reinsurance Fund (per premium)	3.00%
Uninsured Employers Fund (per premium)	0.25%
Industrial Accidents Restricted Account (per premium)	0.50%
Certificate to Self-Insured	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection (per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00
> 250,000 BTU but <4,000,000 BTU	60.00
> 4,000,001 BTU but <20,000,000 BTU	150.00
> 20,000,000 BTU	300.00
New	
<250,000 BTU	45.00
> 250,000 BTU but <4,000,000 BTU	90.00
> 4,000,001 BTU but <20,000,000 BTU	225.00
> 20,000,000 BTU	450.00
Pressure Vessel	

Existing	30.00
New	45.00
Pressure Vessel Inspection by Owner-user	
25 or less on single statement (per vessel)	5.00
26 through 100 on single statement (per statement)	100.00
101 through 500 on single statement (per statement)	200.00
over 500 on single statement (per statement)	400.00
Elevator Inspections Existing Elevators	
Hydraulic	85.00
Electric	85.00
Handicapped	85.00
Other Elevators	85.00
Elevator Inspections New Elevators	
Hydraulic	300.00
Electric	700.00
Handicapped	200.00
Other Elevators	200.00
Consultation and Review (per hour)	60.00
Escalators/Moving Walks	700.00
Remodeled Electric	500.00
Roped Hydraulic	500.00
Coal Mine Certification	
Mine Foreman	50.00
Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00
Electrician	
Underground	50.00
Surface	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Hydrocarbon Mine Certifications	
Hoistman	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Gilsonite	
Mine Examiner	50.00
Shot Firer	50.00
Mine Foreman	
Certificate	50.00
Temporary	35.00
Photocopies, Search, Printing	
Black and White no special handling	0.25
Research, redacting, unstapling, restapling (per hour)	15.00
More than 1 hour (per hour)	20.00
Color Printing (per page)	0.50
Certified Copies (per certification)	2.00
Plus search fees if applicable	
Electronic documents CD or DVD	2.00
Fax, plus telephone costs	0.50

PUBLIC SERVICE COMMISSION

Administration	
Application for Certificates of Convenience and Necessity	\$600 total
The fee and amount are found in Title 54-7-6 (Fees).	

UTAH STATE TAX COMMISSION

LICENSE PLATES PRODUCTION

License Plates Production

Decal Replacement 1.00

Reflectorized Plate Up to \$7

Plate Mailing Charge (per Plate Set) 4.00

TAX ADMINISTRATION

Administration Division

Administration

Liquor Profit Distribution 6.00

All Divisions

Certified Document 5.00

Faxed Document Processing
(per page) 1.00

Record Research 6.50

Photocopies, over 10 copies
(per page) 0.10

Research, special requests
(per hour) 20.00

Motor Vehicle Enforcement Division

Temporary Permit Restricted Fund

Temporary Permit Not to exceed 12.00

Sold to dealers in bulk, not to exceed approved fee amount

Temporary Sports Event Registration Certificate Not to exceed 12.00

MV Business Regulation

Dismantler's Retitling Inspection 50.00

Salvage Vehicle Inspection 50.00

Electronic Payment

Temporary Permit Books
(per book) Not to exceed 4.00

Dealer Permit Penalties
(per penalty) Not to exceed 1.00

Salvage Buyer's License
(per license) Not to exceed 3.00

Licenses

Motor Vehicle Manufacturer License 102.00

Motor Vehicle Remanufacturer License 102.00

New Motor Vehicle Dealer 127.00

Transporter 51.00

Body Shop 112.00

Used Motor Vehicle Dealer 127.00

Dismantler 102.00

Salesperson 31.00

Salesperson's License Transfer Fee 31.00

Salesperson's License Reissue 5.00

Crusher 102.00

Used Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer 51.00

New Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer 51.00

Representative 26.00

Distributor or Factory Branch and Distributor Branch's 61.00

Additional place of business

Temporary 26.00

Permanent Variable

Variable rate - same rate as the original license fee (based on license type)

License Plates

Purchase

Manufacturer 10.00

Dealer 12.00

Dismantler 10.00

Transporter 10.00

Renewal

Manufacturer 8.50

Dealer 10.50

Dismantler 8.50

Transporter 8.50

In-transit Permit 2.50

Motor Vehicles

Administration

All Divisions

Custom Programming (per hour) 85.00

Aeronautics

Aircraft Registration 3.00

Administration

Sample License Plates 5.00

All Divisions

Data Processing Set-Up 55.00

Parks and Recreation

Parks & Recreation Decal Replacement ... 4.00

Motor Vehicle

Motor Vehicle Information 3.00

Motor Vehicle Information Via Internet ... 1.00

Motor Vehicle Transaction
(per standard unit) 1.53

Motor Carrier

Cab Card 3.00

Duplicate Registration 3.00

Temporary Permit

Individual permit 6.00

Electronic Payment

Authorized Motor Vehicle Registrations Not to exceed 4.00

License Plates

Reflectorized Plate Up to \$7

Special Group Plate Programs

Inventory ordered before July 1, 2003

Extra Plate Costs 5.50

Plus \$5 standard plate fee

New Programs or inventory reorders after July 1, 2003

Start-up or significant program changes (per program) 3,900.00

Extra Plate Costs (per decal set ordered) 3.50

Plus \$5 standard plate fee

Extra Handling Cost (per decal set ordered) 2.40

Special Group Logo Decals Variable

Special Group Slogan Decals Variable

Motor and Special Fuel

International Fuel Tax Administration

Decal (per set) 4.00

Reinstatement 100.00

Tax Payer Services

Administration

Lien Subordination Not to exceed 300.00

Tax Clearance 50.00

Tax Processing Division

Administration

All Divisions

Convenience Fee Not to exceed 3%

Convenience fee for tax payments and other authorized transactions

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

RESEARCH CAPACITY BUILDING

U of U Start Up, Carry Over, Commercialization
 USTAR Core Facility Incubation
 (per sq ft) 28.00

SUPPORT PROGRAMS

Incubation Programs
 Start-up Company Lab Access -
 Monthly (per month) 350.00
 Membership features access to Lab.
 Includes common areas, all specialized
 equipment and tools, plus use of supplies &
 materials (at cost).
 Start-up Company Co-working Space - Monthly
 (per month) 100.00
 Membership features access to one
 Co-working Space. Includes common areas.
 Start-up Company Private Office -
 Monthly (per month) 150.00
 Membership features access to one Private
 Office (approx. 150 sq. ft.). Includes common
 areas.
 Start-up Company Private Suite -
 Monthly (per month) 350.00
 Membership features access to one Private
 Suite only (approx. 350 sq. ft.). Includes
 common areas.
 Start-up Company Lab Access & Co-working
 Space - Monthly (per month) 450.00
 Membership features access to Lab and one
 Co-working Space. Includes common areas,
 all specialized equipment and tools, plus use
 of supplies & materials (at cost).
 Start-up Company Lab Access & Private
 Office - Monthly (per month) 500.00
 Membership features access to Lab and one
 Private Office (approx. 150 sq. ft.). Includes
 common areas, all specialized equipment and
 tools, plus use of supplies & materials (at
 cost).
 Start-up Company Lab Access & Private
 Suite - Monthly (per month) 700.00
 Membership features access to Lab and one
 Private Suite (approx. 350 sq. ft.). Includes
 common areas, all specialized equipment and
 tools, plus use of supplies & materials (at
 cost).
 Enterprise Lab Access (up to 10
 members) - Monthly (per month) 3,150.00
 Membership features access to Lab (up to
 10 members). Includes common areas, all
 specialized equipment and tools, plus use of
 supplies & materials (at cost).
 Enterprise Co-working Space (up to
 10 members) - Monthly (per month) 500.00
 Membership features access to five
 Co-working Spaces (up to 10 members) .
 Includes common areas.
 Enterprise Private Office (up to 10
 members) - Monthly (per month) 450.00

Membership features access to two Private
 Offices (up to 10 members) (approx. 150 sq.
 ft./each). Includes common areas.
 Enterprise Private Suite (up to 10
 members) - Monthly (per month) 700.00
 Membership features access to two Private
 Suites (up to 10 members) (approx. 350 sq.
 ft./each). Includes common areas.
 Enterprise Lab Access & Co-working
 Space (up to 10 members) -
 Monthly (per month) 3,650.00
 Membership features access to Lab and five
 Co-working Spaces (up to 10 members).
 Includes common areas, all specialized
 equipment and tools, plus use of supplies &
 materials (at cost).
 Enterprise Lab Access & Private
 Office (up to 10 members) -
 Monthly (per month) 3,600.00
 Membership features access to Lab and
 three Private Offices (up to 10 members)
 (approx. 150 sq. ft./each). Includes common
 areas, all specialized equipment and tools,
 plus use of supplies & materials (at cost).
 Enterprise Lab Access & Private
 Suite (up to 10 members) -
 Monthly (per month) 3,850.00
 Membership features access to Prototype
 Lab and two Private Suites (up to 10
 members) (approx. 350 sq. ft./each). Includes
 common areas, all specialized equipment and
 tools, plus use of supplies & materials (at
 cost).
 Start-up Company Lab Access -
 1 Year (PREPAID) (per year) 4,000.00
 Membership features access to Lab.
 Includes common areas, all specialized
 equipment and tools, plus use of supplies &
 materials (at cost).
 Start-up Company Co-working Space -
 1 Year (PREPAID) (per year) 1,100.00
 Membership features access to one
 Co-working Space. Includes common areas.
 Start-up Company Private Office -
 1 Year (PREPAID) (per year) 1,700.00
 Membership features access to one Private
 Office (approx. 150 sq. ft.). Includes common
 areas.
 Start-up Company Private Suite -
 1 Year (PREPAID) (per year) 4,100.00
 Membership features access to one Private
 Suite only (approx. 350 sq. ft.). Includes
 common areas.
 Start-up Company Lab Access &
 Co-working Space - 1 Year
 (PREPAID) (per year) 5,200.00
 Membership features access to Lab and one
 Co-working Space. Includes common areas,
 all specialized equipment and tools, plus use
 of supplies & materials (at cost).
 Start-up Company Lab Access &
 Private Office - 1 Year (PREPAID)
 (per year) 5,800.00
 Membership features access to Lab and one
 Private Office (approx. 150 sq. ft.). Includes
 common areas, all specialized equipment and

tools, plus use of supplies & materials (at cost).

Start-up Company Lab Access & Private Suite - 1 Year (PREPAID)
(per year) 8,200.00
Membership features access to Lab and one Private Suite (approx. 350 sq. ft.). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Lab Access (up to 10 members) - 1 Year (PREPAID) (per year) 37,500.00
Membership features access to Lab (up to 10 members). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Co-working Space (up to 10 members) - 1 Year (PREPAID)
(per year) 5,800.00
Membership features access to five Co-working Spaces (up to 10 members) . Includes common areas.

Enterprise Private Office(up to 10 members)(PREPAID)
(per year) 5,200.00
Membership features access to three Private Offices (up to 10 members) (approx. 150 sq. ft./each). Includes common areas.

Enterprise Private Suite (up to 10 members) - 1 Year (PREPAID)
(per year) 8,200.00
Membership features access to two Private Suites (up to 10 members) (approx. 350 sq. ft./each). Includes common areas.

Enterprise Lab Access & Co-working Space(up to 10 members)(PREPAID)
(per year) 43,600.00
Membership features access to Lab and five Co-working Spaces (up to 10 members). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Lab Access & Co-working Space(up to 10 members)(PREPAID)
(per year) 43,600.00
Membership features access to Lab and five Co-working Spaces (up to 10 members). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Lab Access & Private Suite(up to 10 members)(PREPAID)
(per year) 46,000.00
Membership features access to Lab and two Private Suites (up to 10 members) (approx. 350 sq. ft./each). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Conference/Training Room Access - Monthly (per month) 200.00
Monthly access to Conference/Training Room (up to 5 days per month)

Conference/Training Room Access - Hourly (per hour) 25.00
Hourly access to Conference/Training Room.

Conference/Training Room Access - Daily (per day) 100.00
Daily access to Conference/Training Room.

Consumables - Object 3D Printer (per gram) 1.50
"Object 3D Printer - 835, Vero White Plus OBJ-04054 (per gram)"

Consumables - Object 3D Printer (per gram) 1.57
"Object 3D Printer - RGD 450, Rigur OBJ-04066 (per gram)"

Consumables - Object 3D Printer (per gram) 1.50
"Object 3D Printer - RGD875, Vero Black Plus OBJ-04063 (per gram)"

Consumables - Object 3D Printer (per gram) 1.25
"Object 3D Printer - 840, Vero Blue OBJ-04034 (per gram)"

Consumables - Object 3D Printer (per gram) 1.50
"Object 3D Printer - 850, Vero Gray OBJ04036 (per gram)"

Consumables - Object 3D Printer (per gram) 1.75
"Object 3D Printer - 810, Vero Clear OBJ-04055 (per gram)"

Consumables - Object 3D Printer (per gram) 1.75
"Object 3D Printer - RGD525, High Temp OBJ-04056 (per gram)"

Consumables - Object 3D Printer (per gram) 1.63
"Object 3D Printer - RGD430, Durus White (Poly Propylene like) OBJ-04041 (per gram)"

Consumables - Object 3D Printer (per gram) 0.63
"Object 3D Printer - 705, Support OBJ-04020 (per gram)"

Consumables - Object 3D Printer (per gram) 0.03
"Object 3D Printer - Model Cleaning Fluid OBJ-04018 (per gram)"

Consumables - Object 3D Printer (per gram) 0.03
"Object 3D Printer - Support Cleaning Fluid OBJ-04016 (per gram)"

Consumables - 1200es 3D Printer (per month) 12.42
1200es 3D Printer - SCA-1200 P400-SC Soluble Concentrate

Consumables - 1200es 3D Printer (per cubic inch/print) 2.32
1200es 3D Printer - P430 ABS Modeling Cartridges (All Colors) per cubic inch

Consumables - 1200es 3D Printer (per cubic inch/print) 5.95
1200es 3D Printer - P400-SR Soluble Support Cartridge per cubic inch

Consumables - 1200es 3D Printer (per month) 5.20
1200es 3D Printer - Plastic Modeling Bases (10" x 10")

Consumables - 1200es 3D Printer (per hour)	0.29	CNC Lathe - Cut Cost for 3' lengths = Minimum cut Cost @ \$20.00 ea.	
1200es 3D Printer - Tip Replacement Kit (@ 500 hrs.) cost per hour of use		Consumables - CNC Lathe	10.07
Consumables - OMAX Waterjet	8.50	CNC Lathe - 1/2 x 20' Hot Rolled round bar stock	
OMAX Waterjet - Foam Nozzle Muff		Consumables - CNC Lathe	17.90
Consumables - OMAX Waterjet	39.00	CNC Lathe - 3/4 x 20' Hot Rolled round bar stock	
OMAX Waterjet - Neoprene Nozzle Muff		Consumables - CNC Lathe	49.73
Consumables - OMAX Waterjet	26.00	CNC Lathe - 1 1/4 x 20' Hot Rolled round bar stock	
OMAX Waterjet - Material Support Slat		Consumables - CNC Lathe	7.75
Consumables - OMAX Waterjet (per pound)	0.24	CNC Lathe - 1 1/2" 6061-T6 Aluminum round bar stock 12'	
OMAX Waterjet - Abrasive (Garnet per lb.)		Consumables - CNC Lathe	20.00
Consumables - OMAX Waterjet (per pound)	94.71	CNC Lathe - Cut Cost for 4' lengths = Minimum cut Cost @ \$20.00 ea.	
OMAX Waterjet - 3/8 x 3" x 20' Hot Rolled Steel (per lb.)		Consumables - CNC Lathe	15.54
Consumables - OMAX Waterjet	20.00	CNC Lathe - 3/4" 6061-T6 Aluminum round bar stock	
OMAX Waterjet - Cut Cost for 3' lengths = Minimum cut Cost @ \$20.00 ea.		Consumables - CNC Lathe	28.49
Consumables - OMAX Waterjet	79.29	CNC Lathe - 1" 6061-T6 Aluminum round bar stock	
OMAX Waterjet - 4' x 10' Hot Rolled Steel 14 Gauge Sheet		Consumables - CNC Lathe	44.03
Consumables - OMAX Waterjet	78.40	CNC Lathe - 1 1/4" 6061-T6 Aluminum round bar stock	
OMAX Waterjet - 4' x 10' Cold Rolled Steel 18 Gauge Sheet		Consumables - CNC Lathe	64.75
Consumables - OMAX Waterjet	186.30	CNC Lathe - 1 1/2" 6061-T6 Aluminum round bar stock	
OMAX Waterjet - 4' x 8' 304 Stainless Steel Sheet 16 gage		Consumables - CNC Lathe	88.06
Consumables - CNC Lathe	17.56	CNC Lathe - 1 3/4" 6061-T6 Aluminum round bar stock	
CNC Lathe - CNMG 432-PM Cutting Inserts		Consumables - CNC Lathe	113.96
Consumables - CNC Lathe	21.68	CNC Lathe - 2" 6061-T6 Aluminum round bar stock, 12'	
CNC Lathe - DNMG 431 4D Cutting Inserts		Consumables - CNC Lathe	178.71
Consumables - CNC Lathe	13.54	CNC Lathe - 2 1/2" x 4', 6061-T6 Aluminum round bar stock, 12'	
CNC Lathe - K EGI130I03U05GUN KCU10 Cutting Inserts		Consumables - CNC Lathe	259.00
Consumables - CNC Lathe	26.20	CNC Lathe - 3" 6061-T6 Aluminum round bar stock, 12'	
CNC Lathe - Sandvik, N123G2-0300-0004-TM H13A Cutting Inserts		Consumables - CNC Mill	12.05
Consumables - CNC Lathe	104.80	CNC Mill - KEO Center Drills, #1-#5 (avg. ea.)	
CNC Lathe - K EVBSN32M0350, Evolution Cutoff-Blade		Consumables - CNC Mill	8.55
Consumables - CNC Lathe	21.68	CNC Mill - Chicago Latrobe, Cobalt Jobber Drills (avg. ea.)	
CNC Lathe - K NT3RK KCU10, Top Notch Threading Insert		Consumables - CNC Mill	33.02
Consumables - CNC Lathe	15.12	CNC Mill - Kennametal, HNGJ535ANENLD KC725M Inserts	
CNC Lathe - CCMT 2(1.5)1-MM, Screw On Medium Finishing Insert		Consumables - CNC Mill	31.00
Consumables - CNC Lathe	17.30	CNC Mill - Sandvik, Milling Insert, R390-17 04 08E-ML 1040	
CNC Lathe - CCMT 3(2.5)1-MM, Screw On Medium Finishing Insert		Consumables - CNC Mill	26.65
Consumables - CNC Lathe	2.66	CNC Mill - Sandvik, Milling Insert, R390-11 T3 04M-PM 1030	
CNC Lathe - Drill Bits All Sizes (avg. ea.)		Consumables - CNC Mill	134.00
Consumables - CNC Lathe	8.85	CNC Mill - Widia Hanita, ABDF Endmill 3/4 X 1 5/8 2FL	
CNC Lathe - 3/8 x 20' Hot Rolled round bar stock		Consumables - CNC Mill	51.04
Consumables - CNC Lathe	10.00	CNC Mill - Widia Hanita, Solid Carbide ABDF, 1/2 X 1.25 X 30 Endmill	

Consumables - CNC Mill	35.96
CNC Mill - Widia Hanita, Solid Carbide ABDF, 3/8 X 0.75 X 2.50 Endmill	
Consumables - CNC Mill	24.96
CNC Mill - Widia Hanita, Solid Carbide ABDF, 1/4 X 0.5 X 2.50 Endmill	
Consumables - CNC Mill	16.44
CNC Mill - Widia Hanita, .1250 Diameter, 2 Flute, Single End Carbide, Uncoated End Mill, .1250	
Consumables - CNC Mill	7.88
CNC Mill - Widia Hanita, .0620 Diameter, 2 Flute, Single, .1250, Shank Diameter, End Mill	
Consumables - CNC Mill	303.75
CNC Mill - OSG, GP SC Endmill 4FL 3/4x3/4x1 1/2x4	
Consumables - CNC Mill	113.80
CNC Mill - OSG, GP SC Endmill 4FL 1/2x1/2x1x3	
Consumables - CNC Mill	64.04
CNC Mill - OSG, GP SC Endmill 4FL 3/8x3/8x1x2 1/2	
Consumables - CNC Mill	33.04
CNC Mill - OSG, GP SC End Mill 4FL 1/4x1/4x3/4x2 1/2	
Consumables - CNC Mill	17.18
CNC Mill - OSG, 1/8X1/8X1/2X1-1/2 4FL TIALN, CARBIDE ENDMILL	
Consumables - CNC Mill	9.45
CNC Mill - Widia Hanita, 1/16 Diameter, 4 Flute, Single, .1250, Shank Diameter, End Mill	
Consumables - CNC Mill	131.99
CNC Mill - 1/2" x 4" x 20' 1018 Cold Rolled Steel	
Consumables - CNC Mill	20.00
CNC Mill - Cut Cost for 3' lengths = Minimum cut Cost @ \$20.00 ea.	
Consumables - CNC Mill	121.72
CNC Mill - 1/2" x 3" x 20' Hot Rolled Steel	
Consumables - CNC Mill	220.15
CNC Mill - 1/2" x 12" x 12' 6061-T6 Aluminum	
Consumables - CNC Mill	108.78
CNC Mill - 3" x 1" x 12' 6061-T6 Aluminum	
Consumables - CNC Mill	270.51
CNC Mill - 3" x 3" x 12' 6061-T6 Aluminum	
Consumables - CNC Mill	12.95
CNC Mill - 1/8" x 3" x 12' 6061-T6 Aluminum	
Consumables - CNC Mill	311.19
CNC Mill - 304 Stainless Steel 3" x 1" x 12'	
Consumables - Laser Cutter	164.00
Laser Cutter - 1/8" x 12" x 24" Double Sided Wood Laminate Package (\$144 + \$20 ea. for shipping)	
Consumables - Laser Cutter	88.95
Laser Cutter - CerMark Tile and Glass Marking Spray (LMM6000 @ 45.00 per bottle) (\$.074 per sq./in)	
Consumables - Laser Cutter	78.75

Laser Cutter - TherMark Black Laser Marking Ink (LMM14 @ 75.00 per bottle) (\$.0875 per sq./in)	
Consumables - Laser Cutter	8.95
"Laser Cutter - Anodized Aluminum 12" x 24" .025"	
Consumables - Laser Cutter	0.90
"Laser Cutter - Anodized Aluminum Card Size per"	
Consumables - Laser Cutter	0.32
"Laser Cutter - Anodized Aluminum, 7/8" x 2.5" Perpetual Labels per"	
Consumables - Laser Cutter	7.50
"Laser Cutter - Black Steel 12" x 24"	
Consumables - Laser Cutter	7.85
"Laser Cutter - Colored Steel 12" x 24"	
Consumables - Laser Cutter	7.80
"Laser Cutter - 304 Stainless Steel 12" x 24" x .029"	
Consumables - Laser Cutter	6.82
"Laser Cutter - 430L Stainless Steel 12" x 24" x .015"	
Consumables - Laser Cutter	15.45
"Laser Cutter - Black Brass 12" x 24" x .020"	
Consumables - Laser Cutter	24.00
Laser Cutter - Rectangular Flat Glass 1/16" x 24" x 24"	
Consumables - Laser Cutter	13.99
Laser Cutter - Marble Plaques 9" x 11-1/2" x 1/2"	
Consumables - Laser Cutter	8.00
"Laser Cutter - Clear Acrylic Plexiglass 12" x 24" x 1/16"	
Consumables - Laser Cutter	14.25
"Laser Cutter - Clear Acrylic Plexiglass 12" x 24" x 1/4"	
Consumables - Laser Cutter	23.75
"Laser Cutter - Clear Acrylic Plexiglass 12" x 24" x 1/2"	
Consumables - Laser Cutter	57.00
"Laser Cutter - Clear Acrylic Plexiglass 12" x 24" x 1"	
Consumables - Wood Shop	90.00
Wood Shop - Blades 8-1/4"	
Consumables - Wood Shop	9.85
Wood Shop - Router Bits (avg. ea.)	
Consumables - Wood Shop	86.00
Wood Shop - Table Saw Blades 10"	
Consumables - Wood Shop	102.45
Wood Shop - Miter Saw Blades 10"	
Consumables - Wood Shop	18.56
Wood Shop - Sanding Belts	
Consumables - Wood Shop	6.63
Wood Shop - Sanding Disc	
Consumables - Wood Shop	10.65
Wood Shop - Buffing Wheels	
Consumables - Wood Shop	82.60
Wood Shop - Vertical Band Saw Blades 8tpi and 12tpi (82.60 ea.)	
Consumables - Wood Shop	24.92
Wood Shop - Plywood 1/4" x 4' x 8'	

Consumables – Wood Shop	31.95	Metal Shop – Aluminum 6061-T4 Sheet 4' x 12' x .063" (14 gage)	
Wood Shop – Plywood 1/2" x 4' x 8'		Consumables – Metal Shop	312.00
Consumables – Wood Shop	39.98	Metal Shop – Aluminum 6061-T4 Sheet 4' x 12' x .125" (8 gage)	
Wood Shop – Plywood 3/4" x 4' x 8'		Consumables – Metal Shop	341.00
Consumables – Wood Shop	14.93	Metal Shop – Aluminum 7075-T6 Sheet .063" (14 gage)	
Wood Shop – Plywood, Oak 1/2" x 2" x 4"		Consumables – Metal Shop	682.00
Consumables – Wood Shop	16.47	Metal Shop – Aluminum 7075-T6 Sheet 4' x 12' x .125" (8 gage)	
Wood Shop – Plywood, Birch 3/4" x 2" x 4"		Consumables – Metal Shop (per foot)	67.00
Consumables – Wood Shop	3.16	Metal Shop – Aluminum 2024-T3 Plate 1/2" x 12" x (per foot)	
Wood Shop – Pine, 2" x 4" x 8'		Consumables – Metal Shop (per foot)	13.00
Consumables – Wood Shop	10.34	Metal Shop – Aluminum 2024-T3 Plate 1" x 12" x (per foot)	
Wood Shop – Pine, 1" x 8" x 8'		Consumables – Metal Shop (per foot)	31.00
Consumables – Wood Shop	5.92	Metal Shop – Aluminum 6061-T6 Plate 1/2" x 12" x (per foot)	
Wood Shop – Pine, 2" x 6" x 8'		Consumables – Metal Shop (per foot)	59.00
Consumables – Wood Shop	15.27	Metal Shop – Aluminum 6061-T6 Plate 1" x 12" x (per foot)	
Wood Shop – Pine, 2" x 10" x 12'		Consumables – Metal Shop (per foot)	115.00
Consumables – Wood Shop	11.72	Metal Shop – Aluminum 6061-T6 Plate 2" x 12" x (per foot)	
Wood Shop – Red Oak Board, 1" x 8" x 2'		Consumables – Metal Shop (per foot)	46.00
Consumables – Wood Shop	20.73	Metal Shop – Aluminum 7075-T6 Plate 1/2" x 12" x (per foot)	
Wood Shop – Redwood 2" x 4" x 12'		Consumables – Metal Shop (per foot)	83.00
Consumables – Wood Shop	9.53	Metal Shop – Aluminum 7075-T6 Plate 1" x 12" x (per foot)	
Wood Shop – Pine, 1" x 1"		Consumables – Metal Shop (per foot)	165.00
Consumables – Wood Shop	9.53	Metal Shop – Aluminum 7075-T6 Plate 2" x 12" x (per foot)	
Wood Shop – Pine, 1" x 2"		Consumables – Metal Shop (per foot)	19.00
Consumables – Wood Shop	11.98	Metal Shop – Aluminum 6061-T4 Round Tube 1/2" x .06" wall x (per foot)	
Wood Shop – Oak, 1" x 1"		Consumables – Metal Shop (per foot)	3.00
Consumables – Wood Shop	11.98	Metal Shop – Aluminum 6061-T4 Round Tube 1" x .125" wall x (per foot)	
Wood Shop – Oak, 1" x 2"		Consumables – Metal Shop (per foot)	1.25
Consumables – Wood Shop	5.92	Metal Shop – Aluminum 6061-T4 Angle 1" x 1" x .125" thick x (per foot)	
Wood Shop – Pine 2" x 6" x 8'		Consumables – Metal Shop (per foot)	3.50
Consumables – Wood Shop	15.30	Metal Shop – Aluminum 6061-T4 Angle 1/2" x 1/2" .0625" thick x (per foot)	
Wood Shop – Douglas Fir 4" x 4" x 8'		Consumables – Metal Shop	16.60
Consumables – Metal Shop	34.08	Metal Shop – A36 HR Steel, Square Tube, 1" x 1" x .065: wall x 20'	
Metal Shop – 2024-T3 Aluminum 1/2' x 9" x 16"		Consumables – Metal Shop	8.00
Consumables – Metal Shop	849.66	Metal Shop – A36 HR Steel, Square Tube, 1/2" x 1/2" .065" wall x 20'	
Metal Shop – Aluminum Plate 6061 2" x 24" x 24"		Consumables – Metal Shop	51.00
Consumables – Metal Shop	497.50	Metal Shop – A36 HR Steel, Plate 1/2" x 48" x 96"	
Metal Shop – Aluminum Plate 6061 3" x 24" x 24"		Consumables – Metal Shop	103.00
Consumables – Metal Shop	82.00	Metal Shop – A36 HR Steel, Plate 1" x 96" x 240"	
Metal Shop – Aluminum 2024-T3 Sheet .032" (20 gage)		Consumables – Metal Shop	306.00
Consumables – Metal Shop	194.00	Metal Shop – A36 HR Steel, Plate 2" x 96" x 240"	
Metal Shop – Aluminum 2024-T3 Sheet .040" (18 gage)			
Consumables – Metal Shop	306.00		
Metal Shop – Aluminum 2024-T3 Sheet 4' x 12' .063" (14 gage)			
Consumables – Metal Shop	418.00		
Metal Shop – Aluminum 2024-T3 Sheet .090" (11 gage)			
Consumables – Metal Shop	530.00		
Metal Shop – Aluminum 2024-T3 Sheet 4' x 12' x .125" (8 gage)			
Consumables – Metal Shop	642.00		
Metal Shop – Aluminum 2024-T3 Sheet .25" (3 gage)			
Consumables – Metal Shop	152.00		

Consumables - Metal Shop	12.20
Metal Shop - A36 HR Steel, 90 Angle, 1" x 1" x .125 x 20'	
Consumables - Metal Shop	10.00
Metal Shop - A36 HR Steel, 90 Angle, 1/2" x 1/2" x .0625 x 20'	
Consumables - Metal Shop (per foot)	23.63
Metal Shop - 4130 Steel Square Tube, 1" x 1" x .065 wall x (per foot)	
Consumables - Metal Shop (per foot)	17.75
Metal Shop - 4130 Steel Square Tube, 1/2" x 1/2" x .035 wall x (per foot)	
Consumables - Metal Shop (per foot)	12.70
Metal Shop - 4130 Steel Round Tube, 1/2" x .058 wall x (per foot)	
Consumables - Metal Shop (per foot)	17.80
Metal Shop - 4130 Steel Round Tube, 1" x .120 wall x (per foot)	
Consumables - Metal Shop (per foot)	8.90
Metal Shop - 4130 Steel Round Bar, 1" x (per foot)	
Consumables - Metal Shop (per foot)	27.75
Metal Shop - 4130 Steel Round Bar, 2" x (per foot)	
Consumables - Metal Shop (per foot)	62.08
Metal Shop - 4130 Steel Plate, 1/2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	95.00
Metal Shop - 4130 Steel Plate, 1" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	156.00
Metal Shop - 4130 Steel Plate, 2" x 12" x (per foot)	
Incubation Program Pro Membership	300.00
Incubation Program Co-Working Membership	150.00
Incubation Program Walk-In Membership	45.00
Regional Outreach Lab access - Hourly Rate (per hour)	45.00
Hourly Rate to access Lab - 8 hours between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday (includes all specialized equipment and tools). Includes common areas.	
Lab access - Daily Rate (per day)	100.00
Daily Rate to access Lab - 8 hours between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday (includes all specialized equipment and tools). Includes common areas.	
Co-working Space (one-seat) - Monthly (per month)	100.00
Monthly access to one co-working space only. Includes common areas.	
Co-working Space (one seat) - Hourly Rate (per hour)	15.00
Hourly access to one co-working space only. Includes common areas.	
Co-working Space (one seat) - Daily Rate (per day)	25.00
Daily access to one co-working space only. Includes common areas.	

Conference/Training Room Access - Monthly (per month)	200.00
Monthly access to Conference & Training Rooms (up to 5 days per month).	
Conference/Training Room Access - Hourly (per hour)	25.00
Hourly access to Conference & Training Rooms	
Conference/Training Room Access - Daily (per day)	100.00
Daily access to Conference & Training Rooms	
Consumables - FOCUS 250MC 3D Printer (per cubic inch/print)	2.31
FOCUS 250MC 3D Printer - P430 ABS Modeling Cartridges (All Colors) per cubic inch	
Consumables - FOCUS 250MC 3D Printer (per cubic inch/print)	4.46
Fortus 250MC 3D Printer - SR-30 Soluble Support Cartridge per cubic inch	
Consumables - FOCUS 250MC 3D Printer (per fee/print)	1.50
Fortus 250MC 3D printer-Base fee per print (solution, tip replacement, bases)	
Regional Outreach Seminar: Outside speakers - all day event	225.00
Regional Outreach Seminar: Outside speakers - all day event (early bird)	150.00
Regional Outreach 4-8 hour seminar/workshop	75.00
Regional Outreach 4-8 hour seminar / workshop	50.00
Regional Outreach 4 - 8 hour seminar/workshop	25.00
Regional Outreach 2-4 hour seminar/workshop	25.00
Regional Outreach 1-4 hour seminar/workshop	10.00
SBIR/STTR Assistance Center (SSAC) Search Fee	75.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop	75.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop: non-client	50.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop: client	25.00
SBIR/STTR Assistance Center (SSAC) 2-4 hour seminar/workshop	25.00
SBIR/STTR Assistance Center (SSAC) 1-4 hour seminar/workshop	10.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event	225.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (early bird)	150.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (search client)	100.00

USTAR ADMINISTRATION

Project Management & Compliance

CommunityGrants App User - State of Utah Executive Branch Agencies (per User)	72.00
CommunityGrants App User - State of Utah Executive Branch Agencies (per User)	
CommunityGrants App User - Tier 1 (per User)	480.00
CommunityGrants App User - Tier 1 (per User)	
CommunityGrants App User - Tier 2 (per User)	420.00
CommunityGrants App User - Tier 2 (per User)	
CommunityGrants App User - Tier 3 (per User)	360.00
CommunityGrants App User - Tier 3 (per User)	
CommunityGrants App User - Tier 4 (per User)	300.00
CommunityGrants App User - Tier 4 (per User)	
CommunityGrants App User - Tier 5 (per User)	240.00
CommunityGrants App User - Tier 5 (per User)	
CommunityGrants Customer Portal - 100 Members (per 100 Members)	3,000.00
CommunityGrants Customer Portal - 100 Members (per 100)	
CommunityGrants Customer Community - Min. 100 Members (per 100 Members)	900.00
CommunityGrants Customer Community - Minimum - 100 Members (per 100 Members)	
CommunityGrants Customer Community - Min. 500 Members (per 100 Members)	2,000.00
CommunityGrants Customer Community - Minimum - 500 Member (per 100)	
CommunityGrants Customer Community-Wholesale- 100 Members (per 100 Members)	1,200.00
CommunityGrants Customer Community - Wholesale - 100 Members (per 100)	
CommunityGrants Customer Community-Wholesale- 500 Members (per 100 Members)	2,400.00
CommunityGrants Customer Community - Wholesale - 500 Members (per 100)	
CommunityGrants Customer Community - Retail - 100 Members (per 100 Members)	1,800.00
CommunityGrants Customer Community - Retail - 100 Members (per 100)	
CommunityGrants Customer Community - Retail - 500 Members (per 100 Members)	3,720.00
CommunityGrants Customer Community - Retail - 500 Members (per 100)	

SOCIAL SERVICES**DEPARTMENT OF HEALTH****CHILDREN'S HEALTH
INSURANCE PROGRAM**

Quarterly Premium	
Plan B	30.00
138%-150% of Poverty Level	
Plan C	75.00
150%-200% of Poverty Level	
Late	15.00

DISEASE CONTROL AND PREVENTION

Clinical and Environmental Laboratory Certification Programs	
Parameter Category Fees charge for each testing act	
Atomic Absorption/Atomic Emission	300.00
Radiological chemistry - Alpha spectrometry	200.00
Radiological chemistry - Beta	200.00
Calculation of Analytical Results	50.00
Organic Clean Up	100.00
Toxicity/Synthetic Extractions Characteristics Procedure	200.00
Radiological chemistry - Gamma	200.00
Gas Chromatography	
Simple	300.00
Complex	600.00
Semivolatiles	500.00
Volatile	500.00
Radiological chemistry - Gas Proportional Counter	200.00
Gravimetric	100.00
High Pressure Liquid Chromatography	300.00
Inductively Coupled Plasma Metals Analysis	400.00
Inductively Coupled Plasma Mass Spectrometry	500.00
Ion Chromatography	200.00
Ion Selective Electrode base methods ...	100.00
Radiological chemistry - Liquid Scintillation	200.00
Metals Digestion	100.00
Simple Microbiological Testing	100.00
Complex Microbiological Testing	300.00
Organic Extraction	100.00
Physical Properties	100.00
Titrimetric	100.00
Spectrometry	200.00
While Effluent Toxicity	600.00
Environmental Laboratory Certification Certification Clarification	

Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.

Annual certification fee (chemistry and/or microbiology)
 Utah laboratories 825.00
 Out-of-state laboratories 5,000.00
 Plus reimbursement of all travel expenses
 National Environmental Accreditation Program (NELAP) recognition 825.00
 Certification change 100.00
 Performance Based Method Review - per method fee 250.00
 Primary Method Addition for Recognition Laboratories 1,000.00

Epidemiology
 Utah Statewide Immunization Information System Non-Financial Contributing Partners Match on Immunization Records in Database (per record) 12.00
 File Format Conversion (per hour) 30.00

General Administration
 These fees apply for the entire Division of Disease Control and Prevention
 Laboratory General
 Fee Discounts for Large Volume Customers
 High volume customers may receive discounts on individual testing fees. Tests available for discount are listed on the laboratory's posted Fee Schedule at www.health.utah.gov/lab.
 Discounts Reflected on Invoices
 The discounts will be reflected on the invoices of customers that meet established volume criteria.
 Discount Levels Clarified
 The discount levels are: 5% for customers spending more than \$1,000 per month, 12% for customers spending more than \$7,500 per month, and 25% for customers spending more than \$15,000 per month.
 Emergency Waiver
 Under certain conditions of public health import (e.g., disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.
 Handling
 Total cost of shipping and testing of referral samples to be rebilled to customer (per Referral lab's invoice)
 Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample
 per sample, per each reanalysis

Health Promotion
 Baby Your Baby Program
 Health Keepsake books
 Non-adapted version
 Non-adapted Regular Version (per copy) 5.00
 Adapted version
 Adapted Customized Version (per copy) 6.50

Laboratory Operations and Testing
 Infectious Disease
 Immunology
 Hepatitis
 Anti-Hepatitis B Antibody 22.91

Chemistry

Drinking Water Tests
 Metals
 Standard Metals
 Environmental Protection
 Agency 200.8 - Magnesium 15.06
 Environmental Protection
 Agency 200.8 - Iron 15.06
 Environmental Protection
 Agency 200.8 - Potassium 15.06
 Environmental Protection
 Agency 200.8 - Strontium 15.06
 Environmental Protection
 Agency 200.8 Digestion 15.06
 Environmental Protection
 Agency 200.8 15.06

Inorganics
 Lachat Total Nitrogen 25.00

Water Bacteriology
 Standard method 2540C/EPA 160.1
 Solids, Total Dissolved (TDS) 16.50
 Environmental Protection
 Agency 325.2 Chloride 12.00

Metals
 Standard Metals
 Environmental Protection
 Agency 200.8 Cobalt 15.06
 Environmental Protection
 Agency 200.8 Vanadium 15.06

Water Bacteriology
 Environmental Protection
 Agency 405.1
 Carbonatious Biochemical/
 Soluble Oxygen Demand 33.00
 Environmental Protection
 Agency 110.2 Color 12.00
 Environmental Protection
 Agency 546 Total Microcystines ... 128.00

Solid and Hazardous Waste Organics Tests
 Organics
 Environmental Protection
 Agency 624 Purgeable Volatiles ... 220.50

Drinking Water Tests
 Metals
 Standard Metals
 Environmental Protection
 Agency Method 200.8 15.06

Unregulated Contaminated
 Monitoring Regulations 4
 Organics
 Environmental Protection Agency
 525.3 Semivolatile Organics 190.00
 Environmental Protection Agency
 552.3 Haloacetic acids/dalapon ... 185.00
 Environmental Protection Agency
 530 Semivolatile CCL3
 compounds 155.00
 Environmental Protection
 Agency 541 Solvents 190.00
 Environmental Protection Agency
 544 Microcystins/Nodularin 200.00
 Environmental Protection Agency
 545 Cylindrospermopsin/
 Anatoxin-a 200.00

Inorganics
 Standard Method 5310B Total
 Organic Carbon 22.00

Environmental Protection		pH (Test of acidity or	
Agency 300.1 BROMIDE	27.50	alkalinity) 150.1	11.00
Infectious Disease		Sulfate 375.2	16.50
Next Generation Sequencing		Turbidity 180.1	11.00
Bacterial Sequencing	107.16	Ultraviolet Absorption Standard	
Bacterial Sequencing Analysis	16.83	Method 5910B	33.00
Bacterial Sequencing and		Total Organic Carbon Standard	
Identification	108.59	Method 5910B	22.00
Bacterial Sequencing, Identification,		Carboxylic Acids (Oxalate,	
Analysis	122.43	Formate, Acetate)	42.00
Immunology		Metals	
Hepatitis		Standard Metals	
Anti-Hepatitis B Antigen	22.91	Mercury 245.1 - may include a	
C (Anti-Hepatitis C Virus)		digestion fee	27.50
Antibody	28.00	Selenium by Selenium Hydride -	
HIV (Human Immunodeficiency Virus)		Atomic Absorption -	
1/2 and O, Antigen/Antibody		Standard Method 3114C -	
Combo	35.00	may include a digestion fee	42.00
Supplemental Testing		EPA 200.8 Aluminum	15.06
(HIV-1/HIV-2 differentiation)	42.00	Environmental Protection	
Hantavirus	40.00	Agency 200.8 Antimony	15.06
Syphilis		Environmental Protection	
Immunoglobulin G (IgG) Antibody		Agency 200.8 Arsenic	15.06
(including reflex Rapid		Environmental Protection	
Plasma Reagin titer)	13.00	Agency 200.8 Barium	15.06
TP-PA (Treponema Pallidum -		Environmental Protection	
Particle Agglutination)		Agency 200.8 Beryllium	15.06
Confirmation	26.00	Environmental Protection	
Quantiferon		Agency 200.8 Cadmium	15.06
Quantiferon Gold	100.00	Environmental Protection	
Virology		Agency 200.8 Chromium	15.06
Herpesvirus (Herpes Simplex Virus-1, Herpes		EPA 200.8 Copper	15.06
Simplex Virus-2, Varicella Zoster Virus)		Environmental Protection	
Detection and Differentiation by Polymerase		Agency 200.8 Lead	15.06
Chain Reaction	65.00	EPA 200.8 Manganese	15.06
Rabies - Not epidemiological		EPA 200.8 Molybdenum	15.06
indicated or pre-authorized	180.00	Environmental Protection	
Influenza PCR (Polymerase Chain		Agency 200.8 Nickel	15.06
Reaction)	150.00	Environmental Protection	
Chlamydia trachomatis and		Agency 200.8 Selenium	15.06
Neisseria gonorrhoeae detection		Environmental Protection	
by nucleic acid testing	30.00	Agency 200.8 Silver	15.06
Bacteriology		Environmental Protection	
Mycobacteriology		Agency 200.8 Thallium	15.06
Culture	100.00	EPA 200.8 Zinc	15.06
Mycobacterium tuberculosis		Environmental Protection	
susceptibilities (send out)	175.00	Agency 200.8 Boron	15.06
Identification and Susceptibility		EPA 200.8 Calcium	15.06
of Mycobacterium tuberculosis		Environmental Protection	
by Gene Expert	134.53	Agency 200.8 Magnesium	15.06
Newborn Screening, Laboratory		Environmental Protection	
Testing and Follow-up Services	115.07	Agency Sodium 200.8	15.06
Chemistry		Organic Contaminants	
Drinking Water Tests		Trihalomethanes Method 524.2	82.70
Inorganics		Haloacetic Acids Method 6251B	165.00
Alkalinity (Total) Standard		Volatile Organic Carbons 524.2	209.00
Method 2320B	10.00	Pesticides	
Bromate 300.1	27.50	Environmental Protection Agency	
Chlorate 300.1	27.50	Pesticide EPA 525.2	367.50
Chlorite 300.1	27.50	Herbicide 515.1	210.00
Chloride 300.0	19.00	Carbamate 531.1	185.00
Fluoride 300.0	19.00	Water Bacteriology	
Sulfate 300.0	19.00	Environmental Legionella	
Chromium (Hexavalent) 218.7	55.00	Standard Methods 9260 J	70.00
Cyanide 335.4	50.00	Liter of water	
EPA 353.2 Nitrate + Nitrite	13.20		
Perchlorate 314.0	55.00		

Water Microbiology (Drinking Water and Surface Water)	
Colilert Escherichia Coli 9223B	20.00
Heterotrophic Plate Count by 9215 B Pour Plate	13.00
Inorganic Surface Water (Lakes, Rivers, Streams) Tests	
Alkalinity for Bi-Carbonate, Additional Fee	1.00
Alkalinity for Carbonate, Additional Fee	1.00
Internal Review of Costs and Descriptions	
Alkalinity for Carbonate Solids, Additional Fee	1.00
Alkalinity for Carbon dioxide, Additional Fee	1.00
Alkalinity for Hydroxide, Additional Fee	1.00
Ammonia EPA 350.1	26.31
Biochemical Oxygen Demand (BOD) 5 day test 405.1	33.00
Chlorophyll A Standard Method 10200H - Chlorophyll-A	22.00
Phosphorus, Total 365.1	20.00
Silica 370.1	16.50
Total Dissolved Solids (TDS) Standard Method 3540C	16.50
Total Suspended Solids (TSS) 160.2	16.50
Specific Conductance 120.1	10.00
Sulfate 300.1	16.50
Sulfide 376.2	44.00
Solid and Hazardous Waste Organics Tests	
Benzene, Toluene, Ethylbenzene, Xylene, Naphthalene (BTEXN)	83.00
Total Petroleum Hydrocarbons 8015	138.00
Office of the Medical Examiner	
Autopsy	
Non-jurisdictional Case	2,500.00
Plus cost of body transportation	
External Examination, Non-jurisdictional Case	500.00
Plus transportation	
Use of Medical Examiner facilities and assistants	
Autopsies	500.00
External exams	300.00
Reports	
First Copy	No charge
Copy of Autopsy and Toxicology report.	
All other requestors and additional copies	35.00
Miscellaneous Office of Medical Examiner case file papers	
First copy	No charge
No charge to next of kin, treating physicians, and investigative or prosecutorial agencies.	
OME file copies - All other requestors and additional copies	35.00
Miscellaneous non-Office of Medical Examiner case file papers	
Non-OME case file - All requestors cost for copies	50.00
Administration costs to review, prepare and authorize any non-OME documents to be released to requestor.	

Cremation Authorization	
Review and authorize	200.00
\$10.00 per permit payable to Vital Records for processing.	
Court for Medical Examiner	
Preparation, consultation and appearance; Portal to portal expenses including travel costs and waiting time to improve/provide adequate compensation to State of Utah for services provided by State employees	
Criminal cases out of state (per hour)	500.00
Non-jurisdictional criminal and all civil cases (per hour)	500.00
Consultation on non-Medical Examiner cases (per hour)	500.00
Photographic, Slide, and Digital Services	
Glass Slides	20.00
Digital Image	
X-ray from Digital Source - Flat fee per X-ray image	10.00
Copied from Digital source, flat fee for up to 30 requested images (per image)	10.00
Copied from Digital source, per image cost for request over 30 images	1.00
Copied from color slide negatives	5.00
Use of Tissue Harvest Room for Acquisition	
Skin Graft	132.83
Bone	265.65
Heart Valve	69.30
Eye	34.65
Saphenous vein	69.30
Body Storage	
Daily charge for use of Medical Examiner Storage Facilities	30.00
Beginning 24 hours after notification that body is ready for release.	
Biologic samples requests	
Handling and storage of requested samples by outside sources	25.00

EXECUTIVE DIRECTOR'S OPERATIONS

Adoption Records Access	
Specialized Services	
Birth Parent Information Registration	25.00
Adoption Records Access Fee	25.00
Adoption Records Amendment Fee	10.00
Center for Health Data and Informatics	
Data Access Base Fees	
Behavioral Risk Factor Surveillance System Standard Annual Limited Data Set	
Behavioral Risk Factor Surveillance System Standard Annual Limited Data Set	300.00
This fee is to compensate for staff costs associated with preparation of research data sets and data dictionaries for Behavioral Risk Factor Surveillance System data. Note: The following discounts apply: Local Health Department (100% for any standard annual data set); State Agency, Student or Not for Profit Entity (75% for any standard annual data set); Researcher (50% for any standard annual data set); For Profit Entities pay full amount. Note that entities that have paid to	

have questions included on the BRFSS are excluded from this fee as their payment includes receipt of data. Fee will be \$300.00 for initial dataset. Each additional year dataset will be an additional \$150.00 (50% discount).

Healthcare Facilities Data Series

Fee Discounts - Healthcare Facilities

Data Series Note

Note: (1) The Following Discounts Apply: Healthcare Facility with <5,000 discharges (80% for Standard Limited Data Set); Healthcare Facility with 5,000-35,000 discharges (50% for Standard Limited Data Set); Prior Years (50% for any data set); Student (75% for any standard data set); Public University or Not for Profit Entity (50% for any standard data series); Geographic Subset (discount proportional to percent of records required from limited data set); Redistribution (30% for any data set); On-time Renewal (15% for any data series). (2) Pricing for client-based partnership: The development fee is 50% of the actual cost of data provided to the partner. The per-client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used.

Standard Annual Limited
Data Set 3,150.00
Standard Annual Research
Data set 6,000.00
Quarterly Preliminary Feeds 4,500.00
Federal Annual Database 4,500.00
Enhanced Annual Summary Report ... 500.00

All Payer Claims Data Standard

Limited Data Series

Fee Discounts - All Payer Claims

Data Standard Limited Data Series .. Note

Notes: (1) The following discounts apply: Contributing Carrier (50% for standard limited data sets); Student (75% for any standard data set); Single Use and Single User License (50% for any standard limited data set); Geographic Subset (discount proportional to percent of records required from limited data set); Redistribution (30% for any data set); On-time Renewal (15% for any data series). (2) Pricing for client-based partnership: The development fee is 50% of the actual cost of data provided to the partner. The per-client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used.

Single Year 8,000.00
Two Years 12,000.00
Three Years 16,000.00
Sample File 2,000.00
Two-Year Public Use File 4,000.00

All Payer Claims Data Standard

Research Data Series

Fee Discounts - All Payer Claims

Data Standard Research Data Series . Note

Note: The following discounts apply: Student (50% for any standard research data set); Single Use and Single User License (50% for any standard research data set); Redistribution (30% for any data set); On-time Renewal (15% for any data series)

Single Year 20,000.00
Two Years 30,000.00
Three Years 40,000.00
Special Purpose Series 4,000.00

Other Data Series and Licenses

Fee Discounts - Other Data Series

and Licenses Note

Note: The following discounts apply: Non-Contributing Carrier (50% for CAHPS Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); Public University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); On-time Renewal (15% for any data series)

Institutional License 150,000.00
HEDIS Data Set 1,575.00
CAHPS Data Set 1,575.00
CAHPS Survey Responses 2,000.00

Other Fees and Services

Custom data services (per hour) 88.00

Note: This hourly fee applies to all custom work, including data extraction analytics; aggregate patient-risk profiles for clinics, payers or systems; data management reprocessing; data matching; and creation of samples or subsets.

Additional Fields to create a custom

data set - (cost per field added) 225.00

Individual Information Extract

(per person) 100.00

Application Fee (non-refundable) 50.00

Note: application fees are non-refundable but may be credited towards a data fee if the application is approved.

Expedited Shipping Fee 15.00

Convenience Fee (for Credit or

Debit Card payment) Not to exceed 3%

Birth Certificate

Initial Copy 20.00

Additional Copies 10.00

Stillbirth 18.00

Affidavit 25.00

Book Copy of Birth Certificate 25.00

Adoption 60.00

Death Certificate

Initial Copy 30.00

The Legislature intends that for every initial copy of a Utah Death Certificate sold, \$12 shall be remitted to the Office of the Medical Examiner.

Additional Copies 10.00

Burial Transit Permit 7.00

Disinterment Permit 25.00

Death Certificate Reprint Fee 3.00

Specialized Services

Paternity Search (one hour minimum)	
(per hour)	18.00
Delayed Registration	60.00
Marriage and Divorce Abstracts	18.00
Legitimation	60.00
Death Research (one hour minimum)	
(per hour)	20.00
Death Notification Subscription	
Fee (organization less than or	
equal to 100,000 lives)	500.00
Death Notification Subscription	
Fee (organizations greater	
than 100,000 lives)	1,000.00
Death Notification Fee, per	
matched death	1.00
Court Order Name Changes	25.00
Court Order Paternity	60.00
Online Access to Computerized Vital	
Records (per month)	12.00
Utah Plant Extract Registry	200.00
Utah Plant Extract Registration	
Renewal	50.00
Ad-hoc Statistical Requests (per hour) ...	45.00
Delay of File Fee (charged for every	
birth/death certificate registered	
30 days or more after the event)	50.00
Expedite Fee	15.00
Expedited Shipping Fee	15.00
Online Convenience Fee	4.00
Online Identity Verification	1.39
Adoption Registry	25.00
Adoption Expedite Fee	25.00
Executive Director	
All the fees in this section apply for the entire	
Department of Health	
Clinic Fees Tied to Medicaid	
Reimbursement Levels	variable
<p>The Department of Health benchmarks many of its charges in its medical and dental clinics to Medicaid reimbursement rates. If the Legislature authorizes reimbursement increases during the General Session, then the Legislature authorizes a proportional increase in effected clinic fees.</p>	
Conference Registrations	100.00
Non-sufficient Check Collection Fee	20.00
Non-sufficient Check Service Charge	20.00
Testimony	
Expert Testimony Fee for those	
without a PhD/MD (per hour)	78.75
<p>Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs.</p>	
Expert Testimony Fee for those with	
a PhD/MD (per hour)	250.00
<p>Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs.</p>	
Government Records Access and Management Act (GRAMA)	
Mailing or shipping	
cost	Actual cost up to a \$100.00
Staff time for file search and/or information compilation	

Department of Technology	
Services (per hour)	70.00
For Department of Technology Services or programmer/analyst staff time.	
Department of Health (per hour)	35.00
For Department of Health staff time; first 15 minutes free, additional time.	
Copy	
11 x 8.5 Black and White (per page) ...	0.15
11x17 or color (per page)	0.40
Information on disk (per kilobyte)	0.02
Administrative Fee, 1-15 copies	25.00
Administrative Fee, each	
additional copy	1.00
Fax (per page)	0.50

FAMILY HEALTH AND PREPAREDNESS

Child Development	
Background Screening Card Replacement ...	5.00
<p>This fee will be assessed to child care licensing providers requesting a replacement background check card.</p>	
Background checks	18.00
Conditional Monitoring Inspections	
Center-based providers (per visit)	253.00
<p>Charge per extra visit begins with the second additional visit required due to non-compliance.</p>	
Home-based providers (per visit)	245.00
<p>Charge per extra visit begins with the second additional visit required due to non-compliance.</p>	
Annual License	
Annual Licensed Child Care	
Facility Base	31.00
<p>Plus the appropriate fee as listed below to any new or renewal license</p>	
Change in license or certificate during the license period more than twice a year	31.00
Child Care Center Facilities (per child) ...	1.75
Late Fee	Variable
<p>Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, \$15.50 plus \$0.75 per child in the requested capacity. For homes, \$15.50.</p>	
New Provider/Change in Ownership	
New Provider/Change in Ownership Applications for Child Care center facilities	200.00
<p>A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection. This fee will be due at the time of application.</p>	
Other	
Non-compliant facilities and additional inspections for non-compliant facilities	25.00
Children with Special Health Care Needs	
Evaluation of Speech	
92521 Fluency	170.00
Evaluation of Speech	
92522 Sound Production	170.00
92523 Sound Production w/ Evaluation of Language Comprehension	170.00

Special Otorhinolaryngologic Services	90804 Psychotherapy, face to face, 20-30 minutes	68.00
92524 Behavioral and Qualitative Analysis of Voice and Resonance	90806 Psychotherapy, face to face, 50 minutes	130.00
Physical Medicine and Rehabilitation Therapeutic Procedures	90846 Family Medical Psychotherapy, 30 minutes	90.00
97116 Gait training	90847 Family Medical Psychotherapy, conjoint 30 minutes	130.00
97112 Neuromuscular reeducation	90882 Environmental Intervention with Agencies, Employers	49.00
97542 Wheelchair Assessment fitting/training	90882-52 Environmental Intervention Reduced Procedures	23.00
97755 Assistive Technology Assessment	90885 Evaluation of hospital records	40.00
Office Visit, New Patient	90889 Preparation of reports	40.00
99201 Problem focused, straightforward	Physical and Occupational Therapy	
99202 Expanded problem, straightforward	97001 Physical Therapy Evaluation	90.00
99203 Detailed, low complexity	97002 Physical Therapy Re-evaluation	52.00
99204 Comprehensive, Moderate complexity	97003 Occupational Therapy Evaluation	90.00
99205 Comprehensive, high complexity	97004 Occupational Therapy Re-evaluation	52.00
Office Visit, Established Patient	97110 Therapeutic Physical Therapy	33.00
99211 Minimal Service or non-Medical Doctor	97530 Therapeutic Activity	40.00
99212 Problem focused, straightforward	97535 Self Care Management	30.00
99213 Expanded problem, low complexity	97760 Orthotic Management	38.00
99214 Detailed, moderate complexity	97762 Orthotic/prosthetic Use Management	38.00
99215 Comprehensive, high complexity	G9012 Wheelchair Measurement/ Fitting	312.00
Office Consultation, New or Established Patient	Ophthalmology	
99241 Problem focused, straightforward	92002 Exam and evaluation, intermediate, new patient	81.00
99242 Expanded problem focused, straightforward	92012 Exam and evaluation, intermediate, established patient	85.00
99243 Detailed exam, low complexity	92015 Determination of refractive state	51.00
99244 Comprehensive, moderate complexity	Audiology	
99245 Comprehensive, high complexity	92550 Tympanometry and Acoustic Reflex Threshold Testing	71.00
95974 Cranial Neurostimulation evaluation	92551 Audiometry, Pure Tone Screen	33.00
99354 Prolonged, face to face	92552 Audiometry, Pure Tone Threshold	36.00
First hour	92553 Audiometry, Air and Bone	44.00
99355 Prolonged, face to face	92555 Speech Audiometry threshold testing	28.00
Additional 30 minutes	92556 Speech Audiometry threshold/speech recognition testing	40.00
99358 Prolonged, non face to face	92557 Basic Comprehension, Audiometry	80.00
First hour	92567 Tympanometry	26.00
99359 Prolonged, non face to face	92568 Acoustic reflex testing, threshold	45.00
Additional 30 minutes	92570 Tympanometry and Acoustic Reflex Threshold	80.00
T1013 Sign Language oral interview	Acoustic Reflex Decay Testing	
Nutrition	92579 Visual reinforcement audiometry	57.00
97802 Medical Assessment	92579-52 Visual reinforcement audiometry, limited	47.00
97803 Reassessment	92582 Conditioning Play Audiometry	80.00
Psychology	92585 Auditory Evoked Potentials testing	125.00
96101 Testing	92587 Evoked Otoacoustic emissions testing	58.00
96102 Testing by technician	92590 Hearing Aid Exam	53.00
96103 Testing with computer		
96110 Developmental Testing		
96111 Extended Developmental Testing		
90791 Psychiatric Diagnostic Evaluation		
90792 Psychiatric Diagnostic Evaluation With Medical Services		

92591 Hearing Aid Exam, Binaural 108.00
 92592-52 Hearing aid check,
 monaural 31.00
 92593-52 Hearing aid check, binaural . . . 44.00
 92620 Evaluation of Central
 Auditory Function 87.00
 92621 Evaluation of Central
 Auditory Function 22.00
 Each additional 15 minutes
 V5008 Hearing Check, Patient Under 3

 Years Old 38.00
 V5257 Hearing Aid, Digital
 Monaural 2,000.00
 V5261 Hearing Aid, Digital
 Binaural 1,100.00
 V5264 Ear Mold Insert 75.00
 V5266 Hearing Aid battery 1.00
 BabyWatch / Early Intervention
 Monthly charges based on a sliding fee schedule
 From \$10 - \$200

**FAMILY HEALTH AND PREPAREDNESS DIVISION
SLIDING FEE SCHEDULE and CHIP**

Patient's Financial Responsibility (PFR) % of Federal Poverty Guideline	0%	0%	20%	40%	60%	100%	CHIP
	100%	0% to 133%	133% to 150%	150% to 185%	185% to 225%	>225%	200%
FAMILY SIZE .		MONTHLY FAMILY INCOME					
1	\$1,011.67	\$0.00 - \$1,345.52	\$1,345.53 - \$1,517.50	\$1,517.51 - \$1,871.58	\$1,871.59 - \$2,276.25	\$2,276.26 and up	\$2,023.33
2	\$1,371.67	\$0.00 - \$1,824.32	\$1,824.33 - \$2,057.50	\$2,057.51 - \$2,537.58	\$2,537.59 - \$3,086.25	\$3,086.26 and up	\$2,743.33
3	\$1,731.67	\$0.00 - \$2,303.12	\$2,303.13 - \$2,597.50	\$2,597.51 - \$3,203.58	\$3,203.59 - \$3,896.25	\$3,896.26 and up	\$3,463.33
4	\$2,091.67	\$0.00 - \$2,781.92	\$2,781.93 - \$3,137.50	\$3,137.51 - \$3,869.58	\$3,869.59 - \$4,706.25	\$4,706.26 and up	\$4,183.33
5	\$2,451.67	\$0.00 - \$3,260.72	\$3,260.73 - \$3,677.50	\$3,677.51 - \$4,534.58	\$4,534.59 - \$5,516.25	\$5,516.26 and up	\$4,903.33
6	\$2,811.67	\$0.00 - \$3,739.52	\$3,739.53 - \$4,217.50	\$4,217.51 - \$5,201.58	\$5,201.59 - \$6,326.25	\$6,326.26 and up	\$5,623.33
7	\$3,171.67	\$0.00 - \$4,218.32	\$4,218.33 - \$4,757.50	\$4,757.51 - \$5,867.58	\$5,867.59 - \$7,136.25	\$7,136.26 and up	\$6,343.33
8	\$3,531.67	\$0.00 - \$4,697.12	\$4,697.13 - \$5,297.50	\$5,297.51 - \$6,533.58	\$6,533.59 - \$7,946.25	\$7,946.26 and up	\$7,063.33
Each Additional Family Member	\$360	133%	1.5	185%	225%	225%	200%

NOTE: This Division of Family Health and Preparedness sliding fee schedule is based on the Federal Poverty Guidelines published in the Federal Register January 13, 2018.

<https://www.federalregister.gov/documents/2018/01/18/2018-00814/annual-update-of-the-hhs-poverty-guidelines>. The fee scale will be changed in accordance with federal poverty guidelines, and will be updated when new guidelines are published by the Department of Health and Human Services, Office of the Secretary.

**FAMILY HEALTH AND PREPAREDNESS DIVISION
Baby Watch Early Intervention Program
2018-2019 Sliding Fee Schedule
Monthly Family Fee, Effective July 1, 2018**

FAMILY SIZE	Federal Poverty	100% Exempt	186% \$10.00	200% \$20.00	250% \$30.00	300% \$40.00
2	\$16,460.00	\$0.00 - \$30,615.59	\$30,615.60- \$32,919.99	\$32,290.00- \$41,149.99	\$41,150.00- \$49,379.99	\$49,380.00- \$65,839.99
3	\$20,780.00	\$0.00 - \$38,650.79	\$38,650.80- \$41,559.99	\$41,560.00- \$51,949.99	\$51,950.00- \$62,339.99	\$62,340.00- \$83,119.99
4	\$25,100.00	\$0.00 - \$46,685.99	\$46,686.00- \$50,199.99	\$50,200.00- \$62,749.99	\$62,750.00- \$75,299.99	\$75,300.00- \$100,399.99
5	\$29,420.00	\$0.00 - \$54,721.19	\$54,721.20- \$58,839.99	\$58,840.00- \$73,549.99	\$73,550.00- \$88,259.99	\$88,260.00- \$117,679.99
6	\$33,740.00	\$0.00 - \$62,756.39	\$62,756.40- \$67,479.99	\$67,480.00- \$84,349.99	\$84,350.00- \$101,219.99	\$101,220.00- \$134,959.99
7	\$38,060.00	\$0.00 - \$70,791.59	\$70,791.60- \$76,119.99	\$76,120.00- \$95,149.99	\$95,150.00- \$114,179.99	\$114,180.00- \$152,239.99
8	\$42,380.00	\$0.00 - \$78,826.79	\$78,826.80- \$84,759.99	\$84,760.00- \$105,949.99	\$105,950.00- \$127,139.99	\$127,140.00- \$169,519.99
9	\$46,700.00	\$0.00 - \$86,861.99	\$86,862.00- \$93,399.99	\$93,400.00- \$116,749.99	\$116,750.00- \$140,099.99	\$140,100.00- \$186,799.99
10	\$51,020.00	\$0.00 - \$94,897.19	\$94,897.20- \$102,039.99	\$102,040.00- \$127,549.99	\$127,550.00- \$153,059.99	\$153,060.00- \$204,079.99
11	\$55,340.00	\$0.00 - \$102,932.39	\$102,932.40- \$110,679.99	\$110,680.00- \$138,349.99	\$138,350.00- \$166,019.99	\$166,020.00- \$221,359.99
12	\$59,660.00	\$0.00 - \$110,967.59	\$110,967.60- \$119,319.99	\$119,320.00- \$149,149.99	\$149,150.00- \$178,979.99	\$178,980.00- \$238,639.99
13	\$63,980.00	\$0.00 - \$119,002.79	\$119,002.80- \$127,959.99	\$127,960.00- \$159,949.99	\$159,950.00- \$191,939.99	\$191,940.00- \$255,919.99
14	\$68,300.00	\$0.00 - \$127,037.99	\$127,038.00- \$136,599.99	\$136,600.00- \$170,749.99	\$170,750.00- \$204,899.99	\$204,900.00- \$273,199.99
15	\$72,620.00	\$0.00 - \$135,073.19	\$135,073.20- \$145,239.99	\$145,240.00- \$181,549.99	\$181,550.00- \$217,859.99	\$217,860.00- \$290,479.99
16	\$76,940.00	\$0.00 - \$143,108.39	\$143,108.40- \$153,879.99	\$153,880.00- \$192,349.99	\$192,350.00- \$230,819.99	\$230,820.00- \$307,759.99
17	\$81,260.00	\$0.00 - \$151,143.59	\$151,143.60- \$162,519.99	\$162,520.00- \$203,149.99	\$203,150.00- \$243,779.99	\$243,780.00- \$325,039.99
18	\$85,580.00	\$0.00 - \$159,178.79	\$159,178.80- \$171,159.99	\$171,160.00- \$213,949.99	\$213,950.00- \$256,739.99	\$256,740.00- \$342,319.99
Increment	+\$4,180	100%		2		

**Baby Watch Early Intervention Program
2018-2019 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2018**

FAMILY SIZE	Federal Poverty	400% \$50.00	500% \$60.00	600% \$80.00	700% \$100.00	800% \$120.00
2	\$16,640.00	\$65,840.00- \$82,299.99	\$83,300.00- \$98,759.99	\$98,760.00- \$115,219.99	\$115,220.00- \$131,679.99	\$131,680.00- \$148,139.99
3	\$20,780.00	\$83,120.00- \$103,899.99	\$103,900.00- \$124,679.99	\$124,680.00- \$145,459.99	\$145,460.00- \$166,239.99	\$166,240.00- \$187,019.99
4	\$25,100.00	\$100,400.00- \$125,499.99	\$125,500.00- \$150,599.99	\$150,600.00- \$175,699.99	\$175,700.00- \$200,799.99	\$200,800.00- \$225,899.99
5	\$29,420.00	\$117,680.00- \$147,099.99	\$147,100.00- \$176,519.99	\$176,520.00- \$205,939.99	\$205,940.00- \$235,359.99	\$235,360.00- \$264,779.99
6	\$33,470.00	\$134,960.00- \$168,699.99	\$168,700.00- \$202,439.99	\$202,440.00- \$236,179.99	\$236,180.00- \$269,919.99	\$269,920.00- \$303,659.99
7	\$38,060.00	\$152,240.00- \$190,299.99	\$190,300.00- \$228,359.99	\$228,360.00- \$266,419.99	\$266,420.00- \$304,479.99	\$304,480.00- \$342,539.99
8	\$42,380.00	\$169,520.00- \$211,899.99	\$211,900.00- \$254,279.99	\$254,280.00- \$296,659.99	\$296,660.00- \$339,039.99	\$339,040.00- \$381,419.99
9	\$46,700.00	\$186,800.00- \$233,499.99	\$233,500.00- \$280,199.99	\$280,200.00- \$326,899.99	\$326,900.00- \$373,599.99	\$373,600.00- \$420,299.99
10	\$51,020.00	\$204,080.00- \$255,099.99	\$255,100.00- \$306,119.99	\$306,120.00- \$357,139.99	\$357,140.00- \$408,159.99	\$408,160.00- \$459,179.99
11	\$55,340.00	\$221,360.00- \$276,699.99	\$276,700.00- \$332,039.99	\$332,040.00- \$387,379.99	\$387,380.00- \$442,719.99	\$442,720.00- \$498,059.99
12	\$59,660.00	\$238,640.00- \$298,299.99	\$298,300.00- \$357,959.99	\$357,960.00- \$417,619.99	\$417,620.00- \$477,279.99	\$477,280.00- \$536,939.99
13	\$63,980.00	\$255,920.00- \$319,899.99	\$319,900.00- \$383,879.99	\$383,880.00- \$447,859.99	\$447,860.00- \$511,839.99	\$511,840.00- \$575,819.99
14	\$68,300.00	\$273,200.00- \$341,499.99	\$341,500.00- \$409,799.99	\$409,800.00- \$478,099.99	\$478,100.00- \$546,399.99	\$546,400.00- \$614,699.99
15	\$72,620.00	\$290,480.00- \$363,099.99	\$363,100.00- \$435,719.99	\$435,720.00- \$508,339.99	\$508,340.00- \$580,959.99	\$580,960.00- \$653,579.99
16	\$76,940.00	\$307,760.00- \$384,699.99	\$384,700.00- \$461,639.99	\$461,640.00- \$538,579.99	\$538,580.00- \$615,519.99	\$615,520.00- \$692,459.99
17	\$81,260.00	\$325,040.00- \$406,299.99	\$406,300.00- \$487,559.99	\$487,560.00- \$568,819.99	\$568,820.00- \$650,079.99	\$650,080.00- \$731,339.99
18	\$85,580.00	\$342,320.00- \$427,899.99	\$427,900.00- \$513,479.99	\$513,480.00- \$599,059.99	\$599,060.00- \$684,639.99	\$684,640.00- \$770,219.99
Increment	+\$4,180	400%				

**Baby Watch Early Intervention Program
2018-2019 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2018**

FAMILY SIZE	Federal Poverty	900% \$140.00	1000% \$160.00	1100% \$180.00	1200% \$200.00
2	\$16,460.00	\$148,140.00- \$164,599.99	\$164,600.00- \$181,059.99	\$181,060.00- \$197,519.99	\$197,520.00
3	\$20,780.00	\$187,020.00- \$207,799.99	\$207,800.00- \$228,579.99	\$228,580.00- \$249,359.99	\$249,360.00
4	\$25,100.00	\$225,900.00- \$250,999.99	\$251,000.00- \$276,099.99	\$276,100.00- \$301,199.99	\$301,200.00
5	\$29,420.00	\$264,780.00- \$294,199.99	\$294,200.00- \$323,619.99	\$323,620.00- \$353,039.99	\$353,040.00
6	\$33,740.00	\$303,660.00- \$337,399.99	\$337,400.00- \$371,139.99	\$371,140.00- \$404,879.99	\$404,880.00
7	\$38,060.00	\$342,540.00- \$380,599.99	\$380,600.00- \$418,659.99	\$418,660.00- \$456,719.99	\$456,720.00
8	\$42,380.00	\$381,420.00- \$423,799.99	\$423,800.00- \$466,179.99	\$466,180.00- \$508,559.99	\$508,560.00
9	\$46,700.00	\$420,300.00- \$466,999.99	\$467,000.00- \$513,699.99	\$513,700.00- \$560,399.99	\$560,400.00
10	\$51,020.00	\$459,180.00- \$510,199.99	\$510,200.00- \$561,219.99	\$561,220.00- \$612,239.99	\$612,240.00
11	\$55,340.00	\$498,060.00- \$553,399.99	\$553,400.00- \$608,739.99	\$608,740.00- \$664,079.99	\$664,080.00
12	\$59,660.00	\$536,940.00- \$596,599.99	\$596,600.00- \$656,259.99	\$656,260.00- \$715,919.99	\$715,920.00
13	\$63,980.00	\$575,820.00- \$639,799.99	\$639,800.00- \$703,779.99	\$703,780.00- \$767,759.99	\$767,760.00
14	\$68,300.00	\$614,700.00- \$682,999.99	\$683,000.00- \$751,299.99	\$751,300.00- \$819,599.99	\$819,600.00
15	\$72,620.00	\$653,580.00- \$726,199.99	\$726,200.00- \$798,819.99	\$798,820.00- \$871,439.99	\$871,440.00
16	\$76,940.00	\$692,460.00- \$769,399.99	\$769,400.00- \$846,339.99	\$846,340.00- \$923,279.99	\$923,280.00
17	\$81,260.00	\$731,340.00- \$812,599.99	\$812,600.00- \$893,859.99	\$893,860.00- \$975,119.99	\$975,120.00
18	\$85,580.00	\$770,220.00- \$855,799.99	\$855,800.00- \$941,379.99	\$941,380.00- \$1,026,959.99	\$1,026,960.00
Increment	+\$4,180.00	900%			

NOTE: This Division of Family Health and Preparedness sliding fee schedule is based on the Federal Poverty Guidelines published in the Federal Register January 13, 2018. <https://www.federalregister.gov/documents/2018/01/18/2018-00814/annual-update-of-the-hhs-poverty-guidelines> The fee scale will be changed in accordance with federal poverty guidelines and will be updated when new guidelines are published by the Department of Health and Human Services, Office of the Secretary.

Director's Office

These fees apply for the entire Division of Family Health and Preparedness

Background Screening Fee -
Public Safety 37.00

This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by Family Health and Preparedness are passed through to Public Safety.

Fingerprints 12.00
Emergency Medical Services and Preparedness
Registration and Licensure

License/License Renewal Fee
Course Coordinator Extension Fee 40.00

Dispatch

Inspection
Dispatch 100.00
Inspection of Dispatch

Quality Assurance and Designation Review

Stroke Center Designation/
Redesignation 150.00

Stroke Designation/Redesignation

Registration and Licensure

License/License Renewal Fee
License Renewal Quality Assurance Review
Fee for All Levels Except Emergency Medical
Dispatcher 40.00

License Renewal Quality Assurance
Review Fee for All Levels Except Emergency
Medical Dispatcher

License Renewal Quality Assurance Review
Fee for Emergency Medical Dispatcher 25.00

License Renewal Quality Assurance
Review Fee for Emergency Medical
Dispatcher

Training Officer Extension Fee 40.00

Quality Assurance Designation Review

Air Ambulance Quality Assurance
Review 5,000.00

Registration and Licensure

License Fee
Blood Draw Permit 35.00

Initial and Reciprocity Quality
Assurance Review Fee for All
Levels Late Fee 75.00

License/License Renewal Fee

Initial, Reciprocity Quality Assurance Review
Fee for All Levels Except Emergency Medical
Dispatcher 60.00

Initial, Reciprocity, and Recertification
Quality Assurance Review Fee for All Levels
Except Emergency Medical Dispatcher
Initial, Reciprocity Quality Assurance Review
Fee for Emergency Medical

Dispatcher 45.00

ID Card Replacement 10.00

Decal for purchase for All Levels 2.00

Patches for purchase for All Levels 5.00

Course Audit Fee 40.00

Instructor Certification

Extension Fee 75.00

License Renewal Fee

Lapsed Certification 30.00

Course Request Fee

Course for All Levels 300.00

Late Course Request fee per Day 10.00

Ground Ambulance - Emergency

Medical Technician

Inspection

Quality Assurance Review

(per vehicle) 100.00

Advanced (per vehicle) 130.00

Interfacility Transfer Ambulance

Inspection

Emergency Medical Technician Quality

Assurance Review (per vehicle) 100.00

Advanced (per vehicle) 130.00

Paramedic

Inspection

Rescue (per vehicle) 165.00

Tactical Response (per vehicle) 165.00

Ambulance (per vehicle) 170.00

Interfacility Transfer Service

(per vehicle) 170.00

Fleet fee (per fleet) 3,200.00

Agency with 20 or more vehicles

Quick Response Unit

Inspection

Emergency Medical Technician Quality

Assurance Review (per vehicle) 100.00

Advanced (per vehicle) 100.00

Air Ambulance

Inspection

Advanced Air Ambulance

(per vehicle) 130.00

Specialized (per vehicle) 165.00

Out of State (per vehicle) 200.00

Emergency Medical Dispatch Center

(per center) 65.00

Quality Assurance Designation Review

Resource Hospital (per hospital) 150.00

Trauma Center Verification/Quality

Assurance Review 5,000.00

Trauma Designation Consultation

Quality Assurance Review 750.00

Focused Quality Assurance Review ... 3,000.00

Emergency Patient Receiving

Facility Re-designation 150.00

Emergency Patient Receiving Facility

Initial Designation 500.00

Quality Assurance Application Reviews

Newspaper Publications

Original Air Ambulance License 850.00

Original Ground Ambulance/Paramedic License Non Contested	850.00
Original Ambulance/Paramedic License Contested	Variable
Original Designation	135.00
Renewal Ambulance/Paramedic/Air License	135.00
Renewal Designation	135.00
Upgrade in Ambulance Service Level	125.00
Change in ownership/operator Non-contested	850.00
Contested	Up to actual cost
Change in geographic service area Non-contested	850.00
Contested	Up to actual cost
Quality Assurance Course Review Course Coordinator Seminar Registration	50.00
Seminar Registration Late	25.00
Emergency Medical Training and Testing Program Designation	125.00
Instructor Seminar Registration	150.00
Registration Late	25.00
None Conference Sponsor/Vendor	500.00
New Course Coordinator Course Coordination Certification	75.00
Course Coordination Registration Late	25.00
New Instructor Course Certification	150.00
Course Registration Late	25.00
New Training Officer Initial Certification	75.00
Course Registration Late	25.00
Pediatric Advanced Life Support Course	170.00
Education for Prehospital Professionals Course	170.00
Training Officer Seminar Registration	50.00
Seminar Registration Late	25.00
Training and Seminars Additional Lunch	15.00
Trainings and Seminars Course Quality Assurance Review Late	25.00
Less than 30 days Emergency Vehicle Operations Instructor Course	40.00
Medical Director's Course	50.00
Management/Leadership Seminar	150.00
Prehospital Trauma Life Support Course	175.00
Pediatric Advanced Life Support Course Renewal	85.00
Equipment Delivery Strike Team BLU-MED Mobile Field Response Tent Support	6,000.00
Pediatric Rental of pediatric course equipment to for-profit agency	150.00
Quality Assurance Course Review Pediatric	

Pediatric Education for Prehospital Professionals Course Renewal	85.00
Background Checks Name only	15.00
Fee	30.00
Data Pre-hospital Non-profits Users	800.00
Academic, non-profit, and other government users For-profit Users	1,600.00
Trauma Registry Non-profits Users	800.00
Academic, non-profit, and other government users For-profit Users	1,600.00
Health Facility Licensing and Certification Annual License Health Facilities base	260.00
A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.	
Facility Initial or Change of Ownership (per 100)	100.00
Direct Access Clearance System Initial Clearance	18.00
Facility Renewal	200.00
Contractor Access	100.00
Annual License Abortion Clinics	1,800.00
Two Year Licensing Base Plus the appropriate fee as listed below to any new or renewal license	
Health Care Facility	520.00
Every other year Health Care Providers Change Fee	
Health Care Providers	130.00
Charged to health care providers making changes to their existing license.	
Hospitals Hospital Licensed Bed	39.00
Nursing Care Facilities, and Small Health Care Facilities Licensed Bed	31.20
End Stage Renal Disease Centers Licensed Station	182.00
Freestanding Ambulatory Surgery Centers (per facility)	2,990.00
Birth Centers (per licensed unit)	520.00
Hospice Agencies	1,495.00
Home Health Agencies	1,495.00
Personal Care Agencies	1,000.00
Mammography Screening Facilities	520.00
Assisted Living Facilities Type I (per licensed bed)	26.00
Type II (per licensed bed)	26.00
The fee for each satellite and branch office of current licensed facility	260.00
Late Fee Within 1 to 14 days after expiration of license	50% of scheduled fee
Within 15 to 30 days after expiration of license	75% of scheduled fee
New Provider/Change in Ownership Applications for health care facilities	747.50

Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

Assisted Living and Small Health Care Type-N (nursing focus) Limited Capacity Applications: 325.00

Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.

Application Termination or Delay

If a health care facility application is terminated or delayed during the application process, a fee based on services rendered will be retained as follows:

On-site inspections 90% of total fee

Plan Review and Inspection

Hospitals

Number of Beds

Up to 16	3,445.00
17 to 50	6,890.00
51 to 100	10,335.00
101 to 200	12,870.00
201 to 300	15,470.00
301 to 400	17,192.50
Over 400, base	17,192.50
Over 400, each additional bed	37.50

In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.

Nursing Care Facilities and Small Health Care Facilities

Number of Beds

Up to 5	1,118.00
6 to 16	1,716.00
17 to 50	3,900.00
51 to 100	6,890.00
101 to 200	8,580.00

Freestanding Ambulatory Surgical

Facilities (per operating room) 1,722.50

Other Freestanding Ambulatory

Facilities (per service unit) 442.00

Includes Birthing Centers, Abortion Clinics, and similar facilities.

End Stage Renal Disease Facilities

(per service unit) 175.50

Assisted Living Type I and Type II

Number of Beds

Up to 5	598.00
6 to 16	1,196.00
17 to 50	2,762.50
51 to 100	5,167.50
101 to 200	7,247.50

Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost \$559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.

Remodels of Licensed Facilities

Hospitals, Freestanding Surgery

Facilities (per square foot) 0.29

All others excluding Home Health

Agencies (per square foot) 0.25

Each additional required on-site

inspection 559.00

Other Plan - Review Fee Policies Variable

If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be \$559.00 per inspection, plus mileage reimbursement at the approved state rate. A facility that uses plans and specifications previously reviewed and approved by the Department will be charged 60 percent of the scheduled plan review fee. Fifty-two cents per square foot will be charged for review of facility additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator. If a project is terminated or delayed during the plan review process, a fee based on services rendered will be retained as follows: Preliminary drawing review - 25% of the total fee. Working drawings and specifications review - 80% of the total fee. If the project is delayed beyond 12 months from the date of the State's last review the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Health Care Facility Licensing Rules Actual cost

Plus mailing

Certificate of Authority

Health Maintenance Organization

Review of Application 650.00

MEDICAID AND HEALTH FINANCING

Contracts

Provider Enrollment

Medicaid application fee for prospective or re-enrolling providers 600.00

MEDICAID SERVICES

Other Services

Health Clinics

99409 Alcohol, substance screening; 30+ minute intervention 60.00

99409 Alcohol, substance screening; 30+ minute intervention

57160 Fitting and insertion of pessary or other intravaginal support device ... 85.00

57160 Fitting and insertion of pessary or other intravaginal support device

57150 Irrigation of vagina and/or application of medicament for treatment of bacterial, parasitic, or fungoid disease 55.00

57150 Irrigation of vagina and/or application of medicament for treatment of bacterial, parasitic, or fungoid disease

G0397 Alcohol, substance screening; 30+ minute intervention	58.00	20600 Small Joint/Ganglion Fingers/Toes	50.00
G0397 Alcohol, substance screening; 30+ minute intervention		20610 Major Joint/Bursa Shoulder/Knee	104.00
G0396 Alcohol, substance screening; 15-30 minute intervention	30.00	20605 Intermediate Joint/Bursa Ankle/Elbow	52.00
G0396 Alcohol, substance screening; 15-30 minute intervention		211 Community Service	52.00
G0402 Welcome to Medicare Preventive Physical Exam	169.00	28190 Foreign Body Removal for Foot Subcutaneous	125.00
G0438 Annual Wellness Check Medicare New Patient	175.00	30901 Cauterize (Limited) for Control Nasal Hemorrhage/ Anterior/Simple	60.00
G0439 Annual Wellness Check Medicare Established Patient	120.00	36415 Venipuncture	6.00
Avulsion		44641 Excision for Malignant Lesion	131.00
11740 Toenail	26.00	46083 Incision for Thrombosed Hemorrhoid, External	104.00
11730 Nail Plate Single	68.00	46600 Anoscopy	23.00
11731 Nail Second	42.00	52000 Cystoscopy	125.00
11732 Nail Each Additional Nail	30.00	53670 Catheterization, Urinary, Simple	30.00
11750 Excision for Nail/Matrix Permanent Removal	175.00	Colposcopy	
11765 Wedge Excision of Skin of Nail Fold Ingrown	60.00	57421 Biopsy of Vagina/Cervix	156.00
Repair		57455 Cervix With Biopsy	156.00
99408 Alcohol, substance screening; 15-30 minute intervention	34.00	57456 Cervix With Electrocautery conization	146.00
99408 Alcohol, substance screening; 15-30 minute intervention		57511 Cryocautery Cervix for Initial or Repeat	83.00
57415 Removal of impacted vaginal foreign body	180.00	58300 Insertion of Intrauterine Device	104.00
57415 Removal of impacted vaginal foreign body		58301 Removal of Intrauterine Device	163.00
Simple		60001 Aspiration/Injection Thyroid Gland	81.00
12001 Superficial Wound 2.5 cm or Less	192.00	Removal Foreign Body, External	
12002 Wound 2.6-7.5 cm	203.00	65025 Eye, Superficial	173.00
12004 Wound 7.6-12.5 cm	133.00	65220 Eye, Corneal	215.00
12005 Wound 12.6-20.0 cm	166.00	69200 Auditory Canal without General Anesthesia	150.00
12011 Face/Ear/Nose/Lip 2.5 cm or Less	234.00	69210 Cerumen Removal/One or Both Ears	78.00
12032 Layer Closure Scalp/Extremities/ Trunk 2.6-7.5 cm	151.00	80048 Basic Metabolic Profile	6.00
12035 Layer Closure Scalp/Extremities/ Trunk 12.6-20 cm	227.00	80053 Metabolic Panel Labs	6.00
13120 Complex Scalp/Arms/Legs	146.00	Comprehensive	
16020 Burn Dress without Anesthesia Office/Hospital Small	35.00	80061 Lipid Panel Labs	6.00
16025 Burn Dress without Anesthesia Medical Face/ Extremities	68.00	80061 Quick Lipid Panel	6.00
Destruction		80076 Hepatic Function Panel	6.00
17000 Any Method Benign First Lesion	100.00	80100 Drug Screen for Multiple Drug Classes	26.00
17003 Add-on Benign/ Pre-malignant	47.00	80101 Drug Screen for Single Drug Class	26.00
17004 Benign Lesion 15 or More	182.00	80176 Xylocaine 0-55 cc	29.00
17110 Flat Wart for Up to 15	125.00	Urine Analysis	
17111 Flat Warts for 15 and More	150.00	81000 with Microscope	10.00
Malignant		81002	10.00
17260 Trunk/Arm/Leg 0.5 or Less	58.00	81003 Automated and without Microscope	10.00
17280 Lesion Face 0.5 cm Less	76.00	81025 Human Chorionic Gonadotropin	22.00
17281 Lesion Face 0.6-1	109.00	Urine	
20520 Foreign Body Removal	120.00	82043 Microalbumin	16.00
Simple		82055 Alcohol Screen	21.00
20550 Injection for Trigger Point Tendon/Ligament/Ganglion	57.00	82270 Hemocult	7.00
20552 Trigger Point Injection (TPI)	65.00	Feces Screening	
Arthrocentesis		82570 Creatinine	12.00
		82728 Ferritin	26.00

82948 Glucose for Blood, Regent Strip	6.00	90701 Diphtheria Tetanus Pertussis	42.00
82962 Glucose for Monitoring Device	6.00	90702 Diphtheria Tetanus	14.00
83036 Hemoglobin A1C (long-term blood sugar test)	23.00	90703 Tetanus	26.00
83540 Iron	31.00	90707 Measles Mumps Rubella	42.00
84443 Thyroid Stimulating Hormone Labs	10.00	90715 Adacel - Tetanus Diphtheria Vaccine	73.00
84460 Alanine Amino Test	15.00	90716 Varicella	8.00
85013 Hematocrit	5.00	90732 Pneumovax Shot	36.00
85025 Complete Blood Count Labs	5.00	90734 Meningitis	5.00
85610 Prothrombin Time	10.00	90744 Hepatitis B/Newborn- 18 Years	73.00
85651 Erythrocyte Sedimentation Test	11.00	90746 Hepatitis B 19+ Years	88.00
85652 Sedimentation Rate	11.00	Adult 90772 Injection	18.00
86308 Mononucleosis test	15.00	Therapeutic, Diagnosis 90805 Psychiatric Diagnosis Interview Follow-up Visit	68.00
86318 Helicobacter Pylori test	23.00	92552 Audiometry	19.00
86318 Quick Helicobacter Pylori test	23.00	93000 Electrocardiogram	36.00
86403 Monospot	18.00	93015 Cardiovascular Stress Test	130.00
85680 Purified Protein Derivative/ Tuberculosis Test	9.00	Treadmill 93926 Duplex Scan Limited Study	130.00
Culture 87060 Strep	17.00	93965 Doppler of Extremity	132.00
Bacterial 87070 Any Other Source	16.00	94010 Spirometry	52.00
87077 Incision and Drainage	16.00	94060 Spirometry with Bronchodilators	64.00
87081 Single Organism	14.00	94200 Peak Flow	21.00
87082 Presumptive, Pathogenic Organism Screen	16.00	94640 Intermittent Pause Pressure Breathing Device - Nebulizer Breathing	42.00
87086 Bacterial Urine	12.00	94760 Pulse Oximetry - Oxygen Saturation	10.00
87088 Bacterial Urine Identification and Quantification	12.00	95115 Injections for Allergy Only 1	15.00
87102 Fungal	16.00	95117 Injections for Allergy 2 or More	16.00
87106 Yeast	8.00	95860 Electromyogram 1	81.00
87110 Chlamydia	16.00	95861 Electromyogram 2	139.00
87220 Potassium Hydroxide for Wet Prep	10.00	95900 Nerve Conduction Velocity Motor	42.00
87804 Influenza A	23.00	95904 Nerve Conduction Velocity Sensory	35.00
Quick Test 87880 Strep	26.00	97035 Ultrasound	16.00
Quick Test 87880 Quick Strep for Test for Medicaid/Medicare	26.00	97110 Therapy	24.00
88147 Papanicolaou (PAP) Smear for Cervical or Vaginal	42.00	97124 Massage	13.00
88164 Cytopathology, Slides, Cervical or Vagina	26.00	97260 Manipulate for Spinal 1 Area	16.00
90471 Immunization Administration for One Vaccine	25.00	99050 After Hours	24.00
90472 Immunization Administration for Additional Vaccine	12.00	99058 Emergency Visit	36.00
90620 Supplemental Security Income Exam Initial Consult	133.00	99070 Supplies for Above and Beyond Customary	19.00
Immunization Hepatitis 90632 A for 19+ Years	78.00	99080 Form 20	88.00
90634 A for Pediatric- Adolescent	42.00	Disability Exam 99173 Visual Acuity Screening Test	10.00
90636 A and B Adult	90.00	New Patient 99201 Brief	47.00
90645 Haemophilus Influenza B	47.00	99201N Brief Night	47.00
90649 Gardasil Human Papillomavirus Vaccine	156.00	99202 Limited	81.00
90658 Influenza Virus Vaccine	21.00	99202N Limited Night	81.00
90669 Pneumococcal > 5 years old Only	104.00	99203 Intermediate	120.00
		99203N Intermediate Night	120.00
		99204 Extended	182.00
		99204N Extended Night	182.00
		99205 Comprehensive	229.00
		99205N Comprehensive Night	229.00
		Established Patient 99211 Brief	28.00
		99211N Brief Night	28.00
		99212 Limited	47.00

99212N Limited Night	47.00	J0170 Injection for Epinephrine	10.00
99213 Intermediate	73.00	J0290 Injection for Ampicillin	
99213N Intermediate Night	73.00	Sodium 500 mg	8.00
99214 Extended	110.00	J0540 Bicillin 1.2 million units	38.00
99214N Extended Night	110.00	J0696 Rocephin 250 mg	47.00
99215 Comprehensive	151.00	J0702 Injection for Celestone 3 mg	12.00
99215N Comprehensive Night	151.00	J0704 Injection for Celestone 4 mg	12.00
Consult With Another Physician		J0780 Compazine up to 10 mg	16.00
99241 History, Exam,		J0810 Solu Medrol 150 mg	21.00
Straightforward	36.00	J1000 Estradiol	12.00
99242 Expanded History		J1055 Depo-Provera	88.00
and Exam Straightforward	57.00	J1200 Benadryl up to 50 mg	10.00
99243 Detailed History, Exam	79.00	J1390 Estrogen	31.00
		J1470 Gamma Globulin 2 cc	21.00
Low Complexity		J1820 Insulin up to 100 units	10.00
99244 Comprehensive History,		J1885 Toradol 15 mg	21.00
Exam	99.00	J2000 Xylocaine 0-55 cc	5.00
Moderate Complexity		J2550 Phenergan up to 50 mg	10.00
99245 Office Consult for New or		J3130 Testosterone	31.00
Established Patient	426.00	J3301 Kenalog-10 Per 10 mg	31.00
99354 Prolonged Services for one Hour	73.00	J3401 Vistaril 25 mg	12.00
99361 Medical Conference by		J3420 Injection B-12	10.00
Physicians	52.00	J7300 Intrauterine copper	
Check		contraceptive	600.00
99381 New Patient Under 1	140.00	contraception	
99382 New Patient Age 1-4	145.00	J7302 Levonorgestrel-releasing	
99383 New Patient Age 5-11	150.00	intrauterine contraceptive	800.00
99384 Age 12-17	165.00	J7320 Hyalgan, Synvisc	281.00
99385 Age 18-20	160.00	Knee Injection	
99391 Under 1	125.00	J7620 Albuterol Per ml, Inhalation	
99392 Age 1-4	130.00	Solution Durable Medical Equipment	3.00
99393 Age 5-11	130.00	J7625 Albuterol Sulfate 0.5%/ml	
99394 Age 12-17	145.00	Inhalation Solution Administration	4.00
99395 Age 18-20	150.00	L3908 Wrist Splint	44.00
99396 Medical Evaluation for		Liver Function Test	6.00
Adult 40-64	155.00	Lipid	17.00
99397 Medical Evaluation for 65		PSATE0000 Prostate Specific	
Years and Over	170.00	Antigen Test	42.00
99402 Preventive Medicine		Residual Functional Capacity	
Counseling 30-44 Minutes	468.00	Questionnaire	52.00
99432 Newborn Normal Care -		S0020 Marcaine up to 30 ml	18.00
In Office	42.00	S9981 Medical Records	
A4460 Ace Wrap (per roll)	7.00	Copying Fee, Administration	6.00
A4550 Surgical Tray	42.00	Supplemental Security Insurance	
A4565 Sling	21.00	Exam	113.00
A4570 Splint	23.00	Thin Prep	140.00
Complete Blood Count	5.00	Thyroid Stimulating Hormone	19.00
Complete Metabolic Panel	6.00	Y4600 Injection for Pediatric	
Cornell Well Child Check Visits	36.00	Immunization Only	11.00
Form 21	73.00	10040 Acne Surgery	48.00
Disability Exam		Y9051 Records Sent to Case Worker	16.00
Federal Aviation Administration		Artificial Insemination 58321	250.00
Exam	52.00	Malignant lesion removal 0.5 cm	
G0008 Flu Shot Administration		or less 11600	120.00
for Medicare	8.00	Typhoid 90691	75.00
G0009 Injection Administration for		IV Monitoring each additional	
Pneumonia without Physician		hour 96361	20.00
for Medicare	4.00	76801 Ultrasound, pregnancy	
G0010 Hepatitis B Vaccine		uterus, first trimester	
Administration	5.00	trans-abdominal approach	130.00
G0101 Papanicolaou (PAP) with Breast		10006 Same Day Cancellation,	
Exam Cervical/Vaginal Screen	42.00	Established Patient	35.00
Medicare		10007 No Show Fee,	
G0107 Hemocult	10.00	Established Patient	35.00
G0179 Physician Re-certification		10008 No Show Fee, Established	
for Home Health	83.00	Patient, Endodontist Appointment	75.00
G0180 Physician Certification			
for Home Health	83.00		

10009 No Show Fee, Established Patient, Hospital Sedation	100.00	11404 3.1-4.0 cm	160.00
International Normalized Ratio home testing review G0250	8.00	11420 Scalp/Neck/Genital 0.5 or less	90.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes)	40.00	11421 Lesion 0.6-1.0 cm	125.00
A6402 Gauze, less than 16 square inch	1.00	11422 Subcutaneous/Neck/Genital/Feet 1.1-2.0 cm	140.00
58100 Colposcopy w/ or w/o endocervical sampling	130.00	11423 Cyst	150.00
76815 Ultrasound, pregnancy uterus, with image limited	100.00	11440 Benign Face/Ear/Eyelid 0.5cm/less	100.00
58110 Endometrial sampling in conjunction with colposcopy	65.00	11441 Benign Lesion Face/Ear/Eye/Nose 0.6-1.0 cm	125.00
31505 Laryngoscopy	70.00	11602 Malignant Trunk/Arm/Leg 1.1-2.0 cm	112.00
1000cc normal saline J7030	10.00	11604 3.1-4.0 cm	166.00
IV Monitoring 1st half hour 96360	60.00	Malignant	
Arterial Studies		11622 Lesion Scalp/Neck/Hand/Feet/Genital 1.1-2.0 cm	166.00
93923	182.00	11641 Face/Nose/Ear 0.6-1.0 cm	131.00
93924	221.00	11642 Face/Nose Ears 1.1-2.0 cm	172.00
93922	120.00	11720 Debridement for Nails 1-5	27.00
A6403 Gauze, 16-48 square inch	2.00	11721 Debridement for Nails 6 or More	55.00
96372 Injection administration	25.00	Family Dental Plan	
Wood filler/paste A6261	40.00	D1352 Preventive Resin Restoration in a Moderate to High Caries Risk Patient	30.00
Viscous Lidocaine J8499	5.00	D2940 Protective Restoration	50.00
Progesterone J2675	4.00	D2952 Post and Core in Addition to Crown	190.00
99188 App Topical Fluoride Varnish	20.00	D6930 Recement a Three Unit Bridge	65.00
76805 Ultrasound, pregnancy uterus, after first trimester trans-abdominal approach	150.00	D7530 Surgical Incision	240.00
99386 New patient well exam	185.00	D7910 Suture of Recent Small Wounds up to 5 cm	192.00
99387 New patient well exam	200.00	D9420 Hospital or Ambulatory Surgical Center Call	75.00
Incision and Drainage		D9440 After Hours Office Visit	66.00
10060 Abscess Simple/Single	68.00	D9910 Application of Desensitizing Medicament	20.00
10061 Complicated or Multiple	125.00	D9930 Treatment of Complications Preventive	65.00
10080 Pilonidal Cyst Simple	73.00	D1110 Prophylaxis-adult	61.00
10120 Incision and Removal Foreign Object-Simple	73.00	D1120 Prophylaxis-child	42.00
10140 Incision and Drainage of Cyst, Hematoma or Seroma	130.00	D1203 Topical application of fluoride excluding prophylaxis	20.00
10160 Puncture Aspiration of Abscess, Hematoma	52.00	D1206 Topical Fluoride Varnish; Therapeutic Application High Risk	23.00
Debridement		D1208 Topical Application of Fluoride	23.00
11000 Infected Skin up to 10%	57.00	D1351 Sealant (per tooth)	34.00
11040 Skin Partial Thickness	44.00	D4341 Periodontal Scaling and Root Planning Four or More Contiguous Teeth or Bounded Teeth Spaces, per Quadrant	188.00
11041 Skin Full Thickness	52.00	D4342 Periodontal Scaling and Root Planning 1-3 teeth, Per Quadrant	110.00
11042 Skin and Subcutaneous Tissue	110.00	D4355 Full mouth debridement	121.00
11044 Skin, Tissue, Muscle, Bone	218.00	D4910 Periodontal Maintenance	115.00
11100 Biopsy for Skin Lesion Subcutaneous	62.00	D4921 - Gingival Irrigation/Per Quadrant	5.00
11101 Biopsy for Skin Subcutaneous Each Separate/Additional Lesion	32.00	Oral Evaluation	
11200 Removal Skin Tags 1-15	105.00	D0120 Periodic	40.00
11201 Removal Skin tag any area, Each Add 10 Lesion	14.00	D0140 Limited	50.00
11300 Shave Biopsy for Epidermal/Dermal Lesion 1 Trunk-Neck	47.00	D0150 Comprehensive	52.00
11305 Shave Excision and Electrocautery	67.00	D0170 Re-evaluation - Limited, Problem Focused (Established Patient)	42.00
11310 Surgery by Electrocautery	42.00		
Excision			
Benign			
Trunk/Arm/Leg			
11400 Lesion 0.5cm or Less	90.00		
11401 Lesion 0.6-1cm	110.00		
11402 Lesion 1.1-2.0 cm	122.00		
11403 2.1-3.0 cm	142.00		

D0180 Comprehensive Periodontal Evaluation	44.00	2700 Fee, Dental - Crown, Rush Procedure	60.00
D0190 Screening of Patient	13.00	D2740 Crown, Porcelain/Ceramic Substrate	850.00
D0191 Assessment of Patient	13.00	D2750 Crown, Porcelain fused to High Noble Metal	850.00
D0210 Intraoral - complete series including Bitewings	88.00	D2751 Crown, Porcelain fused to Predominantly Base Metal	850.00
D0220 Intraoral periapical First film	17.00	D2752 Crown, Porcelain fused to Noble Metal	850.00
D0230 Intraoral periapical Additional film	13.00	D2751 Crown-porcelain fused to majority base metal	650.00
D0240 Intraoral Occlusal Radiographic Image	14.00	D2980 Crown Repair, By Report	120.00
D0270 Bitewing Cost of single film	17.00	D2920 Recement Crown	59.00
D0272 Bitewing Cost of two film	28.00	D2930 Refabricated stainless steel crown-primary	160.00
D0273 Bitewings - Three Films	32.00	D2931 Refabricated stainless steel crown-permanent	181.00
D0274 Bitewing Cost of four film	40.00	D2950 Core build-up	152.00
D0330 Panoramic Film	77.00	D2951 Pin retention (per tooth)	35.00
D9110 Palliative (Emergency) Treatment for Pain - Minor Procedure	72.00	D2954 Prefabricated post and core	193.00
Space Maintainer		D6240 Pontic, Porcelain fused to High Noble Metal	850.00
D1510 Fixed unilateral	204.00	D6245 Pontic, Porcelain/Ceramic	850.00
D1515 Fixed bilateral	269.00	D6740 Crown, Porcelain/Ceramic	850.00
D1520 Removable unilateral	245.00	D6242 Pontic, Porcelain fused to Noble Metal	850.00
D1525 Removable bilateral	346.00	D6750 Pontic, Porcelain fused to High Noble Metal	850.00
D1550 Recement	46.00	D6751 Pontic, Porcelain fused to Predominantly Base Metal	850.00
Amalgam		D6752 Pontic, Porcelain fused to Noble Metal	850.00
D2140 One surface	78.00	D6930 Recement Bridge	78.00
D2150 Two surface	102.00	Surgical Procedure	
D2160 Three surface	121.00	D4210 Gingivectomy or Gingivoplasty	360.00
D2161 4 or more surface	146.00	D7111 Coronal Remnants	74.00
Resin		D7140 Single tooth extraction	94.00
D2330 One surface, anterior	97.00	D7210 Surgical removal erupted tooth	167.00
D2331 Two surface, anterior	121.00	D7270 Tooth re-implantation with stabilization	187.00
D2332 Three surface, anterior	144.00	D7286 Biopsy of oral tissue	125.00
D2335 4 or more surface-can be incisal angle, anterior	172.00	D7410 Excision of benign tumor	218.00
D2390 Resin-Based Composite Crown, Anterior	224.00	D7510 Incision and drainage of abscess	126.00
D2391 One surface, posterior	108.00	D7960 Frenulectomy	178.00
D2392 Resin-Based Composite - Two Surfaces, Posterior	144.00	D9230 Nitrous sedation/inhalation	55.00
D2393 Resin-Based Composite - Three Surfaces, Posterior	174.00	D9248 Non-intravenous Conscious Sedation	120.00
D2394 Resin-Based Composite - Four or More Surfaces, Posterior	210.00	Denture	
Root Canal Therapy		D5110 Complete upper	884.00
D3310 Anterior	586.00	D5120 Complete lower	884.00
D3320 Bicuspid	685.00	D5130 Immediate upper	951.00
D3330 1st molar	841.00	D5140 Immediate lower	951.00
D3110 Pulp Cap-Direct (Excluding Final Restoration)	48.00	D5211 Upper partial-resin base	771.00
D3120 Pulp Cap-Indirect (Excluding Final Restoration)	48.00	D5212 Lower partial-resin base	870.00
D3220 Therapeutic pulpotomy	98.00	D5213 Upper partial-cast metal frame with resin base	961.00
D3221 Open and Medicate	109.00	D5214 Lower partial-cast metal frame with resin base	961.00
D3230 Pulpal Therapy-Anterior Primary Tooth	120.00	D5410 Adjust complete upper	66.00
D3240 Pulpal Therapy-Posterior Primary Tooth	150.00	D5411 Adjust complete lower	66.00
Apicoectomy/periradicular surgery		D5421 Adjust partial upper	66.00
D3410 - bicuspid	478.00	D5422 Adjust partial lower	66.00
D3421 - bicuspid (1st root)	502.00	D5510 Repair broken complete base	224.00
D3425 - molar (1st root)	600.00		
D3426 - (Each additional root)	192.00		
D3430 Retrograde filling	145.00		

D5520 Replace missing/broken teeth complete	125.00
D5610 Repair resin base-partial	156.00
D5620 Repair cast framework	180.00
D5650 Add tooth to existing partial	144.00
D5630 Repair or replace broken clasp	168.00
D5640 Replace broken teeth (per tooth)	89.00
D5750 Reline complete upper	270.00
D5751 Reline complete lower	270.00
D5760 Reline upper partial	269.00
D5761 Reline lower partial	269.00
D5850 Tissue Conditioning Maxillary	120.00
D5851 Tissue Conditioning Mandibular	120.00
D6241 Pontic, Porcelain fused to Predominantly Base Metal	650.00
D5660 Add Clasp to Existing Partial Denture	153.00
Mobile Dental Equipment Fees	
Mobile Dental Package Weekly, plus mileage (per Week)	750.00
Mobile Dental Equipment Fees, Plus Mileage	
Additional dental operator (per Week)	187.00
Dental Operatory in addition to Mobile Dental Equipment Fees	

DEPARTMENT OF HUMAN SERVICES

DIVISION OF CHILD AND FAMILY SERVICES

Service Delivery	
Live Scan Testing	10.00

EXECUTIVE DIRECTOR OPERATIONS

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services	
Paper (per side of sheet)	0.25
Audio tape (per tape)	5.00
Video tape (per tape)	15.00
Compiling and Reporting	
In another format (per hour)	25.00
If programmer/analyst assistance is required (per hour)	50.00
Mailing	Actual cost
Office of Licensing	
Licensing	
Initial license	900.00
Any new Human Service license excluding recovery residences, outdoor youth program, and child placing.	
FBI Rapback	13.00
Western Identification Network (WIN) States Rapback	5.00
Online Background Check	
Application Fee	5.00
Recovery Residences	
Initial license fee	1,295.00
Renewal fee	500.00

Child Placing Adoption	750.00
Child Placing Foster	250.00
Initial license fee and renewal fee.	
Day Treatment	450.00
Outpatient Treatment	300.00
Residential Support	300.00
Adult Day Care	
0-50 consumers per program	300.00
More than 50 consumers per program	600.00
Per licensed capacity	9.00
Residential Treatment	
Basic	600.00
Per licensed capacity	9.00
Social Detoxification	600.00
Life Safety Pre-inspection	600.00
One time initial fee to verify life/fire safety	
Outdoor Youth Program	
Basic	1,408.00
Initial license fee and renewal fee.	
Federal Bureau of Investigation Fingerprint Check	
Fingerprinting	34.75
Intermediate Secure Treatment	
Basic	750.00
Per licensed capacity	9.00
Therapeutic School Program	
Basic	600.00
Per licensed capacity	9.00

OFFICE OF RECOVERY SERVICES

Child Support Services	
Automated Credit Card Convenience Fee	2.00
Fee for self-serve payments made online or through the automated phone system (IVR).	
Collections Processing	12.00
6 percent of payment disbursed up to a maximum of \$12 per month.	
Assisted Credit Card Convenience Fee	6.00
Fee for phone payments made with the assistance of an accounting worker.	
Federal Offset	25.00
Annual Collection Fee	25.00

DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES

Physical Disabilities Waiver	
Graduated	630.00
Critical Support Services for People with Disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of Gross Family Income.	
Utah State Developmental Center	
USDC Theater Rental	
Full Day (per square foot)	0.10
Theater Technician (per hour)	20.00
Hourly (per square foot)	0.0175
Half Day (per square foot)	0.07

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

State Hospital	
Photo Shoots (per 2 hours)	20.00
Use of USH Facilities	
Groups up to 50 people (per day)	75.00

Groups over 50 people (per day)	150.00
State Substance Abuse Services	
Alcoholic Beverage Server	
On Premise and Off Premise Sales	3.50

**DEPARTMENT OF
WORKFORCE SERVICES**

ADMINISTRATION

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Photocopies (for all copies after the first 10)	0.10
Fax Pages Local, All Pages	2.00
Fax Pages Long Distance, All Pages	2.00
Research (per hour)	20.00

**HOUSING AND
COMMUNITY DEVELOPMENT**

Homeless Committee	
State Community Services Office	
Homeless Summit	35.00
Weatherization Assistance	
Weatherization Laboratory (per day)	250.00
Heating Ventilation and Air Conditioning (HVAC) Laboratory	
Fee (per day)	250.00
Insulation Laboratory (per day)	250.00
Weatherization Classroom (per day)	50.00
Demonstration House (per day)	250.00
Consumer/Small Contractor (per hour)	10.00
Materials (per person)	300.00
Trainers Basic	50.00
Trainers Advanced	100.00

STATE OFFICE OF REHABILITATION

Deaf and Hard of Hearing	
Interpreter	
Standard Late Fee (per Assessment)	80.00
Annual Maintenance/Recognition (per Individual)	70.00
Interpreter Certification	
Knowledge Exam (per Exam)	60.00
Novice Exam (per Exam)	150.00
Professional Exam (per Exam)	150.00
Professional Re-test, per component (per Test)	30.00
Temporary Permit (per Permit)	150.00
Student Permit (per Permit)	15.00
Out-of-State Interpreter Certification	
Utah Novice Level Certificate	300.00
Utah Professional Level Re-test, per component	60.00
Utah Professional Level Certificate	300.00
Knowledge Exam	120.00

**STATE SMALL BUSINESS CREDIT
INITIATIVE PROGRAM FUND**

Loan Origination Fee for Loan Participation Program (per 1.00)	0.04
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This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.

Loan Origination Fee for Loan Guarantee Program (per 1.00) 0.04

This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration	
Debt Collection Information Disclosure	
Fee (per Report)	15.00
Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.	

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

**DEPARTMENT OF
AGRICULTURE AND FOOD**

ADMINISTRATION

Chemistry Laboratory	
Chemistry Laboratory	
Cannabis Component Testing	175.00
Surcharge for Expedited ELISA	
Cyanotoxin Testing	50.00
Anatoxin-a ELISA Test - First Sample	116.00
Anatoxin-a ELISA Test - Additional Samples	12.00
Microcystin ELISA Test - First Sample	113.00
Microcystin ELISA Test - Additional Samples	10.00
Cylindropermopsin ELISA Test - First Sample	113.00
Cylindrospermopsin ELISA Test- Additional Samples	10.00
E. coli Enumeration in Water	7.00
Seed, Feed, and Meat	
Moisture	20.00
Fat	35.00
Fiber, Crude or ADF (Acid Detergent Fiber)	45.00
Proximate analysis (moisture, protein, fat, fiber, ash)	90.00
Proximate analysis (moisture, protein, fiber)	60.00
Protein	32.00
NPN (Non-Protein Nitrogen)	25.00
Ash	20.00
Water Activity	30.00
Salt	30.00
Fertilizer	
Nitrogen	32.00
Available Phosphorous	35.00
Potash	30.00
Inorganics	
Digested	

Testing	Variable		Salmonella confirmatory testing	
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe,			(per Test)	40.00
K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn			STEC confirmatory testing	
Prep and First Analyte	35.00		(per Test)	40.00
Additional Analytes	22.00		Listeria confirmatory testing	
pH	20.00		(per Test)	40.00
Water Test I	250.00		Listeria Screen	30.00
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K,			All Other Services, per hour	40.00
Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn				
Water Test II	180.00			
			The lab performs a variety of tests for other	
Br, Cl, F, NO ₃ , PO ₄ , CO ₃ , HCO ₃ , CLO ₄ , pH			government agencies. The charges for these	
Water Quality	180.00		tests is determined according to the number	
Br, Cl, F, NO ₃ , NO ₂ , SO ₄ , PO ₄ , carbonate,			of tests, and based on cost to the Laboratory	
bicarbonate, perchlorate			and therefore may be different than the fee	
Herbicides - Water	185.00		schedule. Because of changing needs, the	
Insecticides/Fungicides - Water	205.00		Laboratory may receive requests for test that	
Herbicides - Soil/Plants	305.00		are impossible to anticipate and list fully in a	
Insecticides - Soil/Plants	265.00		standard fee schedule. Charges for these tests	
Pesticide			are authorized and are to be based on costs.	
Water			Campylobacter Screen	40.00
Single Test	205.00			
Multiresidue Test	275.00		Charges for other tests performed for other	
Non-water			government agencies are authorized and are	
Single Test	305.00		to be based on cost recovery.	
Multiresidue Test	400.00		General Administration	
Formulation	305.00		General Administration	
Inorganics			Produce Dealers	
Undigested			Produce Dealers	25.00
Testing	Variable		Dealer's Agent	10.00
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe,			Broker/Agent	25.00
K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn			Produce Broker	25.00
Prep and First Analyte	25.00		Livestock Dealer (per dealer)	250.00
Additional Analytes	12.00		Livestock Dealer/Agent (per Agent)	75.00
Vitamin A	60.00		Livestock Auctions	
Mercury Analysis	85.00		Livestock Auction Market	
Certification			(per Market)	100.00
Milk Laboratory Evaluation Program			Auction Weigh Person	
Basic Lab	50.00		(per Weigh Person)	25.00
Number of Certified Analyst	30.00		Registered Farms Recording	10.00
3 x \$10.00			Citations, Maximum per Violation	500.00
Number of Approved Test	30.00		All Agriculture Divisions	
3 x \$10.00			Organic Certification	
Total Yearly Assessed	90.00		Annual registration of producers,	
Standard Plate Count	10.00		handlers, processors or	
Coliform Count	15.00		combination	300.00
Antibiotics Test	5.00		Annual registration late fee	
Phosphatase Test	15.00		(per Registration)	100.00
Wisconsin Mastitis Test (WMT)			Fee for inspection (per hour)	65.00
Screening Test	5.00		Inspectors' time >40 hours per	
Direct Microscopic Somatic Cell			week (overtime) plus regular	
Count (DMSCC): Confirmation	10.00		fees (per hour)	42.00
Direct Somatic Cell Count			Major holidays and Sundays plus	
(DSCC): Instrumentation	5.00		regular fees (per min. per hour)	42.00
Coliform Confirmation	5.00		Gross Sales	
Container Rinse Test	10.00		\$0 to \$5,000: Exempt	Variable
H ₂ O Coliform Confirmation Test	5.00		\$10.00 min based on previous calendar	
H ₂ O Coliform Total Count	18.00		year, applies to all Gross Sales Fees	
Butterfat %	10.00		\$5,001 to \$10,000	100.00
Babcock method			\$10,001 to \$15,000	180.00
Added H ₂ O in Raw Milk	5.00		\$15,001 to \$20,000	240.00
Reactivated Phosphatase			\$20,001 to \$25,000	300.00
Confirmation	15.00		\$25,001 to \$30,000	360.00
Antibiotics Confirmation Test	10.00		\$30,001 to \$35,000	420.00
Salmonella Screen	40.00		\$35,001 to \$50,000	600.00
E-Coli Screen (per Test)	40.00		\$50,001 to \$75,000	900.00
E. coli confirmatory testing			\$75,001 to \$100,000	1,200.00
(per Test)	40.00		\$100,001 to \$150,000	1,800.00
			\$150,001 to \$280,000	2,240.00
			\$280,001 to \$375,000	3,000.00

\$375,001 to \$500,000	4,000.00
\$500,001 and up	5,000.00
Certified document	25.00
Copies of files	
Per hour	10.00
Per copy	0.25
Duplicate	15.00
Internet Access	1.50
Late	25.00
Returned check	15.00
Mileage	Variable
State rate	
Utah Horse Commission	
Utah Horse Commission (fees are not to exceed the amounts identified)	
Owner/Trainer	100.00
Owner	75.00
Organization	75.00
Trainer	75.00
Assistant trainer	75.00
Jockey	75.00
Jockey Agent	75.00
Veterinarian	75.00
Racing Official	75.00
Racing Organization Manager or Official	75.00
Authorized Agent	75.00
Farrier	75.00
Assistant to the Racing Manager or Official	75.00
Video Operator	75.00
Photo Finish Operator	75.00
Valet	50.00
Jockey Room Attendant or Custodian	50.00
Colors Attendant	50.00
Paddock Attendant	50.00
Pony Rider	50.00
Groom	50.00
Security Guard	50.00
Stable Gate Man	50.00
Security Investigator	50.00
Concessionaire	50.00
Application Processing	25.00

ANIMAL HEALTH

Animal Health	
Inspection Service	39.00
Commercial Aquaculture Facility	150.00
Commercial Fishing Facility	30.00
Citation	
Per violation	200.00
Per head	2.00
If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.	
Hatchery Operation (Poultry)	25.00
Poultry Dealer License (per dealer)	25.00
Health Certificate Book	50.00
Trichomoniasis Report Book	8.00
Auction Veterinary	
Cattle (per day)	200.00
Sheep (per day)	90.00
Service Fee for Veterinarians	
Per day	250.00
Dog food and brine shrimp, misc.	
Per mile	0.55

Dog food and brine shrimp, misc.	
Trichomoniasis Ear Tags	2.00
Brand Inspection	
Brand Inspection	
Farm Custom Slaughter	100.00
Estray Animals	Variable
Beef Promotion (per head)	1.50
Cattle only	
Citation (per violation)	200.00
Citation (per head)	2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.	
Brand Inspection	
Service Charge/Call Out Fee	20.00
Special Sales	250.00
Cattle (per head)	1.00
Cattle at Auction Per Head	0.25
Horse (per head)	20.00
Sheep (per head)	0.05
Brand Book	25.00
Show and Seasonal Permits	
Horse	25.00
Cattle	25.00
Horse Permit	
Lifetime	35.00
Duplicate Lifetime	10.00
Lifetime Transfer	10.00
Brand Recording	75.00
Certified copy of Recording (new brand card)	5.00
Minimum Charge (per certificate)	10.00
Cattle, Sheep, Hogs, and Horses	
Brand Transfer	50.00
Brand Renewal	50.00
5 year cycle	
Elk Farming	
Elk Inspection New License	300.00
Brand Inspection (per elk)	5.00
Service Charge (per stop, per owner) ...	15.00
Horn Inspection (per set)	1.00
Elk Hunting Permit	100.00
Elk License	
Renewal	300.00
Late	50.00
Meat Inspection	
Meat Inspection	
Inspection Service	39.00
Meat Packing	
Meat Packing Plant	150.00
Custom Exempt	150.00
T/A (Talmage-Aiken) Official	150.00
Packing/Processing Official	150.00

MARKETING AND DEVELOPMENT

Marketing/Utah's Own	
Utah's Own Supporter	1,000.00
Utah's Own Year One Membership	25.00
Utah's Own Annual Membership	50.00

PLANT INDUSTRY

Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour)	28.00
Overtime hourly rate (per hour)	42.00

Official Inspection Services (includes sampling, except where indicated)	Product Registration Fee for Products Containing Oil Extracted from Cannabis	200.00
Railcar (per car)	Product Registration Fee for Products Containing Cannabis Seed or Solid Derivatives from Cannabis Seed . .	100.00
Truck or trailer (per carrier)	Agricultural Inspection	
Container Inspection	Agricultural Inspection: Inspection services performed (per hour) (per Hour)	40.00
Submitted sample (per sample)	Agricultural Inspection: For inspectors' time over 40 hours per week (overtime) and on Holidays, plus regular fees (per hour) (per hour)	60.00
Re-inspection	Good Agricultural Practices (GAP) Inspection (per hour)	Federal rate
Based on new sample (per truck)	Shipping Point	
Basis file sample	Fruit	
Based on new sample rail	Packages, 19 lb. or less (per package)	0.02
Protein test	20 to 29 lb. package (per package)	0.025
Original or file sample retest	Over 29 lb. package (per package)	0.03
Oil and starch	Bulk load (per hundredweight)	0.045
Basis new sample	Vegetables	
Plus sample hourly	Potatoes (per hundredweight)	0.06
Factor only determination (per factor)	Onions (per hundredweight)	0.065
Plus samplers hourly rate, if applicable	Cucurbita (per hundredweight)	0.05
Stowage examination services (per certificate)	Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.	
A fee for applicant requested certification of specific factors (per request)	Other Vegetables	
Malting barley analysis of non-malting class barley, HVAC or DHV percentage determination in durum or hard spring wheats, etc.	Less than 60 lb. package (per package)	0.035
Extra copies of certificates (per copy)	Over 60 lb. package (per package)	0.045
Insect damaged kernel, determination (weevil, bore)	Phytosanitary Inspection (per inspection)	50.00
Sampling only, same as original carrier fee, except hopper cars, 4 or more	Phytosanitary Inspection with grade certification (per inspection)	15.00
Mailing sample handling charge	Federal (per inspection)	16.00
Plus actual cost	One commodity (per certificate)	28.00
Sealing rail cars or containers upon request over 5 seals per rail car	Except regular rate at continuous grading facilities	
Request for services not covered by the above fees will be performed at the applicable hourly rate stated herein, plus mileage and travel time, if applicable. Actual travel time will be assessed outside of a 50 mile radius of Ogden.	Mixed loads (per commodity)	28.00
Falling number inspection, per sample (per Sample)	<=\$45.00 per mixed load	
Class X Weighing inspection (per Inspection)	For inspection of raw products at processing plants (per hour)	28.00
Non-Official Services	For inspectors' time over 40 hrs per week (overtime), plus regular fees (per hour)	42.00
Safflower Grading	For major holidays and Sundays (per hour)	42.00
Class II weighing (per carrier)	4 hour minimum plus regular fees (Holidays include: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.)	
Dark Hard Vitreous kernels (DHV) percentage in Hard Red Wheat	All inspections shall include mileage which will be charged according to the current mileage rate of the State of Utah	Variable
Determination of hard kernel percentage in soft white wheat	Export Compliance Agreements	50.00
Dry Hay Feed Analysis	Nursery	
Silages (corn or hay) Analysis	Gross Sales (((\$10.00 min) based on previous calendar year, applies to all Gross Sales Fees)	
Feed grain Analysis	\$0 to \$5,000	40.00
Black Light (Alfatoxin)	\$5,001 to \$100,000	80.00
Aflatoxin Test	\$100,001 to \$250,000	120.00
Strip quick test		
Grain grading instructions (per hour, per person)		
Set of check Samples		
Proteins-moisture, Set of 5		
Other Requests (per hour)		
Industrial Hemp Grower Licensing Fee		
Industrial Hemp Processor Licensing Fee		

\$250,001 to \$500,000	160.00
\$500,001 and up	200.00
Nursery Agency	50.00
Feed	
Commercial Feed	25.00
Processing	35.00
Custom Formula Permit	75.00
Pesticide	
Commercial Applicator Certification	
4 or less Commercial Pesticide	
Applicators	75.00
5-9 Commercial Pesticide	
Applicators	150.00
10 or more Commercial Pesticide	
Applicators	300.00
Triennial (3 year) Certification and License	45.00
Replacement of lost or stolen certificate/license	15.00
Failed examinations may be retaken two more times at no charge	Variable
Additional re-testing	15.00
Two more times	
Triennial (3 year) examination and educational materials	20.00
Product Registration	60.00
Processing Service	135.00
Dealer License	
Triennial	100.00
Fertilizer	
Blenders License	75.00
Assessment (per ton)	0.35
Minimum Semiannual Assessment (per Assessment)	20.00
Fertilizer Registration	25.00
Processing	35.00
Beekeepers	
Insect Identification	10.00
License	
0 to 20 hives	10.00
21 to 100 hives	25.00
101 to 500 hives	50.00
Inspection (per hour)	28.00
Salvage Wax Registration	10.00
Control Atmosphere	10.00
Seed Purity	
Flowers	12.00
Grains	8.00
Grasses	17.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Germination	
Flowers	12.00
Grains	8.00
Grasses	12.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Tetrazolium Test	
Flowers	22.00
Grains	14.00
Grasses	22.00
Legumes	17.00
Trees and Shrubs	22.00
Vegetables	14.00
Embryo Analysis (Loose Smut Test)	11.00

Cutting Test	8.00
Mill Check (per hour)	Variable
Examination of Extra Quantity for Other Crop or Weed Seed (per hour)	Variable
Examination for Noxious Weeds	
Only (per hour)	Variable
Identification	No charge
Inspection (per hour)	28.00
Additional Copies of Analysis Reports	1.00
Any other inspection service performed (per hour)	28.00

1 hour minimum. Mixtures will be charged based on the sum for each individual kind in excess of 5 percent. Samples which require excessive time, screenings, low grade, dirty, or unusually difficult sample will be charged at the hourly rate. Hourly charges may be made on seed treated with Highly Toxic Substances if special handling is necessary for the Analysts safety. Discount germination is a non-priority service intended for carry-over seed which is ideal for checking inventories from May through August. The discount service is available during the rest of the year, but delays in testing may result due to high test volume of priority samples. Ten or more samples receive a fifty percent discount off normal germination fees.

Emergency service for single component only (per sample)	42.00
Hay and Straw Weed Free Certification	
Bulk loads of hay up to 10 loads	30.00
Hourly rate	28.00
If time involved is 1 hour or less	28.00
Charge for each hay tag	0.10
Citations, maximum per violation	500.00

REGULATORY SERVICES

Regulatory Services	
Bedding/Upholstered Furniture	
Manufacturers of Bedding and/or Upholstered Furniture	65.00
Wholesale Dealer	65.00
Supply Dealer	65.00
Manufacturers of Quilted Clothing	65.00
Upholsterer with employees	50.00
Upholsterer without employees	25.00
Processing /All Bedding Upholstery Licenses	40.00
Sterilization Fee	105.00
Dairy	
Test milk for payment	40.00
Operate milk manufacturing plant (per Plant)	85.00
Make butter (per Operation)	40.00
Haul farm bulk milk (per Operation)	40.00
Make cheese (per Operation)	40.00
Operate a pasteurizer (per Operator)	40.00
Operate a milk processing plant (per Plant)	85.00
Dairy Products Distributor (per Distributor)	85.00
Base Food Inspection	
Small	50.00
Less than 1,000 sq. ft. / 4 or fewer employees	
Medium	150.00

1,000-5,000 sq. ft., with limited food processing	
Large	250.00
Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.	
Super	400.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.	
Plan Review	
Plan Review Fee - Small (per Each)	50.00
Plan Review Fee - Medium (per Each)	150.00
Plan Review Fee - Large (per Each)	250.00
Plan Review Fee - Super (per Each)	400.00
Special Inspection	
Food and Dairy Inspection	
Per hour	30.00
Overtime rate	40.00
Citations, maximum per violation	500.00
Weights and Measures	
Weighing and measuring devices/ individual servicemen (per Serviceperson)	50.00
Metrology services (per hour)	50.00
Base Weights and Measures	
Small	50.00
1-3 scales, 1-12 fuel dispensers, 1 meter, 1 large scale, or 1-3 scanners	
Medium	150.00
4-15 scales, 13-24 fuel dispensers, 2-3 meters, 2-3 large scales, or 4-15 scanners	
Large	250.00
16-25 scales, 25-36 fuel dispensers, 4-6 meters, 4-5 large scales, or 16-25 scanners	
Super	400.00
26+ scales, 37+ fuel dispensers, 7+ meters, 6+ large scales, or 26+ scanners	
Special Scale Inspections	
Large Capacity Truck (Man Hour) (per hour)	25.00
Large Capacity Truck (per mile)	2.00
Large Capacity Truck (Equipment Hour) (per hour)	25.00
Equipment use	
Pickup Truck (per hour)	25.00
Pickup Truck (per mile)	1.00
Pickup Truck (per hour)	20.00
Equipment use	
Overnight Trip (per diem)	Variable
Plus cost of hotel	
Petroleum Refinery	
Gasoline	
Octane Rating	132.00
Benzene Level	88.00
Pensky-Martens Flash Point	22.00
Overtime charges (per hour)	33.00
Gravity	11.00
Distillation	28.00
Sulfur, X-ray	39.00
Reid Vapor Pressure (RVP)	28.00
Aromatics	55.00
Leads	22.00

Diesel	
Gravity	28.00
Distillation	28.00
Sulfur, X-ray	22.00
Cloud Point	22.00
Conductivity	28.00
Cetane	22.00
Citations, maximum per violation	500.00
Certificate of Free Sale	
Single Certificate	30.00
More than 3 pages	55.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY

Emission Inventory Workshop	15.00
Attendance	
Air Emissions (per ton)	78.86
Major and Minor Source Compliance	
Inspection (per hour)	100.00
Annual Aggregate Compliance	
20 or less tons per year (per year)	180.00
21-79 tons per year (per year)	360.00
80-99 tons per year (per year)	900.00
100 or more tons per year (per year)	1,260.00
Asbestos and Lead-Based Paint (LBP) Abatement	
Course Accreditation Fee (per hour)	100.00
Asbestos Company/LBP Firm	
Certification Application (per year)	275.00
LBP Renovation Firm Certification	
Application (per year)	110.00
Asbestos Individual Certification	
Application	137.50
Asbestos Individual Certification	
App;ocatopm Surcharge, (Non-Utah Accredited Training Provider)	33.00
LBP Abatement Worker	
Certification Application (per year)	110.00
LBP Inspector, Dust Sampling	
Technician Certification Application (per year)	137.50
LBP Risk Assessor, Supervisor, Project	
Designer Certification Application (per year)	220.00
LBP Renovator Certification	
Application (per year)	110.00
Lost Certification Card Replacement	33.00
Annual Asbestos Notification	550.00
Asbestos/LBP Abatement Project	
Notification Base Fee	165.00
Asbestos/LBP Abatement Project	
Notification Base Fee - Owner	
Occupied Residences	55.00
Abatement Unit Fee/100 units or any fraction thereof up to	
10,000 units (square feet/linear feet/cubic feet) (times 3)	7.70
School Building Asbestos Hazard Emergency Response Act (ASHERA) abatement unit fees will be waived	

Abatement Unit Fee/100 units or any fraction thereof more than 10,000 units	3.85
(square feet/linear feet/cubic feet) (times 3)	
School Building AHERA abatement fees will be waived	
Demolition Notification Base	27.50
Demolition unit per 5,000 square feet or any fraction thereof	55.00
Alternative Work Practice Review Application <10daytrainingprovider/Private Residence Non-National Emission Standards for Hazardous Air Pollutants (NESHAP) Requests	110.00
NESHAP Structures and Any Other Requests	275.00
Permit Category	
Filing Fees	
Name Changes	100.00
Small Sources Exemptions and Soil Remediation	250.00
New non-PSD sources, minor & major modifications to existing sources	500.00
Any unpermitted sources at an existing facility	1,500.00
New major prevention of significant deterioration (PSD) sources	5,000.00
Monitoring plan review and site visit	
Application Review Fees	
New major source or modifications to major source in nonattainment area	45,000.00
Up to 450 hours	
New major source or modifications to major source in attainment area	30,000.00
Up to 300 hours	
New minor source or modifications to minor source	2,000.00
Up to 20 hours	
Generic permit for minor source or modifications of minor sources	800.00
Up to 8 hours (sources for which engineering review/BACT standardized)	
Temporary Relocations	700.00
Minor sources (new or modified)	
with <3tpy uncontrolled emissions	500.00
Up to 5 hours	
Permitting cost for additional hours (per hour)	100.00
Technical review of and assistance given (per hour)	100.00
I.e. appeals, sales/use tax exemptions, soils exemptions, soils remediations, experimental approvals, impact analyses, etc.	
Air Quality Training	Actual Cost

DRINKING WATER

Special Surveys	Actual cost
File Searches	Actual cost
Well Sealing Inspection (per hour)	100.00
Special Consulting/Technical Assistance (per hour)	100.00
Operator Certification Program	
Examination: online	120.00
Any level	
Examination: paper	200.00
Any level	

Renewal of certification	150.00
Every 3 years if applied for during designated period	
Reinstatement of lapsed certificate	300.00
Certificate of reciprocity with another state	150.00
Cross Connection Control Program Certification and Renewal	
Program Administrator:	
online testing	175.00
Program Administrator:	
paper testing	225.00
Program Administrator: renewal	125.00
Assembly Tester and Class III; initial certification and renewal	225.00
Certificate of reciprocity with another state	225.00
Replacement Certificate	25.00
Cost Recovery - Construction Without Prior Approval (per Project)	1,000.00
Drinking Water Loan Origination	1.0% of Loan Amount

ENVIRONMENTAL RESPONSE AND REMEDIATION

Professional and Technical services or assistance (per hour)	100.00
Including but not limited to EPCRA Technical Assistance, PST Claim Preparation Assistance, Oversight for Tanks Failing to pay UST fee, UST Compliance follow-up Inspection, apportionment of Liability requested by responsible parties, prepare, administer or conduct administrative process, environmental covenants.	
Voluntary Environmental Cleanup	
Program Application Fee	2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour)	100.00
Annual Underground Storage Tank Tanks on Petroleum Storage Tank (PST) Fund	110.00
Tanks not on PST Fund	220.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements	300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both	300.00
Initial Approval of Alternate UST Financial Assurance Mechanisms	420.00
(Non-PST Participants)	
Approval of alternate UST financial assurance mechanisms after initial year	240.00
(with no Mechanism changes)	
Certification or Certification Renewal for UST Consultants	
UST installers, removers, groundwater & soil samplers, & non-government UST inspectors & testers	225.00
Consultant Recertification Class	150.00
Clandestine Drug Lab Decontamination Specialist Certification	
Certification and Recertification	225.00

Retest of Certification Exam	100.00
Enforceable Written Assurance Letters	
Written letter	500.00
Flat fee to cover costs up to \$500	
Additional charge for any costs above \$500 (per hour)	100.00
Environmental Response and Remediation Program Training	Actual cost
UST Operators Registration	50.00
UST Red Tag Replacement	500.00
Applied only when a Red Tag is removed without authorization	
UST Installation Base Fee	500.00
UST Installation Tank Fee (Applied only when State Inspectors conduct Inspections)	200.00

EXECUTIVE DIRECTOR'S OFFICE

All Divisions

Request for copies over 10 pages (per page)	0.25
Copies made by the requestor-over 10 pages (per page)	0.05
Compiling, tailoring, searching, etc., a record in another format. Actual cost after 1st 1/4 hour	
Charged at rate of lowest paid staff employee who has necessary skill/training to perform the request.	
Special computer data requests (per hour)	100.00
CDs (per disk)	10.00
DVDs (per disk)	8.00
Contract Services	Actual Cost

To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on the permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from the department.

WASTE MANAGEMENT AND RADIATION CONTROL

Resource Conservation and Recovery Act (RCRA) Facility List	5.00
Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs)	
Professional (per hour)	100.00

This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders, and related compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans

Hazardous Waste Permit Filing

Hazardous Waste Operation Plan	
Renewal	1,000.00
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Distircts seeking review from the Division)	
New Comm. Facility	
Class V and Class VI Landfills	1,000.00
New Non-Commercial Facility	750.00
New Incinerator	
Commercial	5,000.00
Industrial or Private	1,000.00
Plan Renewals and Plan Modifications	100.00
Variance Requests	500.00
Enforceable Written Assurance Letter	
Flat fee for up to 8 hours to complete letter	500.00
Additional per hour charge if over the original 8 hours	100.00
Solid Waste Facility Fee	
Treatment and Disposal facilities ... Greater of \$125 or \$0.21/ton Quarterly, w	
Treatment (thermal, physical or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. Beginning January 1, 2019, in accordance with 19-6-119(6), facilities treating or disposing of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.	
Transfer facilities ... Greater of \$125 or \$0.11/ton Quarterly, w	
Beginning January 1, 2019, in accordance with 19-6-119(6), facilities transferring of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.	
Waste Tire Recycling	
Registration	
Recycler (per year)	100.00
Transporter (per year)	100.00
Fees for registration applications received during the year will be prorated at \$8.30/month over the # of months remaining in the year.	
Used Oil	
Do It Your Selfer and Used Oil Collection	
Center Registration	No charge
Permit filing fee for Transporter, Transfer Facility, Processor/ Re-refiner, and Off-Spec Burner	100.00
Plan Review Filing Fee	100.00
Permit Modification Filing Fee	100.00
Annual Registration for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Spec Burner, & Land Application (per year)	100.00
Marketer	
Registration (per year)	50.00
Permit Filing	50.00

Vehicle Manufacturer Mercury Switch Removal and Collection Plan	
Mercury Switch Removal and Collection Plan Filing	100.00
Non-Hazardous Solid Waste	
Polychlorinated Biphenyl (PCBs)	
(per ton)	4.75
Or fraction of a ton	
Hazardous Waste Flat Fee	
(per year)	2,444,800.00
Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.	
Machine-Generated Radiation	
Annual Registration Fee	
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit	
Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental	35.00
Industrial Facility with	
High and/or Very High Radiation	
Areas Accessible to Individuals	35.00
Cabinet X-Ray Units or Units	
Designated for Other Purposes	35.00
Other	35.00
Division Conducted Inspection, Per Tube	
Hospital/Therapy, Medical,	
Chiropractic	105.00
Podiatry/Veterinary	75.00
Dental	
First tube on a single control unit	45.00
Additional tubes on a control unit (per Tube)	12.50
Industrial Facilities with	
High and/or Very High Radiation	
Areas Accessible to Individuals	105.00
Cabinet X-Ray Units or Units	
Designated for Other Purposes	75.00
Other	
Annual or Biennial Inspection	
(per Tube)	105.00
Five year Inspection, per tube	75.00
Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts	
Inspection report (per Tube)	15.00
Radioactive Material	
Special Nuclear Material	
New License or Renewal License for:	
Possession and use in sealed sources contained in devices used in industrial measuring systems,	440.00
including X-ray fluorescence analyzers and neutron generators	
Possession and use of less than 15 grams in usealed form for research and development	730.00
Use as calibration and reference sources	180.00
All other licenses	1,150.00
Annual Fee	
Possession and use in sealed sources contained in devices used in industrial measuring systems,	740.00

including X-ray fluorescence analyzers and neutron generators	
Possession and use of less than 15 grams in usealed form for research and development	740.00
Use as calibration and reference sources	240.00
All other licenses	1,600.00
Source Material	
New License or License Renewal	
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	5,510.00
Regulation of source and byproduct material at uranium mills or commercial waste facilities	
Uranium mills or commercial sites disposing of or reprocessing byproduct material (per month)	10,760.00
Uranium mills the Director has determined that are on standby status	10,760.00
Licenses for possession and use of source material for shielding	230.00
All other source material licenses	1,000.00
Annual Fee	
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	4,810.00
Licenses for possession and use of source material for shielding	365.00
All other source material licenses	1,275.00
Radioactive Material other than Source Material and Special Nuclear Material	
New License or License Renewal for possession and use of radioactive material for:	
Broad scope for processing or manufacturing for commercial distribution	2,320.00
Others for processing or manufacturing for commercial distribution	1,670.00
Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material	2,320.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	860.00
Industrial radioagraphy operations	1,670.00
Sealed sources for irradiation of matierals in which the source is not removed for its shield (self-shielded units)	700.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,670.00

10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,340.00

Broad scope for research and development that do not authorize commercial distribution 2,320.00

Research and development that do not authorize commercial distribution 700.00

All other radioactive material 440.00

New License or License Renewal for:

Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services 320.00

Licenses that authorize services for leak testing only 150.00

New License or License Renewal to distribute items containing radioactive material:

To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19 700.00

To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21 700.00

Annual license fee for possession and use of radioactive material for:

Broad scope for processing or manufacturing for commercial distribution 2,960.00

Others for processing or manufacturing for commercial distribution 2,040.00

Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material 2,960.00

The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 1,000.00

Industrial radiography operations 2,560.00

Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) 940.00

Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 1,740.00

10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,480.00

Broad scope for research and development that do not authorize commercial distribution 2,960.00

Research and development that do not authorize commercial distribution 940.00

All other radioactive material 520.00

Annual fee for:

Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services 420.00

Licenses that authorize services for leak testing only 160.00

Annual fee to distribute items containing radioactive material:

To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19 580.00

To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21 580.00

Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)

Annual 1,724,200.00

New Application

Siting application Actual costs up to \$250,000

License application Actual costs up to \$1,000,000

Renewal Actual costs up to \$1,000,000

Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour) 100.00

Review of commercial low-level radioactive waste disposal and uranium recovery special projects. Applicable when the licensee and the Division agree that a review be conducted by a contractor in support of the efforts of Division staff Actual cost

Generator Site Access Permits

Non-Broker Generators transferring radioactive waste (per year) 2,500.00

Brokers (waste collectors or processors) (per year) 7,500.00

Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) 100.00

Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material

New License/Renewal 3,190.00

Annual 2,760.00

Licenses authorizing receipt of prepackaged waste radioactive material from others

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material

New License/Renewal 700.00

Annual	1,100.00
Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material	
New License/Renewal	440.00
Annual	520.00
Well Logging, Well Surveys, and Tracer Studies Licenses	
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies	
New License/Renewal	1,670.00
Annual	2,100.00
Licenses for possession and use of radioactive material for field flooding tracer studies	
New License/Renewal	Actual cost
Annual	4,000.00
Nuclear Laundries	
Licenses for commercial collection and laundry of items contaminated with radioactive material	
New License/Renewal	1,670.00
Annual	2,380.00
Human Use of Radioactive Material	
License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	1,090.00
Annual	1,280.00
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	2,320.00
Annual	2,960.00
Other licenses issued for human use of radioactive material	
except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	700.00
Annual	1,100.00
Civil Defense	
Licenses for possession and use of radioactive material for civil defense activities	
New License/Renewal	700.00
Annual	380.00
Power Source	
Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power	
New License/Renewal	5,510.00
Annual	2,520.00
Plan Reviews	
Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities	400.00
Plus added cost above 8 hours (per hour)	100.00
Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable	Actual cost
General License	

Initial registration/renewal for first year	
Measuring, gauging, and control devices as described in R313-21-22(4),	20.00
other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30	20.00
Annual fee after initial license/renewal	
Measuring, gauging, and control devices as described in R313-21-22(4)	20.00
other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category) . Full annual fee	
Publication costs for making public notice of required actions	Actual cost
Expedited application review (per hour) ..	100.00
Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.	
Management and oversight of impounded radioactive material	Actual cost
License amendment, for greater than three applications in a calendar year . . .	200.00
Analytical costs for monitoring samples from radioactive materials facilities	Actual cost

WATER QUALITY

305(b) Water Quality Report	20.00
Report: Utah's Lakes and Reservoirs-Inventory and Classification of Utah's Priority Lakes and Reservoirs	50.00
Operator Certification	
Certification Examination	50.00
Renewal of Certificate	25.00
Renewal of Lapsed Certificate plus renewal (per month)	25.00
\$75 maximum	
Duplicate Certificate	25.00
New Certificate change in status	25.00
Certification by reciprocity with another state	50.00
Grandfather Certificate	20.00
Underground Wastewater Disposal Systems	
New Systems	25.00
Certificate Issuance	25.00
Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water	
Cement Manufacturing	
Major	871.00
Minor	218.00
Coal Mining and Preparation	
General Permit	436.00
Individual Major	1,307.00
Individual Minor	871.00

Concentrated Animal Feeding Operations (CAFO) General Permit ...	110.00	Major	871.00
Construction Dewatering/Hydrostatic Testing General Permit	150.00	Minor	436.00
Dairy Products		Water Treatment Plants (Except Political Subdivisions)	
Major	871.00	General Permit	121.00
Minor	436.00	Annual UPDES Publically Owned Treatment Works (POTW)	
Electric		Large >10 million gallons per day (mgd) flow design (per year)	8,800.00
Major	1,089.00	Medium >3 mgd but <10 mgd flow design (per year)	5,500.00
Minor	436.00	Small <3mgd but >1 mgd (per year)	1,100.00
Fish Hatcheries General Permit	121.00	Very Small <1mgd (per year)	550.00
Food and Kindred Products		Annual UPDES Pesticide Applicator Fee	
Major	1,089.00	Small Applicator	200.00
Minor	436.00	Medium Applicator	500.00
Hazardous Waste Clean-up Sites	2,614.00	Large Applicator	1,650.00
Geothermal		Groundwater Remediation Treatment Plant	5,500.00
Major	871.00	Biosolids Annual Fee (Domestic Sludge)	
Minor	436.00	Small Systems (per year)	385.00
Inorganic Chemicals		1-4,000 connections	
Major	1,307.00	Medium Systems (per year)	1,117.00
Minor	653.00	4,001 to 15,000 connections	
Iron and Steel Manufacturing		Large Systems (per year)	1,623.00
Major	2,614.00	greater than 15,000 connections	
Minor	653.00	Non-contact Cooling Water	
Leaking Underground Storage Tank (LUST) Cleanup		Flow rate <= 10,000 gallons per day (gpd) (per year)	110.00
General Permit	436.00	10,000 gpd < Flow rate <1.0 mgd (per year)	220.00
LUST Cleanup Individual Permit	871.00	\$500 up to \$1000	
Meat Products		100,000 gpd < Flow rate <1.0 mgd (per year)	440.00
Major	1,307.00	\$1000 up to \$2000	
Minor	436.00	Flow Rate > 1.0 mgd (per year)	660.00
Metal Finishing and Products		Fee amount is prorated based on flow rate	
Major	1,307.00	Stormwater Permits	
Minor	653.00	General Multi-Sector Industrial Storm Water Permit (per year)	250.00
Mineral Mining and Processing		Industrial Stormwater No Exposure Certificate (per 5 years)	150.00
Sand and Gravel	242.00	General Construction Storm Water Permit > 1 Acre (per year)	150.00
Salt Extraction	242.00	Construction Stormwater Low Erosivity Waiver Fee (one time project based fee) (per project)	100.00
Other		Municipal Storm Water	
Other Majors	871.00	0-5,000 Population (per year)	750.00
Other Minors	436.00	5,001 - 10,000 Population (per year)	1,250.00
Manufacturing		10,001 - 50,000 Population (per year)	1,750.00
Major	1,742.00	50,001 - 125,000 Population (per year)	3,000.00
Minor	653.00	> 125,000 Population (per year)	4,000.00
Oil and Gas Extraction		Registered Stormwater Inspection (RSI) Certifications	
flow rate <=0.5 million gallons per day	436.00	Certification Course and Examination (per year)	200.00
flow rate > 0.5 MGD	653.00	Certification Renewal (per year)	50.00
Ore Mining		Renewal of Lapsed Certification (post-marked no more than 90 days after expiration) (per year)	100.00
Major	1,307.00		
Minor	653.00		
Major w/ concentration process	10,000.00		
Organic Chemicals Manufacturing			
Major	2,178.00		
Minor	653.00		
Petroleum Refining			
Major	1,742.00		
Minor	653.00		
Pharmaceutical Preparations			
Major	1,742.00		
Minor	653.00		
Rubber and Plastic Products			
Major	1,089.00		
Minor	653.00		
Space Propulsion			
Major	2,420.00		
Minor	653.00		
Steam and/or Power Electric Plants			

Registered SWPPP Writer RSI Certification Certification Course and Examination (per year)	300.00
Annual Ground Water Permit Administration Fee	
Tailings/Evaporation/Process Ponds; Heaps (per Each) Actual cost	
0-1 Acre	385.00
>1-15 Acres	770.00
>15-50 Acres	1,540.00
>50-300 Acres	2,310.00
>300-500 Acres	6,140.00
>500 Acres	12,280.00
Non-discharging municipal and commercial treatment facilities	350.00
Underground Injection Control Permit Application Fee	
Class I Hazardous Waste Disposal . . .	25,000.00
One time fee	
Class I Non-Hazardous Waste Disposal	9,000.00
One time fee	
Class III Solution Mining	7,200.00
One time fee	
Class V Aquifer Storage and Recovery	5,400.00
One time fee	
All Other Permits	
Base (per facility)	770.00
Each additional regulated facility (per facility)	770.00
Multi-celled pond system or grouping of facilities with common compliance point is considered one facility	
UPDES, ground water, underground injection control, & construction permits not listed above & permit modifications, except projects of political subdivisions funded by the Division of Water Quality (per hour)	100.00
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour)	100.00
Permittee to be notified upon receipt of application	
Water Quality Cleanup Activities	
Corrective Action, Site Investigation/ Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour)	100.00
Actual cost for sample analytical lab work actual cost	
Technical Review of and assistance given (per hour)	100.00
401 Certification reviews and issuance and compliance: permit appeals; and sales and use tax exemptions	
Water Quality Loan Origination	1.0% of Loan Amount

GOVERNOR'S OFFICE

OFFICE OF ENERGY DEVELOPMENT

Renewable energy Systems Tax Credit and Qualifying Solar Projects Tax Credit	15.00
Production Tax Credit	150.00

Alternative Energy Development Tax Credit	150.00
High Cost Infrastructure Tax Credit, private investment \$10 million or less	150.00
High Cost Infrastructure Tax Credit, private investment more than \$10 million	250.00
C-PACE 3rd Party Administrator	3.0%

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE AND STATE LANDS

Division Administration	
Administrative	
Application	
Mineral Lease	40.00
Special Lease Agreement	40.00
Mineral Unit/Communitization Agreement	40.00
Special Use Lease Agreement (SULA)	300.00
Grazing Permit	50.00
Materials Permit	200.00
Easement	150.00
Right of Entry	50.00
Exchange of Land	1,000.00
Sovereign Land General Permit	
Private	50.00
Public	
Assignment	
Mineral Lease	
Total Assignment	50.00
Interest Assignment	50.00
Operating Right Assignment	50.00
Overriding Royalty Assignment	50.00
Partial Assignment	50.00
Collateral Assignment	50.00
Special Use Lease Agreement (SULA) . . .	50.00
Grazing Permit per AUM (Animal Unit Month)	2.00
Grazing Sublease per AUM (Animal Unit Month)	2.00
Materials Permits	50.00
Easement	50.00
Right of Entry (ROE)	50.00
Sovereign Land General Permit	50.00
Grazing Non-use (per lease)	10%
Special Use Lease Agreement (SULA) non-use	10%
ROE, Easement, Grazing amendment	50.00
SULA, general permit, mineral lease, materials permit amendment	125.00
Reinstatement	150.00
Surface leases & permits per reinstatement/per lease or permit	
Bioprospecting - Registration	50.00
Oral Auction Administration Actual cost	
Affidavit of Lost Document (per document)	25.00
Certified Document (per document)	10.00
Research on Leases or Title Records (per hour)	50.00
Reproduction of Records	
Self service (per copy)	0.10
By staff (per copy)	0.40

Change on Name of Division	
Records (per occurrence)	20.00
Fax copy (per page)	1.00
Send only	
Late Fee	6% or \$30
Returned check charge	30.00
Sovereign Lands	
Rights of Entry	
Seismic Survey Fees	
Primacord (per mile)	200.00
Surface Vibrators (per mile)	200.00
Shothole >50 ft (per hole)	50.00
Shothole <50 ft (per mile)	200.00
Pattern Shotholes (per pattern)	200.00
Commercial	200.00
Commercial Recreation Event (per person over 150 people)	2.00
Minimum ROE of \$200 plus per person royalty	
Data Processing	
Production Time (per hour)	55.00
Programming Time (per hour)	75.00
Geographic Information System	
Processing Time (per hour)	55.00
Personnel Time (per hour)	50.00
Sovereign Lands	
Easements	
Minimum Easement	225.00
Canal	
Existing	
<=33' wide (per rod)	15.00
>33' but <= 66' wide (per rod)	30.00
>66' but <=100' wide (per rod)	45.00
<100' wide (per rod)	60.00
New	
<=33' wide (per rod)	30.00
>33' but <= 66' wide (per rod)	45.00
>66' but <=100' wide (per rod)	60.00
<100' wide (per rod)	75.00
Roads	
Existing	
<=33' wide (per rod)	5.50
>33' but <= 66' wide (per rod)	11.00
>66' but <=100' wide (per rod)	16.50
<100' wide (per rod)	22.00
New	
<=33' wide (per rod)	8.50
>33' but <= 66' wide (per rod)	17.00
>66' but <=100' wide (per rod)	25.50
<100' wide (per rod)	34.00
Power lines, Telephone Cables, Retaining walls and jetties	
<=30' wide (per rod)	14.00
>30' but <=60' wide (per rod)	20.00
>60' but <=100' wide (per rod)	26.00
>100' but <=200' wide (per rod)	32.00
>200' but <= 300' wide (per rod)	42.00
>300' wide (per rod)	52.00
Pipelines	
<=2" (per rod)	7.00
>2" but <=13" (per rod)	14.00
>13" but <=25" (per rod)	20.00
>25" but <-37" (per rod)	26.00
>37" (per rod) (per rod)	52.00
Special Use Lease Agreements (SULA)	
SULA Lease Rate	450.00

Minimum \$450 or market rate per R652-30-400	
Grazing Permits	3.00
Annual rate per AUM (Animal Unit Month)	
Special Use Lease Agreements	Market rate
General Permits	
Mooring Bouys: 3 yr max term	50.00
Renewal - Mooring Bouys; 3 yr max term	50.00
Floating Dock, Wheeled Pier, Seasonal Use; 3 year max	250.00
Dock/pier, Single Upland Owner Use; 3 year max	350.00
Boat Ramp, Temporary, Metal; 3 year max	250.00
Boat Ramp, Concrete, Gravel; 10 year max	700.00
Irrigation Pump - Pump Head Only; 15 year max	50.00
Irrigation Pump - Structure; 15 year max	150.00
Storm Water Outfall, Drain; 10 year max	150.00
Other	450.00
Minimum \$450 or market rate per R652-30-400	
Mineral Lease	
Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20

OIL, GAS AND MINING

Administration	
New Coal Mine Permit Application	5.00
Copy	
Bid Specifications	20.00
Telefax of material (per page)	0.25
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
Color	
Staff Copy (per page)	0.50
Self Copy (per page)	0.25
Prints from Microfilm	
Staff Copy (per paper-foot)	0.55
Self Copy (per paper-foot)	0.40
Print of Microfiche	
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
CD	
Mailed	23.00
Picked up	20.00
Well Logs	
Staff Copy (per paper-foot)	0.75
Self Copy (per paper-foot)	0.50
Print of computer screen (per screen)	0.50
Compiling or Photocopying Records	
Actual time spent compiling or copying	Current personnel rate
Actual time spent on data entry or records segregation	Current personnel rate
Third Party Services	
Copying maps or charts	Actual cost
Copying odd sized documents	Actual cost
Specific Reports	
Monthly Notice of Intent to Drill/Well Completion Report	
Picked Up	0.50

Mailed	1.00
Annual Subscription	6.00
Mailed Notice of Board Hearings	
List (per year)	20.00
Current Administrative Rules - Oil and Gas, Coal, Non-Coal, Abandoned Mine Lease (first copy is free)	
Picked up	10.00
Mailed	13.00
Custom-tailored data reports	
Diskettes/Tapes	Current personnel rate
Custom Maps	
(per linear foot) (per variable)	Variable
Minimum Charges	
Color Plot	25.00
Laser Print	5.00
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
10 to 50 acres	500.00
over 50 acres	1,000.00

PARKS AND RECREATION

Park Operation Management	
Boat Dealer Number and Registration Fee	
All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.	
Golf Course Fees RENTALS	
Motorized cart, per 9 holes	16.00
Driving Range	9.00
Golf Course Fees GREENS FEES	
9 holes	18.00
Reservation Fee	10.65
Camping Extra Vehicle Fees	15.00
Camping Fees	40.00
Group Camping Fees	400.00
Boating Fees	
Boat Mooring	
In/Off Season with or without	
Utilities (per foot)	7.00
Boat storage	200.00
Dry Storage	
Boating Season, Overnight until	
2:00 pm, Off-Season, Unsecured ...	75.00
Promotional Pass	1,100.00
Entrance Fees	
Motor Vehicles	
Day Use Annual Pass	75.00
Group Site Day-Use Fees	250.00
Commercial Groups - per person	3.00
Parking Fee	5.00
Entrance Fees	25.00
Application Fees	250.00
Easement, Grazing permit, Construction/ Maintenance, Special Use Permit, Waiting List, Events	
Assessment and Assignment Fees	
Repository Fees	
Curation (per storage unit)	700.00
Annual Repository Agreement (per storage unit)	80.00
Annual Agreement Fee	50.00

Fee collection, return checks, and duplicate document	30.00
Staff or researcher time per hour	50.00
Equipment and building rental per hour	100.00
OHV and Boating Program Fees	
OHV Program Fee	
Statewide OHV Registration Fee	22.00
State issued permit to non-resident OHVs, in which there is no reciprocity	30.00
OHV Education Fee	
Division's Off-highway Vehicle Program Safety Certificate	30.00
State Issued and Replacement OHV Safety Certificate	2.00
Boating Section Fees	
Commercial Dealer Demo Pass	200.00
Statewide Boat Registration Fee	25.00
Carrying Passengers for Hire Fee	200.00
Boat Livery Registration Fee	100.00
Boating Education Fee	
Division's Personal Watercraft Course	12.00
State Issued and Replacement Boating Education Certificate	5.00
new rule passed by board, will take effect in July	
Lodging Fees	
Lodging	120.00

UTAH GEOLOGICAL SURVEY

Administration	
Sample Library	
Cutting Thin Section Blanks	10.00
Core Plug < 1 inch (per plug)	10.00
Core Plugs > 1 inch diameter	25.00
Layout-Cuttings, Core, Coal, Oil/ Water (per box)	5.00
Binocular/Petrographic Microscopes (per day)	25.00
Workshop Fee - Building Use (per day)	250.00
Workshop - Saturday/Sunday/ Holiday Surcharge	320.00
Research Fee (per hour)	50.00
XRF High Resolution Scanning (per Hour)	15.00
XRF Analysis - Discreet Sample (per Sample)	10.00
Core Slabbing	
1.8" Diameter or Smaller (per foot)	10.00
1.8"-3.5" Diameter (per foot)	14.00
Core Photographing	
Box/Closeup 8x10 color/Thin Section (per Photo)	5.00
Geologic Hazards	
School Site Reviews	
Review Geologic Hazards Report for New School Sites	
School Site Review	500.00
Plus travel	
Preliminary Screening of a Proposed School Site	
One School	550.00
Plus travel	

Paleontology	More than 1,000, not to exceed 1,500	350.00
File Search Requests	More than 1,500, not to exceed 2,000	400.00
Minimum Charge	More than 2,000, not to exceed 2,500	430.00
Up to 30 minutes	More than 2,500, not to exceed 3,000	460.00
Miscellaneous	More than 3,000, not to exceed 3,500	490.00
Copies, Self-Serve (per copy)	More than 3,500, not to exceed 4,000	520.00
Copies, Staff (per copy)	More than 4,000, not to exceed 4,500	550.00
Research and Professional Services (per hour)	More than 4,500, not to exceed 5,000	580.00
	More than 5,000, not to exceed 5,500	610.00
	More than 5,500, not to exceed 6,000	640.00
	More than 6,000, not to exceed 6,500	670.00
	More than 6,500, not to exceed 7,000	700.00
	More than 7,000, not to exceed 7,500	730.00
	More than 7,500, not to exceed 8,000	760.00
	More than 8,000, not to exceed 8,500	790.00
	More than 8,500, not to exceed 9,000	820.00
	More than 9,000, not to exceed 9,500	850.00
	More than 9,500, not to exceed 10,000	880.00
	More than 10,000, not to exceed 10,500	910.00
	More than 10,500, not to exceed 11,000	940.00
	More than 11,000, not to exceed 11,500	970.00
	More than 11,500	1,000.00
	Extension Requests for Submitting a Proof of Appropriation	
	Less than 14 years after the date of approval of the application	50.00
	14 years or more after the date of approval of the application	150.00
	Fixed time periods	150.00
	For each certification of copies	10.00
	A reasonable charge for preparing copies of any and all documents	Variable
	Application to segregate a water right	50.00
	Groundwater Recovery Permit	2,500.00
	Fee Changed from Recharge to Recovery	
	Notification for the use of sewage effluent or to change the point of discharge	750.00
	Diligence claim investigation	500.00
	Report of Water Right Conveyance	
	Submission	40.00
	Protest Filings	15.00
	Livestock Watering Certificate	150.00
	Well Driller	
	Permit	
	Initial	350.00
	Renewal (Annual) (per year)	100.00
WATER RESOURCES		
Administration		
Color Plots		
Existing (per linear foot)	2.00	
Custom Orders	Current staff rate	
Plans and Specifications		
Small Set	10.00	
Average Size Set	25.00	
Large Set	35.00	
Cloud Seeding License	Variable	
Copies, Staff (per hour)	Current staff rate	
WATER RIGHTS		
Administration		
Applications		
Appropriation	Variable see below	
	For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:	
Flow - cubic feet per second (cfs)		
More than 0, not to exceed 0.1	150.00	
More than 0.1, not to exceed 0.5	200.00	
More than 0.5, not to exceed 1.0	250.00	
More than 1.0, not to exceed 2.0	300.00	
More than 2.0, not to exceed 3.0	350.00	
More than 3.0, not to exceed 4.0	400.00	
More than 4.0, not to exceed 5.0	430.00	
More than 5.0, not to exceed 6.0	460.00	
More than 6.0, not to exceed 7.0	490.00	
More than 7.0, not to exceed 8.0	520.00	
More than 8.0, not to exceed 9.0	550.00	
More than 9.0, not to exceed 10.0	580.00	
More than 10.0, not to exceed 11.0	610.00	
More than 11.0, not to exceed 12.0	640.00	
More than 12.0, not to exceed 13.0	670.00	
More than 13.0, not to exceed 14.0	700.00	
More than 14.0, not to exceed 15.0	730.00	
More than 15.0, not to exceed 16.0	760.00	
More than 16.0, not to exceed 17.0	790.00	
More than 17.0, not to exceed 18.0	820.00	
More than 18.0, not to exceed 19.0	850.00	
More than 19.0, not to exceed 20.0	880.00	
More than 20.0, not to exceed 21.0	910.00	
More than 21.0, not to exceed 22.0	940.00	
More than 22.0, not to exceed 23.0	970.00	
More than 23.0	1,000.00	
Volume - acre-feet (af)		
More than 0, not to exceed 20	150.00	
More than 20, not to exceed 100	200.00	
More than 100, not to exceed 500	250.00	
More than 500, not to exceed 1,000	300.00	

Late renewal (Annual) (per year)	50.00
Drill Rig Operator Registration	
Initial	100.00
Renewal (Annual) (per year)	50.00
Late Renewal (Annual) (per year)	50.00
Pump Installer License	
Initial	200.00
Renewal (Annual) (per year)	75.00
Late renewal (Annual) (per year)	50.00
Pump Rig Operator Registration	
Initial	75.00
Renewal (Annual) (per year)	25.00
Late renewal (Annual) (per year)	25.00
Stream Alteration	
Commercial	2,000.00
Government	500.00
Non-Commercial	100.00

WATERSHED

Sage Grouse Mitigation Application	
Fee 100.00	
Sage Grouse Mitigation Agreement	
Fee (per Credit/Acre)	5.00
Sage Grouse Mitigation Credit Transfer	
Fee (per Credit/Acre)	5.00

WILDLIFE RESOURCES

Director's Office	
Fishing Licenses	
Resident	
Youth Fishing (12-13)	5.00
Resident Youth Fishing	
Ages 14-17 (365 Day)	16.00
Resident Fishing Ages 18-64	
(365 day)	34.00
Resident Multi Year License (Up to 5 years)	
for Ages 18-64 \$33/year.	
Age 65 Or Older (365 day)	25.00
Disabled Veteran (365 day)	12.00
Resident Fishing 3 day any age	16.00
7-Day (Any Age)	20.00
Nonresident	
Youth Fishing (12-13)	5.00
Nonresident Youth Fishing	
Ages 14-17 (365 day)	25.00
Nonresident Fishing age 18 Or	
Older (365 day)	75.00
Nonresident Multi Year (Up to 5 Years) for	
Ages 18 or Older \$74/year.	
Nonresident Fishing 3 day any age	24.00
7-Day (Any Age)	40.00
Set Line Fishing License	20.00
Season Fishing Licenses not	
Combinations	Up to 20% discount
Stamps	
Wyoming Flaming Gorge	10.00
Arizona Lake Powell	8.00
Game Licenses	
Introductory Hunting License	4.00
Upon successful completion of Hunter	
Education - add to registration fee	
Resident Introductory Combination	
license (hunter's ed completion)	6.00
Nonresident Introductory Combination	
license (hunter's ed completion)	6.00

Resident	
Hunting License (up to 13)	11.00
Resident Hunting License	
Ages 14-17	16.00
Resident Hunting License	
Ages 18-64	34.00
Resident Multi Year license (Up to 5 years)	
for Ages 18-64 \$33/year	
Resident Hunting License Ages 65	
Or Older	25.00
Resident Youth Combination	
License Ages 14-17	20.00
Resident Combination license	
Ages 18-64	38.00
Resident Multi Year License (Up to 5 Years)	
for ages 18-64 \$37/year	
Resident Combination Ages 65	
or Older	29.00
Dedicated Hunter Certificate of Registration	
(COR)	
1 yr. (12-17)	40.00
1 Yr. (18+)	65.00
3 Yr. (12-17)	120.00
3 Yr. (18+)	195.00
Lifetime License Dedicated Hunter	
Certificate of Registration (COR)	
1 Yr. (12-17)	12.50
1 Yr. (18+)	25.00
3 Yr. (12-17)	37.50
3 Yr. (18+)	75.00
Nonresident	
Nonresident Youth Hunting License	
Ages 17 and Under	25.00
Nonresident Hunting License	
Age 18 or Older (365 day)	65.00
Nonresident Multi Year Hunting	
License	64.00
(Up to 5 Years)	
Nonresident Youth Combination	
license Ages 17 and under	29.00
Nonresident Combination license	
Ages 18 Or Older	85.00
Nonresident Multi Year License (Up to 5	
Years) for Ages 18 or Older \$84/year.	
Small Game - 3 Day	32.00
Falconry Meet	15.00
Dedicated Hunter Certificate of	
Registration (COR)	
1 Yr. (14-17)	268.00
Includes season fishing license	
1 Yr. (18+)	349.00
Includes season fishing license	
3 Yr. (12-17)	814.00
Includes season fishing license	
3 Yr. (18+)	1,047.00
Includes season fishing license	
General Season Permits	
Resident	
Youth General Season Turkey	25.00
Turkey	35.00
General Season Deer	40.00
Antlerless Deer	30.00
Two Doe Antlerless	45.00
Depredation - Antlerless	30.00
Archery Bull Elk	50.00
General Bull Elk	50.00
Multi Season General Bull Elk	150.00

Antlerless Elk	50.00	Depredation - Bull Elk - With Current	
Control Antlerless Elk	30.00	Year Unused Bull Permit	235.00
Resident Two Cow Elk permit	80.00	Depredation - Bull Elk - Without	
Resident Landowner Mitigation		Current Year Unused	
Deer - Antlerless	30.00	Bull Permit	285.00
Elk - Antlerless	30.00	Co-Operative Wildlife Management	
Pronghorn - Doe	30.00	Unit (CWMU)/Landowner	
Nonresident		Any Bull	285.00
Turkey	100.00	Antlerless	50.00
General Season Deer	268.00	Nonresident	
Includes season fishing license		Limited Entry Bull	800.00
Depredation - Antlerless	93.00	Includes season fishing license	
Antlerless Deer	93.00	Multi Season Limited	
Two Doe Antlerless	171.00	Entry Bull	1,505.00
Archery Bull Elk	393.00	Includes fishing license	
Includes season fishing license		Depredation - Antlerless	218.00
General Bull	393.00	Co-Operative Wildlife Management	
Includes season fishing license		Unit (CWMU)/Landowner	
Multi Season General Bull Elk	700.00	Any Bull	800.00
Antlerless Elk	218.00	Includes fishing license	
Control Antlerless Elk	93.00	Antlerless	218.00
Nonresident Two Cow Elk permit	350.00	Pronghorn	
Nonresident Landowner Mitigation		Resident	
Deer - Antlerless	93.00	Limited Buck	55.00
Elk - Antlerless	218.00	Limited Doe	30.00
Pronghorn - Doe	93.00	Limited Two Doe	45.00
Limited Entry Game Permits		Co-Operative Wildlife Management	
Deer		Unit (CWMU)/Landowner	
Resident		Buck	55.00
Limited Entry	80.00	Doe	30.00
Multi Season Limited Entry Buck ...	145.00	Depredation Doe	30.00
Premium Limited Entry	168.00	Archery Buck	55.00
Multi Season Premium Limited		Nonresident	
Entry Buck	305.00	Limited Buck	293.00
Co-Operative Wildlife Management Unit		Includes season fishing license	
(CWMU)/Landowner		Limited Doe	93.00
Buck	40.00	Limited Two Doe	171.00
Limited Entry	80.00	Archery Buck	293.00
Premium Limited Entry	168.00	Includes season fishing license	
Antlerless	30.00	Depredation Doe	93.00
Two Doe Antlerless	45.00	Co-Operative Wildlife Management	
Nonresident		Unit (CWMU)/Landowner	
Limited Entry	468.00	Buck	293.00
Includes season fishing license		Includes season fishing license	
Multi Season Limited Entry Buck ...	845.00	Doe	93.00
Premium Limited Entry	568.00	Moose	
Includes season fishing license		Resident	
Multi Season Premium Limited		Bull	413.00
Entry Buck	1,025.00	Antlerless	213.00
Co-Operative Wildlife Management		Co-Operative Wildlife Management	
Unit (CWMU)/Landowner		Unit (CWMU)/Landowner	
Buck	268.00	Bull	413.00
Includes season fishing license		Antlerless	213.00
Limited Entry	468.00	Nonresident	
Includes season fishing license		Bull	1,518.00
Premium Limited Entry	568.00	Includes season fishing license	
Includes season fishing license		Antlerless	713.00
Antlerless	93.00	Co-Operative Wildlife Management	
Two Doe Antlerless	171.00	Unit (CWMU)/Landowner	
Elk		Bull	1,518.00
Resident		Includes season fishing license	
Limited Entry Bull	285.00	Antlerless	713.00
Multi Season Limited Entry Bull ...	513.00	Co-Operative Wildlife Management	
Depredation	50.00	Unit (CWMU)/Landowner	
		Bull	1,518.00
		Includes season fishing license	
		Antlerless	713.00
		Bison	
		Resident	413.00
		Resident Antelope Island	1,110.00
		Nonresident	1,518.00

Includes season fishing license	
Nonresident Antelope Island	2,615.00
Includes season fishing license	
Bighorn Sheep	
Resident	
Desert	513.00
Rocky Mountain	513.00
Resident Rocky Mtn/Desert Bighorn	
Sheep Ewe permit	100.00
Nonresident	
Desert	1,518.00
Includes season fishing license	
Rocky Mountain	1,518.00
Includes season fishing license	
Nonresident Rocky Mtn/Desert	
Bighorn Sheep Ewe permit	1,000.00
Goats	
Resident Mountain	413.00
Nonresident Mountain	1,518.00
Includes season fishing license	
Cougar/Bear	
Resident	
Cougar	58.00
Bear	83.00
Premium Bear	166.00
Bear Archery	83.00
Cougar Pursuit	30.00
Bear Pursuit	30.00
Nonresident	
Cougar	258.00
Bear	308.00
Premium Bear	475.00
Cougar Pursuit	135.00
Bear Pursuit	135.00
Wolf	
Resident	20.00
Nonresident	80.00
Cougar/Bear	
Cougar or Bear Damage	30.00
Wild Turkey	
Resident Limited Entry	35.00
Nonresident Limited Entry	100.00
Waterfowl	
Swan	
Resident	15.00
Nonresident	15.00
Sandhill Crane	
Resident	15.00
Nonresident	15.00
Sportsman Permits	
Resident	
Bull Moose	413.00
Hunter's Choice Bison	413.00
Desert Bighorn Ram	513.00
Bull Elk	513.00
Buck Deer	168.00
Buck Pronghorn	55.00
Bear	83.00
Cougar	58.00
Mountain Goat	413.00
Rocky Mountain Sheep	513.00
Turkey	35.00
Other	
Falconry Permits	
Resident	
Capture	
Apprentice Class	30.00

General Class	50.00
Master Class	50.00
Nonresident	
Capture	
Apprentice Class	115.00
General Class	115.00
Master Class	115.00
Handling	10.00
Includes licenses, Certificate of	
Registration, and exchanges	
Drawing Application	10.00
Landowner Association Application	150.00
Nonrefundable	
Resident/Nonresident Dedicated Hunter	
Hourly Labor Buyout Rate	20.00
Bird Bands	0.25
Furbearer/Trap Registration	
Resident Furbearer	29.00
Any age	
Nonresident Furbearer	154.00
Any age	
Resident Bobcat Temporary	
Possession	15.00
Nonresident Bobcat Temporary	
Possession	45.00
Resident Trap Registration	10.00
Nonresident Trap Registration	10.00
Duplicate Licenses, Permits and Tags	
Hunter Education cards	10.00
Furharvester Education cards	10.00
Duplicate Vouchers CWMU/	
Conservation/Mitigation	25.00
Refund of Hunting Draw License	25.00
Application Amendment	25.00
Late Harvest Reporting	50.00
Exchange	10.00
Wildlife Management Area Access	
(without a valid license)	10.00
Division Programs Participation	
fee	Variable
Fees shall be determined by the division	
using the estimated costs of materials and	
supplies needed for participation in the event.	
Wood Products on Division Land	
Firewood (2 Cords)	10.00
Christmas Tree	5.00
Ornamentals	
Conifers (per tree)	5.00
Maximum \$60.00 per permit	
Deciduous (per tree)	3.00
Maximum \$60.00 per permit	
Posts	0.40
Maximum \$60.00 per permit	
Hunter Education	
Hunter Education Training	6.00
Hunter Education Home Study	6.00
Furharvester Education Training	6.00
Bowhunter Education Class	6.00
Long Distance Verification	2.00
Becoming an Outdoors Woman	150.00
Special Needs Rates Available	
Hunter Education Range	
Adult	5.00
Market price up to \$10.	
Youth	2.00
Ages 15 and under. Market price up to \$5.	

Group for organized groups and not for special passes	50% discount
Spotting Scope Rental	2.00
Trap, Skeet or Riverside Skeet (per round)	5.00
Market price up to \$10	
Five Stand - Multi-Station Birds	7.00
Market price up to \$10	
Ten Punch Pass	
Ten Punch Pass Shooting Ranges	
Youth (Rifle/Archery/Handgun)	Up to \$45
Market price up to \$45.00	
Ten Punch Pass Shooting Ranges (Shotgun)	Up to \$95
Market price up to \$95.00	
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/Handgun)	Up to \$95
Market price up to \$95.00	
Sportsmen Club Meetings	20.00
Shooting Center RV	
Camping	\$10.00 to \$50.00
Reproduction of Records	
Self Service (per copy)	0.10
Staff Service (per copy)	0.25
Geographic Information System	
Personnel Time (per hour)	50.00
Processing (per hour)	55.00
Data Processing	
Programming Time (per hour)	75.00
Production (per hour)	55.00
License Agency	
Application	20.00
Other Services to be reimbursed at actual time and materials	
Postage	Current rate
Lost license paper by license agents (per page)	10.00
Return check charge	20.00
Hardware Ranch Sleigh Ride	
Adult	5.00
Age 4-8	3.00
Age 0-3	No charge
Education Groups (per person)	1.00
Easement and Leases Schedule	
Application for Leases	
Leases	250.00
Nonrefundable	
Easements	
Rights-of-way	750.00
Nonrefundable	
Rights-of-entry	50.00
Nonrefundable	
Easements Oil and Gas Pipelines	250.00
Amendment to lease, easement, right-of-way	400.00
Nonrefundable	
Amendment to right of entry	50.00
Certified document	5.00
Nonrefundable	
Research on leases or title records (per hour)	50.00
Rights-of-Way	
Leases and Easements - Resulting in Long-Term Uses of Habitat	Variable

Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.

Special Use Permits for non-depleting land uses of < 1 year

Variable
A nonrefundable application of \$50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.

Width of Easement	
0' - 30' Initial	12.00
0' - 30' Renewal	8.00
31' - 60' Initial	18.00
31' - 60' Renewal	12.00
61' - 100' Initial	24.00
61' - 100' Renewal	16.00
101' - 200' Initial	30.00
101' - 200' Renewal	20.00
201' - 300' Initial	40.00
201' - 300' Renewal	28.00
>300' Initial	50.00
>300' Renewal	34.00

Outside Diameter of Pipe	
<2.0" Initial	9.40
<2.0" Renewal	4.00
2.0" - 13" Initial	19.00
2.0" - 13" Renewal	8.00
13.1"-37" Initial	38.00
13.1" - 25" Renewal	12.00
25.1" - 37" Renewal	16.00
>37" Initial	75.00
>37" Renewal	32.00

Roads, Canals	
Permanent loss of habitat plus high maintenance disturbance	18.00
1' - 33' New Construction	
Permanent loss of habitat plus high maintenance disturbance	12.00
1' - 33' Existing	
Permanent loss of habitat plus high maintenance disturbance	24.00
33.1' - 66' New Construction	
Permanent loss of habitat plus high maintenance disturbance	18.00
33.1' - 66' Existing	

Assignments: Easements, Grazing	
Permits, Right-of-entry, Special Use	250.00

Certificates of Registration	
Initial - Personal Use	75.00
Initial - Commercial	150.00

TYPE I	
Certificate of Registration (COR)	
Fishing Contest	
Small, Under 50	20.00

Medium, 50 to 100	100.00
Large, over 200	250.00
Amendment	10.00
Certificate of Registration (COR)	
Handling	10.00
Renewal	30.00
Late fee for failure to renew Certificates of	
Registration when due: greater of \$10 or 20%	
of fee.	Variable
Required Inspections	100.00
Failure to Submit Required Annual	
Activity Report When Due	10.00
Request for Species Reclassification ..	200.00
Request for Variance	200.00
Commercial Fishing and Dealing	
Commercially in Aquatic Wildlife	
Dealer in Live/Dead Bait	75.00
Helper Cards - Live/Dead Bait	15.00
Commercial Seiner	1,000.00
Helper Cards - Commercial	
Seiner	100.00
Commercial Brine Shrimper	15,000.00
Helper Cards - Commercial Brine	
Shrimper	1,500.00
Upland Game Cooperative	
Wildlife Management Units	
New Application	250.00
Annual	150.00
Big Game Cooperative Wildlife	
Management Unit	
New Application	250.00
Annual	150.00
Falconry	
Three year	45.00
Five Year	75.00
Commercial Hunting Areas	
New Application	150.00
Renewal Application	150.00

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Administration	
Research on leases or title by staff	
(per hour)	75.00
Reproduction of Records	
Copies Made By Staff (per copy)	0.40
Copies - Self-service (per copy)	0.10
Name change on Administrative Records	
Name Change on Admin. Records -	
Surface Document	15.00
Name Change on Admin. Records -	
Lease (per lease)	15.00
Late fee	6% or \$30, whichever is greater
Fax send only including cover (per page)	1.00
Certified Copies (per document)	10.00
Affidavit of Lost Document	
(per document)	25.00
Surface	
Easements	
Amendment	400.00
Application	750.00
Assignment Fees	250.00
Collateral	250.00

Reinstatement	400.00
Exchange	
Application	1,000.00
Grazing Permit	
Amendment	75.00
Application	75.00
Assignment Fees	30.00
Collateral	50.00
Reinstatement	100.00
Non-Use	20.00
Modified	
Amendment	50.00
Application	250.00
Assignment Fees	250.00
Collateral	50.00
Reinstatement	30.00
Letter of Intent	
Application	100.00
Right of Entry	
Amendment	50.00
Application	50.00
Assignment	250.00
Extension of Time	100.00
Processing	50.00
Right of Entry Trailing Permit	
Application plus AUM (Animal	
Unit Month) fees	50.00
Sales/Certificates	
Application	250.00
Assignment	250.00
Partial Conveyance	250.00
Patent Reissue	50.00
Processing	500.00
Special Use Agreements	
Amendment	400.00
Application	250.00
Assignment Fees	250.00
Collateral	250.00
Processing	700.00
Reinstatement	400.00
Timber Agreement	
Application	100.00
6 months or less	
Assignment	250.00
6 months or less	
Application	500.00
longer than 6 months	
Assignment	250.00
longer than 6 months	
Extension of Time	250.00
longer than 6 months	
Mineral	
Application	
Materials Permit (Sand and	
Gravel)	250.00
Mineral Materials Permit	100.00
Mineral Lease	30.00
Rockhounding Permit	
Association	200.00
Individual/Family	25.00
Collateral	50.00
Materials Permit (Sand and	
Gravel)	200.00
Operating Rights	50.00
Overriding Royalty	50.00
Record Title	50.00
Segregation	100.00

Processing	
Materials Permit (Sand/Gravel)	700.00
Transfer Active Oil and Gas Lease to Current Form	50.00
Cash Equivalent	3.00
Bank Charge (per incident)	3 percent

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

STATE ADMINISTRATIVE OFFICE

Indirect Cost Pool	
Indirect Cost Pool	
Restricted Funds	
USOE percentage of personal service costs	up to 18%
Unrestricted Funds	
USOE percentage of personal service costs	up to 24%
Teaching and Learning	
Conference or Professional	
Development Registration	50.00

**UTAH SCHOOLS FOR THE
DEAF AND THE BLIND**

Educational Services	
Instruction	
Teachers Aide	12.53
Student Education Services Aide	29.79
Educator	61.32
After-School Program	30.00
Pre-School Monthly Tuition	75.00
Out-of-State Tuition	50,600.00
Support Services	
Support Services	
Educator	61.32
Instruction	
Educational Interpreter	45.69
Support Services	
Conference Attendance	
Educator - Conference	
Attendance Fee	100.00
Parent - Conference	
Attendance Fee	25.00
Adult Lunch Tickets	2.00
Copy & Fax Machine	
Fax Machine	1.00
Copy Machine	
Color	1.00
Black/White	0.10
Athletic (per sport)	100.00
Room Rental	
Dormitory	19.00
Conference	94.00
Multipurpose	188.00

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Statewide Management Liability Training

Certified Public Manager Course Fee (per student)	750.00
Other Training Fee (per contact hour)	15.00

**HUMAN RESOURCES
INTERNAL SERVICE FUND**

ISF - Core HR Services	
Core HR (per FTE)	12.00
ISF - Field Services	
HR Services (per FTE)	740.00
Consulting Services (Non-Customer) (per Hour)	50.00
Billing for DHRM consultation with agencies who do not use DHRM HR services.	
ISF - Payroll Field Services	
Payroll Services (per FTE)	54.00
Per UCA 67-19-13.5, the following agencies are not required to use DHRM payroll services: State Treasurer's Office, State Auditor's Office, Dept. of Technology Services, Dept. of Public Safety, Dept. of Natural Resources, Dept. of Transportation, Utah Schools for the Deaf and the Blind.	

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Capitol Hill Grounds	
Commercial Production Grounds/per event (per day)	2,500.00
Commercial Production White Chapel/per event	1,000.00
Commercial filming/photography Capitol building-2 hour increments	500.00
Commercial filming/photography Capitol grounds-2 hour increments	250.00
A, B, C, D	
A, B, C, and D/per event (per day)	2,500.00
A, B, C, and D/per hour	750.00
A-South Lawn	
A-South Lawn/per event	2,000.00
A-South Lawn/per hour	400.00
B-SE Outside of Oval	
B-SE Outside of Oval/per event	1,000.00
B-SE Outside of Oval/per hour	200.00
C-SW Outside of Oval	
C-SW Outside of Oval/per event	1,000.00
C-SW Outside of Oval/per hour	200.00
D-West Lawn	
D-West Lawn/per event	500.00
D-West Lawn/per hour	150.00
South Steps	
South Steps/per event (per event)	500.00
South Steps/per hour (per hour)	125.00
Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Parking Lot	
Parking Space (per stall per day) For events only	7.00
Rotunda	
Commercial Production Rotunda/ per event (per day)	5,000.00
Rotunda Rental Fee Monday- Thursday (per event)	2,000.00
Rotunda Rental Fee Friday- Sunday (per event)	2,300.00

Rotunda two hour block Mon-Fri during Leg Session (7 a.m.-5:30 p.m.) No charge

Hall of Governors
Hall of Governors 1,300.00
Hall of Governors - Two hour block Monday - Friday during Leg Session (7:00 a.m.-5:30 p.m.) No charge

Plaza
Plaza/per event 1,300.00
Plaza/per hour 200.00

Room 105
General Public, Commercial, & Private Groups
Room #105/per hour 100.00
Room #105 Mon - Fri 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #105/per hour 50.00
Room #105 Mon - Fri 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Room 170
General Public, Commercial, & Private Groups
Room #170/per hour 100.00
Room #170 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #170/per hour 50.00
Room #170 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Room 210
General Public, Commercial, & Private Groups
Room #210/per hour 100.00
Room #210 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #210/per hour 50.00
Room #210 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

State Room
State Room/per event 1,000.00
State Room/per hour 125.00

Centennial Room
General Public, Commercial, & Private Groups
Centennial Room #130/per hour 100.00
Centennial Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Centennial Room #130/per hour 50.00
Centennial Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Board Room

General Public, Commercial, & Private Groups
Board Room/per hour 150.00

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Board Room/per hour 75.00

Olmsted Room
General Public, Commercial, & Private Groups
Olmsted Room/per hour 100.00
Olmsted Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Olmsted Room/per hour 50.00
Olmsted Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Kletting Room
General Public, Commercial, & Private Groups
Kletting Room/per hour 100.00
Kletting Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Kletting Room/per hour 50.00
Kletting Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Elk Room
General Public, Commercial, & Private Groups
Elk Room/per hour 100.00
Elk Room Mon-Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Elk Room/per hour 50.00
Elk Room Mon-Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Seagull Room
General Public, Commercial, & Private Groups
Seagull Room/per hour 100.00
Seagull Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Seagull Room/per hour 50.00
Seagull Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Beehive Room
General Public, Commercial, & Private Groups
Beehive Room/per hour 100.00
Beehive Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Beehive Room/per hour 50.00
Beehive Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week) No charge

Copper Room
General Public, Commercial, & Private Groups
Copper Room/per hour 100.00

Copper Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Copper Room/per hour	50.00
Copper Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Aspen Room	
General Public, Commercial, & Private Groups	
Aspen Room/per hour	100.00
Aspen Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Aspen Room/per hour	50.00
Aspen Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
State Office Building - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Auditorium	
General Public, Commercial, & Private Groups	
Auditorium/per hour	125.00
Auditorium Mon - Fri, 7:00 a.m.- 11 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour)	125.00
Auditorium Mon - Fri, 11:00 a.m.- 1:30 p.m. during Leg Session with the use of preferred caterer	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Auditorium/per hour	75.00
Auditorium Mon - Fri, 7:00 a.m.- 11:00 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour)	75.00
Auditorium Mon - Fri, 11 a.m.- 1:30 p.m. during Leg Session with the use of preferred caterer	No charge
Room 1112	
General Public, Commercial, & Private Groups	
Room #1112/per hour	100.00
Room #1112 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #1112/per hour	50.00
Room #1112 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Room B110	
General Public, Commercial, & Private Groups	
Room #B110/per hour	100.00
Room #B110 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #B110/per hour	50.00
Room #B110 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
White Community Memorial Chapel	

Per day of event	500.00
Noon-midnight rehearsal	250.00
Miscellaneous Other	
Access Badges	25.00
Additional Labor (per person, per 1/2 hr)	25.00
Additional Personnel (per person, per 1/2 hr)	25.00
Adjustment (per person, per 1/2 hr)	25.00
Administrative Fee	10.00
Baby Grand Piano	200.00
Chairs (per chair)	1.50
Change in set-up fee (per person, per 1/2 hr)	25.00
Easel	10.00
Event/Dance Floor 30x30	1,000.00
Event/Dance Floor 21x21	600.00
Event/Dance Floor 15x15	450.00
Event/Dance Floor 12x12	250.00
Event/Dance Floor 6x6	125.00
Extension Cords	5.00
Flags	No charge
Free Speech Public Space Usage	No charge
Garbage Can	No charge
Gold Formal Chair (per chair)	5.00
Insurance Coverage for Capitol Hill Facilities and Grounds	Coverage of \$1,000,000.00
Locker Rentals (per year)	40.00
PA System (Podium & Microphone) with one speaker	50.00
Additional speakers available at a cost of \$15.00 each.	
Podium	
With Microphone	35.00
Without Microphone	25.00
POLYCOM Phone Rental	10.00
Risers (per section)	25.00
Security (per officer, per hour)	50.00
Stanchion	10.00
Standing Microphone	15.00
Table (per table)	7.00
Table Pedestal Round 20" (per table)	10.00
Table Pedestal Round 42" (per table)	10.00
Upright Piano	50.00
Wood Folding Chair (per chair)	2.50

UTAH NATIONAL GUARD

Operations and Maintenance	
Armory Rental	
Armory Rental (per hour)	25.00
Armory rental fee of \$25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.	
Security Attendant (per hour)	15.00
Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.	
Refundable Cleaning Deposit	100.00

This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Cemetery

Veterans' Burial 777.00

Spouse/Dependent Burial 777.00

Saturday Burial Surcharge 700.00

Lawn Vase 65.00

Disinterment

 Single Depth Disinterment 600.00

 Double Depth Disinterment 900.00

Cremains Disinterment 150.00

Chapel Rental 150.00

 Fee for renting the on-site chapel for
 funerals, memorials or other events.

Section 3. Effective Date.

This bill takes effect on July 1, 2018.

CHAPTER 364**H. B. 15**

Passed February 15, 2018

Approved March 21, 2018

Effective May 8, 2018

**COMMUNITY REINVESTMENT
AGENCY AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a city and a county to report use of a housing allocation;
- ▶ authorizes a public entity to donate the public entity's property to an agency;
- ▶ modifies requirements for notice provided by an agency;
- ▶ modifies the public benefit analysis required for a community reinvestment project area plan;
- ▶ removes the requirement that a taxing entity committee meet at least annually; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-408, as last amended by Laws of Utah 2012, Chapter 212
- 17-27a-408, as last amended by Laws of Utah 2012, Chapter 212
- 17C-1-102, as last amended by Laws of Utah 2017, Chapter 456
- 17C-1-202, as last amended by Laws of Utah 2016, Chapter 350
- 17C-1-207, as last amended by Laws of Utah 2016, Chapter 350
- 17C-1-401.5, as renumbered and amended by Laws of Utah 2016, Chapter 350
- 17C-1-402, as last amended by Laws of Utah 2016, Chapter 350
- 17C-1-403, as last amended by Laws of Utah 2016, Chapter 350
- 17C-1-603, as last amended by Laws of Utah 2016, Chapter 350
- 17C-1-806, as renumbered and amended by Laws of Utah 2016, Chapter 350
- 17C-1-902, as last amended by Laws of Utah 2017, Chapter 456
- 17C-2-110, as last amended by Laws of Utah 2017, Chapter 181
- 17C-3-109, as last amended by Laws of Utah 2017, Chapter 181
- 17C-4-108, as last amended by Laws of Utah 2016, Chapter 350

17C-5-104, as last amended by Laws of Utah 2017, Chapter 456

17C-5-105, as enacted by Laws of Utah 2016, Chapter 350

17C-5-108, as enacted by Laws of Utah 2016, Chapter 350

17C-5-112, as last amended by Laws of Utah 2017, Chapter 456

59-2-924.2, as last amended by Laws of Utah 2016, Chapter 350

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

Section 1. Section 10-9a-408 is amended to read:**10-9a-408. Biennial review of moderate income housing element of general plan.**

(1) The legislative body of each city shall biennially:

(a) review the moderate income housing plan element of its general plan and its implementation; and

(b) in accordance with Subsection (2), prepare a report setting forth the findings of the review.

(2) Each report under Subsection (1) shall include a description of:

(a) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(b) actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing;

(c) progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; ~~and~~

(d) efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities~~;~~ and

(e) if applicable, the city's use of a housing allocation, as defined in Section 17C-1-102.

(3) The legislative body of each city shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the city is located.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 2. Section 17-27a-408 is amended to read:**17-27a-408. Biennial review of moderate income housing element of general plan.**

(1) The legislative body of each county with a population over 25,000 shall biennially:

(a) review the moderate income housing plan element of its general plan and its implementation; and

(b) in accordance with Subsection (2), prepare a report setting forth the findings of the review.

(2) Each report under Subsection (1) shall include a description of:

(a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(b) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;

(c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; ~~and~~

(d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities~~[-]; and~~

(e) if applicable, the county's use of a housing allocation, as defined in Section 17C-1-102.

(3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the county is located.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 3. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

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

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

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

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

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

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

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

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a

redevelopment agency or community development and renewal agency under previous law:

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

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

(c) whose geographic boundaries are coterminous with:

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

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

(5) "Agency funds" means money that an agency collects or receives for ~~[the purposes of]~~ agency operations ~~[or]~~, implementing a project area plan, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or

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

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

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

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

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

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

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

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

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

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

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

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

(d) for a community development project area plan or a community reinvestment project area plan

that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) “Basic levy” means the portion of a school district’s tax levy constituting the minimum basic levy under Section 59-2-902.

(11) “Blight” or “blighted” means the condition of an area that meets the requirements described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(12) “Blight hearing” means a public hearing regarding whether blight exists within a proposed:

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

(b) community reinvestment project area under Section 17C-5-405.

(13) “Blight study” means a study to determine whether blight exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(14) “Board” means the governing body of an agency, as described in Section 17C-1-203.

(15) “Budget hearing” means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

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

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

(18) “Community” means a county or municipality.

(19) “Community development project area plan” means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(20) “Community legislative body” means the legislative body of the community that created the agency.

(21) “Community reinvestment project area plan” means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(22) “Contest” means to file a written complaint in the district court of the county in which the agency is located.

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

(24) “Fair share ratio” means the ratio derived by:

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

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

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

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

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

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

(29) “Housing fund” means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds allocated for the purposes described in Section 17C-1-411; or

(b) an agency’s housing allocation.

(30) (a) “Inactive airport site” means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

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

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

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

(36) "Marginal value" means the difference between actual taxable value and base taxable value.

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

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

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

(40) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

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

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

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

(b) is approved by resolution of the board.

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

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

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

(44) "Private," with respect to real property, means ~~[(a)]~~ property not owned by a public entity or any other governmental entity ~~;~~ and ~~].~~

~~[(b) not dedicated to public use.]~~

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

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

(a) for an urban renewal project area, Section 17C-2-202;

(b) for an economic development project area, Section 17C-3-202;

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

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

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

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

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

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

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

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

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

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

(h) relocating a business;

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

(j) eliminating blight or the causes of blight;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in ~~Subsections (47)(a) through (k)~~ this Subsection (47) outside of a project area that the board determines to be a benefit to the project area.

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

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

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget ~~adopted~~ approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget ~~adopted~~ approved by a taxing entity committee or an interlocal agreement.

(50) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(51) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(52) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, local district, special service district, community reinvestment agency, or interlocal cooperation entity.

(53) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(54) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(55) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(56) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (56)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(57) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) blight exists within the survey area.

(58) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(59) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commissioner assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(60) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(61) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(62) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(63) "Unincorporated" means not within a municipality.

(64) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 4. Section 17C-1-202 is amended to read:

17C-1-202. Agency powers.

(1) An agency may:

(a) sue and be sued;

(b) enter into contracts generally;

(c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real or personal property;

(d) sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;

(e) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) provide for project area development as provided in this title;

(g) receive and use agency funds as provided in this title;

(h) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(i) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;

(j) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;

(k) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;

(l) pay an impact fee, exaction, or other fee imposed by a community in connection with land development; or

(m) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(h) is a public purpose.

(3) An agency may acquire real property under Subsection (1)(c) that is outside a project area only if the board determines that the property will benefit a project area.

Section 5. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

~~[(b) 15 days after posting public notice:]~~

~~(b) for less than fair market value or for no consideration, and subject to Subsection (4):~~

~~(i) purchase or otherwise acquire property [or] from an agency;~~

~~(ii) lease property from [the] an agency; [or]~~

~~[(iii)] (iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or~~

~~(iv) lease the public entity's property to [the] an agency.~~

(2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.

~~[(3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget,]~~

(3) A public entity that provides assistance under this section is not subject to ~~[the requirements of Section]~~ Section 10-8-2 or 17-50-312.

(4) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity posts notice of the assistance on:

(a) the Utah Public Notice Website described in Section 63F-1-701; and

(b) the public entity's public website.

Section 6. Section 17C-1-401.5 is amended to read:

17C-1-401.5. Agency receipt and use of project area funds -- Distribution of project area funds.

(1) An agency may receive and use project area funds in accordance with this title.

(2) (a) A county that collects property tax on property located within a project area shall, in accordance with Section 59-2-1365, distribute to an agency any tax increment that the agency is authorized to receive.

(b) Tax increment distributed to an agency in accordance with Subsection (2)(a) is not revenue of the taxing entity.

(3) (a) The project area funds collection period shall be measured:

(i) for a pre-July 1, 1993, project area plan, from the first tax year regarding which the agency accepts tax increment from the project area;

(ii) for a post-June 30, 1993, urban renewal or economic development project area plan:

(A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or

(B) with respect to sales and use tax revenue, as indicated in the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive all or a portion of the taxing entity's sales and use tax revenue;

(iii) for a community development project area plan, as indicated in the resolution or interlocal agreement of a taxing entity that authorizes the agency to receive the taxing entity's project area funds;

(iv) for a community reinvestment project area plan that is subject to a taxing entity committee:

(A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or

(B) with respect to sales and use tax revenue, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive all or a portion of the taxing entity's sales and use tax revenue; or

(v) for a community reinvestment project area plan that is subject to an interlocal agreement, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's project area funds.

(b) Unless otherwise provided in a project area budget that is approved by a taxing entity committee, or in an interlocal agreement adopted

by a taxing entity, tax increment may not be paid to an agency for a tax year before the tax year following:

(i) for an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee, the effective date of the project area plan; and

(ii) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, the effective date of the interlocal agreement that authorizes the agency to receive tax increment.

(4) With respect to a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement:

(a) a taxing entity may, through interlocal agreement, authorize an agency to be paid any or all of the taxing entity's project area funds for any period of time; and

(b) the interlocal agreement authorizing the agency to be paid project area funds shall specify:

(i) the base taxable value of the project area; and

(ii) the method of calculating the amount of project area funds to be paid to the agency.

(5) (a) (i) The boundaries of one project area may overlap and include the boundaries of ~~an existing~~ another project area.

(ii) If a taxing entity committee is required to approve the project area budget of an overlapping project area described in Subsection (5)(a)(i), the agency shall, before the first meeting of the taxing entity committee at which the project area budget will be considered, inform each taxing entity of the location of the overlapping boundaries.

(b) (i) Before an agency may receive tax increment from the newly created overlapping portion of a project area, the agency shall inform the county auditor regarding the respective amount of tax increment that the agency is authorized to receive from the overlapping portion of each of the project areas.

(ii) The combined amount of tax increment described in Subsection (5)(b)(i) may not exceed 100% of the tax increment generated from a property located within the overlapping boundaries.

(c) Nothing in this Subsection (5) gives an agency a right to receive project area funds that the agency is not otherwise authorized to receive under this title.

(d) The collection of project area funds from an overlapping project area described in Subsection (5)(a) does not affect an agency's use of project area funds within the other overlapping project area.

(6) With the written consent of a taxing entity, an agency may be paid tax increment, from the taxing

entity's property tax revenue only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this title.

(7) Subject to Section 17C-1-407, an agency is authorized to receive tax increment as described in:

(a) for a pre-July 1, 1993, project area plan, Section 17C-1-403;

(b) for a post-June 30, 1993, project area plan:

(i) Section 17C-1-404 under a project area budget adopted by the agency in accordance with this title;

(ii) a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or

(iii) Section 17C-1-406;

(c) a resolution or interlocal agreement entered into under Section 17C-2-207, 17C-3-206, 17C-4-201, or 17C-4-202;

(d) for a community reinvestment project area plan that is subject to a taxing entity committee, a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or

(e) for a community reinvestment project area plan that is subject to an interlocal agreement, an interlocal agreement entered into under Section 17C-5-204.

Section 7. Section 17C-1-402 is amended to read:

17C-1-402. Taxing entity committee.

(1) The provisions of this section apply to a taxing entity committee that is created by an agency for:

(a) a post-June 30, 1993, urban renewal project area plan or economic development project area plan;

(b) any other project area plan adopted before May 10, 2016, for which the agency created a taxing entity committee; and

(c) a community reinvestment project area plan that is subject to a taxing entity committee.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed in accordance with Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency is created by a municipality, two representatives appointed by resolution of the legislative body of the municipality;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

(b) (i) Each taxing entity committee representative described in Subsection (2)(a) shall be appointed within 30 days after the day on which the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the board may appoint an individual to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) At a taxing entity committee's first meeting, the taxing entity committee shall adopt an organizing resolution that:

(a) designates a chair and a secretary of the taxing entity committee; and

(b) if the taxing entity committee considers it appropriate, governs the use of electronic meetings under Section 52-4-207.

(4) (a) A taxing entity committee represents all taxing entities regarding:

(i) an urban renewal project area plan;

(ii) an economic development project area plan; or

(iii) a community reinvestment project area plan that is subject to a taxing entity committee.

(b) A taxing entity committee may:

(i) cast votes that are binding on all taxing entities;

(ii) negotiate with the agency concerning a proposed project area plan;

(iii) approve or disapprove:

(A) an urban renewal project area budget as described in Section 17C-2-204;

(B) an economic development project area budget as described in Section 17C-3-203; or

(C) for a community reinvestment project area plan that is subject to a taxing entity committee, a community reinvestment project area budget as described in Section 17C-5-302;

(iv) approve or disapprove an amendment to a project area budget as described in Section 17C-2-206, 17C-3-205, or 17C-5-306;

(v) approve an exception to the limits on the value and size of a project area imposed under this title;

(vi) approve:

(A) an exception to the percentage of tax increment to be paid to the agency;

(B) except for a project area funds collection period that is approved by an interlocal agreement, each project area funds collection period; and

(C) an exception to the requirement for an urban renewal project area budget, an economic development project area budget, or a community reinvestment project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;

(vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as described in Subsection 17C-1-409(1)(a)(iii)(D);

(viii) waive the restrictions described in Subsection 17C-2-202(1);

(ix) subject to Subsection (4)(c), designate the base taxable value for a project area budget; and

(x) give other taxing entity committee approval or consent required or allowed under this title.

(c) (i) Except as provided in Subsection (4)(c)(ii), the base year may not be a year that is earlier than five years before the beginning of a project area funds collection period.

(ii) The taxing entity committee may approve a base year that is earlier than the year described in Subsection (4)(c)(i).

(5) A quorum of a taxing entity committee consists of:

(a) if the project area is located within a municipality, five members; or

(b) if the project area is not located within a municipality, four members.

(6) Taxing entity committee approval, consent, or other action requires:

(a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:

(i) at which a quorum is present; and

(ii) considering an action relating to a project area budget for, or approval of a finding of blight within, a project area or proposed project area that contains:

(A) an inactive industrial site;

(B) an inactive airport site; or

(C) a closed military base; or

(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.

(7) (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.

(b) Each notice under Subsection (7)(a) shall be accompanied by:

(i) the proposed agenda for the taxing entity committee meeting; and

(ii) if not previously provided and if the documents exist and are to be considered at the meeting:

(A) the project area plan or proposed project area plan;

(B) the project area budget or proposed project area budget;

(C) the analysis required under Subsection 17C-2-103(2), 17C-3-103(2), or 17C-5-105~~(2)~~(12);

(D) the blight study;

(E) the agency's resolution making a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) or Subsection 17C-5-402(2)(c)(ii); and

(F) other documents to be considered by the taxing entity committee at the meeting.

(c) (i) An agency may not schedule a taxing entity committee meeting on a day on which the Legislature is in session.

(ii) Notwithstanding Subsection (7)(c)(i), a taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

(8) (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed project area budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.

(b) A second taxing entity committee meeting to consider a proposed project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.

~~[(9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall meet at least annually during a project area funds collection period under an urban renewal, an economic development, or a community reinvestment project area budget to review the status of the project area.]~~

~~[(b) A taxing entity committee is not required to meet in accordance with Subsection (9)(a) if the agency prepares and distributes on or before November 1 of each year a report as described in Section 17C-1-603.]~~

~~[(10)] (9) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.~~

~~[(11)] (10) A taxing entity committee's records shall be:~~

(a) considered the records of the agency that created the taxing entity committee; and

(b) maintained by the agency in accordance with Section 17C-1-209.

~~[(12)] (11) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to receive tax increment, to increase the amount of tax increment the agency receives, or to extend a project area funds collection period, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.~~

~~[(13)] (12) (a) The auditor of each county in which an agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each project area:~~

(i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and

(ii) the assessed value.

(b) With respect to the information required under Subsection ~~[(13)] (12)~~(a), the auditor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that each project area funds collection period ends.

(c) The auditor of the county in which the agency is located shall provide a report under this Subsection ~~[(43)]~~ (12):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee considers whether to allow the agency to receive tax increment, to increase the amount of tax increment that the agency receives, or to extend a project area funds collection period.

~~[(44)]~~ (13) This section does not apply to:

(a) a community development project area plan; or

(b) a community reinvestment project area plan that is subject to an interlocal agreement.

~~[(45)]~~ (14) (a) A taxing entity committee resolution approving a blight finding, approving a project area budget, or approving an amendment to a project area budget:

(i) is final; and

(ii) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.

(b) The provisions of Subsection ~~[(45)]~~ (14)(a) apply regardless of when the resolution is adopted.

Section 8. Section 17C-1-403 is amended to read:

17C-1-403. Tax increment under a pre-July 1, 1993, project area plan.

(1) Notwithstanding any other provision of law, this section applies retroactively to tax increment under all pre-July 1, 1993, project area plans, regardless of when the applicable project area was created or the applicable project area plan was adopted.

(2) (a) Beginning with the first tax year after April 1, 1983, for which an agency accepts tax increment, an agency is authorized to receive:

(i) (A) for the first through the fifth tax years, 100% of tax increment;

(B) for the sixth through the tenth tax years, 80% of tax increment;

(C) for the eleventh through the fifteenth tax years, 75% of tax increment;

(D) for the sixteenth through the twentieth tax years, 70% of tax increment; and

(E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or

(ii) for an agency that has caused a taxing entity committee to be created under Subsection 17C-1-402(1)(a), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.

(b) Notwithstanding any other provision of this section:

(i) an agency is authorized to receive 100% of tax increment from a project area for 32 years after April 1, 1983, to pay principal and interest on agency indebtedness incurred before April 1, 1983, even though the size of the project area from which tax increment is paid to the agency exceeds 100 acres of privately owned property under a project area plan adopted on or before April 1, 1983; and

(ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983, may be refinanced and paid from 100% of tax increment if the principal amount of the debt is not increased in the refinancing.

(3) (a) For purposes of this Subsection (3)~~]~~:

(i) ~~[-“additional”]~~ “Additional tax increment” means the difference between 100% of tax increment for a tax year and the amount of tax increment an agency is paid for that tax year under the percentages and time periods specified in Subsection (2)(a).

(ii) “Pledged” means a commitment by a board or a community legislative body to pay the costs of bond indebtedness, an interfund loan, a reimbursement, or other contractual obligation of the board or the community legislative body related to a convention center or sports complex described in Subsection (3)(b).

(b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a), an agency is authorized to receive additional tax increment for a period ending 32 years after the first tax year after April 1, 1983, for which the agency receives tax increment from the project area if:

(i) (A) the additional tax increment is used solely to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements;

(B) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before June 30, 2002;

(C) the additional tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement; and

(D) the board and the community legislative body have determined by resolution that the convention center or sports complex is:

(I) within and a benefit to a project area;

(II) not within but still a benefit to a project area; or

(III) within a project area in which substantially all of the land is publicly owned and a benefit to the community; or

(ii) (A) the additional tax increment is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area;

(B) construction of the recreational or cultural facility is commenced on or before December 31, 2005; and

(C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part of the cost of the land for and the installation and construction of the recreational or cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.

(c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without the school district's consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would have been paid without that subsection.

(4) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in Subsection (3).

Section 9. Section 17C-1-603 is amended to read:

17C-1-603. Annual report.

(1) Beginning in 2016, on or before November 1 of each year, an agency shall:

(a) prepare an annual report as described in Subsection (2); ~~and~~

(b) submit the annual report electronically to the community in which the agency operates, the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives project area funds~~;~~;

(c) post the annual report on the agency's website; and

(d) ensure that the community in which the agency operates posts the annual report on the community's website.

(2) The annual report shall, for each active project area whose project area funds collection period has not expired, contain the following information:

(a) an assessment of the change in marginal value, including:

(i) the base year;

~~(4)~~ (ii) the base taxable value;

~~(4ii)~~ (iii) the prior year's assessed value;

~~(4iii)~~ (iv) the estimated current assessed value; ~~and~~

(v) the percentage change in marginal value; and

~~(4iv)~~ (vi) a narrative description of the relative growth in assessed value;

(b) the amount of project area funds the agency received for each year of the project area funds collection period, including:

(i) a comparison of the actual project area funds received for ~~the previous~~ each year to the amount of project area funds forecasted for each year when the project area was created, if available;

(ii) (A) the agency's historical receipts of project area funds, including the tax year for which the agency first received project area funds from the project area; or

(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;

(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and

(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage ~~and~~;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds ~~analysis~~ analyses, including:

(i) each project area funds collection period~~;~~, including:

(A) the start and end date of the project area funds collection period; and

~~(4ii)~~ (B) the number of years remaining in each project area funds collection period;

~~(4iii)~~ (ii) the ~~total~~ amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity~~;~~ ~~and~~, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

~~(iv)~~ (iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection 17B-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area; and

(h) any other relevant information the agency elects to provide.

(3) A report prepared in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

(4) The provisions of this section apply regardless of when the agency or project area is created.

Section 10. Section 17C-1-806 is amended to read:

17C-1-806. Requirements for notice provided by agency.

(1) The notice required by Section 17C-1-805 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

~~(iv) (A) each member of the taxing entity committee, if applicable; or]~~

~~[(B) if a taxing entity committee has not been formed, the State Board of Education and the legislative body or governing board of each taxing entity.]~~

(iv) (A) if a project area is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if a project area is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the project area or proposed project area.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-1-805:

(a) (i) a boundary description of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b):

(a) a statement that property tax ~~revenues~~ revenue resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for project area development rather than to the taxing entity to

which the tax ~~revenues~~ revenue would otherwise have been paid if:

(i) (A) the taxing entity committee consents to the project area budget; ~~and~~ or

(B) one or more taxing entities agree to share property tax revenue under an interlocal agreement; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose achieved by the project area development and any future tax benefits expected to result from the project area development.

Section 11. Section 17C-1-902 is amended to read:

17C-1-902. Use of eminent domain -- Conditions.

(1) Except as provided in Subsection (2), an agency may not use eminent domain to acquire property.

(2) Subject to the provisions of this part, an agency may, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, use eminent domain to acquire an interest in property:

(a) within an urban renewal project area if:

(i) the board makes a finding of blight under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas; and

(ii) the urban renewal project area plan provides for the use of eminent domain;

(b) that is owned by an agency board member or officer and located within a project area, if the board member or officer consents;

(c) within a community reinvestment project area if:

(i) the board makes a finding of blight in accordance with Chapter 5, Part 4, Blight Determination in a Community Reinvestment Project Area;

(ii) (A) the original community reinvestment project area plan provides for the use of eminent domain; or

(B) the community reinvestment project area plan is amended in accordance with Subsection 17C-5-112(4); and

(iii) the agency creates a taxing entity committee in accordance with Section 17C-1-402;

(d) that:

(i) is owned by a participant or a property owner that is entitled to receive tax increment or other assistance from the agency;

(ii) is within a project area, regardless of when the project area is created, for which the agency made a finding of blight under Section 17C-2-102 or 17C-5-405; and

(iii) (A) the participant or property owner described in Subsection (2)(d)(i) fails to develop or improve in accordance with the participation agreement or the project area plan; or

(B) for a period of 36 months does not generate the amount of tax increment that the agency projected to receive under the project area budget; or

(e) if a property owner requests in writing that the agency exercise eminent domain to acquire the property owner's property within a project area.

(3) An agency shall, in accordance with the provisions of this part, commence the acquisition of property described in Subsections (2)(a) through (c) by adopting a resolution authorizing eminent domain within five years after the day on which the project area plan is effective.

Section 12. Section 17C-2-110 is amended to read:

17C-2-110. Amending an urban renewal project area plan.

(1) An urban renewal project area plan may be amended as provided in this section.

(2) If an agency proposes to amend an urban renewal project area plan to enlarge the project area:

(a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) for a pre-July 1, 1993 project area plan, the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9)~~(a)~~ using the effective date of the amended project area plan;

(c) for a post-June 30, 1993 project area plan:

(i) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9)~~(a)~~ using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and

(ii) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment;

(d) the agency shall make a finding regarding the existence of blight in the area proposed to be added to the project area by following the procedure set forth in [Subsections 17C-2-102(1)(a)(i) and (ii)] Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas; and

(e) the agency need not make a finding regarding the existence of blight in the project area as

described in the original project area plan, if the agency made a finding of the existence of blight regarding that project area in connection with adoption of the original project area plan.

(3) If a proposed amendment does not propose to enlarge an urban renewal project area, a board may adopt a resolution approving an amendment to a project area plan after:

(a) the agency gives notice, as provided in Section 17C-1-806, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan.

(4) (a) An urban renewal project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes [a parcel] one or more parcels from a project area because the agency determines that [the] each parcel removed is:

(A) tax exempt;

(B) no longer blighted; or

(C) no longer necessary or desirable to the project area.

(b) An amendment removing [a parcel] one or more parcels from a project area under Subsection (4)(a)(ii) may be made without the consent of the record property owner of [the] each parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 13. Section 17C-3-109 is amended to read:

17C-3-109. Amending an economic development project area plan.

(1) An economic development project area plan may be amended as provided in this section.

(2) If an agency proposes to amend an economic development project area plan to enlarge the project area:

(a) the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9) using the date of the taxing entity committee's consent referred to in Subsection (2)(c); and

(c) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment.

(3) If a proposed amendment does not propose to enlarge an economic development project area, a board may adopt a resolution approving an amendment to an economic development project area plan after:

(a) the agency gives notice, as provided in Chapter 1, Part 8, Hearing and Notice Requirements, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is received; or

(ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period under the economic development project area plan; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the economic development project area plan.

(4) (a) An economic development project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes ~~[a parcel]~~ one or more parcels from a project area because the agency determines that ~~[the]~~ each parcel removed is:

(A) tax exempt; or

(B) no longer necessary or desirable to the project area.

(b) An amendment removing ~~[a parcel]~~ one or more parcels from a project area under Subsection (4)(a) may be made without the consent of the record property owner of ~~[the]~~ each parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-3-107 and 17C-3-108 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or

procedure used to adopt the amendment to the project area plan for any cause.

Section 14. Section 17C-4-108 is amended to read:

17C-4-108. Amending a community development project area plan.

(1) Except as provided in Subsection (2) and Section 17C-4-109, the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.

(2) (a) Notwithstanding Subsection (1), a community development project area plan may be amended without complying with the requirements of Chapter 1, Part 8, Hearing and Notice Requirements, if the proposed amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (2)(b), removes ~~[a parcel]~~ one or more parcels from a project area because the agency determines that ~~[the]~~ each parcel removed is:

(A) tax exempt; or

(B) no longer necessary or desirable to the project area.

(b) An amendment removing ~~[a parcel]~~ one or more parcels from a community development project area under Subsection (2)(a)(ii) may be made without the consent of the record property owner of ~~[the]~~ each parcel being removed.

(3) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.

(4) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 15. Section 17C-5-104 is amended to read:

17C-5-104. Process for adopting a community reinvestment project area plan -- Prerequisites -- Restrictions.

(1) An agency may not propose a community reinvestment project area plan unless the community in which the proposed community reinvestment project area plan is located:

- (a) has a planning commission; and
- (b) has adopted a general plan under:

(i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(2) (a) Before an agency may adopt a proposed community reinvestment project area plan, the agency shall conduct a blight study and make a blight determination in accordance with Part 4, Blight Determination in a Community Reinvestment Project Area, if the agency anticipates using eminent domain to acquire property within the proposed community reinvestment project area.

(b) If applicable, an agency may not approve a community reinvestment project area plan more than one year after the agency adopts a resolution making a finding of blight under Section 17C-5-402.

(3) To adopt a community reinvestment project area plan, an agency shall:

(a) prepare a proposed community reinvestment project area plan in accordance with Section 17C-5-105;

(b) make the proposed community reinvestment project area plan available to the public at the agency's office during normal business hours for at least 30 days before the plan hearing described in Subsection (3)(e);

(c) before holding the plan hearing described in Subsection (3)(e), provide an opportunity for the State Board of Education and each taxing entity that levies or imposes a tax within the proposed community reinvestment project area to consult with the agency regarding the proposed community reinvestment project area plan;

(d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(e) hold a plan hearing on the proposed community reinvestment project area plan and, at the plan hearing:

- (i) allow public comment on:

(A) the proposed community reinvestment project area plan; and

(B) whether the agency should revise, approve, or reject the proposed community reinvestment project area plan; and

(ii) receive all written and oral objections to the proposed community reinvestment project area plan; and

(f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency meeting:

- (i) consider:

(A) the oral and written objections to the proposed community reinvestment project area plan and evidence and testimony for and against adoption of the proposed community reinvestment project area plan; and

(B) whether to revise, approve, or reject the proposed community reinvestment project area plan;

(ii) adopt a resolution in accordance with Section 17C-5-108 that approves the proposed community reinvestment project area plan, with or without revisions, as the community reinvestment project area plan; and

(iii) submit the community reinvestment project area plan to the community legislative body for adoption.

(4) (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed community reinvestment project area plan to add ~~a parcel~~ one or more parcels to the proposed community reinvestment project area unless the agency holds a plan hearing to consider the addition and gives notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements described in Subsection (4)(a) do not apply to a proposed community reinvestment project area plan being modified to add ~~a parcel~~ one or more parcels to the proposed community reinvestment project area if:

(i) ~~the~~ each parcel is contiguous to one or more parcels already included in the proposed community reinvestment project area under the proposed community reinvestment project area plan;

(ii) the record owner of ~~the~~ each parcel consents to adding the parcel to the proposed community reinvestment project area; and

(iii) ~~the~~ each parcel is located within the survey area.

Section 16. Section 17C-5-105 is amended to read:

17C-5-105. Community reinvestment project area plan requirements.

~~(1)~~ Each community reinvestment project area plan and proposed community reinvestment project area plan shall:

~~(a)~~ (1) subject to Section 17C-1-414, if applicable, include a boundary description and a map of the community reinvestment project area;

~~(b)~~ (2) contain a general statement of the existing land uses, layout of principal streets,

population densities, and building intensities of the community reinvestment project area and how each will be affected by ~~the~~ project area development;

~~(e)~~ (3) state the standards that will guide ~~the~~ project area development;

~~(d)~~ (4) show how ~~the~~ project area development will further purposes of this title;

~~(e)~~ (5) be consistent with the general plan of the community in which the community reinvestment project area is located and show that ~~the~~ project area development will conform to the community's general plan;

~~(f)~~ (6) if applicable, describe how project area development will eliminate or reduce blight in the community reinvestment project area;

~~(g)~~ (7) describe any specific project area development that is the object of the community reinvestment project area plan;

~~(h)~~ (8) if applicable, explain how the agency plans to select a participant;

~~(i)~~ (9) state each reason the agency selected the community reinvestment project area;

~~(j)~~ (10) describe the physical, social, and economic conditions that exist in the community reinvestment project area;

~~(k)~~ (11) describe each type of financial assistance that the agency anticipates offering a participant;

~~(l)~~ report the results of the public benefit analysis described in Subsection (2);

(12) include an analysis or description of the anticipated public benefit resulting from project area development, including benefits to the community's economic activity and tax base;

~~(m)~~ (13) if applicable, state that the agency shall comply with Section 9-8-404 as required under Section 17C-5-106;

~~(n)~~ (14) state whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

~~(o)~~ (15) include other information that the agency determines to be necessary or advisable.

~~(2) (a) An agency shall conduct an analysis in accordance with Subsection (2)(b) to determine whether the proposed community reinvestment project area plan will provide a public benefit.~~

~~(b) The analysis described in Subsection (2)(a) shall consider:~~

~~(i) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including;~~

~~(A) an evaluation of the reasonableness of the costs of the proposed project area development;~~

~~(B) efforts that have been, or will be made, to maximize private investment;~~

~~(C) the rationale for use of project area funds, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and~~

~~(D) an estimate of the total amount of project area funds that the agency intends to spend on project area development and the length of time over which the project area funds will be spent; and~~

~~(ii) the anticipated public benefit derived from the proposed project area development, including:~~

~~(A) the beneficial influences on the community's tax base;~~

~~(B) the associated business and economic activity the proposed project area development will likely stimulate; and~~

~~(C) whether adoption of the proposed community reinvestment project area plan is necessary and appropriate to undertake the proposed project area development.]~~

Section 17. Section 17C-5-108 is amended to read:

17C-5-108. Board resolution approving a community reinvestment project area plan -- Requirements.

A board resolution approving a proposed community reinvestment area plan as the community reinvestment project area plan under Section 17C-5-104 shall contain:

(1) a boundary description of the community reinvestment project area that is the subject of the community reinvestment project area plan;

(2) the agency's purposes and intent with respect to the community reinvestment project area;

(3) the proposed community reinvestment project area plan incorporated by reference;

(4) the board findings and determinations that the proposed community reinvestment project area plan:

(a) serves a public purpose;

(b) produces a public benefit as demonstrated by the analysis described in Subsection 17C-5-105~~(2)~~(12);

(c) is economically sound and feasible;

(d) conforms to the community's general plan; and

(e) promotes the public peace, health, safety, and welfare of the community in which the proposed community reinvestment project area is located; and

(5) if the board made a finding of blight under Section 17C-5-402, a statement that the board made a finding of blight within the proposed community reinvestment project area and the date on which the board made the finding of blight.

Section 18. Section 17C-5-112 is amended to read:

17C-5-112. Amending a community reinvestment project area plan.

(1) An agency may amend a community reinvestment project area plan in accordance with this section.

(2) (a) If an amendment proposes to enlarge a community reinvestment project area's geographic area, the agency shall:

(i) comply with this part as though the agency were creating a community reinvestment project area;

(ii) if the agency anticipates receiving project area funds from the area proposed to be added to the community reinvestment project area, before the agency may collect project area funds:

(A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtain approval to receive tax increment from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement; and

(iii) if the agency anticipates acquiring property in the area proposed to be added to the community reinvestment project area by eminent domain, follow the procedures described in Section 17C-5-402.

(b) The base year for the area proposed to be added to the community reinvestment project area shall be determined using the date of:

(i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or

(ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).

(3) If an amendment does not propose to enlarge a community reinvestment project area's geographic area, the board may adopt a resolution approving the amendment after the agency:

(a) if the amendment does not propose to allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) gives notice in accordance with Section 17C-1-806; and

(ii) holds a public hearing on the proposed amendment that meets the requirements described in ~~[Section 17C-1-808]~~ Subsection 17C-5-104(3); or

(b) if the amendment proposes to also allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) complies with Subsection (3)(a)(i) and (ii); and

(ii) (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtains approval from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtains approval to receive project area funds from the taxing entity that is a party to the interlocal agreement.

(4) (a) An agency may amend a community reinvestment project area plan for a community reinvestment project area that is subject to an interlocal agreement for the purpose of using eminent domain to acquire one or more parcels within the community reinvestment project area.

(b) To amend a community reinvestment project area plan as described in Subsection (4)(a), an agency shall:

(i) adopt a survey area resolution that identifies each parcel that the agency intends to study to determine whether blight exists;

(ii) in accordance with Part 4, Blight Determination in a Community Reinvestment Project Area, conduct a blight study within the survey area and make a blight determination;

(iii) create a taxing entity committee whose sole purpose is to approve any finding of blight in accordance with Subsection 17C-5-402(3); and

(iv) obtain approval to amend the community reinvestment project area plan from each taxing entity that is party to an interlocal agreement.

(c) Amending a community reinvestment project area plan as described in this Subsection (4) does not affect:

(i) the base year of the parcel or parcels that are the subject of an amendment under this Subsection (4); and

(ii) any interlocal agreement under which the agency is authorized to receive project area funds from the community reinvestment project area.

(5) An agency may amend a community reinvestment project area plan without obtaining the consent of a taxing entity or a taxing entity committee and without providing notice or holding a public hearing if the amendment:

(a) makes a minor adjustment in the community reinvestment project area boundary that is requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(b) removes ~~a parcel~~ one or more parcels from a community reinvestment project area because the agency determines that ~~the~~ each parcel is:

(i) tax exempt;

(ii) no longer blighted; or

(iii) no longer necessary or desirable to the project area.

(6) (a) An amendment approved by board resolution under this section may not take effect

until the community legislative body adopts an ordinance approving the amendment.

(b) Upon the community legislative body adopting an ordinance approving an amendment under Subsection (6)(a), the agency shall comply with the requirements described in Sections 17C-5-110 and 17C-5-111 as if the amendment were a community reinvestment project area plan.

(7) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (7)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 19. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from

the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Ab) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIi) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(~~e~~)(d).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(~~e~~)(d).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value ~~under~~ as defined in Section 17C-1-102 shall be reduced for any year to the extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value ~~under~~ as defined in Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value ~~under~~ as defined in Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have

been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Agency Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

CHAPTER 365**H. B. 16**

Passed February 2, 2018
Approved March 21, 2018
Effective May 8, 2018

**CANDIDATE
REPLACEMENT AMENDMENTS**

Chief Sponsor: Patrice M. Arent
Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill addresses candidate vacancies for certain local offices.

Highlighted Provisions:

This bill:

- ▶ provides for the certification of a replacement candidate to fill a vacancy in the candidacy for certain local offices;
- ▶ removes a provision prohibiting a municipal candidate from withdrawing from an election less than 23 days before an election; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-9-203, as last amended by Laws of Utah 2017, Chapter 91

ENACTS:

20A-1-510.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-510.1 is enacted to read:

20A-1-510.1. Candidate vacancies in local office.

(1) A vacancy that occurs in a candidacy for an elected office in a local political subdivision may be filled in accordance with the requirements of this section if:

(a) a nonpartisan primary election is held for the office;

(b) the vacancy occurs after the date of the primary election but before:

(i) for a county office, August 31; or

(ii) for all other offices, 65 days before the day of the applicable general election; and

(c) after the vacancy occurs, the number of remaining candidates for the office is less than or equal to the number of open positions to be filled for that office in the applicable general election.

(2) An election officer shall:

(a) fill a candidate vacancy described in Subsection (1) by certifying the next available

candidate for the office for the general election ballot who received the highest number of votes in the primary election without receiving a sufficient number of votes to qualify for the general election ballot; and

(b) immediately notify the candidate described in Subsection (2)(a) that the candidate is certified for the general election ballot.

Section 2. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, [~~any mentally incompetent person, any person convicted of a felony, or any person~~] a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) filing a nomination petition with the city recorder or town clerk during the office hours

described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(ii) require the candidate or individual filing the petition to state whether the candidate meets those requirements.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) Notwithstanding the requirement in Subsection (3)(a)(i) to file a declaration of candidacy in person, an individual may designate an agent to file the form described in Subsection (6) in person with the city recorder or town clerk if:

(a) the individual is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the individual is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status;

(b) the individual makes the declaration of candidacy described in Subsection (6) to an individual qualified to administer an oath;

(c) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and the city recorder or town clerk to see and hear each other; and

(d) the individual provides the city recorder or town clerk with an email address to which the filing officer may send the copies described in Subsection (4).

(6) (a) The declaration of candidacy shall substantially comply with the following form:

"I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____, County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ (month \ day \ year).

(Signed) _____ (Clerk or other officer qualified to administer oath)".

(b) An agent designated to file a declaration of candidacy under Subsection (5) may not sign the form described in Subsection (6)(a).

(7) (a) A registered voter may be nominated for municipal office by submitting a petition signed, with a holographic signature, by:

(i) 25 residents of the municipality who are at least 18 years old; or

(ii) 20% of the residents of the municipality who are at least 18 years old.

(b) (i) The petition shall substantially conform to the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality) being 18 years old or older nominate

(name of nominee) to the office of _____ for the (two or four-year term, whichever is applicable).”

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and the individuals' addresses and telephone numbers.

(8) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(9) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(10) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) cause the names of the candidates as they will appear on the ballot to be published:

(i) in at least two successive publications of a newspaper with general circulation in the municipality; and

(ii) as required in Section 45-1-101; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(11) [A] Except as provided in Subsection (12)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section [may not be amended after the expiration of the period for filing a declaration of candidacy] after the candidate filing period ends.

(12) (a) A declaration of candidacy or nomination petition ~~[filed]~~ that an individual files under this section is valid unless a person files a written objection ~~[is filed]~~ with the clerk within five days after the last day for filing.

(b) If ~~[an]~~ a person files an objection ~~[is made]~~, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition ~~[within three days after the objection is sustained]~~, or by filing a new declaration ~~[within three days after the objection is sustained]~~ of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

~~[(13) An individual who files a declaration of candidacy and is nominated, and an individual who is nominated by a nomination petition, may, any time up to 23 days before the election, withdraw the nomination by filing a written affidavit with the clerk.]~~

(13) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

CHAPTER 366**H. B. 17**

Passed February 23, 2018

Approved March 21, 2018

Effective May 8, 2018

**COMMUNITY REINVESTMENT
AGENCIES REVISIONS**Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill amends provisions in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- ▶ modifies agency powers;
- ▶ allows a community to enter into an interlocal agreement with an agency to exercise agency power within the community, regardless of whether the community has created an agency;
- ▶ authorizes a public entity to dispose of or lease the public entity's property to an agency for less than fair market value; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

17C-1-202, as last amended by Laws of Utah 2016, Chapter 350

17C-1-204, as last amended by Laws of Utah 2016, Chapter 350

17C-1-207, as last amended by Laws of Utah 2016, Chapter 350

Utah Code Sections Affected by Coordination Clause:

17C-1-207, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-202 is amended to read:**17C-1-202. Agency powers.**

- (1) An agency may:
 - (a) sue and be sued;
 - (b) enter into contracts generally;
 - (c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
 - (d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;
 - (e) own, hold, maintain, utilize, manage, or operate real or personal property, which may include the use of agency funds or the collection of revenue;

~~[(e)]~~ (f) enter into a lease agreement on real or personal property, either as lessee or lessor;

~~[(f)]~~ (g) provide for project area development as provided in this title;

~~[(g)]~~ (h) receive and use agency funds as provided in this title;

~~[(h)]~~ (i) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

~~[(i)]~~ (j) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;

~~[(j)]~~ (k) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;

~~[(k)]~~ (l) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;

~~[(l)]~~ (m) pay an impact fee, exaction, or other fee imposed by a community in connection with land development; or

~~[(m)]~~ (n) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)~~[(h)]~~(i) is a public purpose.

(3) An agency is not subject to Section 10-8-2 or 17-50-312.

Section 2. Section 17C-1-204 is amended to read:**17C-1-204. Project area development by an adjoining agency -- Requirements.**

(1) (a) A community ~~[that has not]~~, regardless of whether the community has created an agency, may enter into an interlocal agreement with an agency located in the same or an abutting county that authorizes the agency to exercise all the powers granted to an agency under this title within all or a portion of the community.

(b) The agency and the community shall adopt an interlocal agreement described in Subsection (1)(a) by resolution.

(2) If an agency and a community enter into an interlocal agreement under Subsection (1):

(a) the agency may act in all respects as if a project area within the community were within the agency's boundaries;

(b) the board has all the rights, powers, and privileges with respect to a project area within the community as if the project area were within the agency's boundaries;

(c) the agency may be paid project area funds to the same extent as if a project area within the community were within the agency's boundaries; and

(d) the community legislative body shall adopt, by ordinance, each project area plan within the community approved by the agency.

(3) If an agency's project area abuts another agency's project area, the agencies may coordinate with each other in order to assist and cooperate in the planning, undertaking, construction, or operation of project area development located within each agency's project area.

(4) (a) As used in this Subsection (4):

(i) "County agency" means an agency that is created by a county.

(ii) "Industrial property" means private real property:

(A) over half of which is located within the boundary of a town, as defined in Section 10-1-104; and

(B) comprises some or all of an inactive industrial site.

(iii) "Perimeter portion" means the portion of an inactive industrial site that is:

(A) part of the inactive industrial site because the site lies within the perimeter described in Section 17C-1-102; and

(B) located within the boundary of a city, as defined in Section 10-1-104.

(b) (i) Subject to Subsection (4)(b)(ii), a county agency may undertake project area development on industrial property if the record property owner of the industrial property submits a written request to the county agency to do so.

(ii) A county agency may not include a perimeter portion within a project area without the approval of the city in which the perimeter portion is located.

(c) If a county agency undertakes project area development on industrial property:

(i) the county agency may act in all respects as if the project area that includes the industrial property were within the county agency's boundary;

(ii) the board of the county agency has each right, power, and privilege with respect to the project area as if the project area were within the county agency's boundary; and

(iii) the county agency may be paid project area funds to the same extent as if the project area were within the county agency's boundary.

(d) A project area plan for a project on industrial property that is approved by the county agency

shall be adopted by ordinance of the legislative body of the county in which the project area is located.

Section 3. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for any period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) ~~[15 days after posting public notice]~~ for less than fair market value or for no consideration, and subject to Subsection (2):

(i) purchase or otherwise acquire property ~~or~~ from an agency;

(ii) lease property from ~~[the]~~ an agency; ~~[or]~~

~~[(ii)]~~ (iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to ~~[the]~~ an agency.

~~[(2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.]~~

~~[(3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.]~~

(2) A public entity may provide project area development assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity posts notice of the assistance:

(a) on the Utah Public Notice Website described in Section 63F-1-701; and

(b) (i) on the public entity's public website; or

(ii) if the public entity does not have a public website, in a newspaper of general circulation within the county in which the project area for which the entity provides the assistance is located.

(3) The following are not subject to Sections 10-8-2 or 17-50-312:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

Section 4. Coordinating H.B. 17 with H.B. 15 -- Substantive and technical amendments.

If this H.B. 17 and H.B. 15, Community Reinvestment Agency Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Section 17C-1-207 to read:

“17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for a period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) [15 days after posting public notice] for less than fair market value or for no consideration, and subject to Subsection (3):

(i) purchase or otherwise acquire property ~~[or]~~ from an agency;

(ii) lease property from ~~[the]~~ an agency; ~~[or]~~

~~[(ii)]~~ (iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to ~~[the]~~ an agency.

~~[(2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.]~~

~~[(3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.]~~

(2) The following are not subject to Sections 10-8-2 or 17-50-312:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

(3) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity posts notice of the assistance on:

(a) the Utah Public Notice Website described in Section 63F-1-701; and

(b) the public entity's public website.”.

CHAPTER 367**H. B. 18**

Passed February 2, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**ALCOHOL ABUSE TRACKING
 COMMITTEE RELOCATION**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Brian Zehnder

LONG TITLE**General Description:**

This bill makes amendments to the Alcohol Abuse Tracking Committee.

Highlighted Provisions:

This bill:

- ▶ moves the Alcohol Abuse Tracking Committee from the Department of Public Safety to the Department of Human Services;
- ▶ removes the dates by which the committee must annually meet and issue the annual report; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**RENUMBERS AND AMENDS:**

62A-1-121, (Renumbered from 53-1-119, as last amended by Laws of Utah 2016, Chapter 158)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-1-121, which is renumbered from Section 53-1-119 is renumbered and amended to read:

[53-1-119]. 62A-1-121. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

(a) the commissioner, or the commissioner's the executive director or the executive director's designee;

(b) the executive director of the Department of Health~~[, or the]~~ or that executive director's designee;

(c) the ~~[executive director]~~ commissioner of the Department of ~~[Human Services, or the executive director's]~~ Public Safety or the commissioner's designee;

(d) the director of the Department of Alcoholic Beverage Control~~[, or the]~~ or that director's designee;

(e) the executive director of the Department of Workforce Services~~[, or the]~~ or that executive director's designee;

(f) the chair of the Utah Substance Use and Mental Health Advisory Council~~[,]~~ or the chair's designee;

(g) the state court administrator or the state court administrator's designee; and

(h) the executive director of the Department of Technology Services~~[, or the]~~ or that executive director's designee.

(2) ~~[The commissioner, or the commissioner's designee,]~~ The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held ~~[before April 1 of]~~ each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before ~~[it]~~ the report is issued ~~[July 1]~~.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services ~~[within the Department of Human Services];~~

(e) the location where the alcoholic products [are obtained that results] that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) ~~[Beginning July 1, 2014, the]~~ The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

CHAPTER 368**H. B. 21**

Passed March 7, 2018
 Approved March 21, 2018
 Effective May 8, 2018

CHANGES TO PROPERTY TAX

Chief Sponsor: Daniel McCay
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies property tax provisions.

Highlighted Provisions:

This bill:

- ▶ modifies the calculation of the certified property tax rate by adjusting eligible new growth to account for collection rates over the previous five years;
- ▶ amends the time period in which a taxpayer or a county may apply to the State Tax Commission to appeal the valuation of property assessed by the commission;
- ▶ requires the commission to disclose, upon request, certain information regarding appeals to a nonprofit organization that represents counties;
- ▶ prohibits the nonprofit organization from sharing the appeal information with exceptions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-1-404, as last amended by Laws of Utah 2011, Chapter 289
 59-2-913, as last amended by Laws of Utah 2016, Chapters 350 and 367
 59-2-924, as last amended by Laws of Utah 2017, Chapter 390
 59-2-1007, as last amended by Laws of Utah 2015, Chapter 139

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-404 is amended to read:

59-1-404. Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an

appraiser who assists the appraiser in preparing an appraisal.

(b) "Appraisal" is as defined in Section 61-2g-102.

(c) (i) "Commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(c)(i).

(ii) (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.

(d) "Consultation service" is as defined in Section 61-2g-102.

(e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.

(f) "Property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

(g) "Property taxpayer's property" means property with respect to which a property taxpayer:

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

(iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(h) "Protected commercial information" means commercial information that:

(i) identifies a specific property taxpayer; or

(ii) would reasonably lead to the identity of a specific property taxpayer.

(2) An individual listed under Subsection 59-1-403(1)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter;

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(~~(b)~~)(c), an individual listed under Subsection 59-1-403(1)(a) may disclose the following information:

(i) the assessed value of property;

(ii) the tax rate imposed on property;

(iii) a legal description of property;

(iv) the physical description or characteristics of property, including a street address or parcel number for the property;

(v) the square footage or acreage of property;

(vi) the square footage of improvements on property;

(vii) the name of a property taxpayer;

(viii) the mailing address of a property taxpayer;

(ix) the amount of a property tax:

(A) assessed on property;

(B) due on property;

(C) collected on property;

(D) abated on property; or

(E) deferred on property;

(x) the amount of the following relating to property taxes due on property:

(A) interest;

(B) costs; or

(C) other charges;

(xi) the tax status of property, including:

(A) an exemption;

(B) a property classification;

(C) a bankruptcy filing; or

(D) whether the property is the subject of an action or proceeding under this title;

(xii) information relating to a tax sale of property; or

(xiii) information relating to single-family residential property.

(b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(1)(a) shall disclose, upon request, the information described in Subsection 59-2-1007(9).

~~(b)~~ (c) (i) Subject to Subsection (3)(~~(b)~~)(c)(ii), a person may receive the information described in Subsection (3)(a) or (b) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) or (b) in written format:

(A) the commission;

(B) a county;

(C) a city; or

(D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(1)(a) shall disclose commercial information:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding:

(A) under this title;

(B) under another law under which a property taxpayer is required to disclose commercial information; or

(C) to which the commission is a party;

(iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or

(iv) if the requirements of Subsection (4)(b) are met, that is:

(A) relevant to an action or proceeding:

(I) filed in accordance with this title; and

(II) involving property; or

(B) in preparation for an action or proceeding involving property.

(b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):

(i) if the commercial information is obtained from:

(A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;

(B) an appraiser if the appraiser:

(I) is not a property taxpayer of the property that is the subject of the action or proceeding; and

(II) did not receive the commercial information pursuant to Subsection (8);

(C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or

(D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;

(ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and

(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;

(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.

(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.

(5) Notwithstanding Subsection (2), this section does not prohibit:

(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:

(i) the property taxpayer;

(ii) a duly authorized representative of the property taxpayer;

(iii) a person that has in effect a contract with the property taxpayer to:

(A) make filings on behalf of the property taxpayer;

(B) process appeals on behalf of the property taxpayer; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

(iv) a property taxpayer that purchases property from another property taxpayer; or

(v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; or

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state

of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment.

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(1)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(1)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(1)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403(1)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(1)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403(1)(a) may share the following commercial information with an appraiser:

(i) the sales price of locally assessed property and the related financing terms;

(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and

(iii) income and expense information related to the valuation of locally assessed property; and

(b) except as provided in Subsection (4), an appraiser who receives commercial information:

(i) may disclose the commercial information:

(A) to an individual described in Subsection 59-1-403(1)(a);

(B) to an appraiser;

(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or

(D) in performing a consultation service if protected commercial information is not disclosed; and

(ii) may not use the commercial information:

(A) for a purpose other than to prepare an appraisal or perform a consultation service; or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(1)(a) shall:

(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

(10) (a) An individual described in Subsection (1)(a) or 59-1-403(1)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:

(i) intentionally discloses commercial information in violation of this section; and

(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

Section 2. Section 59-2-913 is amended to read:

59-2-913. Definitions -- Statement of amount and purpose of levy -- Contents of statement -- Filing with county auditor -- Transmittal to commission -- Calculations for establishing tax levies -- Format of statement.

(1) As used in this section, "budgeted property tax revenues" does not include property tax revenue received by a taxing entity from personal property that is:

(a) assessed by a county assessor in accordance with Part 3, County Assessment; and

(b) semiconductor manufacturing equipment.

(2) (a) The legislative body of each taxing entity shall file a statement as provided in this section with the county auditor of the county in which the taxing entity is located.

(b) The auditor shall annually transmit the statement to the commission:

(i) before June 22; or

(ii) with the approval of the commission, on a subsequent date prior to the date required by Section 59-2-1317 for the county treasurer to provide the notice under Section 59-2-1317.

(c) The statement shall contain the amount and purpose of each levy fixed by the legislative body of the taxing entity.

(3) For purposes of establishing the levy set for each of a taxing entity's applicable funds, the legislative body of the taxing entity shall calculate an amount determined by dividing the budgeted property tax revenues, specified in a budget that has been adopted and approved prior to setting the levy, by the amount calculated under Subsections 59-2-924(4)(b)(i) through [(iii)] (iv).

(4) The format of the statement under this section shall:

- (a) be determined by the commission; and
- (b) cite any applicable statutory provisions that:
 - (i) require a specific levy; or
 - (ii) limit the property tax levy for any taxing entity.

(5) The commission may require certification that the information submitted on a statement under this section is true and correct.

Section 3. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

- (A) interest;
- (B) penalties;
- (C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(c) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

- (i) an annexation to a taxing entity; or
- (ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(d) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(e) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(f) "Eligible new growth" means the greater of:

- (i) zero; or
- (ii) the sum of:
 - (A) locally assessed new growth;
 - (B) centrally assessed new growth; and
 - (C) project area new growth.

(g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

(h) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(i) "Project area" means the same as that term is defined in Section 17C-1-102.

(j) "Project area new growth" means an amount equal to the incremental value that is no longer provided to an agency as tax increment.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting [eligible new growth] the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53A-16-113, 53A-17a-133, or 53A-17a-164; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 4. Section 59-2-1007 is amended to read:

59-2-1007. Objection to assessment by commission -- Application -- Contents of application -- Amending an application -- Information provided by the commission -- Hearings -- Appeals.

(1) (a) Subject to the other provisions of this section, if the owner of property assessed by the commission objects to the assessment, the owner may apply to the commission for a hearing on the objection on or before the later of:

(i) ~~June~~ August 1; or

(ii) ~~30~~ 90 days after the ~~[date]~~ day on which the commission mails the notice of assessment in accordance with Section 59-2-201.

(b) The commission shall allow an owner that meets the requirements of Subsection (1)(a) to be a party at a hearing under this section.

(2) Subject to the other provisions of this section, a county that objects to the assessment of property assessed by the commission may apply to the commission for a hearing on the objection:

(a) for an assessment with respect to which the owner has applied to the commission for a hearing on the objection under Subsection (1), if the county applies to the commission to become a party to the hearing on the objection no later than ~~30~~ 60 days after the ~~[date]~~ day on which the owner applied to the commission for the hearing on the objection; or

(b) for an assessment with respect to which the owner has not applied to the commission for a hearing on the objection under Subsection (1), if the county:

(i) reasonably believes that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:

(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or

(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and

(ii) applies to the commission for a hearing on the objection no later than ~~30~~ 60 days after the last day on which the owner could have applied to the commission for a hearing on the objection under Subsection (1).

(3) Before a county may apply to the commission for a hearing under this section on an objection to an assessment, a majority of the members of the county legislative body shall approve filing an application under this section.

(4) (a) The commission shall allow a county that meets the requirements of Subsections (2) and (3) to be a party at a hearing under this section.

(b) The commission shall allow an owner to be a party at a hearing under this section on an objection to an assessment a county files in accordance with Subsection (2)(b).

(5) An owner or a county shall include in an application under this section:

(a) a written statement:

(i) setting forth the known facts and legal basis supporting a different fair market value than the value assessed by the commission; and

(ii) for an assessment described in Subsection (2)(b), establishing the county's reasonable belief that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:

(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or

(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and

(b) the owner's or county's estimate of the fair market value of the property.

(6) (a) Except as provided in Subsection (6)(b), an [owner's or a county's] owner or a county assessor may amend an estimate on an application under this section of the fair market value of the property [may be amended] prior to the hearing as provided by rule.

(b) A county may not amend the fair market value of property under this Subsection (6) to equal an amount that is less than the lesser of:

(i) the value at which the commission is assessing the property for the current calendar year plus 50%; or

(ii) the value at which the commission assessed the property for the prior calendar year plus 50%.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the procedures for amending an estimate of fair market value under this Subsection (6).

(7) In applying to the commission for a hearing on an objection under this section:

(a) a county may estimate the fair market value of the property using a valuation methodology the county considers to be appropriate, regardless of:

(i) the valuation methodology used previously in valuing the property; or

(ii) the valuation methodology an owner asserts; and

(b) an owner may estimate the fair market value of the property using a valuation methodology the owner considers to be appropriate, regardless of:

(i) the valuation methodology used previously in valuing the property; or

(ii) the valuation methodology a county asserts.

(8) (a) An owner who applies to the commission for a hearing in accordance with Subsection (1) shall, for the property for which the owner objects to the commission's assessment, file a copy of the application with the county auditor of each county in which the property is located.

(b) A county auditor who receives a copy of an application in accordance with Subsection (8)(a) shall provide a copy of the application to the county:

(i) assessor;

(ii) attorney;

(iii) legislative body; and

(iv) treasurer.

(9) (a) Upon request, the commission shall provide to a nonprofit organization that represents counties in the state the following information regarding an appeal filed under this section:

(i) the name of the property owner filing the appeal;

(ii) each year at issue in the appeal;

(iii) the value assessed by the commission for the property that is the subject of the appeal; and

(iv) the owner's estimate of value for the property that is the subject of the appeal as submitted under Subsection (5)(b).

(b) (i) Except as provided in Subsection (9)(b)(ii), a nonprofit organization may not disclose the information described in Subsection (9)(a)(iv).

(ii) A nonprofit organization may disclose information described in Subsection (9)(a)(iv) to an individual listed under Subsection 59-1-403(1)(a).

[(9)] (10) (a) On or before [August 1] November 15, the commission shall conduct a scheduling conference with all parties to a hearing under this section.

(b) At the scheduling conference under Subsection [(9)] (10)(a), the commission shall establish dates for:

(i) the completion of discovery;

(ii) the filing of prehearing motions; and

(iii) conducting a hearing on the objection to the assessment.

[(10)] (11) (a) The commission shall issue a written decision no later than 120 days after the later of the [date] day on which:

(i) the commission completes the hearing under this section [is completed]; or

(ii) the parties submit all posthearing briefs [are submitted].

(b) If the commission does not issue a written decision on an objection to an assessment under this section within a two-year period after the date an application under this section is filed, the objection is considered to be denied, unless the parties

stipulate to a different time period for resolving the objection.

(c) A party may appeal to the district court in accordance with Section 59-1-601 within 30 days after the [date] day on which an objection is considered to be denied.

~~[(41)]~~ (12) At the hearing on an objection under this section, the commission may increase, lower, or sustain the assessment if:

(a) the commission finds an error in the assessment; or

(b) the commission determines that increasing, lowering, or sustaining the assessment is necessary to equalize the assessment with other similarly assessed property.

~~[(42)]~~ (13) (a) The commission shall send notice of a commission action under Subsection ~~[(41)]~~ (12) to a county auditor if:

(i) the commission proposes to adjust an assessment the commission made in accordance with Section 59-2-201;

(ii) the county's tax revenues may be affected by the commission's decision; and

(iii) the county is not a party to the hearing under this section.

(b) The written notice described in Subsection ~~[(42)]~~ (13)(a):

(i) may be ~~[transmitted]~~ sent by:

(A) any form of electronic communication;

(B) first class mail; or

(C) private carrier; and

(ii) shall request the county to show good cause why the commission should not adjust the assessment by requesting the county to provide to the commission a written statement setting forth the known facts and legal basis for not adjusting the assessment within 30 days ~~[from the date of]~~ after the day on which the commission sends the written notice.

(c) If a county provides a written statement described in Subsection ~~[(42)]~~ (13)(b) to the commission, the commission shall:

(i) hold a hearing or take other appropriate action to consider the good cause the county provides in the written statement; and

(ii) issue a written decision increasing, lowering, or sustaining the assessment.

(d) If a county does not provide a written statement described in Subsection ~~[(42)]~~ (13)(b) to the commission within 30 days after the day on which the commission sends the notice described in Subsection ~~[(42)]~~ (13)(a), the commission shall adjust the assessment and send a copy of the commission's written decision to the county.

~~[(43)]~~ (14) Subsection ~~[(42)]~~ (13) does not limit the rights of a county as provided in ~~in~~ Subsections (2) and (4)(a).

~~[(44)]~~ (15) (a) On or before the November 2018 interim meeting, the Revenue and Taxation Interim Committee shall study the process for a county to object to an assessment of property assessed by the commission.

(b) As part of the study required by Subsection ~~[(44)]~~ (15)(a), the Revenue and Taxation Interim Committee shall determine whether to draft legislation to modify the process for a county to object to an assessment of property assessed by the commission.

CHAPTER 369**H. B. 22**

Passed February 5, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**ENTERPRISE ZONE
 SUNSET AMENDMENTS**

Chief Sponsor: Scott D. Sandall
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill amends provisions of the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Enterprise Zone Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, [2018] 2028.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

CHAPTER 370**H. B. 53**

Passed February 23, 2018

Approved March 21, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

**MILITARY SPOUSE
INCOME TAX AMENDMENTS**

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies the Individual Income Tax Act by amending provisions relating to individual income tax deductions for a military spouse.

Highlighted Provisions:

This bill:

- ▶ authorizes an individual income tax deduction from adjusted gross income for the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member in certain circumstances; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-10-114, as last amended by Laws of Utah 2017, Chapter 389

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-114 is amended to read:**59-10-114. Additions to and subtractions from adjusted gross income of an individual.**

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

(i) a state other than this state;

(ii) the District of Columbia;

(iii) a political subdivision of a state other than this state; or

(iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through (iii);

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state

taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year; ~~and~~

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction[-]; and

(f) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 371**H. B. 62**

Passed March 7, 2018
 Approved March 21, 2018
 Effective May 8, 2018

PROPERTY RIGHTS AMENDMENTS

Chief Sponsor: Tim Quinn
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill addresses the determination of just compensation in certain eminent domain proceedings.

Highlighted Provisions:

This bill:

- ▶ provides that a court, jury, or referee determining just compensation may consider certain evidence;
- ▶ prohibits consideration of the assessed value on a property tax assessment except in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-511, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-511 is amended to read:**78B-6-511. Compensation and damages -- How assessed.**

(1) The court, jury, or referee shall hear any legal evidence offered by any of the parties to the proceedings, and determine and assess:

~~[(4)]~~ (a) (i) the value of the property sought to be condemned and all improvements pertaining to the realty;

~~[(4b)]~~ (ii) the value of each and every separate estate or interest in the property; and

~~[(e)]~~ (iii) if it consists of different parcels, the value of each parcel and of each estate or interest in each shall be separately assessed;

~~[(2)]~~ (b) if the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned and the construction of the improvement in the manner proposed by the plaintiff;

~~[(3)]~~ (c) if the property, though no part of it is taken, will be damaged by the construction of the

proposed improvement, and the amount of the damages;

~~[(4)]~~ (d) separately, how much the portion not sought to be condemned, and each estate or interest in it, will be benefitted, if at all, by the construction of the improvement proposed by the plaintiff~~[-If]~~, provided that if the benefit is equal to the damages assessed under Subsection ~~[(2)]~~ (1)(b), the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit is less than the damages assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value of the portion taken;

~~[(5)]~~ (e) if the property sought to be condemned consists of water rights or part of a water delivery system or both, and the taking will cause present or future damage to or impairment of the water delivery system not being taken, including impairment of the system's carrying capacity, an amount to compensate for the damage or impairment; and

~~[(6)]~~ (f) if land on which crops are growing at the time of service of summons is sought to be condemned, the value that those crops would have had after being harvested, taking into account the expenses that would have been incurred cultivating and harvesting the crops~~[-and]~~.

~~[(7) as far as practicable compensation shall be assessed for each source of damages separately.]~~

(2) In determining the market value of the property before the taking and the market value of the property after the taking to assess damages in partial takings cases as described in Subsection (1)(b), the court, jury, or referee:

(a) may consider everything a willing buyer and a willing seller would consider in determining the market value of the property after the taking; and

(b) may not consider the assessed value on the property tax assessment for the property unless the court determines that the assessed value on the property tax assessment constitutes an admission by a party opponent.

CHAPTER 372**H. B. 86**

Passed March 7, 2018

Approved March 21, 2018

Effective May 8, 2018

MANSLAUGHTER AMENDMENTS

Chief Sponsor: Michael K. McKell
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill makes it an offense to aid another to commit suicide.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands the crime of manslaughter to include intentionally and knowingly providing another with the physical means to commit suicide; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-205, as last amended by Laws of Utah 2010, Chapter 157

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-205 is amended to read:**76-5-205. Manslaughter.**

(1) As used in this section:

(a) (i) “Aid” means the act of providing the physical means.

(ii) “Aid” does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under Title 75, Chapter 2a, Advance Health Care Directive Act, or any other laws of this state.

(b) “Practitioner” means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.

(c) “Provides” means to administer, prescribe, distribute, or dispense.

~~(1) — Criminal~~ (2) Except as provided in Subsection (5), criminal homicide constitutes manslaughter if the actor:

(a) recklessly causes the death of another;

(b) intentionally, and with knowledge that another individual intends to commit suicide or attempt to commit suicide, aids the other individual to commit suicide;

~~(b)~~ (c) commits a homicide which would be murder, but the offense is reduced pursuant to Subsection 76-5-203(4); or

~~(e)~~ (d) commits murder, but special mitigation is established under Section 76-5-205.5.

~~(2)~~ (3) Manslaughter is a felony of the second degree.

~~(3)~~ (4) (a) In addition to the penalty [provided] described under this section or any other section, [a person] an individual who is convicted of violating this section shall have the [person’s] individual’s driver license revoked under Section 53-3-220 if the death of another [person] individual results from driving a motor vehicle.

(b) The court shall forward the report of the conviction resulting from driving a motor vehicle to the Driver License Division in accordance with Section 53-3-218.

(5) A practitioner does not violate Subsection (2)(b) if the practitioner provides medication or a procedure to treat an individual’s illness or relieve an individual’s pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual to whom the practitioner provides the medication or procedure, unless the practitioner intentionally and knowingly provides the medication or procedure to aid the individual to commit suicide or attempt to commit suicide.

CHAPTER 373**H. B. 143**

Passed March 6, 2018
 Approved March 21, 2018
 Effective January 1, 2019

OFF-HIGHWAY VEHICLE AMENDMENTS

Chief Sponsor: Michael E. Noel
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies provisions related to off-highway vehicles.

Highlighted Provisions:

This bill:

- ▶ modifies the registration fee and uniform statewide fee for all-terrain vehicles, certain motorcycles, snowmobiles, and street-legal all-terrain vehicles; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-6a-1509, as last amended by Laws of Utah 2017, Chapters 393 and 406
 41-22-8, as last amended by Laws of Utah 2017, Chapter 261
 59-2-405.2, as last amended by Laws of Utah 2014, Chapter 237

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1509 is amended to read:**41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.**

(1) (a) An all-terrain type I vehicle, utility type vehicle, or full-sized all-terrain vehicle that meets the requirements of this section may be operated as a street-legal ATV on a street or highway unless:

(i) the highway is an interstate freeway as defined in Section 41-6a-102; or

(ii) (A) the highway is in a county of the first class;

(B) the highway is near a grade separated portion of the highway;

(C) the highway has a posted speed limit of 50 miles per hour or greater; and

(D) the highway authority with jurisdiction over the highway has designated a portion of a highway as closed to street-legal ATVs.

(b) The restriction to street-legal ATVs described in Subsection (1)(a)(ii) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under Title 41, Chapter 6a, Traffic Code;

(ii) [~~registration,~~] titling, odometer statement, vehicle identification, license plates, and registration [~~fees,~~] excluding registration fees, under Title 41, Chapter 1a, Motor Vehicle Act; and

[~~(iii) fees in lieu of property taxes or in lieu of fees under Section 59-2-405.2; and]~~

[~~(iv)~~] (iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) (a) The owner of an all-terrain type I vehicle or a utility type vehicle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;

(xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and

(xv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of a full-sized all-terrain vehicle being operated as a street-legal all-terrain vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;

(xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and

(xv) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirements of Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

Section 2. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) The board shall establish the fees which shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed ~~[\$18]~~ \$35.

(ii) The fee for each snowmobile registration may not exceed \$26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed \$72.

(b) The fee for each duplicate registration card may not exceed \$3.

(c) The fee for each duplicate registration sticker may not exceed \$5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay ~~[50 cents]~~ one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under

Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund described in Section 26-54-102.

Section 3. Section 59-2-405.2 is amended to read:

59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2; or

(II) all-terrain type II vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or

(E) notwithstanding the definition of vessel in Subsection (1)(bb), a canoe with an outboard motor.

(d) "Dealer" is as defined in Section 41-1a-102.

(e) "Jon boat" means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) "Motor vehicle" is as defined in Section 41-22-2.

(g) "Other motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) "Outboard motor" is as defined in Section 41-1a-102.

(j) "Park model recreational vehicle" is as defined in Section 41-1a-102.

(k) "Personal watercraft" means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(l) (i) "Pontoon" means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "houseboat."

(m) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

(n) (i) "Qualifying payment" means the payment made:

(A) of a uniform statewide fee in accordance with this section:

(I) by a qualifying person;

(II) to a county; and

(III) during the refund period; and

(B) on an item of qualifying tangible personal property; and

(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:

(A) the payment described in this Subsection (1)(n) for that item of qualifying tangible personal property; and

(B) the amount of the qualifying adjustment, exemption, or reduction.

(o) "Qualifying person" means a person that paid a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of qualifying tangible personal property.

(p) "Qualifying tangible personal property" means a:

(i) qualifying vehicle; or

(ii) qualifying watercraft.

(q) "Qualifying vehicle" means:

(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;

(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or

(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.

(r) "Qualifying watercraft" means a:

(i) canoe;

(ii) collapsible inflatable vessel;

(iii) jon boat;

(iv) pontoon;

(v) sailboat; or

(vi) utility boat.

(s) "Refund period" means the time period:

(i) beginning on January 1, 2006; and

(ii) ending on December 29, 2006.

(t) "Sailboat" means a sailboat as defined in Section 73-18-2.

(u) (i) "Small motor vehicle" means a motor vehicle that:

(A) is required to be registered in accordance with Title 41, Motor Vehicles; and

(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or

(II) a motor that produces five or less horsepower; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:

(A) an engine with 150 or less cubic centimeters displacement; or

(B) a motor that produces five or less horsepower.

(v) "Snowmobile" means a motor vehicle that:

(i) is a snowmobile as defined in Section 41-22-2;

(ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(w) "Street-legal all-terrain vehicle" means the same as that term is defined in Section 41-6a-102.

[(w)] (x) "Street motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation on highways;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

~~[(x)]~~ (y) “Tangible personal property owner” means a person that owns an item of qualifying tangible personal property.

~~[(y)]~~ (z) “Tent trailer” means a portable vehicle without motive power that:

- (i) is constructed with collapsible side walls that:
 - (A) fold for towing by a motor vehicle; and
 - (B) unfold at a campsite;
- (ii) is designed as a temporary dwelling for travel, recreational, or vacation use;
- (iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and
- (iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

~~[(z)]~~ (aa) (i) Except as provided in Subsection (1)~~[(z)]~~(aa)(ii), “travel trailer” means a travel trailer:

- (A) as defined in Section 41-1a-102; and
- (B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and
- (ii) notwithstanding Subsection (1)~~[(z)]~~(aa)(i), “travel trailer” does not include:

- (A) a camper; or
- (B) a tent trailer.

~~[(aa)]~~ (bb) (i) “Utility boat” means a vessel that:

- (A) has:
 - (I) two or three bench seating;
 - (II) an outboard motor; and
 - (III) a hull made of aluminum, fiberglass, or wood; and
- (B) does not have:
 - (I) decking;
 - (II) a permanent canopy; or
 - (III) a floor other than the hull; and
- (ii) notwithstanding Subsection (1)~~[(aa)]~~(bb)(i), “utility boat” does not include a collapsible inflatable vessel.

~~[(bb)]~~ (cc) “Vessel” means a vessel:

- (i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
- (ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.
- (2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

- (i) exempt from the tax imposed by Section 59-2-103; and

(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

- (i) an all-terrain vehicle;
- (ii) a camper;
- (iii) an other motorcycle;
- (iv) an other trailer;
- (v) a personal watercraft;
- (vi) a small motor vehicle;
- (vii) a snowmobile;
- (viii) a street motorcycle;
- (ix) a tent trailer;
- (x) a travel trailer;
- (xi) a park model recreational vehicle; and
- (xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection (6).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:

(a) for ~~[an all-terrain vehicle, an other motorcycle, or]~~ a snowmobile:

Age of [All-Terrain Vehicle, Other Motorcycle, or] Snowmobile	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$20
6 or more years but less than 9 years	\$30
3 or more years but less than 6 years	\$35
Less than 3 years	\$45

(b) for an all-terrain vehicle that is not a street-legal all-terrain vehicle or another motorcycle:

Age of All-Terrain Vehicle or Other Motorcycle	Uniform Statewide Fee
12 or more years	\$4
9 or more years but less than 12 years	\$8
6 or more years but less than 9 years	\$12
3 or more years but less than 6 years	\$14
Less than 3 years	\$18

(c) for a street-legal all-terrain vehicle:

Age of Street-Legal All-Terrain Vehicle	Uniform Statewide Fee
12 or more years	\$4
9 or more years but less than 12 years	\$14
6 or more years but less than 9 years	\$20
3 or more years but less than 6 years	\$28
Less than 3 years	\$38

~~(b)~~ (d) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$25
6 or more years but less than 9 years	\$35
3 or more years but less than 6 years	\$50
Less than 3 years	\$70

~~(e)~~ (e) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$15
6 or more years but less than 9 years	\$20
3 or more years but less than 6 years	\$25
Less than 3 years	\$30

~~(d)~~ (f) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$25
6 or more years but less than 9 years	\$35
3 or more years but less than 6 years	\$45
Less than 3 years	\$55

~~(e)~~ (g) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	\$10

3 or more years but less than 6 years	\$15
Less than 3 years	\$25

~~(f)~~ (h) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$35
6 or more years but less than 9 years	\$50
3 or more years but less than 6 years	\$70
Less than 3 years	\$95

~~(g)~~ (i) for a travel trailer or park model recreational vehicle:

Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee
12 or more years	\$20
9 or more years but less than 12 years	\$65
6 or more years but less than 9 years	\$90
3 or more years but less than 6 years	\$135
Less than 3 years	\$175

~~(h)~~ (j) \$10 regardless of the age of the vessel if the vessel is:

- (i) less than 15 feet in length;
- (ii) a canoe;
- (iii) a jon boat; or
- (iv) a utility boat;

~~(i)~~ (k) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	\$15
19 feet or more in length but less than 23 feet in length	\$25
23 feet or more in length but less than 27 feet in length	\$40
27 feet or more in length but less than 31 feet in length	\$75

~~(j)~~ (l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
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12 or more years	\$25
9 or more years but less than 12 years	\$65
6 or more years but less than 9 years	\$80
3 or more years but less than 6 years	\$110
Less than 3 years	\$150
[(k)] (m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:	
Age of Vessel	Uniform Statewide Fee
12 or more years	\$50
9 or more years but less than 12 years	\$120
6 or more years but less than 9 years	\$175
3 or more years but less than 6 years	\$220
Less than 3 years	\$275
[(l)] (n) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:	
Age of Vessel	Uniform Statewide Fee
12 or more years	\$100
9 or more years but less than 12 years	\$180
6 or more years but less than 9 years	\$240
3 or more years but less than 6 years	\$310
Less than 3 years	\$400
[(m)] (o) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:	
Age of Vessel	Uniform Statewide Fee
12 or more years	\$120
9 or more years but less than 12 years	\$250
6 or more years but less than 9 years	\$350
3 or more years but less than 6 years	\$500
Less than 3 years	\$700

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:	
Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	\$7.75
9 or more years but less than 12 years	\$27
6 or more years but less than 9 years	\$38.50
3 or more years but less than 6 years	\$54
Less than 3 years	\$73

(b) for a small motor vehicle:	
Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	\$7.75
3 or more years but less than 6 years	\$11.50
Less than 3 years	\$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) The revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(7) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection (7).

(b) (i) Except as provided in Subsection (7)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection (7)(b)(i), the length of a vessel may not include the length of:

- (A) a swim deck;
- (B) a ladder;
- (C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection (7)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection (7)(d).

(d) (i) A form under Subsection (7)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection (7)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection (7)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance of any form.

(8) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection (8)(b) if:

(i) the difference described in Subsection (8)(b) is \$1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections (8)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection (8)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection (8)(c) or (9) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

(Aa) the length of the qualifying watercraft;

(Bb) the age of the qualifying watercraft; and

(Cc) the type of qualifying watercraft;

(E) be signed by the qualifying person or tangible personal property owner; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection (8)(c) or (9) is considered to have given the qualifying person's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection (8)(d)(iii)(A) is a condition to the acceptance of any form.

(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection (8)(c).

(9) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection (8)(d).

(10) (a) For purposes of this Subsection (10), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:

(i) during the refund period;

(ii) in accordance with this section; and

(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.

(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:

(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and

(iii) that the owner may be entitled to a refund pursuant to Subsection (8).

Section 4. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 374**H. B. 157**

Passed March 7, 2018

Approved March 21, 2018

Effective May 8, 2018

JUSTICE REINVESTMENT AMENDMENTS

Chief Sponsor: Val K. Potter
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill establishes the daily compensation rate for treatment beds in county facilities offering alternative treatment programs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the definition of “treatment program” to include alternative treatment programs related to vocational training or cognitive behavioral therapy;
- ▶ establishes the daily compensation rate to be paid to a county for treatment beds dedicated to state inmates receiving alternative treatment in a county facility; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-102, as last amended by Laws of Utah 2011, Chapter 93

64-13e-103, as last amended by Laws of Utah 2017, Chapter 302

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 64-13e-102 is amended to read:**64-13e-102. Definitions.**

As used in this chapter:

(1) “Actual state daily incarceration rate” means the daily incarceration rate that reflects the actual expenses of the department, including:

- (a) executive overhead;
- (b) administrative overhead;
- (c) transportation overhead;
- (d) division overhead;
- (e) motor pool expenses;
- (f) medical expenses;
- (g) mental health expenses;
- (h) dental expenses;

(i) straight line capital depreciation, over a 40-year period, for prison facilities of the department; and

(j) expenses for treatment, including substance abuse treatment, alcohol abuse treatment, ~~and~~ sex offender treatment, and alternative treatment.

(2) “Alternative treatment” means:

(a) evidence-based cognitive behavioral therapy; or

(b) a certificate-based program provided by a Utah technical college, as defined in Subsection 53B-26-102(8).

~~[(2)]~~ (3) “CCJJ” means the Utah Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

~~[(3)]~~ (4) “Department” means the Department of Corrections.

~~[(4)]~~ (5) “Division of Finance” means the Division of Finance, created in Section 63A-3-101.

~~[(5)]~~ (6) “Final state daily incarceration rate” means the average actual state daily incarceration rate, calculated, reviewed, and discussed under Section 64-13e-105, and approved by the Legislature under Subsection 64-13e-105(3).

~~[(6)]~~ (7) “State inmate” means ~~[a person]~~ an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

~~[(7)]~~ (8) “State parole inmate” means ~~[a person]~~ an individual who is:

- (a) on parole, as defined in Section 77-27-1; and
- (b) housed in a county jail for a reason related to the ~~[person’s]~~ individual’s parole.

~~[(8)]~~ (9) “State probationary inmate” means a felony probationer sentenced to time in a county jail under Subsection 77-18-1(8).

~~[(9)]~~ (10) “Treatment program” means:

- (a) an alcohol treatment program;
- (b) a substance abuse treatment program; ~~[or]~~
- (c) a sex offender treatment program~~[-];~~ or
- (d) an alternative treatment program.

Section 2. Section 64-13e-103 is amended to read:**64-13e-103. Contracts for housing state inmates.**

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (3)(a)(ii), 89% of the final state daily incarceration rate for beds in a county that, pursuant to the contract, are

dedicated to a treatment program [te] for state inmates, if the treatment program is approved by the department under Subsection (3)(c); ~~and~~

(ii) 81% of the final state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (3)(c); and

~~[(ii)]~~ (iii) 73% of the final state daily incarceration rate for beds in a county other than the beds described in [Subsection] Subsections (3)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i) or (ii); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(a) the approximate number of beds to be contracted;

(b) the final state daily incarceration rate;

(c) the approximate amount of the county's long-term debt; and

(d) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

CHAPTER 375**H. B. 161**

Passed March 8, 2018

Approved March 21, 2018

Effective May 8, 2018

AUTO REGISTRATION REQUIREMENTS

Chief Sponsor: Christine F. Watkins

Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill removes the penalty for failure to sign or display a vehicle registration card.

Highlighted Provisions:

This bill:

- ▶ removes the requirement for an individual to sign a vehicle registration card;
- ▶ removes the requirement, but encourages an individual, to carry a vehicle registration card;
- ▶ removes the penalty for failure to sign or display a vehicle registration card; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-214, as last amended by Laws of Utah 2016, Chapter 356

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-214 is amended to read:**41-1a-214. Registration card to be exhibited.**

~~[(1) A registration card shall be signed by the owner in ink in the space provided.]~~

~~[(2) A registration card shall be carried at all times in the vehicle to which it was issued.]~~

~~[(3) The person driving or in control of a vehicle shall display the registration card upon demand of a peace officer or any officer or employee of the division.]~~

(1) For the convenience of a peace officer or any officer or employee of the division, the owner or operator of a vehicle is encouraged to carry the registration card in the vehicle for which the registration card was issued and display the registration card upon request.

~~[(4)] (2) For a vehicle owned by a rental company, as defined in Section 31A-22-311, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 31A-22-311, in place of a registration card ~~[for compliance with Subsection (3)].~~~~

~~[(5) A violation of this section is an infraction.]~~

CHAPTER 376**H. B. 169**

Passed March 6, 2018

Approved March 21, 2018

Effective May 8, 2018

COMMERCIAL WASTE FEE AMENDMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies provisions relating to a fee paid by an owner or operator of a commercial radioactive waste treatment or disposal facility that receives radioactive waste.

Highlighted Provisions:

This bill:

- ▶ reduces the annual fee paid by an owner or operator of a commercial radioactive waste treatment or disposal facility that receives radioactive waste.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-3-106, as last amended by Laws of Utah 2010, Chapter 17

59-1-403, as last amended by Laws of Utah 2017, Chapters 181, 277, and 430

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-3-106 is amended to read:**19-3-106. Fee for commercial radioactive waste disposal or treatment.**

(1) (a) An owner or operator of a commercial radioactive waste treatment or disposal facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).

~~[(b) (i) On or after July 1, 2010, but on or before June 30, 2011, the fee is equal to the sum of the following amounts:]~~

~~[(A) 30 cents per cubic foot of radioactive waste, other than 11e.(2) byproduct material, received at the facility for disposal or treatment; and~~

~~[(B) \$1 per curie of radioactive waste, other than 11e.(2) byproduct material, received at the facility for disposal or treatment.]~~

~~[(ii) (b) (i) On or after July 1, 2011, the fee shall be established by the department in accordance with Section 63J-1-504.~~

~~[(iii) (ii) In the development of a fee schedule prepared under Subsection (1)(b)[(ii)(i), the department may conduct by no later than July 1, 2011, a review of the program costs and indirect costs of regulating radioactive waste in the state.~~

~~[(iv) (iii) In addition to the process required by Section 63J-1-504, the department shall establish a fee that:~~

~~(A) is a flat fee, not based on the amount of waste treated or disposed of;~~

~~(B) provides for reasonable and timely oversight of radioactive waste by the department; and~~

~~(C) adequately meets the needs of industry and the department, including allowing for the department to employ qualified personnel to appropriately oversee industry regulation.~~

~~[(2) (a) The portion of the fee required under Subsection (1)(b)(i)(A) shall be calculated by multiplying the total cubic feet of waste, computed to the first decimal place, received during the calendar month by 30 cents.]~~

~~[(b) The portion of the fee required in Subsection (1)(b)(i)(B) shall be calculated by multiplying the total curies of waste, computed to the first decimal place, received during the calendar month by \$1.]~~

~~[(3) (2) (a) The owner or operator shall remit the fees imposed under this section to the department on or before the 15th day of the month following the month in which the fee accrued.~~

~~(b) The department shall deposit the fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.~~

~~[(c) The owner or operator shall submit to the department with the payment of the fee under this Subsection (3) a completed form as prescribed by the department that provides information the department requires to verify the amount of waste received and the fee amount for which the owner or operator is liable.]~~

~~(3) (a) The annual fee required under Subsection (1)(a) shall be reduced by the amount paid in tax annually by the owner or operator under Section 59-24-103.5.~~

~~(b) Beginning June 2018, the State Tax Commission shall provide annually on or before June 1 the tax information described in Subsection 59-1-403(3)(v) indicating the amount of tax paid for the previous calendar year under Section 59-24-103.5.~~

~~(c) The department shall apply the tax amount established in Subsection (3)(b) to reduce the fee paid during the upcoming fiscal year, beginning fiscal year 2019, by the owner or operator under Subsection (1)(a).~~

~~(4) The Legislature shall appropriate [to the department money to cover the cost of] the fully burdened cost as determined by the annual fee set under Subsection (1)(b) to the Environmental Quality Restricted Account created in Section 19-1-108 from the General Fund for the regulation of radioactive waste treatment and disposal [supervision].~~

~~(5) If the Legislature fails to appropriate adequate funds to cover the fully burdened cost as~~

determined by the annual fee set under Subsection (1)(b), the owner or operator shall pay the balance.

[~~(5)~~] (6) Radioactive waste that is subject to a fee under this section is not subject to a fee under Section 19-6-119.

Section 2. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer

for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) "Office" means the Office of the Legislative Fiscal Analyst, established in Section 36-12-13, the Office of Legislative Research and General Counsel, established in Section 36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or the Governor's Office of Management and Budget, created in Section 63J-4-2011.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of an office provide to the office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), an office may not request and the commission may not provide to an office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to an office, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of an office provide to the office other tax information.

(B) Before providing other tax information to an office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) An office may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from an office under Title 63G, Chapter 2, Government Records Access and Management Act,

or this section, if that office received the tax information from the commission in accordance with this Subsection (3)(n).

(B) An office may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information the office provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to:

(i) the board of the Utah Communications Authority created in Section 63H-7a-201; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(n)(iii) or a person that requests information in accordance with Subsection (3)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

CHAPTER 377**H. B. 181**

Passed March 2, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**HOME CONSUMPTION
AND HOMEMADE FOOD ACT**

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Daniel Hemmert
 Cosponsors: Kim F. Coleman
 Brian M. Greene
 Ken Ivory
 Michael S. Kennedy
 A. Cory Maloy
 Michael E. Noel
 Jeremy A. Peterson
 Adam Robertson
 Christine F. Watkins

LONG TITLE**General Description:**

This bill modifies Title 4, Utah Agricultural Code.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ states that home-based producers may be exempt from certain state, county, or city regulations regarding the preparation, serving, use, consumption, or storage of food and food products that are:
 - produced and sold within the state;
 - sold directly to an informed final consumer; and
 - for home consumption.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

4-5a-101, Utah Code Annotated 1953
 4-5a-102, Utah Code Annotated 1953
 4-5a-103, Utah Code Annotated 1953
 4-5a-104, Utah Code Annotated 1953
 4-5a-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-5a-101 is enacted to read:**CHAPTER 5a. HOME CONSUMPTION AND HOMEMADE FOOD ACT****4-5a-101. Title.**

This chapter is known as the "Home Consumption and Homemade Food Act."

Section 2. Section 4-5a-102 is enacted to read:**4-5a-102. Definitions.**

For purposes of this chapter:

(1) (a) "Commercial establishment" means a wholesale or retail business that displays, sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.

(b) "Commercial establishment" does not include a:

- (i) direct-to-sale location; or
- (ii) direct-to-sale farmers market.

(2) "Direct-to-sale farmers market" means a public or private facility or area where producers gather on a regular basis to sell directly to an informed final consumer fresh food, locally grown products, and other food items that have not been certified, licensed, regulated, or inspected by state or local authorities.

(3) "Direct-to-sale location" means a farm, ranch, direct-to-sale farmers market, home, office, or any location agreed upon by both a producer and the informed final consumer where a producer sells a food or food product to an informed final consumer.

(4) "Home consumption" means the use or ingestion of homemade food or a homemade food product within a private home by a family member, an employee, or a nonpaying guest.

(5) "Homemade food product" means a food product that is prepared in a private home kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the limitation described in Subsection 4-5a-105(1).

(6) "Informed final consumer" means an individual who:

- (a) purchases the product directly from the producer;
- (b) does not resell the product; and
- (c) has been informed that the product is not certified, licensed, regulated, or inspected by the state.

(7) "Producer" means a person who harvests or produces homemade food or a homemade food product.

Section 3. Section 4-5a-103 is enacted to read:**4-5a-103. Regulation of a direct-to-sale farmers market.**

(1) A direct-to-sale farmers market selling homemade food under this chapter shall:

(a) display signage indicating to an informed final consumer that the homemade food and food products sold by producers at the market have not been certified, licensed, regulated, or inspected by state or local authorities; and

(b) only include products for sale that have not been certified, licensed, regulated, or inspected by state or local authorities.

(2) If the direct-to-sale farmers market is in any way associated with a farmers market as defined in Subsection 4-5-102(5), the direct-to-sale farmers

market section selling homemade food under this chapter shall comply with the following requirements:

(a) the direct-to-sale farmers market section shall be separated from the farmers market section; and

(b) the separate direct-to-sale farmers market section shall include signs or other markings clearly indicating which space is the farmers market space offering inspected items for sale and which space is the direct-to-sale farmers market space offering items that are uninspected.

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the signage described in Subsection (1).

Section 4. Section 4-5a-104 is enacted to read:

4-5a-104. Home producer direct sales -- Exempt from regulation.

(1) A producer is exempt from state, county, or city licensing, permitting, certification, inspection, packaging, and labeling requirements, except as described in this section, related to the preparation, serving, use, consumption, or storage of food and food products if:

(a) the producer complies with the requirements of this chapter; and

(b) the homemade food or homemade food product is:

(i) produced and sold within the state;

(ii) sold directly to an informed final consumer;

(iii) for home consumption; and

(iv) not exempted under Subsection 4-5a-105(1).

(2) Notwithstanding Subsection (1), a producer shall comply with business license requirements pursuant to Section 10-1-203.

(3) Food or food products sold under this section shall be labeled with:

(a) the producer's name and address;

(b) a disclosure statement indicating that the product is:

(i) not for resale; and

(ii) processed and prepared without state or local inspection; and

(c) a statement listing whether the food or food product contains, or was prepared in a location that also handles, common allergens including milk, soy, wheat, eggs, peanuts or tree nuts, fish, or shellfish.

(4) (a) Except as provided in Subsection (4)(b), homemade food or a homemade food product that is exempt from certain regulations as described in this chapter may not be sold to, or used by, a restaurant or commercial establishment.

(b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or commercial establishment.

(5) A producer selling homemade food or homemade food products exempt under this section shall inform the final consumer that the food or food product is not certified, licensed, regulated, or inspected by the state or any county or city.

Section 5. Section 4-5a-105 is enacted to read:

4-5a-105. Limitations.

(1) This chapter does not apply to the sale of:

(a) raw dairy or raw dairy products; or

(b) meat products, with the following exceptions:

(i) the sale of poultry and poultry products if the producer:

(A) slaughters no more than 1,000 birds per year in accordance with the United States Department of Agriculture 1,000 bird exemption; and

(B) follows the United States Department of Agriculture's, Food Safety and Inspection Service document titled "Guidance for Determining Whether A Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act"; and

(ii) the sale of domesticated rabbit meat, pending approval from the United States Department of Agriculture that the state's role in meat inspection is preserved.

(2) Nothing in this chapter:

(a) means that the department relinquishes its authority to administer the state's program at a standard level at least equal to the standards imposed under the Federal Meat and Poultry Products Inspection Act;

(b) shall be construed to impede the Department of Health in an investigation of foodborne illness;

(c) prohibits a state agency from providing assistance, consulting, or inspecting when requested by a producer; or

(d) affects the authority of the Department of Health or the Department of Agriculture and Food to certify, license, regulate, or inspect food or food products that are not exempt from certification, licensing, regulation, or inspection as described in this chapter.

(3) The department may not, by rule, impose an additional limit, requirement, or restriction on a producer selling food or a food product under this chapter.

CHAPTER 378**H. B. 216**

Passed March 7, 2018
 Approved March 21, 2018
 Effective May 8, 2018

JORDAN RIVER RECREATION AREA

Chief Sponsor: Mike Winder
 Senate Sponsor: Evan J. Vickers
 Cosponsors: Cheryl K. Acton
 Carl R. Albrecht
 Patrice M. Arent
 Stewart E. Barlow
 Joel K. Briscoe
 Rebecca Chavez-Houck
 Kay J. Christofferson
 Kim F. Coleman
 Brad M. Daw
 Susan Duckworth
 James A. Dunnigan
 Rebecca P. Edwards
 Steve Eliason
 Justin L. Fawson
 Gage Froerer
 Francis D. Gibson
 Keith Grover
 Craig Hall
 Stephen G. Handy
 Sandra Hollins
 Gregory H. Hughes
 Eric K. Hutchings
 Ken Ivory
 Michael S. Kennedy
 Brian S. King
 John Knotwell
 Karen Kwan
 Bradley G. Last
 A. Cory Maloy
 Daniel McCay
 Michael K. McKell
 Carol Spackman Moss
 Merrill F. Nelson
 Michael E. Noel
 Derrin R. Owens
 Lee B. Perry
 Jeremy A. Peterson
 Val L. Peterson
 Dixon M. Pitcher
 Val K. Potter
 Marie H. Poulson
 Susan Pulsipher
 Paul Ray
 Edward H. Redd
 Angela Romero
 Douglas V. Sagers
 Scott D. Sandall
 Mike Schultz
 V. Lowry Snow
 Keven J. Stratton
 Raymond P. Ward
 Christine F. Watkins
 R. Curt Webb
 Elizabeth Weight
 John R. Westwood
 Mark A. Wheatley
 Logan Wilde
 Brad R. Wilson

LONG TITLE**General Description:**

This bill deals with an area along the Jordan River.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ authorizes the Division of Forestry, Fire, and State Lands, in consultation with the Jordan River Commission and other entities, to expend money as appropriations allow on projects around the Jordan River under certain conditions.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Natural Resources -- Division of Forestry, Fire, and State Lands -- Project Management:
 - from the General Fund, one-time, \$500,000; and
- ▶ to the Department of Natural Resources -- Division of Forestry, Fire, and State Lands -- Project Management:
 - from the General Fund, ongoing, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

65A-2-8, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-2-8 is enacted to read:**65A-2-8. Jordan River improvement projects.**

(1) As used in this section:

(a) “Commission” means the Jordan River Commission created by interlocal agreement.

(b) “Zone” means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and 4430 South.

(2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) and (4), may:

(a) expend money for the following purposes:

(i) enhancing safety, recreation, and conservation in the zone;

(ii) capital improvements within the zone, including:

(A) lighting along the Jordan River and within the zone;

(B) completing construction of a paved pathway on both sides of the Jordan River within the zone;

(C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and

(D) supporting an aviary, nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;

(iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;

(iv) hiring or contracting for personnel to perform tasks as directed by the commission;

(v) partnering or contracting with urban ranger or similar service-oriented organizations or programs:

(A) to provide trail maintenance, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; and

(vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).

(3) (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:

(i) the commission;

(ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and

(iii) the relevant municipality within the zone.

(b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:

(i) receive the approval of the commission; and

(ii) consult with:

(A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and

(B) the relevant municipality within the zone.

(4) The programs described in this section may only be implemented as appropriations from the Legislature allow.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Natural Resources - Division of Forestry, Fire, and State Lands

From General Fund, one-time \$500,000

From General Fund, ongoing \$500,000

Schedule of Programs:

Project Management \$1,000,000

The Legislature intends that the Division of Forestry, Fire, and State Lands use up to 10% of appropriated funds on administrative functions and then spend remaining funds appropriated under this section to implement the programs described in Section 65A-2-8, with half the remaining money appropriated expended on the programs described in Subsections 65A-2-8(2)(a)(i) through (iv) and half the remaining money appropriated expended on the programs described in Subsections 65A-2-8(2)(a)(v) and (vi).

CHAPTER 379**H. B. 226**

Passed March 8, 2018
 Approved March 21, 2018
 Effective May 1, 2018

CITATION AUTHORITY AMENDMENTS

Chief Sponsor: Kay J. Christofferson
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses who may enforce a local ordinance through issuing a citation.

Highlighted Provisions:

This bill:

- ▶ amends a provision that prohibits certain municipal officers and officials from enforcing a local ordinance through issuing a citation to except violations regarding animals;
- ▶ clarifies that county and municipal animal control officers may issue a citation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-3-703 (Effective 05/01/18), as last amended by Laws of Utah 2017, Chapter 314
 77-7-18, as last amended by Laws of Utah 2012, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-703 (Effective 05/01/18) is amended to read:**10-3-703 (Effective 05/01/18). Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.**

(1) The governing body of each municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.

(b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

(3) (a) [A] Except as provided in Subsection (3)(b) or Section 77-7-18, a municipal officer or official who is not a law enforcement officer described in [accordance with] Section 53-13-103 or a special function officer described in Section 53-13-105

may not issue a criminal citation for a violation that is punished as a misdemeanor.

(b) Notwithstanding Subsection (3)(a), the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102; or

(ii) an animal control officer described in Section 11-46-102.

Section 2. Section 77-7-18 is amended to read:**77-7-18. Citation on misdemeanor or infraction charge.**

(1) Any person subject to arrest or prosecution on a misdemeanor or infraction charge may be issued and delivered a citation that requires the person to appear at the court of the magistrate with territorial jurisdiction.

(2) The following may issue the citation [may be issued by] described in Subsection (1):

[~~(1)~~] (a) a peace officer, in lieu of or in addition to taking the person into custody;

[~~(2)~~] (b) any public official of any county or municipality charged with the enforcement of the law;

[~~(3)~~] (c) a port-of-entry agent as defined in Section 72-1-102;

[~~(4)~~] (d) an animal control officer of a county, municipality, or special service district under Title 17D, Chapter 1, Special Service District Act, who is authorized to provide animal control service; and

[~~(5)~~] (e) a volunteer authorized to issue a citation under Section [~~41-6a-213~~] 41-6a-217.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2018.

CHAPTER 380**H. B. 245**

Passed February 16, 2018

Approved March 21, 2018

Effective May 8, 2018

**CHARTER SCHOOL
PROXIMITY AMENDMENTS**

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends a provision related to charter school enrollment preferences.

Highlighted Provisions:

This bill:

- ▶ amends a provision related to a charter school enrollment preference regarding the proximity of a student's residence to a charter school.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-6-502, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-502 is amended to read:**53G-6-502. Eligible students.**

(1) As used in this section:

(a) "At capacity" means operating above the school's open enrollment threshold.

(b) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.

(d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(e) "School of residence" means the same as that term is defined in Section 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select

students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(g) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

CHAPTER 381**H. B. 272**

Passed March 8, 2018
Approved March 21, 2018
Effective May 8, 2018

UTAH LAKE AMENDMENTS

Chief Sponsor: Michael K. McKell
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill enacts provisions dealing with restoring Utah Lake.

Highlighted Provisions:

This bill:

- ▶ contains legislative findings on the condition of Utah Lake;
- ▶ authorizes the Division of Forestry, Fire, and State Lands to dispose of state land in exchange for the execution of a project for the comprehensive restoration of Utah Lake; and
- ▶ provides for land transferred to a private party to become subject to applicable land use provisions of state law.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

65A-15-101, Utah Code Annotated 1953
65A-15-102, Utah Code Annotated 1953
65A-15-103, Utah Code Annotated 1953
65A-15-201, Utah Code Annotated 1953
65A-15-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-15-101 is enacted to read:

CHAPTER 15. UTAH LAKE RESTORATION ACT

Part 1. General Provisions

65A-15-101. Title.

This chapter is known as the "Utah Lake Restoration Act."

Section 2. Section 65A-15-102 is enacted to read:

65A-15-102. Definitions.

As used in this chapter:

(1) "Restoration project" means a project for the comprehensive restoration of Utah Lake, as provided in this chapter.

(2) "Restoration proposal" means a proposal submitted to the division for a restoration project.

Section 3. Section 65A-15-103 is enacted to read:

65A-15-103. Legislative findings.

The Legislature finds that:

(1) Utah Lake currently faces serious challenges, including:

- (a) fluctuating lake levels;
- (b) uncontrolled, toxic algal blooms;
- (c) loss of native vegetation;
- (d) invasive fish and plant species;
- (e) loss of littoral zone plants;
- (f) suspended silt on the lake bottom;
- (g) poor water clarity;

(h) heavy nutrient loading of lake sediments and within the water column; and

(i) high wind and wave action;

(2) initial conservation efforts are producing measurable results and demonstrate that conservation solutions can produce restoration objective on Utah Lake;

(3) additional and significant conservation investments are needed to implement the comprehensive solutions needed to fully restore Utah Lake and its water quality;

(4) there is not a reasonable public funding source to undertake the comprehensive solutions needed to restore Utah Lake; and

(5) it is in the interest of the state to undertake a comprehensive restoration of Utah Lake for the benefit of public trust uses on the lake.

Section 4. Section 65A-15-201 is enacted to read:

Part 2. Utah Lake Restoration Project

65A-15-201. Division authority to dispose of sovereign land in exchange for Utah Lake restoration project -- Criteria.

(1) Subject to the approval of the Legislative Management Committee, the division may dispose of appropriately available state land in and around Utah Lake as compensation for the comprehensive restoration of Utah Lake under a restoration proposal if the division finds that the restoration project will:

(a) restore the clarity and quality of the water in Utah Lake;

(b) conserve water resources in and around Utah Lake;

(c) preserve the water storage and water supply functions of Utah Lake;

(d) remove invasive plant and animal species, including phragmites and carp, from Utah Lake;

(e) restore littoral zone and other plant communities in and around Utah Lake;

(f) restore and conserve native fish and other aquatic species in Utah Lake, including Bonneville cutthroat trout and June Sucker;

(g) increase the suitability of Utah Lake and its surrounding areas for shore birds, waterfowl, and other avian species;

- (h) improve navigability of Utah Lake;
- (i) maximize, enhance, and ensure recreational access and opportunities on Utah Lake;
- (j) preserve current water rights related to water associated with Utah Lake; and
- (k) otherwise improve the use of Utah Lake for residents and visitors.

(2) In determining whether to dispose of state land in exchange for the execution of a restoration project, as provided in Subsection (1) and pursuant to a restoration proposal, the division shall consider:

- (a) the potential that the restoration project presents for additional revenue to state and local government entities;
- (b) the ability of the proposed use of the state land given in exchange for the restoration project to enhance state property adjacent to Utah Lake;
- (c) the proposed timetable for completion of the restoration project;
- (d) the ability of the person who submits a restoration project to execute and complete the restoration project satisfactorily; and
- (e) the desirability of the proposed use of Utah Lake and the surrounding areas as a result of the restoration project.

Section 5. Section 65A-15-202 is enacted to read:

65A-15-202. Status of state lands after a change in ownership.

Once the division transfers ownership of state land to a private party in exchange for and in furtherance of a restoration project, the land becomes subject to, as applicable:

- (1) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or
- (2) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

CHAPTER 382**H. B. 300**

Passed March 7, 2018

Approved March 21, 2018

Effective May 8, 2018

HIGHER EDUCATION MODIFICATIONS

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms, including defining the term “UTech” to mean the Utah System of Technical Colleges;
- ▶ permits the governor to remove, for cause, certain members of:
 - the State Board of Regents;
 - the Utah System of Technical Colleges Board of Trustees;
 - an institution of higher education board of trustees; and
 - a technical college board of directors;
- ▶ amends provisions related to the role of a technical college board of directors in relation to a technical college president;
- ▶ amends the membership of a technical college board of directors;
- ▶ creates a term limit for a member of a technical college board of directors;
- ▶ provides that the State Board of Regents may make policies regarding tuition waivers;
- ▶ enacts provisions related to the Higher Education Strategic Planning Commission, including:
 - creating the commission;
 - describing the membership of the commission; and
 - enacting powers and duties of the commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2018:

- ▶ to the Legislature - Legislative Services - Administration as a one-time appropriation:
 - from the General Fund, One-time, \$337,000;
- ▶ to the Legislature - Senate - Administration as a one-time appropriation:
 - from the General Fund, One-time, \$6,300; and
- ▶ to the Legislature - House of Representatives - Administration as a one-time appropriation:
 - from the General Fund, One-time, \$6,300.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-1-104, as last amended by Laws of Utah 2017, Chapter 382

53B-2-102, as repealed and reenacted by Laws of Utah 2017, Chapter 382

53B-2-104, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-101, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-102, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-103, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-104, as last amended by Laws of Utah 2017, Chapters 365 and 382

53B-2a-105, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-106, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-107, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-109, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-112, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-113, as last amended by Laws of Utah 2017, Chapter 382

53B-2a-114, as last amended by Laws of Utah 2017, Chapter 382

53B-8-101, as last amended by Laws of Utah 2017, Chapter 382

63I-2-253, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381, 386, and 468

63I-2-263, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

ENACTS:

63C-19-101, Utah Code Annotated 1953

63C-19-102, Utah Code Annotated 1953

63C-19-201, Utah Code Annotated 1953

63C-19-202, Utah Code Annotated 1953

REPEALS AND REENACTS:

53B-2a-108, as last amended by Laws of Utah 2017, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-104 is amended to read:

53B-1-104. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation.

(1) Except as provided in Subsection (2), the board consists of 17 residents of the state appointed by the governor with the consent of the Senate, as follows:

(a) eight ~~[at large]~~ at-large members;

(b) eight members, each of whom is:

(i) selected from three nominees presented to the governor by a higher education institution board of trustees; and

(ii) a current or former member of the institution of higher education board of trustees that nominates the member; and

(c) one member, selected from three nominees presented to the governor by the student body

presidents of the institutions of higher education, who:

(i) is a fully matriculated student enrolled in an institution of higher education; and

(ii) is not serving as a student body president at the time of the nomination.

(2) (a) (i) An individual appointed to the board on or before May 8, 2017, may serve on the board, even if the individual does not fulfill a requirement for the composition of the board described in Subsection (1).

(ii) The governor may reappoint a member described in Subsection (2)(a)(i) when the member's term expires.

(b) An individual appointed to the board on or before May 8, 2017, who is a current or former member of an institution of higher education board of trustees is the board member for the institution of higher education described in Subsection (1)(b).

(c) (i) Subject to Subsection (2)(c)(ii), as positions on the board become vacant, the governor shall ensure that newly appointed members move the board toward the composition described in Subsection (1).

(ii) In appointing a new member to the board, the governor shall first appoint a member described in Subsection (1)(b) until the eight positions described in Subsection (1)(b) are filled.

(3) (a) All appointments to the board shall be made on a nonpartisan basis.

(b) In making appointments to the board, the governor shall consider:

- (i) geographic representation of members;
- (ii) diversity;
- (iii) experience in higher education governance;
- (iv) experience in economic development; and
- (v) exposure to institutions of higher education.

(c) An individual may not serve simultaneously on the State Board of Regents and an institution of higher education board of trustees.

(4) (a) Except as provided in Subsection (4)(b), members of the board shall be appointed to six-year staggered terms, which begin on July 1 of the year of appointment.

(b) A student member described in Subsection (1)(c) shall be appointed to a one-year term.

(c) (i) The governor may remove a member of the board for cause.

(ii) The governor shall consult with the president of the Senate before removing a member of the board.

(5) (a) A member of the board shall take the official oath of office before entering upon the duties of office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) The board shall elect a chair and vice chair from among the board's members who shall serve terms of two years and until their successors are chosen and qualified.

(7) (a) The board shall appoint a secretary from the staff of the board's chief executive to serve at the board's discretion.

(b) The secretary is a full-time employee who receives a salary set by the board.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(8) (a) The board may establish advisory committees.

(b) The powers and authority of the board are nondelegable, except as specifically provided for in this title.

(c) All matters requiring board determination shall be addressed in a properly convened meeting of the board or the board's executive committee.

(9) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(10) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the executive officer, or five members of the board.

(11) A quorum of the voting members of the board is required to conduct the board's business and consists of nine members.

(12) (a) A vacancy in the board occurring before the expiration of a voting member's full term shall be immediately filled by appointment by the governor with the consent of the Senate.

(b) An individual appointed under Subsection (12)(a) serves for the remainder of the unexpired term.

(13) A board member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 53B-2-102 is amended to read:

53B-2-102. Board to appoint president for each institution.

(1) As used in this section:

(a) "Institution of higher education" means an institution that is part of the Utah System of Higher

Education described in Subsection 53B-1-102(1)(a).

(b) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) An institution of higher education president serves at the pleasure of the board.

(4) (a) To appoint an institution of higher education president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing institution of higher education president's executive council or cabinet, and the board.

(b) A search committee shall be cochaired by a member of the board and a member of the institution of higher education board of trustees.

(c) A search committee described in Subsection (4)(a) shall forward three to five finalists to the board to consider for a position as an institution of higher education president.

(d) A search committee may not forward an individual to the board as a finalist unless two-thirds of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as an institution of higher education president.

(5) (a) The board shall select an institution of higher education president from among the finalists presented by a search committee.

(b) If the board is not satisfied with the finalists forwarded by a search committee, the board may direct the search committee to resume the search process until the search committee has forwarded three finalists with ~~which~~ whom the board is satisfied.

(6) The board, through the commissioner, shall create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for institution of higher education presidents.

(7) (a) Except as provided in Subsection (7)(b), a record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.

Section 3. Section 53B-2-104 is amended to read:

53B-2-104. Institution of higher education board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1) (a) Except as provided in Subsection (10), the board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection 53B-18-1201(3)(b), eight individuals appointed by the governor with the consent of the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) ~~[An appointed member]~~ Except as provided in Subsection (2)(d), a member appointed under Subsection (1)(a)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (1)(a)(i).

(3) When a vacancy occurs in the membership of a board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) This section does not apply to a technical college board of directors described in Section 53B-2a-108.

Section 4. Section 53B-2a-101 is amended to read:

53B-2a-101. Definitions.

As used in this chapter:

(1) "Board of trustees" means the [~~Utah System of Technical Colleges~~] UTech Board of Trustees.

(2) "Commissioner of technical education" means the [~~Utah System of Technical Colleges~~] UTech commissioner of technical education.

(3) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

[(4) "Member" means a member of the board of trustees.]

[(5)] (4) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

(5) "UTech" means the Utah System of Technical Colleges described in Section 53B-1-102.

Section 5. Section 53B-2a-102 is amended to read:

53B-2a-102. Commissioner of technical education -- Appointment -- Duties.

(1) (a) The board of trustees, upon approval from the governor and with the consent of the Senate,

shall appoint a commissioner of technical education to serve as the board of trustees' chief executive officer.

(b) The commissioner of technical education shall:

(i) have an appropriate and relevant educational background, including, at a minimum, a master's degree; and

(ii) have extensive experience in career and technical education.

(c) The commissioner of technical education shall serve at the board of trustees' discretion and may be terminated by:

(i) the board of trustees; or

(ii) the governor, after consultation with the board of trustees.

(d) If the board of trustees intends to appoint an interim or acting commissioner of technical education during a leave of absence of the commissioner of technical education, the board of trustees shall appoint the interim or acting commissioner of technical education with the consent of the Senate.

(e) The name of each final candidate for commissioner of technical education shall be publicly disclosed.

(2) The board of trustees shall:

(a) set the salary of the commissioner of technical education;

(b) prescribe the duties and functions of the commissioner of technical education; and

(c) select a commissioner of technical education on the basis of outstanding professional qualifications.

(3) The commissioner of technical education is responsible to the board of trustees to:

(a) ensure that the policies and programs of the board of trustees are properly executed;

(b) furnish information about [~~the Utah System of Technical Colleges~~] UTech and make recommendations regarding the information to the board of trustees;

(c) provide state-level leadership in an activity affecting a technical college; and

(d) perform other duties as assigned by the board of trustees in carrying out the board of trustees' duties and responsibilities.

Section 6. Section 53B-2a-103 is amended to read:

53B-2a-103. UTech Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.

(1) There is created the [~~Utah System of Technical Colleges~~] UTech Board of Trustees.

(2) Except as provided in Subsections (3) and (4), the board of trustees is composed of the following members:

(a) one member, representing business and industry employers from each technical college board of directors, appointed by a majority vote of the business and industry employer members of the technical college board of directors;

(b) one member representing business and industry employers from the Snow College Economic Development and Workforce Preparation Advisory Committee appointed by a majority of the business and industry employer members of the advisory committee;

(c) one member representing business and industry employers from the Utah State University Eastern career and technical education advisory committee appointed by a majority of the business and industry employer members of the advisory committee;

(d) one member representing business and industry employers from the Salt Lake Community College School of Applied Technology Board of Directors appointed by a majority of the business and industry employer members of the board of directors;

(e) one business or industry employer representative appointed by the governor with the consent of the Senate from nominations submitted by the speaker of the House of Representatives and president of the Senate;

(f) one representative of union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate;

(g) one representative of non-union craft, trade, or apprenticeship programs that prepare workers for employment in career and technical education fields, appointed by the governor with the consent of the Senate; and

(h) the executive director of the Governor's Office of Economic Development or the executive director's designee.

(3) (a) Beginning on July 1, 2019, the board of trustees is composed of 15 members appointed by the governor with the consent of the Senate, as follows:

(i) one member selected from at least two nominees presented to the governor by the board of directors of each technical college, for a total of eight members; and

(ii) one member who is employed in and represents each of the following sectors:

- (A) information technology;
- (B) manufacturing;
- (C) life sciences;
- (D) health care;
- (E) transportation;
- (F) union craft, trade, or apprenticeship; and

(G) non-union craft, trade, or apprenticeship.

(b) The seven members described in Subsection (3)(a)(ii) shall be selected from the state at large, subject to the following conditions:

(i) at least four members shall reside in a geographic area served by a technical college; and

(ii) no more than two members may reside in a single geographic area served by a technical college.

(c) The governor shall make appointments to the board of trustees on a nonpartisan basis.

(d) An individual may not serve on the board of trustees and a technical college board of directors simultaneously.

(4) (a) To transition from the composition of the board of trustees described in Subsection (2) to the composition described in Subsection (3), for a member who was appointed to the board of trustees on or before May 10, 2016, the governor shall appoint a replacement:

(i) when the member's current term expires, for a member who, on May 10, 2016, has served less than two consecutive full terms on the board of trustees; or

(ii) on May 10, 2016, for a member who, on May 10, 2016, has served two or more consecutive full terms on the board of trustees.

(b) In replacing a member who was appointed under Subsection (2)(a), the governor shall appoint a member for the technical college represented by the member whose term expires by:

(i) soliciting the technical college's board of directors to nominate at least two individuals for the position; and

(ii) selecting from the nominees presented.

(c) In replacing a member who was appointed under Subsections (2)(b) through (2)(h), the governor shall appoint a new member at large, ensuring representation from the sectors described in Subsection (3)(a)(ii).

(d) In making an appointment under this Subsection (4), the governor:

(i) shall appoint a member on a nonpartisan basis; and

(ii) may not reappoint the member who is being replaced if the member has served on the board of trustees for at least two consecutive full terms.

(5) (a) (i) Except as provided under Subsection (5)(a)(ii), a member shall be appointed commencing on July 1 of each odd-numbered year to a four-year term.

(ii) The governor shall ensure that member terms are staggered so that approximately one-half of the members' terms expire in any odd-numbered year.

(b) A member may not hold office for more than two consecutive full terms.

(c) (i) The governor may remove a member of the board of trustees for cause.

(ii) The governor shall consult with the president of the Senate before removing a member of the board of trustees.

(6) When a vacancy occurs on the board of trustees for any reason, the governor shall appoint a replacement for the unexpired term.

(7) (a) Each member shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(8) (a) The board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(b) A member may not serve more than two consecutive terms as the chair or vice chair.

(9) (a) The board of trustees shall enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) The board of trustees shall provide for an executive committee in the board of trustees' bylaws.

(ii) The executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) The executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) The executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the executive committee's activities.

(10) A quorum shall be required to conduct business which shall consist of a majority of board of trustee members.

(11) The board of trustees may establish advisory committees.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 53B-2a-104 is amended to read:

53B-2a-104. Board of trustees powers and duties.

(1) The board of trustees is vested with the control, management, and supervision of technical colleges in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to the board of trustees.

(2) The board of trustees shall:

(a) ensure that a technical college complies with the requirements in Section 53B-2a-106;

(b) appoint the commissioner of technical education in accordance with Section 53B-2a-102;

(c) advise the commissioner of technical education and the State Board of Regents on issues related to career and technical education, including articulation with institutions of higher education and public education;

(d) ensure that a secondary student in the public education system has access to career and technical education through a technical college in the secondary student's service region;

(e) in consultation with the State Board of Education, the State Board of Regents, and technical college presidents, develop strategies for providing career and technical education in rural areas, considering distances between rural career and technical education providers;

(f) receive budget requests from each technical college, compile and prioritize the requests, and submit the request to:

(i) the Legislature; and

(ii) the Governor's Office of Management and Budget;

(g) receive funding requests pertaining to capital facilities and land purchases from each technical college, ensure that the requests comply with Section 53B-2a-112, prioritize the requests, and submit the prioritized requests to the State Building Board;

(h) comply with Chapter 7, Part 7, Performance Funding;

(i) in conjunction with the commissioner of technical education, establish benchmarks, provide oversight, evaluate program performance, and obtain independent audits to ensure that a technical college follows the noncredit career and technical education mission described in this part;

(j) approve programs for [~~the Utah System of Technical Colleges~~] UTech;

(k) approve the tuition rates for technical colleges;

(l) prepare and submit an annual report detailing the board of trustees' progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met, including what access secondary students have to programs offered at technical colleges;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry described in Section 53B-2a-106 is being provided;

(iii) performance outcomes, including:

(A) performance on the metrics described in Section 53B-7-707; and

(B) earnings; and

(iv) student tuition and fees; and

(m) collaborate with the State Board of Regents, the State Board of Education, the Department of Workforce Services, and the Governor's Office of Economic Development on the delivery of career and technical education.

(3) The board of trustees, the commissioner of technical education, or a technical college president or board of directors may not conduct a feasibility study or perform another act relating to offering a degree or awarding credit.

Section 8. Section 53B-2a-105 is amended to read:

53B-2a-105. UTech composition.

[The Utah System of Technical Colleges] UTech is composed of the following technical colleges:

(1) Bridgerland Technical College, which serves the geographic area encompassing:

(a) the Box Elder School District;

(b) the Cache School District;

(c) the Logan School District; and

(d) the Rich School District;

(2) Ogden-Weber Technical College, which serves the geographic area encompassing:

(a) the Ogden City School District; and

(b) the Weber School District;

(3) Davis Technical College, which serves the geographic area encompassing:

(a) the Davis School District; and

(b) the Morgan School District;

(4) Tooele Technical College, which serves the geographic area encompassing the Tooele County School District;

(5) Mountainland Technical College, which serves the geographic area encompassing:

(a) the Alpine School District;

(b) the Nebo School District;

(c) the Provo School District;

(d) the South Summit School District;

(e) the North Summit School District;

(f) the Wasatch School District; and

(g) the Park City School District;

(6) Uintah Basin Technical College, which serves the geographic area encompassing:

(a) the Daggett School District;

(b) the Duchesne School District; and

(c) the Uintah School District;

(7) Southwest Technical College, which serves the geographic area encompassing:

(a) the Beaver School District;

(b) the Garfield School District;

(c) the Iron School District; and

(d) the Kane School District; and

(8) Dixie Technical College, which serves the geographic area encompassing the Washington School District.

Section 9. Section 53B-2a-106 is amended to read:

53B-2a-106. Technical colleges -- Duties.

(1) Each technical college shall, within the geographic area served by the technical college:

(a) offer a noncredit postsecondary and secondary career and technical education curriculum;

(b) offer that curriculum at:

(i) low cost to adult students, as approved by the board of trustees; and

(ii) no tuition to secondary students;

(c) provide career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;

(d) develop cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the technical college; and

(e) after consulting with school districts and charter schools within the geographic area served by the technical college:

(i) ensure that secondary students in the public education system have access to career and technical education at the technical college; and

(ii) prepare and submit an annual report to the board of trustees detailing:

(A) how the career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at the technical college;

(C) how the emphasis on high demand, high wage, high skill jobs in business and industry described in Subsection (1)(c)(ii) is being provided; and

(D) student tuition and fees.

(2) A technical college may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section 53A-1-402;

(b) noncredit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program;

(c) noncredit courses of interest when similar offerings to the community are limited and courses are financially self-supporting; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section 53A-15-1205.

(3) Except as provided in Subsection (2)(d), a technical college may not:

(a) offer courses other than noncredit career and technical education or the noncredit, basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

(c) offer career and technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement between an affected institution, except as provided in Subsection (6);

(d) provide tenure or academic rank for its instructors; or

(e) participate in intercollegiate athletics.

(4) The mission of a technical college is limited to noncredit career and technical education and may not expand to include credit-based academic programs typically offered by community colleges or other institutions of higher education.

(5) A technical college shall be recognized as a member of ~~[the Utah System of Technical Colleges]~~ UTech, and regional affiliation shall be retained and recognized through local designations such as "Bridgerland Technical College: A member technical college of the Utah System of Technical Colleges."

(6) (a) A technical college may offer career and technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the career and technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the technical college notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the technical college, to the employer, craft, trade, or apprenticeship program about offering the requested career and technical education or basic instruction, provided that the proposal shall be

presented no later than one business week from the delivery of the notice described under Subsection (6)(a)(ii).

(b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior training relationship.

Section 10. Section 53B-2a-107 is amended to read:

53B-2a-107. Technical college presidents -- Appointments -- Duties.

(1) (a) The board of trustees shall ~~[after consultation with a technical college board of directors,]~~ appoint a president for ~~[the]~~ each technical college.

(b) The board of trustees shall establish a policy for appointing a technical college president that:

(i) requires the board of trustees to create a search committee that:

(A) includes an equal number of board of trustees members and members from the technical college board of directors; and

(B) may include technical college faculty, students, or other individuals;

(ii) requires the search committee to seek nominations, interview candidates, and forward qualified candidates to the board of trustees for consideration;

(iii) provides for at least two members of the technical college board of directors to participate in board of trustees' interviews of finalists; and

(iv) provides for the board of trustees to vote to appoint a technical college president in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act.

(2) (a) A technical college president shall serve as the chief executive officer of the technical college.

(b) A technical college president does not need to have a doctorate degree, but shall have extensive experience in career and technical education.

(c) A technical college president is subject to regular review and evaluation administered by the board of trustees, in ~~[cooperation]~~ consultation with the technical college board of directors, through a process approved by the board of trustees.

(d) A technical college president serves at the ~~[discretion]~~ pleasure of the board of trustees ~~[, in cooperation with the technical college board of directors].~~

(e) The board of trustees, in ~~[cooperation]~~ consultation with a technical college board of directors, shall set the compensation for the technical college president using market survey information.

(3) A technical college president shall:

(a) serve as the executive officer of the technical college board of directors;

(b) administer the day-to-day operations of the technical college;

(c) consult with the technical college board of directors; and

(d) administer human resource policies and employee compensation plans in accordance with the requirements of the board of trustees.

Section 11. Section 53B-2a-108 is repealed and reenacted to read:

53B-2a-108. Technical college boards of directors -- Membership -- Appointments.

(1) As used in this section:

(a) "Higher education institution" means the same as that term is defined in Section 53B-2a-112.

(b) "Technical college service area" means the geographic area served by each technical college as described in Section 53B-2a-105.

(2) A technical college board of directors consists of:

(a) one member of the local school board for each school district in the technical college service area, appointed by the local school board to which the member belongs;

(b) except as provided in Subsection (3)(b), one individual who is a member of the higher education institution board of trustees, appointed by the higher education institution board of trustees; and

(c) a number of individuals, appointed by the governor with the consent of the Senate, that is:

(i) seven for:

(A) Tooele Technical College;

(B) Uintah Basin Technical College; and

(C) Dixie Technical College;

(ii) eight for:

(A) Bridgerland Technical College;

(B) Ogden-Weber Technical College;

(C) Davis Technical College; and

(D) Southwest Technical College; or

(iii) nine for Mountainland Technical College.

(3) (a) In appointing the members described in Subsection (2)(c), the governor shall appoint individuals who represent the interests of business, industry, or labor in the technical college service area.

(b) If no member of the institution of higher education board of trustees lives within the technical college service area, the institution of higher education board of trustees may nominate an individual to be appointed by the governor with the consent of the Senate instead of appointing a member described in Subsection (2)(b).

(4) (a) The governor may remove a member appointed under Subsection (2)(c) or (3)(b) for cause.

(b) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (2)(c) or (3)(b).

(5) (a) Notwithstanding Subsection (2) or 53B-2a-109(2), an individual appointed to a technical college board of directors on or before May 7, 2018, may continue to serve on the technical college board of directors until the end of the individual's current term, even if the total number of members on the technical college board of directors exceeds the number of members for the technical college board of directors described in Subsection (2).

(b) Notwithstanding Subsection (2), the governor may only make an appointment described in Subsection (2)(c) if the number of members on the technical college board of directors following the appointment will be less than or equal to the number of members for the technical college board of directors described in Subsection (2).

Section 12. Section 53B-2a-109 is amended to read:

53B-2a-109. Technical college boards of directors -- Terms -- Quorum -- Chair -- Compensation.

~~[(1) (a) At the first meeting of a technical college board of directors after July 1, 2009:]~~

~~[(i) the representatives from the local school boards shall divide up their positions so that approximately half of them serve for two-year terms and half serve for four-year terms; and]~~

~~[(ii) the representatives from business and industry employers shall divide up their positions so that approximately half of them serve for two-year terms and half serve for four-year terms.]~~

~~[(b) Except as provided in Subsection (1)(a), individuals appointed to]~~

(1) (a) Except as provided in this Subsection (1), a member of a technical college board of directors [shall serve] is appointed to a four-year [terms] term.

(b) The governor may appoint a member described in Subsection 53B-2a-108(2)(c) to a two-year term to ensure that the terms of approximately half of the members described in Subsection 53B-2a-108(2)(c) expire every other year.

(c) When a vacancy occurs in the membership of a technical college board of directors, the appointing authority for the vacant position described in Section 53B-2a-108 shall appoint a replacement for the remainder of the term.

(d) An appointed member holds office until a successor is appointed in accordance with Section 53B-2a-108.

(2) A member of a technical college board of directors may not hold office for more than two consecutive full terms.

~~[(2) The original appointing authority shall fill any vacancies that occur on a technical college board of directors.]~~

(3) A majority of a technical college board of directors is a quorum.

(4) A technical college board of directors shall elect a chair from the technical college board of directors' membership.

(5) A member of a technical college board of directors may not receive compensation or benefits for the member of the technical college board of director's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) A technical college board of directors may enact bylaws for the technical college board of directors' own government, including provisions for regular meetings, that are in accordance with the policies of the board of trustees.

(b) (i) A technical college board of directors may provide for an executive committee in the technical college board of directors' bylaws.

(ii) If established, an executive committee shall have the full authority of the technical college board of directors to act upon routine matters during the interim between board of directors' meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the technical college board of directors at the technical college board of directors' next regular meeting following the activities.

(7) A technical college board of directors may establish advisory committees.

Section 13. Section 53B-2a-112 is amended to read:

53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means ~~[, for each technical college, the higher education institution designated in Section 53B-2a-108 that has a representative on the technical college's board of directors.];~~

- (a) Utah State University for:
- (i) Bridgerland Technical College;
- (ii) Tooele Technical College; and
- (iii) Uintah Basin Technical College;
- (b) Weber State University for:
- (i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Dixie State University for Dixie Technical College.

(2) A technical college shall avoid any unnecessary duplication of career and technical education instructional facilities, programs, administration, and staff between the technical college and other public and higher education institutions.

(3) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships;

(b) with other public and higher education institutions to enhance career and technical education within [its] the technical college's region; or

(c) to comply with Subsection (2).

(4) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of [a] the technical college's higher education institution and entering into any necessary agreements to provide career and technical education to ~~[both]~~ secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(5) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board of trustees, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (4)(a) through (c); and

(ii) coordinate the request with the president of [a] the technical college's higher education institution, if applicable.

(b) The State Building Board shall make a finding that the requirements of this section are met before the State Building Board may consider a funding

request from the board of trustees pertaining to new capital facilities and land purchases.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(6) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine ~~whether it is feasible to use those~~ the feasibility of using existing systems; and

(c) with the approval of the technical college board of directors and the board of trustees, use ~~those~~ the existing systems.

Section 14. Section 53B-2a-113 is amended to read:

53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements -- Report.

(1) In accordance with Subsection 53B-2a-112(2), a technical college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the technical college board of directors; or

(b) more than one year with the approval of the board of trustees and:

(i) the approval of funding for the lease by the Legislature prior to a technical college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) In accordance with Subsection 53B-2a-112(2), a technical college may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in both the technical college and ~~[Utah System of Technical Colleges]~~ UTech master plans;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the technical college board of directors and the board of trustees; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management;

(B) reviewed by the State Building Board; and

(C) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

(i) all parties, dates, and elements of the agreement;

(ii) the equity or collateral component that creates the benefit; and

(iii) the options dealing with the sale and division of equity.

(3) (a) Each technical college shall provide an annual lease report to the board of trustees that details each of the technical college's leases, annual costs, location, square footage, and recommendations for lease continuation.

(b) The board of trustees shall compile and distribute an annual combined lease report for all technical colleges to the Division of Facilities Construction and Management and to others upon request.

(4) The board of trustees shall use the annual combined lease report in determining planning, utilization, and budget requests.

Section 15. Section 53B-2a-114 is amended to read:

53B-2a-114. Educational program on the use of information technology.

(1) ~~[The Utah System of Technical Colleges]~~ UTech shall offer an educational program on the use of information technology as provided in this section.

(2) An educational program on the use of information technology shall:

(a) provide instruction on skills and competencies essential for the workplace and requested by employers;

(b) include the following components:

(i) a curriculum;

(ii) online access to the curriculum;

(iii) instructional software for classroom and student use;

(iv) certification of skills and competencies most frequently requested by employers;

(v) professional development for faculty; and

(vi) deployment and program support, including integration with existing curriculum standards; and

(c) be made available to students, faculty, and staff of technical colleges.

Section 16. Section 53B-8-101 is amended to read:

53B-8-101. Waiver of tuition.

(1) (a) The president of an institution of higher education described in Section 53B-2-101 may waive all or part of the tuition ~~in~~ on behalf of meritorious or impecunious resident students to an

amount not exceeding 10% of the total amount of tuition which, in the absence of the waivers, would have been collected from all Utah resident students at the institution of higher education.

(b) (i) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set aside for members of the Utah National Guard. [Waivers]

(ii) A waiver described in Subsection (1)(b)(i) shall be preserved by the student at least 60 days before the beginning of an academic term.

(2) (a) A president of an institution of higher education listed in Subsections 53B-2-101(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a meritorious nonresident undergraduate student.

(b) In determining which students are meritorious for purposes of granting a tuition waiver under Subsection (2)(a), a president shall consider students who are performing above the average at the institution of higher education, including having an admissions index higher than the average for the institution, if an admissions index is used.

(c) A president of an institution of higher education may continue to waive the nonresident portion of tuition for a student described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher education.

(d) In addition to waiving the nonresident portion of tuition for a meritorious nonresident student under Subsection (2)(a), a president of an institution of higher education may waive the resident portion of tuition after the meritorious nonresident student completes a year of full-time study at the institution of higher education.

(3) To encourage students to enroll for instruction in occupations critical to the state for which trained personnel are in short supply, a president of an institution of higher education shall grant additional full or partial tuition waivers upon recommendation of:

(a) the board, for an institution of higher education described in [~~Subsection (1)(a)~~] Subsections 53B-2-101(1)(a) through (h); or

(b) the Utah System of Technical Colleges Board of Trustees, for a technical college.

(4) A president of an institution of higher education may waive all or part of the difference between resident and nonresident tuition [~~in the case of~~] for:

- (a) meritorious graduate students; or
 - (b) nonresident summer school students.
- (5) The board may establish policies that:

(a) require an institution of higher education described in Subsections 53B-2-101(1)(a) through (h) to regularly assess and report whether the institution of higher education's use of tuition

waivers supports the goals established by the board in accordance with Section 53B-1-103 for the institution of higher education;

(b) subject to the provisions of this section, establish the amount or percentage of tuition that an institution of higher education may waive;

(c) define the terms "meritorious" and "impecunious," as the terms apply to tuition waivers for resident students described in Subsection (1)(a); and

(d) establish limitations on an institution of higher education's allocation of waivers described in Subsection (1)(a) for resident students who are meritorious or resident students who are impecunious.

[(5)] (6) (a) The board shall submit an annual budget appropriation request for each institution of higher education described in Subsections 53B-2-101(1)(a) through (h).

(b) The Utah System of Technical Colleges Board of Trustees shall submit an annual budget appropriation request for each technical college.

(c) A request described in Subsection [(5)] (6)(a) or (b) shall include requests for funds sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all of the tuition waivers authorized by Subsection (2) were granted.

Section 17. Section 63C-19-101 is enacted to read:

CHAPTER 19. HIGHER EDUCATION STRATEGIC PLANNING COMMISSION

Part 1. General Provisions

63C-19-101. Title.

This chapter is known as "Higher Education Strategic Planning Commission."

Section 18. Section 63C-19-102 is enacted to read:

63C-19-102. Definitions.

As used in this chapter:

(1) "Commission" means the Higher Education Strategic Planning Commission created in Section 63C-19-201.

(2) "Institution of higher education" means an institution described in Subsections 53B-1-102(1)(a)(ii) through (ix).

(3) "Institutional role" means an institution of higher education's role described in Section 53B-16-101.

(4) "State system of higher education" means the state system of higher education described in Section 53B-1-102.

(5) "Strategic plan" means the strategic plan described in Section 63C-19-202.

(6) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

Section 19. Section 63C-19-201 is enacted to read:

Part 2. Higher Education Strategic Planning Commission

63C-19-201. Higher Education Strategic Planning Commission -- Membership -- Quorum and voting requirements -- Compensation -- Staff support.

(1) There is created the Higher Education Strategic Planning Commission consisting of the following 22 members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) two members of the State Board of Regents, appointed by the chair of the State Board of Regents;

(d) two members of the Utah System of Technical Colleges Board of Trustees, appointed by the chair of the Utah System of Technical Colleges Board of Trustees;

(e) four individuals, appointed by the chair of the State Board of Regents, who represent institutions of higher education from a range of geographic areas and with varied institutional roles;

(f) two individuals, appointed by the chair of the Utah System of Technical Colleges Board of Trustees, who represent technical colleges from a range of geographic areas;

(g) the commissioner of higher education or the commissioner's designee;

(h) the commissioner of technical education or the commissioner's designee;

(i) a member of the governor's staff who is responsible for advising the governor on education issues, appointed by the governor;

(j) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(k) the executive director of the Department of Workforce Services or the executive director's designee;

(l) the state superintendent of public instruction or the superintendent's designee; and

(m) two Utah business leaders, one appointed by the president of the Senate and one appointed by the speaker of the House of Representatives.

(2) (a) The president of the Senate shall appoint one of the members described in Subsection (1)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall appoint one of the members described in Subsection (1)(b) as a cochair of the commission.

(c) The chair of the State Board of Regents shall appoint one of the members described in Subsection (1)(c) as a vice chair of the commission.

(d) The chair of the Utah System of Technical Colleges Board of Trustees shall appoint one of the members described in Subsection (1)(d) as a vice chair of the commission.

(3) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) A majority of the commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) The Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst shall provide staff support to the commission.

Section 20. Section 63C-19-202 is enacted to read:

63C-19-202. Commission powers and duties -- Strategic plan -- Consultant -- Reports.

(1) (a) The commission shall develop a strategic plan aimed at meeting the future challenges of the state system of higher education.

(b) The strategic plan shall address:

(i) providing quality, accessible, and innovative postsecondary education that prepares Utahns for the twenty-first century;

(ii) cost-effective and affordable modes of higher education delivery;

(iii) the integration of prior learning and competency-based experiences to meet degree or certificate requirements;

(iv) maximizing the role of the state system of higher education in workforce and economic development;

(v) a statewide campus and technology master plan that reflects regional differences in projected student enrollment growth in the state system of higher education;

(vi) governance of the state system of higher education, including studying best practices and recommending modifications; and

(vii) other issues related to the state system of higher education as determined by the commission.

(2) (a) The commission shall:

(i) select a consultant to manage the strategic planning process in accordance with Subsection (3);

(ii) guide the analytical work of a consultant described in Subsection (2)(a)(i) and review the results of the work;

(iii) coordinate with a consultant described in Subsection (2)(a)(i) to engage in a strategic planning process and create a strategic plan;

(iv) conduct regional meetings to gather stakeholder input during the strategic planning process; and

(v) report to the Legislature and the governor in accordance with Subsection (5).

(b) The commission may designate and assign working groups within the commission to address, study, evaluate, or discuss issues related to the commission's work.

(3) Subject to direction from the commission, a consultant selected under Subsection (2)(a) shall:

(a) collect and analyze data related to the current and future projected conditions of the state system of higher education, including:

(i) relevant demographics and educational attainment;

(ii) the state's economy, including workforce supply and demand;

(iii) affordability and financing of higher education through tuition, state funding, and other sources;

(iv) innovation by institutions of higher education, including research and research commercialization;

(v) operational and capital facility efficiencies;

(vi) accountability measures to assess the performance of the state system of higher education; and

(vii) any other data collection or analysis requested by the commission;

(b) based on the data described in Subsection (3)(a), make comparisons between higher education in Utah and higher education in other states or countries;

(c) project the condition of the state system of higher education in the future under the state's current system based on the projected:

(i) population;

(ii) workforce needs; and

(iii) funding requirements through tuition and state funding;

(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential changes to:

(i) industry and economic growth;

(ii) student enrollment patterns;

(iii) the portion of funding for the state system of higher education that comes from tuition and the portion of funding that comes from state funding; and

(iv) investments in capital facilities or technology infrastructure;

(e) recommend accountability or performance measures to assess the effectiveness of the state system of higher education;

(f) in coordination with the commission, conduct the regional meetings described in Subsection (2)(a)(iv) to share information and seek input from a range of stakeholders;

(g) recommend changes to the governance system for the state system of higher education that would facilitate implementation of the strategic plan; and

(h) produce for the commission:

(i) a draft report, including findings, observations, and strategic priorities; and

(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(h)(i), regarding the future of the state system of higher education.

(4) The State Board of Regents and the Utah System of Technical Colleges Board of Trustees shall provide the commission and a consultant selected under Subsection (2)(a) with data and data analysis as requested by the commission.

(5) (a) On or before November 30, 2018, the commission shall report on the commission's progress to:

(i) the Education Interim Committee;

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

(b) On or before November 30, 2019, the commission shall provide a final report, including a strategic plan and any recommendations, to:

(i) the Education Interim Committee;

(ii) the Higher Education Appropriations Subcommittee;

(iii) the Legislative Management Committee; and

(iv) the governor.

Section 21. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

~~[(1) Section 53A-1-403.5 is repealed July 1, 2017.]~~

~~[(2) Section 53A-1-411 is repealed July 1, 2017.]~~

~~[(3) Section 53A-1-415 is repealed July 1, 2019.]~~

~~[(4) Section 53A-1-709 is repealed July 1, 2020.]~~

~~[(5) Subsection 53A-1-1207(3)(b)(ii)(B) is repealed July 1, 2020.]~~

~~[(6) Section 53A-1-1208 is repealed July 1, 2020.]~~

~~[(7) Subsection 53A-1a-513(4) is repealed July 1, 2017.]~~

~~[(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.]~~

~~[(9) Section 53A-24-601 is repealed January 1, 2018.]~~

[(40)] (1) Section 53A-24-602 is repealed July 1, 2018.

[(11)] (2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(12) Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]~~

[(43)] (4) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

[(44)] (5) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

[(45)] (6) (a) The following sections are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[(46)] (7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

(9) Section 53E-5-307 is repealed July 1, 2020.

(10) Section 53F-4-204 is repealed July 1, 2019.

(11) Section 53F-6-202 is repealed July 1, 2020.

Section 22. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

~~[(1) Section 63A-5-227 is repealed on January 1, 2018.]~~

(1) Title 63C, Chapter 19, Higher Education Strategic Planning Commission, is repealed July 1, 2020.

(2) Section 63H-7a-303 is repealed on July 1, 2022.

(3) On July 1, 2019:

(a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in Subsection (3)(c)(ii)" is repealed; and

(b) Subsection 63J-1-206(3)(c)(ii) is repealed.

(4) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

(5) Section 63N-3-110 is repealed July 1, 2020.

Section 23. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Legislative Services

From General Fund, one-time \$337,000

Schedule of Programs:

Administration \$337,000

The Legislature intends that the appropriation under this item be used for the requirements described in Title 63C, Chapter 19, Higher Education Strategic Planning Commission.

ITEM 2

To Legislature - Senate

From General Fund, one-time \$6,300

Schedule of Programs:

Administration \$6,300

ITEM 3

To Legislature - House of Representatives

From General Fund, one-time \$6,300

Schedule of Programs:

Administration \$6,300

CHAPTER 383**H. B. 313**

Passed March 7, 2018
Approved March 21, 2018
Effective January 1, 2019

PUBLIC SCHOOL REVISIONS

Chief Sponsor: Daniel McCay
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to public schools.

Highlighted Provisions:

This bill:

- ▶ allows an individual to report a violation of statute or rule to the State Board of Education;
- ▶ amends definitions;
- ▶ requires the consent of the Senate for appointment of a member of the State Charter School Board;
- ▶ enacts and consolidates provisions related to the powers and duties of charter school authorizers;
- ▶ requires the State Board of Education to adopt rules establishing minimum standards for a charter school application or charter school compliance;
- ▶ amends provisions related to the status and powers of the State Charter School Board;
- ▶ repeals outdated provisions;
- ▶ repeals provisions related to State Board of Education approval of an application for a charter school authorized by:
 - the State Charter School Board; or
 - a board of trustees of a higher education institution; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53E-3-401, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53F-2-702, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-704, as enacted by Laws of Utah 2018, Chapter 2
- 53G-5-102, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-201, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-202, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-302, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-304, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-305, as renumbered and amended by Laws of Utah 2018, Chapter 3

- 53G-5-306, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-409, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-502, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-503, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-5-504, as renumbered and amended by Laws of Utah 2018, Chapter 3

ENACTS:

53G-5-205, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-401 is amended to read:**53E-3-401. Powers of State Board of Education -- Adoption of rules -- Enforcement -- Attorney.**

- (1) As used in this section:
- (a) "Board" means the State Board of Education.
- (b) "Education entity" means:
- (i) an entity that receives a distribution of state funds through a grant program managed by the board under this public education code;
 - (ii) an entity that enters into a contract with the board to provide an educational good or service;
 - (iii) a school district; or
 - (iv) a charter school.
- (c) "Educational good or service" means a good or service that is required or regulated under:
- (i) this public education code; or
 - (ii) a rule authorized under this public education code.
- (d) "Local education agency" or "LEA" means:
- (i) a school district;
 - (ii) a charter school; or
 - (iii) the Utah Schools for the Deaf and the Blind.
- (2) (a) The State Board of Education has general control and supervision of the state's public education system.
- (b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.
- (3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.
- (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.
- (b) The board may delegate the board's statutory duties and responsibilities to board employees.

(5) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.

(7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this public education code or rules authorized under this public education code, the board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty; or

(iv) require the education entity to reimburse specified state funds to the board.

(b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) (i) An individual may bring a violation of statute or board rule to the attention of the board in accordance with a process described in rule adopted by the board.

(ii) If the board identifies a violation of statute or board rule as a result of the process described in Subsection (8)(d)(i), the board may take action in accordance with this section.

~~[(4)]~~ (e) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.

(10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this public education code; and

(b) board rule authorized under this public education code.

(11) (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or

(iii) issue formal legal opinions.

Section 2. Section 53F-2-702 is amended to read:

53F-2-702. Funding for charter schools.

~~[(1) (a) Charter schools shall receive funding as described in this section, except Subsections (2) through (6) do not apply to charter schools described in Subsection (1)(b).]~~

~~[(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53G-5-305.]~~

~~[(2) (1) Except as described in Section 53F-2-302, a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.~~

~~[(3) (2) (a) As described in Section 53F-2-703, the State Board of Education shall distribute charter school levy per pupil revenues to charter schools.~~

(b) As described in Section 53F-2-704, and subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection ~~[(3) (2)]~~ (a).

[4] (3) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

[5] (4) The State Board of Education shall distribute funds for charter school students directly to the charter school.

[6] (5) (a) Notwithstanding Subsection [2] (1), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53F-2-403 and 53G-6-405.

(c) The governing board of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or parents.

[7] (6) (a) (i) In accordance with Section 53F-2-705, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53F-2-705 shall use the grant for expenses for planning and implementation of the charter school.

(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

[8] (7) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of Title 53G, Chapter 5, Charter Schools, or related provisions.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Section 3. Section 53F-2-704 is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per

pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-2-602, 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702[3](2)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702~~(3)~~(2).

(d) (i) If the appropriation provided under this Subsection (2) is less than the amount prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53F-2-205, the allocation provided in Subsection (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702~~(3)~~(2), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 4. Section 53G-5-102 is amended to read:

53G-5-102. Definitions.

As used in this chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

- (a) cash;
- (b) stock or other investments;
- (c) real property;
- (d) equipment and supplies;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

- (a) the board of trustees of:
 - (i) the University of Utah;
 - (ii) Utah State University;
 - (iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) Dixie State University;

(vii) Utah Valley University; or

(viii) Salt Lake Community College; or

(b) the board of directors of a technical college described in Section 53B-2a-108.

(3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(4) "Charter school authorizer" or "authorizer" means ~~[the State Charter School Board, a local school board, or a board of trustees of a higher education institution that authorizes the establishment of a charter school]~~ an entity listed in Section 53G-5-205 that authorizes a charter school.

(5) "Governing board" means the board that operates a charter school.

Section 5. Section 53G-5-201 is amended to read:

53G-5-201. State Charter School Board created.

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2) (a) The State Charter School Board is created consisting of the following members appointed by the governor with the consent of the Senate:

(i) two members who have expertise in finance or small business management;

(ii) three members who:

(A) are nominated by an organization that represents Utah's charter schools; and

(B) have expertise or experience in developing or administering a charter school; and

(iii) two members who are nominated by the State Board of Education.

(b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53G-5-104.

(c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).

(d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall, with the consent of the Senate, appoint a replacement for the unexpired term.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall annually elect a chair from its membership.

(b) Four members of the board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Section 53G-5-202 is amended to read:

53G-5-202. Status and powers of State Charter School Board.

~~[(1) The State Charter School Board shall:]~~

~~[(a) authorize and promote the establishment of charter schools, subject to the provisions in this chapter and other related provisions;]~~

~~[(b) —annually review and evaluate the performance of charter schools authorized by the State Charter School Board and hold the schools accountable for their performance;]~~

~~[(c) monitor charter schools authorized by the State Charter School Board for compliance with federal and state laws, rules, and regulations;]~~

~~[(d) provide technical support to charter schools and persons seeking to establish charter schools by;]~~

~~[(i) identifying and promoting successful charter school models;]~~

~~[(ii) facilitating the application and approval process for charter school authorization;]~~

~~[(iii) directing charter schools and persons seeking to establish charter schools to sources of private funding and support;]~~

~~[(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; and]~~

~~[(v) assisting charter schools to understand and carry out their charter obligations;]~~

~~[(e) provide technical support, as requested, to a charter school authorizer relating to charter schools;]~~

~~[(f) make recommendations on legislation and rules pertaining to charter schools to the~~

~~Legislature and State Board of Education, respectively; and]~~

~~[(g) make recommendations to the State Board of Education on the funding of charter schools.]~~

~~[(2)] The State Charter School Board may:~~

~~[(a) contract;]~~

~~(1) enter into contracts;~~

~~[(b)] (2) sue and be sued; and~~

~~[(e)-(i)] (3) (a) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and~~

~~[(iii)] (b) charge fees for the provision of services or functions.~~

Section 7. Section 53G-5-205 is enacted to read:

53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.

(1) The following entities are eligible to authorize charter schools:

(a) the State Charter School Board;

(b) a local school board; or

(c) a board of trustees of an institution in the state system of higher education as described in Section 53B-1-102.

(2) A charter school authorizer shall:

(a) annually review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the school's performance; and

(b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.

(3) A charter school authorizer may:

(a) authorize and promote the establishment of charter schools, subject to the provisions in this part;

(b) make recommendations on legislation and rules pertaining to charter schools to the Legislature and State Board of Education, respectively;

(c) make recommendations to the State Board of Education on the funding of charter schools;

(d) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization;

(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support;

(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; or

(v) assisting charter schools to understand and carry out their charter obligations; or

(e) provide technical support, as requested, to another charter school authorizer relating to charter schools.

(4) Within 60 days after an authorizer's approval of an application for a new charter school, the State Board of Education may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or board rule requirements:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or board rule before approving the new application.

(5) The State Board of Education shall, in accordance with Title 63, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when:

(a) evaluating a charter school application; or

(b) monitoring charter school compliance.

(6) The minimum standards described in Subsection (1) shall include:

(a) reasonable consequences for an authorizer that fails to comply with statute or board rule;

(b) a process for an authorizer to review:

(i) the skill and expertise of a proposed charter school's governing board; and

(ii) the functioning operation of the charter school governing board of an authorized charter school;

(c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;

(d) a process to evaluate:

(i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;

(ii) whether an authorizer's authorized charter school maintains reasonable academic standards; and

(iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

Section 8. Section 53G-5-302 is amended to read:

53G-5-302. Charter school application -- Applicants -- Contents.

(1) (a) An application to establish a charter school may be submitted by:

(i) an individual;

(ii) a group of individuals; or

(iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, ~~provide the authorizer with the results of~~ complete a background check for each member consistent with Section 53G-5-408;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements described in Section 53G-5-408;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

~~[(k) a capital facility plan;]~~

~~[(4)]~~ (k) a business plan;

~~[(m)]~~ (l) other major issues involving the establishment and operation of the charter school; and

~~[(n)]~~ (m) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, administering the statewide assessments described in Section 53E-4-301;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Section 9. Section 53G-5-304 is amended to read:

53G-5-304. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited basis of application denial.

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations

made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

~~[(e) The State Board of Education shall, by majority vote, within 60 days after action by the State Charter School Board under Subsection (1)(d);]~~

~~[(i) approve or deny an application approved by the State Charter School Board; or]~~

~~[(ii) hear an appeal, if any, of an application denied by the State Charter School Board.]~~

~~[(f) The State Board of Education's action under Subsection (1)(d) is final action subject to judicial review.]~~

~~[(g)]~~ (e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with State Board of Education rules, establish and make public the State Charter School Board's:

(a) application requirements, in accordance with Section 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 10. Section 53G-5-305 is amended to read:

53G-5-305. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1) (a) An applicant identified in Section 53G-5-302 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b) (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

(ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or board policy regarding reduction in staff would apply.

(2) (a) An existing public school that converts to charter status under a charter granted by a local school board may:

(i) continue to receive the same services from the school district that it received prior to its conversion; or

(ii) contract out for some or all of those services with other public or private providers.

(b) Any other charter school authorized by a local school board may contract with the board to receive some or all of the services referred to in Subsection ~~[(3)]~~ (2)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

~~[(3) (a) (i) A public school that converts to a charter school under a charter granted by a local school board shall receive funding:]~~

~~[(A) through the school district; and]~~

~~[(B) on the same basis as it did prior to its conversion to a charter school.]~~

~~[(ii) The school may also receive federal money designated for charter schools under any federal program.]~~

~~[(b) (i) A local school board authorized charter school operating in a facility owned by the school district and not paying reasonable rent to the school district shall receive funding:]~~

~~[(A) through the school district; and]~~

~~[(B) on the same basis that other district schools receive funding.]~~

~~[(ii) The school may also receive federal money designated for charter schools under any federal program.]~~

~~[(e) Subject to the provisions in Section 53G-6-504, a charter school authorized by a local school board shall receive funding as provided in Title 53F, Chapter 2, Part 7, Charter School Funding.]~~

~~[(d) (i) A charter school authorized by a local school board, but not described in Subsection (3)(a), (b), or (e) shall receive funding:]~~

~~[(A) through the school district; and]~~

~~[(B) on the same basis that other district schools receive funding.]~~

~~[(ii) The school may also receive federal money designated for charter schools under any federal program.]~~

~~[(4) (3) (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.~~

~~(b) If the board rejects the application, it shall notify the applicant in writing of the reason for the rejection.~~

~~(c) The applicant may submit a revised application for reconsideration by the board.~~

~~(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from [the State Charter School Board under Section 53G-5-304] another authorizer.~~

~~[(5) (4) The State Board of Education shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.~~

~~[(6) (5) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.~~

~~[(7) A local school board shall:]~~

~~[(a) annually review and evaluate the performance of charter schools authorized by the local school board and hold the schools accountable for their performance;]~~

~~[(b) monitor charter schools authorized by the local school board for compliance with federal and state laws, rules, and regulations; and]~~

~~[(c) provide technical support to charter schools authorized by the local school board to assist them in understanding and performing their charter obligations.]~~

~~[(8) (6) A local school board may terminate a charter school it authorizes as provided in Sections 53G-5-501 and 53G-5-503.~~

~~[(9)]~~ (7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202, and 53G-5-407, a charter school authorized by a local school board is:

(a) not required to separately submit a report or information required under this public education code to the State Board of Education if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section 53G-5-404 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

~~[(40)]~~ (8) Before a local school board accepts a charter school application, the local school board shall, in accordance with State Board of Education rules, establish and make public the local school board's:

(a) application requirements, in accordance with Section 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 11. Section 53G-5-306 is amended to read:

53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) ~~[Subject to the approval of the State Board of Education and except]~~ Except as provided in Subsection ~~[(8)]~~ (6), an applicant identified in Section 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

~~[(3) (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.]~~

~~[(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.]~~

~~[(e) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.]~~

~~[(4)]~~ (3) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

~~[(5)]~~ (4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

~~[(6)]~~ (5) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with ~~[Subsection (7)]~~ Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection ~~[(6)]~~ (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection ~~[(6)]~~ (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection ~~[(6)]~~ (5)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

~~[(7) A board of trustees shall:]~~

~~[(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;]~~

~~[(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and]~~

~~[(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.]~~

~~[(8)]~~ (6) (a) In addition to complying with the requirements of this section, a technical college board of directors described in Section 53B-2a-108 shall obtain the approval of the Utah System of Technical Colleges Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of directors approves an application to establish and operate a charter school, the technical college board of

directors shall submit the application to the Utah System of Technical Colleges Board of Trustees.

(c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote, within 60 days of receipt of an application described in Subsection [(8)] (6)(b), approve or deny the application.

(d) The Utah System of Technical Colleges Board of Trustees may deny an application approved by a technical college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

[(9)] (7) (a) Subject to the requirements of this chapter and other related provisions, a technical college board of directors may establish:

- (i) procedures for submitting applications to establish and operate a charter school; or
- (ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah System of Technical Colleges Board of Trustees may not establish policy governing the procedures or criteria described in Subsection [(9)] (7)(a).

[(40)] (8) Before a technical college board of directors accepts a charter school application, the technical college board of directors shall, in accordance with State Board of Education rules, establish and make public:

- (a) application requirements, in accordance with Section 53G-5-302;
- (b) the application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Section 12. Section 53G-5-409 is amended to read:

53G-5-409. Regulated transactions and relationships -- Definitions -- Rulemaking.

(1) As used in this section:

(a) "Charter school officer" means:

- (i) a member of a charter school's governing board;
- (ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or
- (iii) the chief administrative officer of a charter school.

(b) (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.

(ii) "Employment" does not include a charter school volunteer.

(c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.

(b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:

- (i) disclose the relationship, in writing, to the other charter school officers;
- (ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
- (iii) abstain from voting on the issue; and
- (iv) be absent from [any] the portion of the meeting [when] where the employment is being considered and determined.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.

(b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the charter school officer shall:

- (i) disclose the financial interest, in writing, to the other charter school officers;
- (ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
- (iii) abstain from voting on the issue; and
- (iv) be absent from [any] the portion of the meeting [when] where the contract or transaction is being considered and determined.

(c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:

- (i) the chief administrative officer of a charter school; or
- (ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).

(4) The State Board of Education or State Charter School Board may not operate a charter school.

Section 13. Section 53G-5-502 is amended to read:

53G-5-502. Voluntary school improvement process.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and State Board of Education rules;

(b) has operated for at least three years meeting the terms of the school's charter agreement; and

~~[(c) has students performing at or above the academic performance standard in the school's charter agreement.]~~

(c) is in good standing with the charter school's authorizer.

(2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the charter school's authorizer to place the school in a school improvement process.

(b) A governing board shall provide notice and a hearing on the governing board's intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled in the charter school.

(3) An authorizer may grant a governing board's request to be placed in a school improvement process if the governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a governing board shall:

(a) enter into a contract with the governing board on the terms of the school improvement process;

(b) notify the State Board of Education that the authorizer has entered into a school improvement process with the governing board;

(c) make a report to a committee of the State Board of Education regarding the school improvement process; and

(d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the State Board of Education shall notify charter schools and the school district in which the charter school is located that the governing board has entered into a school improvement process with the charter school's authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:

(a) terminate the school's charter, notwithstanding the requirements of Section 53G-5-503; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located; or

(ii) a high performing charter school.

(8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:

(a) approve a governing board's proposal under Subsection (7); or

(b) (i) deny a governing board's proposal under Subsection (7); and

(ii) (A) terminate the school's charter in accordance with Section 53G-5-503;

(B) allow the governing board to submit a revised proposal; or

(C) take no action.

(9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(10) (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the State Board of Education.

(b) (i) The State Board of Education shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the State Board of Education denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the State Board of Education does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

Section 14. Section 53G-5-503 is amended to read:

53G-5-503. Termination of a charter.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter;

(b) failure to meet generally accepted standards of fiscal management;

~~[(c)] subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;~~

~~[(d)]~~ (c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and

(ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;

~~[(e)]~~ (d) violation of requirements under this chapter or another law; or

~~[(f)]~~ (e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:

(i) the governing board of the charter school; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.

(d) (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The State Board of Education's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

(3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without

mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the governing board of another charter school; or

(c) a private management company.

(7) (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3, School District Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

~~[(8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(e) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.]~~

Section 15. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the State Board of Education takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(3) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the State Board of Education did not make the decision to close, the State Board of Education;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The notice described in Subsection (3)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(4) ~~After a decision to close a charter school is made~~ No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) ~~maintain~~ designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds

are received or expended by the charter school a financial audit ~~[or]~~ and any other procedure required by board rule ~~[immediately after the decision to close is made];~~

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).

(6) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with board rule.

(8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the State Board of Education, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(10) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

Section 16. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 384**H. B. 325**

Passed March 8, 2018

Approved March 21, 2018

Effective May 8, 2018

PRIMARY CARE NETWORK AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Brian Zehnder

LONG TITLE**General Description:**

This bill creates a new waiver program to provide enhanced benefits for certain individuals in the Medicaid program, and provides funding for the enhancement waiver program through an existing hospital assessment and a portion of the growth in alcohol and tobacco tax revenues.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Health to apply for a new waiver or an amendment to an existing waiver to implement the Primary Care Network enhancement waiver program described in this bill; and
- ▶ amends the Inpatient Hospital Assessment Act to pay for the cost of the enhancement waiver program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

26-18-411, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-102, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-103, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-201, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-202, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-203, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-204, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-205, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-206, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-207, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-208, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-209, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-210, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-211, as enacted by Laws of Utah 2016, Chapter 279
 63I-1-226, as last amended by Laws of Utah 2017, Chapters 177 and 443

ENACTS:

26-18-415, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

26-18-415, Utah Code Annotated 1953
 26-36b-103, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-201, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-204, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-206, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-208, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-209, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-211, as enacted by Laws of Utah 2016, Chapter 279

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-411 is amended to read:**26-18-411. Health coverage improvement program -- Eligibility -- Annual report -- Expansion of eligibility for adults with dependent children.**

(1) For purposes of this section:

(a) "Adult in the expansion population" means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(c) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in Section 26-18-415.

(d) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(e) "Health coverage improvement program" means the health coverage improvement program described in Subsections (3) through (10).

(f) "Homeless":

(i) means an individual who is chronically homeless, as determined by the department; and

(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.

(g) "Income eligibility ceiling" means the percent of federal poverty level:

(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.

(2) Beginning July 1, 2016, the department shall amend the state Medicaid plan to allow temporary residential treatment for substance abuse, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.

(3) Beginning July 1, 2016, the department shall amend the state Medicaid plan to increase the income eligibility ceiling to a percentage of the federal poverty level designated by the department, based on appropriations for the program, for an individual with a dependent child.

~~[(2) (a) No later than]~~

(4) Before July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

~~[(b) (5) (a)]~~ An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection ~~[(3) (6)]~~.

~~[(e) (b)]~~ An adult who qualifies under Subsection ~~[(3) (6)]~~ shall receive Medicaid coverage:

(i) through ~~[(A)]~~ the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state's Medicaid accountable care organization delivery system, where implemented; ~~[and]~~

~~[(B) (ii)]~~ except as provided in Subsection ~~[(2)(e)(iii) (5)(b)(iii)]~~, for behavioral health, through the counties in accordance with Sections 17-43-201 and 17-43-301;

~~[(iii) (iii)]~~ that integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

~~[(iii) (iv)]~~ that permits temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

~~[(d) (c)]~~ Medicaid accountable care organizations and counties that elect to integrate care under Subsection ~~[(2)(e)(iii) (5)(b)(iii)]~~ shall collaborate on enrollment, engagement of patients, and coordination of services.

~~[(3) (6) (a)]~~ An individual is eligible for the health coverage improvement program under Subsection ~~[(2)(b) (5)]~~ if:

(i) at the time of enrollment, the individual's annual income is below the income eligibility ceiling established by the state under Subsection ~~(1)(e)(g)]~~; and

(ii) the individual meets the eligibility criteria established by the department under Subsection ~~[(3) (6)(b)]~~.

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection ~~[(3) (6)(a)(ii)]~~, based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance abuse treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance abuse treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections ~~[(3) (6)(a) and (b)]~~ may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection ~~(1)(e)(g) or [(3) (6)(b)]~~ shall not apply to an individual during the 12-month certification period.

~~[(4) (7)]~~ The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection ~~[(3) (6)]~~ each fiscal year based on enrollment in the health coverage improvement program, projected enrollment, costs to the state, and the state budget.

~~[(5) On or before September 30, 2017, and on or before]~~

~~(8) Before September 30 of each year [thereafter],~~ the department shall report to the ~~[Legislature's]~~ Health and Human Services Interim Committee and to the ~~[Legislature's]~~ Executive Appropriations Committee:

(a) the number of individuals who enrolled in Medicaid under Subsection ~~[(3) (6)]~~;

(b) the state cost of providing Medicaid to individuals enrolled under Subsection ~~[(3) (6)]~~; and

(c) recommendations for adjusting the income eligibility ceiling under Subsection ~~[(4) (7)]~~, and other eligibility criteria under Subsection ~~[(3) (6)]~~, for the upcoming fiscal year.

~~[(6) In addition to the waiver under Subsection (2), beginning July 1, 2016, the department shall amend the state Medicaid plan:]~~

~~[(a) for an individual with a dependent child, to increase the income eligibility ceiling to a percent of the federal poverty level designated by the department, based on appropriations for the program; and]~~

~~[(b) to allow temporary residential treatment for substance abuse, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.]~~

~~[(7)] (9) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.~~

~~[(8)] (10) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection [(3)] (6).~~

~~[(9) The department shall:]~~

~~[(a) study, in consultation with health care providers, employers, uninsured families, and community stakeholders:]~~

~~[(i) options to maximize use of employer sponsored coverage for current Medicaid enrollees; and]~~

~~[(ii) strategies to increase participation of currently Medicaid eligible, and uninsured, children; and]~~

~~[(b) report the findings of the study to the Legislature's Health Reform Task Force before November 30, 2016.]~~

(11) If the enhancement waiver program is implemented, the department:

(a) may not accept any new enrollees into the health coverage improvement program after the day on which the enhancement waiver program is implemented;

(b) shall transition all individuals who are enrolled in the health coverage improvement program into the enhancement waiver program;

(c) shall suspend the health coverage improvement program within one year after the day on which the enhancement waiver program is implemented;

(d) shall, within one year after the day on which the enhancement waiver program is implemented, use all appropriations for the health coverage improvement program to implement the enhancement waiver program; and

(e) shall work with CMS to maintain any waiver for the health coverage improvement program while the health coverage improvement program is suspended under Subsection (11)(c).

(12) If, after the enhancement waiver program takes effect, the enhancement waiver program is repealed or suspended by either the state or federal government, the department shall reinstate the health coverage improvement program and continue to accept new enrollees into the health coverage improvement program in accordance with the provisions of this section.

Section 2. Section 26-18-415 is enacted to read:

26-18-415. Primary Care Network enhancement waiver program.

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.

(c) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

(d) "Health coverage improvement program" means the same as that term is defined in Section 26-18-411.

(e) "Income eligibility ceiling" means the percentage of federal poverty level:

(i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.

(f) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.

(g) "PPACA" means the same as that term is defined in Section 31A-1-301.

(h) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.

(2) The department shall continue to implement the Primary Care Network program for qualified individuals under the Primary Care Network program.

(3) Before July 1, 2018, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section.

(4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:

(a) the benefits offered under the Primary Care Network program;

- (b) diagnostic testing and procedures;
- (c) medical specialty care;
- (d) inpatient hospital services;
- (e) outpatient hospital services;
- (f) outpatient behavioral health care, including outpatient substance abuse care; and

(g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:

(a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;

(b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(e); and

(c) the individual meets the eligibility criteria established by the department under Subsection (6).

(6) (a) Based on available funding and approval from CMS and subject to Subsection (6)(d), the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:

(i) adults in the expansion population, as defined in Section 26-18-411, who qualify for the health coverage improvement program;

(ii) adults with dependent children who qualify for the health coverage improvement program under Subsection 26-18-411(3);

(iii) adults with dependent children who do not qualify for the health coverage improvement program; and

(iv) if funding is available, adults without dependent children.

(b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were enrolled in the Primary Care Network on December 31, 2017.

(c) The department may only use appropriations from the Medicaid Expansion Fund created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.

(d) The money deposited into the Medicaid Expansion Fund under Subsections 26-36b-208(g) and (h) may only be used to pay the cost of enrolling individuals who qualify for the enhancement waiver program under Subsections (6)(a)(iii) and (iv).

(7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.

(8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.

(9) In accordance with Subsections 26-18-411(11) and (12), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.

(10) If the department expands the state Medicaid program to the optional population, the department:

(a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement waiver program after the day on which the expansion to the optional population is effective;

(b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and

(c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).

(11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.

Section 3. Section 26-36b-102 is amended to read:

26-36b-102. Application.

(1) Other than for the imposition of the assessment described in this chapter, nothing in this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under any:

~~[(a) Section 501(c), as amended, of the Internal Revenue Code;]~~

~~[(b) other applicable federal law;]~~

~~[(e)] (a) [any] state law;~~

~~[(d)] (b) [any] ad valorem property taxes;~~

~~[(e)] (c) [any] sales or use taxes; or~~

~~[(f)] (d) [any] other taxes, fees, or assessments, whether imposed or sought to be imposed, by the state or any political subdivision[,—county, municipality, district, authority, or any agency or department thereof] of the state.~~

(2) All assessments paid under this chapter may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

- (a) license a hospital for revenue;
- (b) impose a tax or assessment upon a hospital; or
- (c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 4. Section 26-36b-103 is amended to read:

26-36b-103. Definitions.

As used in this chapter:

(1) "Assessment" means the inpatient hospital assessment established by this chapter.

(2) "CMS" means the [same as that term is defined in Section 26-18-411] Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

- (a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or
- (b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Enhancement waiver program" means the program established by the Primary Care Network enhancement waiver program described in Section 26-18-415.

(6) "Health coverage improvement program" means the health coverage improvement program described in Section 26-18-411.

(7) "Hospital share" means the hospital share described in Section 26-36b-203.

(8) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

~~[(5)]~~ (9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

~~[(6)]~~ (10) (a) "Non-state government hospital"~~[(a)]~~ means a hospital owned by a non-state government entity~~[(and)]~~.

(b) "Non-state government hospital" does not include:

- (i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

~~[(7)]~~ (11) (a) "Private hospital"~~[(a)]~~ means:

(i) a ~~[privately owned]~~ general acute hospital ~~[operating in the state]~~, as defined in Section 26-21-2, that is privately owned and operating in the state; and

(ii) a privately owned specialty hospital operating in the state, ~~[which shall include]~~ including a privately owned hospital whose inpatient admissions are predominantly for:

- (A) rehabilitation;
- (B) psychiatric care;
- (C) chemical dependency services; or
- (D) long-term acute care services~~[(and)]~~.

(b) "Private hospital" does not include a facility for residential ~~[care or]~~ treatment ~~[facility]~~ as defined in Section 62A-2-101.

~~[(8)]~~ (12) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

(13) "Upper payment limit gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. Sec. 447.321.

Section 5. Section 26-36b-201 is amended to read:

26-36b-201. Assessment.

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of CMS approval of:

(i) the health coverage improvement program waiver under Section 26-18-411; and

(ii) the assessment under this chapter;

(b) in the amount designated in Sections 26-36b-204 and 26-36b-205; and

(c) in accordance with Section 26-36b-202.

(2) Subject to Section 26-36b-203, the assessment imposed by this chapter is due and payable on a quarterly basis, after payment of the outpatient upper payment limit supplemental payments under Section 26-36b-210 have been paid.

(3) The first quarterly payment ~~[shall not be]~~ is not due until at least three months after the earlier of the effective [date] dates of the coverage provided through:

(a) the health coverage improvement program ~~[waiver under Section 26-18-411-]; or~~

(b) the enhancement waiver program.

Section 6. Section 26-36b-202 is amended to read:

26-36b-202. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The collecting agent for the assessment imposed under Section 26-36b-201 is the department.

(2) The department is vested with the administration and enforcement of this chapter, ~~[including the right to adopt administrative]~~ and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

~~[(a) implement and enforce the provisions of this chapter;]~~

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this chapter;

(b) audit records of a facility that:

(i) is subject to the assessment imposed by this chapter; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(2) The department shall:

(a) administer the assessment in this ~~[part separate]~~ chapter separately from the assessment in Chapter 36a, Hospital Provider Assessment Act; and

(b) deposit assessments collected under this chapter into the Medicaid Expansion Fund created by Section 26-36b-208.

Section 7. Section 26-36b-203 is amended to read:

26-36b-203. Quarterly notice.

(1) Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(2) The department may, by rule, extend the time for paying the assessment.

Section 8. Section 26-36b-204 is amended to read:

26-36b-204. Hospital financing of health coverage improvement program Medicaid waiver -- Hospital share.

~~[(1) For purposes of this section, "hospital share":(a) means]~~

(1) The hospital share is:

(a) 45% of the state's net cost of ~~[-(i)]~~ the health coverage improvement program ~~[Medicaid waiver under Section 26-18-411; (ii)]~~, including Medicaid coverage for individuals with dependent children up to the federal poverty level designated under Section 26-18-411; ~~[and]~~

~~[(iii) the UPL gap, as that term is defined in Section 26-36b-210;]~~

~~(b) 45% of the state's net cost of the enhancement waiver program; and~~

~~(c) 45% of the state's net cost of the upper payment limit gap.~~

~~[(b) for the hospital share of the additional coverage under Section 26-18-411,]~~

(2) (a) The hospital share is capped at no more than \$13,600,000 annually, consisting of:

(i) an \$11,900,000 cap ~~[on the hospital's share]~~ for the programs specified in Subsections (1)(a)~~[(i) and (ii)]~~ and (b); and

(ii) a \$1,700,000 cap for the program specified in Subsection ~~[(1)(a)(iii);]~~ (1)(c).

~~[(c) for the cap specified in Subsection (1)(b), shall be prorated]~~

(b) The department shall prorate the cap described in Subsection (2)(a) in any year in which the programs specified in ~~[Subsection]~~ Subsections (1)(a) and (c) are not in effect for the full fiscal year; ~~and].~~

~~[(d) (c) [if] If the Medicaid program expands in a manner that is greater than the expansion described in Section 26-18-411[,], and the enhancement described in Section 26-18-415, the hospital share is capped at 33% of the state's share of the cost of the expansion or enhancement that is in addition to the [program] programs described in Section 26-18-411 or 26-18-415.~~

~~[(2) The assessment for the private hospital share under Subsection (1) shall be:]~~

(3) Private hospitals shall be assessed under this chapter for:

(a) 69% of the portion of the hospital share specified in Subsections (1)(a)~~[(i) and (ii)]~~ and (b); and

(b) 100% of the portion of the hospital share specified in Subsection (1)~~[(a)(iii)]~~(c).

~~[(3)]~~ (4) (a) The department shall, on or before October 15, 2017, and on or before October 15 of each subsequent year ~~[thereafter]~~, produce a report that calculates the state's net cost of the programs described in Subsections (1)(a)~~[(i) and (ii)]~~ and (b) that are in effect for that year.

(b) If the assessment collected in the previous fiscal year is above or below the ~~[private hospital's share of the state's net cost as specified in Subsection (2),]~~ hospital share for private hospitals for the previous fiscal year, the underpayment or overpayment of the assessment by the private hospitals shall be applied to the fiscal year in which the report ~~[was]~~ is issued.

~~[(4)]~~ (5) A Medicaid accountable care organization shall, on or before October 15 of each year, report to the department the following data from the prior state fiscal year for each private hospital, state teaching hospital, and non-state government hospital provider that the Medicaid accountable care organization contracts with:

(a) for the traditional Medicaid population~~[, for each private hospital, state teaching hospital, and non-state government hospital provider]:~~

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments; and

~~[(b) for the Medicaid population newly eligible under Subsection 26-18-411, for each private hospital, state teaching hospital, and non-state government hospital provider:]~~

(b) if the Medicaid accountable care organization enrolls any individuals in the health coverage improvement program or the enhancement waiver program, for the population newly eligible for either program:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments.

(6) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide details surrounding specific content and format for the reporting by the Medicaid accountable care organization.

Section 9. Section 26-36b-205 is amended to read:

26-36b-205. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), an annual assessment is payable on a quarterly basis for each private hospital in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and 60 residents shall pay an assessment rate [2.50] 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate [shall be determined using the total number of hospital discharges for assessed private hospitals, the percentages in Subsection 26-36b-204(2), and rule adopted by the department.] described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, described in Subsection 26-36b-204(1), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adjust the formula described in

Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this chapter.

~~[(d)] (e) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed private hospitals.~~

~~[(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare cost report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:]~~

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

[(4)] (a) for state fiscal year 2017, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2013, and June 30, 2014; and

[(ii)] (b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

~~[(b)] (3) (a) If a hospital's fiscal year Medicare cost report is not contained in the [Centers for Medicare and Medicaid Services'] CMS Healthcare Cost Report Information System file:~~

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

[(e)] (b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection [(2)(e)(4)] (3)(b)(i); and

(iii) [the] failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

~~[(3)] (4) Except as provided in Subsection [(4)] (5), if a hospital is owned by an organization that owns more than one hospital in the state:~~

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

~~[(4) Notwithstanding the requirement of Subsection (3), if]~~

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 10. Section 26-36b-206 is amended to read:

26-36b-206. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) [A] The state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund created in Section 26-36b-208, in accordance with this section.

(2) The [intergovernmental transfer shall be paid] hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of CMS approval of:

(a) the health improvement program waiver under Section 26-18-411; or

(b) the assessment for private hospitals in this chapter[; and].

[(c) the intergovernmental transfer in this section.]

(3) The intergovernmental transfer [shall be paid in an amount divided] is apportioned as follows:

(a) the state teaching hospital is responsible for:

(i) 30% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)[(i) and (ii)] and (b); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)[(a)(iii)](c); and

(b) non-state government hospitals are responsible for:

(i) 1% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)[(i) and (ii)] and (b); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)[(a)(iii)](c).

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the [percentages] amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 11. Section 26-36b-207 is amended to read:

26-36b-207. Penalties.

(1) A hospital that fails to pay [any] a quarterly assessment, make the mandated intergovernmental transfer, or file a return as required under this chapter, within the time required by this chapter, shall pay penalties described in this section, in addition to the assessment or intergovernmental transfer[; and interest established by the department].

[(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish reasonable penalties and interest for the violations described in Subsection (1).]

[(b)] (2) If a hospital fails to timely pay the full amount of a quarterly assessment or the mandated intergovernmental transfer, the department shall add to the assessment or intergovernmental transfer:

[(i)] (a) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

[(ii)] (b) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)[(b)(i)](a) are paid in full, an additional 5% penalty on:

[(A)] (i) any unpaid quarterly assessment or intergovernmental transfer; and

[(B)] (ii) any unpaid penalty assessment.

[(e)] (3) Upon making a record of the division's actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this chapter.

Section 12. Section 26-36b-208 is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program [under Section 26-18-411] as determined by the department;

[(d)] (d) savings attributable to the enhancement waiver program as determined by the department;

[(d)] (e) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

[(e)] (f) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);

[(f)] (g) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; [and]

[(h)] (h) interest earned on money in the fund; and

[(g)] (i) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the

fund to pay the costs ~~[of]~~, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement ~~[Medicaid waiver under Section 26-18-411, and]~~ program;

(ii) the enhancement waiver program; and

(iii) the outpatient ~~[UPL]~~ upper payment limit supplemental payments under Section 26-36b-210~~[, not otherwise paid for with federal funds or other revenue sources, except that no]~~.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) ~~[may be used]~~ to pay the cost of private outpatient ~~[UPL]~~ upper payment limit supplemental payments~~[-];~~ or

~~[(b)]~~ (ii) ~~[Money]~~ money in the fund ~~[may not be used]~~ for any ~~[other]~~ purpose not described in Subsection (4)(a).

Section 13. Section 26-36b-209 is amended to read:

26-36b-209. Hospital reimbursement.

(1) ~~[The]~~ If the health coverage improvement program or the enhancement waiver program is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include, in a contract ~~[with a Medicaid accountable care organization]~~ to provide benefits under the health coverage improvement program or the enhancement waiver program, a requirement that the Medicaid accountable care organization reimburse hospitals in the accountable care organization's provider network~~[-]~~ at no less than the Medicaid fee-for-service rate.

(2) If the health coverage improvement program or the enhancement waiver program is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service ~~[rates]~~ rate.

Section 14. Section 26-36b-210 is amended to read:

26-36b-210. Outpatient upper payment limit supplemental payments.

~~[(1)]~~ For purposes of this section, "UPL gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. 447.321.]

~~[(2)]~~ (1) Beginning on the effective date of the assessment imposed under this chapter, and for each subsequent fiscal year ~~[hereafter]~~, the department shall implement an outpatient upper payment limit program for private hospitals that shall supplement the reimbursement to private hospitals in accordance with Subsection ~~[(3)]~~ (2).

~~[(3)]~~ (2) The division shall ensure that supplemental payment to Utah private hospitals under Subsection ~~[(2) shall]~~ (1):

(a) does not exceed the positive ~~[UPL]~~ upper payment limit gap; and

(b) ~~[be]~~ is allocated based on the Medicaid state plan.

~~[(4)]~~ (3) The department shall use the same outpatient data ~~[used to calculate the UPL gap under Subsection (1) shall be the same outpatient data used]~~ to allocate the payments under Subsection ~~[(3)]~~ (2) and to calculate the upper payment limit gap.

~~[(5)]~~ (4) The supplemental payments to private hospitals under Subsection ~~[(2) shall be]~~ (1) are payable for outpatient hospital services provided on or after the later of:

(a) July 1, 2016;

(b) the effective date of the Medicaid state plan amendment necessary to implement the payments under this section; or

(c) the effective date of the coverage provided through the health coverage improvement program ~~[waiver under Section 26-18-411]~~.

Section 15. Section 26-36b-211 is amended to read:

26-36b-211. Repeal of assessment.

(1) The ~~[repeal of the]~~ assessment imposed by this chapter shall ~~[occur upon the certification by the executive director of the department that the sooner of the following has occurred]~~ be repealed when:

~~[(a) the effective date of any]~~

(a) the executive director certifies that:

(i) action by Congress ~~[that would disqualify]~~ is in effect that disqualifies the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

~~[(b) the effective date of any]~~

(ii) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, ~~[that has the effect of]~~ is in effect that:

~~[(i) disqualifying]~~ (A) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

~~[(ii) creating]~~ (B) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid ~~[program as]~~ programs described in this chapter; or

~~[(c) the effective date of]~~

(iii) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015; ~~[and]~~ or

~~[(d) the sunset of] (b) this chapter is repealed in accordance with Section 63I-1-226.~~

~~[(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36b-207 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.]~~

(2) If the assessment is repealed under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this chapter;

(b) the department shall disburse money in the special Medicaid Expansion Fund in accordance with the requirements in Subsection 26-36b-208(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment;

(c) any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this chapter shall be refunded to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years; and

(d) any money remaining in the Medicaid Expansion Fund after the disbursements described in Subsections (2)(b) and (c) shall be deposited into the General Fund by the end of the fiscal year that the assessment is suspended.

Section 16. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

~~[(7) Section 26-38-2.5 is repealed July 1, 2017.]~~

~~[(8) Section 26-38-2.6 is repealed July 1, 2017.]~~

~~[(9)] (7) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.~~

Section 17. Coordinating H.B. 325 with H.B. 14 -- Superseding substantive and technical amendments.

If this H.B. 325 and H.B. 14, Substance Abuse Treatment Facility Patient Brokering, both pass

and become law, it is the intent of the Legislature that the amendments to Section 26-36b-103 in this bill supersede the amendments to Section 26-36b-103 in H.B. 14, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication..

Section 18. Coordinating H.B. 325 with H.B. 472 -- Substantive and technical amendments.

If this H.B. 325 and H.B. 472, Medicaid Expansion Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by making the following changes:

(1) modifying Subsection 26-18-415(3) to read:

“(3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:

(i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be approved; or

(ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion.

(b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.”;

(2) modifying Subsection 26-36b-201(3) to read:

“(3) The first quarterly payment [~~shall not be~~] is not due until at least three months after the earlier of the effective [~~date~~] dates of the coverage provided through:

(a) the health coverage improvement program [~~waiver under Section 26-18-411~~];

(b) the enhancement waiver program; or

(c) the Medicaid waiver expansion.”;

(3) modifying Section 26-36b-204 to read:

“26-36b-204 Hospital financing of health coverage improvement program Medicaid waiver -- Hospital share.

~~[(1) For purposes of this section, “hospital share”:(a) means]~~

(1) The hospital share is:

(a) 45% of the state’s net cost of[:(i)] the health coverage improvement program [~~Medicaid waiver under Section 26-18-411~~:(ii)], including Medicaid coverage for individuals with dependent children up to the federal poverty level designated under Section 26-18-411; [~~and]~~

~~[(iii) the UPL gap, as that term is defined in Section 26-36b-210;]~~

(b) 45% of the state's net cost of the enhancement waiver program;

(c) if the waiver for the Medicaid waiver expansion is approved, \$11,900,000; and

(d) 45% of the state's net cost of the upper payment limit gap.

~~[(b) for the hospital share of the additional coverage under Section 26-18-411,]~~

(2) (a) The hospital share is capped at no more than \$13,600,000 annually, consisting of:

(i) an \$11,900,000 cap [on the hospital's share] for the programs specified in Subsections (1)(a)(i) and (ii) through (c); and

(ii) a \$1,700,000 cap for the program specified in Subsection ~~[(1)(a)(iii);]~~ (1)(d).

~~[(c) for the cap specified in Subsection (1)(b), shall be prorated]~~

(b) The department shall prorate the cap described in Subsection (2)(a) in any year in which the programs specified in [Subsection] Subsections (1)(a) and (d) are not in effect for the full fiscal year[; and].

[(d) if the Medicaid program expands in a manner that is greater than the expansion described in Section 26-18-411, is capped at 33% of the state's share of the cost of the expansion that is in addition to the program described in Section 26-18-411.]

[(2) The assessment for the private hospital share under Subsection (1) shall be:]

(3) Private hospitals shall be assessed under this chapter for:

(a) 69% of the portion of the hospital share for the programs specified in Subsections (1)(a)(i) and (ii) through (c); and

(b) 100% of the portion of the hospital share specified in Subsection ~~[(1)(a)(iii)]~~ (1)(d).

~~[(3)] (4) (a) The department shall, on or before October 15, 2017, and on or before October 15 of each subsequent year [thereafter], produce a report that calculates the state's net cost of each of the programs described in Subsections (1)(a)(i) and (ii) through (c) that are in effect for that year.~~

(b) If the assessment collected in the previous fiscal year is above or below the [private hospital's share of the state's net cost as specified in Subsection (2),] hospital share for private hospitals for the previous fiscal year, the underpayment or overpayment of the assessment by the private hospitals shall be applied to the fiscal year in which the report [was] is issued.

[(4)] (5) A Medicaid accountable care organization shall, on or before October 15 of each year, report to the department the following data from the prior state fiscal year for each private hospital, state teaching hospital, and non-state government hospital provider that the Medicaid accountable care organization contracts with:

(a) for the traditional Medicaid population[; for each private hospital, state teaching hospital, and non-state government hospital provider]:

(i) hospital inpatient payments;

(ii) hospital inpatient discharges;

(iii) hospital inpatient days; and

(iv) hospital outpatient payments; and

~~[(b) for the Medicaid population newly eligible under Subsection 26-18-411, for each private hospital, state teaching hospital, and non-state government hospital provider:]~~

(b) if the Medicaid accountable care organization enrolls any individuals in the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion, for the population newly eligible for any of those programs:

(i) hospital inpatient payments;

(ii) hospital inpatient discharges;

(iii) hospital inpatient days; and

(iv) hospital outpatient payments.

(6) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide details surrounding specific content and format for the reporting by the Medicaid accountable care organization.”;

(4) modifying Subsection 26-36b-206(3) to read:

“(3) The intergovernmental transfer [shall be paid in an amount divided] is apportioned as follows:

(a) the state teaching hospital is responsible for:

(i) 30% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)(i) and (ii) through (c); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)[(a)(iii)](d); and

(b) non-state government hospitals are responsible for:

(i) 1% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)(i) and (ii) through (c); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)[(a)(iii)](d).”;

(5) modifying Section 26-36b-208 to read:

“26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program [under Section 26-18-411] as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the department;

[(d)] (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

[(e)] (g) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);

[(f)] (h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; [and]

(i) interest earned on money in the fund; and

[(g)] (j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs [of], not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement [Medicaid waiver under Section 26-18-411, and] program;

(ii) the enhancement waiver program;

(iii) the Medicaid waiver expansion; and

(iv) the outpatient [UPL] upper payment limit supplemental payments under Section 26-36b-210[, not otherwise paid for with federal funds or other revenue sources, except that no].

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) may be used to pay the cost of private outpatient [UPL] upper payment limit supplemental payments[-]; or

[(b)] (ii) [Money] money in the fund [may not be used for any other] for any purpose not described in Subsection (4)(a).";

(6) modifying Section 26-36b-209 to read:

"26-36b-209. Hospital reimbursement.

(1) [The] If the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include, in a contract [with a Medicaid accountable care organization] to provide benefits under the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion, a requirement that the Medicaid accountable care organization reimburse hospitals in the accountable care organization's provider network[.] at no less than the Medicaid fee-for-service rate.

(2) If the health coverage improvement program, the enhancement waiver program, or the Medicaid waiver expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service [rates] rate."; and

(7) Section 26-36b-211 in this H.B. 325 supersedes Section 26-36b-211 in H.B. 472..

Section 19. Coordinating H.B. 325 with S.B. 125 -- Superseding substantive and technical amendments.

If this H.B. 325 and S.B. 125, Child Welfare Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 26-36b-103 in this bill supersede the amendments to Section 26-36b-103 in S.B. 125, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 385**H. B. 327**

Passed March 6, 2018

Approved March 21, 2018

Effective May 8, 2018

RURAL ONLINE INITIATIVE

Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill establishes a pilot program to help individuals living in rural areas take advantage of freelance, job, and business opportunities available online.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires Utah State University to:
 - administer a pilot program, through a county extension office, to help individuals living in rural areas take advantage of freelance, job, and business opportunities available online;
 - include certain components in the pilot program;
 - initially administer the pilot program in a geographic area based on certain criteria and expand the pilot program to other geographic areas if resources allow; and
 - report to the Economic Development and Workforce Services Interim Committee; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to Utah State University Cooperative Extension Rural Workforce Online Development, as a one-time appropriation:
 - from the Education Fund, one-time, \$2,152,000.
 - from the General Fund, one-time, \$120,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-253, as last amended by Laws of Utah 2017, Chapters 166 and 181

ENACTS:

53B-18-1501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-18-1501 is enacted to read:**Part 15. Rural Online Initiative****53B-18-1501. Remote online opportunities -- Pilot program -- Report to Legislature.**

(1) As used in this section:

(a) "Association of governments" means an association of political subdivisions established

pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Pilot program" means the pilot program administered by Utah State University in accordance with this section.

(c) "Remote online opportunity" means employment, including freelance employment, or the operation of an online business for which an individual:

- (i) can complete duties primarily online; and
- (ii) is not required to work from a specific geographic location.

(2) (a) Subject to legislative appropriations, Utah State University, through a county extension office, shall administer a pilot program that helps individuals who live in rural areas access remote online opportunities.

(b) In administering the pilot program, Utah State University shall consider input from a county located in a geographic area selected for the pilot program under Subsection (4).

(3) Utah State University shall, as part of the pilot program:

- (a) provide training modules to adults and high school students;
- (b) coordinate with rural high schools and postsecondary institutions;
- (c) develop marketing materials;
- (d) develop relationships with information technology companies that offer remote online opportunities;

(e) partner with websites that list freelance remote online opportunities;

(f) provide scholarships for individuals who live in rural areas to access online skill-based training for remote online opportunities;

(g) provide one-on-one coaching for an individual who pursues a remote online opportunity; and

(h) conduct other activities related to remote online opportunities as determined by Utah State University.

(4) (a) Utah State University shall administer the pilot program:

- (i) in at least one geographic area in the state initially; and
- (ii) in additional geographic areas if resources allow.

(b) In determining where to initially administer the pilot program, Utah State University shall consider whether counties in a geographic area:

- (i) are primarily rural or have remote rural areas;
- (ii) face high unemployment rates;
- (iii) have access to high speed Internet;

(iv) have a large percentage of high school graduates leave the geographic area after graduating from high school; and

(v) are members of an association of governments that supports helping individuals who live in rural areas access remote online opportunities.

(5) On or before November 1, 2020, Utah State University shall report to the Economic Development and Workforce Services Interim Committee on:

(a) the number of individuals who receive training through the pilot program;

(b) the number and percentage of individuals who participate in the pilot program and access a remote online opportunity; and

(c) whether there is a reduction in the unemployment rate in a geographic area included in the pilot program.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

~~[(3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.]~~

~~[(4) Section 53A-13-106.5 is repealed July 1, 2019.]~~

~~[(5) Section 53A-15-106 is repealed July 1, 2019.]~~

~~[(6) Sections 53A-15-206 and 53A-15-207 are repealed January 1, 2023.]~~

~~[(7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.]~~

(3) Section 53B-18-1501 is repealed July 1, 2021.

~~[(8)]~~ (4) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

~~[(9)]~~ (5) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(6) Section 53E-3-515 is repealed January 1, 2023.

(7) Section 53F-2-514 is repealed July 1, 2020.

(8) Section 53F-5-203 is repealed July 1, 2019.

(9) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(10) Section 53F-6-201 is repealed July 1, 2019.

(11) Section 53F-9-501 is repealed January 1, 2023.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah State University —
Cooperative Extension

From Education Fund, One-time \$2,152,000

From General Fund, One-time \$120,000

Schedule of Programs:

Rural Online Initiative \$2,272,000

The Legislature intends that:

(1) Utah State University expend:

(a) the appropriation from the General Fund provided under this item for scholarships described in Subsection 53B-18-1501(3)(f); and

(b) the appropriation from the Education Fund provided under this item for the pilot program described in Section 53B-18-1501, except for the purposes described in Subsection (1)(a);

(2) Utah State University expend the appropriations provided in this item in fiscal years 2019, 2020, and 2021; and

(3) under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2019 or 2020.

CHAPTER 386**H. B. 364**

Passed March 8, 2018

Approved March 21, 2018

Effective May 8, 2018

EMPLOYMENT LAW AMENDMENTS

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies and enacts provisions related to employment.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “employer” for purposes of Title 34, Chapter 28, Payment of Wages;
- ▶ enacts the Service Marketplace Platforms Act; and
- ▶ establishes a presumption that a building service contractor who affiliates with a service marketplace platform is an independent contractor, not an employee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-28-2, as last amended by Laws of Utah 2017, Chapter 85

ENACTS:

34-53-101, Utah Code Annotated 1953

34-53-102, Utah Code Annotated 1953

34-53-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-28-2 is amended to read:**34-28-2. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.**

(1) As used in this chapter:

- (a) “Commission” means the Labor Commission.
- (b) “Division” means the Division of Antidiscrimination and Labor.

(c) (i) “Employer” means the same as that term is defined in 29 U.S.C. Sec. 203.

(ii) “Employer” does not include an individual who is not:

- (A) an officer;
- (B) a manager of a manager-managed limited liability company;
- (C) a member of a member-managed limited liability company;
- (D) a general partner of a limited partnership; or

(E) a partner of a partnership.

(d) “Federal executive agency” means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(e) “Franchise” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(f) “Franchisee” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(g) “Franchisor” means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(h) “Unincorporated entity” means an entity organized or doing business in the state that is not:

- (i) an individual;
- (ii) a corporation; or
- (iii) publicly traded.

(i) “Wages” means the amounts due the employee for labor or services, whether the amount is fixed or ascertained on a time, task, piece, commission basis or other method of calculating such amount.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

- (A) the unincorporated entity; or
- (B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

- (i) “active manager”;
- (ii) “directly or indirectly holds at least an 8% ownership interest”; and
- (iii) “subject to supervision or control in the performance of work.”

(d) The commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish a procedure, consistent with Section 34-28-7, under which an unincorporated entity may seek approval of a mutual agreement to pay wages on non-regular paydays.

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

- (i) a franchisee; or
- (ii) a franchisee's employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 2. Section 34-53-101 is enacted to read:

CHAPTER 53. SERVICE MARKETPLACE PLATFORMS ACT

Part 1. General Provisions

34-53-101. Title.

This chapter is known as "Service Marketplace Platforms Act."

Section 3. Section 34-53-102 is enacted to read:

34-53-102. Definitions.

As used in this chapter:

(1) "Building service" means any of the following services, if the charge for the service is \$3,000 or less:

- (a) cleaning or janitorial;
- (b) furniture delivery, assembly, moving, or installation;
- (c) landscaping;
- (d) home repair; or
- (e) any service similar to the services described in Subsections (1)(a) through (d).

(2) "Building service contractor" means a person who enters into an agreement with a service marketplace platform to use the service marketplace platform's software platform to connect with and receive requests from customers seeking a building service.

(3) "Service marketplace platform" means an entity that:

(a) uses an Internet-connected software platform, including a mobile application:

- (i) to connect building service contractors with customers seeking a building service; and

(ii) through which a customer may request a building service; and

(b) charges the building service contractor a fee to use the software platform.

Section 4. Section 34-53-201 is enacted to read:

Part 2. Employment Status

34-53-201. Independent contractor presumption.

(1) A building service contractor may affiliate with a service marketplace platform as an independent contractor or as an employee.

(2) (a) There is a presumption that a building service contractor who affiliates with a service marketplace platform is an independent contractor, unless there is clear and convincing evidence that the parties intended the building service contractor to be an employee.

(b) The presumption described in Subsection (2)(a) extends to each act the building service contractor performs in connection with a request for a building service placed through the service marketplace platform.

CHAPTER 387**H. B. 369**

Passed March 8, 2018
Approved March 21, 2018
Effective May 8, 2018

**AUTO DEALERSHIP
LICENSE AMENDMENTS**

Chief Sponsor: Kim F. Coleman
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to the licensing of a new motor vehicle dealer.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a direct-sale manufacturer license;
- ▶ creates a direct-sale manufacturer salesperson license;
- ▶ permits a direct-sale manufacturer licensee to act as a dealer under certain conditions;
- ▶ permits a direct-sale manufacturer salesperson licensee to act as a salesperson for one direct-sale manufacturer under certain conditions;
- ▶ exempts a direct-sale manufacturer from the provisions of the New Automobile Franchise Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-3-102, as last amended by Laws of Utah 2014, Chapter 237
41-3-103, as last amended by Laws of Utah 2010, Chapter 393
41-3-105, as last amended by Laws of Utah 2010, Chapter 393
41-3-201, as last amended by Laws of Utah 2017, Chapter 153
41-3-201.7, as last amended by Laws of Utah 2017, Chapter 153
41-3-202, as last amended by Laws of Utah 2009, Chapter 78
41-3-203, as renumbered and amended by Laws of Utah 1992, Chapter 234
41-3-204, as last amended by Laws of Utah 2008, Chapter 388
41-3-206, as last amended by Laws of Utah 2008, Chapter 388
41-3-209, as last amended by Laws of Utah 2012, Chapter 145
41-3-210, as last amended by Laws of Utah 2007, Chapter 322
41-3-702, as last amended by Laws of Utah 2017, Chapter 153

ENACTS:

13-14-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-14-108 is enacted to read:**13-14-108. Applicability.**

The provisions of this chapter do not apply to a person licensed as a direct-sale manufacturer under Title 41, Chapter 3, Motor Vehicle Business Regulation Act.

Section 2. Section 41-3-102 is amended to read:**41-3-102. Definitions.**

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

[4] (5) "Board" means the advisory board created in Section 41-3-106.

[5] (6) "Body shop" means a business engaged in rebuilding, restoring, repairing, or painting primarily the body of motor vehicles damaged by collision or natural disaster.

[6] (7) "Commission" means the State Tax Commission.

[7] (8) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

[8] (9) (a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) “Dealer” includes a representative or consignee of any dealer.

(10) “Direct-sale manufacturer” means a person:

(a) that is both a manufacturer and a dealer;

(b) that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person’s own line-make that are:

(i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(iii) manufactured by the person;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person’s activities as a direct-sale manufacturer from a physical location in the United States.

(11) “Direct-sale manufacturer salesperson” means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

(12) (a) “Dismantler” means a person engaged in the business of dismantling motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) “Dismantler” includes a person who dismantles three or more motor vehicles in any 12-month period.

(13) “Distributor” means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

(14) “Distributor branch” means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(15) “Distributor representative” means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch’s motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

(16) “Division” means the Motor Vehicle Enforcement Division created in Section 41-3-104.

(17) “Factory branch” means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch’s representatives.

(18) “Factory representative” means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer’s or factory branch’s motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

(19) “Franchise” means a contract or agreement between a dealer and a manufacturer of new motor vehicles or [its] a manufacturer’s distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(20) (a) “Franchise holder” means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) “Franchise holder” does not include a manufacturer described in Subsection (20)(a), if at all times during the franchised dealer’s existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

(21) “Line-make” means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

(22) “Manufacturer” means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer’s statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

(23) “Material owner” means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections (23)(a) and (b).

[(49)] (24) (a) “Motor vehicle” means a vehicle that is:

(i) self-propelled;

(ii) a trailer, travel trailer, or semitrailer; or

(iii) an off-highway vehicle or small trailer.

(b) “Motor vehicle” does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) farm tractors and other machines and tools used in the production, harvesting, and care of farm products; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

[(48)] (25) “Motorcycle” has the same meaning as defined in Section 41-1a-102.

[(20)] (26) “New motor vehicle” means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles, ~~unless the motor vehicle is an off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.~~

[(21)] (27) “Off-highway vehicle” has the same meaning as provided in Section 41-22-2.

[(22)] (28) “Pawnbroker” means a person whose business is to lend money on security of personal property deposited with him.

[(23)] (29) (a) “Principal place of business” means a site or location in this state:

[(a)] (i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

[(b)] (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

[(c)] (iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) “Principal place of business” means, with respect to a direct-sale manufacturer, the direct-sale manufacturer’s showroom, which shall comply with the requirements of Subsection (29)(a).

[(24)] (30) “Remanufacturer” means a person who reconstructs used motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

[(25)] (31) “Salesperson” means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

[(26)] (32) “Semitrailer” has the same meaning as defined in Section 41-1a-102.

(33) “Showroom” means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer’s business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

[(27)] (34) “Small trailer” means a trailer that has an unladen weight of more than 750 pounds, but less than 2,000 pounds.

[(28)] (35) “Special equipment” includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

[(29)] (36) “Special equipment dealer” means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

[(30)] (37) “Trailer” has the same meaning as defined in Section 41-1a-102.

[(31)] (38) “Transporter” means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

[(32)] (39) “Travel trailer” has the same meaning as provided in Section 41-1a-102.

[(33)] (40) “Used motor vehicle” means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles, ~~unless the vehicle is a trailer, or semitrailer, in which case the mileage limit does not apply.~~

[(34)] (41) “Wholesale motor vehicle auction” means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section 3. Section 41-3-103 is amended to read:

41-3-103. Exceptions to “dealer” definition -- Dealer licensed in other state -- Direct-sale manufacturer -- Direct-sale manufacturer salesperson.

Under this chapter:

(1) (a) An insurance company, bank, finance company, company registered as a title lender under Title 7, Chapter 24, Title Lending Registration Act, company registered as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, public utility company, commission impound yard, federal or state governmental agency, or any political subdivision of any of them or any other person coming into possession of a motor vehicle as an incident to its regular business, that sells the motor vehicle under contractual rights that it may have in the motor vehicle is not considered a dealer.

(b) A person who sells or exchanges only those motor vehicles that the person has owned for over 12 months is not considered a dealer.

(2) (a) A person engaged in leasing motor vehicles is not considered as coming into possession of the motor vehicles incident to the person's regular business.

(b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is considered as coming into possession of the motor vehicles incident to the person's regular business and must be licensed as a used motor vehicle dealer.

(3) A person currently licensed as a dealer or salesperson by another state or country and not currently under license suspension or revocation by the administrator may only sell motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their places of business.

(4) Except as otherwise expressly provided:

(a) a direct-sale manufacturer is subject to the same provisions under this chapter as a new motor vehicle dealer; and

(b) a direct-sale manufacturer salesperson is subject to the same provisions under this chapter as a salesperson.

(5) Notwithstanding any provision of this chapter to the contrary, a direct-sale manufacturer:

(a) may sell, display for sale, or offer for sale or exchange a motor vehicle described in Subsection 41-3-102(10)(b) without a franchise; and

(b) may not sell, display for sale, or offer for sale or exchange a new motor vehicle that is not of the same line-make the direct-sale manufacturer manufactures.

Section 4. Section 41-3-105 is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

- (i) this chapter;
- (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- (iii) any law concerning motor vehicle fraud; or
- (iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the

applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the ~~[names and addresses of the individuals]~~ name and address of each individual who will act as ~~[salespersons]~~ a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer; ~~[and]~~

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act[-]; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;

(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6) (a) The administrator may require that ~~[the]~~ a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, ~~[their]~~

lettering and other details of signs or devices, and ~~[their]~~ location of signs or devices.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be sent to each member not fewer than five days ~~[prior to]~~ before the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

(9) The administrator may contract with a public prosecutor to provide additional prosecution of this chapter.

Section 5. Section 41-3-201 is amended to read:

41-3-201. Licenses required -- Restitution -- Education.

(1) As used in this section, "new applicant" means a person who is applying for a license that the person has not been issued during the previous licensing year.

(2) A person may not act as any of the following without having procured a license issued by the administrator:

(a) a dealer;

(b) salvage vehicle buyer;

(c) salesperson;

(d) manufacturer;

(e) transporter;

(f) dismantler;

(g) distributor;

(h) factory branch and representative;

(i) distributor branch and representative;

(j) crusher;

(k) remanufacturer; or

(l) body shop.

(3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

(b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

(c) A person may offer for sale, sell, or exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction:

(i) to an out-of-state or out-of-country purchaser not licensed under this section, but that is authorized to do business in the domestic or foreign jurisdiction in which the person is domiciled or registered to do business;

(ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed under this section that:

(A) has a valid business license in Utah; and

(B) has a Utah sales tax license; and

(iii) to a crusher.

(d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not licensed under this section has the licenses required in Subsection (3)(c)(ii).

(ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction in any 12-month period to an in-state purchaser that does not have a salvage vehicle buyer license issued in accordance with Subsection 41-3-202~~(45)~~(17).

(iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales tax license and not to each person with the authority to use a sales tax license.

(iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a vehicle under Subsection (3)(c)(ii).

(e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an operator of a motor vehicle auction shall:

(i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does not have a salvage vehicle buyer license, dealer license, body shop

license, or dismantler license issued in accordance with Section 41-3-202; or

(B) beginning on or after the date that the Motor Vehicle Division has implemented the Motor Vehicle Division's GenTax system, make application electronically, in a form and time period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in the name of the purchaser;

(ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

"THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

Vehicle Identification Number (VIN)

Year: Make: Model:

SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE CERTIFICATE OF TITLE.

Signature of Purchaser

Date"; and

(iii) if applicable, provide evidence to the Motor Vehicle Division of:

(A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;

(B) the identification number inspection required under Section 41-1a-511; and

(C) the odometer disclosure statement required under Section 41-1a-902.

(f) The Motor Vehicle Division shall include a link to the disclosure statement described in Subsection (3)(e)(ii) on its website.

(g) The commission may impose an administrative entrance fee established in accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a person not holding a license described in Subsection (3)(e)(i) that enters the physical premises of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an auction.

(h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has been certificated out-of-state.

(4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each salvage vehicle.

(b) A record described under Subsection (4)(a) shall contain:

- (i) the purchaser's name and address; and
 - (ii) the year, make, and vehicle identification number for each salvage vehicle sold.
- (c) An operator of a motor vehicle auction shall:
- (i) provide the record described in Subsection (4)(a) electronically in a method approved by the division to the division within two business days of the completion of the motor vehicle auction;
 - (ii) retain the record described in this Subsection (4) for five years from the date of sale; and
 - (iii) make a record described in this Subsection (4) available for inspection by the division at the location of the motor vehicle auction during normal business hours.

(5) (a) An operator of a motor vehicle auction shall store a salvage vehicle sold at auction in a secure facility until the salvage vehicle is claimed as provided in this section.

(b) Beginning at the time of purchase and until the salvage vehicle is claimed, the motor vehicle auction operator may collect a daily storage fee for the secure storage of each salvage vehicle sold at auction.

(c) Except as provided in Subsection (5)(d), before releasing possession of a salvage vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the person claiming the vehicle is a person other than the purchaser of the vehicle, the motor vehicle auction operator shall create a record that shall contain:

- (i) the name and address, as verified by government issued identification, of the person claiming the vehicle;
- (ii) the year, make, and vehicle identification number of the claimed vehicle;
- (iii) a written statement from the person claiming the vehicle indicating the location where the salvage vehicle will be delivered; and
- (iv) verification that the claimant has authorization from the purchaser to claim the vehicle.

(d) If the salvage vehicle is claimed by a transporter or a tow truck operator, the transporter or the tow truck operator shall submit to the motor vehicle auction operator a written record on any release forms indicating the location where the salvage vehicle will be delivered if delivered within the state.

(e) An operator of a motor vehicle auction shall:

- (i) retain the record described in Subsection (5)(c) for five years from the date of sale; and

(ii) make the record available for inspection by the division at the location of the motor vehicle auction during normal business hours.

(6) (a) If applicable, an operator of a motor vehicle auction shall comply with the reporting requirements of the National Motor Vehicle Title Information System overseen by the United States Department of Justice if the person sells a vehicle with a salvage certificate to an in-state purchaser under Subsection (3)(c)(ii).

(b) The Motor Vehicle Division shall include a link to the National Motor Vehicle Title Information System on its website.

(7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person that is an out-of-country buyer shall:

(i) stamp on the face of the title so as not to obscure the name, date, or mileage statement the words "FOR EXPORT ONLY" in all capital, black letters; and

(ii) stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY."

(b) The words "FOR EXPORT ONLY" shall be:

- (i) at least two inches wide; and
- (ii) clearly legible.

(8) A ~~supplemental license shall be secured by a~~ dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop shall obtain a supplemental license, in accordance with Section 41-3-201.7 for each additional place of business maintained by the licensee.

(9) (a) A person who has been convicted of any law relating to motor vehicle commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a salvage or nonrepairable certificate unless full restitution regarding those convictions has been made.

(b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (9)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection (9)(a).

(10) (a) The division may not issue a license to a new applicant for a new or used motor vehicle dealer license, a direct-sale manufacturer license, a new or used motorcycle dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour orientation class approved by the division that includes education on motor vehicle laws and rules.

(b) The approved costs of the orientation class shall be paid by the new applicant.

(c) The class shall be completed by the new applicant and the applicant's partners, corporate officers, bond indemnitors, and managers.

- (d) (i) The division shall approve:
 - (A) providers of the orientation class; and
 - (B) costs of the orientation class.
- (ii) A provider of an orientation class shall submit the orientation class curriculum to the division for approval prior to teaching the orientation class.
- (iii) A provider of an orientation class shall include in the orientation materials:
 - (A) ethics training;
 - (B) motor vehicle title and registration processes;
 - (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;
 - (D) Department of Insurance requirements relating to motor vehicles;
 - (E) Department of Public Safety requirements relating to motor vehicles;
 - (F) federal requirements related to motor vehicles as determined by the division; and
 - (G) any required disclosure compliance forms as determined by the division.

(11) A person or purchaser described in Subsection (3)(c)(ii):

- (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 in any 12-month period;
- (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in any 12-month period to a person not licensed under this section; and
- (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a person not licensed under this section.

(12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (11)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection (11)(a).

Section 6. Section 41-3-201.7 is amended to read:

41-3-201.7. Supplemental license for additional place of business restrictions -- Exception.

(1) (a) Subject to the requirements of Subsection (2), the administrator may issue a supplemental license for an additional place of business [issued pursuant to] under Subsection 41-3-201(8) [may only be issued] to a dealer if the dealer is:

- (i) licensed in accordance with Section 41-3-202;
 - (ii) bonded in accordance with Section 41-3-205; and
 - (iii) in compliance with existing rules promulgated by the administrator of the division under Section 41-3-105.
- (b) [A] The administrator may issue a supplemental license for a permanent additional place of business [may only be issued] to a used motor vehicle dealer if:
- (i) the dealer independently satisfies the bond requirements under Section 41-3-205 for the permanent additional place of business;
 - (ii) the dealer is in compliance with existing rules promulgated by the administrator of the division under Section 41-3-105; and
 - (iii) the permanent additional place of business meets all the requirements for a principal place of business.

(2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an additional place of business issued pursuant to Subsection 41-3-201(8) for a new motor vehicle dealer may not be issued for an additional place of business that is beyond the geographic specifications outlined as the area of responsibility in the dealer's franchise agreement.

(b) A new motor vehicle dealer shall provide the administrator with a copy of the portion of the new motor vehicle dealer's franchise agreement identifying the dealer's area of responsibility before being issued a supplemental license for an additional place of business.

(c) The restrictions under Subsections (2)(a) and (b) do not apply to a new motor vehicle dealer if:

- (i) the license for an additional place of business is being issued for the sale of used motor vehicles[-]; or
- (ii) the dealer is a direct-sale manufacturer.

(3) The provisions of Subsection (2) do not apply if the additional place of business is a trade show or exhibition if:

- (a) there are five or more dealers participating in the trade show or exhibition; and
- (b) the trade show or exhibition takes place at a location other than the principal place of business of one of the dealers participating in the trade show or exhibition.

(4) A supplemental license for a temporary additional place of business issued to a used motor vehicle dealer may not be for longer than 10 consecutive days.

Section 7. Section 41-3-202 is amended to read:

41-3-202. Licenses -- Classes and scope.

(1) A new motor vehicle dealer's license permits the licensee to:

- (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a franchise from

the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the licensee;

(b) offer for sale, sell, or exchange used motor vehicles;

(c) operate as a body shop; and

(d) dismantle motor vehicles.

(2) A used motor vehicle dealer's license permits the licensee to:

(a) offer for sale, sell, or exchange used motor vehicles;

(b) operate as a body shop; and

(c) dismantle motor vehicles.

(3) A direct-sale manufacturer's license permits the licensee to:

(a) offer for sale, sell, or exchange new motor vehicles of the same line-make that the direct-sale manufacturer manufactures;

(b) offer for sale, sell, or exchange used motor vehicles;

(c) operate as a body shop; and

(d) dismantle motor vehicles.

[(3)] (4) A new motorcycle, off-highway vehicle, and small trailer dealer's license permits the licensee to:

(a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small trailers if the licensee possesses a franchise from the manufacturer of the motorcycle, off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;

(b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small trailers; and

(c) dismantle motorcycles, off-highway vehicles, or small trailers.

[(4)] (5) A used motorcycle, off-highway vehicle, and small trailer dealer's license permits the licensee to:

(a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small trailers; and

(b) dismantle motorcycles, off-highway vehicles, or small trailers.

[(5)] (6) (a) Except as provided in Subsection [(5)] (6)(b), a salesperson's license permits the licensee to act as a motor vehicle salesperson and is valid for employment with only one dealer at a time.

(b) A licensee that has been issued a salesperson's license and that is employed by a dealer that operates as a wholesale motor vehicle auction may be employed by more than one dealer that operates as a wholesale motor vehicle auction at a time.

(7) (a) A direct-sale manufacturer salesperson's license permits the licensee to act as a direct-sale

manufacturer salesperson for one direct-sales manufacturer.

(b) A direct-sale manufacturer salesperson licensee may not simultaneously hold a salesperson's license.

[(6)] (8) (a) A manufacturer's license permits the licensee to construct or assemble motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an established place of business and to remanufacture motor vehicles.

(b) Under rules made by the administrator, the licensee may issue and install vehicle identification numbers on manufactured motor vehicles.

(c) The licensee may franchise and appoint dealers to sell manufactured motor vehicles by notifying the division of the franchise or appointment.

[(7)] (9) A transporter's license permits the licensee to transport or deliver motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to financial institutions or places of storage from points of repossession.

[(8)] (10) A dismantler's license permits the licensee to dismantle motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other dismantler.

[(9)] (11) A distributor or factory branch and distributor branch's license permits the licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised dealers.

[(10)] (12) A representative's license, for factory representatives or distributor representatives permits the licensee to contact the licensee's authorized dealers for the purpose of making or promoting the sale of motor vehicles, parts, and accessories.

[(11)] (13) (a) (i) A remanufacturer's license permits the licensee to construct, reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

(ii) Evidence of ownership of parts and motor vehicles used in remanufacture shall be available to the division upon demand.

(b) Under rules made by the administrator, the licensee may issue and install vehicle identification numbers on remanufactured motor vehicles.

[(12)] (14) A crusher's license permits the licensee to engage in the business of crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact size for recycling.

[(13)] (15) A body shop's license permits the licensee to rebuild, restore, repair, or paint

primarily the body of motor vehicles damaged by collision or natural disaster, and to dismantle motor vehicles.

[14] (16) A special equipment dealer's license permits the licensee to:

(a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment installed without a franchise from the manufacturer;

(b) offer for sale, sell, or exchange used motor vehicles;

(c) operate as a body shop; and

(d) dismantle motor vehicles.

[15] (17) (a) A salvage vehicle buyer license permits the licensee to bid on or purchase a vehicle with a salvage certificate as defined in Section 41-1a-1001 at any motor vehicle auction.

(b) A salvage vehicle buyer license may only be issued to a motor vehicle dealer, dismantler, or body shop who qualifies under rules made by the division and is licensed in any state as a motor vehicle dealer, dismantler, or body shop.

(c) The division may not issue more than two salvage vehicle buyer licenses to any one dealer, dismantler, or body shop.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator shall make rules establishing qualifications of an applicant for a salvage vehicle buyer license. The criteria shall include:

(i) business history;

(ii) salvage vehicle qualifications;

(iii) ability to properly handle and dispose of environmental hazardous materials associated with salvage vehicles; and

(iv) record in demonstrating compliance with the provisions of this chapter.

Section 8. Section 41-3-203 is amended to read:

41-3-203. Licenses -- Form -- Seal -- Custody of salesperson's license -- Display of salesperson and dealer licenses -- Licensee's pocket card.

(1) (a) The administrator shall prescribe the form of each license and the seal of [his] the administrator's office shall be imprinted on each license.

(b) The administrator shall deliver or mail the license of each salesperson [~~shall be delivered or mailed~~] to the dealer employing the salesperson and [~~it shall be kept in the custody and control of the dealer and conspicuously displayed~~] the dealer shall keep the license in the dealer's custody and control and conspicuously display the license in the dealer's place of business.

(c) Each licensee shall display conspicuously [his] the licensee's own license in [his] the licensee's place of business.

(d) In addition to the other provisions of this section, each direct-sale manufacturer licensee shall display conspicuously the licensee's own license in each of the licensee's:

(i) showrooms; and

(ii) authorized service centers.

(2) (a) The administrator shall prepare and deliver a pocket card, certifying that the person whose name is on the card is licensed under this chapter.

(b) Each salesperson's card shall also contain the name and address of the dealer employing [him] the salesperson.

(c) Each salesperson shall on request display [his] the salesperson's pocket card.

Section 9. Section 41-3-204 is amended to read:

41-3-204. Licenses -- Principal place of business as prerequisite -- Change of location -- Relinquishment on loss of principal place of business.

(1) (a) The following licensees must maintain a principal place of business:

(i) dealers;

(ii) special equipment dealers;

(iii) manufacturers;

(iv) transporters;

(v) remanufacturers;

(vi) dismantlers;

(vii) crushers;

(viii) body shops; and

(ix) distributors who:

(A) are located within the state; or

(B) have a branch office within the state.

(b) The administrator may not issue a license under Subsection (1)(a) to an applicant who does not have a principal place of business.

(c) If a licensee changes the location of [his] the licensee's principal place of business, [he] the licensee shall immediately notify the administrator and the administrator shall issue a new license [~~shall be granted~~] for the unexpired portion of the term of the original license at no additional fee.

(d) In addition to the other requirements of this section, if a direct-sale manufacturer licensee changes the location of an authorized service center of the licensee, the licensee shall immediately notify the administrator and the administrator shall issue a new license for the unexpired portion of the term of the original license at no additional fee.

(2) (a) If a licensee loses possession of a principal place of business, the license is automatically suspended and he shall immediately notify the administrator and upon demand by the administrator deliver the license, pocket cards, special plates, and temporary permits to the administrator.

(b) The administrator shall hold the licenses, cards, plates, and permits until the licensee obtains:

- (i) a principal place of business[-]; and
- (ii) if the licensee is a direct-sale manufacturer, an authorized service center.

Section 10. Section 41-3-206 is amended to read:

41-3-206. Duration of licenses -- Expiration date -- Renewal.

(1) Except as provided in Subsection (2), each license issued under this chapter expires on June 30 of each year and may be renewed upon application and payment of a fee required under Section 41-3-601, if the license has not been suspended or revoked.

(2) A motor vehicle salesperson's license expires as provided under Subsection (1) or when the salesperson terminates employment with the dealer with whom he is licensed, whichever comes first.

(3) (a) ~~Beginning July 1, 1999, the~~ The division may not renew a license for a new or used motor vehicle dealer's license, a direct-sale manufacturer's license, a new or used motorcycle dealer's license, or a small trailer dealer's license unless the renewal applicant completes a three-hour class approved by the division that includes education on new motor vehicle laws and rules.

(b) The approved costs of the class shall be paid by the renewal applicant.

(c) The class shall be completed by the renewal applicant or any designated representative of the renewal applicant dealer.

(d) The division shall approve:

- (i) the class providers; and
- (ii) costs of the class.

Section 11. Section 41-3-209 is amended to read:

41-3-209. Administrator's findings -- Suspension and revocation of license.

(1) If the administrator finds that an applicant is not qualified to receive a license, a license may not be granted.

~~[(2) (a) On December 1, 2010, the administrator shall suspend the license of a salesperson who fails to submit to the division fingerprints as required under Subsection 41-3-205.5(1)(b) on or before November 30, 2010.]~~

~~[(b) If] (2) (a) If the administrator finds that there is reasonable cause to deny, suspend, or revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.~~

~~[(e)] (b) Reasonable cause for denial, suspension, or revocation of a license includes, in relation to the applicant or license holder or any of [its] the applicant or license holder's partners, officers, or directors:~~

~~(i) lack of a principal place of business or authorized service center as required by this chapter;~~

~~(ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax Act;~~

~~(iii) lack of a bond in effect as required by this chapter;~~

~~(iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson license issued in another state;~~

~~(v) nonpayment of required fees;~~

~~(vi) making a false statement on any application for a license under this chapter or for special license plates;~~

~~(vii) a violation of any state or federal law involving motor vehicles;~~

~~(viii) a violation of any state or federal law involving controlled substances;~~

~~(ix) charges filed with any county attorney, district attorney, or U.S. attorney in any court of competent jurisdiction for a violation of any state or federal law involving motor vehicles;~~

~~(x) a violation of any state or federal law involving fraud;~~

~~(xi) a violation of any state or federal law involving a registerable sex offense under Section 77-41-106; [ø]~~

~~(xii) having had a license issued under this chapter revoked within five years from the date of application[-]; or~~

~~(xiii) failure to comply with any applicable qualification or requirement imposed under this chapter.~~

~~[(d)] (c) Any action taken by the administrator under Subsection (2)[(e)](b)(ix) shall remain in effect until a final resolution is reached by the court involved or the charges are dropped.~~

(3) If the administrator finds that an applicant is not qualified to receive a license under this section, the administrator shall provide the applicant written notice of the reason for the denial.

(4) If the administrator finds that the license holder has been convicted by a court of competent jurisdiction of violating any of the provisions of this chapter or any rules made by the administrator, or finds other reasonable cause, the administrator may, by complying with the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

(a) suspend the license on terms and for a period of time the administrator finds reasonable; or

(b) revoke the license.

(5) (a) After suspending or revoking a license, the administrator may take reasonable action to:

(i) notify the public that the licensee is no longer in business; and

(ii) prevent the former licensee from violating the law by conducting business without a license.

(b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins, and notices.

(c) Any business being conducted incidental to the business for which the former licensee was licensed may continue to operate subject to the preventive action taken under this subsection.

Section 12. Section 41-3-210 is amended to read:

41-3-210. License holders -- Prohibitions and requirements.

(1) The holder of any license issued under this chapter may not:

(a) intentionally publish, display, or circulate any advertising that is misleading or inaccurate in any material fact or that misrepresents any of the products sold, manufactured, remanufactured, handled, or furnished by a licensee;

(b) intentionally publish, display, or circulate any advertising without identifying the seller as the licensee by including in the advertisement the full name under which the licensee is licensed or the licensee's number assigned by the division;

(c) violate this chapter or the rules made by the administrator;

(d) violate any law of the state respecting commerce in motor vehicles or any rule respecting commerce in motor vehicles made by any licensing or regulating authority of the state;

(e) engage in business as a new motor vehicle dealer, special equipment dealer, used motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as required in this chapter;

(f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or body shop without maintaining a principal place of business;

(g) unless the licensee is a special equipment dealer who sells a new special equipment motor vehicle with a gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor vehicle:

[(g)] (i) engage in a business respecting the selling or exchanging of new or new and used motor vehicles for which [he] the licensee is not licensed[, including selling or exchanging]; and

(ii) unless the licensee is a direct-sale manufacturer, sell or exchange a new motor vehicle for which the licensee does not have a franchise[, but this Subsection (1)(g) does not apply to a special equipment dealer who sells a new special equipment motor vehicle with a gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor vehicle];

(h) dismantle or transport to a crusher for crushing or other disposition any motor vehicle without first obtaining a dismantling or junk permit under Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

(i) as a new motor vehicle dealer, special equipment dealer, or used motor vehicle dealer fail to give notice of sales or transfers as required in Section 41-3-301;

(j) advertise or otherwise represent, or knowingly allow to be advertised or represented on [his] the licensee's behalf or at [his] the licensee's place of business, that no down payment is required in connection with the sale of a motor vehicle when a down payment is required and the buyer is advised or induced to finance a down payment by a loan in addition to any other loan financing the remainder of the purchase price of the motor vehicle;

(k) as a crusher, crush or shred a motor vehicle brought to the crusher without obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is a certificate of title endorsed according to law or a dismantling or junk permit issued under Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

(l) as a manufacturer or remanufacturer assemble a motor vehicle that does not comply with construction, safety, or vehicle identification number standards fixed by law or rule of any licensing or regulating authority;

(m) as anyone other than a salesperson or a direct-sale manufacturer salesperson licensed under this chapter, be present on a dealer display space and contact prospective customers to promote the sale of the dealer's vehicles;

(n) sell, display for sale, or offer for sale motor vehicles at any location other than the principal place of business or additional places of business licensed under this chapter; this provision is construed to prevent dealers, salespersons, or any other representative of a dealership from selling, displaying, or offering motor vehicles for sale from their homes or other unlicensed locations;

(o) (i) as a dealer, dismantler, body shop, or manufacturer, maintain a principal place of business or additional place of business that shares any common area with a business or activity not directly related to motor vehicle commerce; or

(ii) maintain any places of business that share any common area with another dealer, dismantler, body shop, or manufacturer;

(p) withhold delivery of license plates obtained by the licensee on behalf of a customer for any reason,

including nonpayment of any portion of the vehicle purchase price or down payment;

(q) issue a temporary permit for any vehicle that has not been sold by the licensee;

(r) alter a temporary permit in any manner;

(s) operate any principal place of business or additional place of business in a location that does not comply with local ordinances, including zoning ordinances;

(t) sell, display for sale, offer for sale, or exchange any new motor vehicle if the licensee does not:

(i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license under Section 41-3-202; and

(ii) unless the licensee is a direct-sale manufacturer, possess a franchise from the manufacturer of the new motor vehicle sold, displayed for sale, offered for sale, or exchanged by the licensee; [ø]

(u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire with any person who has not obtained a salesperson's or a direct-sale manufacturer salesperson's license to solicit for prospective purchasers[-]; or

(v) as a direct-sale manufacturer, engage in business as a direct-sale manufacturer without having:

(i) an authorized service center; or

(ii) a principal place of business.

(2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange the vehicle as the make designated by the final stage manufacturer, except in those specific situations where the licensee:

(i) possesses a franchise from the initial or first stage manufacturer, presumably the manufacturer of the motor vehicle's chassis[-]; or

(ii) manufactured the initial or first stage of the motor vehicle.

(b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer under Section 41-3-301.

(3) Each licensee, except salespersons, shall maintain and make available for inspection by peace officers and employees of the division:

(a) a record of every motor vehicle bought, or exchanged by the licensee or received or accepted by the licensee for sale or exchange;

(b) a record of every used part or used accessory bought or otherwise acquired;

(c) a record of every motor vehicle bought or otherwise acquired and wrecked or dismantled by the licensee;

(d) all buyers' orders, contracts, odometer statements, temporary permit records, financing records, and all other documents related to the purchase, sale, or consignment of motor vehicles; and

(e) a record of the name and address of the person to whom any motor vehicle or motor vehicle body, chassis, or motor vehicle engine is sold or otherwise disposed of and a description of the motor vehicle by year, make, and vehicle identification number.

(4) Each licensee required by this chapter to keep records shall:

(a) be kept by the licensee at least for five years; and

(b) furnish copies of those records upon request to any peace officer or employee of the division during reasonable business hours.

(5) A manufacturer, distributor, distributor representative, or factory representative may not induce or attempt to induce by means of coercion, intimidation, or discrimination any dealer to:

(a) accept delivery of any motor vehicle, parts, or accessories or any other commodity or commodities, including advertising material not ordered by the dealer;

(b) order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle as publicly advertised by the manufacturer;

(c) order from any person any parts, accessories, equipment, machinery, tools, appliances, or any other commodity;

(d) enter into an agreement with the manufacturer, distributor, distributor representative, or factory representative of any of them, or to do any other act unfair to the dealer by threatening to cancel any franchise or contractual agreement between the manufacturer, distributor, distributor branch, or factory branch and the dealer;

(e) refuse to deliver to any dealer having a franchise or contractual arrangement for the retail sale of new and unused motor vehicles sold or distributed by the manufacturer, distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for immediate delivery within 60 days after the dealer's order is received; or

(f) unfairly, without regard to the equities of the dealer, cancel the franchise of any motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause is a violation of this subsection and is an unfair cancellation.

(6) A dealer may not assist an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, or by allowing use of his facilities or dealer license number, or by any other means.

(7) (a) The holder of any new motor vehicle dealer or direct-sale manufacturer license issued under this chapter may not sell any new motor vehicle to:

(i) another dealer licensed under this chapter who does not hold a valid franchise for the make of new motor vehicles sold, unless the selling dealer licenses and titles the new motor vehicle to the purchasing dealer; or

(ii) any motor vehicle leasing or rental company located within this state, or who has any branch office within this state, unless the dealer licenses and titles the new motor vehicle to the purchasing, leasing, or rental company.

(b) Subsection (7)(a)(i) does not apply to the sale of a new incomplete motor vehicle with a gross vehicle weight of 12,000 or more pounds to a special equipment dealer licensed under this chapter.

(8) A dealer licensed under this chapter may not take on consignment any new motor vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is licensed and, if required, franchised to distribute or sell that make of motor vehicle in this or any other state.

(9) A body shop licensed under this chapter may not assist an unlicensed body shop in unlawful activity through active or passive means or by allowing use of its facilities, name, body shop number, or by any other means.

(10) A used motor vehicle dealer licensed under this chapter may not advertise, offer for sale, or sell a new motor vehicle that has been driven less than 7,500 miles by obtaining a title only to the vehicle and representing it as a used motor vehicle.

(11) (a) Except as provided in Subsection (11)(c), or in cases of undue hardship or emergency as provided by rule by the division, a dealer or salesperson licensed under this chapter may not, on consecutive days of Saturday and Sunday, sell, offer for sale, lease, or offer for lease a motor vehicle.

(b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered for lease in violation of Subsection (11)(a) shall constitute a separate offense.

(c) The provisions of Subsection (11)(a) shall not apply to a dealer participating in a trade show or exhibition if:

(i) there are five or more dealers participating in the trade show or exhibition; and

(ii) the trade show or exhibition takes place at a location other than the principal place of business of one of the dealers participating in the trade show or exhibition.

(12) For purposes of imposing the sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, a licensee issuing a temporary permit under Section 41-3-302 shall separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

(13) (a) A dismantler or dealer engaged in the business of dismantling motor vehicles for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler or dealer for transporting parts or salvage on the highways.

(b) The identification required under Subsection (13)(a) shall:

(i) include the name, address, and license number of the dismantler or dealer; and

(ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly legible letters and numerals not less than two inches in height.

Section 13. Section 41-3-702 is amended to read:

41-3-702. Civil penalty for violation.

(1) The following are civil violations under this chapter and are in addition to criminal violations under this chapter:

(a) Level I:

(i) failing to display business license;

(ii) failing to surrender license of salesperson because of termination, suspension, or revocation;

(iii) failing to maintain a separation from nonrelated motor vehicle businesses at licensed locations;

(iv) issuing a temporary permit improperly;

(v) failing to maintain records;

(vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without licensing the motor vehicle;

(vii) special plate violation;

(viii) failing to maintain a sign at a principal place of business; ~~and~~ or

(ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure location until the purchaser or a transporter has provided the proper documentation to take possession of the salvage vehicle.

(b) Level II:

(i) failing to report sale;

(ii) dismantling without a permit;

(iii) manufacturing without meeting construction or vehicle identification number standards;

(iv) withholding customer license plates;

(v) selling a motor vehicle on consecutive days of Saturday and Sunday; or

(vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction as described in Section 41-3-201.

(c) Level III:

(i) operating without a principal place of business;

(ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer without holding the franchise;

(iii) crushing a motor vehicle without proper evidence of ownership;

(iv) selling from an unlicensed location;

(v) altering a temporary permit;

(vi) refusal to furnish copies of records;

(vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;

(viii) advertising violation;

(ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act;

(x) encouraging or conspiring with unlicensed persons to solicit for prospective purchasers; ~~and~~ or

(xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or outboard motor in violation of Section 41-1a-705.

(2) (a) The schedule of civil penalties for violations of Subsection (1) is:

(i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third and subsequent offenses;

(ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the third and subsequent offenses; and

(iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(b) When determining under this section if an offense is a second or subsequent offense, only prior offenses committed within the 12 months ~~prior to~~ before the commission of the current offense may be considered.

(3) The following are civil violations in addition to criminal violations under Section 41-1a-1008:

(a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without disclosing that the salvage vehicle has been repaired or rebuilt;

(b) knowingly making a false statement on a vehicle damage disclosure statement, as defined in Section 41-1a-1001; or

(c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded title, as defined in Section 41-1a-1001, when it is not.

(4) The civil penalty for a violation under Subsection (3) is:

(a) not less than \$1,000, or treble the actual damages caused by the person, whichever is greater; and

(b) reasonable attorney fees and costs of the action.

(5) A civil action may be maintained by a purchaser or by the administrator.

CHAPTER 388**H. B. 372**

Passed March 7, 2018
Approved March 21, 2018
Effective May 8, 2018

**POINT OF THE MOUNTAIN
STATE LAND AUTHORITY**

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill enacts provisions relating to the development of state land in the point of the mountain area.

Highlighted Provisions:

This bill:

- ▶ creates the Point of the Mountain State Land Authority and provides for its purposes, authority, duties, and governance;
- ▶ requires the authority to plan, manage, and implement the development of point of the mountain state land;
- ▶ provides for the membership, authority, and responsibilities of a board to conduct the business and affairs of the authority;
- ▶ requires the authority to adopt a budget and imposes reporting and audit requirements; and
- ▶ provides for authority dissolution.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-58-101, Utah Code Annotated 1953
11-58-102, Utah Code Annotated 1953
11-58-103, Utah Code Annotated 1953
11-58-201, Utah Code Annotated 1953
11-58-202, Utah Code Annotated 1953
11-58-203, Utah Code Annotated 1953
11-58-204, Utah Code Annotated 1953
11-58-301, Utah Code Annotated 1953
11-58-302, Utah Code Annotated 1953
11-58-303, Utah Code Annotated 1953
11-58-304, Utah Code Annotated 1953
11-58-305, Utah Code Annotated 1953
11-58-306, Utah Code Annotated 1953
11-58-401, Utah Code Annotated 1953
11-58-402, Utah Code Annotated 1953
11-58-403, Utah Code Annotated 1953
11-58-404, Utah Code Annotated 1953
11-58-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-58-101 is enacted to read:**CHAPTER 58. POINT OF THE MOUNTAIN
STATE LAND AUTHORITY ACT****Part 1. General Provisions****11-58-101. Title.**

This chapter is known as the "Point of the Mountain State Land Authority Act."

Section 2. Section 11-58-102 is enacted to read:**11-58-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-58-201.

(2) "Board" means the authority's board, created in Section 11-58-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(5) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

Section 3. Section 11-58-103 is enacted to read:**11-58-103. Scope of chapter -- Limit on selling or leasing point of the mountain state land -- No effect on prison operations.**

(1) This chapter governs the management of the point of the mountain state land, and the process of planning, managing, and implementing the development of the point of the mountain state land:

(a) beginning May 8, 2018;

(b) subject to Subsection (3), during the transition period as prison operations on the point of the

mountain state land continue and eventually wind down in anticipation of the relocation of prison operations to the new correctional facility; and

(c) upon and after the transfer of prison operations to the new correctional facility.

(2) No part of the point of the mountain state land may be sold or otherwise disposed of or leased without the approval of the board.

(3) Nothing in this chapter may be construed to authorize the authority to:

(a) manage, oversee, or otherwise affect prison operations conducted on the point of the mountain state land; or

(b) take an action that would impair or interfere with prison operations conducted on the point of the mountain state land.

Section 4. Section 11-58-201 is enacted to read:

Part 2. Point of the Mountain State Land Authority

11-58-201. Creation of Point of the Mountain State Land Authority -- Status and duties of authority.

(1) There is created the Point of the Mountain State Land Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession, whose purpose is to facilitate the development of state land;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) Subject to Subsection 11-58-103(3), the authority shall manage the point of the mountain state land and shall plan, manage, and implement the development of the point of the mountain state land:

(a) beginning May 8, 2018;

(b) during the transition period as prison operations on the point of the mountain state land continue and eventually wind down in anticipation of the relocation of prison operations to the new correctional facility; and

(c) upon and after the transfer of prison operations to the new correctional facility.

Section 5. Section 11-58-202 is enacted to read:

11-58-202. Authority powers.

The authority may:

(1) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(2) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-58-203;

(3) sue and be sued;

(4) enter into contracts generally;

(5) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(7) enter into a lease agreement on real or personal property, either as lessee or lessor;

(8) provide for the development of the point of the mountain state land under one or more contracts;

(9) exercise powers and perform functions under a contract, as authorized in the contract;

(10) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(11) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(12) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(13) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-58-304;

(14) transact other business and exercise all other powers provided for in this chapter;

(15) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(16) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act;

(17) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land; and

(19) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter.

Section 6. Section 11-58-203 is enacted to read:

11-58-203. Authority duties and responsibilities.

(1) As the authority plans, manages, and implements the development of the point of the mountain state land, the authority shall pursue development strategies and objectives designed to:

(a) maximize the creation of high-quality jobs and encourage and facilitate a highly trained workforce;

(b) ensure strategic residential and commercial growth;

(c) promote a high quality of life for residents on and surrounding the point of the mountain state land, including strategic planning to facilitate:

(i) jobs close to where people live;

(ii) vibrant urban centers;

(iii) housing types that match workforce needs;

(iv) parks, connected trails, and open space, including the preservation of natural lands to the extent practicable and consistent with the overall development plan; and

(v) preserving and enhancing recreational opportunities;

(d) complement the development on land in the vicinity of the point of the mountain state land;

(e) improve air quality and minimize resource use; and

(f) accommodate and incorporate the planning, funding, and development of an enhanced and expanded future transit and transportation infrastructure and other investments, including:

(i) the acquisition of rights-of-way and property necessary to ensure transit access to the point of the mountain state land; and

(ii) a world class mass transit infrastructure, to service the point of the mountain state land and to enhance mobility and protect the environment.

(2) In planning the development of the point of the mountain state land, the authority shall:

(a) consult with applicable governmental planning agencies, including:

(i) relevant metropolitan planning organizations; and

(ii) Draper City and Salt Lake County planning and governing bodies;

(b) research and explore the feasibility of attracting a nationally recognized research center; and

(c) research and explore the appropriateness of including labor training centers and a higher education presence on the point of the mountain state land.

Section 7. Section 11-58-204 is enacted to read:

11-58-204. Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a local district or special service district; and

(ii) the authority elects to receive service from the local district or special service district for the point of the mountain state land that is included within the boundary of the local district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

Section 8. Section 11-58-301 is enacted to read:

Part 3. Authority Board

11-58-301. Authority board -- Delegation of power.

(1) The authority shall be governed by a board, which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution delegate powers to authority staff.

Section 9. Section 11-58-302 is enacted to read:

11-58-302. Number of board members -- Appointment -- Vacancies -- Chairs.

(1) The board shall consist of 11 members as provided in Subsection (2).

(2) (a) The president of the Senate shall appoint two members of the Senate to serve as members of the board.

(b) The speaker of the House of Representatives shall appoint two members of the House of Representatives to serve as members of the board.

(c) The governor shall appoint four individuals to serve as members of the board:

(i) one of whom shall be a member of the board of or employed by the Governor's Office of Economic Development, created in Section 63N-1-201; and

(ii) one of whom shall be an employee of the Division of Facilities Construction and Management, created in Section 63A-5-201.

(d) The Salt Lake County mayor shall appoint one board member, who shall be an elected Salt Lake County government official.

(e) The mayor of Draper, or a member of the Draper city council that the mayor designates, shall serve as a board member.

(f) The commissioner of higher education, appointed under Section 53B-1-105, or the commissioner's designee, shall serve as a board member.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(ii) If the mayor of Draper or commissioner of higher education is removed as a board member under Subsection (5), the mayor of Draper or commissioner of higher education, as the case may be, shall designate an individual to serve as a member of the board, as provided in Subsection (2)(e) or (f), respectively.

(b) Each person appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) A member of the board may be removed by a vote of two-thirds of all members of the board.

(6) (a) The governor shall appoint one board member to serve as cochair of the board.

(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one legislative member of the board to serve as cochair of the board.

Section 10. Section 11-58-303 is enacted to read:

11-58-303. Term of board members -- Quorum requirements -- Compensation.

(1) The term of each board member appointed under Subsection 11-58-302(2)(a), (b), (c), or (d) is four years, except that the initial term of half of the members appointed under Subsections 11-58-302(2)(a), (b), and (c) is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A majority of board members constitutes a quorum, and, except as provided in Subsection 11-58-302(5), the action of a majority of a quorum constitutes the action of the board.

(4) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and expense reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 11. Section 11-58-304 is enacted to read:

11-58-304. Staff and other support services -- Cooperation from state and local government entities.

(1) As used in this section:

(a) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.

(b) "Office" means the Governor's Office of Economic Development, created in Section 63N-1-201.

(2) If and as requested by the board:

(a) the division shall:

(i) provide staff support to the board; and

(ii) make available to the board existing division resources and expertise to assist the board in the development, marketing, and disposition of the point of the mountain state land; and

(b) the office shall cooperate with and provide assistance to the board in the board's:

(i) formulation of a development plan for the point of the mountain state land; and

(ii) management and implementation of a development plan, including the marketing of

property and recruitment of businesses and others to locate on the point of the mountain state land.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority and the board to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

Section 12. Section 11-58-305 is enacted to read:

11-58-305. Considering recommendations of the Point of the Mountain Development Commission -- Board recommendations on financing.

(1) In fulfilling its responsibilities under this chapter and in accomplishing the purposes of the authority under this chapter, the board shall:

(a) consider the recommendations of the Point of the Mountain Development Commission, created in Section 63C-17-103; and

(b) to the extent the board determines practicable, plan, manage, and implement the development of the point of the mountain state land consistent with those recommendations.

(2) Before November 30, 2018, the board shall make recommendations to the Legislative Management Committee of the Legislature concerning potential revenue sources for the development of the point of the mountain state land.

Section 13. Section 11-58-306 is enacted to read:

11-58-306. Limitations on board members.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the point of the mountain state land, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the point of the mountain state land.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(c) "Interest in real property" means every type of real property interest, whether recorded or unrecorded, including:

(i) a legal or equitable interest;

(ii) an option on real property;

(iii) an interest under a contract;

(iv) fee simple ownership;

(v) ownership as a tenant in common or in joint tenancy or another joint ownership arrangement;

(vi) ownership through a partnership, limited liability company, or corporation that holds title to a real property interest in the name of the partnership, limited liability company, or corporation;

(vii) leasehold interest; and

(viii) any other real property interest that is capable of being owned.

(2) An individual may not serve as a member of the board if:

(a) the individual owns an interest in real property, other than a personal residence in which the individual resides, within five miles of the point of the mountain state land;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within one-half mile of the point of the mountain state land; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land.

(3) Before taking office as a board member, an individual shall submit to the authority a statement verifying that the individual's service as a board member does not violate Subsection (2).

(4) A board member may not, at any time during the board member's service on the board, take any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property located within five miles of the point of the mountain state land.

(5) (a) The board may not allow a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land if a board member or a family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(b) Before allowing a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land, the board may require the firm, company, or other entity to certify that no board member or family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

Section 14. Section 11-58-401 is enacted to read:

Part 4. Authority Budget and Reporting Requirements

11-58-401. Annual authority budget -- Fiscal year -- Public hearing and notice required -- Auditor forms.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

Section 15. Section 11-58-402 is enacted to read:

11-58-402. Amending the authority annual budget.

(1) The authority board may by resolution amend an annual authority budget.

(2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.

(3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Section 16. Section 11-58-403 is enacted to read:

11-58-403. Audit requirements.

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 17. Section 11-58-404 is enacted to read:

11-58-404. Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.

(1) The authority's chief financial officer:

(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), appropriations that the authority receives from the state:

(a) are public funds; and

(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Section 18. Section 11-58-501 is enacted to read:

Part 5. Authority Dissolution

11-58-501. Dissolution of authority -- Restrictions -- Publishing notice of dissolution -- Authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless:

(a) the authority board first receives approval from the Legislative Management Committee of the Legislature to dissolve the authority; and

(b) the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) To dissolve the authority, the board shall:

(a) obtain the approval of the Legislative Management Committee of the Legislature; and

(b) adopt a resolution dissolving the authority, to become effective as provided in the resolution.

(3) Upon the dissolution of the authority:

(a) the Governor's Office of Economic Development shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the Division of Facilities Construction and Management, created in Section 63A-5-201, for the benefit of the state.

(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.

(5) The authority shall pay all expenses of the deactivation and dissolution.

CHAPTER 389**H. B. 380**

Passed March 8, 2018
Approved March 21, 2018
Effective July 1, 2018

**UTAH SCHOOL READINESS
INITIATIVE AMENDMENTS**

Chief Sponsor: Bradley G. Last
Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to the School Readiness Initiative.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ moves the School Readiness Board (board) from the Governor's Office of Management and Budget to the Department of Workforce Services;
- ▶ requires the State Board of Education to develop a school readiness program entry assessment;
- ▶ requires certain school readiness programs to administer school readiness program entry and exit assessments;
- ▶ modifies the membership of the board;
- ▶ requires the board to award a contract to a nonprofit entity to provide program support for results-based contracts;
- ▶ enacts a prioritization for funding school readiness programs;
- ▶ enacts and consolidates provisions related to requirements for recipients of funding through results-based contracts;
- ▶ permits the board to fund a high quality school readiness program directly, if the high quality school readiness program meets certain requirements;
- ▶ requires the board to select at least three independent evaluators;
- ▶ requires the operator of a high quality school readiness program that participates in a results-based contract to select an evaluator to evaluate the high quality school readiness program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to Department of Workforce Services -- Operations and Policy as an ongoing appropriation:
 - from the General Fund Restricted -- School Readiness Account, \$2,935,700;
- ▶ to Department of Workforce Services -- Operations and Policy as a one-time appropriation:
 - from the General Fund Restricted -- School Readiness Account, One-time, \$10,276,900;
- ▶ to State Board of Education -- State Administrative Office as an ongoing appropriation:
 - from the General Fund Restricted -- School Readiness Account, \$64,300;

- ▶ to State Board of Education -- State Administrative Office as a one-time appropriation:
 - from the General Fund Restricted -- School Readiness Account, One-time, \$70,800;
- ▶ to State Board of Education -- General System Support, as a one-time appropriation:
 - from General Fund Restricted -- School Readiness Account, \$88,000;
- ▶ to Governor's Office -- Governor's Office of Management and Budget, as an ongoing appropriation:
 - from the General Fund Restricted -- School Readiness Account, (\$200,000); and
- ▶ to Governor's Office -- School Readiness Initiative as an ongoing appropriation:
 - from the General Fund Restricted -- School Readiness Account, (\$2,800,000).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53E-9-301, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53F-6-301, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-303, as enacted by Laws of Utah 2018, Chapter 2
- 53F-6-305, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-309, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-310, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 63J-1-602.2, as last amended by Laws of Utah 2015, Chapters 86, 93, and 189
- 63J-1-602.3, as last amended by Laws of Utah 2017, Chapters 396 and 423

RENUMBERS AND AMENDS:

- 35A-3-209, (Renumbered from 53F-6-302, as renumbered and amended by Laws of Utah 2018, Chapter 2)
- 35A-3-210, (Renumbered from 53F-9-402, as renumbered and amended by Laws of Utah 2018, Chapter 2)

ENACTS:

- 53E-4-314, Utah Code Annotated 1953

REPEALS AND REENACTS:

- 53F-6-306, as renumbered and amended by Laws of Utah 2018, Chapter 2

REPEALS:

- 53F-6-307, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-308, as renumbered and amended by Laws of Utah 2018, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-3-209, which is renumbered from Section 53F-6-302 is renumbered and amended to read:

[53F-6-302]. 35A-3-209. Establishment of the School Readiness Board -- Membership -- Program intermediary -- Funding prioritization.

(1) The terms defined in Section 53F-6-301 apply to this section.

~~[(1)]~~ (2) There is created [a] the School Readiness Board within the ~~[Governor's Office of Management and Budget]~~ Department of Workforce Services composed of:

(a) the director of the Department of Workforces Services or the director's designee;

(b) one member appointed by the State Board of Education;

(c) one member appointed by the chair of the State Charter School Board;

(d) one member who has research experience in the area of early childhood development, including special education, appointed by the speaker of the House of Representatives; and

(e) one member, appointed by the president of the Senate~~[-]~~, who:

(i) has expertise in pay for success programs; or

(ii) represents a financial institution that has experience managing a portfolio that meets the requirements of the Community Reinvestment Act, 12 U.S.C. Sec. 2901 et seq.

~~[(2)]~~ (3) (a) A member described in ~~[Subsections (1)]~~ Subsection (2)(c), (d), ~~[and]~~ or (e) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection ~~[(1)]~~ (2)(c), (d), or (e), the person appointing the member shall appoint a replacement to serve the remainder of the member's term.

~~[(3)]~~ (4) A member may not receive compensation or benefits for the member's service.

~~[(4)]~~ Upon request, the Governor's Office of Management and Budget shall provide staff support to the board.

(5) The department shall provide staff support to the board.

~~[(5)]~~ (6) (a) The board members shall elect a chair of the board from the board's membership.

(b) The board shall meet upon the call of the chair or a majority of the board members.

(7) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and subject to Subsection (8), the board shall:

(a) select a program intermediary that:

(i) is a nonprofit entity; and

(ii) has experience:

(A) developing and executing contracts;

(B) structuring the terms and conditions of a pay for success program;

(C) coordinating the funding and management of a pay for success program; and

(D) raising private investment capital necessary to fund program services related to a pay for success program; and

(b) enter into a contract with the program intermediary.

(8) The board may not enter into a contract described in Subsection (7) without the consent of the department regarding:

(a) the program intermediary selected; and

(b) the terms of the contract.

(9) A contract described in Subsection (7)(b) shall:

(a) require the program intermediary to:

(i) seek out participants for results-based contracts;

(ii) advise the board on results-based contracts; and

(iii) make recommendations directly to the board on:

(A) when to enter a results-based contract; and

(B) the terms of a results-based contract; and

(b) include a provision that the program intermediary is not eligible to receive or view personally identifiable student data of eligible students funded under the School Readiness Initiative described in this part and Title 53F, Chapter 6, Part 3, School Readiness Initiative.

(10) In allocating funding, the board shall:

(a) give first priority to a results-based contract described in Subsection 53F-6-309(3) to fund a high quality school readiness program directly;

(b) give second priority to a results-based contract that includes an investor; and

(c) give third priority to a grant described in Section 53F-6-305.

(11) Other powers and duties of the board are described in Title 53F, Chapter 6, Part 3, School Readiness Initiative.

Section 2. Section 35A-3-210, which is renumbered from Section 53F-9-402 is renumbered and amended to read:

[53F-9-402]. 35A-3-210. School Readiness Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) The terms defined in Section 53F-6-301 apply to this section.

(2) There is created in the General Fund a restricted account known as the "School Readiness Restricted Account"~~[to fund:]~~.

~~[(a) the High Quality School Readiness Grant Program described in Section 53F-6-305; and]~~

~~[(b) results-based school readiness contracts for eligible students to participate in;]~~

~~[(i) a high quality preschool program described in:]~~

~~[(A) Section 53F-6-306; or]~~

~~[(B) Section 53F-6-307; or]~~

~~[(ii) — an eligible home-based educational technology program described in Section 53F-6-308.]~~

(3) The ~~[restricted account]~~ School Readiness Restricted Account consists of:

(a) money appropriated ~~[to the restricted account]~~ by the Legislature;

(b) all income and interest derived from the deposit and investment of money in the account;

(c) federal grants; and

(d) private donations.

(4) Subject to legislative appropriations, money in the restricted account may be used ~~[for the following purposes]:~~

(a) to award ~~[grants]~~ a grant under the High Quality School Readiness Grant Program described in Section 53F-6-305;

(b) to contract with ~~[an independent evaluator as required in Subsection 53F-6-309(3)]~~ an evaluator;

~~[(c) in accordance with Section 53F-6-309, to make payments to one or more private entities that the board has entered into a results-based contract with if the independent evaluator selected by the board determines that the performance-based results have been met; and]~~

(c) to fund the participation of eligible students in a high quality school readiness program through a results-based contract; and

(d) for administration costs and to monitor the programs described in ~~[this part]~~ Section 35A-3-209 and Title 53F, Chapter 6, Part 3, School Readiness Initiative.

Section 3. Section 53E-4-314 is enacted to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) “School readiness assessment” means the preschool entry assessment described in this section.

(b) “School readiness program” means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under:

(A) Title 53F, Chapter 5, Part 3, High Quality School Readiness Program; or

(B) Title 53F, Chapter 6, Part 3, School Readiness Initiative.

(2) The State Board of Education shall develop a school readiness assessment that aligns with the

kindergarten entry and exit assessment described in Section 53F-4-205.

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program:

(i) the school readiness assessment at the beginning of the student’s participation in the school readiness program; and

(ii) the kindergarten entry assessment described in Section 53F-4-205 at the end of the student’s participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) or (4) to:

(i) the State Board of Education; and

(ii) the Department of Workforce Services.

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student’s participation in the school readiness program; and

(b) a validated computer adaptive post-assessment at the end of the student’s participation in the school readiness program.

Section 4. Section 53E-9-301 is amended to read:

53E-9-301. Definitions.

As used in this part:

(1) “Adult student” means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) “Aggregate data” means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with board rule.

(3) (a) “Biometric identifier” means a:

(i) retina or iris scan;

(ii) fingerprint;

(iii) human biological sample used for valid scientific testing or screening; or

(iv) scan of hand or face geometry.

(b) “Biometric identifier” does not include:

(i) a writing sample;

- (ii) a written signature;
 - (iii) a voiceprint;
 - (iv) a photograph;
 - (v) demographic data; or
 - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) “Biometric information” means information, regardless of how the information is collected, converted, stored, or shared:
- (a) based on an individual’s biometric identifier; and
 - (b) used to identify the individual.
- (5) “Board” means the State Board of Education.
- (6) “Cumulative disciplinary record” means disciplinary student data that is part of a cumulative record.
- (7) “Cumulative record” means physical or electronic information that the education entity intends:
- (a) to store in a centralized location for 12 months or more; and
 - (b) for the information to follow the student through the public education system.
- (8) “Data authorization” means written authorization to collect or share a student’s student data, from:
- (a) the student’s parent, if the student is not an adult student; or
 - (b) the student, if the student is an adult student.
- (9) “Data governance plan” means an education entity’s comprehensive plan for managing education data that:
- (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
 - (b) provides for necessary technical assistance, training, support, and auditing;
 - (c) describes the process for sharing student data between an education entity and another person;
 - (d) describes the process for an adult student or parent to request that data be expunged; and
 - (e) is published annually and available on the education entity’s website.
- (10) “Education entity” means:
- (a) the board;
 - (b) a local school board;
 - (c) a charter school governing board;
 - (d) a school district;
 - (e) a charter school;
 - (f) the Utah Schools for the Deaf and the Blind; or

(g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section ~~[53F-6-302]~~ 35A-3-209.

(11) “Expunge” means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.

(12) “External application” means a general audience:

- (a) application;
- (b) piece of software;
- (c) website; or
- (d) service.

(13) “Individualized education program” or “IEP” means a written statement:

- (a) for a student with a disability; and
- (b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(14) “Internal application” means an Internet website, online service, online application, mobile application, or software, if the Internet website, online service, online application, mobile application, or software is subject to a third-party contractor’s contract with an education entity.

(15) “Local education agency” or “LEA” means:

- (a) a school district;
- (b) a charter school;
- (c) the Utah Schools for the Deaf and the Blind; or

(d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section ~~[53F-6-302]~~ 35A-3-209.

(16) “Metadata dictionary” means a complete list of an education entity’s student data elements and other education-related data elements, that:

(a) defines and discloses all data collected, used, stored, and shared by the education entity, including:

(i) who uses a data element within an education entity and how a data element is used within an education entity;

(ii) if a data element is shared externally, who uses the data element externally and how a data element is shared externally;

- (iii) restrictions on the use of a data element; and
 - (iv) parent and student rights to a data element;
- (b) designates student data elements as:

- (i) necessary student data; or
- (ii) optional student data;

(c) designates student data elements as required by state or federal law; and

(d) without disclosing student data or security information, is displayed on the education entity's website.

(17) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:

- (a) name;
- (b) date of birth;
- (c) sex;
- (d) parent contact information;
- (e) custodial parent information;
- (f) contact information;
- (g) a student identification number;
- (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;
 - (i) courses taken and completed, credits earned, and other transcript information;
 - (j) course grades and grade point average;
 - (k) grade level and expected graduation date or graduation cohort;
 - (l) degree, diploma, credential attainment, and other school exit information;
 - (m) attendance and mobility;
 - (n) drop-out data;
 - (o) immunization record or an exception from an immunization record;
 - (p) race;
 - (q) ethnicity;
 - (r) tribal affiliation;
 - (s) remediation efforts;
 - (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;
 - (u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;
 - (v) student injury information;
 - (w) a cumulative disciplinary record created and maintained as described in Section 53E-9-306;
 - (x) juvenile delinquency records;
 - (y) English language learner status; and
 - (z) child find and special education evaluation data related to initiation of an IEP.

(18) (a) "Optional student data" means student data that is not:

- (i) necessary student data; or

(ii) student data that an education entity may not collect under Section 53E-9-305.

(b) "Optional student data" includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(19) "Parent" means a student's parent or legal guardian.

(20) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) other information that is linked to a specific student that would allow a reasonable person in the school community, who does not have first-hand knowledge of the student, to identify the student with reasonable certainty.

(21) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or

receive student data on behalf of the education entity.

(22) (a) “Student data” means information about a student at the individual student level.

(b) “Student data” does not include aggregate or de-identified data.

(23) “Student data disclosure statement” means a student data disclosure statement described in Section 53E-9-305.

(24) “Student data manager” means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303.

(25) (a) “Targeted advertising” means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or student data.

(b) “Targeted advertising” does not include advertising to a student:

(i) at an online location based upon that student’s current visit to that location; or

(ii) in response to that student’s request for information or feedback, without retention of that student’s online activities or requests over time for the purpose of targeting subsequent ads.

(26) “Third-party contractor” means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

Section 5. Section 53F-6-301 is amended to read:

53F-6-301. Definitions.

As used in this part:

(1) “Board” means the School Readiness Board, created in Section ~~[53F-6-302]~~ 35A-3-209.

(2) “Economically disadvantaged” means ~~a student who~~ to be eligible to receive free or reduced price lunch.

~~[(a) is eligible to receive free lunch;]~~

~~[(b) is eligible to receive reduced price lunch; or]~~

~~[(c) (i) is not otherwise accounted for in Subsection (2)(a) or (b); and]~~

~~[(ii) (A) is enrolled in a Provision 2 or Provision 3 school, as defined by the United States Department of Agriculture;]~~

~~[(B) has a Declaration of Household Income on file;]~~

~~[(C) is eligible for a fee waiver; or]~~

~~[(D) is enrolled at a school that does not offer a lunch program and is a sibling of a student accounted for in Subsection (2)(a) or (b).]~~

(3) “Eligible home-based educational technology provider” means a provider that intends to offer a home-based educational technology program.

(4) “Eligible LEA” means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(5) (a) “Eligible private provider” means a child care program that:

(i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.

(b) “Eligible private provider” does not include residential child care, as defined in Section 26-39-102.

(6) “Eligible student” means a student:

(a) who is economically disadvantaged[-]; and

(b) whose parent or legal guardian reports that the student has experienced at least one risk factor.

(7) “Evaluator” means an independent evaluator selected in accordance with Section 53F-3-309.

(8) “High quality school readiness program” means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 53F-6-304.

(9) “Investor” means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 53F-6-309 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

~~[(7)]~~ (10) “Local Education Agency” or “LEA” means a school district or charter school.

(11) “Pay for success program” means a program funded through a model in which the program is initially funded through private funding and the entity providing the private funding receives repayment through public funding if the program achieves certain outcomes.

~~[(8)]~~ (12) “Performance outcome measure” means a cost avoidance in special education use for a

student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based [school readiness] contract.

~~[(9) (a) “Private entity” means a private investor or investors that enter into a results-based school readiness contract.]~~

~~[(b) “Private entity” includes an authorized representative of the private investor or investors.]~~

(13) “Program intermediary” means an entity selected by the board under Section 35A-3-209 to coordinate with the Department of Workforce Services to provide program support to the board.

~~[(10) (14) “Results-based [school readiness] contract” means a contract [entered into by the board, a private entity, and a provider of early childhood education that may result in repayment to a private entity if certain performance outcome measures are achieved.] that:~~

(a) is entered into in accordance with Section 53F-3-309;

(b) includes a performance outcome measure; and

(c) is between:

(i) the board, a provider of a high quality school readiness program, and an investor; or

(ii) the board and a provider of a high quality school readiness program.

(15) “Risk factor” means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child’s household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child’s home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child’s home is a language other than English; or

(j) having at least one parent who has not completed high school.

~~[(11) (16) “Student at-risk for later special education placement” means [a preschool] an~~

eligible student who, at preschool entry, scores [at or below] at least two standard deviations below the mean on the assessment selected by the board under Section 53F-6-309.

Section 6. Section 53F-6-303 is amended to read:

53F-6-303. School Readiness Restricted Account.

As described in Section [53F-9-402] 35A-3-210, the School Readiness Restricted Account provides funding for this part.

Section 7. Section 53F-6-305 is amended to read:

53F-6-305. High Quality School Readiness Grant Program.

(1) The High Quality School Readiness Grant Program is created to provide grants to the following, in order to upgrade an existing preschool or home-based educational technology program to a high quality school readiness program:

(a) an eligible private provider;

(b) an eligible LEA; or

(c) an eligible home-based educational technology provider.

(2) The State Board of Education shall:

(a) solicit proposals from eligible LEAs; and

(b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).

(3) The Department of Workforce Services shall:

(a) solicit proposals from eligible private providers and eligible home-based educational technology providers; and

(b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).

(4) Subject to legislative appropriations, and the prioritization described in Section 35A-3-209, the board shall award grants to respondents based on:

(a) the recommendations of the State Board of Education;

(b) the recommendations of the Department of Workforce Services; and

(c) the criteria described in Subsection (5).

(5) (a) In awarding a grant under Subsection (4), the State Board of Education, Department of Workforce Services, and the board shall consider:

(i) a respondent’s capacity to effectively implement the components described in Section 53F-6-304;

(ii) the percentage of a respondent’s students who are [economically disadvantaged] eligible students; and

(iii) the level of administrative support and leadership at a respondent’s program to effectively implement, monitor, and evaluate the program.

(b) The board may not award a grant to an LEA without obtaining approval from the State Board of Education to award the grant to the LEA.

(6) To receive a grant under this section, a respondent that is an eligible LEA shall submit a proposal to the State Board of Education detailing:

(a) the respondent's strategy to implement the high quality components described in ~~[Subsection 53F-6-304(1)]~~ Section 53F-6-304;

(b) the number of students the respondent plans to serve, categorized by age and ~~[economically disadvantaged status]~~ whether the students are eligible students;

(c) the number of high quality ~~[preschool]~~ school readiness program classrooms the respondent plans to operate; and

(d) the estimated cost per student.

(7) To receive a grant under this section, a respondent that is an eligible private provider or an eligible home-based educational technology provider shall submit a proposal to the Department of Workforce Services detailing:

(a) the respondent's strategy to implement the high quality components described in Section 53F-6-304;

(b) the number of students the respondent plans to serve, categorized by age and ~~[economically disadvantaged status]~~ whether the students are eligible students;

(c) for a respondent that is an eligible private provider, the number of high quality ~~[preschool]~~ school readiness program classrooms the respondent plans to operate; and

(d) the estimated cost per student.

~~[(8) All recipients of grants]~~

~~(8) (a) A recipient of a grant under this section shall [establish a preschool or home-based educational technology program with the] use the grant to move the recipient's preschool program toward achieving the components described in Section 53F-6-304.~~

~~(b) A recipient of a grant under this section may not enter into a results-based contract while the recipient receives the grant.~~

~~(9) (a) A grant recipient shall allow classroom or other visits by an [independent evaluator chosen by the board in accordance with Section 53F-6-309] evaluator.~~

~~(b) The [independent] evaluator shall:~~

~~(i) determine whether a grant recipient has effectively implemented the components described in Section 53F-6-304; and~~

~~(ii) report the [independent] evaluator's findings to the board.~~

~~[(10) (a) A grant recipient that is an eligible LEA shall assign a statewide unique student identifier to~~

~~each eligible student funded pursuant to a grant received under this section.]~~

~~[(b) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall work in conjunction with the State Board of Education to assign a statewide unique student identifier to each eligible student funded pursuant to a grant received under this section.]~~

~~(10) A recipient of a grant under this section shall ensure that each student who is enrolled in a classroom or who uses a home-based educational technology program supported by the grant has a unique student identifier by:~~

~~(a) if the recipient is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or~~

~~(b) if the recipient is an eligible private provider or eligible home-based educational technology provider, working with the State Board of Education to assign a unique student identifier to each student enrolled in the classroom or who uses the home-based educational technology program.~~

~~(11) A grant recipient that is an LEA shall report annually to the board and the State Board of Education the following:~~

~~(a) number of students served by the preschool, [reported by economically disadvantaged status] including the number of students who are eligible students;~~

~~(b) attendance;~~

~~(c) cost per student; and~~

~~(d) assessment results.~~

~~(12) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report annually to the board and the Department of Workforce Services the following:~~

~~(a) number of students served by the preschool or program, [reported by economically disadvantaged status] including the number of students who are eligible students;~~

~~(b) attendance;~~

~~(c) cost per student; and~~

~~(d) assessment results.~~

~~(13) The State Board of Education and the Department of Workforce Services shall make rules to effectively administer and monitor the [High Quality School Readiness Grant Program] grant program described in this section, including:~~

~~(a) requiring grant recipients to use the pre- and post-assessment selected by the board in accordance with Section 53F-6-309; and~~

~~(b) establishing reporting requirements for grant recipients.~~

~~(14) At the request of the board, the State Board of Education and the Department of Workforce~~

Services shall annually share the information received from grant recipients described in Subsections (11) and (12) with the board.

Section 8. Section 53F-6-306 is repealed and reenacted to read:

53F-6-306. Requirements for a school readiness program to receive funding through a results-based contract.

(1) As used in this section:

(a) "Participating program operator" means an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider, that is a party to a results-based contract.

(b) "Program" means a school readiness program funded through a results-based contract.

(2) (a) Subject to the requirements of this part, an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider that operates a high quality school readiness program may enter into and receive funding through a results-based contract.

(b) An eligible LEA, an eligible private provider, or an eligible home-based educational technology provider may not enter into a results-based contract while receiving a grant under Section 53F-6-305.

(3) A participating program operator shall ensure that each student who is enrolled in a classroom, or who uses a home-based educational technology, that is part of a participating program operator's program has a unique student identifier by:

(a) if the participating program operator is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or

(b) if the participating program operator is an eligible private provider or eligible home-based technology provider, working with the State Board of Education to assign a unique student identifier to each student enrolled in the classroom or who uses the home-based educational technology.

(4) A participating program operator may not use funds received through a results-based contract to supplant funds for an existing high quality school readiness program, but may use the funds to supplement an existing high quality school readiness program.

(5) (a) If not prohibited by the Elementary and Secondary Education Act of 1965, 20 U.S.C. Secs. 6301-6576, a participating program operator may charge a sliding scale fee, based on household income, to a student enrolled in the participating program operator's program.

(b) A participating program operator may use grants, scholarships, or other money to help fund the program.

(6) A participating program operator shall:

(a) select an evaluator to annually evaluate:

(i) the results of the pre- and post-assessment described in Section 53F-6-309 for each eligible student funded through a results-based contract;

(ii) performance on the performance outcome measure as described in Section 53F-6-309; and

(iii) for a participating program operator that is a home-based educational technology provider, whether the home-based educational technology is being used with fidelity; and

(b) allow classroom visits to ensure the program meets the requirements described in this part by:

(i) the evaluator;

(ii) the program intermediary;

(iii) the investor, if applicable;

(iv) the State Board of Education; and

(v) the Department of Workforce Services.

(7) (a) A participating program operator that is an eligible LEA may contract with an eligible private provider to provide a high quality school readiness program to a portion of the LEA's eligible students if:

(i) the results-based contract specifies the number of students to be served by the eligible private provider;

(ii) the eligible private provider meets the requirements described in this section for a participating program operator;

(iii) the eligible private provider reports the information described in Section 53F-6-310 to the board and the contracting eligible LEA; and

(iv) the contractual partnership is consistent with Utah Constitution, Article X, Section 1.

(b) An eligible LEA that contracts with an eligible private provider shall provide supportive services to the eligible private provider, which may include:

(i) professional development;

(ii) staffing or staff support;

(iii) materials; or

(iv) assessments.

Section 9. Section 53F-6-309 is amended to read:

53F-6-309. Results-based contracts -- Assessment selection -- Independent evaluators.

~~(1) (a) The board may negotiate and enter into a results-based contract with a private entity, selected through a competitive process, to fund:~~

~~(i) a high quality preschool program described in Section 53F-6-306;~~

~~(ii) a high quality preschool program described in Section 53F-6-307; or~~

~~(iii) a home-based education technology program described in Section 53F-6-308.]~~

~~(b) The board may not issue a results-based contract if the total outstanding obligations of results-based contracts issued by the board under this part would exceed \$15,000,000 at any one time.]~~

~~(1) The board may enter into a results-based contract to fund participation of eligible students in a high quality school readiness program in accordance with Section 35A-3-209 and this part.~~

~~(2) (a) Except as provided in Subsection (3), the board shall include an investor as a party to a results-based contract.~~

~~[(e) (b) The board may provide for a repayment to [a private entity] an investor to include a return of investment and an additional return on investment, dependent on achievement of [specific] the performance outcome measures set in the results-based contract.~~

~~[(d) (c) The additional return on investment described in Subsection [(1)(e)] (2)(b) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based [school readiness] contract.~~

~~[(e) (d) Funding obtained for an early education program [under this part] through a results-based contract that includes an investor is not a procurement item under Section 63G-6a-103.~~

~~[(2) (e) [A contract] A results-based contract that includes an investor shall include:~~

~~[(a) (i) a requirement that the repayment to the [private entity] investor be conditioned on [specific] achieving the performance outcome measures set in the results-based contract;~~

~~[(b) (ii) a requirement for an [independent] evaluator to determine whether the performance [outcomes] outcome measures have been achieved;~~

~~[(e) (iii) a provision that repayment to the [private entity] investor is:~~

~~[(i) (A) based upon available money in the School Readiness Restricted Account described in Section 35A-3-210; and~~

~~[(ii) (B) subject to legislative [appropriation] appropriations; and~~

~~[(d) (iv) a provision that the [private entity] investor is not eligible to receive or view [any] personally identifiable student data of students funded through [a] the results-based contract.~~

~~(f) The board may not issue a results-based contract that includes an investor as a party to the contract if the total outstanding obligations of results-based contracts that include an investor as a party to the contract would exceed \$15,000,000 at any one time.~~

~~(3) (a) The board may enter into a results-based contract to directly fund a high quality school readiness program that has at least four years of data for at least one cohort of students showing that~~

the high quality school readiness program has met a performance outcome measure.

(b) A results-based contract described in Subsection (3)(a):

(i) does not require an investor; and

(ii) shall include a provision that:

(A) requires that in order to continue receiving funding, the high quality school readiness program continue to meet a performance outcome measure; and

(B) provides an improvement time frame during which the high quality school readiness program may continue to receive funding if the high quality school readiness program fails to continue to meet the performance outcome measure.

~~[(3) The board shall select an independent, nationally recognized early childhood education evaluator, selected through a request for proposals process, to annually evaluate:]~~

~~[(a) performance outcome measures set in a results-based contract of the board; and]~~

~~[(b) a High Quality School Readiness Grant Program recipient's program.]~~

~~(4) The board shall select a uniform assessment of age-appropriate cognitive or language skills that:~~

~~(a) is nationally norm-referenced;~~

~~(b) has established reliability;~~

~~(c) has established validity with other similar measures and with later school outcomes; and~~

~~(d) has strong psychometric characteristics.~~

(5) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select at least three independent evaluators with experience in:

(i) evaluating school readiness programs; and

(ii) administering the assessment selected under Subsection (4).

(b) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that has a results-based contract shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-306.

(c) The board shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-305.

~~[(5) (6) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator described in Subsection (5)(b) shall determine whether the performance outcome measures set in the results-based contract have been met.~~

~~[(b) If the independent evaluator determines under Subsection (5)(a) that the performance~~

outcome measures have been met, the board may pay the private entity according to the terms of the results-based contract.]

(b) The board may not pay an investor unless the evaluation described in Subsection (6)(a) determines that the performance outcome measures in the results-based contract have been met.

[~~(6)~~] (7) (a) The board shall ensure that a parent or guardian of an eligible student participating in a program funded [~~pursuant to~~] through a results-based contract has given permission and signed an acknowledgment that the student's data may be shared with an independent evaluator for research and evaluation purposes, subject to federal law.

(b) The board shall maintain documentation of parental permission required in Subsection [~~(6)~~](a) (7)(a).

Section 10. Section 53F-6-310 is amended to read:

53F-6-310. Reporting requirements for a recipient of funding through a results-based contract -- Reporting to the Legislature.

(1) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that receives funds [~~pursuant to~~] through a results-based contract [~~under this part~~] shall report annually to the board the following de-identified information for eligible students funded in whole or in part [~~pursuant to a~~] through the results-based contract:

(a) ~~the number of eligible students served by the recipient's preschool or home-based educational technology program~~ high quality school readiness program, reported by economically disadvantaged status [~~and~~], English language learner status, and the number of risk factors reported for each eligible student;

(b) attendance;

(c) cost per eligible student;

(d) assessment results of the pre- and post-assessments [~~selected by the board; and~~] described in Section 53F-6-309;

(e) results of the assessments described in Section 53E-4-314; and

(f) for an eligible home-based educational technology provider, the average time, and range of time usage, that an eligible student who does not attend another preschool program spends using the home-based educational technology program per week.

[~~(e)~~] (2) The State Board of Education shall annually share with the board aggregated longitudinal data on eligible students currently [~~receiving funding~~] funded under this part and any eligible students who previously [~~received funding~~] funded under this part, including:

(i) (a) academic achievement outcomes;

(ii) (b) special education use; [~~and~~]

(iii) (c) English language learner services[-]; and

(d) scores on the kindergarten entry and exit assessment described in Section 53F-4-205.

[~~(2)~~] (3) For each year of a results-based contract, the board shall report to the Education Interim Committee [~~the following~~] and the Economic Development and Workforce Services Interim Committee:

(a) information [~~collected under~~] described in Subsection (1) for each participating LEA, private provider, and home-based educational technology provider; [~~and~~]

(b) the data described in Subsection (2); and

[~~(b)~~] (c) the terms of [~~the~~] each results-based contract, including, as applicable:

(i) the name of [~~each private entity~~] the investor and funding source;

(ii) the amount of money each [~~private entity~~] investor has invested;

(iii) the performance outcome measures set in the results-based contract by which repayment [~~will be~~] is determined; and

(iv) the repayment schedule to the [~~private entity~~] investor if the performance [~~outcomes are~~] outcome measures are met.

Section 11. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.

(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.

(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.

(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(4) Appropriations from the Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(8) The School Readiness Restricted Account created in Section 35A-3-210.

[~~(8)~~] (9) Funding for the General Assistance program administered by the Department of

Workforce Services, as provided in Section 35A-3-401.

~~[(9)] (10)~~ The Youth Development Organization Restricted Account created in Section 35A-8-1903.

~~[(10)] (11)~~ The Youth Character Organization Restricted Account created in Section 35A-8-2003.

~~(12)~~ Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

~~[(11)] (13)~~ Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.

~~[(12)] (14)~~ Appropriations to the Utah National Guard, created in Title 39, Militia and Armories.

~~[(13)] (15)~~ Appropriations from the Oil and Gas Conservation Account created in Section 40-6-14.5.

~~[(14)] (16)~~ Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

~~[(15)] (17)~~ Funds available to the Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

~~[(16)] (18)~~ Appropriations from the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the Tax Commission.

Section 12. Section 63J-1-602.3 is amended to read:

63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.

(1) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(2) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(3) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

(4) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(5) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(7) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(8) The Canine Body Armor Restricted Account created in Section 53-16-201.

~~[(9) The School Readiness Restricted Account created in Section 53A-1b-104.]~~

~~[(10) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.]~~

~~[(11) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.]~~

~~[(12)] (9)~~ Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

~~[(13)] (10)~~ Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

~~[(14)] (11)~~ A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

~~(12)~~ Appropriations to the State Board of Education, as provided in Section 53F-2-205.

~~[(15)] (13)~~ Subject to Subsection 54-5-1.5(4)(d), appropriations from the Public Utility Regulatory Restricted Account created in Section 54-5-1.5.

~~[(16)] (14)~~ Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

~~[(17)] (15)~~ Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

~~[(18)] (16)~~ Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

~~[(19)] (17)~~ The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 13. Repealer.

This bill repeals:

Section 53F-6-307, High quality preschool programs for eligible private providers.

Section 53F-6-308, Home-based educational technology for school readiness.

Section 14. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1To Department of Workforce Services -
Operations and PolicyFrom General Fund Restricted -
School Readiness Account \$2,935,700From General Fund Restricted -
School Readiness Account, One-time \$7,341,200Schedule of Programs:Workforce Development \$10,276,900ITEM 2To State Board of Education -
State Administrative OfficeFrom General Fund Restricted -
School Readiness Account \$64,300From General Fund Restricted -
School Readiness Account One-time \$70,800Schedule of Programs:Data and Statistics \$14,400Information Technology \$120,700ITEM 3To State Board of Education - General System
SupportFrom General Fund Restricted -
School Readiness Account One-time \$88,000Schedule of Programs:Teaching and Learning \$88,000ITEM 4To Governor's Office - Governor's Office of
Management and BudgetFrom General Fund Restricted -
School Readiness Account (\$200,000)Schedule of Programs:School Readiness Initiative (\$200,000)ITEM 5To Governor's Office - School Readiness InitiativeFrom General Fund Restricted -
School Readiness Account (\$2,800,000)Schedule of Programs:School Readiness Initiative (\$2,800,000)

The Legislature intends that the Division of
Finance lapse any un-expended balances
remaining in the Governor's Office - School
Readiness Initiative line item back to the General
Fund Restricted - School Readiness Account at the
close of fiscal year 2018.

Section 15. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 390**H. B. 383**

Passed March 7, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**WORK ENVIRONMENT AND
GRIEVANCE PROCEDURE AMENDMENTS**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill clarifies and amends grievance procedures for state employees in the executive branch.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ incorporates in statute the state's policy and commitment to provide and maintain a work environment free of abusive conduct;
- ▶ requires biennial training and annual reports to a legislative committee regarding abusive conduct and grievances;
- ▶ includes abusive conduct and other actions as conditions for which an employee may file a grievance and complaint;
- ▶ prohibits retaliatory action against an employee who represents or advocates for an employee in the grievance procedure as provided in statute;
- ▶ amends deadlines for submitting certain grievances;
- ▶ allows an employee to submit a grievance to higher steps in the grievance process if the grievance relates to a supervisor or administrator to whom the employee would otherwise submit a grievance;
- ▶ provides for an administrative appeal to the administrator of the Career Service Review Office; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19-44, as enacted by Laws of Utah 2015, Chapter 211
 67-19a-101, as last amended by Laws of Utah 2013, Chapter 427
 67-19a-202, as last amended by Laws of Utah 2015, Chapter 258
 67-19a-301, as last amended by Laws of Utah 2013, Chapter 427
 67-19a-303, as last amended by Laws of Utah 2013, Chapter 427
 67-19a-401, as last amended by Laws of Utah 2010, Chapter 249
 67-19a-402, as last amended by Laws of Utah 2010, Chapter 249
 67-19a-402.5, as last amended by Laws of Utah 2015, Chapter 258
 67-19a-406, as last amended by Laws of Utah 2013, Chapter 109

67-21-3.5, as enacted by Laws of Utah 2013, Chapter 427 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 427

ENACTS:

67-19a-102, Utah Code Annotated 1953
 67-19a-205, Utah Code Annotated 1953
 67-19a-501, Utah Code Annotated 1953

REPEALS AND REENACTS:

67-19a-302, as last amended by Laws of Utah 2013, Chapter 427

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-19-44 is amended to read:**67-19-44. Abusive conduct.**

(1) As used in this section:

(a) (i) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine:

(A) is intended to cause intimidation, humiliation, or unwarranted distress;

(B) results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(C) exploits an employee's known physical or psychological disability.

(ii) A single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard under Subsection (1)(a)(i)(A), (B), or (C).

(b) "Employee" means an employee of a state executive branch agency.

(c) "Physical harm" means the impairment of a person's physical health or bodily integrity, as established by competent evidence.

(d) "Psychological harm" means the impairment of a person's mental health, as established by competent evidence.

(2) It is the policy of the state of Utah to provide and maintain a work environment free from abusive conduct.

(3) An employee may file a written complaint of abusive conduct with the department and subject to further administrative review in accordance with Section 67-19a-501.

[2] (4) By July 1, [2015] 2019, the department shall [make a] amend the department's rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the definitions in Subsection (1) and Title 67, Chapter 19a, Grievance Procedures.

[3] (a) On and after July 1, 2015, the

(5) (a) The department shall provide biennial training to educate employees and supervisors about how to prevent abusive workplace conduct.

- (b) The training shall include information on:
- (i) what constitutes abusive conduct and the ramifications of abusive conduct;
 - (ii) resources available to employees who are subject to abusive conduct; and
 - (iii) the grievance process.

~~[(4) (a) On and after July 1, 2015, each]~~

(6) (a) Each state agency shall provide professional development training approved by the department to promote:

- (i) ethical conduct; ~~and~~
- (ii) organizational leadership practices based in principles of integrity[-]; ~~and~~
- (iii) the state policy described in Subsection (2).

(b) A state agency may request assistance from the department in developing training under this Subsection ~~[(4) (6)]~~.

~~[(5) Employees]~~ (7) (a) Employers shall provide and employees shall participate in the training described in Subsections ~~[(3) and (4)] (5) and (6) at the time the employee is hired or within a reasonable time after the employee commences employment and in alternating years thereafter.~~

(b) The requirement in Subsection (7)(a) includes notification to all employees at the time of hiring or within a reasonable time after the employee commences employment and in alternating years thereafter of the abusive conduct complaint procedures and the grievance procedures provided in Title 67, Chapter 19a, Grievance Procedures.

~~[(6) (8)]~~ (8) The department may use money appropriated to the department or access support from outside resources to:

- (a) develop policies against workplace abusive conduct; and
- (b) enhance professional development training on topics such as:
 - (i) building trust;
 - (ii) effective motivation;
 - (iii) communication;
 - (iv) conflict resolution;
 - (v) accountability;
 - (vi) coaching;
 - (vii) leadership; or
 - (viii) ethics.

~~[(7) (9)]~~ (9) This section does not:

- (a) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;
- (b) create a private right of action;
- (c) expand or diminish rights or remedies available to a person before July 1, 2015; or

(d) expand or diminish grounds for discipline that existed before July 1, 2015.

~~[(8) (10)]~~ (10) The department shall annually report to the Economic Development and Workforce Services Interim Committee by no later than the November ~~[2015]~~ interim meeting regarding:

- (a) the implementation of this section;
- (b) recommendations, if any, to appropriately address and reduce workplace abusive conduct or to change definitions or training required by this section; and

~~[(e) if the department finds a change in a definition or training is needed, the department's efforts to work with stakeholders to make recommendations for change.]~~

(c) an annual report of the total number and outcomes of abusive conduct complaints that employees filed and the department investigated.

Section 2. Section 67-19a-101 is amended to read:

67-19a-101. Definitions.

As used in this chapter:

(1) "Abusive conduct" means the same as that term is defined in Section 67-19-44.

~~[(1) (2)]~~ (2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.

~~[(2) (3)]~~ (3) "Career service employee" means a person employed in career service as defined in Section 67-19-3.

(4) "Department" means the Department of Human Resource Management.

~~[(3) (5)]~~ (5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.

(6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.

~~[(4) (7)]~~ (7) "Grievance" means:

(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;

(b) any dispute between a career service employee and the employer; ~~and~~

(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee[-]; and

(d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.

[45] (8) "Office" means the Career Service Review Office created under Section 67-19a-201.

[46] (9) "Public entity" [is-as] means the same as that term is defined in Section 67-21-2.

[47] (10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.

[48] (11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:

- (a) dismiss the employee;
- (b) reduce the employee's compensation;
- (c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;
- (d) fail to promote the employee if the employee would have otherwise been promoted; or

[4e] ~~cause the employee to resign by subjecting the employee to conditions that a reasonable person would consider intolerable; or~~

[4f] (e) threaten to take an action described in Subsections [48] (11)(a) through [4e] (d).

[49] (12) "Supervisor" means the person:

- (a) to whom an employee reports; or
- (b) who assigns and oversees an employee's work.

Section 3. Section 67-19a-102 is enacted to read:

67-19a-102. Work environment policy.

As recognized and provided in Section 67-19-44, it is the policy of the state of Utah to provide and maintain a work environment free from abusive conduct.

Section 4. Section 67-19a-202 is amended to read:

67-19a-202. Powers -- Scope of authority.

(1) [4a] The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:

- [4i] (a) a dismissal;
- [4ii] (b) a demotion;
- [4iii] (c) a suspension;
- [4iv] (d) a reduction in force;
- [4v] (e) a dispute concerning abandonment of position;
- [4vi] (f) a wage grievance if an employee is not placed within the salary range of the employee's current position;
- [4vii] (g) a violation of a rule adopted under Chapter 19, Utah State Personnel Management Act; or

[4viii] (h) except as provided by Subsection (1)(c)(iii), equitable administration of the following benefits:

- [4A] (i) long-term disability insurance;
- [4B] (ii) medical insurance;
- [4C] (iii) dental insurance;
- [4D] (iv) post-retirement health insurance;
- [4E] (v) post-retirement life insurance;
- [4F] (vi) life insurance;
- [4G] (vii) defined contribution retirement;
- [4H] (viii) defined benefit retirement; and
- [4I] (ix) a leave benefit.

[4b] (2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.

(3) The office shall serve as the final administrative body to review the findings of an abusive conduct investigation without an evidentiary hearing.

[4e] (4) The office may not review or take action on:

[4i] (a) a personnel matter not listed in ~~Subsection (1)(a) or (b)~~ Subsections (1) through (3);

[4ii] (b) a ~~grievance~~ personnel matter listed in ~~Subsection (1)(a) or (b)~~ Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or

[4iii] (c) a ~~grievance~~ personnel matter related to a claim for which an administrative review process is provided by statute and administered by:

[4A] (i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;

[4B] (ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

[4C] (iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

[42] (5) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Section 5. Section 67-19a-205 is enacted to read:

67-19a-205. Employment transfer.

At any point during the grievance process, the employer and the employee may mutually agree to a transfer of the employee to another equivalent position, if and to the extent that such a position is

available, in accordance with department rules for transfer and reassignment.

Section 6. Section 67-19a-301 is amended to read:

67-19a-301. Charges submissible under grievance procedure.

(1) This grievance procedure may only be used by career service employees who are not:

(a) public applicants for a position with the state's work force;

(b) public employees of the state's political subdivisions;

(c) public employees covered by other grievance procedures; or

(d) employees of state institutions of higher education.

(2) (a) Whenever a question or dispute exists as to whether an employee is qualified to use this grievance procedure, the administrator shall resolve the question or dispute.

(b) The administrator's decision under Subsection (2)(a) is reviewable only by the Court of Appeals.

(3) Any career service employee may submit a grievance based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, omission, or condition for solution through the grievance procedures set forth in this chapter.

(4) A reporting employee who desires to bring an administrative claim of retaliatory action shall use the grievance procedure described in Section 67-19a-402.5.

(5) A career service employee who desires to bring a grievance described in Subsection 67-19a-202(1) shall use and follow the grievance procedure described in Part 3, Grievance Procedures, and Part 4, Procedural Steps to Be Followed by Aggrieved Employee.

(6) An employee who desires to initiate an administrative review challenging the findings of an abusive conduct investigation shall use and follow the procedure described in Section 67-19a-501.

Section 7. Section 67-19a-302 is repealed and reenacted to read:

67-19a-302. Levels of procedure.

(1) The administration of all grievances under Subsection 67-19a-202(1) occurs on the following four levels:

(a) Level 1 - the supervisor;

(b) Level 2 - the division director or the director's designee;

(c) Level 3 - the agency director or the director's designee; and

(d) Level 4 - the office.

(2) (a) Except as provided in Subsection (2)(b) and Section 67-19a-501, an employee shall file a grievance or complaint at Level 1 and proceed through the levels of procedure within the applicable time limits provided in this chapter.

(b) If a supervisor or division director is a subject of a grievance or complaint, the employee may proceed directly to Level 2 or Level 3, respectively.

(3) A career service employee may advance all grievances to Level 3.

(4) In accordance with Section 67-19a-402.5 and subject to Section 67-21-4, a reporting employee may file a grievance alleging retaliatory action directly at Level 4.

Section 8. Section 67-19a-303 is amended to read:

67-19a-303. Employees' rights in grievance procedure.

(1) For the purpose of submitting and advancing a grievance, a career service employee, or a reporting employee alleging retaliatory action, may:

(a) obtain assistance by a representative of the employee's choice to act as an advocate at any level of the grievance procedure;

(b) request a reasonable amount of time during work hours to confer with the representative and prepare the grievance; and

(c) call other employees as witnesses at a grievance hearing.

(2) The state shall allow employees to attend and testify at the grievance hearing as witnesses if the employee has given reasonable advance notice to the employee's immediate supervisor.

(3) No person may take any reprisals against a career service employee or a reporting employee for:

(a) use of or participation in a grievance procedure described in this chapter[.]; or

(b) representing and providing assistance to a career service employee as an advocate in accordance with Subsection (1)(a).

(4) If the individual acting as an advocate for a career service employee under Subsection (1)(a) is a state employee, the individual may not receive state compensation for the time the employee spends in the course of that representation unless the individual uses approved leave during that time.

[4] (5) (a) The employing agency of an employee who files a grievance may not place grievance forms, grievance materials, correspondence about the grievance, agency and department replies to the grievance, or other documents relating to the grievance in the employee's personnel file.

(b) The employing agency of an employee who files a grievance may place records of disciplinary action in the employee's personnel file.

(c) If any disciplinary action against an employee is rescinded through the grievance procedures described in this chapter, the agency and the

Department of Human Resource Management shall remove the record of the disciplinary action from the employee's agency personnel file and central personnel file.

(d) An agency may maintain a separate grievance file relating to an employee's grievance, but shall discard the file after three years.

Section 9. Section 67-19a-401 is amended to read:

67-19a-401. Time limits for submission and advancement of grievance by aggrieved employee -- Voluntary termination of employment -- Group grievances.

(1) ~~[Subject to the provisions of Part 3, Grievance Procedures, and the restrictions contained in this part.]~~ When a career service employee ~~[may have]~~ files a grievance ~~[addressed by following the procedures]~~ at Level 1, as described in Section 67-19a-302, the employee shall advance the grievance through the proper levels of procedure specified in this ~~[part]~~ chapter.

(2) The employee and the person to whom the grievance is directed may agree in writing to waive or extend grievance steps specified under Subsection 67-19a-402(1), (2), or (3) or the time limits specified for those grievance steps, as outlined in Section 67-19a-402.

(3) Any writing made under Subsection (2) shall be submitted to the administrator.

(4) Except as provided under ~~[Subsection (6)]~~ Subsections (6) and (7), if the employee fails to advance the grievance to the next procedural step within the time limits established in this part:

(a) the employee waives the right to advance the grievance or to obtain judicial review of the grievance; and

(b) the grievance is considered to be settled based on the decision made at the last procedural step.

(5) ~~[(a)]~~ An employee may ~~[submit]~~ file a grievance for review under this chapter ~~[only]~~, except as provided in Subsections (6) and (7), if the employee submits the grievance within 30 working days after:

~~[(i) within 20 working days after]~~ (a) the most recent event giving rise to the grievance; or

~~[(ii)]~~ (b) ~~[within 20 working days after]~~ the employee has knowledge of the most recent event giving rise to the grievance.

~~[(b) Notwithstanding Subsection (5)(a), an employee may not submit a grievance more than one year after the event giving rise to the grievance.]~~

(6) (a) An employee may file with the office a motion for an enlargement of a time limit described in Subsection (5).

(b) In determining whether to grant a motion described in Subsection (6)(a), the office shall consider, giving reasonable deference to the employee, whether:

(i) the employee filed the motion before the time limit the employee seeks to enlarge; or

(ii) the enlargement is necessary to remedy the employee's excusable neglect.

~~[(6)]~~ (7) The provisions of Subsections (4) and (5)~~(a)]~~ do not apply if the employee meets the requirements for excusable neglect ~~[established by rule]~~ as that term is defined in Section 67-19a-101.

~~[(7) A person who has voluntarily terminated the person's employment with the state may not submit a grievance after the person has terminated the employment.]~~

(8) (a) If several employees allege the same grievance, the employees may submit a group grievance by following the procedures and requirements of this chapter.

(b) In submitting a group grievance, each aggrieved employee shall sign the grievance.

(c) The administrator may not treat a group grievance as a class action, but may select one aggrieved employee's grievance and address that grievance as a test case.

Section 10. Section 67-19a-402 is amended to read:

67-19a-402. Procedural steps to be followed by aggrieved employee.

(1) (a) ~~[A]~~ Subject to the provisions and levels of procedure provided in Section 67-19a-302, a career service employee who has a grievance shall submit the grievance in writing to:

(i) the employee's supervisor; and

(ii) the administrator.

(b) Within five working days after receiving a written grievance, the employee's supervisor may issue a written decision on the grievance.

(2) (a) If the employee's supervisor fails to respond to the grievance within five working days or if the aggrieved employee is dissatisfied with the supervisor's written decision, the employee may advance the written grievance to the employee's agency or division director within 10 working days after the expiration of the period for response or receipt of the written decision, whichever is first.

(b) Within five working days after receiving the written grievance, the employee's agency or division director may issue a written response to the grievance stating the decision and the reasons for the decision.

(3) (a) If the employee's agency or division director fails to respond to the grievance within five working days after its submission, or if the aggrieved employee is dissatisfied with the agency or division director's written decision, the employee may advance the written grievance to the employee's department head within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.

(b) Within 10 working days after the employee's written grievance is submitted, the department

head may issue a written response to the grievance stating the decision and the reasons for the decision.

(c) The decision of the department head is final in all matters except those matters that the office may review under the authority of Part 3, Grievance Procedures.

(4) If the written grievance submitted to the employee's department head meets the subject matter requirements of Section 67-19a-202 and if the employee's department head fails to respond to the grievance within 10 working days after submission, or if the aggrieved employee is dissatisfied with the department head's written decision, the employee may advance the written grievance to the administrator within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.

Section 11. Section 67-19a-402.5 is amended to read:

67-19a-402.5. Procedural steps to be followed by reporting employee alleging retaliatory action.

(1) A reporting employee who desires to assert an administrative grievance of retaliatory action:

(a) shall submit the grievance in writing within [20] 30 days after the day on which the retaliatory action occurs;

(b) is not required to comply with Section 63G-7-402 to file the grievance; and

(c) is subject to the provisions of Section 67-21-4.

(2) (a) When a reporting employee files a grievance with the administrator under Subsection (1), the administrator shall initially determine:

(i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah Protection of Public Employees Act, to bring the grievance and use the grievance procedure;

(ii) whether the office has authority to review the grievance;

(iii) whether, if the alleged grievance were found to be true, the reporting employee would be entitled to relief under Subsection 67-21-3.5(2); and

(iv) whether the reporting employee has been directly harmed.

(b) To make the determinations described in Subsection (2)(a), the administrator may:

(i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or

(ii) conduct an administrative review of the grievance.

(3) (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the day on which the hearing is adjourned.

(b) If the administrator chooses to conduct an administrative review of the grievance, the administrator shall issue the written decision within 15 days after the day on which the administrator receives the grievance.

(4) (a) If the administrator determines the office has authority to review the grievance, the administrator shall provide for an evidentiary hearing in accordance with Section 67-19a-404.

(b) The administrator may dismiss the grievance, without holding a hearing or taking evidence, if the administrator:

(i) finds that, even if the alleged grievance were found to be true, the reporting employee would not be entitled to relief under Subsection 67-21-3.5(2); and

(ii) provides the administrator's findings, in writing, to the reporting employee.

(c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act, in taking action under this section.

(5) A decision reached by the office in reviewing a retaliatory action grievance from a reporting employee may be appealed directly to the Utah Court of Appeals.

(6) (a) Except as provided in Subsection (6)(b), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee.

(b) A court may not order the office to pay costs or attorney fees under this section.

Section 12. Section 67-19a-406 is amended to read:

67-19a-406. Procedural steps to be followed by aggrieved employee -- Hearing before hearing officer -- Evidentiary and procedural rules.

(1) (a) The administrator shall employ a certified court reporter to record the hearing and prepare an official transcript of the hearing.

(b) The official transcript of the proceedings and all exhibits, briefs, motions, and pleadings received by the hearing officer are the official record of the proceeding.

(2) (a) The agency has the burden of proof in all grievances.

(b) The agency must prove the agency's case by substantial evidence.

(3) (a) The hearing officer shall issue a written decision within 20 working days after the hearing is adjourned.

(b) If the hearing officer does not issue a decision within 20 working days, the agency that is a party to the grievance is not liable for any claimed back wages or benefits after the date the decision is due.

(4) The hearing officer may:

(a) not award attorney fees or costs to either party;

(b) close a hearing by complying with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(c) seal the file and the evidence produced at the hearing if the evidence raises questions about an employee's character, professional competence, or physical or mental health;

(d) grant continuances according to rule; and

(e) decide a motion, an issue regarding discovery, or another issue in accordance with this chapter.

(5) (a) A hearing officer shall affirm, rescind, or modify agency action.

(b) (i) If a hearing officer does not affirm agency action, the hearing officer shall order back pay and back benefits that the grievant would have received without the agency action.

(ii) An order under Subsection (5)(b)(i) shall include:

(A) reimbursement to the grievant for premiums that the grievant paid for benefits allowed under the Consolidated Omnibus Reconciliation Act of 1985; and

(B) an offset for any state paid benefits the grievant receives because of the agency action, including unemployment compensation benefits.

(c) In an order under Subsection (5)(b)(i), a hearing officer may not reduce the amount of back pay and benefits awarded a grievant because of income that the grievant earns during the grievance process.

(6) An employee who files a grievance in accordance with this chapter may appeal a decision of the office directly to the Utah Court of Appeals in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 13. Section 67-19a-501 is enacted to read:

Part 5. Abusive Conduct Administrative Review

67-19a-501. Procedural steps to be followed in an administrative review of an abusive conduct investigation.

(1) An employee may initiate an administrative review of the findings of an abusive conduct investigation within 10 days after the day on which the employee receives notification of the investigative findings.

(2) (a) An employee bringing an administrative review of the findings described in Subsection (1) may file the request for the administrative review directly with the office.

(b) The request for administrative review may set forth the reasons for the appeal and include any submissions the employee desires to submit.

(3) (a) When an employee initiates the review described in Subsection (2) with the office:

(i) the role of the administrative review is to review and rule upon the department's findings and decision; and

(ii) an evidentiary hearing is not required.

(b) The department shall make the abusive conduct investigative file available for the administrator's in camera review.

(c) The administrator may:

(i) request additional relevant documents from the department or the affected employee; and

(ii) interview the department's investigators who conducted the investigation.

(4) (a) If the administrator determines that the investigator's findings are not reasonable, rational, and sufficiently supported by the record, the administrator may overturn the findings and remand to the agency for appropriate action.

(b) The administrator may uphold the department's investigative findings if, based on the administrative review, the administrator determines that the investigator's findings are reasonable, rational, and sufficiently supported by the record.

(5) (a) Within 30 days after the day on which an employee initiates an administrative review under this section, the administrator shall issue a notice stating whether the administrator upheld or overturned the investigative findings.

(b) The office's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.

(c) The following are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act, and any other applicable confidentiality provisions:

(i) the request for administrative review and any accompanying documents;

(ii) documents that any party provides;

(iii) the contents of the administrative review file; and

(iv) the office's determination.

Section 14. Section 67-21-3.5 is amended to read:

67-21-3.5. Administrative review of adverse action against a public entity employee.

(1) A public entity employee who believes that the employee's employer has taken retaliatory action against the employee in violation of this chapter may file a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5 and subject to Section 67-21-4.

(2) If the Career Service Review Office determines that retaliatory action is taken in violation of this chapter against the public entity employee, the Career Service Review Office may order:

(a) reinstatement of the public entity employee at the same level held by the public entity employee before the retaliatory action;

(b) the payment of back wages, in accordance with Subsection 67-19a-406(5)(b);

(c) full reinstatement of benefits;

(d) full reinstatement of other employment rights; or

(e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101~~(8)~~(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

(3) A public entity employer has the burden to prove by substantial evidence that the public entity employer's action was justified.

(4) A public entity employee or public entity employer may appeal a determination of the Career Service Review Office as provided in Section 67-19a-402.5.

CHAPTER 391**H. B. 409**

Passed March 8, 2018
 Approved March 21, 2018
 Effective January 1, 2019

**UTAH LIFE AND HEALTH INSURANCE
 GUARANTY ASSOCIATION AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to the Utah Life and Health Insurance Guaranty Association.

Highlighted Provisions:

This bill:

- ▶ extends guaranty association membership and coverage to health maintenance organizations;
- ▶ excludes structured settlement factoring transactions and Medicaid from guaranty association coverage;
- ▶ specifies that benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which the rider relates;
- ▶ excludes a policy or contract for an accident and health insurance benefit from the "Moody's rollback" limitation on interest rates, credit rates, and other similar factors;
- ▶ increases the number of members on the guaranty association board of directors;
- ▶ allows the guaranty association to file for justified rate increases;
- ▶ addresses substitute coverage provided by the guaranty association for an indexed policy or contract;
- ▶ removes the \$300 limit on Class A assessments;
- ▶ provides that assessments for a long-term care insurer insolvency be shared with a split of:
 - 25% to accident and health member insurers; and
 - 75% to the life insurance and annuity member insurers;
- ▶ exempts a health maintenance organization from liability or assessment for a long-term care insurer that becomes impaired or insolvent before January 1, 2021;
- ▶ provides for the recoupment of assessments; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 31A-8-103, as last amended by Laws of Utah 2017, Chapter 292
 31A-27a-403, as enacted by Laws of Utah 2007, Chapter 309
 31A-27a-701, as last amended by Laws of Utah 2014, Chapters 290 and 300
 31A-27a-702, as enacted by Laws of Utah 2007, Chapter 309

- 31A-28-102, as last amended by Laws of Utah 2001, Chapters 116 and 161
 31A-28-103, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-105, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-106, as last amended by Laws of Utah 2006, Chapter 320
 31A-28-107, as last amended by Laws of Utah 2011, Chapter 284
 31A-28-108, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-109, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-111, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-112, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-113, as last amended by Laws of Utah 2011, Chapter 342
 31A-28-114, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-119, as last amended by Laws of Utah 2010, Chapter 292
 31A-28-120, as last amended by Laws of Utah 2010, Chapter 292

ENACTS:

59-7-623, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-8-103 is amended to read:

31A-8-103. Applicability to other provisions of law.

(1) (a) Except for exemptions specifically granted under this title, an organization is subject to regulation under all of the provisions of this title.

(b) Notwithstanding any provision of this title, an organization licensed under this chapter:

(i) is wholly exempt from:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations;

(B) Chapter 9, Insurance Fraternal;

(C) Chapter 10, Annuities;

(D) Chapter 11, Motor Clubs;

(E) Chapter 12, State Risk Management Fund; and

(F) Chapter 19a, Utah Rate Regulation Act; and

~~[(G) Chapter 28, Part 1, Utah Life and Health Insurance Guaranty Association Act; and]~~

(ii) is not subject to:

(A) Chapter 3, Department Funding, Fees, and Taxes, except for Part 1, Funding the Insurance Department;

(B) Section 31A-4-107;

(C) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except for provisions specifically made applicable by this chapter;

(D) Chapter 14, Foreign Insurers, except for provisions specifically made applicable by this chapter;

(E) Chapter 17, Determination of Financial Condition, except:

(I) Part 2, Qualified Assets, and Part 6, Risk-Based Capital; or

(II) as made applicable by the commissioner by rule consistent with this chapter;

(F) Chapter 18, Investments, except as made applicable by the commissioner by rule consistent with this chapter; and

(G) Chapter 22, Contracts in Specific Lines, except for Part 6, Accident and Health Insurance, Part 7, Group Accident and Health Insurance, and Part 12, Reinsurance.

(2) The commissioner may by rule waive other specific provisions of this title that the commissioner considers inapplicable to limited health plans, upon a finding that the waiver will not endanger the interests of:

- (a) enrollees;
- (b) investors; or
- (c) the public.

(3) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, do not apply to an organization except as specifically made applicable by:

- (a) this chapter;
- (b) a provision referenced under this chapter; or

(c) a rule adopted by the commissioner to deal with corporate law issues of health maintenance organizations that are not settled under this chapter.

(4) (a) Whenever in this chapter, Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, is made applicable to an organization, the application is:

(i) of those provisions that apply to a mutual corporation if the organization is nonprofit; and

(ii) of those that apply to a stock corporation if the organization is for profit.

(b) When Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, is made applicable to an organization under this chapter, "mutual" means nonprofit organization.

(5) Solicitation of enrollees by an organization is not a violation of any provision of law relating to solicitation or advertising by health professionals if that solicitation is made in accordance with:

- (a) this chapter; and

(b) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(6) This title does not prohibit any health maintenance organization from meeting the requirements of any federal law that enables the health maintenance organization to:

- (a) receive federal funds; or
- (b) obtain or maintain federal qualification status.

(7) Except as provided in Chapter 45, Managed Care Organizations, an organization is exempt from statutes in this title or department rules that restrict or limit the organization's freedom of choice in contracting with or selecting health care providers, including Section 31A-22-618.

(8) An organization is exempt from the assessment or payment of premium taxes imposed by Sections 59-9-101 through 59-9-104.

Section 2. Section 31A-27a-403 is amended to read:

31A-27a-403. Continuance of coverage -- Health maintenance organizations.

(1) As used in this section:

(a) "Basic health care services" is as defined in Section 31A-8-101.

(b) "Enrollee" is as defined in Section 31A-8-101.

(c) "Health care" is as defined in Section 31A-1-301.

(d) "Health maintenance organization" is as defined in Section 31A-8-101.

(e) "Limited health plan" is as defined in Section 31A-8-101.

(f) (i) "Managed care organization" means an entity licensed by, or holding a certificate of authority from, the department to furnish health care services or health insurance.

(ii) "Managed care organization" includes:

- (A) a limited health plan;
- (B) a health maintenance organization;
- (C) a preferred provider organization;
- (D) a fraternal benefit society; or

(E) an entity similar to an entity described in Subsections (1)(f)(ii)(A) through (D).

(iii) "Managed care organization" does not include:

(A) an insurer or other person that is eligible for membership in a guaranty association under Chapter 28, Guaranty Associations;

(B) a mandatory state pooling plan;

(C) a mutual assessment company or an entity that operates on an assessment basis; or

(D) an entity similar to an entity described in Subsections (1)(f)(iii)(A) through (C).

(g) "Participating provider" means a provider who, under a contract with a managed care organization authorized under Section 31A-8-407, agrees to provide health care services to enrollees with an expectation of receiving payment:

(i) directly or indirectly, from the managed care organization; and

(ii) other than a copayment.

(h) "Participating provider contract" means the agreement between a participating provider and a managed care organization authorized under Section 31A-8-407.

(i) "Preferred provider" means a provider who agrees to provide health care services under an agreement authorized under Subsection 31A-22-617(1).

(j) "Preferred provider contract" means the written agreement between a preferred provider and a managed care organization authorized under Subsection 31A-22-617(1).

(k) (i) Except as provided in Subsection (1)(k)(ii), "preferred provider organization" means a person that:

(A) furnishes at a minimum, through a preferred provider, basic health care services to an enrollee in return for prepaid periodic payments in an amount agreed to before the time during which the health care may be furnished;

(B) is obligated to the enrollee to arrange for the services described in Subsection (1)(k)(i)(A); and

(C) permits the enrollee to obtain health care services from a provider who is not a preferred provider.

(ii) "Preferred provider organization" does not include:

(A) an insurer licensed under Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) an individual who contracts to render professional or personal services that the individual performs.

(l) "Provider" is as defined in Section 31A-8-101.

(m) "Uncovered expenditure" means a cost of health care services that is covered by an organization for which an enrollee is liable in the event of the managed care organization's insolvency.

(2) The rehabilitator or liquidator may take one or more of the actions described in Subsections (2)(a) through (g) to assure continuation of health care coverage for enrollees of an insolvent managed care organization.

(a) (i) Subject to Subsection (2)(a)(ii), a rehabilitator or liquidator may require a participating provider or preferred provider to continue to provide the health care services the provider is required to provide under the provider's

participating provider contract or preferred provider contract until the earlier of:

(A) 90 days after the day on which the following is filed:

(I) a petition for rehabilitation; or

(II) a petition for liquidation; or

(B) the day on which the term of the contract ends.

(ii) A requirement by the rehabilitator or liquidator under Subsection (2)(a)(i) that a participating provider or preferred provider continue to provide health care services under the provider's participating provider contract or preferred provider contract expires when health care coverage for all enrollees of the insolvent managed care organization is obtained from another managed care organization or insurer.

(b) (i) Subject to Subsection (2)(b)(ii), a rehabilitator or liquidator may reduce the fees a participating provider or preferred provider is otherwise entitled to receive from the managed care organization under the provider's participating provider contract or preferred provider contract during the time period in Subsection (2)(a)(i).

(ii) Notwithstanding Subsection (2)(b)(i), a rehabilitator or liquidator may not reduce a fee to less than 75% of the regular fee set forth in the provider's participating provider contract or preferred provider contract.

(iii) An enrollee shall continue to pay the same copayments, deductibles, and other payments for services received from a participating provider or preferred provider that the enrollee is required to pay before the day on which the following is filed:

(A) the petition for rehabilitation; or

(B) the petition for liquidation.

(c) A participating provider or preferred provider shall:

(i) accept the amounts specified in Subsection (2)(b) as payment in full; and

(ii) relinquish the right to collect additional amounts from the insolvent managed care organization's enrollee.

(d) Subsections (2)(b) and (c) apply to the fees paid to a provider who agrees to provide health care services to an enrollee but is not a preferred or participating provider.

~~[(e) If the managed care organization is a health maintenance organization, Subsections (2)(e)(i) through (vi) apply.]~~

(e) This Subsection (2)(e) applies to a managed care organization that is a health maintenance organization for a delinquency proceeding under this chapter that is initiated before May 8, 2018.

(i) A solvent health maintenance organization licensed under Chapter 8, Health Maintenance Organizations and Limited Health Plans, shall extend to the enrollees of an insolvent health

maintenance organization all rights, privileges, and obligations of being an enrollee in the accepting health maintenance organization:

(A) subject to Subsections (2)(e)(ii), (iii), and (v);

(B) upon notification from and subject to the direction of the rehabilitator or liquidator of an insolvent health maintenance organization licensed under Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(C) if the solvent health maintenance organization operates within a portion of the insolvent health maintenance organization's service area.

(ii) Notwithstanding Subsection (2)(e)(i), the accepting health maintenance organization shall give credit to an enrollee for any waiting period already satisfied under the enrollee's contract with the insolvent health maintenance organization.

(iii) A health maintenance organization accepting an enrollee of an insolvent health maintenance organization under Subsection (2)(e)(i) shall charge the enrollee the premiums applicable to the existing business of the accepting health maintenance organization.

(iv) A health maintenance organization's obligation to accept an enrollee under Subsection (2)(e)(i) is limited in number to the accepting health maintenance organization's pro rata share of all health maintenance organization enrollees in this state, as determined after excluding the enrollees of the insolvent insurer.

(v) (A) The rehabilitator or liquidator of an insolvent health maintenance organization shall take those measures that are possible to ensure that no health maintenance organization is required to accept more than its pro rata share of the adverse risk represented by the enrollees of the insolvent health maintenance organization.

(B) If the methodology used by the rehabilitator or liquidator to assign an enrollee is one that can be expected to produce a reasonably equitable distribution of adverse risk, that methodology and its results are acceptable under this Subsection (2)(e)(v).

(vi) (A) Notwithstanding Section 31A-27a-402, the rehabilitator or liquidator may require all solvent health maintenance organizations to pay for the covered claims incurred by the enrollees of the insolvent health maintenance organization.

(B) As determined by the rehabilitator or liquidator, payments required under this Subsection (2)(e)(vi) may:

(I) begin as of the day on which the following is filed:

(Aa) the petition for rehabilitation; or

(Bb) the petition for liquidation; and

(II) continue for a maximum period through the time all enrollees are assigned pursuant to this section.

(C) If the rehabilitator or liquidator makes an assessment under this Subsection (2)(e)(vi), the rehabilitator or liquidator shall assess each solvent health maintenance organization its pro rata share of the total assessment based upon its premiums from the previous calendar year.

(D) (I) A solvent health maintenance organization required to pay for covered claims under this Subsection (2)(e)(vi) may file a claim against the estate of the insolvent health maintenance organization.

(II) Any claim described in Subsection (2)(e)(vi)(D)(I), if allowed by the rehabilitator or liquidator, shall share in any distributions from the estate of the insolvent health maintenance organization as a Class 3 claim.

(f) (i) A rehabilitator or liquidator may transfer, through sale or otherwise, the group and individual health care obligations of the insolvent managed care organization to one or more other managed care organizations or other insurers, if those other managed care organizations and other insurers:

(A) are licensed to provide the same health care services in this state that are held by the insolvent managed care organization; or

(B) have a certificate of authority to provide the same health care services in this state that is held by the insolvent managed care organization.

(ii) The rehabilitator or liquidator may combine group and individual health care obligations of the insolvent managed care organization in any manner the rehabilitator or liquidator considers best to provide for continuous health care coverage for the maximum number of enrollees of the insolvent managed care organization.

(iii) If the terms of a proposed transfer of the same combination of group and individual policy obligations to more than one other managed care organization or insurer are otherwise equal, the rehabilitator or liquidator shall give preference to the transfer of the group and individual policy obligations of an insolvent managed care organization as follows:

(A) from one category of managed care organization to another managed care organization of the same category, as follows:

(I) from a limited health plan to a limited health plan;

(II) from a health maintenance organization to a health maintenance organization;

(III) from a preferred provider organization to a preferred provider organization;

(IV) from a fraternal benefit society to a fraternal benefit society; and

(V) from an entity similar to an entity described in this Subsection (2)(f)(iii)(A) to a category that is similar;

(B) from one category of managed care organization to another managed care organization, regardless of the category of the transferee managed care organization; and

(C) from a managed care organization to a nonmanaged care provider of health care coverage, including insurers.

(g) If an insolvent managed care organization has required surplus, a rehabilitator or liquidator may use the insolvent managed care organization's required surplus to continue to provide coverage for the insolvent managed care organization's enrollees, including paying uncovered expenditures.

Section 3. Section 31A-27a-701 is amended to read:

31A-27a-701. Priority of distribution.

(1) (a) The priority of payment of distributions on unsecured claims shall be in accordance with the order in which each class of claim is set forth in this section except as provided in Section 31A-27a-702.

(b) All claims in each class shall be paid in full or adequate funds retained for the claim's payment before a member of the next class receives payment.

(c) All claims within a class shall be paid substantially the same percentage.

(d) Except as provided in Subsections (2)(a)(i)(E), (2)(k), and (2)(m), subclasses may not be established within a class.

(e) A claim by a shareholder, policyholder, or other creditor may not be permitted to circumvent the priority classes through the use of equitable remedies.

(2) The order of distribution of claims shall be as follows:

(a) a Class 1 claim, which:

(i) is a cost or expense of administration expressly approved or ratified by the liquidator, including the following:

(A) the actual and necessary costs of preserving or recovering the property of the insurer;

(B) reasonable compensation for all services rendered on behalf of the administrative supervisor or receiver;

(C) a necessary filing fee;

(D) the fees and mileage payable to a witness;

(E) an unsecured loan obtained by the receiver, which:

(I) unless its terms otherwise provide, has priority over all other costs of administration; and

(II) absent agreement to the contrary, shares pro rata with all other claims described in this Subsection (2)(a)(i)(E); and

(F) an expense approved by the rehabilitator of the insurer, if any, incurred in the course of the rehabilitation that is unpaid at the time of the entry of the order of liquidation; and

(ii) except as expressly approved by the receiver, excludes any expense arising from a duty to

indemnify a director, officer, or employee of the insurer which expense, if allowed, is a Class 7 claim;

(b) a Class 2 claim, which:

(i) is a reasonable expense of a guaranty association, including overhead, salaries, or other general administrative expenses allocable to the receivership such as:

(A) an administrative or claims handling expense;

(B) an expense in connection with arrangements for ongoing coverage; and

(C) in the case of a property and casualty guaranty association, a loss adjustment expense, including:

(I) an adjusting or other expense; and

(II) a defense or cost containment expense; and

(ii) excludes an expense incurred in the performance of duties under Section 31A-28-112 or similar duties under the statute governing a similar organization in another state;

(c) a Class 3 claim, which:

(i) is:

(A) a claim under a policy of insurance including a third party claim;

(B) a claim under an annuity contract or funding agreement;

(C) a claim under a nonassessable policy for unearned premium;

(D) a claim of an obligee and, subject to the discretion of the receiver, a completion contractor under a surety bond or surety undertaking, except for:

(I) a bail bond;

(II) a mortgage guaranty;

(III) a financial guaranty; or

(IV) other form of insurance offering protection against investment risk or warranties;

(E) a claim by a principal under a surety bond or surety undertaking for wrongful dissipation of collateral by the insurer or its agents;

(F) an indemnity payment on:

(I) a covered claim; or

(II) for a delinquency proceeding under this chapter that is initiated before May 8, 2018, a payment for the continuation of coverage made by an entity responsible for the payment of a claim or continuation of coverage of an insolvent health maintenance organization;

(G) a claim for unearned premium;

(H) a claim incurred during the extension of coverage provided for in Sections 31A-27a-402 and 31A-27a-403; or

(I) all other claims incurred in fulfilling the statutory obligations of a guaranty association not included in Class 2, including:

(I) an indemnity payment on covered claims; and
 (II) in the case of a life and health guaranty association, a claim:

(Aa) as a creditor of the impaired or insolvent insurer for a payment of and liabilities incurred on behalf of a covered claim or covered obligation of the insurer; and

(Bb) for the funds needed to reinsure the obligations described under this Subsection (2)(c)(i)(I)(II) with a solvent insurer; and

(ii) notwithstanding any other provision of this chapter, excludes the following which shall be paid under Class 7, except as provided in this section:

(A) an obligation of the insolvent insurer arising out of a reinsurance contract;

(B) an obligation that is incurred pursuant to an occurrence policy or reported pursuant to a claims made policy after:

(I) the expiration date of the policy;

(II) the policy is replaced by the insured;

(III) the policy is canceled at the insured's request; or

(IV) the policy is canceled as provided in this chapter;

(C) an obligation to an insurer, insurance pool, or underwriting association and the insurer's, insurance pool's, or underwriting association's claim for contribution, indemnity, or subrogation, equitable or otherwise, except for direct claims under a policy where the insurer is the named insured;

(D) an amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy, which shall be paid as a claim in Class 9;

(E) a tort claim of any kind against the insurer;

(F) a claim against the insurer for bad faith or wrongful settlement practices; and

(G) a claim of a guaranty association for assessments not paid by the insurer, which claims shall be paid as claims in Class 7; and

(iii) notwithstanding Subsection (2)(c)(ii)(B), does not exclude an unearned premium claim on a policy, other than a reinsurance agreement;

(d) a Class 4 claim, which is a claim under a policy for mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risk or warranties;

(e) a Class 5 claim, which is a claim of the federal government not included in Class 3 or 4;

(f) a Class 6 claim, which is a debt due an employee for services or benefits:

(i) to the extent that the expense:

(A) does not exceed the lesser of:

(I) \$5,000; or

(II) two months' salary; and

(B) represents payment for services performed within one year before the day on which the initial order of receivership is issued; and

(ii) which priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees;

(g) a Class 7 claim, which is a claim of an unsecured creditor not included in Classes 1 through 6, including:

(i) a claim under a reinsurance contract;

(ii) a claim of a guaranty association for an assessment not paid by the insurer; and

(iii) other claims excluded from Class 3 or 4, unless otherwise assigned to Classes 8 through 13;

(h) subject to Subsection (3), a Class 8 claim, which is:

(i) a claim of a state or local government, except a claim specifically classified elsewhere in this section; or

(ii) a claim for services rendered and expenses incurred in opposing a formal delinquency proceeding;

(i) a Class 9 claim, which is a claim for penalties, punitive damages, or forfeitures, unless expressly covered under the terms of a policy of insurance;

(j) a Class 10 claim, which is, except as provided in Subsections 31A-27a-601(2) and 31A-27a-601(3), a late filed claim that would otherwise be classified in Classes 3 through 9;

(k) subject to Subsection (4), a Class 11 claim, which is:

(i) a surplus note;

(ii) a capital note;

(iii) a contribution note;

(iv) a similar obligation;

(v) a premium refund on an assessable policy; or

(vi) any other claim specifically assigned to this class;

(l) a Class 12 claim, which is a claim for interest on an allowed claim of Classes 1 through 11, according to the terms of a plan to pay interest on allowed claims proposed by the liquidator and approved by the receivership court; and

(m) subject to Subsection (4), a Class 13 claim, which is a claim of a shareholder or other owner arising out of:

(i) the shareholder's or owner's capacity as shareholder or owner or any other capacity; and

(ii) except as the claim may be qualified in Class 3, 4, 7, or 12.

(3) To prove a claim described in Class 8, the claimant shall show that:

(a) the insurer that is the subject of the delinquency proceeding incurred the fee or expense on the basis of the insurer's best knowledge, information, and belief:

(i) formed after reasonable inquiry indicating opposition is in the best interests of the insurer;

(ii) that is well grounded in fact; and

(iii) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(b) opposition is not pursued for any improper purpose, such as to harass, to cause unnecessary delay, or to cause needless increase in the cost of the litigation.

(4) (a) A claim in Class 11 is subject to a subordination agreement related to other claims in Class 11 that exist before the entry of a liquidation order.

(b) A claim in Class 13 is subject to a subordination agreement, related to other claims in Class 13 that exist before the entry of a liquidation order.

Section 4. Section 31A-27a-702 is amended to read:

31A-27a-702. Health maintenance organization claims.

(1) ~~[1a]~~ For a delinquency proceeding under this chapter that is initiated before May 8, 2018, in the liquidation of a health maintenance organization, a claim for uncovered expenditures has priority over a Class 3 claim as provided for in Section 31A-27a-701.

(2) A claim other than one described in Subsection (1) shall follow the priority of distribution outlined in Section 31A-27a-701.

Section 5. Section 31A-28-102 is amended to read:

31A-28-102. Purpose.

(1) The purpose of this part is to protect, subject to certain limitations, the persons specified in ~~[Subsection]~~ Subsections 31A-28-103(1) through (5) against failure in the performance of contractual obligations, under a life ~~[and]~~ insurance, accident and health insurance ~~[policy]~~, or annuity policy or contract specified in ~~[Subsection]~~ Subsections 31A-28-103~~(2)~~(6) and (7), because of the impairment or insolvency of the member insurer that issued the policy or contract.

(2) To provide the protection described in Subsection (1):

(a) the Utah Life and Health Insurance Guaranty Association, which currently exists, is continued to pay benefits and to continue coverages as limited by this part; and

(b) members of the association are subject to assessment to provide funds to carry out the purpose of this part.

Section 6. Section 31A-28-103 is amended to read:

31A-28-103. Coverage and limitations.

(1) ~~[(a)]~~ This part provides coverage for a policy or contract specified in ~~[Subsection (2)]~~ Subsections (6) and (7) to a person who is:

~~[(4)]~~ (a) ~~except for a nonresident certificate holder under a group policy or contract, a beneficiary, assignee, or payee of a person covered by Subsection [(1)(a)(iii)] (1)(b), including a health care provider rendering services covered under an accident and health insurance policy or certificate, regardless of where that person resides~~, ~~except for a nonresident certificate holder under a group policy or contract~~; or

~~[(ii)]~~ (b) an owner of or a certificate holder or enrollee under a policy or contract, other than an unallocated annuity contract or structured settlement annuity, if the owner, enrollee, or certificate holder is:

~~[(A)]~~ (i) a resident of Utah; or

~~[(B)]~~ (ii) not a resident of Utah, but only if:

~~[(4)]~~ (A) the member insurer that issued the policy or contract is domiciled in this state;

~~[(4)]~~ (B) the state in which the person resides has an association similar to the association created by this part; and

~~[(4)]~~ (C) the person is not eligible for coverage by an association in any other state because the insurer was not licensed in the ~~[state]~~ other states at the time specified in the ~~[state's]~~ other states' guaranty association's ~~[law]~~ laws.

~~[(b)]~~ (2) For an unallocated annuity contract specified in ~~[Subsection (2)]~~ Subsections (6) and (7):

~~[(4)]~~ (a) Subsection (1)~~[(a)]~~ does not apply; and

~~[(ii)]~~ (b) except as provided in Subsections ~~[(1)(d) and (1)(e)]~~ (4) and (5), this part provides coverage for the unallocated annuity contract specified in Subsection (2) to a person who is:

~~[(A)]~~ (i) the owner of the unallocated annuity contract if the contract is issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; ~~[and]~~ or

~~[(B)]~~ (ii) an owner of an unallocated annuity contract issued to or in connection with a government lottery if the owner is a resident.

~~[(e)]~~ (3) For a structured settlement annuity specified in ~~[Subsection (2)]~~ Subsections (6) and (7):

~~[(4)]~~ (a) Subsection (1)~~[(a)]~~ does not apply; and

~~[(ii)]~~ (b) except as provided in Subsections ~~[(1)(d) and (1)(e)]~~ (4) and (5), this part provides coverage for the structured settlement annuity specified in ~~[Subsection (2)]~~ Subsections (6) and (7) to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

~~[(A)]~~ (i) is a resident, regardless of where the contract owner resides; ~~[(e)]~~

~~[(B)]~~ (ii) is not a resident, but only if one or more of the contract owners of the structured settlement annuity is a resident, and the payee, beneficiary, or contract owner is not eligible for coverage by the association of the state in which the payee or contract owner resides; or

(iii) is not a resident, but only if:

(A) no contract owner of the structured settlement annuity is a resident~~[-, but:];~~

~~[(F)]~~ (B) the insurer that issued the structured settlement annuity is domiciled in this state;

~~[(H)]~~ (C) the state in which the contract owner resides has an association similar to the association created by this part; and

~~[(H)]~~ (D) the payee, beneficiary, or the contract owner is not eligible for coverage by the association of the state in which the payee or contract owner resides.

~~[(d)]~~ (4) This part may not provide coverage for a policy or contract specified in ~~[Subsection (2) to]~~ Subsections (6) and (7) to a person who:

~~[(i)]~~ (a) ~~[a person who]~~ is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state; ~~[or]~~

~~[(ii)]~~ (b) ~~[a person]~~ is covered under Subsection ~~[(1)(b)]~~ (2), if any coverage is provided to the person by the association of another state~~[-];~~ or

(c) acquires rights to receive payments through a structured settlement factoring transaction, regardless of whether the transaction occurred before or after 26 U.S.C. Sec. 5891(c)(3)(A) became effective.

~~[(e)-(i)]~~ (5) (a) This part provides coverage for a policy or contract specified in ~~[Subsection (2)]~~ Subsections (6) and (7) to a person who is a resident of this state and, in special circumstances, to a nonresident.

~~[(ii)]~~ (b) To avoid duplicate coverage, if a person who would otherwise receive coverage under this part is provided coverage under the laws of any other state, the person may not be provided coverage under this part.

~~[(iii)]~~ (c) In determining the application of this Subsection ~~[(1)(e)]~~ (5) when a person could be covered by the association of more than one state, whether as an owner, payee, enrollee, beneficiary, or assignee, this part shall be construed in conjunction with other state laws to result in coverage by only one association.

~~[(2)(a)-(i)]~~ (6) (a) Except as limited by this part, this part provides coverage to a person specified in ~~[Subsection (1)]~~ Subsections (1) through (5) for:

~~[(A)]~~ (i) a direct~~[-]~~, nongroup life insurance, direct accident and health insurance, or direct annuity policy or contract;

~~[(B)]~~ (ii) a supplemental contract to a policy or contract described in Subsection ~~[(2)(a)(i)(A)]~~ (6)(a)(i);

~~[(C)]~~ (iii) a certificate under a direct group policy or contract; and

~~[(D)]~~ (iv) an unallocated annuity contract issued by a member insurer.

~~[(ii)]~~ (b) For purposes of Subsection ~~[(2)(a)(i)]~~ (6)(a), an annuity contract and a certificate under a group annuity contract includes:

~~[(A)]~~ (i) a guaranteed investment contract;

~~[(B)]~~ (ii) a deposit administration contract;

~~[(C)]~~ (iii) an unallocated funding agreement;

~~[(D)]~~ (iv) an allocated funding agreement;

~~[(E)]~~ (v) a structured settlement annuity;

~~[(F)]~~ (vi) an annuity issued to or in connection with a government lottery; and

~~[(G)]~~ (vii) an immediate or deferred annuity contract.

~~[(b)]~~ (7) This part does not provide coverage for:

~~[(i)]~~ (a) a portion of a policy or contract:

~~[(A)]~~ (i) not guaranteed by the member insurer; or

~~[(B)]~~ (ii) under which the risk is borne by the policy or contract owner;

~~[(ii)]~~ (b) a policy or contract of reinsurance, unless:

~~[(A)]~~ (i) an assumption certificate is issued before the coverage date;

~~[(B)]~~ (ii) the assumption certificate required by Subsection ~~[(2)(b)(ii)(A)]~~ (7)(b)(i) is in effect pursuant to the reinsurance policy or contract; and

~~[(C)]~~ (iii) the reinsurance contract is approved by the appropriate regulatory authorities;

~~[(iii)]~~ (c) except as provided in Subsection (11)(e), a portion of a policy or contract to the extent that the rate of interest on which ~~[(it)]~~ the policy or contract is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value~~[-]~~, if the interest rate, crediting rate, or similar factor exceeds:

~~[(A)]~~ is not excluded from coverage by Subsection ~~[(2)(b)(xi)]~~;

~~[(B)]~~ averaged over the period of four years before the date on which the association becomes obligated with respect to the policy or contract, exceeds]

(i) a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged:

~~[(1)]~~ for that same four-year period; or]

(A) over the period of four years before the coverage date with respect to the policy or contract; or

~~[(H)]~~ (B) for the corresponding lesser period if the policy or contract was issued less than four years before the association became obligated; ~~and~~ or

~~[(C)]~~ (ii) ~~exceeds the~~ a rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available as determined on or after the earlier of ~~[the day on which the member insurer becomes]~~:

~~[(F)]~~ (A) the day on which the member insurer becomes an impaired insurer ~~[under this part]~~; or

~~[(H)]~~ (B) the day on which the member insurer becomes an insolvent insurer ~~[under this part]~~;

~~[(iv)]~~ (d) a portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, accident and health, or annuity benefits to its employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or other person under:

~~[(A)]~~ (i) a multiple employer welfare arrangement, as that term is defined in 29 U.S.C. Sec. ~~[1144]~~ 1002;

~~[(B)]~~ (ii) a minimum premium group insurance plan;

~~[(C)]~~ (iii) a stop-loss group insurance plan; or

~~[(D)]~~ (iv) an administrative services only contract;

~~[(v)]~~ (e) a portion of a policy or contract to the extent that it provides:

~~[(A)]~~ (i) a dividend;

~~[(B)]~~ (ii) an experience rating credit;

~~[(C)]~~ (iii) voting rights; or

~~[(D)]~~ (iv) payment of a fee or allowance to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

~~[(vi)]~~ (f) an unallocated annuity contract issued to or in connection with a benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payment with respect to the benefit plan;

~~[(vii)]~~ (g) a portion of an unallocated annuity contract that is not issued to or in connection with:

~~[(A)]~~ (i) a specific benefit plan of:

~~[(F)]~~ (A) employees;

~~[(H)]~~ (B) a union; or

~~[(H)]~~ (C) an association of natural persons; or

~~[(B)]~~ (ii) a government lottery;

~~[(viii)]~~ (h) a portion of a policy or contract to the extent that the assessment required by Section

31A-28-109 that applies to the policy or contract is preempted by federal or state law;

~~[(ix)]~~ (i) an obligation that does not arise under the express written terms of the policy or contract issued by ~~an~~ a member insurer to the enrollee, certificate holder, contract owner, or policy owner, including:

~~[(A)]~~ (i) a claim based on marketing materials;

~~[(B)]~~ (ii) a claim based on a side letter, rider, or other document that is issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;

~~[(C)]~~ (iii) a misrepresentation regarding a policy or contract benefit;

~~[(D)]~~ (iv) an extra-contractual claim;

~~[(E)]~~ (v) a claim for penalties; or

~~[(F)]~~ (vi) a claim for consequential or incidental damages;

~~[(x)]~~ (j) a contract that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by a person that is:

~~[(A)-(D)]~~ (i) (A) the benefit plan; or

~~[(H)]~~ (B) the benefit plan's trustee; and

~~[(B)]~~ (ii) not an affiliate of the member insurer;

~~[(xi)]~~ (k) a portion of a policy or contract to the extent it provides for interest or other changes in value:

~~[(A)]~~ (i) to be determined by the use of an index or other external reference stated in the policy or contract; and

(ii) as of the date the member insurer becomes an impaired or insolvent insurer, whichever occurs earlier;

~~[(B)-(D)]~~ (A) that have not been credited to the policy or contract; or

~~[(H)]~~ (B) as to which the policy or contract owner's rights are subject to forfeiture ~~[as of the date the member insurer becomes an impaired or insolvent insurer under this part; and]~~;

~~[(xii)]~~ (l) a policy or contract providing hospital, medical, prescription drug, or other health care benefit pursuant to ~~[United States Code, Title 42, Subchapter XVIII, Chapter 7, Part C or D, or federal regulations issued under Part C or D.]~~:

(i) Part C or D of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.; or

(ii) Title XIX of the Social Security Act, 42 U.S.C. Sec. 1396 et seq.; or

(m) a structured settlement annuity benefit to which a payee or beneficiary has transferred the payee or beneficiary's rights in a structured settlement factoring transaction, regardless of whether the transaction occurred before or after 26 U.S.C. Sec. 5891(c)(3)(A) became effective.

~~[(3)] (8) [Subject to Subsection (4), the] The~~ benefits for which the association may become liable may not exceed the lesser of:

(a) the contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) with respect to one life, regardless of the number of policies or contracts:

(i) for a life insurance policy:

(A) if the insured died before the coverage date, \$500,000 of the death benefit;

(B) if the insurer received a valid request for cash surrender before the coverage date but has not paid the cash surrender value before the coverage date, \$200,000 of cash surrender benefits; or

(C) if neither Subsection ~~[(3)] (8)(b)(i)(A)~~ nor (B) ~~[apply]~~ applies, the covered portion of each benefit provided under the policy;

(ii) for an annuity contract, the covered portion of each benefit provided under the contract; and

(iii) for an accident and health insurance policy or contract:

(A) classified as ~~[health insurance]~~ a health benefit plan, \$500,000; or

(B) not classified as ~~[health insurance]~~ a health benefit plan, the covered portion of each benefit provided under the policy;

(c) for an individual ~~[, or a beneficiary of that individual if the individual is deceased,]~~ participating in a governmental retirement plan established under Section 401, 403(b), or 457, Internal Revenue Code, covered by an unallocated annuity contract, ~~[in the aggregate]~~ or a beneficiary of that individual if the individual is deceased, \$250,000 in present value of annuity benefits, in the aggregate, including:

(i) net cash surrender; and

(ii) net cash withdrawal values; or

(d) for a payee of a structured settlement annuity or a beneficiary of the payee if the payee is deceased, the limits set forth in Subsection ~~[(3)] (8)(b)~~.

~~[(4)] (9) Notwithstanding [Subsections (3)(a) through (d)] Subsection (8), the association may not be obligated to cover more than:~~

(a) an aggregate of \$500,000 in benefits for any one life under:

(i) Subsection ~~[(3)] (8)(b)(i)(A)~~;

(ii) Subsection ~~[(3)] (8)(b)(i)(B)~~;

(iii) Subsection ~~[(3)] (8)(b)(ii)~~; and

(iv) Subsection ~~[(3)] (8)(b)(iii)(B)~~;

(b) \$5,000,000 in benefits for one owner of multiple nongroup policies of life insurance:

(i) whether the policy or contract owner is an individual, firm, corporation, or other person;

(ii) whether the persons insured are officers, managers, employees, or other persons; and

(iii) regardless of the number of policies and contracts held by the owner; and

(c) \$5,000,000 in benefits, regardless of the number of contracts held by the contract owner or plan sponsor, for:

(i) one contract owner provided coverage under Subsection ~~[(4)(b)(ii)(B)] (2)(b)(ii)~~; or

(ii) one plan sponsor whose plans own, directly or in trust, one or more unallocated annuity contracts not included in Subsection ~~[(3)] (8)(b)(ii)~~.

~~[(5)] (10) (a) Notwithstanding Subsection [(4)] (9)(c) and except as provided in Subsection [(5)] (10)(b), the association shall provide coverage if one or more unallocated annuity contracts are:~~

(i) covered contracts under this part;

(ii) owned by a trust or other entity for the benefit of two or more plan sponsors; and

(iii) the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in the state.

(b) ~~[Notwithstanding Subsection (5)(a) the] The~~ association may not be obligated to cover more than \$5,000,000 in benefits with respect to the unallocated contracts described in Subsection ~~[(5)] (10)(a)~~.

~~[(6)] (11) (a) The limitations set forth in Subsections [(3) and (4)] (8) and (9) are limitations on the benefits for which the association is obligated before taking into account:~~

(i) the association's subrogation and assignment rights; or

(ii) the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies.

(b) The costs of the association's obligations under this part may be met by the use of assets:

(i) attributable to covered policies, as described in Subsection 31A-28-114(3)(c); or

(ii) reimbursed to the association pursuant to the association's subrogation and assignment rights.

~~[(c) On and after the date on which the association becomes obligated for a covered policy, the association may not be obligated to provide benefits to the extent that the benefits are based on an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value if the interest rate, crediting rate, or similar factor exceeds the rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available on each date on which interest is credited or attributed to the covered policy.]~~

(c) Benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be

considered the same type of benefits as the base life insurance policy or annuity contract to which the long-term care rider relates.

(d) In performing its obligations to provide coverage under Section 31A-28-108, the association may not be required to guarantee, assume, reinsure, reissue, perform, or cause to be guaranteed, assumed, reinsured, reissued, or performed a contractual obligation of the insolvent or impaired insurer under a covered policy or contract that does not materially affect the economic values or economic benefits of the covered policy or contract.

(e) The exclusion from coverage described in Subsection (7)(c) does not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other accident and health insurance benefit.

Section 7. Section 31A-28-105 is amended to read:

31A-28-105. Definitions.

As used in this part:

(1) "Association" means the Utah Life and Health Insurance Guaranty Association continued under Section 31A-28-106.

(2) (a) "Authorized assessment" or "authorized," when used in the context of assessments, means that the board of directors passed a resolution [whereby] by which an assessment will be called immediately or in the future from member insurers for an amount [set forth] specified in the resolution.

(b) An assessment is authorized when the resolution is passed.

(3) "Benefit plan" means a specific benefit plan of:

(a) employees;

(b) a union; or

(c) an association of natural persons.

(4) "Board of directors" means the board of directors established under Section 31A-28-107.

[4] (5) (a) "Called assessment" or "called," when used in the context of assessments, means that the association issued a notice to member insurers requiring that an authorized assessment be paid within the time frame set forth in the notice.

(b) All or part of an authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

[5] (6) "Cash surrender value" means the cash surrender value without reduction for an outstanding policy loan or surrender charge.

[6] (7) "Contractual obligation" means an obligation under any of the following for which coverage is provided under Section 31A-28-103:

(a) a policy or contract;

(b) a certificate under a group policy or contract; or

(c) a portion of a policy or contract.

[7] (8) "Coverage date" means the date on which the association becomes responsible for the obligations of a member insurer.

[8] (9) "Covered policy" or "covered contract" means any of the following for which coverage is provided in Section 31A-28-103:

(a) a policy or contract; or

(b) a portion of a policy or contract.

[9] (10) (a) "Covered portion" means:

(i) for a covered policy that has a cash surrender value, a fraction calculated with:

(A) the numerator being the lesser of:

(I) (Aa) \$200,000 for a life insurance policy; ~~and~~ or

(Bb) \$250,000 for a covered policy that is not a life insurance policy; or

(II) the cash surrender value of the policy; and

(B) the denominator being the cash surrender value of the policy; and

(ii) for a covered policy that does not have a cash surrender value, a fraction calculated with:

(A) the numerator being the lesser of:

(I) (Aa) \$200,000 for a life insurance policy; ~~or~~ and

(Bb) \$250,000 for a covered policy that is not a life insurance policy; or

(II) the policy's minimum statutory reserve; and

(B) the denominator being the policy's minimum statutory reserve.

(b) [The] For purposes of this Subsection (10)(b), the cash surrender value and the minimum statutory reserve are determined as of the coverage date in accordance with the exclusions in Subsection 31A-28-103~~(2)(b)(iii)~~(7)(c).

[10] (11) "Extra-contractual claim" includes a claim relating to:

(a) bad faith in the payment of a claim;

(b) punitive or exemplary damages; or

(c) attorney fees and costs.

[11] (12) "Impaired insurer" means a member insurer that is not an insolvent insurer and:

(a) is considered by the commissioner to be hazardous pursuant to this title; or

(b) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

[12] (13) "Insolvent insurer" means a member insurer that is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

~~[(13)]~~ (14) (a) “Member insurer” means an insurer that holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under Section 31A-28-103.

(b) “Member insurer” includes an insurer whose license or certificate of authority in this state may have been:

- (i) suspended;
- (ii) revoked;
- (iii) not renewed; or
- (iv) voluntarily withdrawn.

(c) “Member insurer” does not include:

- (i) a for-profit or nonprofit:
 - (A) hospital;
 - (B) hospital service organization; or
 - (C) medical service organization;

~~[(ii)]~~ ~~(ii)~~ a health maintenance organization;]

~~[(iii)]~~ ~~(ii)~~ a fraternal benefit society;

~~[(iv)]~~ ~~(iii)~~ a mandatory state pooling plan;

~~[(v)]~~ ~~(iv)~~ a mutual assessment company or other person that operates on an assessment basis;

~~[(vi)]~~ ~~(v)~~ an insurance exchange;

~~[(vii)]~~ ~~(vi)~~ an organization described in Subsection 31A-22-1305(2); or

~~[(viii)]~~ ~~(vii)~~ an entity similar to an entity described in Subsections ~~[(13)]~~ (14)(c)(i) through ~~[(vii)]~~ (vi).

~~[(14)]~~ (15) “Moody’s Corporate Bond Yield Average” means the Monthly Average Corporates as published by Moody’s Investors Service, Inc., or any successor to Moody’s Investors Service, Inc.

~~[(15)]~~ (16) (a) “Owner” of a policy or contract, “policyholder,” “policy owner,” or “contract owner” means a person who:

- (i) is identified as the legal owner under the terms of the policy or contract; or
- (ii) is otherwise vested with legal title to the policy or contract through a valid assignment:

(A) completed in accordance with the terms of the policy or contract; and

(B) properly recorded as the owner on the books of the insurer.

(b) “Owner,” “policyholder,” “policy owner,” or “contract owner” does not include a person with only a beneficial interest in a policy or contract.

~~[(16)]~~ “Person” means:

~~[(a)]~~ an individual;

~~[(b)]~~ a corporation;

~~[(c)]~~ a limited liability company;

~~[(d)]~~ a partnership;

~~[(e)]~~ an association;

~~[(f)]~~ a governmental body or entity;

~~[(g)]~~ a trust; or

~~[(h)]~~ a voluntary organization.

~~[(17)]~~ “Plan sponsor” means:

~~[(a)]~~ the employer, in the case of a benefit plan established or maintained by a single employer;

~~[(b)]~~ the employee organization, in the case of a benefit plan established or maintained by an employee organization; or

~~[(c)]~~ the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain a benefit plan, in the case of a benefit plan established or maintained by:

~~[(i)]~~ two or more employers; or

~~[(ii)]~~ jointly by:

~~[(A)]~~ one or more employers; and

~~[(B)]~~ one or more employee organizations.

~~[(18)]~~ (17) (a) [~~“Premiums”~~] Notwithstanding Section 31A-1-301, “premiums” means an amount or consideration received on covered policies or contracts, less:

(i) returned:

(A) premiums;

(B) considerations; and

(C) deposits; and

(ii) dividends and experience credits.

(b) (i) “Premiums” does not include an amount or consideration received for:

(A) a policy or contract for which coverage is not provided under ~~[Subsection 31A-28-103(2)]~~ Subsections 31A-28-103(6) and (7); or

(B) the portion of a policy or contract for which coverage is not provided under ~~[Subsection 31A-28-103(2)]~~ Subsections 31A-28-103(6) and (7).

(ii) Notwithstanding Subsection ~~[(18)]~~ (17)(b)(i), an assessable premium may not be reduced on account of:

(A) Subsection 31A-28-103~~[(2)]~~~~[(b)]~~~~[(iii)]~~~~[(7)]~~(c) relating to interest limitations; ~~[and]~~ or

(B) Subsection 31A-28-103~~[(3)]~~~~[(8)]~~ relating to limitations for:

(I) one individual;

(II) any one participant; ~~[and]~~ or

(III) any one policy or contract owner.

(c) “Premiums” does not include premiums in excess of \$5,000,000:

(i) on an unallocated annuity contract not issued under a governmental retirement plan established

under Section 401, 403(b), or 457, Internal Revenue Code; or

(ii) for multiple nongroup policies of life insurance owned by one owner:

(A) whether the policy or contract owner is an individual, firm, corporation, or other person;

(B) whether the persons insured are officers, managers, employees, or other persons; and

(C) regardless of the number of policies or contracts held by the owner.

~~[(19)]~~ (18) (a) ~~[Except as provided in Subsection (19)(b), “principal”~~ “Principal place of business” of a plan sponsor or a person other than a natural person means the single state:

(i) in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise the function; and

(ii) determined by the association in its reasonable judgment by considering the following factors:

(A) the state in which the primary executive and administrative headquarters of the entity are located;

(B) the state in which the principal office of the chief executive officer of the entity is located;

(C) the state in which the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(D) the state in which the executive or management committee of the board of directors, or similar governing person, of the entity conducts the majority of its meetings;

(E) the state from which the management of the overall operations of the entity is directed; and

(F) in the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors described in Subsections ~~[(19)]~~ (18)(a)(ii)(A) through (E).

(b) Notwithstanding Subsection ~~[(19)]~~ (18)(a), in the case of a plan sponsor, if more than 50% of the participants in the benefit plan are employed in a single state, the state where more than 50% of the participants are employed is considered to be the principal place of business of the plan sponsor.

(c) (i) The principal place of business of a plan sponsor of a benefit plan ~~[described in Subsection (3)]~~ is considered to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(ii) If ~~[for a benefit plan described in Subsection (3)]~~ there is not a specific or clear designation of a principal place of business under Subsection ~~[(19)]~~ (18)(c)(i) for a benefit plan, the principal place of

business is considered to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan.

~~[(20)]~~ (19) “Receiver” means, as the context requires:

(a) a rehabilitator;

(b) a liquidator;

(c) an ancillary receiver; or

(d) a conservator.

~~[(21)]~~ (20) “Receivership court” means the court in the insolvent or impaired insurer’s state having jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer.

~~[(22)]~~ (21) (a) “Resident” means a person:

(i) to whom a contractual obligation is owed; and

(ii) who resides in this state on the earlier of the date a member insurer is an:

(A) impaired insurer; or

(B) insolvent insurer.

(b) A person may be a resident of only one state, which in the case of a person other than a natural person is where its principal place of business is located.

(c) A citizen of the United States that is either a resident of a foreign country or a resident of a United States possession, territory, or protectorate that does not have an association similar to the association created by this part, is considered a resident of the state of domicile of the member insurer that issued the policy or contract.

~~[(23) “State” means:]~~

~~[(a) a state;]~~

~~[(b) the District of Columbia;]~~

~~[(c) Puerto Rico; and]~~

~~[(d) a United States possession, territory, or protectorate.]~~

~~[(24)]~~ (22) “Structured settlement annuity” means an annuity purchased to fund periodic payments for a plaintiff or other claimant in payment for personal injury suffered by the plaintiff or other claimant.

(23) “Structured settlement factoring transaction” means the same as that term is defined in 26 U.S.C. Sec. 5891(c)(3)(A).

~~[(25)]~~ (24) “Supplemental contract” means a written agreement entered into for the distribution of proceeds under a policy or contract for:

(a) life insurance;

(b) accident and health insurance; or

(c) annuity.

~~[(26)]~~ (25) “Unallocated annuity contract” means an annuity contract or group annuity certificate that is not issued to and owned by an individual,

except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate.

Section 8. Section 31A-28-106 is amended to read:

31A-28-106. Continuation of the association -- Association duties -- Allocation of assessments -- Not agency of state.

(1) (a) There is continued under this part the nonprofit legal entity known as the Utah Life and Health Insurance Guaranty Association created under former provisions of this title.

(b) All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state.

(c) The association shall:

(i) perform its functions under the plan of operation established and approved under Section 31A-28-110; and

(ii) exercise [its] the association's powers through [a] the board of directors [established under Section 31A-28-107].

(d) The association shall allocate assessments among the following classes or subclasses:

(i) the life insurance and annuity class, which includes the following subclasses:

(A) the life insurance subclass;

(B) the annuity subclass:

(I) which includes annuity contracts owned by a governmental retirement plan, or its trustee, established under Section 401, 403(b), or 457, Internal Revenue Code; and

(II) otherwise excludes unallocated annuities; and

(C) the unallocated annuity subclass, which excludes contracts owned by a governmental retirement benefit plan, or its trustee, established under Sections 401, 403(b), or 457, Internal Revenue Code; and

(ii) the accident and health insurance class.

(2) (a) The association shall:

(i) come under the immediate supervision of the commissioner; and

(ii) be subject to the applicable provisions of the insurance laws of this state.

(b) Meetings or records of the association may be opened to the public upon majority vote of the board of directors [of the association].

(3) The association is not an agency of the state.

Section 9. Section 31A-28-107 is amended to read:

31A-28-107. Board of directors.

(1) (a) The board of directors of the association shall consist of:

(i) at least [five] seven but not more than [nine] eleven member insurers who:

(A) [subject to Subsection (1)(e),] serve terms as established in the plan of operation; and

(B) are selected by member insurers, subject to the approval of the commissioner; and

(ii) two public representatives appointed by the commissioner.

(b) (i) The commissioner shall make the appointment of a public representative coincide with the association's annual meeting at which the association's board of directors is elected.

(ii) A public representative may not be:

(A) an officer, director, or employee of an insurer; or

(B) a person engaged in the business of insurance.

(iii) [Subject to Subsection (1)(e), a] A public representative shall serve a term of three years.

(c) When a vacancy occurs in the membership of the board of directors for any reason:

(i) if the vacancy is of a member insurer, a replacement may be elected for the unexpired term by a majority vote of the remaining board members, subject to the approval of the commissioner; and

(ii) if the vacancy is of a public representative, the commissioner shall appoint a replacement for the unexpired term.

(d) In approving a selection or in appointing a member to the board of directors, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(e) Notwithstanding Subsections (1)(a) and (b), the commissioner shall, at the time of election, reelection, appointment, or reappointment adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board of directors is selected during any two-year period.

(2) (a) A member of the board of directors may be reimbursed from the assets of the association for expenses incurred by the member as a member of the board of directors.

(b) A public representative appointed under Subsection (1)(a)(ii) may not receive compensation or benefits for the public representative's service, but in addition to reimbursement under Subsection (2)(a), a public representative may receive per diem and travel expenses established by the board with the approval of the commissioner.

(c) Except as provided in Subsections (2)(a) and (b), a member of the board of directors may not be compensated by the association for the member's services.

Section 10. Section 31A-28-108 is amended to read:

31A-28-108. Powers and duties of the association.

(1) (a) If a member insurer is an impaired insurer, subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, the association may provide the protections provided by this part.

(b) If the association makes the election described in Subsection (1)(a), the association may proceed under one or more of the options described in Subsection (3).

(2) If a member insurer is an insolvent insurer, the association shall provide the protections provided by this part by electing in its discretion to proceed under one or more of the options in Subsection (3).

(3) With respect to the covered portions of covered policies of an ~~impaired or~~ insolvent insurer, the association may:

(a) (i) (A) guaranty, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer; or

(B) assure payment of the contractual obligations of the insolvent insurer; and

(ii) provide the money, pledges, loans, notes, guarantees, or other means as are reasonably necessary to discharge such duties; or

(b) provide benefits and coverages in accordance with Subsection (4).

(4) (a) ~~[In accordance with Subsection (3)(b), the]~~ The association may proceed under Subsection (3)(b) by:

(i) ~~[assure] ensuring payment of benefits [for premiums identical to the premiums and benefits, except for terms of conversion and renewability,] that would have been payable under the policies or contracts of the insurer, for claims incurred:~~

(A) with respect to group policies or contracts:

(I) not later than the earlier of the next renewal date under the policies or contracts or 45 days after the coverage date; and

(II) in no event less than 30 days after the coverage date; or

(B) with respect to nongroup policies or contracts:

(I) not later than the earlier of the next renewal date, if any, under the policies or contracts or one year from the coverage date; and

(II) in no event less than 30 days from the coverage date;

(ii) ~~[make] making diligent efforts to notify the following 30 days before any termination of the benefits that are provided under a policy or contract of the insurer:~~

(A) the known insureds, enrollees, or annuitants for nongroup policies and contracts;

(B) owners if other than an insured, enrollee, or annuitant; or

(C) group policy or contract owners for group policies and contracts; and

(iii) with respect to nongroup ~~[life and accident and health insurance policies and annuities, make] policies and contracts, making available substitute coverage on an individual basis, in accordance with Subsection (4)(b), to each known insured, enrollee, annuitant, or owner and to each individual formerly an insured, enrollee, or [formerly an] annuitant under a group policy or contract who is not eligible for replacement group coverage on an individual basis in accordance with Subsection (4)(b), if the insured, enrollee, or annuitant had a right under law or the terminated policy, contract, or annuity [contract] to:~~

(A) convert coverage to individual coverage; or

(B) continue an individual policy or contract in force until a specified age or for a specified time during which the insurer had:

(I) no right unilaterally to make changes in any provision of the policy or contract; or

(II) a right only to make changes in premium by class of risk.

(b) (i) In providing the substitute coverage required under Subsection (4)(a)(iii), the association may offer to:

(A) reissue the terminated coverage; or

(B) issue an alternative policy or contract at actuarially justified rates.

(ii) An alternative or reissued policy or contract under Subsection (4)(b)(i):

(A) shall be offered without requiring evidence of insurability; and

(B) may not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract.

(iii) The association may reinsure an alternative or reissued policy or contract.

(c) (i) An alternative policy or contract adopted by the association is subject to the approval of the commissioner.

(ii) The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency.

(iii) An alternative policy or contract:

(A) shall contain at least the minimum statutory provisions required in this state; and

(B) provide benefits that are not unreasonable in relation to the premium charged.

(iv) The association shall set the premium for an alternative policy or contract in accordance with a table of rates that the association adopts.

(v) The premium described in Subsection (4)(c)(iv) shall reflect:

(A) the amount of insurance or coverage to be provided; and

(B) the age and class of risk of each insured.

~~[(v)]~~ (vi) For an alternative policy or contract issued under an individual policy or contract of the impaired or insolvent insurer:

(A) age shall be determined in accordance with the original policy or contract provisions; and

(B) class of risk is the class of risk under the original policy or contract.

~~[(vi)]~~ (vii) For an alternative policy or contract issued to individuals insured or covered under a group policy or contract:

(A) age and class of risk shall be determined by the association in accordance with the alternative policy or contract provisions and risk classification standards approved by the commissioner; and

(B) the premium may not reflect any changes in the health of the insured after the original policy or contract was last underwritten.

~~[(vii)]~~ (viii) An alternative policy or contract issued by the association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association.

(d) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the association shall set the premium in a manner that is actuarially justified and in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to the prior approval of the commissioner or by a court of competent jurisdiction.

(e) The association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued or alternative policy or contract ceases on the date the coverage ~~[or]~~, policy, or contract is replaced by another similar coverage, policy, or contract by:

(i) the enrollee;

~~(ii)~~ the owner;

~~[(iii)]~~ (iii) the insured; or

~~[(iii)]~~ (iv) the association.

(f) (i) With respect to a claim unpaid as of the coverage date and ~~[a]~~ an accident and health claim incurred during the period defined in Subsection (4)(a)(i), a provider of health care services, by accepting a payment from the association upon a claim of the provider against an insured or enrollee whose ~~[health care]~~ insurer is an insolvent ~~[member]~~ insurer, agrees to forgive the insured or enrollee of 20% of the debt ~~[which]~~ that otherwise would be paid by the insolvent insurer had ~~[it]~~ the insurer not been insolvent~~[, subject to a maximum of \$8,000 being required to be forgiven by any one provider as to each claimant].~~

(ii) The obligations of a solvent insurer to pay all or part of the covered claim are not diminished by the forgiveness provided for in this section.

(5) When proceeding under Subsection (3)(b) with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with Subsection 31A-28-103~~[(2)(b)(iii)]~~(7)(c).

(6) Nonpayment of premiums within 31 days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association's obligations under the policy, contract, or coverage under this part with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value that may be due in accordance with this part.

(7) (a) Premium due after the coverage date with respect to the covered portion of a policy or contract of an impaired or insolvent insurer belongs to and is payable at the direction of the association. If a liquidator of an insolvent insurer requests the report, the association shall report to the liquidator the premium collected by the association.

(b) The association is liable to a policy or contract owner for unearned premiums due to the policy or contract owner arising after the coverage date with respect to the covered portion of the policy or contract.

(8) The protection provided by this part does not apply if any guaranty protection is provided to residents of this state by laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(9) In carrying out its duties under Subsection (2), and subject to approval by a court in this state, the association may:

(a) impose permanent policy or contract liens in connection with a guarantee, assumption, or reinsurance agreement, if the association finds that:

(i) the amounts that can be assessed under this part are less than the amounts needed to assure full and prompt performance of the association's duties under this part; or

(ii) the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of the permanent policy or contract liens to be in the public interest;

(b) impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value; and

(c) if the receivership court imposes a temporary moratorium or moratorium charge on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims

covered by the association to be paid in accordance with a hardship procedure:

- (i) established by the receiver; and
- (ii) approved by the receivership court.

(10) (a) A special deposit in this state held pursuant to law or required by the commissioner for the benefit of creditors, including policy or contract owners, that is not turned over to the domiciliary receiver upon the entry of a final order of liquidation or order approving a rehabilitation plan of ~~an~~ a member insurer domiciled in any state shall be promptly paid to the association.

(b) Any amount paid under Subsection (10)(a) to the association less the amount retained by the association shall be treated as a distribution of estate assets pursuant to Sections 31A-27a-601, 31A-27a-602, and 31A-27a-701.

(11) If the association fails to act within a reasonable period of time as provided in this section, the commissioner has the powers and duties of the association under this part with respect to an impaired or insolvent insurer.

(12) The association may assist or advise the commissioner, upon the commissioner's request, concerning:

- (a) rehabilitation;
- (b) payment of claims;
- (c) continuance of coverage; or
- (d) the performance of other contractual obligations of any impaired or insolvent insurer.

(13) (a) The association has standing to appear or intervene before a court or agency in this state with jurisdiction over:

(i) an impaired or insolvent insurer concerning which the association is or may become obligated under this part; or

(ii) any person or property against which the association may have rights through subrogation or otherwise.

(b) The standing referred to in Subsection (13)(a) extends to all matters germane to the powers and duties of the association, including:

(i) proposals for reinsuring, reissuing, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer; and

(ii) the determination of the policies or contracts and contractual obligations.

(c) The association has the right to appear or intervene before a court in another state with jurisdiction over:

(i) an impaired or insolvent insurer for which the association is or may become obligated; or

(ii) any person or property against which the association may have rights through subrogation of

the insurer's ~~policyowners~~ policy owners or contract owners.

(14) (a) A person receiving benefits under this part is considered to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to the covered policy or contract to the association to the extent of the benefits received because of this part, whether the benefits are payments of, or on account of:

- (i) contractual obligations;
- (ii) continuation of coverage; or
- (iii) provision of substitute or alternative policies, contracts, or coverages.

(b) As a condition precedent to the receipt of any right or benefits conferred by this part upon that person, the association may require an assignment to it of the rights and causes of action described in Subsection (14)(a) by any:

- (i) payee;
- (ii) policy or contract owner;
- (iii) beneficiary;
- (iv) insured; ~~or~~
- (v) enrollee; or
- ~~(v)~~ (vi) annuitant.

(c) The subrogation rights obtained by the association under this Subsection (14) have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this part.

(d) In addition to Subsections (14)(a) through (c), the association has the common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, enrollee, or payee of a policy or contract with respect to the policy or contract, including in the case of a structured settlement annuity any rights of the owner, beneficiary, or payee of the annuity to the extent of benefits received pursuant to this part against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment of the annuity.

(e) If a provision of this Subsection (14) is invalid or ineffective with respect to a person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portion of the policies, covered by the association.

(f) If the association has provided benefits with respect to a covered policy or contract and a person recovers amounts as to which the association has rights as described in this Subsection (14), the person shall pay to the association the portion of the recovery attributable to the covered ~~policy~~ policy or contract.

(15) (a) In addition to the rights and powers elsewhere in this part, the association may:

(i) enter into a contract that is necessary or proper to carry out the provisions and purposes of this part;

(ii) sue or be sued, including taking any legal actions necessary or proper to:

(A) recover any unpaid assessments under Section 31A-28-109; and

(B) settle claims or potential claims against the association;

(iii) borrow money to effect the purposes of this part;

(iv) employ or retain the persons necessary or the appropriate staff members to:

(A) handle the financial transactions of the association; and

(B) perform other functions as become necessary or proper under this part;

(v) take necessary or appropriate legal action to avoid or recover payment of improper claims;

(vi) exercise, for the purposes of this part and to the extent approved by the commissioner, the powers of a domestic ~~[life or health]~~ insurer providing life insurance or accident and health insurance, but in no case may the association issue ~~[insurance]~~ policies or ~~[annuity]~~ contracts other than those issued to perform ~~[its]~~ the association's obligation under this part;

(vii) request information from a person seeking coverage from the association to aid the association in determining the association's obligations under this part with respect to the person;

~~(viii)~~ (ix) unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which the association provides coverage under this part;

~~(ix)~~ (ix) take other necessary or appropriate action to discharge the association's duties and obligations under this part or to exercise the association's powers under this part; and

~~(ix)~~ (x) act as a special deputy receiver if appointed by the commissioner.

(b) Any note or other evidence of indebtedness of the association under Subsection (15)(a)(iii) that is not in default:

(i) is a legal investment for a domestic member insurer; and

(ii) may be carried as admitted assets.

(c) A person seeking coverage from the association shall promptly comply with a request for information by the association under Subsection (15)(a)(vii).

(16) The association may join an organization of one or more other state associations of similar

purposes to further the purposes and administer the powers and duties of the association.

(17) (a) At any time within 180 days after the coverage date, the association may elect to succeed to the rights and obligations of the member insurer that:

(i) accrue on or after the coverage date; and

(ii) relate to covered policies or contracts under any one or more indemnity reinsurance agreements:

(A) entered into by the member insurer as a ceding insurer and its reinsurer; and

(B) selected by the association.

(b) An election made pursuant to Subsection (17)(a) is effective as of the date of the order of liquidation.

(c) The association may make an election described in Subsection (17)(a) by notifying an affected reinsurer in writing, with verification of receipt, through:

(i) the association; or

(ii) a nationally recognized association representing state guaranty associations that is approved by the commissioner, that provides notice on behalf of the association.

(d) The association shall provide a copy of the notice described in Subsection (17)(c) to the receiver.

(e) (i) The receiver of an insolvent insurer and each reinsurer of the ceding member insurers shall make available as soon as possible after commencement of formal delinquency proceedings the information described in Subsection (17)(e)(ii) to:

(A) the association; or

(B) a nationally recognized association representing state guaranty associations that is approved by the commissioner, on behalf of the association.

(ii) This Subsection (17)(e) applies to:

(A) copies of in-force contracts of reinsurance and the related records relevant to the determination of whether the in-force contracts of reinsurance should be assumed;

(B) notices of any default under a reinsurance contract; or

(C) any known event or condition that with the passage of time could become a default under a reinsurance contract.

(f) If the association makes an election under Subsection (17)(a), the association shall comply with Subsections (17)(f)(i) through (vii) with respect to the agreements selected by the association.

(i) For a policy or contract covered, in whole or in part, by the association, the association is responsible for:

(A) the unpaid premiums due under the agreements for periods both before and after the coverage date; and

(B) the performance of the other obligations to be performed after the coverage date.

(ii) The association may charge a policy or contract covered in part by the association the costs for reinsurance in excess of the obligations of the association, through reasonable allocation methods.

(iii) The association shall provide notice and an accounting to the receiver of a charge made pursuant to Subsection (17)(f)(ii).

(iv) The association is entitled to any amounts payable by the reinsurer under the agreements with respect to a loss or event that:

(A) occurs after the coverage date; and

(B) relates to a policy or a contract covered by the association, in whole or in part.

(v) On receipt of any amounts under Subsection (17)(f)(iv), the association shall pay to the beneficiary under the policy or contract on account of which the amounts were paid an amount equal to the lesser of:

(A) the amount received by the association; and

(B) the excess of the amount received by the association over the benefits paid or payable by the association on account of the policy or contract less the retention of the insurer applicable to the loss or event.

(vi) (A) Within 30 days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each reinsurance agreement as of the date of the association's election, giving full credit to the items paid by either the member insurer, its receiver, or the indemnity reinsurer before the date of the association's election.

(B) Within five days of the completion of the calculation under Subsection (17)(f)(vi)(A):

(I) the reinsurer shall pay the receiver the amounts due for a loss or event before the coverage date, subject to any set-off for premiums unpaid for a period before the coverage date; and

(II) the association or the reinsurer shall pay any remaining balance due the other.

(C) A dispute over an amount due to either party shall be resolved:

(I) by arbitration pursuant to the terms of the affected reinsurance contract; or

(II) if the reinsurance contract contains no arbitration clause, as otherwise provided by law.

(D) If the receiver receives an amount due the association pursuant to Subsection (17)(f)(iv), the receiver shall remit that amount to the association as promptly as practicable.

(vii) If the association, or the receiver on behalf of the association, within 60 days of the election, pays the premiums due for periods both before and after

the coverage date that relate to policies or contracts covered by the association, in whole or in part, the reinsurer may not:

(A) terminate the reinsurance agreement for failure to pay premium, to the extent the reinsurance agreement relates to a policy or contract covered by the association, in whole or in part; and

(B) set off against amounts due the association an amount due:

(I) under another policy or contract; or

(II) as an unpaid amount due from a person other than the association.

(g) (i) This Subsection (17)(g) applies during the period that:

(A) begins on the coverage date; and

(B) ends:

(I) on the election date; or

(II) if no election date occurs, 180 days after the coverage date.

(ii) During the period described in Subsection (17)(g)(i):

(A) neither the association nor the reinsurer have a right or obligation under a reinsurance contract that the association may assume under Subsection (17)(a), whether for a period before or after the coverage date; and

(B) the reinsurer, the receiver, and the association, to the extent practicable, shall provide each other data and records reasonably requested.

(iii) Notwithstanding Subsection (17)(g)(ii), once the association elects to assume a reinsurance contract, the parties' rights and obligations are governed by Subsections (17)(f)(i) through (vi).

(h) If the association does not elect to assume a reinsurance contract by the election date pursuant to Subsection (17)(a), the association has no right or obligation with respect to the reinsurance contract, whether for a period before or after the coverage date.

(i) An insurer other than the association succeeds to the rights and obligations of the association under Subsections (17)(a) through (f) effective as of the date agreed upon by the association and the other insurer and regardless of whether the association has made the election referred to in Subsections (17)(a) through (f) provided that:

(i) the association transfers its obligations to the other insurer;

(ii) the association and the other insurer agree to the transfer;

(iii) the indemnity reinsurance agreements automatically terminate for new reinsurance unless the indemnity reinsurer and the other insurer agree to the contrary;

(iv) the obligations described in Subsection (17)(f)(v) may not apply on and after the date the

indemnity reinsurance agreement is transferred to the third party insurer;

(v) the transferring party shall give notice in writing, with verification of receipt, to the affected reinsurer not less than 30 days before the effective date of the transfer; and

(vi) this Subsection (17)(i) may not apply if the association has previously expressly determined in writing that the association will not exercise the election referred to in Subsections (17)(a) through (f).

(j) (i) This Subsection (17) supersedes the provisions of any law of this state or of any affected reinsurance agreement that provides for or requires any payment of reinsurance proceeds on account of losses or events that occur in periods after the coverage date, to:

(A) the receiver of an insolvent member insurer; or

(B) another person.

(ii) The receiver is entitled to any amounts payable by the reinsurer under the reinsurance agreement with respect to a loss or event that occurs before the coverage date, subject to applicable setoff provisions.

(k) Except as otherwise expressly provided in Subsections (17)(a) through (j), this Subsection (17) does not:

(i) alter or modify the terms and conditions of a reinsurance agreement of the insolvent member insurer;

(ii) abrogate or limit a right any reinsurer to claim that it is entitled to rescind a reinsurance agreement;

(iii) give a policy owner, policy holder, contract owner, enrollee, certificate holder, or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance agreement;

(iv) limit or affect the association's rights as a creditor of the estate of an insolvent insurer against the assets of the estate; or

(v) apply to a reinsurance agreement that covers property or casualty risks.

(18) The board of directors of the association has discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this part in an economical and efficient manner.

(19) If the association arranges or offers to provide the benefits of this part to a covered person under a plan or arrangement that fulfills the association's obligations under this part, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(20) (a) Venue in a suit against the association arising under this part is Salt Lake County.

(b) The association may not be required to give an appeal bond in an appeal that relates to a cause of action arising under this part.

Section 11. Section 31A-28-109 is amended to read:

31A-28-109. Assessments.

(1) (a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each class or subclass, at the time and for the amounts that the board of directors finds necessary.

(b) Member insurer liability for an assessment is established ~~as of~~ beginning on the coverage date, regardless of when the assessment is called.

(c) ~~Subject to Subsection (1)(d), a~~ A called assessment:

(i) is due not less than 30 days after prior written notice to the member insurer; and

(ii) shall accrue interest at 10% per annum on and after the due date.

(d) Notwithstanding Subsection (1)(c), the association may:

(i) assess the association's members as of the coverage date; and

(ii) defer the collection of the assessment described in Subsection (1)(d)(i).

(e) An assessment:

(i) has the force and effect of a judgment lien against the member insurer; and

(ii) may not be extinguished until paid.

(2) ~~The~~ There are two classes of ~~assessment are described in Subsections (2)(a) and (2)(b).~~ assessments:

(a) A a Class A assessment ~~shall be~~:

(i) shall be authorized and called for the purpose of meeting administrative and legal costs and other expenses ~~of a Class A assessment~~; and

(ii) may be authorized and called regardless of whether ~~or not~~ the assessment is related to a particular impaired or insolvent insurer ~~;~~ and

(b) A a Class B assessment shall be authorized and called to the extent necessary to carry out the powers and duties of the association under Section 31A-28-108 with regard to an impaired or an insolvent insurer.

(3) (a) (i) The amount of a Class A assessment:

(A) shall be determined by the board of directors; and

(B) may be authorized and called on a pro rata or non-pro rata basis.

(ii) If the Class A assessment is pro rata, the board of directors may credit the assessment against future Class B assessments.

~~(iii) The total of the non-pro rata assessments may not exceed \$300 per member insurer in any one calendar year.~~

(b) (i) ~~[The]~~ Except as provided in Subsection (3)(c)(i), the amount of a Class B assessment shall be allocated for assessment purposes ~~[among subclasses]~~:

(A) between the life insurance and annuity class and the accident and health insurance class; and

(B) among the subclasses of the life insurance and annuity class.

(ii) An allocation of a Class B assessment under Subsection (3)(b)(i) shall be made pursuant to an allocation formula that may be based on:

~~[(4)]~~ (A) the premiums or reserves of the impaired or insolvent insurer; or

~~[(ii)]~~ (B) any other standard determined by the board of directors in the board of directors' sole discretion as being fair and reasonable under the circumstances.

(c) (i) For a Class B assessment for the long-term care insurance written by an impaired or insolvent insurer, the association:

(A) shall, except as prohibited in Subsection (3)(c)(i)(B), allocate the amount of the Class B assessment according to a methodology that provides for 25% of the assessment to be allocated to accident and health member insurers and 75% of the assessment to be allocated to life insurance and annuity member insurers;

(B) may not impose liability on a member insurer that is a health maintenance organization for an assessment with a coverage date before January 1, 2021;

(C) may not consider the premiums from a health maintenance organization contract when calculating the share of an assessment with a coverage date before January 1, 2021, allocated to accident and health member insurers; and

(D) shall include the methodology described in Subsection (3)(c)(i)(A) in the plan of operation established and approved under Section 31A-28-110.

~~[(e)-(4)]~~ (ii) A Class B assessment against a member insurer for the life insurance subclass, the annuity subclass, and the unallocated annuity subclass shall be in the proportion that the premiums received on business in ~~[this]~~ the state by the member insurer on policies or contracts included in the class or subclass for the three most recent calendar years for which information is available preceding the year which includes the coverage date bears to the premiums received on business in ~~[this state for]~~ the state during the same three-calendar-year period by ~~[the]~~ all assessed member insurers on policies or contracts included in the class or subclass.

~~[(ii)]~~ (iii) A Class B assessment against a member insurer for an accident and health insurance ~~[subclass]~~ class shall be in the proportion that the premiums received on business in ~~[this]~~ the state by each assessed member insurer on policies or contracts included in the ~~[subclass]~~ class for the

most recent calendar year for which information is available preceding the year in which the assessment is made bears to the premiums received on business in this state on policies or contracts included in the ~~[subclass]~~ class for that calendar year by ~~[the]~~ all assessed member insurers.

(d) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer may not be authorized or called until necessary to implement the purposes of this part.

(e) Classification and computation of assessments and premiums ~~[under Subsection (3)(b) and computation of assessments under this Subsection (3)]~~ under this section shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(f) The association shall notify each member insurer of ~~[its]~~ the member insurer's anticipated pro rata share of an authorized assessment not yet called within 180 days after the day on which the assessment is authorized.

(4) (a) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board of directors, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations.

(b) If an assessment against a member insurer is abated or deferred in whole or in part under Subsection (4)(a), the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(c) Once a condition that caused a deferral is removed or rectified, the member insurer shall pay the assessments that were deferred pursuant to a repayment plan approved by the association.

(5) (a) (i) Subject to Subsection (5)(b), the total of the assessments authorized by the association on a member insurer for each class or subclass may not in any one calendar year exceed 2% of ~~[that member's total]~~ the member insurer's average annual assessable premium in that class or subclass as defined in Subsection (3).

(ii) If two or more assessments are authorized in one calendar year with respect to ~~[one]~~ two or more member insurers that become impaired or insolvent in different calendar years, the average annual assessable premiums for purposes of the aggregate assessment percentage limitation ~~[is]~~ calculated for each subclass or class under Subsection (5)(a)(i) shall be equal and limited to the highest of the total average annual assessable ~~[premiums of]~~ premium averages for the different calendar year periods involved in the assessment or assessments.

(iii) If the maximum assessment together with the other assets of the association do not provide in one year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon after as permitted by this part.

(b) The board of directors may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(c) If the maximum assessment for the life insurance subclass or the annuity subclass in any one year does not provide an amount sufficient to carry out the responsibilities of the association, the board of directors shall assess the other of the subclasses of the life insurance and annuity class for the necessary additional amount:

(i) pursuant to Subsection (3)(b); and

(ii) subject to the maximum stated in Subsection (5)(a).

(6) (a) The board of directors may, by an equitable method established in the plan of operation, refund to member insurers in proportion to the contribution of each member insurer to that subclass the amount by which the assets of the subclass exceed the amount the board of directors finds is necessary to carry out the obligations of the association with regard to that subclass, including assets accruing from:

(i) assignment;

(ii) subrogation;

(iii) net realized gains; and

(iv) income from investments.

(b) Notwithstanding Subsection (6)(a), a reasonable amount may be retained to provide funds for the continuing expenses of the association and for future losses.

(7) A member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, may consider the amount reasonably necessary to meet its assessment obligations under this part.

(8) (a) The association shall issue to each member insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form approved by the commissioner, for the amount of the assessment paid.

(b) The outstanding certificates described in Subsection (8)(a) shall be of equal dignity and priority without reference to amounts or dates of issue.

(c) (i) A certificate of contribution described in Subsection (8)(a) may be shown by the member insurer in its financial statement as an asset in the amount of the certificate of contribution less the amount by which the insurer's premium taxes have already been reduced with respect to the certificate.

(ii) For good cause shown, the commissioner may order the insurer to show a different amount in its financial statement than the amount under Subsection (8)(c)(i).

(9) (a) (i) A member insurer that wishes to protest all or part of an assessment shall pay, when due, the full amount of the assessment as specified in the notice provided by the association.

(ii) The payment shall be available to meet association obligations during the pendency of the protest or any subsequent appeal.

(iii) The payment shall be accompanied by a statement in writing:

(A) that the payment is made under protest; and

(B) giving a brief description of the grounds for the protest.

(b) (i) The association shall notify the member insurer, in writing, of the association's determination with respect to the protest within 60 days after the day on which the payment of an assessment is made under protest by a member insurer, unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(ii) The association shall notify the protesting member insurer in writing of the final decision within 30 days after the day on which a final decision is made by the association.

(iii) The protesting member insurer may appeal the final action of the association to the commissioner within 60 days after the day on which the protesting member insurer receives a notice of the final decision from the association.

(c) The association may refer protests to the commissioner for a final decision, with or without a recommendation from the association.

(d) (i) If a protest or appeal on an assessment concludes that an amount was paid in error or excess by a member insurer, the association shall return the amount paid in error or excess to the member insurer.

(ii) The association shall pay interest on a refund due to a protesting member insurer at the rate actually earned by the association.

~~[(9)]~~ (10) (a) The association may request information from a member insurer to aid in the exercise of the association's power under this part.

(b) A member insurer shall comply promptly with a request of the association under this Subsection ~~[(9)]~~ (10).

Section 12. Section 31A-28-111 is amended to read:

31A-28-111. Duties and powers under this part.

~~[(4)]~~ The duties and powers described in this section are in addition to the duties and powers enumerated elsewhere in this part~~, the persons described in this section have the duties and powers described in Subsections (1) through (6)].~~

(1) The commissioner shall:

(a) upon request of the board of directors, provide the association with a statement of the premiums for each member insurer:

- (i) in this state; and
- (ii) any other appropriate state; and
- (b) if an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time.
- (2) Notice to the impaired insurer under Subsection (1)(b) constitutes notice to the shareholders of the impaired insurer if the impaired insurer has shareholders.
- (3) The failure of the impaired insurer to promptly comply with the commissioner's demand under Subsection (1)(b) does not excuse the association from the performance of its powers and duties under this part.
- (4) (a) After notice and hearing, the commissioner may suspend or revoke the certificate of authority to transact [~~insurance~~] business in this state of a member insurer not domiciled in this state that fails to:
- (i) pay an assessment when due; or
- (ii) comply with the plan of operation.
- (b) (i) As an alternative to suspending or revoking a certificate of authority under Subsection (4)(a), the commissioner may levy a forfeiture on any member insurer that fails to pay an assessment when due.
- (ii) A forfeiture described in Subsection (4)(b)(i):
- (A) may not exceed 5% of the unpaid assessment per month; and
- (B) may not be less than \$100 per month.
- (5) (a) A final action of the board of directors or the association may be appealed to the commissioner by any member insurer if appeal is taken within 60 days of the date the member insurer received notice of the final action being appealed.
- (b) If a member insurer is appealing an assessment, the amount assessed shall be:
- (i) paid to the association; and
- (ii) made available to meet association obligations during the pendency of an appeal.
- (c) If the appeal on the assessment described in Subsection (5)(b) is upheld, the amount paid in error or excess shall be returned to the member insurer.
- (d) Any final action or order of the commissioner is subject to judicial review in a court of competent jurisdiction in accordance with the laws of this state that apply to the actions or orders of the commissioner.
- (6) The receiver of an impaired insurer shall notify the interested persons of the effect of this part.

Section 13. Section 31A-28-112 is amended to read:

31A-28-112. Reports.

- (1) The commissioner shall:
- (a) report to the board of directors when:
- (i) the commissioner takes an action set forth in Section 31A-27a-201;
- (ii) an event described in Section 31A-17-603, 31A-17-604, or 31A-17-605 occurs; or
- (iii) the commissioner receives a report from any other commissioner indicating that an action described in Subsection (1)(a)(i) has been taken in another state;
- (b) include in the report to the board of directors required by Subsection (1)(a):
- (i) the significant details of the action taken;
- (ii) the significant details of an event described in Subsection (1)(a)(ii); or
- (iii) the report received from another commissioner;
- (c) promptly report to the board of directors when the commissioner has reasonable cause to believe from an examination of any member insurer, whether completed or in process, that the member insurer may be an impaired or insolvent insurer; and
- (d) furnish to the board of directors the National Association of Insurance Commissioners Insurance Regulatory Information System ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners.
- (2) (a) The board of directors may use the information contained in the ratios and listings described in Subsection (1)(d) in carrying out the board of directors' duties and responsibilities under this part.
- (b) The board of directors shall keep the report and the information contained in the ratios and listings confidential until the commissioner or other lawful authority publishes the information.
- (3) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the commissioner's duties and responsibilities regarding the financial condition of member insurers and companies seeking admission to transact insurance business in this state.
- (4) (a) The board of directors may make reports and recommendations to the commissioner upon any matter germane to:
- (i) the solvency, liquidation, rehabilitation, or conservation of any member insurer; or
- (ii) the solvency of any [~~company~~] insurer seeking to do [~~an insurance~~] business in this state.
- (b) The reports and recommendations of the board of directors described in Subsection (4)(a) are not public documents.

(5) The board of directors may, upon majority vote, notify the commissioner of any information indicating that a member insurer may be an impaired or insolvent insurer.

(6) The board of directors may make recommendations to the commissioner for the detection and prevention of member insurer insolvencies.

(7) (a) At the conclusion of any member insurer insolvency in which the association was obligated to pay covered claims, the board of directors shall prepare a report to the commissioner containing the information the board of directors has in its possession bearing on the history and causes of the insolvency.

(b) In preparing a report on the history and causes of insolvency of a particular member insurer, the board of directors may cooperate with:

(i) the board of directors of a guaranty association in another state; or

(ii) an organization described in Subsection 31A-28-108(16).

(c) The board of directors may adopt by reference any report prepared by:

(i) a guaranty association in another state; or

(ii) an organization described in Subsection 31A-28-108(16).

Section 14. Section 31A-28-113 is amended to read:

31A-28-113. Credit for assessments paid.

(1) (a) A member insurer may offset against its premium tax, income tax, or franchise tax liability to this state an assessment described in Subsection 31A-28-109(2)(b) to the extent of 20% of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(b) To the extent that the offsets described in Subsection (1)(a) exceed premium tax liability, the offsets may be carried forward and used to offset premium tax liability in future years.

(c) If a member insurer ceases doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

(2) (a) A member insurer that is exempt from taxes described in Subsection (1) may recoup the member insurer's assessment by a surcharge on premiums in a sum reasonably calculated to recoup the assessments over a reasonable period of time, as approved by the commissioner.

(b) Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax, income tax, franchise tax, producer commission, or, to the extent allowed under federal law, medical loss ratio.

(c) If a member insurer collects excess surcharges, the member insurer shall remit the

excess amount to the association, and the excess amount shall be applied to reduce future assessments in the appropriate account.

~~[(2)]~~ (3) (a) Money shall be paid by the member insurers to the state in a manner required by the State Tax Commission if the money:

(i) is acquired by refund in accordance with Subsection 31A-28-109(6) from the association by member insurers; and

(ii) has been offset against premium taxes as provided in Subsection (1).

(b) The association shall notify the commissioner that the refunds described in Subsection ~~[(2)]~~ (3)(a) have been made.

Section 15. Section 31A-28-114 is amended to read:

31A-28-114. Miscellaneous provisions.

(1) Nothing in this part shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) (a) The board of directors shall keep a record of a meeting of the board of directors to discuss the activities of the association in carrying out its powers and duties under Section 31A-28-108.

(b) A record of the association with respect to an impaired or insolvent insurer may not be disclosed before the earlier of:

(i) the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer;

(ii) the termination of the impairment or insolvency of the insurer; or

(iii) upon the order of a court of competent jurisdiction.

(c) Nothing in this Subsection (2) limits the duty of the association to render a report of its activities under Section 31A-28-115.

(3) (a) For the purpose of carrying out its obligations under this part, the association is considered to be a creditor of an impaired or insolvent insurer to the extent of assets attributable to covered policies or contracts reduced by any amounts to which the association is entitled as subrogee pursuant to Subsection 31A-28-108(14).

(b) Assets of the impaired or insolvent insurer attributable to covered policies or contracts shall be used to continue the covered policies and pay the contractual obligations of the impaired or insolvent insurer as required by this part.

(c) As used in this Subsection (3), assets attributable to covered policies or contracts are that proportion of the assets which the reserves that should have been established for covered policies or contracts bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4) (a) As a creditor of the impaired or insolvent insurer under Subsection (3) and consistent with

Section 31A-27a-701, the association and any other similar association are entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse the association and any other similar association.

(b) If, within 180 days of a final determination of insolvency of ~~[an]~~ a member insurer by the receivership court, the receiver has not made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to the guaranty associations having obligations because of the insolvency, the association is entitled to make application to the receivership court for approval of the association's proposal for disbursement of these assets.

(5) (a) Before the termination of a liquidation, rehabilitation, or conservation proceeding, when making an equitable distribution of the ownership rights of the insolvent insurer, the court may take into consideration the contributions of the respective parties, including:

(i) the association;

(ii) the shareholders;

(iii) ~~[policyowners]~~ policy owners, contract owners, certificate holders, and enrollees of the insolvent insurer; and

(iv) any other party with a bona fide interest in making an equitable distribution of the ownership rights of the insolvent insurer.

(b) In making a determination under Subsection (5)(a), the court shall consider the welfare of the ~~[policyowners]~~ policy owners, contract owners, certificate holders, and enrollees of the continuing or successor member insurer.

(c) A distribution to any stockholder of an impaired or insolvent insurer may not be made until and unless the total amount of valid claims of the association with interest has been fully recovered by the association for funds expended in carrying out its powers and duties under Section 31A-28-108 with respect to the member insurer.

Section 16. Section 31A-28-119 is amended to read:

31A-28-119. Prohibited advertisement of the association -- Notice to owners of policies and contracts.

(1) (a) Except as provided in Subsection (1)(b), a person, including ~~[an]~~ a member insurer, ~~[agent]~~ producer, or affiliate of ~~[an]~~ a member insurer may not make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio station or television station, or in any other way, any advertisement, announcement, or statement written or oral, that uses the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance or

coverage for which the guaranty association provides coverage under this part.

(b) ~~[Notwithstanding Subsection (1)(a), this]~~ This section does not apply to:

(i) the association; or

(ii) another entity that does not sell or solicit insurance.

(2) (a) The association shall:

(i) have a summary document describing the general purposes and current limitations of this part that complies with Subsection (3); and

(ii) submit the summary document described in Subsection (2)(a)(i) to the commissioner for approval.

(b) ~~[An]~~ A member insurer may not deliver a policy or contract to a policy ~~[or]~~ owner, contract owner, certificate holder, or enrollee unless the summary document is also delivered to the policy ~~[or]~~ owner, contract owner, certificate holder, or enrollee before, or at the time of, delivery of the policy or contract.

(c) The summary document shall be available upon request by a policy owner, contract owner, certificate holder, or enrollee.

(d) The distribution, delivery, or contents or interpretation of the summary document does not guarantee that:

(i) the policy or the contract is covered in the event of the impairment or insolvency of a member insurer; or

(ii) the ~~[owner of the policy or]~~ policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer.

(e) The summary document shall be revised by the association as amendments to this part may require.

(f) Failure to receive the summary document as required in Subsection (2)(b) does not give the ~~[owner of a policy or]~~ policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this part.

(3) (a) The summary document described in Subsection (2) shall contain a clear and conspicuous disclaimer on its face.

(b) The commissioner shall, by rule, establish the form and content of the disclaimer described in Subsection (3)(a), except that the disclaimer shall:

(i) state the name and address of:

(A) the association; and

(B) the department;

(ii) prominently warn a policy ~~[or]~~ owner, contract owner, certificate holder, or enrollee that:

(A) the association may not cover the policy or contract; or

(B) if coverage is available, it is:

(I) subject to substantial limitations and exclusions; and

(II) conditioned on continued residence in the state;

(iii) state the types of policies or contracts for which the association will provide coverage;

(iv) state that the member insurer and [its agents] the member insurer's producers are prohibited by law from using the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance;

(v) state that the policy [or] owner, contract owner, certificate holder, or enrollee should not rely on coverage under the association when selecting an insurer;

(vi) explain the rights available and procedures for filing a complaint to allege a violation of this part; and

(vii) provide other information as directed by the commissioner including sources for information about the financial condition of insurers provided that the information:

(A) is not proprietary; and

(B) is subject to disclosure under public records laws.

(4) (a) An insurer, or [agent] the insurer's producer, may not deliver a policy or contract described in Subsection 31A-28-103[(2)(a)](6) and wholly excluded under Subsection 31A-28-103[(2)(b)(i)](7)(a) from coverage under this part unless the insurer or [agent] the insurer's producer, prior to or at the time of delivery, gives the policy [or] owner, contract owner, certificate holder, or enrollee a separate written notice that clearly and conspicuously discloses that the policy or contract is not covered by the association.

(b) The commissioner shall by rule specify the form and content of the notice required by Subsection (4)(a).

(5) A member insurer shall retain evidence of compliance with Subsection (2) for the later of:

(a) three years; or

(b) until the conclusion of the next market conduct examination by the department of insurance where the member insurer is domiciled.

Section 17. Section 31A-28-120 is amended to read:

31A-28-120. Prospective application.

Notwithstanding any prior or subsequent law, the provisions of this part that are in effect on the date on which the association first becomes obligated for the policies or contracts of an insolvent or impaired [member] insurer govern the association's rights and obligations to the [policyowners] policy owners, contract owners, certificate holders, and enrollees of the insolvent or impaired [member] insurer.

Section 18. Section 59-7-623 is enacted to read:

59-7-623. Nonrefundable guaranty association assessment tax credit.

(1) As used in this section:

(a) "Guaranty association assessment" means the amount of any assessments paid by a qualified insurer under the guaranty association established under Title 31A, Chapter 28, Part 1, Utah Life and Health Insurance Guaranty Association Act, in the manner provided by Section 31A-28-113.

(b) "Qualified insurer" means an insurer, as defined in Section 31A-1-301, that is not subject to the premium tax on health care insurance under Section 59-9-101.

(2) For a taxable year beginning on or after January 1, 2019, a qualified insurer may claim a nonrefundable tax credit equal to 20% of the assessment for each of the five years following the year the qualified insurer pays a guaranty association assessment, in accordance with Section 31A-28-113.

(3) (a) A qualified insurer may carry forward the portion of the tax credit that exceeds the qualified insurer's tax liability for the taxable year in accordance with Section 31A-28-113.

(b) A qualified insurer may not carry back the portion of the tax credit that exceeds the qualified insurer's tax liability for the taxable year.

Section 19. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 392**H. B. 430**

Passed March 7, 2018

Approved March 21, 2018

Effective May 8, 2018

AFFORDABLE HOUSING AMENDMENTS

Chief Sponsor: Rebecca P. Edwards
Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill creates a commission in the Department of Workforce Services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Commission on Housing Affordability in the Department of Workforce Services;
- ▶ describes the membership, duties, and reporting requirements of the commission; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

631-1-235, as last amended by Laws of Utah 2017, Chapters 128 and 469

ENACTS:

35A-8-2101, Utah Code Annotated 1953

35A-8-2102, Utah Code Annotated 1953

35A-8-2103, Utah Code Annotated 1953

35A-8-2104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-2101 is enacted to read:**Part 21. Commission on Housing Affordability****35A-8-2101. Definitions.**

As used in this part:

(1) "Commission" means the Commission on Housing Affordability created in Section 35A-8-2102.

(2) "Housing affordability" means the ability of a household to occupy a housing unit paying no more than 30% of the household's income for gross housing costs, including utilities.

Section 2. Section 35A-8-2102 is enacted to read:**35A-8-2102. Commission on Housing Affordability.**

(1) There is created within the department the Commission on Housing Affordability.

(2) The commission shall consist of 20 members as follows:

(a) one senator appointed by the president of the Senate;

(b) two representatives appointed by the speaker of the House of Representatives;

(c) the executive director of the department or the executive director's designee;

(d) the director of the division;

(e) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(f) the president of the Utah Transit Authority or the president's designee;

(g) the president of the Utah Housing Corporation or the president's designee; and

(h) 12 members appointed by the governor as follows:

(i) one individual representing the land development community with experience and expertise in affordable, subsidized multi-family development, recommended by the Utah Homebuilders Association;

(ii) one individual representing the real estate industry, recommended by the Utah Association of Realtors;

(iii) one individual representing the banking industry, recommended by the Utah Bankers Association;

(iv) one individual representing public housing authorities, recommended by the director of the division;

(v) two individuals representing municipal government, recommended by the Utah League of Cities and Towns;

(vi) one individual representing redevelopment agencies and community reinvestment agencies, recommended by the Utah Redevelopment Association;

(vii) two individuals representing county government, recommended by the Utah Association of Counties, where:

(A) one of the individuals is from a county of the first class; and

(B) one of the individuals is from a county of the third, fourth, fifth, or sixth class;

(viii) one individual representing a nonprofit organization that addresses issues related to housing affordability;

(ix) one individual with expertise on housing affordability issues in rural communities; and

(x) one individual representing the Salt Lake Chamber, recommended by the Salt Lake Chamber.

(3) (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)(h), the governor shall appoint a person to fill the vacancy.

(b) Members appointed under Subsection (2)(h) may be removed by the governor for cause.

(c) A member appointed under Subsection (2)(h) shall be removed from the commission and replaced by an appointee of the governor if the member is absent for three consecutive meetings of the commission without being excused by a cochair of the commission.

(d) A member serves until the member's successor is appointed.

(4) (a) The commission shall select two members to serve as cochairs, one of whom shall be a legislator.

(b) Subject to the other provisions of this Subsection (4), the cochairs are responsible for the call and conduct of meetings.

(c) The cochairs shall call and hold meetings of the commission at least four times each year.

(d) One or more additional meetings may be called upon request by a majority of the commission's members.

(5) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(6) (a) A member of the commission described in Subsections (2)(c) through (h) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The division shall provide staff support to the commission.

Section 3. Section 35A-8-2103 is enacted to read:

35A-8-2103. Duties of the commission.

(1) The commission's duties include:

(a) increasing public and government awareness and understanding of the housing affordability needs of the state and how those needs may be most effectively and efficiently met, through empirical study and investigation;

(b) identifying and recommending implementation of specific strategies, policies, procedures, and programs to address the housing affordability needs of the state;

(c) facilitating the communication and coordination of public and private entities that are involved in developing, financing, providing, advocating for, and administering affordable housing in the state;

(d) studying, evaluating, and reporting on the status and effectiveness of policies, procedures, and programs that address housing affordability in the state;

(e) studying and evaluating the policies, procedures, and programs implemented by other states that address housing affordability;

(f) providing a forum for public comment on issues related to housing affordability; and

(g) providing recommendations to the governor and Legislature on strategies, policies, procedures, and programs to address the housing affordability needs of the state.

(2) To accomplish its duties, the commission may:

(a) request and receive from a state or local government agency or institution summary information relating to housing affordability, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics; and

(b) appoint one or more advisory groups to advise and assist the commission.

(3) (a) A member of an advisory group described in Subsection (2)(b):

(i) shall be appointed by the commission;

(ii) may be:

(A) a member of the commission; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 35A-8-2102, may not receive reimbursement or pay for any work done in relation to the advisory group.

(b) An advisory group described in Subsection (2)(b) shall report to the commission on the progress of the advisory group.

Section 4. Section 35A-8-2104 is enacted to read:

35A-8-2104. Annual report.

(1) The commission shall annually prepare a report for inclusion in the department's annual written report described in Section 35A-1-109.

(2) The report described in Subsection (1) shall:

(a) describe how the commission fulfilled its statutory duties during the year; and

(b) contain recommendations on how the state should act to address issues relating to housing affordability.

Section 5. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Section 35A-4-312(5)(p) is repealed July 1, 2019.

(2) Title 35A, Chapter 8, Part 21, Commission on Housing Affordability, is repealed July 1, 2023.

CHAPTER 393**H. B. 432**

Passed March 8, 2018
 Approved March 21, 2018
 Effective July 1, 2018

AGRICULTURE REVISIONS

Chief Sponsor: Scott D. Sandall
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies provisions related to beef promotion.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Beef Council as an independent state agency;
- ▶ describes the Utah Beef Council's composition, organization, and duties; and
- ▶ modifies provisions related to setting the beef promotion fee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63E-1-102, as last amended by Laws of Utah 2017, Chapters 181, 345, and 363

ENACTS:

4-21-101, Utah Code Annotated 1953
 4-21-103, Utah Code Annotated 1953
 4-21-104, Utah Code Annotated 1953
 4-21-105, Utah Code Annotated 1953
 4-21-106, Utah Code Annotated 1953
 4-21-107, Utah Code Annotated 1953
 4-21-301, Utah Code Annotated 1953
 4-21-302, Utah Code Annotated 1953
 4-21-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

4-21-102, (Renumbered from 4-21-2, as enacted by Laws of Utah 1979, Chapter 2)
 4-21-201, (Renumbered from 4-21-3, as last amended by Laws of Utah 2011, Chapter 383)
 4-21-202, (Renumbered from 4-21-4, as last amended by Laws of Utah 1986, Second Special Session, Chapter 10)
 4-21-203, (Renumbered from 4-21-5, as last amended by Laws of Utah 2004, Chapter 128)

REPEALS:

4-21-1, as enacted by Laws of Utah 1979, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-21-101 is enacted to read:

CHAPTER 21. BEEF PROMOTION**Part 1. Organization****4-21-101. Title.**

This chapter is known as "Beef Promotion."

Section 2. Section 4-21-102, which is renumbered from Section 4-21-2 is renumbered and amended to read:

[4-21-2]. 4-21-102. Definitions.

As used in this chapter:

(1) "Council" means the Utah Beef Council created in Section 4-21-103.

(2) "Department" means the Utah Department of Agriculture and Food created in Section 4-2-102.

~~[(4)]~~ (3) "Marketing agency" means ~~[any transaction in which the seller is represented by]~~ a person who acts as an agent of the seller in the sale of cattle in that ~~[such]~~ the person issues payment to the seller and is entitled to a commission based upon the sale~~;~~.

~~[(2)]~~ (4) "Producer" means ~~[any]~~ a person who owns and raises or owns and feeds cattle~~;~~.

~~[(3)]~~ (5) "Purchaser" means ~~[any]~~ a person who buys cattle~~;~~.

(4) (6) "Seller" means ~~[any]~~ a person who offers cattle for sale.

Section 3. Section 4-21-103 is enacted to read:

4-21-103. Utah Beef Council created -- Composition -- Nomination and selection of appointed members -- Terms of appointed members -- Qualifications for nomination.

(1) There is created an independent state agency known as the Utah Beef Council.

(2) The Utah Beef Council consists of 10 members as follows:

(a) the commissioner of the Utah Department of Agriculture and Food, or the commissioner's designee;

(b) the president of the Utah Cattlemen's Association;

(c) the vice president of the Utah Cattlemen's Association;

(d) a member of the Utah Cattlemen's Association board of directors, chosen by the Utah Cattlemen's Association;

(e) the appointee from Utah on the national beef checkoff Cattlemen's Beef Promotion and Research Board, appointed by the United States Secretary of Agriculture;

(f) the president of the Utah Cattlewomen's Association;

(g) a member of the Utah Dairy Commission, chosen by the Utah Dairy Commission; and

(h) three at-large producers from the state of Utah, appointed as described in Subsection (4).

(3) In addition to the members listed in Subsection (2), the council may appoint nonvoting members.

(4) (a) At-large candidates for appointment to the council shall be nominated by a formal written request signed by two or more producers and submitted to the council no later than October 1.

(b) A membership committee, consisting of the commissioner or the commissioner's designee, the council member representing the Utah Dairy Commission, and the president of the Utah Cattlemen's Association shall:

(i) select candidates for appointment to the council from the nominees submitted by producers; and

(ii) present the candidates to the governor for review and appointment on or before December 1.

(5) (a) The governor shall appoint the at-large members to three-year terms beginning on January 1 of the year following appointment to the council.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of at-large members are staggered so that one at-large member is appointed each year.

(6) Each at-large member shall be:

(a) a citizen of the United States;

(b) 18 years of age or older;

(c) an active producer; and

(d) a resident of Utah.

Section 4. Section 4-21-104 is enacted to read:

4-21-104. Council -- Organization -- Quorum to transact business -- Removal for cause -- Vacancies -- Ineligibility to serve -- Compensation.

(1) (a) The council members shall elect a chair, vice chair, and secretary annually from the voting members of the council.

(b) At least two of the members elected pursuant to Subsection (1)(a) shall be members listed in Subsection 4-21-103(2)(a), (e), or (h).

(2) (a) A majority of voting members shall constitute a quorum.

(b) A majority vote of the quorum is necessary for the council to act.

(3) The council shall meet:

(a) at the time and place designated by the chair; and

(b) no less than once every three months.

(4) The commissioner, or the commissioner's designee, may, in consultation with the other members of the membership committee, remove a member for cause.

(5) Vacancies that occur on the council for any reason shall be filled by appointment for the unexpired term of the vacated member.

(6) If an at-large member ceases to act as a producer during the member's term, the member shall resign from the council within 30 days after ceasing production.

(7) Subject to Subsection (8), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A nonvoting member may not receive compensation or benefits for the member's service and may not receive per diem or travel expenses.

Section 5. Section 4-21-105 is enacted to read:

4-21-105. Council powers, duties, and functions -- Reporting requirements.

(1) The council has the following powers, duties, and functions:

(a) hire and fix the salary of an administrator and staff, who may not be members of the council, to administer the policies adopted and perform the duties assigned by the council;

(b) promote the beef industry of the state;

(c) encourage local, national, and international use of Utah beef, through advertising or otherwise;

(d) investigate and participate in studies of problems unique to Utah producers;

(e) take actions consistent with this chapter to promote, protect, and stabilize the state's beef industry;

(f) enter into contracts and incur indebtedness in furtherance of the council's business activities;

(g) cooperate with local, state, or national organizations engaged in activities similar to those of the council;

(h) accept grants, donations, or gifts for use consistent with this chapter; and

(i) do other things necessary for the efficient and effective management and operation of the council's business.

(2) The council shall:

(a) submit the council's proposed budget and an end-of-year audited financial statement to the department and the Office of the State Auditor within 180 days of the end of each fiscal year;

(b) provide the department, on an annual basis, with a detailed outline of the council's plans for future publications and messaging; and

(c) report, by October 1 of each year, to the Retirement and Independent Entities Interim Committee on the operations and activities of the council.

Section 6. Section 4-21-106 is enacted to read:

4-21-106. Exemption from certain operational requirements.

(1) The council is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 63A, Utah Administrative Services Code, except as provided in Subsection (2)(c);

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The council is subject to:

(a) Title 51, Chapter 7, State Money Management Act;

(b) Title 52, Chapter 4, Open and Public Meetings Act;

(c) Title 63A, Chapter 3, Part 4, Utah Public Finance Website;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) other Utah Code provisions not specifically exempted under Subsection 4-21-106(1); and

(f) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor pursuant to Section 36-12-15.

Section 7. Section 4-21-107 is enacted to read:

4-21-107. Council may require surety bond -- Payment of premium.

(1) The council may require the administrator or a council employee to post a surety bond conditioned for the faithful performance of the council's official duties.

(2) The amount and type of bond shall be fixed by the council and each bond premium shall be paid by the council.

Section 8. Section 4-21-201, which is renumbered from Section 4-21-3 is renumbered and amended to read:
Part 2. Revenue

[4-21-3]. 4-21-201. Beef promotion fee -- Deposit of revenue.

(1) (a) The department shall collect a fee established as required by Subsection (2) on all fee brand inspected cattle upon change of ownership or

slaughter in an amount not more than \$1 or less than 25 cents.

(b) The fee is collected by the local brand inspector at the time of inspection of cattle, or deducted and collected by the marketing agency or the purchaser.

(c) All revenue collected under this section shall be paid to the department, which shall deposit the revenue in [an agency] a fund that is hereby created and is known as the "Beef Promotion Fund."

~~[(2) Before a fee assessed under Subsection (1) becomes effective, the department shall give notice of the proposed fee to all known beef and dairy cattle producers in the state, invite all beef and dairy cattle producers to register to vote in a referendum, conduct a hearing on the proposed fee change, and conduct a referendum where at least 50% of the registered producers cast a vote with a majority of those voting casting an affirmative vote on the proposed fee level.]~~

~~[(3)] (2)~~ Any fee currently assessed by the department continues in effect until modified by the department under ~~[Subsections (1) and (2)]~~ Subsection (1).

~~[(4)] (3)~~ The fee assessed under this section is in addition to the amount of any assessment required to be paid pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. Sec. 2901 et seq.

Section 9. Section 4-21-202, which is renumbered from Section 4-21-4 is renumbered and amended to read:

[4-21-4]. 4-21-202. Refund of fees allowed -- Claim for refund to be filed with department -- Payment of refunds.

(1) A person who objects to payment of the assessed fee may file a claim with the department within 60 days after the fee is collected. [Nø]

(2) A claim for refund~~[, however,]~~ is not allowed if it is filed more than 60 days after the date the fee is collected.

(3) Each claim for a refund shall be certified by the department to the state treasurer for payment from the beef promotion account, subject to ~~[any]~~ applicable provisions of the Beef Promotion and Research Act of 1985, 7 U.S.C. Sec. 2901 et seq.

Section 10. Section 4-21-203, which is renumbered from Section 4-21-5 is renumbered and amended to read:

[4-21-5]. 4-21-203. Revenue from fees to be used to promote beef industry -- Payment of revenue monthly to Utah Beef Council -- Deduction of costs of administration and processing funds -- Annual audit of books, records, and accounts -- Financial statement of audit published.

(1) (a) All revenue derived from the collection of fees authorized by this chapter shall be paid to the council and used to promote the beef industry of the state ~~[and the revenue shall be paid to:]~~

~~[(i) the Utah Beef Council, a Utah nonprofit corporation organized to promote Utah beef; or]~~

~~[(ii) an agency, acceptable to the department, with the concurrence of the Utah Cattlemen's Association.]~~

(b) The revenue shall be paid monthly, as requested by the council ~~[or appointed agency]~~, and the actual costs of administration for processing the funds shall be deducted before disbursing the funds.

(2) (a) The books, records, and accounts of the ~~[Utah Beef Council or appointed agency]~~ council shall be audited at least once annually by a licensed accountant approved by the Office of the State Auditor.

(b) The results of the audit shall be submitted to the commissioner, and a financial statement of the audit and a general statement of operations and promotional and advertising activities shall be published by the council ~~[or appointed agency]~~ in a major livestock publication having general circulation in Utah.

(3) The books, records, and accounts of the council's activities are public records.

Section 11. Section 4-21-301 is enacted to read:

Part 3. Liability and Enforcement

4-21-301. State disclaimer of liability.

The state is not liable for the acts or omissions of the council, council officers, agents, or employees.

Section 12. Section 4-21-302 is enacted to read:

4-21-302. Council not eligible for coverage under Risk Management Fund.

The council is not eligible to receive coverage under the Risk Management Fund created by Section 63A-4-201.

Section 13. Section 4-21-303 is enacted to read:

4-21-303. Representation by the attorney general.

(1) The attorney general is not the legal advisor for the council and has no obligation to defend the council or the council's members in an action or proceeding brought against the council.

(2) The attorney general may choose, at its sole discretion, to represent the council or its members if requested to do so and pursuant to reimbursement by contract.

Section 14. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Beef Council, created by Section 4-21-103;

~~[(4)]~~ (ii) Utah Dairy Commission created by Section 4-22-103;

~~[(4ii)]~~ (iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

~~[(4iii)]~~ (iv) Utah State Railroad Museum Authority created by Section 63H-5-102;

~~[(4iv)]~~ (v) Utah Housing Corporation created by Section 63H-8-201;

~~[(4v)]~~ (vi) Utah State Fair Corporation created by Section 63H-6-103;

~~[(4vi)]~~ (vii) Utah State Retirement Office created by Section 49-11-201;

~~[(4vii)]~~ (viii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

~~[(4viii)]~~ (ix) School and Institutional Trust Fund Office created by Section 53D-1-201;

~~[(4ix)]~~ (x) Utah Communications Authority created by Section 63H-7a-201;

~~[(4x)]~~ (xi) Utah Energy Infrastructure Authority created by Section 63H-2-201;

~~[(4xi)]~~ (xii) Utah Capital Investment Corporation created by Section 63N-6-301; and

~~[(4xii)]~~ (xiii) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

- (a) one or more private individuals, including public employees;
- (b) one or more public or private entities; or
- (c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 15. Repealer.

This bill repeals:

Section 4-21-1, Purpose declaration.

Section 16. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 394**H. B. 439**

Passed March 8, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**COORDINATED PENALTIES
 FOR SEXUAL ABUSE**

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill creates an enhancement for penalties related to sexual abuse of students and makes a technical correction to the enticing a minor statute.

Highlighted Provisions:

This bill:

- ▶ creates a one level enhancement for sexual abuse when the actor is a teacher, employee, or volunteer in a school and the victim is a student; and
- ▶ makes a technical correction to the enticing a minor statute.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-4-401, as last amended by Laws of Utah 2013, Chapters 175 and 278

76-5-401.1, as last amended by Laws of Utah 2016, Chapter 372

76-5-401.2, as last amended by Laws of Utah 2014, Chapter 135

ENACTS:

76-3-203.13, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.13 is enacted to read:**76-3-203.13. Enhanced penalty for unlawful sexual contact with a student.**

(1) A person convicted of a sexual offense described in Section 76-5-401.1 or 76-5-401.2 may be subject to an enhanced penalty if, at the time of the commission of the sexual offense, the actor:

- (a) was 18 years of age or older;
- (b) held a position of special trust as a teacher, employee, or volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(c)(xix); and
- (c) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

(2) The enhancement of a penalty described in Subsection (1) shall be an enhancement of one

classification higher than the offense of which the person was convicted.

Section 2. Section 76-4-401 is amended to read:**76-4-401. Enticing a minor -- Elements -- Penalties.**

- (1) As used in this section:
 - (a) "Minor" means a person who is under the age of 18.
 - (b) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or other electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number.
- (2) (a) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in any sexual activity which is a violation of state criminal law.

(b) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to:

- (i) initiate contact with a minor or a person the actor believes to be a minor; and
- (ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in any sexual activity which is a violation of state criminal law.

(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is working with employed by a law enforcement agency was involved in the detection or investigation of the offense.

(4) Enticement of a minor under Subsection (2)(a) or (b) is punishable as follows:

- (a) enticement to engage in sexual activity which would be a first degree felony for the actor is a:
 - (i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and
 - (ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);
- (b) enticement to engage in sexual activity which would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity which would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity which would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity which would be a class B misdemeanor for the actor is a class C misdemeanor.

(5) (a) When a person who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

(i) Section 76-4-401, enticing a minor;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-402, rape;

(iv) Section 76-5-402.1, rape of a child;

(v) Section 76-5-402.2, object rape;

(vi) Section 76-5-402.3, object rape of a child;

(vii) Subsection 76-5-403(2), forcible sodomy;

(viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404, forcible sexual abuse;

(x) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child;

(xi) Section 76-5-405, aggravated sexual assault;

(xii) any offense in any other state or federal jurisdiction which constitutes or would constitute a crime in Subsections (5)(b)(i) through (xi); or

(xiii) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xii).

Section 3. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor.

(1) For purposes of this section “minor” is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person commits sexual abuse of a minor if the person is four years or more older than the minor ~~[or holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(e)(xix)]~~ and, under circumstances not amounting to rape, in violation of

Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) ~~[(a) Except under Subsection (3)(b), a] A violation of this section is a class A misdemeanor and is not subject to registration under Subsection 77-41-102(17)(a)(iv) on a first offense if the offender was younger than 21 years of age at the time of the offense.~~

~~[(b) A violation of this section is a third degree felony if the actor at the time of the commission of the offense:]~~

~~[(i) is 18 years of age or older;]~~

~~[(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(e)(xix); and]~~

~~[(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.]~~

Section 4. Section 76-5-401.2 is amended to read:

76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old.

(1) As used in this section, “minor” means a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in Subsection (2) occurred.

(2) (a) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to an offense listed under Subsection (3), a person who is:

(i) seven or more years older but less than 10 years older than the minor at the time of the sexual conduct engages in any conduct listed in Subsection (2)(b), and the person knew or reasonably should have known the age of the minor; or

(ii) 10 or more years older than the minor at the time of the sexual conduct and engages in any conduct listed in Subsection (2)(b)~~]; or~~.

~~[(iii) holds a relationship of special trust as an adult teacher, employee, or volunteer, as described in Subsection 76-5-404.1(1)(e)(xix).]~~

(b) As used in Subsection (2)(a), “sexual conduct” refers to when the person:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one person and the mouth

or anus of another person, regardless of the sex of either participant;

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant; or

(iv) touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with the actor or another person, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) The offenses referred to in Subsection (2) are:

(a) (i) rape, in violation of Section 76-5-402;

(ii) object rape, in violation of Section 76-5-402.2;

(iii) forcible sodomy, in violation of Section 76-5-403;

(iv) forcible sexual abuse, in violation of Section 76-5-404; or

(v) aggravated sexual assault, in violation of Section 76-5-405; or

(b) an attempt to commit any offense under Subsection (3)(a).

(4) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.

(5) ~~[(a)]~~ A violation of Subsection (2)(b)(iv) is a class A misdemeanor~~[-, except under Subsection (5)(b)].~~

~~[(b) A violation of Subsection (2)(b)(iv) is a third degree felony if the actor at the time of the commission of the offense:]~~

~~[(i) is 18 years of age or older;]~~

~~[(ii) held a position of special trust as a teacher or a volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)(e)(ix); and]~~

~~[(iii) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.]~~

CHAPTER 395**H. B. 454**

Passed March 8, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**HOMEOWNERS
 ASSOCIATION MODIFICATIONS**

Chief Sponsor: Gage Froerer
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions of the Condominium Ownership Act and the Community Association Act.

Highlighted Provisions:

This bill:

- ▶ enacts provisions regarding a management committee that imposes sanctions or pursues legal action;
- ▶ establishes that a management committee acts for an association of unit owners;
- ▶ regulates how an association of unit owners and an association may handle association funds;
- ▶ amends provisions regarding a management committee and a board's use of money in a reserve fund;
- ▶ amends provisions related to rental restrictions;
- ▶ enacts provisions requiring a lot owner to comply with the governing documents of an association;
- ▶ requires an association of unit owners and an association to make certain documents available to unit and lot owners:
 - free of charge, through the association of unit owners' or association's website; or
 - at the association of unit owners' or association's address;
- ▶ requires a unit or lot owner to include certain information in a written request for documentation;
- ▶ establishes a penalty for the failure of an association of unit owners or an association to fulfill a request;
- ▶ provides that an association of unit owners or an association is not liable for erroneous documents identified or produced in good faith; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-7.5, as last amended by Laws of Utah 2015, Chapters 34 and 325
 57-8-10.1, as last amended by Laws of Utah 2017, Chapter 131
 57-8-17, as repealed and reenacted by Laws of Utah 2015, Chapter 325
 57-8a-209, as last amended by Laws of Utah 2017, Chapter 131
 57-8a-211, as last amended by Laws of Utah 2015, Chapter 34

57-8a-227, as enacted by Laws of Utah 2015, Chapter 325

ENACTS:

57-8-10.7, Utah Code Annotated 1953
 57-8-59, Utah Code Annotated 1953
 57-8-60, Utah Code Annotated 1953
 57-8a-212.5, Utah Code Annotated 1953
 57-8a-230, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8-7.5 is amended to read:**57-8-7.5. Reserve analysis -- Reserve fund.**

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate reserve funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association of unit owners' annual budget that identifies the amount to be placed into a reserve fund.

(c) "Reserve funds" means money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners.

(2) Except as otherwise provided in the declaration, a management committee shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:

(a) annually provide unit owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating ~~[its]~~ the association of unit owners' budget each year, an association of unit owners shall include a reserve fund line item in:

(a) an amount the management committee determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts ~~[its]~~ the association of unit owners' annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

(i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);

(ii) \$500 or actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;

(ii) a demand that the association of unit owners come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.

(9) (a) ~~[A] Unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose, a management committee may not use money in a reserve fund:~~

~~(i) for daily maintenance expenses[; unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose]; or~~

~~(ii) for any purpose other than the purpose for which the reserve fund was established.~~

(b) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.

(c) This Subsection (9) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of administrative control.

(11) For a condominium project whose initial declaration is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:

(a) a copy of the association of unit owners' governing documents; and

(b) a copy of the association of unit owners' most recent financial statement that includes any reserve funds held by the association of unit owners or by a subsidiary of the association of unit owners.

(12) Except as otherwise provided in this section, this section applies to each association of unit owners, regardless of when the association of unit owners was created.

Section 2. Section 57-8-10.1 is amended to read:

57-8-10.1. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

(i) create restrictions on the number and term of rentals in a condominium project; or

(ii) prohibit rentals in the condominium project.

(b) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

(2) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:

(i) a unit owner in the military for the period of the unit owner's deployment;

(ii) a unit occupied by a unit owner's parent, child, or sibling;

(iii) a unit owner whose employer has relocated the unit owner for ~~no less than~~ two years or less;

(iv) a unit owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

(A) a current resident of the unit; or

(B) the parent, child, or sibling of the current resident of the unit;

(b) a provision that allows a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:

(i) the unit owner occupies the unit; ~~or~~

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; ~~and~~ or

(iii) the unit is transferred; and

(c) a requirement that the association of unit owners create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a unit by deed;

(b) the granting of a life estate in the unit; or

(c) if the unit is owned by a limited liability company, corporation, partnership, or other

business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) a condominium project that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), a condominium project in which the initial declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the association of unit owners:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association of unit owners may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all unit owners; and

(b) when the restriction or prohibition requires an amendment to the association of unit owners' declaration, the association of unit owners fulfills all other requirements for amending the declaration described in the association of unit owners' governing documents.

(8) Except as provided in Subsection (9), an association of unit owners may not require a unit owner who owns a rental unit to:

(a) obtain the association of unit owners' approval of a prospective renter;

(b) give the association of unit owners:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the unit is a rental unit.

(9) (a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection (8)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (8)(b), if:

(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.

(10) The provisions of Subsections (8) and (9) apply to an association of unit owners regardless of when the association of unit owners is created.

Section 3. Section 57-8-10.7 is enacted to read:

57-8-10.7. Board action to enforce governing documents -- Parameters.

(1) (a) The management committee shall use the management committee's reasonable judgment to determine whether to exercise the association of unit owners' powers to impose sanctions or pursue legal action for a violation of the governing documents, including:

(i) whether to compromise a claim made by or against the management committee or the association of unit owners; and

(ii) whether to pursue a claim for an unpaid assessment.

(b) The association of unit owners may not be required to take enforcement action if the management committee determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances:

(i) the association of unit owners' legal position does not justify taking any or further enforcement action;

(ii) the covenant, restriction, or rule in the governing documents is likely to be construed as inconsistent with current law;

(iii) (A) a technical violation has or may have occurred; and

(B) the violation is not material as to a reasonable person or does not justify expending the association of unit owners' resources; or

(iv) it is not in the association of unit owners' best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.

(2) Subject to Subsection (3), if the management committee decides under Subsection (1)(b) to forego enforcement, the association of unit owners is not prevented from later taking enforcement action.

(3) The management committee may not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.

(4) This section does not govern whether the association of unit owners' action in enforcing a provision of the governing documents constitutes a waiver or modification of that provision.

Section 4. Section 57-8-17 is amended to read:

57-8-17. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b), an association of unit owners shall keep and make documents available to unit owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610[.];

(i) regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act[.]; and

(ii) including keeping and making available to unit owners a copy of the association of unit owners':

(A) declaration and bylaws;

(B) most recent approved minutes; and

(C) most recent budget and financial statement.

(b) An association of unit owners may redact the following information from any document the association of unit owners produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:

(i) make documents available to unit owners in accordance with the association of unit owners' governing documents[.]; and

(ii) (A) if the association of unit owners has an active website, make the documents described in Subsection (1)(a)(ii) available to unit owners, free of charge, through the website; or

(B) if the association of unit owners does not have an active website, make physical copies of the documents described in Subsection (1)(a)(ii) available to unit owners during regular business hours at the association of unit owners' address registered with the Department of Commerce under Section 57-8-13.1.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

[~~(b)~~] (c) If a provision of an association of unit owners' governing documents conflicts with a

provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents~~;~~:

(a) a unit owner shall include:

(i) the association of unit owners' name;

(ii) the unit owner's name;

(iii) the unit owner's property address;

(iv) the unit owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a unit owner may:

~~(a)~~ (i) elect whether to inspect or copy the documents;

~~(b)~~ (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or

~~(c)~~ (iii) subject to Subsection (4), request that:

~~(1)~~ (A) the association of unit owners make the copies or electronic scans of the requested documents;

~~(2)~~ (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents; ~~or~~

~~(3)~~ (C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents~~;~~; or

~~(4)~~ (D) the association of unit owners email the requested documents to an email address provided in the request.

(4) (a) An association of unit owners shall comply with a request described in Subsection (3).

(b) If an association of unit owners produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans and for time spent meeting with the unit owner, which may not exceed:

(A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) ~~if an employee, manager, or other agent of the association of unit owners makes the copies or electronic scans,~~ 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.

(c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and

(ii) the unit owner shall pay the duplicating service directly.

~~(d)~~ ~~Subject to Subsection (9),~~ if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:

(a) the reasonable costs of inspecting and copying the requested documents; ~~and~~

~~(b)~~ for items described in Subsection (1)(a)(ii), \$25 to the unit owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the unit owner made the request; and

~~(c)~~ reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:

(i) subject to Subsection (9), an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and

(ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the unit owner may request:

(A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;

(B) \$500 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

(d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

(i) the unit owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association of unit owners has failed to comply;

(iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

(iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.

(9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.

Section 5. Section 57-8-59 is enacted to read:

57-8-59. Management committee act for association of unit owners.

Except as limited in the declaration, the association of unit owners bylaws or articles of incorporation, or other provisions of this chapter, a management committee acts in all instances on behalf of the association of unit owners.

Section 6. Section 57-8-60 is enacted to read:

57-8-60. Administration of funds.

An association of unit owners:

(1) shall keep all of the association of unit owners' funds in an account in the name of the association of unit owners; and

(2) may not commingle the association of unit owners' funds with the funds of any other person.

Section 7. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), and (6), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for ~~no less than~~ two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot; ~~or~~

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; ~~and~~ or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the lot is a rental lot.

(9) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(10) The provisions of Subsections (8) and (9) apply to an association regardless of when the association is created.

Section 8. Section 57-8a-211 is amended to read:

57-8a-211. Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate reserve funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association's annual budget that identifies the amount to be placed into a reserve fund.

(c) "Reserve funds" means money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association.

(2) Except as otherwise provided in the governing documents, a board shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the board, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association may fund the annual contribution described in Subsection (4)(d).

(5) An association shall:

(a) annually provide lot owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a lot owner who requests a copy.

(6) In formulating ~~[its]~~ the association's budget each year, an association shall include a reserve fund line item in:

(a) an amount the board determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the governing documents, if the governing documents require an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association adopts ~~[its]~~ the association's annual budget, the lot owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association at a special meeting called by the lot owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the lot owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association that was not vetoed, the association shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association does not comply with the requirements described in Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time

specified in Subsection (8)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection (5), (6), or (7);

(ii) \$500 or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (8)(a), the lot owner shall deliver written notice described in Subsection (8)(c) to the association.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association has failed to comply;

(ii) a demand that the association come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the association shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association's expense.

(9) (a) [A] Unless a majority of association members vote to approve the use of reserve fund money for that purpose, a board may not use money in a reserve fund:

(i) for daily maintenance expenses~~]; unless a majority of association members vote to approve the use of reserve fund money for that purpose]; or~~

(ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A board shall maintain a reserve fund separate from other association funds.

(c) This Subsection (9) may not be construed to limit a board from prudently investing money in a reserve fund, subject to any investment constraints imposed by the governing documents.

(10) Subsections (2) through (9) do not apply to an association during the period of administrative control.

(11) For a project whose initial declaration of covenants, conditions, and restrictions is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:

(a) a copy of the association's governing documents; and

(b) a copy of the association's most recent financial statement that includes any reserve funds held by the association or by a subsidiary of the association.

(12) Except as otherwise provided in this section, this section applies to each association, regardless of when the association was created.

Section 9. Section 57-8a-212.5 is enacted to read:

57-8a-212.5. Compliance with governing documents.

Subject to reasonable compliance therewith by the board, each lot owner shall reasonably comply with the governing documents, as the governing documents may be lawfully amended from time to time, and failure to comply shall be ground for an action to recover sums due for damages or injunctive relief or both, maintainable by the board on behalf of the lot owners, or in a proper case, by an aggrieved lot owner.

Section 10. Section 57-8a-227 is amended to read:

57-8a-227. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b), an association shall keep and make documents available to lot owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610[;];

(i) regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act[;]; and

(ii) including keeping and making available to lot owners a copy of the association's:

- (A) declaration and bylaws;
- (B) most recent approved minutes; and
- (C) most recent budget and financial statement.

(b) An association may redact the following information from any document the association produces for inspection or copying:

- (i) a Social Security number;
- (ii) a bank account number; or
- (iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association shall:

(i) make documents available to lot owners in accordance with the association's governing documents[;]; and

(ii) (A) if the association has an active website, make the documents described in Subsection (1)(a)(ii) available to lot owners, free of charge, through the website; or

(B) if the association does not have an active website, make physical copies of the documents described in Subsection (1)(a)(ii) available to lot owners during regular business hours at the association's address registered with the Department of Commerce under Section 57-8a-105.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

[~~(b)~~] (c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents[;];

(a) a lot owner shall include:

- (i) the association's name;
- (ii) the lot owner's name;
- (iii) the lot owner's property address;
- (iv) the lot owner's email address;
- (v) a description of the documents requested; and
- (vi) any election or request described in Subsection (3)(b); and

(b) a lot owner may:

[~~(a)~~] (i) elect whether to inspect or copy the documents;

[~~(b)~~] (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or

[~~(c)~~] (iii) subject to Subsection (4), request that:

[~~(4)~~] (A) the association make the copies or electronic scans of the requested documents;

[~~(4)~~] (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents; or

[~~(4)~~] (C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents[;]; or

(D) the association email the requested documents to an email address provided in the request.

(4) (a) An association shall comply with a request described in Subsection (3).

(b) If an association produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans and for time spent meeting with the lot owner, which may not exceed:

(A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) [~~if an employee, manager, or other agent of the association makes the copies or electronic scans,~~] 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time [~~making the copies or electronic scans~~].

(c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association shall arrange for the delivery and pick up of the original documents; and

(ii) the lot owner shall pay the duplicating service directly.

(d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

(5) ~~If~~ Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an association fails to comply with a provision of this section, the association shall pay:

(a) the reasonable costs of inspecting and copying the requested documents; ~~and~~

(b) for items described in Subsection (1)(a)(ii), \$25 to the lot owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the lot owner made the request; and

~~(b)~~ (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court under this section if:

(i) subject to Subsection (9), an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and

(ii) the association fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the lot owner may request:

(A) injunctive relief requiring the association to comply with the provisions of this section;

(B) \$500 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.

(d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a),

the lot owner shall deliver a written notice to the association that states:

(i) the lot owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association has failed to comply;

(iii) a demand that the association comply with each requirement with which the association has failed to comply; and

(iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.

(9) An association is not liable for identifying or providing a document in error, if the association identified or provided the erroneous document in good faith.

Section 11. Section 57-8a-230 is enacted to read:

57-8a-230. Administration of funds.

An association:

(1) shall keep all of the association's funds in an account in the name of the association; and

(2) may not commingle the association's funds with the funds of any other person.

CHAPTER 396**S. B. 2**

Passed March 6, 2018
Approved March 21, 2018
Effective July 1, 2018

**PUBLIC EDUCATION
BUDGET AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill supplements or reduces appropriations previously provided for the support and operation of public education for the fiscal year beginning July 1, 2017, and ending June 30, 2018, and for the fiscal year beginning July 1, 2018, and ending June 30, 2019.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ sets the value of the weighted pupil unit (WPU) at \$3,395 for fiscal year 2019;
- ▶ adjusts the number of weighted pupil units to reflect anticipated student enrollment in fall 2018;
- ▶ amends provisions related to certain appropriations for public education, including appropriations for:
 - adult education;
 - school nurses; and
 - the Enhancement for At-Risk Students Program;
- ▶ repeals provisions related to grants for unsafe routes;
- ▶ provides appropriations for other purposes as described;
- ▶ provides intent language; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates \$17,101,400 in operating and capital budgets for fiscal year 2018, including:

- ▶ \$150,000 from the General Fund;
- ▶ \$3,099,100 from the Education Fund; and
- ▶ \$13,852,300 from various sources as detailed in this bill.

This bill appropriates \$193,669,100 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$600,000 from the General Fund;
- ▶ \$10,000,000 from the Uniform School Fund;
- ▶ \$161,392,400 from the Education Fund; and
- ▶ \$21,676,700 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 53F-2-401, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-402, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-406, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-410, as renumbered and amended by Laws of Utah 2018, Chapter 2

REPEALS:

- 53F-2-412, as renumbered and amended by Laws of Utah 2018, Chapter 2

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Utah Code Sections Affected by Coordination Clause:

- 53F-2-414, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-401 is amended to read:**53F-2-401. Appropriation for adult education programs.**

(1) Money appropriated to the State Board of Education for adult education shall be allocated to school districts for adult high school completion and adult basic skills programs.

(2) (a) The State Board of Education and the Department of Corrections, subject to legislative appropriation, are responsible for providing the programs described in Subsection (1) to individuals in the custody of the Department of Corrections.

(b) To fulfill the responsibility described in Subsection (2)(a), the State Board of Education and the Department of Corrections shall, where feasible, contract with appropriate private or public agencies to provide educational and related administrative services.

(c) The State Board of Education shall allocate at least 15% of the money appropriated to the State Board of Education for adult education to support the programs for which the State Board of Education and the Department of Corrections are responsible under this Subsection (2).

~~(2) Each~~ (3) (a) For money that is not allocated under Subsection (2)(c), each school district shall receive a pro rata share of the appropriation for adult high school completion programs based on the number of people in the school district listed in the latest official census who are over 18 years of age and who do not have a high school diploma and prior year participation or as approved by State Board of Education rule.

~~(3)~~ (b) On February 1 of each school year, the State Board of Education shall recapture money not used for an adult high school completion program described in Subsection (3)(a) for reallocation to school districts that have implemented programs based on need and effort as determined by the State Board of Education.

(4) To the extent of money available, school districts shall provide program services to adults

who do not have a diploma and who intend to graduate from high school, with particular emphasis on homeless individuals who are seeking literacy and life skills.

(5) Overruns in adult education in any school district may not reduce the value of the weighted pupil unit for this program in another school district.

(6) School districts shall spend money on adult basic skills programs according to standards established by the State Board of Education.

Section 2. Section 53F-2-402 is amended to read:

53F-2-402. State support of pupil transportation.

(1) Money appropriated to the State Board of Education for state-supported transportation of public school students shall be apportioned and distributed in accordance with Section 53F-2-403, except as otherwise provided in this section [~~or Section 53F-2-412~~].

(2) (a) The Utah Schools for the Deaf and the Blind shall use an allocation of pupil transportation money to pay for transportation of students based on current valid contractual arrangements and best transportation options and methods as determined by the schools.

(b) All student transportation costs of the schools shall be paid from the allocation of pupil transportation money specified in statute.

(3) (a) A local school board may only claim eligible transportation costs as legally reported on the prior year's annual financial report submitted under Section 53G-4-404.

(b) The state shall contribute 85% of approved transportation costs, subject to budget constraints.

(c) If in a fiscal year the total transportation allowance for all school districts exceeds the amount appropriated for that purpose, all allowances shall be reduced pro rata to equal not more than the amount appropriated.

Section 3. Section 53F-2-406 is amended to read:

53F-2-406. Appropriation for school nurses.

(1) The State Board of Education shall distribute money appropriated for school nurses to award grants to school districts and charter schools that:

~~(1)~~ (a) provide an equal amount of matching funds; and

~~(2)~~ (b) do not supplant other money used for school nurses.

(2) (a) A school district or charter school that is awarded a grant under this section shall require each school nurse employed by the school district or charter school to complete two hours of continuing

nurse education on the emotional and mental health of students.

(b) The continuing nurse education described in Subsection (2)(a) shall include training on:

(i) the awareness of, screening for, and triaging to appropriate treatment for mental health problems;

(ii) trauma-informed care;

(iii) signs of mental illness;

(iv) alcohol and substance abuse;

(v) response to acute mental health crises; and

(vi) suicide prevention, including information about the 24-hour availability of the School Safety and Crisis Line established under Section 53E-10-502.

Section 4. Section 53F-2-410 is amended to read:

53F-2-410. Enhancement for At-Risk Students Program.

(1) (a) Subject to the requirements of Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall appropriate ~~[\$1,200,000]~~ \$1,500,000 from the appropriation for Enhancement for At-Risk Students for a gang prevention and intervention program designed to help students at-risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:

(a) low performance on statewide assessments described in Section 53E-4-301;

(b) poverty;

(c) mobility; ~~and~~

(d) limited English proficiency[-]; and

(e) homelessness.

(3) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure.

(4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

(5) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

Section 5. Repealer.

This bill repeals:

Section 53F-2-412, Grants for unsafe routes.**Section 6. Fiscal year 2018 appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 6(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public EducationState Board of Education - Minimum School ProgramItem 1 To State Board of Education - Minimum School Program - Basic School Program

<u>From Education Fund, One-Time</u>	<u>8,000,000</u>
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Schedule of Programs:

<u>Grades 1 - 12</u>	<u>8,000,000</u>
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Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund, One-Time</u>	<u>2,556,100</u>
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From Uniform School Fund Restricted - Trust Distribution Account, One-Time

<u>13,852,300</u>

Schedule of Programs:

<u>School LAND Trust Program</u>	<u>13,852,300</u>
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<u>Educator Salary Adjustments</u>	<u>2,556,100</u>
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Item 3 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

<u>From Education Fund, One-Time</u>	<u>(8,000,000)</u>
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Schedule of Programs:

<u>Voted Local Levy Program</u>	<u>(4,000,000)</u>
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<u>Board Local Levy Program</u>	<u>(4,000,000)</u>
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STATE BOARD OF EDUCATIONItem 4 To State Board of Education - State Administrative Office

<u>From General Fund, One-Time</u>	<u>150,000</u>
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<u>From Education Fund, One-Time</u>	<u>543,000</u>
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Schedule of Programs:

<u>Board and Administration</u>	<u>543,000</u>
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<u>Student Advocacy Services</u>	<u>150,000</u>
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Section 7. Fiscal year 2019 appropriations -- Value of the weighted pupil unit.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2019 is increased from the value of the WPU for fiscal year 2019 established in H.B. 1, Public Education Base Budget Amendments, and set at \$3,395.

Subsection 7(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATIONSTATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAMItem 5 To State Board of Education - Minimum School Program - Basic School Program

<u>From Education Fund</u>	<u>226,364,400</u>
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<u>From Education Fund, One-Time</u>	<u>(10,000,000)</u>
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<u>From Uniform School Fund, One-Time</u>	<u>10,000,000</u>
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Schedule of Programs:

<u>Kindergarten (-716 WPUs)</u>	<u>(154,500)</u>
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<u>Grades 1 - 12 (5,830 WPUs)</u>	<u>60,126,600</u>
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<u>Foreign Exchange</u>	<u>27,600</u>
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<u>Necessarily Existent Small Schools (74 WPUs)</u>	<u>1,050,300</u>
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<u>Professional Staff (-263 WPUs)</u>	<u>3,795,000</u>
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<u>Administrative Costs (-60 WPUs)</u>	<u>(72,200)</u>
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<u>Special Education - Add-On (2,092 WPUs)</u>	<u>13,843,400</u>
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<u>Special Education - Preschool (275 WPUs)</u>	<u>1,838,900</u>
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<u>Special Education - Self-Contained (26 WPUs)</u>	<u>1,259,600</u>
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<u>Special Education - Extended School Year (8 WPUs)</u>	<u>64,100</u>
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<u>Special Education - Impact Aid (27 WPUs)</u>	<u>256,800</u>
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<u>Special Education - Intensive Services (9 WPUs)</u>	<u>95,100</u>
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<u>Special Education - Extended Year for Special Educators</u>	<u>76,400</u>
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<u>Career and Technical Education - Add-On (341 WPUs)</u>	<u>3,550,000</u>
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<u>Class Size Reduction (41,416 WPUs)</u>	<u>140,607,300</u>
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Item 6 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>(68,269,700)</u>
<u>From Education Fund Restricted - UCharter School Levy Account</u>	<u>1,739,600</u>

<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>23,600,000</u>
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Schedule of Programs:

<u>To and From School - Pupil Transportation</u>	<u>3,606,000</u>
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<u>Flexible Allocation - WPU Distribution</u>	<u>(291,641,100)</u>
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<u>Enhancement for At-Risk Students</u>	<u>10,039,900</u>
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<u>Youth in Custody</u>	<u>1,995,900</u>
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<u>Adult Education</u>	<u>2,333,100</u>
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<u>Enhancement for Accelerated Students</u>	<u>186,700</u>
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<u>Concurrent Enrollment</u>	<u>400,100</u>
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<u>School LAND Trust Program</u>	<u>23,600,000</u>
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<u>Charter School Local Replacement</u>	<u>7,946,800</u>
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<u>Charter School Administration</u>	<u>155,000</u>
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<u>K-3 Reading Improvement</u>	<u>15,000,000</u>
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<u>Educator Salary Adjustments</u>	<u>173,645,500</u>
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<u>Matching Fund for School Nurses</u>	<u>1,002,000</u>
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<u>Critical Languages and Dual Immersion</u>	<u>450,000</u>
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<u>Teacher Supplies and Materials</u>	<u>500,000</u>
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<u>Beverly Taylor Sorenson Elementary Arts Learning Program</u>	<u>500,000</u>
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<u>Early Intervention</u>	<u>7,500,000</u>
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<u>Civics Education - State Capitol Field Trips</u>	<u>(150,000)</u>
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Item 7 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

<u>From Education Fund</u>	<u>4,950,400</u>
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Schedule of Programs:

<u>Voted Local Levy Program</u>	<u>6,782,600</u>
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<u>Board Local Levy Program</u>	<u>(1,832,200)</u>
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STATE BOARD OF EDUCATION

Item 8 To State Board of Education - Education Contracts

<u>From Education Fund</u>	<u>(3,142,900)</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>(362,000)</u>
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<u>From Closing Nonlapsing Balances</u>	<u>362,000</u>
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Schedule of Programs:

<u>Corrections Institutions</u>	<u>(1,989,700)</u>
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<u>Youth Center</u>	<u>(1,153,200)</u>
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Item 9 To State Board of Education - Educator Licensing

<u>From Beginning Nonlapsing Balances</u>	<u>500,000</u>
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<u>From Closing Nonlapsing Balances</u>	<u>(500,000)</u>
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Item 10 To State Board of Education - Fine Arts Outreach

<u>From Education Fund</u>	<u>60,000</u>
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Schedule of Programs:

<u>Professional Outreach Programs in the Schools</u>	<u>60,000</u>
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Item 11 To State Board of Education - Initiative Programs

<u>From General Fund</u>	<u>350,000</u>
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<u>From Education Fund</u>	<u>9,600,000</u>
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<u>From General Fund Restricted - Autism Awareness Account</u>	<u>11,700</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>14,500,000</u>
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<u>From Closing Nonlapsing Balances</u>	<u>(14,500,000)</u>
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Schedule of Programs:

<u>Autism Awareness</u>	<u>11,700</u>
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<u>Carson Smith Scholarships</u>	<u>350,000</u>
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<u>Early Intervention Reading Software</u>	<u>7,600,000</u>
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<u>UPSTART</u>	<u>2,000,000</u>
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Item 12 To State Board of Education - MSP Categorical Program Administration

<u>From Education Fund</u>	<u>70,600</u>
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<u>From Education Fund, One-Time</u>	<u>50,000</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>1,756,900</u>
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<u>From Closing Nonlapsing Balances</u>	<u>(1,756,800)</u>
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Schedule of Programs:

<u>Adult Education</u>	<u>70,600</u>
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<u>CTE Comprehensive Guidance</u>	<u>100</u>
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<u>Beverly Taylor Sorenson Elementary Arts Learning Program</u>	<u>50,000</u>
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Item 13 To State Board of Education - Science Outreach

<u>From Education Fund</u>	<u>190,000</u>
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Schedule of Programs:

<u>Informal Science Education Enhancement</u>	190,000
<u>Item 14 To State Board of Education - State Administrative Office</u>	
<u>From Education Fund</u>	569,600
<u>From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account</u>	1,750,000
<u>From Beginning Nonlapsing Balances</u>	8,123,300
<u>From Closing Nonlapsing Balances</u>	(11,834,700)
<u>Schedule of Programs:</u>	
<u>Board and Administration</u>	543,000
<u>Indirect Cost Pool</u>	(3,711,400)
<u>Statewide Online Education Program</u>	26,600
<u>Student Advocacy Services</u>	1,750,000

(1) (a) The Legislature intends that the State Board of Education prioritize the expenditure of funds appropriated for Board and Administration between requested full-time equivalent positions and programmatic cost.

(b) The Legislature further intends that the State Board of Education report on or before July 31, 2018, to the Public Education Appropriations Subcommittee on the intended expenditure of the funds described in Subsection (1)(a) in fiscal year 2019.

(2) The Legislature intends that the State Board of Education use any nonlapsing balances generated from the licensing of Student Assessment of Growth and Excellence assessment questions to develop additional assessment questions, to provide professional learning for Utah educators, and for risk mitigation purposes.

Item 15 To State Board of Education - General System Support

<u>From General Fund, One-Time</u>	250,000
<u>From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account</u>	(1,750,000)
<u>From Beginning Nonlapsing Balances</u>	13,282,600
<u>From Closing Nonlapsing Balances</u>	(13,282,600)
<u>Schedule of Programs:</u>	
<u>Teaching and Learning</u>	(1,750,000)
<u>Career and Technical Education</u>	250,000

Item 16 To State Board of Education - State Charter School Board

<u>From Beginning Nonlapsing Balances</u>	1,570,000
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<u>From Closing Nonlapsing Balances</u>	(1,570,000)
<u>Item 17 To State Board of Education - Utah Schools for the Deaf and the Blind</u>	
<u>From Education Fund</u>	450,000
<u>From Education Fund, One-Time</u>	500,000
<u>Schedule of Programs:</u>	
<u>Educational Services</u>	950,000
<u>SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE</u>	
<u>Item 18 To School and Institutional Trust Fund Office</u>	
<u>From School and Institutional Trust Fund Management Account</u>	36,700
<u>Schedule of Programs:</u>	
<u>School and Institutional Trust Fund Office</u>	36,700

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2018.

(2) If approved by two-thirds of all the members elected to each house, Section 6, Fiscal year 2018 appropriations, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 9. Coordinating S.B. 2 with H.B. 230 -- Substantive amendments.

If this S.B. 2 and H.B. 230, Related to Basic School Programs Review, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, delete Subsection 53F-2-414(3)(b).

CHAPTER 397

S. B. 3

Passed March 6, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**CURRENT FISCAL YEAR
 SUPPLEMENTAL APPROPRIATIONS**

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education and certain state agencies;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$153,121,000 in operating and capital budgets for fiscal year 2018, including:

- ▶ \$51,923,700 from the General Fund;
- ▶ \$101,197,300 from various sources as detailed in this bill.

This bill appropriates \$15,450,000 in expendable funds and accounts for fiscal year 2018, including:

- ▶ \$1,400,000 from the General Fund;
- ▶ \$14,050,000 from various sources as detailed in this bill.

This bill appropriates \$2,000,000 in business-like activities for fiscal year 2018.

This bill appropriates \$13,748,100 in restricted fund and account transfers for fiscal year 2018, including:

- ▶ \$848,100 from the General Fund;
- ▶ \$12,900,000 from various sources as detailed in this bill.

This bill appropriates \$850,000 in transfers to unrestricted funds for fiscal year 2018.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES
 AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 1

To Attorney General

Schedule of Programs:

Child Protection	(88,500)
Civil	88,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$2,000,000 to the Attorney General's Office provided for in Item 13 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to purchase of Information Technology (IT) systems and specific program development/operation, pass-thru funds appropriated by the Legislature and other one-time operational expenses.

Item 2

To Attorney General - Children's Justice Centers

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$450,000 to the Attorney General's Office provided for in Item 15 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to costs passed-thru to operate the local CJC's or for one-time operational expenses.

Item 3

To Attorney General - Contract Attorneys

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$60,000 provided for contract expense in Item 14 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to professional services for attorneys under contract with the Office of the Attorney General and other litigation expenses.

Item 4

To Attorney General - Domestic Violence

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$30,000 to the Attorney General's Office provided for in Item 17 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to expense associated with providing domestic violence training.

Item 5

To Attorney General - Prosecution Council

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$150,000 provided for the Prosecution Council in Item 16 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to expense associated with providing training and technical assistance to prosecutors.

Item 6

To Attorney General - State Settlement Agreements
From General Fund, One-Time 906,100
Schedule of Programs:
State Settlement Agreements 906,100

The Legislature intends that the \$906,100 appropriation to the Attorney Generals Office for Case Settlement Fees not lapse at the close of Fiscal Year 2018.

BOARD OF PARDONS AND PAROLE

Item 7

To Board of Pardons and Parole
Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for the Board of Pardons and Parole in Item 21 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any non-lapsing funds shall be limited to capital improvements, computer equipment/electronic records development, employee training, and psychological evaluation of inmates.

UTAH DEPARTMENT OF CORRECTIONS

Item 8

To Utah Department of Corrections - Programs and Operations
From General Fund, One-Time 500,000
Schedule of Programs:
Prison Operations Draper Facility 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$10,000,000 for the Utah Department of Corrections - Programs and Operations in item 18 of chapter 8, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to: stab & ballistic vests, radio supplies & equipment, authorized vehicle purchases, inmate support & food costs, inmate programming, firearms & ammunition, computer equipment/software & support, equipment & supplies, employee training & development, building & office remodeling, furniture, and special projects.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole Agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds for FY 2018 and FY 2019.

The Legislature grants authority to the Department of Corrections, Executive Director's Transition Team, to purchase one vehicle with Department funds FY 2018 and FY 2019.

Item 9

To Utah Department of Corrections - Department Medical Services

From General Fund, One-Time 1,000,000
Schedule of Programs:
Medical Services 1,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$2,000,000 for the Utah Department of Corrections - Medical Services in item 19 of chapter 8, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to: pharmaceuticals, medical supplies & equipment, computer equipment/software, and employee training & development.

Item 10

To Utah Department of Corrections - Jail Contracting
From General Fund, One-Time (2,500,000)
From Beginning Nonlapsing Balances 4,900,000
From Closing Nonlapsing Balances . . . (4,900,000)
Schedule of Programs:
Jail Contracting (2,500,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$5,000,000 for the Utah Department of Corrections - Jail Contracting in item 20 of chapter 8, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to: housing inmates and treatment programming for inmates housed at the county jails.

**JUDICIAL COUNCIL/
STATE COURT ADMINISTRATOR**

Item 11

To Judicial Council/State Court Administrator - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$2,500,000 provided to the Judicial Council/State Court Administrator-Administration in Laws of Utah 2017 Chapter 8, Item 23 and in Chapter 457, Items 81 through 93 shall not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to computer equipment and software, employee training and incentives, equipment and supplies, special projects and studies, temporary employees (law clerks), trial court program support, juvenile community service programs, senior judge assistance, grant match, translation services, and law library.

Item 12

To Judicial Council/State Court Administrator - Contracts and Leases

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$450,000 provided to the Judicial Council/State Court Administrator-Contracts and Leases in Laws of Utah 2017 Chapter 8, Item 25 and in Chapter 457, Items 94 shall not lapse at the close of Fiscal Year 2018. The use of any non-lapsing funds is limited to contractual obligations and support.

Item 13

To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$800 provided to the Judicial Council/State Court Administrator-Grand Jury in Laws of Utah 2017 Chapter 8, Item 24 shall not lapse at the close of FY 2018. The use of any non-lapsing funds is limited to expenses related to the grand jury.

Item 14

To Judicial Council/State Court Administrator - Guardian ad Litem

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided to the Judicial Council/State Court Administrator-Guardian ad Litem line item in Laws of Utah 2017 Chapter 8, Item 27 and in Chapter 457, Items 95 shall not lapse at the close of Fiscal Year 2018. The use of any non-lapsing funds is limited to computer equipment and software, employee training, development and incentives, and equipment and supplies for offices opening, special projects and studies, and temporary employees.

Item 15

To Judicial Council/State Court Administrator - Jury and Witness Fees

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$500,000 provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter in Laws of Utah 2017 Chapter 8, Item 26 shall not lapse at the close of Fiscal Year 2018. The use of any non-lapsing funds is limited to expenses for jury and witnesses.

GOVERNOR'S OFFICE

Item 16

To Governor's Office - CCJJ Salt Lake County Jail Bed Housing

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$700,000 provided for the Commission on Criminal and Juvenile Justice - Salt Lake County Jail Bed Housing in Item 8 of Chapter 476 Laws of Utah 2018 not lapse at the close of fiscal year 2018. The use of any unused funds is limited to contracts between Salt Lake County and other counties to house inmates or for housing Salt Lake County inmates in Oxbow.

Notwithstanding the intent language in the Laws of Utah 2017, Chapter 476, Item 8, the Legislature intends that the appropriation of \$2,857,000 to the Utah Commission on Criminal and Juvenile Justice - Salt Lake County-Bed Housing be used to administer the contracting and payment of funds to any county that contracts with a county of the first class to house prisoners from a correctional

facility in the county of first class. The Legislature intends that \$2,847,000 be used for housing up to 300 prisoners in county correctional facilities at \$26 per day, per prisoner, until FY 2020. The funds may be used to pay for state probationary inmates or parole inmates which the county of the first-class houses or contracts out to other counties. The Legislature intends that payment of these funds be contingent upon a recipient county first entering into a contract between counties according to terms.

Item 17

To Governor's Office - Character Education

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$300,000 provided for the Governor's Office - Character Education in Item 3 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any funds is limited to grants awarded by the Commission on Civic and Character Education.

Item 18

To Governor's Office - Commission on Criminal and Juvenile Justice

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$1,300,000 provided for the Commission on Criminal and Juvenile Justice Services in Item 8 of Chapter 8 Laws of Utah 2017 not lapse at the close of fiscal year 2018. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases, one-time DTS projects, research and development contracts, extradition costs, meeting and travel costs, and state pass through grant programs.

Item 19

To Governor's Office - Constitutional Defense Council

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$14,000 provided for the Governor's Office - Constitutional Defense Council in Item 27 of Chapter 417 Laws of Utah 2012 not lapse at the close of Fiscal Year 2018. The use of any funds is limited to one-time expenditures authorized by the Constitutional Defense Council.

Item 20

To Governor's Office - Emergency Fund

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,100 for the Governor's Office - Emergency Fund in Item 5 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any funds is limited to emergency expenditures.

Item 21

To Governor's Office

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations

of up to \$1,300,000 provided for the Governor’s Office in Item 1 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to one-time expenditures of the Governor and Lieutenant Governors Offices.

Item 22

To Governor’s Office – Governor’s Office of Management and Budget
From General Fund, One-Time 850,000
From General Fund Restricted – School Readiness Account, One-Time .. (1,100)
Schedule of Programs:
Administration 848,900

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$1,300,000 provided for the Governor’s Office – Governor’s Office of Management and Budget in Item 7 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any funds is limited to one-time expenditures of the Governors Office of Management and Budget.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$60,000 for the Governor’s Office – Governor’s Office of Management and Budget in Item 2 of Chapter 395 Laws of Utah 2016 not lapse at the close of Fiscal Year 2018. The use of any funds is limited to the same purposes as the original appropriations.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$65,000 for the Governor’s Office – Governor’s Office of Management and Budget in Item 51 of Chapter 457 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any funds is limited to the same purposes as the original appropriations.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$850,000 provided to the Governor’s Office – Governor’s Office of Management and Budget for data coordination systems in this item not lapse at the close of Fiscal Year 2018.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 23

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
From General Fund, One-Time (1,305,500)
From Federal Funds, One-Time 396,500
Schedule of Programs:
Administration 396,500
Correctional Facilities (305,500)
Early Intervention Services (1,000,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$4,000,000 provided for the Department of Human Services - Division of Juvenile Justice Services in Item 22 of

Chapter 8, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to expenditures for data processing and technology-based expenditures; facility repairs, maintenance, and improvements; capital development; other charges and pass through expenditures; and, short-term projects and studies that promote efficiency and service improvement.

OFFICE OF THE STATE AUDITOR

Item 24

To Office of the State Auditor – State Auditor From Dedicated Credits Revenue,
One-Time 464,600
Schedule of Programs:
State Auditor 464,600

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$663,000 provided for the Office of the State Auditor in Item 11 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to the same purposes of the original appropriation.

DEPARTMENT OF PUBLIC SAFETY

Item 25

To Department of Public Safety – Driver License
Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for The Department of Public Safety -Driver License line item in Laws of Utah 2017 Chapter 8, Item 33 not lapse at the close of Fiscal Year 2018. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602. Funding shall be used for one-time enhancements to the uninsured motorist program and other one-time operating expenses.

Item 26

To Department of Public Safety - Emergency Management
Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for The Department of Public Safety -Emergency Management line item in Laws of Utah 2017 Chapter 8, Item 29 not lapse at the close of Fiscal Year 2018. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602. Funding shall be used for equipment, technology, and emergencies or disasters.

Item 27

To Department of Public Safety - Emergency Management – National Guard Response
Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$150,000 provided for the Department of Public Safety – National Guard Response line item not lapse at the close of Fiscal Year 2018. Funds shall be

limited to reimbursement for emergency costs.

Item 28

To Department of Public Safety - Highway Safety

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$50,000 provided for The Department of Public Safety -Highway Safety line item in Laws of Utah 2017 Chapter 8, Item 34 not lapse at the close of Fiscal Year 2018. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602. Funding shall be used for equipment, technology, and other one-time operating expenses.

Item 29

To Department of Public Safety - Peace Officers' Standards and Training

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$200,000 provided for The Department of Public Safety - Peace Officers' Standards and Training line item in Laws of Utah 2017 Chapter 8, Item 32 not lapse at the close of Fiscal Year 2018. Funding shall be used for equipment and technology purchases.

Item 30

To Department of Public Safety - Programs & Operations

From General Fund, One-Time	1,056,400
From Federal Funds, One-Time	12,000
Schedule of Programs:	
CITS State Bureau of Investigation	12,000
CITS State Crime Labs	56,400
Fire Marshall - Fire Fighter	
Training	1,000,000

The Legislature intends that should the Division of Emergency Management (DEM) not receive authority to draw down its FY 2018 Emergency Management Performance Grant by June 30, 2018, that funds may be transferred from the Public Safety Program and Operations line item to DEM in FY 2018. Should the funds be transferred, then upon approval to draw down the FY 2018 Emergency Management Performance Grant funds, DEM shall transfer back to the Public Safety Programs and Operations line item, the amount originally transferred.

In accordance with Utah Code Ann. 24-3-103 the Department of Public Safety is requesting authority to transfer all firearms received from court adjudications (Criminal Evidence) to the department for its use. These firearms will be transferred to the State Crime Laboratory and department training section for official use only. In addition, all ammunition received by the department with these firearms will be used by the State Crime Laboratory and training section for official use only. All other evidentiary property of value that has been adjudicated and received by the department will be transferred to State Surplus for auction.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$10,000,000 provided for The Department of Public Safety - Programs and Operations line item in Laws of Utah 2017 Chapter 8, Item 28 not lapse at the close of Fiscal Year 2018. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602. Funding shall be used for equipment, technology, emergencies, transfers to JBA or JDA line items to cover shortfalls, and other one-time operating expenses.

According to Senate Bill 198 passed in the 2017 General Session, a public safety answering point shall maintain in a separate emergency telecommunications service fund any funds dispersed to the public safety answering point from the Tax Commission under Section 69-2-302, from proceeds of the 911 emergency services charge levied under Section 69-2-402. This bill also stated that any unexpended funds at the end of a fiscal year in a public safety answering point's emergency telecommunications service fund not lapse. However, this was not coordinated with Section 63J-1-602.5 List of Nonlapsing Funds and Accounts Title 64 and Thereafter. The Legislature intends that these funds not lapse at the end of FY2018 and shall be used as outlined in Section 69-2-301.

The Legislature intends that any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair be used by the department for its operations.

STATE TREASURER

Item 31

To State Treasurer

From Dedicated Credits Revenue,	
One-Time	60,000
Schedule of Programs:	
Treasury and Investment	60,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$400,000 provided for the Office of the State Treasurer in Item 12 of Chapter 8 Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to Computer Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

UTAH COMMUNICATIONS AUTHORITY

Item 32

To Utah Communications Authority - Administrative Services Division

From General Fund Restricted - Statewide	
Unified E-911 Emergency Account,	
One-Time	1,500,000
From General Fund Restricted - Utah	
Statewide Radio System Acct.,	
One-Time	75,000
Schedule of Programs:	
911 Division	1,500,000

Administrative Services Division 75,000

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 33

To Department of Administrative Services -
Building Board Program

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Building Board Program in Item 20, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to facilities/infrastructure condition assessments, and O & M database program needs: \$200,000.

Item 34

To Department of Administrative Services -
DFCM Administration

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for DFCM Administration in Item 20, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time limited FTEs, and Governor's Mansion maintenance: \$1,000,000; and, Energy Program operations: \$200,000.

Item 35

To Department of Administrative Services -
Executive Director

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Executive Director in Item 17, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to customer service and Department optimization projects, IT security auditing and prevention, internal auditing, website maintenance, security improvements, space utilization needs, and leadership training: \$200,000.

Item 36

To Department of Administrative Services -
Finance - Mandated - Ethics Commissions

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Ethics Commission in Item 27, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to Ethics Commission investigations and Commission and staff expenses \$50,000 and \$47,000 for the Political Subdivisions Ethics Commission expenses: \$97,000.

Item 37

To Department of Administrative Services -
Finance - Mandated - Parental Defense

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Parental Defense in Item 25, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to child welfare parental defense expenses: \$75,000.

Item 38

To Department of Administrative Services -
Finance Administration

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Finance Administration in Item 23, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to maintenance and operation of statewide systems and websites, studies, training, and information technology support and hardware, as well as costs associated with federal funds accountability: \$3,900,000.

Item 39

To Department of Administrative Services -
Inspector General of Medicaid Services

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Inspector General of Medicaid Services in Item 18, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to monitor compliance with State and Federal Regulations and implement measures to identify, prevent and reduce fraud, waste, and abuse, and monitor the quality and reliability of Utah Medicaid providers service delivery and accuracy of billing: \$750,000.

Item 40

To Department of Administrative Services -
Judicial Conduct Commission

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 29, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to professional services for investigations: \$100,000.

Item 41

To Department of Administrative Services -
Post Conviction Indigent Defense

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 28, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to legal costs for death row inmates: \$221,500.

Item 42

To Department of Administrative Services - State Archives

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for State Archives in Item 22, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to electronic records management and preservation, records repository security improvements, and transparency and open government initiatives: \$200,000.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 43

To State Board of Bonding Commissioners - Debt Service - Debt Service

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, onetime proportionally to the reduction in subsidy payment received, thus holding the Debt Service fund harmless.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 44

To Department of Technology Services - Chief Information Officer

From General Fund, One-Time 1,400,000
 From Beginning Nonlapsing Balances (850,000)
 From Closing Nonlapsing Balances 850,000
 Schedule of Programs:
 Chief Information Officer 1,400,000

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Chief Information Officer shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: 1) Costs associated with DTS rate study and/or optimization initiatives, 2) To implement the provisions of Postal Facilities and Government Services (Senate Bill 65, 2017 General Session) SB0003, 3) Single Sign On Initiative, and 4) Data coordination system: \$676,000.

Item 45

To Department of Technology Services - Integrated Technology Division

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Integrated Technology Division in Item 31, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are

limited to 1) Geographic Reference Center projects, Global Positioning System Reference Network upgrades and maintenance, Survey Monument Restoration grant obligations to local government, and 2) Federal Funds award for Lidar Acquisition Projects: \$1,634,000.

TRANSPORTATION

Item 46

To Transportation - Aeronautics

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$5,000,000 from the Aeronautics Restricted Account to Airport Construction in Item 22, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to airport construction projects.

Item 47

To Transportation - Engineering Services

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Engineering Services in Item 6, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to engineering services special projects: \$300,000.

Item 48

To Transportation - Operations/ Maintenance Management

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Operations/Maintenance Management in Item 7, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to highway maintenance: \$2,000,000; and equipment purchases: \$200,000.

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$6,000,000 from the Transportation Fund to Operations/Maintenance Management in Item 20, Chapter 395, Laws of Utah 2016, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to avalanche control.

Item 49

To Transportation - Region Management

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Region Management in Item 9, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to region management: \$200,000.

Item 50

To Transportation - Support Services

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Support Services in Item 5, Chapter 4, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to computer software development projects: \$300,000; and building improvements: \$500,000.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 51

To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund, One-Time 83,100
Schedule of Programs:
Stores and Agencies 83,100

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 52

To Governor's Office of Economic Development - Pass-Through
From General Fund, One-Time 2,175,000
Schedule of Programs:
Pass-Through 2,175,000

DEPARTMENT OF HERITAGE AND ARTS

Item 53

To Department of Heritage and Arts - Indian Affairs
From General Fund, One-Time 75,000
Schedule of Programs:
Indian Affairs 75,000

Item 54

To Department of Heritage and Arts - Pass-Through
From General Fund, One-Time 1,200,000
Schedule of Programs:
Pass-Through 1,200,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 55

To Department of Health - Children's Health Insurance Program
From Federal Funds, One-Time 22,100,000
From General Fund Restricted - Medicaid Restricted Account, One-Time 9,400,000
Schedule of Programs:
Children's Health Insurance Program 31,500,000

The Department of Health may use up to a combined maximum of \$9,400,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid

Services, Medicaid Expansion Fund, and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2018 and FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2018 and FY 2019 when combined with federal matching funds.

Item 56

To Department of Health - Disease Control and Prevention
From General Fund, One-Time 450,500
Schedule of Programs:
Health Promotion 500,000
Office of the Medical Examiner (49,500)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$350,000 funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is for services to people with traumatic brain injury.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to outreach, diversion and partnerships to support the Utah Drug Enforcement Administration's 360 program.

Item 57

To Department of Health - Executive Director's Operations

The Legislature intends that the Department of Health prepare proposed performance measures for all new funding of \$10,000 or more for building blocks and give this information to the Office of the Legislative Fiscal Analyst by April 1, 2018. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2018 with another report two months after the close of the fiscal year where the funding was provided.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$100,000 funds not otherwise designated as nonlapsing to the Department of Health - Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is for services to people with traumatic brain injury.

Item 58

To Department of Health - Family Health and Preparedness

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$50,000

funds not otherwise designated as nonlapsing to the Department of Health - Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is for services to people with traumatic brain injury.

Item 59

To Department of Health - Medicaid and Health Financing

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$975,000 of Item 38 of Chapter 9, Laws of Utah 2017 for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to: (1) \$500,000 for providing application level security and redundancy for core Medicaid applications; and (2) \$475,000 for compliance with unfunded federal mandates and the purchase of computer equipment and software.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is for services to people with traumatic brain injury.

The Social Services Appropriations Subcommittee intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by June 1, 2018 on the following: (1) What are our estimated costs to Medicaid currently from Medications that cost more than \$10,000 per month? (2) What is the estimated cost to Medicaid of the 1 year carve out that they are proposing and exactly which year were they proposing for the carve out? And (3) Report on the possible options for a waiver or state plan amendment in which Medicaid would identify families who have a child that is receiving one of these very expensive medications and if that medical condition is a known genetic condition that can be identified by in vitro fertilization then Medicaid would offer and cover in vitro fertilization services to those families so they would know that any subsequent children that they wished to have would not be afflicted with the same medical condition.

Item 60

To Department of Health - Medicaid Services
 From General Fund, One-Time 9,964,400
 From Federal Funds, One-Time 45,539,500
 From General Fund Restricted -
 Medicaid Restricted Account,
 One-Time 9,400,000
 Schedule of Programs:
 Accountable Care Organizations ... 55,972,000
 Pharmacy 8,931,900

The Department of Health may use up to a combined maximum of \$9,400,000 from the General Fund Restricted - Medicaid

Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2018 and FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2018 and FY 2019 when combined with federal matching funds.

DEPARTMENT OF HUMAN SERVICES

Item 61

To Department of Human Services -
 Division of Child and Family Services
 From General Fund, One-Time 500,000
 Schedule of Programs:
 Facility-Based Services 500,000

Item 62

To Department of Human Services -
 Executive Director Operations
 The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding of \$10,000 or more for building blocks and give this information to the Office of the Legislative Fiscal Analyst by April 1, 2018. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2018 with another report two months after the close of the fiscal year where the funding was provided.

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 63

To Department of Workforce Services -
 Administration
 From Navajo Revitalization Fund,
 One-Time 10,000
 From OWHT-Fed Home Income,
 One-Time 7,000
 From OWHT-Low Income Housing-PI,
 One-Time 6,000
 From Qualified Emergency Food
 Agencies Fund, One-Time 1,500
 From Uintah Basin Revitalization
 Fund, One-Time 3,500
 Schedule of Programs:
 Administrative Support 28,000

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding of \$10,000 or more for building blocks and give this information to the Office of the Legislative Fiscal Analyst by April 1, 2018. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed

explanation as to why should be included. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2018 with another report two months after the close of the fiscal year where the funding was provided.

Item 64

To Department of Workforce Services -
 General Assistance
 From General Fund, One-Time (1,160,200)
 Schedule of Programs:
 General Assistance (1,160,200)

Item 65

To Department of Workforce Services -
 Housing and Community Development

The Legislature intends that the Department of Workforce Services prepare a report to the Office of the Legislative Fiscal Analyst by June 1st, 2018 on how it plans to address the following funding challenges: a. Difficulties in tracking budget and expenditure trends by program type b. Increased coordination of the SHCC and COC Collaborative Applicant monitoring and technical assistance processes.

The Legislature intends that the Department of Workforce Services prepare for the Office of the Legislative Fiscal analyst by June 1st, 2018, an update on the status of the following new homeless services: a. The coordinated services ID card b. The Rio Grande safe space c. The new HMIS dashboard d. Dignity of Work

Item 66

To Department of Workforce Services -
 Operation Rio Grande
 From General Fund, One-Time 10,500,000
 Schedule of Programs:
 Operation Rio Grande 10,500,000

Item 67

To Department of Workforce Services -
 Operations and Policy
 From Navajo Revitalization Fund,
 One-Time 2,000
 From OWHT-Fed Home Income,
 One-Time 13,500
 From OWHT-Low Income Housing-PI,
 One-Time 12,000
 From Permanent Community Impact
 Loan Fund, One-Time 500
 From Qualified Emergency Food
 Agencies Fund, One-Time 2,500
 From Uintah Basin Revitalization
 Fund, One-Time 1,000
 Schedule of Programs:
 Information Technology 31,500

The Legislature intends that in addition to the purposes described in the intent language in H.B. 7, 2018 General Session, Item 19, nonlapsing funds in the Department of Workforce Services' Operations and Policy line item may also be used for one-time

projects, one-time trainings, and data import set-up.

The Legislature intends that the Department of Workforce Services report to the Office of the Legislative Fiscal Analyst by April 8, 2018 on the status of all recommendations from the Office of the State Auditor's June 2017 Single Audit Management Letter.

Item 68

To Department of Workforce Services -
 State Office of Rehabilitation
 From Navajo Revitalization Fund,
 One-Time 500
 From OWHT-Fed Home Income,
 One-Time 500
 From OWHT-Low Income Housing-PI,
 One-Time 500
 From Qualified Emergency Food
 Agencies Fund, One-Time 500
 From Uintah Basin Revitalization
 Fund, One-Time 500
 Schedule of Programs:
 Executive Director 2,500

Item 69

To Department of Workforce Services -
 Unemployment Insurance
 From Navajo Revitalization Fund,
 One-Time 500
 From OWHT-Fed Home Income,
 One-Time 700
 From OWHT-Low Income Housing-PI,
 One-Time 700
 From Permanent Community Impact
 Loan Fund, One-Time 500
 From Qualified Emergency Food
 Agencies Fund, One-Time 500
 From Uintah Basin Revitalization
 Fund, One-Time 500
 Schedule of Programs:
 Unemployment Insurance
 Administration 3,400

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 70

To Department of Agriculture and Food -
 Administration
 From General Fund, One-Time (6,900)
 From Dedicated Credits Revenue,
 One-Time 300,000
 Schedule of Programs:
 Chemistry Laboratory (6,900)
 General Administration 300,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 28, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Computer Equipment/ Software \$200,000; Employee Training/ Incentives \$100,000; Equipment/Supplies \$55,000; Special Projects/Studies \$84,600.

The Legislature intends that the Department of Agriculture and Food submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

Item 71

To Department of Agriculture and Food -
Animal Health
From General Fund, One-Time 600,000
Schedule of Programs:
Brand Inspection 600,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Animal Health line item in Item 29, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Computer Equipment/Software \$100,000 Employee Training/Incentives \$139,100; Special Projects/Studies \$317,100.

Item 72

To Department of Agriculture and Food -
Invasive Species Mitigation

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Invasive Species Mitigation in Item 36, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to invasive species mitigation projects \$1,000,000.

Item 73

To Department of Agriculture and
Food - Marketing and Development

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Marketing and Development line item in Item 32, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Employee Training/Incentives \$13,500; Equipment/Supplies \$16,900; Special Projects/Studies \$37,100.

Item 74

To Department of Agriculture and Food -
Plant Industry
From Dedicated Credits Revenue,
One-Time 50,000
Schedule of Programs:
Plant Industry 50,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Plant Industry line item in Item 30, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Capital Equipment or Improvements \$27,800; Computer

Equipment/Software \$352,800; Employee Training/Incentives \$63,300; Equipment/Supplies \$105,500; Special Projects/Studies 172,600.

Item 75

To Department of Agriculture and Food - Predatory Animal Control

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Predatory Animal Control in Item 34, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Employee Training/Incentives \$23,300; Equipment/Supplies \$68,100; Special Projects/Studies \$133,600.

Item 76

To Department of Agriculture and Food -
Rangeland Improvement
From General Fund Restricted -
Rangeland Improvement Account,
One-Time 30,000
Schedule of Programs:
Rangeland Improvement 30,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 37, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to rangeland improvement projects \$1,000,000.

The legislature intends that Department of Agriculture and Food purchase one new vehicle in FY 2018 for the Rangeland Improvement line item.

Item 77

To Department of Agriculture and Food -
Regulatory Services
From Dedicated Credits Revenue,
One-Time 30,000
Schedule of Programs:
Regulatory Services 30,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Regulatory Services line item in Item 31, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Computer Equipment/Software \$500,000; Employee Training/Incentives \$51,700; Equipment/Supplies \$64,600; Special Projects/Studies \$235,700.

Item 78

To Department of Agriculture and Food -
Resource Conservation
From Dedicated Credits Revenue,
One-Time 10,000
Schedule of Programs:
Resource Conservation 10,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Resource Conservation in Item 35, Chapter 7, Laws of

Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Capital Equipment or Improvements \$67,800; Computer Equipment/Software \$12,100; Employee Training/Incentives \$9,700; Equipment/Supplies \$9,700; Special Projects/Studies \$50,700.

Item 79

To Department of Agriculture and Food - Utah State Fair Corporation
From General Fund, One-Time 1,680,000
Schedule of Programs:
State Fair Corporation 1,680,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 80

To Department of Environmental Quality - Air Quality
From Federal Funds, One-Time 7,863,500
Schedule of Programs:
Air Quality 7,863,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Air Quality in Item 19, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to reducing future operating permit fees \$100,000; air monitoring equipment \$200,000; air quality research \$150,000.

Item 81

To Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Clean Air Retrofit, Replacement, and Off-road Technology in Item 161, Chapter 468, Laws of Utah 2015 and in Item 163, Chapter 469, Laws of Utah 2015, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to grants, rebates, exchanges, or low-cost purchase program awards \$216,200.

Item 82

To Department of Environmental Quality - Drinking Water

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Drinking Water in Item 22, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to drinking water use study \$440,000.

Item 83

To Department of Environmental Quality - Environmental Response and Remediation
From Federal Funds, One-Time 379,600
From Dedicated Credits Revenue,
One-Time 165,000
Schedule of Programs:

Environmental Response and Remediation 544,600

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Environmental Response and Remediation, Item 20, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to data processing equipment and software/programming \$25,000.

Item 84

To Department of Environmental Quality - Executive Director's Office

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Directors Office in Item 18, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to high level nuclear waste opposition \$10,000; capital improvements/maintenance, DP Software, and equipment \$450,000; administrative law judge \$150,000.

The Legislature intends that the Department of Environmental Quality submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

Item 85

To Department of Environmental Quality - Waste Management and Radiation Control

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Waste Management and Radiation Control in Item 23, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to public outreach and education, \$100,000; program and database upgrades and improvements \$300,000.

Item 86

To Department of Environmental Quality - Water Quality

From Federal Funds, One-Time 770,000
From General Fund Restricted - Sovereign Lands Management, One-Time 126,200
Schedule of Programs:
Water Quality 896,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Water Quality in Item 21, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to environmental monitoring/lab equipment \$35,000; independent scientific reviews \$50,000; Improvements to databases, \$175,000; response to harmful algal blooms, \$75,000.

GOVERNOR'S OFFICE

Item 87

To Governor's Office - Office of Energy Development
 From Federal Funds, One-Time 462,700
 From Dedicated Credits Revenue, One-Time 86,800
 Schedule of Programs:
 Office of Energy Development 549,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Energy Development in Item 28, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to programs aimed at accomplishing the Governors 10-year strategic energy plan \$28,000.

The Legislature intends that the Office of Energy Development submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

DEPARTMENT OF NATURAL RESOURCES

Item 88

To Department of Natural Resources - Administration

The Legislature intends that the Department of Natural Resources submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The department shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Administration in Item 1, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to Operating Budget Items: \$225,000.

Item 89

To Department of Natural Resources - DNR Pass Through
 From General Fund, One-Time 4,088,900
 Schedule of Programs:
 DNR Pass Through 4,088,900

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Pass Through in Item 4 Chapter 7 Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to projects that have been obligated by contract

but unexpended at the end of FY2018: up to \$700,000.

Item 90

To Department of Natural Resources - Forestry, Fire and State Lands
 From General Fund, One-Time 19,400,000
 Schedule of Programs:
 Fire Suppression Emergencies 16,700,000
 Project Management 2,700,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 6, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Sovereign Lands Related Projects \$5,473,000; Little Willow Water Line \$27,000.

The Legislature intends that the \$2.2 million appropriation from the Sovereign Lands Management Restricted Account to the Division of Forestry, Fire and State Lands not lapse at the close of Fiscal Year 2018. The Legislature intends that the division use the appropriation to engage the Division of Facilities Construction and Management to design and build an Interagency Fire Dispatch Center in Richfield.

Item 91

To Department of Natural Resources - Oil, Gas and Mining

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Oil, Gas, and Mining in Item 7, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Mining Special Projects/Studies \$250,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$50,000; Equipment/Supplies \$50,000.

Item 92

To Department of Natural Resources - Parks and Recreation
 From General Fund Restricted - State Park Fees, One-Time 505,000
 Schedule of Programs:
 Park Operation Management 400,000
 Recreation Services 105,000

Item 93

To Department of Natural Resources - Parks and Recreation Capital Budget
 From Dedicated Credits Revenue, One-Time 125,000
 From General Fund Restricted - State Park Fees, One-Time 800,000
 Schedule of Programs:
 Donated Capital Projects 125,000
 Major Renovation 800,000

Item 94

To Department of Natural Resources - Species Protection
 From General Fund Restricted - Species Protection, One-Time 40,000

Schedule of Programs:

Species Protection 40,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 2, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to projects started in FY2018: \$200,000.

Item 95

To Department of Natural Resources - Utah Geological Survey

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 15, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: \$200,000 from the General Fund to be used for Computer Equipment/Software \$60,000, Equipment/Supplies \$90,000, Employee Training/Incentives \$50,000; and \$550,000 from the Mineral Lease Account to be used for Mineral Lease Projects.

Item 96

To Department of Natural Resources - Water Resources

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 16, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Operating Budget Items \$200,000; Water Conservation Funding \$300,000; State Facility Water Efficiency Funding \$250,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 154, Chapter 468, Laws of Utah 2015, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: dam safety construction projects \$3,000,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Water Resources in Chapter 309, Laws of Utah 2016, shall not lapse at the close of FY 2018.

Item 97

To Department of Natural Resources - Water Rights

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 17, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Computer Equipment/Software \$40,000; Adjudication \$50,000, Special Projects/Studies \$150,000; Employee Incentive/Training \$30,000, Equipment/Supplies \$50,000, Current Expense \$30,000.

Item 98

To Department of Natural Resources - Watershed

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 5, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to projects started in FY2018 \$700,000; and State Watershed Initiative Match \$300,000.

Item 99

To Department of Natural Resources - Wildlife Resources

From General Fund Restricted - Wildlife

Resources Trust Account, One-Time ... 300,000
Schedule of Programs:

Administrative Services 300,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources line item in Item 8, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: projects funded from the Mule Deer Protection Restricted Account \$200,000; projects funded from the Predator Control Restricted Account \$200,000.

The legislature intends that up to \$180,000 be spent on livestock damage. \$90,000 will be from the General Fund and up to \$90,000 will be from the General Fund Restricted - Wildlife Resources account. The Legislature also intends that this appropriation shall not lapse at the close of FY 2018.

The Legislature intends that up to \$700,000 of Wildlife Resources budget be used for big game depredation expenses shall not lapse at the close of FY 2018. The Legislature further intends that half of these funds be from the General Fund Restricted - Wildlife Resources account and the other half from the General Fund.

Item 100

To Department of Natural Resources - Wildlife Resources Capital Budget

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 12, Chapter 7, Laws of Utah 2017, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: \$649,400.

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 101

To Public Lands Policy Coordinating Office

From General Fund, One-Time 550,000
Schedule of Programs:

Public Lands Policy Coordinating Office 550,000

The Legislature intends that the Public Lands Policy Coordinating Office submit to

the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The agency shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

The Legislature intends that the \$350,000 General Fund one-time appropriation for PLPCO - NGO - Funding go to a non-governmental organization that advocates and litigates for rural counties and shall not lapse at the close of FY 2018.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 102

To School and Institutional Trust Lands Administration

The Legislature intends that the School and Institutional Trust Lands Administration submit to the Office of the Legislative Fiscal Analyst by April 1, 2018 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2018 General Session. The agency shall provide the first report on these performance measures by October 31, 2018 with another report two months after the close of FY 2019.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 103

To Capitol Preservation Board

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 1, Chapter 5, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. Use of any nonlapsing funds is limited to one-time operations costs.

LEGISLATURE

Item 104

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-Time 1,039,400
 Schedule of Programs:
 Administration 1,039,400

Item 105

To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund, One-Time (242,500)
 Schedule of Programs:
 Administration and Research (242,500)

Item 106

To Legislature - Legislative Support
 From General Fund, One-Time (935,400)

Schedule of Programs:
 Administration (935,400)

Item 107

To Legislature - Legislative Services
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Human Resources 50,000

Item 108

To Legislature - Office of the Legislative Auditor General
 From General Fund, One-Time 88,500
 Schedule of Programs:
 Administration 88,500

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 109

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From Federal Funds, One-Time 58,500
 Schedule of Programs:
 State Approving Agency 58,500

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans' and Military Affairs in Item 3, Chapter 5, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. Use of any nonlapsing funds is limited to Veterans Outreach and Military Affairs one-time operations costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 110

To Governor's Office of Economic Development - Industrial Assistance Account
 From General Fund, One-Time 1,400,000
 Schedule of Programs:
 Industrial Assistance Fund 1,400,000

Under Section 63J-1-601 of the Utah Code, the Legislature intends that up to \$1,400,000 of the appropriations provided to the Governors Office of Economic Development Office, Industrial Assistance fund line item not lapse at the close of Fiscal Year 2018. Expenditure of these funds shall be used for fixed rail projects along the Wasatch Front.

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 111

To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund

From Federal Funds, One-Time 14,050,000
Schedule of Programs:

Veterans' Nursing Home Fund 14,050,000

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 112

To Utah Department of Corrections - Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations for the Utah Department of Corrections - Utah Correctional Industries in item 44 of chapter 8, Laws of Utah 2017 not lapse at the close of Fiscal Year 2018. The use of any unused funds is limited to: ongoing operation of UCI.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUND INTERNAL SERVICE FUNDS

Item 113

To Department of Administrative Services Internal Service Fund Internal Service Funds - Division of Fleet Operations

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations for Fleet Operations in Item 43, Chapter 4, Laws of Utah 2017, shall not lapse capital outlay authority granted within FY 2018 for vehicles not delivered by the end of FY 2018 in which vehicle purchase orders were issued obligating capital outlay funds.

Item 114

To Department of Administrative Services Internal Service Fund Internal Service Funds - Risk Management

From Beginning Fund Balance 2,400,000
From Closing Fund Balance (2,400,000)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 115

To Department of Environmental Quality - Water Development Security Fund - Water Quality

From Federal Funds, One-Time 2,000,000
Schedule of Programs:

Water Quality 2,000,000

Subsection 1(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 116

To Risk Management-Auto Fund

From Risk Management - Workers Compensation Fund, One-Time 100,000
Schedule of Programs:

Risk Management - Auto Fund 100,000

Item 117

To Risk Management-Liability

From Risk Management - Workers Compensation Fund, One-Time 2,400,000
Schedule of Programs:

Risk Management - Liability Fund 2,400,000

Item 118

To General Services-Central Printing Services

From General Services - Cooperative Contract Mgmt, One-Time 300,000
Schedule of Programs:

General Services - Central Printing Services 300,000

Item 119

To General Services-Central Mail Services

From General Services - Cooperative Contract Mgmt, One-Time 700,000
Schedule of Programs:

General Services - State Mail Fund . . . 700,000

SOCIAL SERVICES

Item 120

To Medicaid Expansion Fund

From General Fund, One-Time (5,715,500)
From General Fund Restricted - Medicaid Restricted Account,

One-Time 9,400,000
Schedule of Programs:

Medicaid Expansion Fund 3,684,500

The Department of Health may use up to a combined maximum of \$9,400,000 from the General Fund Restricted - Medicaid

Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children’s Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2018 and FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2018 and FY 2019 when combined with federal matching funds.

Item 121

To Medicaid Restricted Account
From General Fund, One-Time 6,563,600
Schedule of Programs:
Medicaid Restricted Account 6,563,600

Subsection 1(e). Transfers to Unrestricted

Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

Item 122

To General Fund
From Nonlapsing Balances - Technology Services -
Chief Technology Officer 850,000
Schedule of Programs:
General Fund, One-time 850,000

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override.

CHAPTER 398

S.B. 8

Passed March 6, 2018
 Approved March 21, 2018
 Effective May 8, 2018

**STATE AGENCY AND HIGHER EDUCATION
 COMPENSATION APPROPRIATIONS**

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

- ▶ provides funding for a 2.5% general salary increase for state and higher education employees;
- ▶ provides funding for an average 4.1% increase in health insurance benefits rates for state and higher education employees;
- ▶ provides funding for an average 3.0% decrease in dental insurance benefits rates for state and higher education employees;
- ▶ provides funding for a 16.7% decrease in long-term disability rates for state agencies;
- ▶ provides funding for retirement rate changes for certain state employees;
- ▶ provides funding for an up-to \$26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
- ▶ provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates \$86,028,000 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$21,160,700 from the General Fund;
- ▶ \$31,764,200 from the Education Fund;
- ▶ \$33,103,100 from various sources as detailed in this bill.

This bill appropriates \$171,700 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$217,000 in business-like activities for fiscal year 2019.

This bill appropriates \$1,000 in fiduciary funds for fiscal year 2019.

Other Special Clauses:

This bill takes effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2019 Appropriations. Under provisions of Section 67-19-43, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2018 and ending June 30, 2019 shall be \$26 per pay period. The following sums of money are

appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES
 AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 1

To Attorney General

From General Fund	1,152,600
From General Fund, One-Time	169,700
From Federal Funds	47,000
From Federal Funds, One-Time	6,900
From Dedicated Credits Revenue	180,300
From Dedicated Credits Revenue, One-Time	27,500
From Attorney General Litigation Fund	300
From General Fund Restricted - Constitutional Defense	33,000
From General Fund Restricted - Constitutional Defense, One-Time	4,700
From Revenue Transfers	27,100
From Revenue Transfers, One-Time	4,000
From Other Financing Sources	2,000
From Other Financing Sources, One-Time	300
Schedule of Programs:	
Administration	152,200
Child Protection	252,800
Civil	756,200
Criminal Prosecution	494,200

Item 2

To Attorney General - Children's Justice Centers

From General Fund	9,300
From General Fund, One-Time	1,200
From Dedicated Credits Revenue	1,200
From Dedicated Credits Revenue, One-Time	100
Schedule of Programs:	
Children's Justice Centers	11,800

Item 3

To Attorney General - Prosecution Council

From General Fund	2,300
From General Fund, One-Time	300
From Dedicated Credits Revenue	900
From Dedicated Credits Revenue, One-Time	100
From General Fund Restricted - Public Safety Support	6,900
From General Fund Restricted - Public Safety Support, One-Time	800
From Revenue Transfers	3,500
From Revenue Transfers, One-Time	400
Schedule of Programs:	
Prosecution Council	15,200

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole
 From General Fund 109,600
 From General Fund, One-Time 18,500
 Schedule of Programs:
 Board of Pardons and Parole 128,100

UTAH DEPARTMENT OF CORRECTIONS

Item 5

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 5,061,600
 From General Fund, One-Time 984,400
 Schedule of Programs:
 Adult Probation and Parole
 Administration 70,700
 Adult Probation and Parole
 Programs 1,847,800
 Department Administrative Services . . . 354,700
 Department Executive Director 153,900
 Department Training 46,200
 Prison Operations Administration 30,000
 Prison Operations Central
 Utah/Gunnison 1,082,400
 Prison Operations Draper Facility . . . 1,877,200
 Prison Operations Inmate Placement . . . 93,700
 Programming Administration 10,300
 Programming Skill Enhancement 325,100
 Programming Treatment 154,000

Item 6

To Utah Department of Corrections -
 Department Medical Services
 From General Fund 493,100
 From General Fund, One-Time 71,800
 Schedule of Programs:
 Medical Services 564,900

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 7

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 2,727,800
 From General Fund, One-Time 423,400
 From Federal Funds 11,800
 From Federal Funds, One-Time 2,500
 From General Fund Restricted -
 Children's Legal Defense 12,100
 From General Fund Restricted -
 Children's Legal Defense, One-Time 1,800
 From General Fund Restricted -
 Court Security Account 2,600
 From General Fund Restricted -
 Court Security Account, One-Time 700
 From General Fund Restricted -
 Online Court Assistance Account 3,600
 From General Fund Restricted -
 Online Court Assistance Account,
 One-Time 800
 Schedule of Programs:
 Administrative Office 98,900
 Court of Appeals 125,600
 Courts Security 3,300
 Data Processing 130,000

District Courts 1,488,500
 Grants Program 12,700
 Judicial Education 9,100
 Justice Courts 20,500
 Juvenile Courts 1,185,500
 Law Library 22,900
 Supreme Court 90,100

Item 8

To Judicial Council/State Court Administrator -
 Contracts and Leases
 From General Fund 4,500
 From General Fund, One-Time 700
 Schedule of Programs:
 Contracts and Leases 5,200

Item 9

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 192,100
 From General Fund, One-Time 34,600
 From General Fund Restricted -
 Children's Legal Defense 12,600
 From General Fund Restricted -
 Children's Legal Defense, One-Time 2,200
 Schedule of Programs:
 Guardian ad Litem 241,500

Item 10

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 11,800
 From General Fund, One-Time 1,900
 Schedule of Programs:
 Jury, Witness, and Interpreter 13,700

GOVERNOR'S OFFICE

Item 11

To Governor's Office - Character Education
 From General Fund 700
 Schedule of Programs:
 Character Education 700

Item 12

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund 56,300
 From General Fund, One-Time 11,200
 From Federal Funds 31,700
 From Federal Funds, One-Time 6,100
 From Dedicated Credits Revenue 200
 From Crime Victim Reparations Fund 37,400
 From Crime Victim Reparations
 Fund, One-Time 7,200
 From General Fund Restricted -
 Criminal Forfeiture Restricted Account . . 1,800
 From General Fund Restricted -
 Law Enforcement Operations 1,800
 Schedule of Programs:
 CCJJ Commission 57,100
 Extraditions 2,200
 Judicial Performance Evaluation
 Commission 11,400
 Sentencing Commission 4,900
 State Asset Forfeiture Grant Program . . . 1,800
 State Task Force Grants 1,800
 Substance Use and Mental
 Health Advisory Council 4,800
 Utah Office for Victims of Crime 69,700

Item 13

To Governor's Office	
From General Fund	76,800
From General Fund, One-Time	9,500
From Dedicated Credits Revenue	8,500
From Dedicated Credits Revenue, One-Time	2,000
Schedule of Programs:	
Administration	65,500
Governor's Residence	6,800
Literacy Projects	1,300
Lt. Governor's Office	23,200

Item 14

To Governor's Office - Governor's Office of Management and Budget	
From General Fund	72,300
From General Fund, One-Time	11,200
Schedule of Programs:	
Administration	20,200
Operational Excellence	16,600
Planning and Budget Analysis	46,700

Item 15

To Governor's Office - Indigent Defense Commission	
From General Fund Restricted - Indigent Defense Resources	12,700
From General Fund Restricted - Indigent Defense Resources, One-Time	2,500
Schedule of Programs:	
Indigent Defense Commission	15,200

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 16

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund	1,638,000
From General Fund, One-Time	450,100
From Federal Funds	68,400
From Federal Funds, One-Time	20,800
From Dedicated Credits Revenue	10,800
From Dedicated Credits Revenue, One-Time	2,700
From Revenue Transfers	15,700
From Revenue Transfers, One-Time	4,000
Schedule of Programs:	
Administration	135,500
Correctional Facilities	422,200
Early Intervention Services	576,500
Rural Programs	683,100
Youth Parole Authority	11,300
Case Management	381,900

OFFICE OF THE STATE AUDITOR

Item 17

To Office of the State Auditor - State Auditor	
From General Fund	72,000
From General Fund, One-Time	18,100
From Dedicated Credits Revenue	42,000
From Dedicated Credits Revenue, One-Time	10,600
Schedule of Programs:	
State Auditor	142,700

DEPARTMENT OF PUBLIC SAFETY**Item 18**

To Department of Public Safety - Driver License	
From Dedicated Credits Revenue	100
From Department of Public Safety Restricted Account	570,600
From Department of Public Safety Restricted Account, One-Time	126,800
From Public Safety Motorcycle Education Fund	2,300
From Public Safety Motorcycle Education Fund, One-Time	700
From Pass-through	1,100
From Pass-through, One-Time	300
Schedule of Programs:	
Driver License Administration	56,000
Driver Records	168,500
Driver Services	474,400
Motorcycle Safety	3,000

Item 19

To Department of Public Safety - Emergency Management	
From General Fund	7,800
From General Fund, One-Time	1,500
From Federal Funds	113,500
From Federal Funds, One-Time	22,500
Schedule of Programs:	
Emergency Management	145,300

Item 20

To Department of Public Safety - Highway Safety	
From General Fund	400
From General Fund, One-Time	100
From Federal Funds	32,100
From Federal Funds, One-Time	9,000
From Dedicated Credits Revenue	5,400
From Dedicated Credits Revenue, One-Time	1,500
From Pass-through	600
From Pass-through, One-Time	200
Schedule of Programs:	
Highway Safety	49,300

Item 21

To Department of Public Safety - Peace Officers' Standards and Training	
From General Fund	2,400
From General Fund, One-Time	300
From Dedicated Credits Revenue	1,300
From Dedicated Credits Revenue, One-Time	200
From General Fund Restricted - Public Safety Support	65,000
From General Fund Restricted - Public Safety Support, One-Time	7,400
Schedule of Programs:	
Basic Training	34,500
POST Administration	27,100
Regional/Inservice Training	15,000

Item 22

To Department of Public Safety - Programs & Operations	
From General Fund	1,608,500
From General Fund, One-Time	276,500
From Federal Funds	14,300
From Federal Funds, One-Time	1,500
From Dedicated Credits Revenue	261,500

From Dedicated Credits Revenue, One-Time	55,600
From General Fund Restricted - Concealed Weapons Account	41,300
From General Fund Restricted - Concealed Weapons Account, One-Time	10,700
From Department of Public Safety Restricted Account	85,100
From Department of Public Safety Restricted Account, One-Time ...	15,600
From General Fund Restricted - DNA Specimen Account	9,100
From General Fund Restricted - DNA Specimen Account, One-Time	1,600
From General Fund Restricted - Fire Academy Support	55,800
From General Fund Restricted - Fire Academy Support, One-Time	9,700
From General Fund Restricted - Motor Vehicle Safety Impact Acct.	56,400
From General Fund Restricted - Motor Vehicle Safety Impact Acct., One-Time	9,100
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account	1,300
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-Time	200
From General Fund Restricted - Statewide Warrant Operations	7,100
From General Fund Restricted - Statewide Warrant Operations, One-Time	1,800
From Revenue Transfers	9,400
From Revenue Transfers, One-Time	1,200
From General Fund Restricted - Utah Highway Patrol Aero Bureau	1,700
From General Fund Restricted - Utah Highway Patrol Aero Bureau, One-Time ..	100
Schedule of Programs: Aero Bureau	8,100
CITS Administration	11,600
CITS Bureau of Criminal Identification	192,400
CITS Communications	230,800
CITS State Bureau of Investigation	87,400
CITS State Crime Labs	145,700
Department Commissioner's Office	75,000
Department Fleet Management	2,000
Department Grants	25,900
Department Intelligence Center	25,200
Fire Marshall - Fire Fighter Training ..	15,300
Fire Marshall - Fire Operations	57,400
Highway Patrol - Administration	31,400
Highway Patrol - Commercial Vehicle	106,900
Highway Patrol - Federal/State Projects ..	300
Highway Patrol - Field Operations	1,203,200
Highway Patrol - Protective Services	134,200
Highway Patrol - Safety Inspections	37,500
Highway Patrol - Special Enforcement	17,700
Highway Patrol - Special Services	103,400

Highway Patrol - Technology Services	23,700
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STATE TREASURER

Item 23

To State Treasurer From General Fund	22,000
From General Fund, One-Time	2,900
From Dedicated Credits Revenue	14,100
From Dedicated Credits Revenue, One-Time	1,600
From Unclaimed Property Trust	29,100
From Unclaimed Property Trust, One-Time	6,800
Schedule of Programs: Money Management Council	3,300
Treasury and Investment	37,600
Unclaimed Property	35,600

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 24

To Department of Administrative Services - Administrative Rules From General Fund	8,800
From General Fund, One-Time	2,000
Schedule of Programs: DAR Administration	10,800

Item 25

To Department of Administrative Services - Building Board Program From Capital Projects Fund	9,800
From Capital Projects Fund, One-Time ...	2,500
Schedule of Programs: Building Board Program	12,300

Item 26

To Department of Administrative Services - DFCM Administration From General Fund	61,100
From General Fund, One-Time	10,200
From Dedicated Credits Revenue	19,000
From Dedicated Credits Revenue, One-Time	3,100
From Capital Projects Fund	48,700
From Capital Projects Fund, One-Time ...	7,900
Schedule of Programs: DFCM Administration	137,500
Energy Program	12,500

Item 27

To Department of Administrative Services - Executive Director From General Fund	20,500
From General Fund, One-Time	3,400
Schedule of Programs: Executive Director	23,900

Item 28

To Department of Administrative Services - Finance - Mandated From General Fund, One-Time	(4,500,000)
Schedule of Programs: State Employee Benefits	(4,500,000)

Item 29

To Department of Administrative Services -
 Finance Administration

From General Fund	98,700
From General Fund, One-Time	22,300
From Dedicated Credits Revenue	35,900
From Dedicated Credits Revenue, One-Time	8,700
From General Fund Restricted - Internal Service Fund Overhead	17,500
From General Fund Restricted - Internal Service Fund Overhead, One-Time	3,400
Schedule of Programs:	
Finance Director's Office	17,400
Financial Information Systems	37,600
Financial Reporting	60,800
Payables/Disbursing	48,200
Payroll	22,500

Item 30

To Department of Administrative Services -
 Inspector General of Medicaid Services

From General Fund	23,500
From General Fund, One-Time	4,600
From Revenue Transfers	46,100
From Revenue Transfers, One-Time	9,000
Schedule of Programs:	
Inspector General of Medicaid Services	83,200

Item 31

To Department of Administrative Services -
 Judicial Conduct Commission

From General Fund	5,600
From General Fund, One-Time	700
Schedule of Programs:	
Judicial Conduct Commission	6,300

Item 32

To Department of Administrative Services -
 Purchasing

From General Fund	35,500
From General Fund, One-Time	2,200
Schedule of Programs:	
Purchasing and General Services	37,700

Item 33

To Department of Administrative
 Services - State Archives

From General Fund	47,600
From General Fund, One-Time	11,200
From Federal Funds	900
From Federal Funds, One-Time	300
From Dedicated Credits Revenue	1,800
From Dedicated Credits Revenue, One-Time	400
Schedule of Programs:	
Archives Administration	12,200
Open Records	10,000
Patron Services	17,400
Preservation Services	12,500
Records Analysis	8,600
Records Services	1,500

**DEPARTMENT OF TECHNOLOGY
 SERVICES**

Item 34

To Department of Technology Services -
 Chief Information Officer

From General Fund	11,000
From General Fund, One-Time	700
Schedule of Programs:	
Chief Information Officer	11,700

Item 35

To Department of Technology Services -
 Integrated Technology Division

From General Fund	14,800
From General Fund, One-Time	3,100
From Federal Funds	4,600
From Federal Funds, One-Time	900
From Dedicated Credits Revenue	14,200
From Dedicated Credits Revenue, One-Time	3,000
From General Fund Restricted - Statewide Unified E-911 Emergency Account	5,000
From General Fund Restricted - Statewide Unified E-911 Emergency Account, One-Time	1,000
Schedule of Programs:	
Automated Geographic Reference Center	46,600

TRANSPORTATION

Item 36

To Transportation - Aeronautics

From Dedicated Credits Revenue	6,600
From Dedicated Credits Revenue, One-Time	1,500
From Aeronautics Restricted Account	23,400
From Aeronautics Restricted Account, One-Time	4,100
Schedule of Programs:	
Administration	14,100
Airplane Operations	21,500

Item 37

To Transportation - Engineering Services

From Transportation Fund	674,500
From Transportation Fund, One-Time ..	140,200
From Dedicated Credits Revenue	24,800
From Dedicated Credits Revenue, One-Time	5,500
Schedule of Programs:	
Civil Rights	7,500
Construction Management	47,500
Engineer Development Pool	56,100
Engineering Services	84,700
Environmental	61,400
Highway Project Management Team ...	10,400
Materials Lab	125,500
Preconstruction Admin	48,600
Program Development	193,000
Research	33,000
Right-of-Way	77,700
Structures	99,600

Item 38

To Transportation - Operations/
 Maintenance Management

From Transportation Fund 2,084,900
 From Transportation Fund, One-Time .. 487,800
 From Dedicated Credits Revenue 19,500
 From Dedicated Credits Revenue,
 One-Time 4,300
 Schedule of Programs:
 Field Crews 345,700
 Maintenance Planning 45,600
 Region 1 316,400
 Region 2 485,200
 Region 3 291,800
 Region 4 594,900
 Shops 221,500
 Traffic Operations Center 200,200
 Traffic Safety/Tramway 95,200

Item 39

To Transportation - Region Management
 From Transportation Fund 670,100
 From Transportation Fund, One-Time .. 145,700
 From Dedicated Credits Revenue 31,400
 From Dedicated Credits Revenue,
 One-Time 6,700
 Schedule of Programs:
 Cedar City 8,800
 Price 9,400
 Region 1 186,300
 Region 2 288,500
 Region 3 159,900
 Region 4 198,200
 Richfield 2,800

Item 40

To Transportation - Support Services
 From Transportation Fund 390,800
 From Transportation Fund, One-Time ... 87,100
 Schedule of Programs:
 Administrative Services 43,300
 Community Relations 17,800
 Comptroller 85,900
 Data Processing 6,700
 Human Resources Management 24,500
 Internal Auditor 30,500
 Ports of Entry 217,900
 Procurement 35,700
 Risk Management 15,600

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC
 BEVERAGE CONTROL**

Item 41

To Department of Alcoholic Beverage Control -
 DABC Operations
 From Liquor Control Fund 555,600
 From Liquor Control Fund, One-Time 79,400
 Schedule of Programs:
 Administration 16,400
 Executive Director 77,700
 Stores and Agencies 452,600
 Warehouse and Distribution 88,300

DEPARTMENT OF COMMERCE

Item 42

To Department of Commerce - Building
 Inspector Training

From Dedicated Credits Revenue 1,400
 From Dedicated Credits Revenue,
 One-Time 600
 Schedule of Programs:
 Building Inspector Training 2,000

Item 43

To Department of Commerce - Commerce
 General Regulation
 From General Fund 1,300
 From General Fund, One-Time 200
 From Federal Funds 7,100
 From Federal Funds, One-Time 1,400
 From Dedicated Credits Revenue 30,600
 From Dedicated Credits Revenue,
 One-Time 5,700
 From General Fund Restricted -
 Commerce Service Account 369,700
 From General Fund Restricted - Commerce
 Service Account, One-Time 75,200
 From General Fund Restricted -
 Factory Built Housing Fees 1,500
 From General Fund Restricted -
 Factory Built Housing Fees, One-Time ... 300
 From General Fund Restricted -
 Geologist Education and Enforcement 300
 From Gen. Fund Rest. - Nurse
 Education & Enforcement Acct. 400
 From Gen. Fund Rest. - Nurse Education
 & Enforcement Acct., One-Time 100
 From General Fund Restricted -
 Pawnbroker Operations 2,900
 From General Fund Restricted -
 Pawnbroker Operations, One-Time 700
 From General Fund Restricted -
 Public Utility Restricted Acct. 84,700
 From General Fund Restricted - Public
 Utility Restricted Acct., One-Time 17,200
 From Pass-through 900
 From Pass-through, One-Time 200
 Schedule of Programs:
 Administration 49,600
 Consumer Protection 58,900
 Corporations and Commercial Code 62,500
 Occupational and Professional
 Licensing 210,400
 Office of Consumer Services 17,000
 Public Utilities 96,100
 Real Estate 48,800
 Securities 57,100

**GOVERNOR'S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 44

To Governor's Office of Economic Development -
 Administration
 From General Fund 33,600
 From General Fund, One-Time 6,100
 From Dedicated Credits Revenue 11,100
 From Dedicated Credits Revenue,
 One-Time 2,000
 Schedule of Programs:
 Administration 52,800

Item 45

To Governor's Office of Economic Development -
 Business Development
 From General Fund 76,900

From General Fund, One-Time 10,500
 From Federal Funds 8,200
 From Federal Funds, One-Time 1,100
 From Dedicated Credits Revenue 3,900
 From Dedicated Credits Revenue,
 One-Time 500
 From General Fund Restricted -
 Industrial Assistance Account 2,700
 From General Fund Restricted -
 Industrial Assistance Account,
 One-Time 400
 Schedule of Programs:
 Corporate Recruitment and Business
 Services 74,200
 Outreach and International Trade 30,000

Item 46

To Governor's Office of Economic Development -
 Office of Tourism
 From General Fund 50,400
 From General Fund, One-Time 7,600
 From Dedicated Credits Revenue 4,100
 From Dedicated Credits Revenue,
 One-Time 700
 From General Fund Rest. - Motion
 Picture Incentive Acct. 8,500
 From General Fund Rest. - Motion
 Picture Incentive Acct., One-Time 1,100
 Schedule of Programs:
 Administration 19,300
 Film Commission 14,900
 Operations and Fulfillment 38,200

Item 47

To Governor's Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 2,100
 From Dedicated Credits Revenue 800
 Schedule of Programs:
 Pete Suazo Utah Athletics
 Commission 2,900

Item 48

To Governor's Office of Economic Development -
 STEM Action Center
 From General Fund 13,600
 From General Fund, One-Time 1,400
 From Dedicated Credits Revenue 13,200
 From Dedicated Credits Revenue,
 One-Time 1,300
 Schedule of Programs:
 STEM Action Center 29,500

FINANCIAL INSTITUTIONS

Item 49

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions 158,200
 From General Fund Restricted -
 Financial Institutions, One-Time 33,600
 Schedule of Programs:
 Administration 191,800

DEPARTMENT OF HERITAGE AND ARTS

Item 50

To Department of Heritage and
 Arts - Administration

From General Fund 49,700
 From General Fund, One-Time 8,500
 From Dedicated Credits Revenue 1,100
 From Dedicated Credits Revenue,
 One-Time 200
 Schedule of Programs:
 Administrative Services 31,600
 Executive Director's Office 16,700
 Information Technology 3,700
 Utah Multicultural Affairs Office 7,500

Item 51

To Department of Heritage and Arts -
 Division of Arts and Museums
 From General Fund 38,200
 From General Fund, One-Time 8,400
 From Federal Funds 2,100
 From Federal Funds, One-Time 500
 From Dedicated Credits Revenue 1,900
 From Dedicated Credits Revenue,
 One-Time 500
 Schedule of Programs:
 Administration 10,000
 Community Arts Outreach 41,600

Item 52

To Department of Heritage and Arts -
 Commission on Service and Volunteerism
 From General Fund 1,300
 From General Fund, One-Time 300
 From Federal Funds 19,900
 From Federal Funds, One-Time 5,700
 Schedule of Programs:
 Commission on Service and
 Volunteerism 27,200

Item 53

To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 5,000
 From General Fund, One-Time 500
 From Dedicated Credits Revenue 1,100
 From Dedicated Credits Revenue,
 One-Time 100
 From General Fund Restricted - Native
 American Repatriation Restricted 400
 Schedule of Programs:
 Indian Affairs 7,100

Item 54

To Department of Heritage and Arts - State History
 From General Fund 45,500
 From General Fund, One-Time 7,800
 From Federal Funds 18,300
 From Federal Funds, One-Time 3,300
 From Dedicated Credits Revenue 1,800
 From Dedicated Credits Revenue,
 One-Time 300
 Schedule of Programs:
 Administration 8,400
 Historic Preservation and Antiquities ... 38,000
 Library and Collections 16,500
 Public History, Communication and
 Information 14,100

Item 55

To Department of Heritage and Arts - State Library
 From General Fund 51,200
 From General Fund, One-Time 10,100
 From Federal Funds 19,300
 From Federal Funds, One-Time 3,700

From Dedicated Credits Revenue	38,500
From Dedicated Credits Revenue, One-Time	7,300
Schedule of Programs:	
Administration	8,700
Blind and Disabled	55,900
Library Development	43,200
Library Resources	22,300

INSURANCE DEPARTMENT

Item 56

To Insurance Department - Bail Bond Program	
From General Fund Restricted - Bail Bond Surety Administration	1,000
Schedule of Programs:	
Bail Bond Program	1,000

Item 57

To Insurance Department - Insurance Department Administration	
From Federal Funds	17,500
From Federal Funds, One-Time	3,600
From General Fund Restricted - Captive Insurance	22,300
From General Fund Restricted - Captive Insurance, One-Time	5,100
From General Fund Restricted - Insurance Department Acct.	124,700
From General Fund Restricted - Insurance Department Acct., One-Time	26,200
From General Fund Rest. - Insurance Fraud Investigation Acct.	27,400
From General Fund Rest. - Insurance Fraud Investigation Acct., One-Time	3,200
Schedule of Programs:	
Administration	170,800
Captive Insurers	27,400
Insurance Fraud Program	31,800

Item 58

To Insurance Department - Title Insurance Program	
From General Fund Rest. - Title Licensee Enforcement Acct.	2,000
From General Fund Rest. - Title Licensee Enforcement Acct., One-Time	600
Schedule of Programs:	
Title Insurance Program	2,600

LABOR COMMISSION

Item 59

To Labor Commission	
From General Fund	127,400
From General Fund, One-Time	21,100
From Federal Funds	64,800
From Federal Funds, One-Time	13,800
From Dedicated Credits Revenue	2,200
From Dedicated Credits Revenue, One-Time	500
From Employers' Reinsurance Fund	1,700
From Employers' Reinsurance Fund, One-Time	300
From General Fund Restricted - Industrial Accident Account	69,000

From General Fund Restricted - Industrial Accident Account, One-Time	12,900
From General Fund Restricted - Workplace Safety Account	11,400
From General Fund Restricted - Workplace Safety Account, One-Time	2,300
Schedule of Programs:	
Adjudication	36,600
Administration	31,800
Antidiscrimination and Labor	63,800
Boiler, Elevator and Coal Mine Safety Division	40,100
Industrial Accidents	48,400
Utah Occupational Safety and Health	104,700
Workplace Safety	2,000

PUBLIC SERVICE COMMISSION

Item 60

To Public Service Commission	
From General Fund Restricted - Public Utility Restricted Acct.	54,300
From General Fund Restricted - Public Utility Restricted Acct., One-Time	10,100
From Revenue Transfers	300
Schedule of Programs:	
Administration	64,700

UTAH STATE TAX COMMISSION

Item 61

To Utah State Tax Commission - Tax Administration	
From General Fund	525,600
From General Fund, One-Time	121,500
From Education Fund	412,900
From Education Fund, One-Time	95,200
From Federal Funds	13,800
From Federal Funds, One-Time	3,100
From Dedicated Credits Revenue	143,700
From Dedicated Credits Revenue, One-Time	33,600
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account	75,200
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-Time	15,600
From General Fund Rest. - Sales and Use Tax Admin Fees	201,400
From General Fund Rest. - Sales and Use Tax Admin Fees, One-Time	46,200
From Revenue Transfers	4,000
From Revenue Transfers, One-Time	900
From Uninsured Motorist Identification Restricted Account	3,100
From Uninsured Motorist Identification Restricted Account, One-Time	700
Schedule of Programs:	
Administration Division	237,600
Auditing Division	342,700
Motor Vehicle Enforcement Division	93,700
Motor Vehicles	387,700
Property Tax Division	145,300
Seasonal Employees	3,800
Tax Payer Services	337,000

Tax Processing Division 148,700

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 62

To Utah Science Technology and Research Governing Authority - Support Programs
 From General Fund 28,900
 From General Fund, One-Time 2,000
 From Dedicated Credits Revenue 300
 Schedule of Programs:
 Incubation Programs 10,500
 Regional Outreach 12,400
 SBIR/STTR Assistance Center 8,300

Item 63

To Utah Science Technology and Research Governing Authority - USTAR Administration
 From General Fund 31,900
 From General Fund, One-Time 4,900
 From Dedicated Credits Revenue 7,800
 From Dedicated Credits Revenue, One-Time 1,300
 Schedule of Programs:
 Administration 11,800
 Project Management & Compliance 34,100

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 64

To Department of Health - Children's Health Insurance Program
 From General Fund 3,100
 From General Fund, One-Time (3,100)
 From Federal Funds 11,500
 From Federal Funds, One-Time 4,400
 From Dedicated Credits Revenue 1,000
 From Dedicated Credits Revenue, One-Time 100
 Schedule of Programs:
 Children's Health Insurance Program ... 17,000

Item 65

To Department of Health - Disease Control and Prevention
 From General Fund 205,700
 From General Fund, One-Time 31,200
 From Federal Funds 364,500
 From Federal Funds, One-Time 83,200
 From Dedicated Credits Revenue 165,000
 From Dedicated Credits Revenue, One-Time 33,600
 From Department of Public Safety Restricted Account 2,000
 From Department of Public Safety Restricted Account, One-Time 200
 From General Fund Restricted - State Lab Drug Testing Account 8,300
 From General Fund Restricted - State Lab Drug Testing Account, One-Time 1,800
 From Revenue Transfers 32,300
 From Revenue Transfers, One-Time 7,300
 Schedule of Programs:
 Clinical and Environmental Laboratory Certification Programs 16,500

Epidemiology 271,700
 General Administration 42,700
 Health Promotion 300,500
 Laboratory Operations and Testing ... 183,100
 Office of the Medical Examiner 120,600

Item 66

To Department of Health - Executive Director's Operations
 From General Fund 97,800
 From General Fund, One-Time 16,900
 From Federal Funds 89,800
 From Federal Funds, One-Time 15,200
 From Dedicated Credits Revenue 48,400
 From Dedicated Credits Revenue, One-Time 10,100
 From Revenue Transfers 14,000
 From Revenue Transfers, One-Time 3,000
 Schedule of Programs:
 Center for Health Data and Informatics 132,900
 Executive Director 60,500
 Office of Internal Audit 20,800
 Program Operations 81,000

Item 67

To Department of Health - Family Health and Preparedness
 From General Fund 152,100
 From General Fund, One-Time 28,000
 From Federal Funds 336,700
 From Federal Funds, One-Time 69,600
 From Dedicated Credits Revenue 84,200
 From Dedicated Credits Revenue, One-Time 15,800
 From General Fund Restricted - Children's Hearing Aid Pilot Program Account 2,200
 From General Fund Restricted - Children's Hearing Aid Pilot Program Account, One-Time 500
 From General Fund Restricted - K. Oscarson Children's Organ Transplant 1,900
 From General Fund Restricted - K. Oscarson Children's Organ Transplant, One-Time 400
 From Revenue Transfers 81,600
 From Revenue Transfers, One-Time 18,700
 Schedule of Programs:
 Child Development 144,900
 Children with Special Health Care Needs 180,800
 Director's Office 26,200
 Emergency Medical Services and Preparedness 68,900
 Health Facility Licensing and Certification 162,500
 Maternal and Child Health 111,200
 Primary Care 31,300
 Public Health and Health Care Preparedness 65,900

Item 68

To Department of Health - Medicaid and Health Financing
 From General Fund 65,500
 From General Fund, One-Time 12,100
 From Federal Funds 332,900

From Federal Funds, One-Time	62,900
From Dedicated Credits Revenue	135,600
From Dedicated Credits Revenue, One-Time	24,800
From Nursing Care Facilities Provider Assessment Fund	10,300
From Nursing Care Facilities Provider Assessment Fund, One-Time	1,800
From Revenue Transfers	14,400
From Revenue Transfers, One-Time	2,600
Schedule of Programs:	
Authorization and Community Based Services	103,100
Coverage and Reimbursement Policy	77,200
Director's Office	68,500
Eligibility Policy	78,200
Financial Services	79,200
Managed Health Care	126,300
Medicaid Operations	130,400

Item 69

To Department of Health - Medicaid Services	
From General Fund	47,300
From General Fund, One-Time	7,400
From Federal Funds	206,000
From Federal Funds, One-Time	29,000
From Dedicated Credits Revenue	16,400
From Dedicated Credits Revenue, One-Time	2,700
Schedule of Programs:	
Home and Community Based Waivers	13,200
Other Services	142,000
Pharmacy	19,100
Provider Reimbursement Information System for Medicaid	134,500

Item 70

To Department of Health - Primary Care Workforce Financial Assistance	
From General Fund	4,200
Schedule of Programs:	
Primary Care Workforce Financial Assistance	4,200

Item 71

To Department of Health - Rural Physicians Loan Repayment Assistance	
From General Fund	4,200
Schedule of Programs:	
Rural Physicians Loan Repayment Program	4,200

DEPARTMENT OF HUMAN SERVICES

Item 72

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	96,300
From General Fund, One-Time	23,300
From Federal Funds	18,500
From Federal Funds, One-Time	3,400
Schedule of Programs:	
Administration - DAAS	40,000
Adult Protective Services	91,000
Aging Alternatives	2,400
Aging Waiver Services	8,100

Item 73

To Department of Human Services - Division of Child and Family Services	
From General Fund	1,498,200
From General Fund, One-Time	326,800
From Federal Funds	482,600
From Federal Funds, One-Time	104,400
From Dedicated Credits Revenue	1,400
From Dedicated Credits Revenue, One-Time	300
From General Fund Restricted - Victims of Domestic Violence Services Account	2,200
From General Fund Restricted - Victims of Domestic Violence Services Account, One-Time	500
Schedule of Programs:	
Administration - DCFS	134,700
Child Welfare Management Information System	43,200
Domestic Violence	21,300
Facility-Based Services	15,200
Minor Grants	43,200
Service Delivery	2,158,800

Item 74

To Department of Human Services - Executive Director Operations	
From General Fund	169,200
From General Fund, One-Time	34,000
From Federal Funds	99,100
From Federal Funds, One-Time	18,500
From Dedicated Credits Revenue	1,700
From Dedicated Credits Revenue, One-Time	400
From Revenue Transfers	36,400
From Revenue Transfers, One-Time	6,300
Schedule of Programs:	
Executive Director's Office	108,200
Fiscal Operations	86,100
Information Technology	7,400
Legal Affairs	14,600
Office of Licensing	97,000
Office of Services Review	43,400
Utah Developmental Disabilities Council	8,900

Item 75

To Department of Human Services - Office of Public Guardian	
From General Fund	9,400
From General Fund, One-Time	2,200
From Federal Funds	800
From Federal Funds, One-Time	200
From Revenue Transfers	6,000
From Revenue Transfers, One-Time	1,500
Schedule of Programs:	
Office of Public Guardian	20,100

Item 76

To Department of Human Services - Office of Recovery Services	
From General Fund	206,600
From General Fund, One-Time	52,900
From Federal Funds	338,800
From Federal Funds, One-Time	86,400
From Dedicated Credits Revenue	181,800
From Dedicated Credits Revenue, One-Time	45,600

From Revenue Transfers	46,800
From Revenue Transfers, One-Time	12,200
Schedule of Programs:	
Administration - ORS	30,500
Child Support Services	705,800
Children in Care Collections	19,400
Electronic Technology	66,500
Financial Services	63,800
Medical Collections	85,100

Item 77

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	384,100
From General Fund, One-Time	66,400
From Federal Funds	2,000
From Federal Funds, One-Time	500
From Dedicated Credits Revenue	36,000
From Dedicated Credits Revenue, One-Time	5,000
From Revenue Transfers	700,600
From Revenue Transfers, One-Time	107,100
Schedule of Programs:	
Administration - DSPD	118,500
Service Delivery	194,300
Utah State Developmental Center	988,900

Item 78

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	1,028,200
From General Fund, One-Time	172,100
From Federal Funds	53,500
From Federal Funds, One-Time	11,100
From Dedicated Credits Revenue	47,600
From Dedicated Credits Revenue, One-Time	7,800
From Revenue Transfers	321,200
From Revenue Transfers, One-Time	54,300
Schedule of Programs:	
Administration - DSAMH	95,300
Community Mental Health Services	11,000
State Hospital	1,557,700
State Substance Abuse Services	31,800

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 79

To Department of Workforce Services - Administration	
From General Fund	58,900
From General Fund, One-Time	13,900
From Federal Funds	127,000
From Federal Funds, One-Time	29,500
From Dedicated Credits Revenue	2,800
From Dedicated Credits Revenue, One-Time	600
From Permanent Community Impact Loan Fund	2,800
From Permanent Community Impact Loan Fund, One-Time	700
From Revenue Transfers	28,900
From Revenue Transfers, One-Time	6,600
Schedule of Programs:	
Administrative Support	199,700
Communications	31,000
Executive Director's Office	19,000
Internal Audit	22,000

Item 80

To Department of Workforce Services - General Assistance	
From General Fund	18,900
From General Fund, One-Time	4,100
From Dedicated Credits Revenue	1,200
From Dedicated Credits Revenue, One-Time	200
Schedule of Programs:	
General Assistance	24,400

Item 81

To Department of Workforce Services - Housing and Community Development	
From General Fund	17,900
From General Fund, One-Time	3,600
From Federal Funds	69,800
From Federal Funds, One-Time	14,600
From Dedicated Credits Revenue	1,300
From Dedicated Credits Revenue, One-Time	300
From General Fund Restricted - Pamela Atkinson Homeless Account	
From General Fund Restricted - Pamela Atkinson Homeless Account, One-Time	500
From General Fund Restricted - Homeless Housing Reform Restricted Account	
From General Fund Restricted - Homeless Housing Reform Restricted Account, One-Time	1,500
From Permanent Community Impact Loan Fund	
From Permanent Community Impact Loan Fund, One-Time	3,000
Schedule of Programs:	
Community Development	41,400
Community Development	
Administration	17,600
Community Services	2,500
Emergency Food Network	2,700
HEAT	11,500
Homeless Committee	10,300
Homeless to Housing Reform Program	
Housing Development	28,900
Weatherization Assistance	12,700

Item 82

To Department of Workforce Services - Office of Child Care	
From General Fund	300
From Federal Funds	2,100
From Federal Funds, One-Time	600
Schedule of Programs:	
Intergenerational Poverty School Readiness Scholarship	3,000

Item 83

To Department of Workforce Services - Operations and Policy	
From General Fund	648,500
From General Fund, One-Time	161,900
From Federal Funds	1,269,100
From Federal Funds, One-Time	313,900
From Dedicated Credits Revenue	16,800
From Dedicated Credits Revenue, One-Time	4,100
From Revenue Transfers	591,500
From Revenue Transfers, One-Time	147,500

Schedule of Programs:
 Eligibility Services 1,727,300
 Workforce Development 1,347,200
 Workforce Research and Analysis 78,800

Item 84

To Department of Workforce Services -
 State Office of Rehabilitation
 From General Fund 238,600
 From General Fund, One-Time 50,400
 From Federal Funds 629,900
 From Federal Funds, One-Time 127,700
 From Dedicated Credits Revenue 12,600
 From Dedicated Credits Revenue,
 One-Time 2,700
 From Revenue Transfers 1,300
 From Revenue Transfers, One-Time 300
 Schedule of Programs:
 Aspire Grant 27,500
 Blind and Visually Impaired 82,000
 Deaf and Hard of Hearing 73,200
 Disability Determination 275,300
 Executive Director 20,800
 Rehabilitation Services 584,700

Item 85

To Department of Workforce Services -
 Unemployment Insurance
 From General Fund 16,700
 From General Fund, One-Time 4,000
 From Federal Funds 448,800
 From Federal Funds, One-Time 111,300
 From Dedicated Credits Revenue 12,400
 From Dedicated Credits Revenue,
 One-Time 3,100
 From Revenue Transfers 1,900
 From Revenue Transfers, One-Time 400
 Schedule of Programs:
 Adjudication 93,800
 Unemployment Insurance
 Administration 504,800

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 86

To University of Utah - Education and General
 From Education Fund 8,847,300
 From Dedicated Credits Revenue 2,928,500
 Schedule of Programs:
 Education and General 11,713,900
 Operations and Maintenance 61,900

Item 87

To University of Utah -
 Educationally Disadvantaged
 From Education Fund 7,500
 Schedule of Programs:
 Educationally Disadvantaged 7,500

Item 88

To University of Utah - School of Medicine
 From Education Fund 928,100
 From Dedicated Credits Revenue 309,300
 Schedule of Programs:
 School of Medicine 1,237,400

Item 89

To University of Utah - University Hospital

From Education Fund 139,300
 Schedule of Programs:
 University Hospital 129,600
 Miners' Hospital 9,700

Item 90

To University of Utah - School of Dentistry
 From Education Fund 65,300
 From Dedicated Credits Revenue 21,800
 Schedule of Programs:
 School of Dentistry 87,100

Item 91

To University of Utah - Public Service
 From Education Fund 40,600
 Schedule of Programs:
 Seismograph Stations 16,200
 Natural History Museum of Utah 21,200
 State Arboretum 3,200

Item 92

To University of Utah - Statewide
 TV Administration
 From Education Fund 60,600
 Schedule of Programs:
 Public Broadcasting 60,600

Item 93

To University of Utah - Poison Control Center
 From General Fund 57,100
 Schedule of Programs:
 Poison Control Center 57,100

Item 94

To University of Utah - Center on Aging
 From General Fund 2,600
 Schedule of Programs:
 Center on Aging 2,600

Item 95

To University of Utah - Rocky Mountain Center for
 Occupational and Environmental Health
 From General Fund Restricted -
 Workplace Safety Account 4,400
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 4,400

UTAH STATE UNIVERSITY

Item 96

To Utah State University - Education and General
 From Education Fund 3,938,000
 From Dedicated Credits Revenue 1,301,500
 Schedule of Programs:
 Education and General 5,139,100
 USU - School of Veterinary Medicine ... 66,700
 Operations and Maintenance 33,700

Item 97

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 220,900
 From Dedicated Credits Revenue 73,600
 Schedule of Programs:
 USU - Eastern Education and
 General 294,500

Item 98

To Utah State University -
 Educationally Disadvantaged
 From General Fund 300

Schedule of Programs:
 Educationally Disadvantaged 300

Item 99

To Utah State University - USU - Eastern
 Career and Technical Education
 From Education Fund 31,400
 Schedule of Programs:
 USU - Eastern Career and Technical
 Education 31,400

Item 100

To Utah State University - Regional Campuses
 From Education Fund 522,700
 From Dedicated Credits Revenue 174,300
 Schedule of Programs:
 Uintah Basin Regional Campus 179,000
 Brigham City Regional Campus 315,200
 Tooele Regional Campus 202,800

Item 101

To Utah State University - Water
 Research Laboratory
 From Education Fund 99,000
 Schedule of Programs:
 Water Research Laboratory 99,000

Item 102

To Utah State University - Agriculture
 Experiment Station
 From Education Fund 309,600
 Schedule of Programs:
 Agriculture Experiment Station 309,600

Item 103

To Utah State University - Cooperative Extension
 From Education Fund 387,000
 Schedule of Programs:
 Cooperative Extension 387,000

Item 104

To Utah State University - Prehistoric Museum
 From Education Fund 11,300
 Schedule of Programs:
 Prehistoric Museum 11,300

Item 105

To Utah State University - Blanding Campus
 From Education Fund 69,000
 From Dedicated Credits Revenue 23,000
 Schedule of Programs:
 Blanding Campus 92,000

WEBER STATE UNIVERSITY**Item 106**

To Weber State University - Education
 and General
 From Education Fund 2,405,700
 From Dedicated Credits Revenue 802,000
 Schedule of Programs:
 Education and General 3,188,000
 Operations and Maintenance 19,700

Item 107

To Weber State University -
 Educationally Disadvantaged
 From Education Fund 7,800
 Schedule of Programs:
 Educationally Disadvantaged 7,800

SOUTHERN UTAH UNIVERSITY**Item 108**

To Southern Utah University - Education
 and General
 From Education Fund 1,257,600
 From Dedicated Credits Revenue 419,200
 Schedule of Programs:
 Education and General 1,672,000
 Operations and Maintenance 4,800

Item 109

To Southern Utah University -
 Educationally Disadvantaged
 From Education Fund 1,200
 Schedule of Programs:
 Educationally Disadvantaged 1,200

Item 110

To Southern Utah University - Rural Development
 From Education Fund 2,500
 Schedule of Programs:
 Rural Development 2,500

UTAH VALLEY UNIVERSITY**Item 111**

To Utah Valley University - Education and General
 From Education Fund 3,709,200
 From Dedicated Credits Revenue 1,236,500
 Schedule of Programs:
 Education and General 4,888,800
 Operations and Maintenance 56,900

Item 112

To Utah Valley University -
 Educationally Disadvantaged
 From Education Fund 4,400
 Schedule of Programs:
 Educationally Disadvantaged 4,400

SNOW COLLEGE**Item 113**

To Snow College - Education and General
 From Education Fund 528,500
 From Dedicated Credits Revenue 176,100
 Schedule of Programs:
 Education and General 683,000
 Operations and Maintenance 21,600

Item 114

To Snow College - Career and Technical Education
 From Education Fund 35,600
 Schedule of Programs:
 Career and Technical Education 35,600

DIXIE STATE UNIVERSITY**Item 115**

To Dixie State University - Education and General
 From Education Fund 1,035,300
 From Dedicated Credits Revenue 341,800
 Schedule of Programs:
 Education and General 1,367,300
 Operations and Maintenance 9,800

Item 116

To Dixie State University - Zion
 Park Amphitheater
 From Education Fund 1,000

From Dedicated Credits Revenue	300
Schedule of Programs:	
Zion Park Amphitheater	1,300

SALT LAKE COMMUNITY COLLEGE

Item 117

To Salt Lake Community College - Education and General	
From Education Fund	2,224,100
From Dedicated Credits Revenue	741,300
Schedule of Programs:	
Education and General	2,953,300
Operations and Maintenance	12,100

Item 118

To Salt Lake Community College - School of Applied Technology	
From Education Fund	174,700
Schedule of Programs:	
School of Applied Technology	174,700

STATE BOARD OF REGENTS

Item 119

To State Board of Regents - Administration	
From General Fund	65,200
Schedule of Programs:	
Administration	65,200

Item 120

To State Board of Regents - Student Assistance	
From Education Fund	9,300
Schedule of Programs:	
Regents' Scholarship	9,100
Western Interstate Commission for Higher Education	200

Item 121

To State Board of Regents - Student Support	
From Education Fund	17,800
Schedule of Programs:	
Concurrent Enrollment	10,600
Articulation Support	7,200

Item 122

To State Board of Regents - Economic Development	
From Education Fund	6,400
Schedule of Programs:	
Economic Development Initiatives	6,400

Item 123

To State Board of Regents - Education Excellence	
From Education Fund	9,100
Schedule of Programs:	
Education Excellence	9,100

Item 124

To State Board of Regents - Math Competency Initiative	
From Education Fund	600
Schedule of Programs:	
Math Competency Initiative	600

Item 125

To State Board of Regents - Medical Education Council	
From General Fund	14,700

Schedule of Programs:	
Medical Education Council	14,700

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 126

To Utah System of Technical Colleges - Bridgerland Technical College	
From Education Fund	349,500
Schedule of Programs:	
Bridgerland Technical College	349,500

Item 127

To Utah System of Technical Colleges - Davis Technical College	
From Education Fund	374,400
Schedule of Programs:	
Davis Technical College	374,400

Item 128

To Utah System of Technical Colleges - Dixie Technical College	
From Education Fund	153,100
Schedule of Programs:	
Dixie Technical College	153,100

Item 129

To Utah System of Technical Colleges - Mountainland Technical College	
From Education Fund	287,100
Schedule of Programs:	
Mountainland Technical College	287,100

Item 130

To Utah System of Technical Colleges - Ogden-Weber Technical College	
From Education Fund	330,900
Schedule of Programs:	
Ogden-Weber Technical College	330,900

Item 131

To Utah System of Technical Colleges - Southwest Technical College	
From Education Fund	95,600
Schedule of Programs:	
Southwest Technical College	95,600

Item 132

To Utah System of Technical Colleges - Tooele Technical College	
From Education Fund	89,700
Schedule of Programs:	
Tooele Technical College	89,700

Item 133

To Utah System of Technical Colleges - Uintah Basin Technical College	
From Education Fund	169,800
Schedule of Programs:	
Uintah Basin Technical College	169,800

Item 134

To Utah System of Technical Colleges - USTC Administration	
From Education Fund	39,100
Schedule of Programs:	
Administration	39,100

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 135

To Department of Agriculture and Food -
Administration

From General Fund 61,000
 From General Fund, One-Time 12,500
 From Federal Funds 9,000
 From Federal Funds, One-Time 1,800
 From Dedicated Credits Revenue 1,900
 From Dedicated Credits Revenue,
 One-Time 300
 From General Fund Restricted -
 Cat and Dog Community Spay and
 Neuter Program Restricted Account 600
 From General Fund Restricted - Cat
 and Dog Community Spay and Neuter
 Program Restricted Account, One-Time . . . 100
 From Revenue Transfers 1,200
 From Revenue Transfers, One-Time 200
 Schedule of Programs:
 Chemistry Laboratory 25,400
 General Administration 63,200

Item 136

To Department of Agriculture and Food -
Animal Health

From General Fund 60,500
 From General Fund, One-Time 10,900
 From Federal Funds 37,800
 From Federal Funds, One-Time 6,000
 From Dedicated Credits Revenue 1,200
 From Dedicated Credits Revenue,
 One-Time 300
 From General Fund Restricted -
 Livestock Brand 24,500
 From General Fund Restricted -
 Livestock Brand, One-Time 4,700
 Schedule of Programs:
 Animal Health 33,900
 Brand Inspection 47,700
 Meat Inspection 64,300

Item 137

To Department of Agriculture and Food -
Invasive Species Mitigation

From General Fund Restricted - Invasive
 Species Mitigation Account 2,200
 Schedule of Programs:
 Invasive Species Mitigation 2,200

Item 138

To Department of Agriculture and Food -
Marketing and Development

From General Fund 11,700
 From General Fund, One-Time 3,200
 From Dedicated Credits Revenue 400
 From Dedicated Credits Revenue,
 One-Time 100
 Schedule of Programs:
 Marketing and Development 15,400

Item 139

To Department of Agriculture and Food -
Plant Industry

From General Fund 10,900
 From General Fund, One-Time 1,900
 From Federal Funds 43,300
 From Federal Funds, One-Time 8,400
 From Dedicated Credits Revenue 44,900
 From Dedicated Credits Revenue,
 One-Time 7,800
 From Agriculture Resource Development
 Fund 2,000
 From Agriculture Resource Development
 Fund, One-Time 500
 From Revenue Transfers 4,400
 From Revenue Transfers, One-Time 900
 From Pass-through 3,100
 From Pass-through, One-Time 700
 Schedule of Programs:
 Environmental Quality 4,000
 Grain Inspection 12,100
 Grazing Improvement Program 24,800
 Insect Infestation 11,500
 Plant Industry 76,400

Item 140

To Department of Agriculture and Food -
Predatory Animal Control

From General Fund 12,600
 From General Fund, One-Time 3,000
 From Revenue Transfers 10,800
 From Revenue Transfers, One-Time 2,500
 From General Fund Rest. - Agriculture
 and Wildlife Damage Prevention 10,000
 From General Fund Rest. -
 Agriculture and Wildlife
 Damage Prevention, One-Time 2,400
 Schedule of Programs:
 Predatory Animal Control 41,300

Item 141

To Department of Agriculture and Food -
Rangeland Improvement

From General Fund Restricted -
 Rangeland Improvement Account 4,600
 From General Fund Restricted -
 Rangeland Improvement Account,
 One-Time 700
 Schedule of Programs:
 Rangeland Improvement 5,300

Item 142

To Department of Agriculture and Food -
Regulatory Services

From General Fund 53,100
 From General Fund, One-Time 12,700
 From Federal Funds 13,700
 From Federal Funds, One-Time 3,300
 From Dedicated Credits Revenue 55,200
 From Dedicated Credits Revenue,
 One-Time 13,200
 From Pass-through 1,400
 From Pass-through, One-Time 300
 Schedule of Programs:
 Regulatory Services 152,900

Item 143

To Department of Agriculture and Food -
Resource Conservation

From General Fund 28,200
 From General Fund, One-Time 7,100
 From Federal Funds 9,500
 From Federal Funds, One-Time 2,500

From Agriculture Resource Development Fund	18,500
From Agriculture Resource Development Fund, One-Time	4,500
From Revenue Transfers	8,100
From Revenue Transfers, One-Time	2,200
From Utah Rural Rehabilitation Loan State Fund	1,900
From Utah Rural Rehabilitation Loan State Fund, One-Time	300
Schedule of Programs:	
Resource Conservation	73,500
Resource Conservation Administration ..	9,300

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 144

To Department of Environmental Quality - Air Quality	
From General Fund	92,300
From General Fund, One-Time	19,500
From Federal Funds	92,400
From Federal Funds, One-Time	19,600
From Dedicated Credits Revenue	86,100
From Dedicated Credits Revenue, One-Time	18,300
From Clean Fuel Conversion Fund	1,900
From Clean Fuel Conversion Fund, One-Time	400
Schedule of Programs:	
Air Quality	330,500

Item 145

To Department of Environmental Quality - Drinking Water	
From General Fund	19,300
From General Fund, One-Time	4,000
From Federal Funds	67,400
From Federal Funds, One-Time	13,600
From Dedicated Credits Revenue	2,900
From Dedicated Credits Revenue, One-Time	700
From Water Dev. Security Fund - Drinking Water Loan Program	16,600
From Water Dev. Security Fund - Drinking Water Loan Program, One-Time	3,300
From Water Dev. Security Fund - Drinking Water Origination Fee	3,600
From Water Dev. Security Fund - Drinking Water Origination Fee, One-Time	800
Schedule of Programs:	
Drinking Water	132,200

Item 146

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	14,100
From General Fund, One-Time	2,800
From Federal Funds	76,700
From Federal Funds, One-Time	15,200
From Dedicated Credits Revenue	10,000
From Dedicated Credits Revenue, One-Time	2,000
From General Fund Restricted - Petroleum Storage Tank	900
From General Fund Restricted - Petroleum Storage Tank, One-Time	200

From Petroleum Storage Tank Cleanup Fund	10,300
From Petroleum Storage Tank Cleanup Fund, One-Time	2,100
From Petroleum Storage Tank Trust Fund	31,800
From Petroleum Storage Tank Trust Fund, One-Time	6,300
From General Fund Restricted - Voluntary Cleanup	12,000
From General Fund Restricted - Voluntary Cleanup, One-Time	2,400
Schedule of Programs:	
Environmental Response and Remediation	186,800

Item 147

To Department of Environmental Quality - Executive Director's Office	
From General Fund	46,000
From General Fund, One-Time	10,100
From Federal Funds	7,300
From Federal Funds, One-Time	1,600
From General Fund Restricted - Environmental Quality	23,200
From General Fund Restricted - Environmental Quality, One-Time	5,200
Schedule of Programs:	
Executive Director's Office	93,400

Item 148

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund	11,900
From General Fund, One-Time	2,600
From Federal Funds	21,300
From Federal Funds, One-Time	4,700
From Dedicated Credits Revenue	35,700
From Dedicated Credits Revenue, One-Time	7,900
From General Fund Restricted - Environmental Quality	96,000
From General Fund Restricted - Environmental Quality, One-Time	21,300
From General Fund Restricted - Used Oil Collection Administration	12,900
From General Fund Restricted - Used Oil Collection Administration, One-Time	2,800
From Waste Tire Recycling Fund	2,400
From Waste Tire Recycling Fund, One-Time	500
Schedule of Programs:	
Waste Management and Radiation Control	220,000

Item 149

To Department of Environmental Quality - Water Quality	
From General Fund	54,900
From General Fund, One-Time	11,800
From Federal Funds	83,700
From Federal Funds, One-Time	18,100
From Dedicated Credits Revenue	27,300
From Dedicated Credits Revenue, One-Time	5,900
From Revenue Transfers	6,400
From Revenue Transfers, One-Time	1,400
From General Fund Restricted - Underground Wastewater System	1,600

From General Fund Restricted - Underground Wastewater System, One-Time	300
From Water Dev. Security Fund - Utah Wastewater Loan Program	26,400
From Water Dev. Security Fund - Utah Wastewater Loan Program, One-Time	5,700
From Water Dev. Security Fund - Water Quality Origination Fee	1,900
From Water Dev. Security Fund - Water Quality Origination Fee, One-Time	400
Schedule of Programs: Water Quality	245,800

GOVERNOR'S OFFICE

Item 150

To Governor's Office - Office of Energy Development	
From General Fund	30,200
From General Fund, One-Time	6,300
From Federal Funds	7,800
From Federal Funds, One-Time	1,600
From Dedicated Credits Revenue	1,800
From Dedicated Credits Revenue, One-Time	400
From Utah State Energy Program Revolving Loan Fund (ARRA)	2,200
From Utah State Energy Program Revolving Loan Fund (ARRA), One-Time	500
Schedule of Programs: Office of Energy Development	50,800

DEPARTMENT OF NATURAL RESOURCES

Item 151

To Department of Natural Resources - Administration	
From General Fund	54,600
From General Fund, One-Time	11,700
Schedule of Programs: Administrative Services	31,300
Executive Director	24,600
Law Enforcement	3,700
Public Information Office	6,700

Item 152

To Department of Natural Resources - Contributed Research	
From Dedicated Credits Revenue	5,100
From Dedicated Credits Revenue, One-Time	900
Schedule of Programs: Contributed Research	6,000

Item 153

To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	65,100
From Federal Funds, One-Time	18,500
From Dedicated Credits Revenue	5,700
From Dedicated Credits Revenue, One-Time	1,600
From Revenue Transfers	29,400
From Revenue Transfers, One-Time	8,400
Schedule of Programs:	

Cooperative Agreements	128,700
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Item 154

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	13,800
From General Fund, One-Time	3,700
From Federal Funds	52,100
From Federal Funds, One-Time	16,000
From Dedicated Credits Revenue	112,000
From Dedicated Credits Revenue, One-Time	33,100
From General Fund Restricted - Sovereign Lands Management	72,800
From General Fund Restricted - Sovereign Lands Management, One-Time	21,900
Schedule of Programs: Division Administration	25,200
Fire Management	20,400
Fire Suppression Emergencies	3,800
Forest Management	14,700
Lands Management	25,800
Lone Peak Center	83,800
Program Delivery	151,700

Item 155

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	49,700
From General Fund, One-Time	13,200
From Federal Funds	74,200
From Federal Funds, One-Time	19,300
From Dedicated Credits Revenue	5,600
From Dedicated Credits Revenue, One-Time	1,500
From General Fund Restricted - Oil & Gas Conservation Account	75,700
From General Fund Restricted - Oil & Gas Conservation Account, One-Time	20,000
Schedule of Programs: Abandoned Mine	31,200
Administration	58,600
Board	300
Coal Program	51,900
Minerals Reclamation	32,200
Oil and Gas Program	85,000

Item 156

To Department of Natural Resources - Parks and Recreation	
From General Fund	46,200
From General Fund, One-Time	9,400
From Federal Funds	20,900
From Federal Funds, One-Time	5,000
From Dedicated Credits Revenue	12,800
From Dedicated Credits Revenue, One-Time	2,800
From General Fund Restricted - Boating	62,900
From General Fund Restricted - Boating, One-Time	12,900
From General Fund Restricted - Off-highway Access and Education	400
From General Fund Restricted - Off-highway Access and Education, One-Time	100
From General Fund Restricted - Off-highway Vehicle	83,300

From General Fund Restricted - Off-highway Vehicle, One-Time	16,800
From General Fund Restricted - State Park Fees	240,500
From General Fund Restricted - State Park Fees, One-Time	48,100
From Revenue Transfers	400
From Revenue Transfers, One-Time	100
Schedule of Programs:	
Executive Management	16,300
Park Operation Management	470,300
Planning and Design	10,200
Recreation Services	37,500
Support Services	28,300

Item 157

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	8,800
From General Fund Restricted - Species Protection, One-Time	1,700
Schedule of Programs:	
Species Protection	10,500

Item 158

To Department of Natural Resources - Utah Geological Survey	
From General Fund	97,800
From General Fund, One-Time	24,800
From Federal Funds	16,500
From Federal Funds, One-Time	4,800
From Dedicated Credits Revenue	11,900
From Dedicated Credits Revenue, One-Time	3,300
From General Fund Restricted - Mineral Lease	36,300
From General Fund Restricted - Mineral Lease, One-Time	9,100
From General Fund Restricted - Land Exchange Distribution Account	700
From General Fund Restricted - Land Exchange Distribution Account, One-Time	100
Schedule of Programs:	
Administration	17,700
Energy and Minerals	41,600
Geologic Hazards	33,800
Geologic Information and Outreach	41,900
Geologic Mapping	38,000
Ground Water	32,300

Item 159

To Department of Natural Resources - Water Resources	
From General Fund	59,800
From General Fund, One-Time	10,200
From Federal Funds	9,100
From Federal Funds, One-Time	2,000
From Water Resources Conservation and Development Fund	54,200
From Water Resources Conservation and Development Fund, One-Time	11,700
Schedule of Programs:	
Administration	12,500
Construction	59,500
Interstate Streams	3,700
Planning	71,300

Item 160

To Department of Natural Resources - Water Rights	
From General Fund	154,400
From General Fund, One-Time	28,600
From Federal Funds	3,400
From Federal Funds, One-Time	500
From Dedicated Credits Revenue	64,400
From Dedicated Credits Revenue, One-Time	12,200
Schedule of Programs:	
Adjudication	29,900
Administration	17,500
Applications and Records	118,100
Canal Safety	3,100
Dam Safety	34,900
Field Services	39,000
Technical Services	21,000

Item 161

To Department of Natural Resources - Watershed	
From General Fund	1,800
From General Fund, One-Time	300
Schedule of Programs:	
Watershed	2,100

Item 162

To Department of Natural Resources - Wildlife Resources	
From General Fund	110,700
From General Fund, One-Time	24,000
From Federal Funds	303,800
From Federal Funds, One-Time	67,100
From Dedicated Credits Revenue	2,000
From Dedicated Credits Revenue, One-Time	400
From General Fund Restricted - Boating	7,100
From General Fund Restricted - Boating, One-Time	1,700
From General Fund Restricted - Mule Deer Protection Account	4,500
From General Fund Restricted - Mule Deer Protection Account, One-Time	1,000
From General Fund Restricted - Predator Control Account	7,600
From General Fund Restricted - Predator Control Account, One-Time	1,500
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account	400
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account, One-Time	100
From Revenue Transfers	2,100
From Revenue Transfers, One-Time	400
From General Fund Restricted - Wildlife Resources	485,200
From General Fund Restricted - Wildlife Resources, One-Time	110,000
Schedule of Programs:	
Administrative Services	111,400
Aquatic Section	260,300
Conservation Outreach	103,600
Director's Office	51,700
Habitat Section	160,900
Law Enforcement	240,800

Wildlife Section 200,900

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 163

To Public Lands Policy Coordinating Office
From General Fund 27,000
From General Fund, One-Time 4,000
From General Fund Restricted -
Constitutional Defense 18,300
From General Fund Restricted -
Constitutional Defense, One-Time 2,700
Schedule of Programs:
Public Lands Policy Coordinating
Office 52,000

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 164

To School and Institutional Trust
Lands Administration
From Land Grant Management Fund 216,900
From Land Grant Management Fund,
One-Time 34,400
Schedule of Programs:
Accounting 14,700
Administration 10,100
Auditing 15,000
Board 2,100
Development - Operating 33,100
Director 17,400
External Relations 7,100
Grazing and Forestry 11,500
Information Technology Group 32,800
Legal/Contracts 18,800
Mining 16,700
Oil and Gas 21,000
Surface 51,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 165

To State Board of Education - Child Nutrition
From Federal Funds 39,000
From Federal Funds, One-Time 7,300
From Dedicated Credit - Liquor Tax 9,600
From Dedicated Credit - Liquor Tax,
One-Time 1,800
Schedule of Programs:
Child Nutrition 57,700

Item 166

To State Board of Education - Education Contracts
From Education Fund 2,000
From Education Fund, One-Time 200
Schedule of Programs:
Corrections Institutions 2,200

Item 167

To State Board of Education - Educator Licensing
From Education Fund 40,200
From Education Fund, One-Time 7,700
From Dedicated Credits Revenue 600
From Dedicated Credits Revenue,
One-Time 100

From Professional Practices Restricted
Subfund 400
From Professional Practices Restricted
Subfund, One-Time 100
Schedule of Programs:
Educator Licensing 49,100

Item 168

To State Board of Education - Initiative Programs
From General Fund 3,100
From Education Fund 7,300
From Education Fund, One-Time 400
From Revenue Transfers 2,300
Schedule of Programs:
Carson Smith Scholarships 3,100
General Financial Literacy 2,500
Kindergarten Supplement Enrichment
Program 2,300
Partnerships for Student Success 2,800
School Turnaround and Leadership
Development Act 2,400

Item 169

To State Board of Education - MSP
Categorical Program Administration
From Education Fund 39,800
From Education Fund, One-Time 5,900
Schedule of Programs:
Adult Education 6,600
Beverly Taylor Sorenson Elementary
Arts Learning Program 2,200
CTE Comprehensive Guidance 2,800
Digital Teaching and Learning 11,000
Dual Immersion 2,100
Enhancement for At-Risk Students 7,600
Special Education State Programs 3,500
Youth-in-Custody 9,900

Item 170

To State Board of Education - State
Administrative Office
From Education Fund 189,500
From Education Fund, One-Time 36,200
From Federal Funds 164,900
From Federal Funds, One-Time 26,600
From General Fund Restricted -
Mineral Lease 13,000
From General Fund Restricted -
Mineral Lease, One-Time 2,300
From General Fund Restricted -
Substance Abuse Prevention 400
From Revenue Transfers 110,000
From Revenue Transfers, One-Time 21,000
From Uniform School Fund Restricted -
Trust Distribution Account 10,600
From Uniform School Fund Restricted -
Trust Distribution Account, One-Time 700
Schedule of Programs:
Board and Administration 28,700
Data and Statistics 22,300
Financial Operations 79,500
Indirect Cost Pool 131,000
Information Technology 100,100
Law and Legislation 4,700
Policy and Communication 28,700
School Trust 12,300
Special Education 76,500
Statewide Online Education Program 6,300
Student Advocacy Services 85,100

Item 171

To State Board of Education - General System Support

From General Fund	400
From Education Fund	57,600
From Education Fund, One-Time	9,000
From Federal Funds	105,000
From Federal Funds, One-Time	14,000
From Dedicated Credits Revenue	11,600
From Dedicated Credits Revenue, One-Time	1,200
From General Fund Restricted - Mineral Lease	700
From General Fund Restricted - Mineral Lease, One-Time	100
Schedule of Programs:	
Student Achievement	5,700
Teaching and Learning	68,600
Assessment and Accountability	60,200
Career and Technical Education	65,100

Item 172

To State Board of Education - State Charter School Board

From Education Fund	20,700
From Education Fund, One-Time	3,200
Schedule of Programs:	
State Charter School Board	23,900

Item 173

To State Board of Education - Teaching and Learning

From Revenue Transfers	2,800
From Revenue Transfers, One-Time	700
Schedule of Programs:	
Student Access to High Quality School Readiness Programs	3,500

Item 174

To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund	1,345,300
From Education Fund, One-Time	74,900
From Federal Funds	2,200
From Federal Funds, One-Time	300
From Dedicated Credits Revenue	28,700
From Dedicated Credits Revenue, One-Time	3,800
From Revenue Transfers	107,900
From Revenue Transfers, One-Time	14,100
Schedule of Programs:	
Educational Services	1,231,600
Support Services	345,600

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 175

To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account	14,400
From School and Institutional Trust Fund Management Account, One-Time	700
Schedule of Programs:	
School and Institutional Trust Fund Office	15,100

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 176

To Career Service Review Office

From General Fund	6,400
From General Fund, One-Time	1,400
Schedule of Programs:	
Career Service Review Office	7,800

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 177

To Utah Education and Telehealth Network - Digital Teaching and Learning Program

From Education Fund	5,200
Schedule of Programs:	
Digital Teaching and Learning Program	5,200

Item 178

To Utah Education and Telehealth Network

From General Fund	22,400
From Education Fund	413,400
From Federal Funds	79,300
From Dedicated Credits Revenue	16,000
Schedule of Programs:	
Administration	75,500
Instructional Support	93,900
KUEN Broadcast	10,100
Public Information	9,300
Technical Services	298,900
Utah Telehealth Network	43,400

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 179

To Capitol Preservation Board

From General Fund	21,900
From General Fund, One-Time	4,100
Schedule of Programs:	
Capitol Preservation Board	26,000

LEGISLATURE

Item 180

To Legislature - Senate

From General Fund	32,300
From General Fund, One-Time	1,900
Schedule of Programs:	
Administration	34,200

Item 181

To Legislature - House of Representatives

From General Fund	43,400
From General Fund, One-Time	5,100
Schedule of Programs:	
Administration	48,500

Item 182

To Legislature - Legislative Printing

From General Fund	5,700
From General Fund, One-Time	1,800
From Dedicated Credits Revenue	2,500
From Dedicated Credits Revenue, One-Time	800

Schedule of Programs:
Administration 10,800

Item 183

To Legislature - Office of Legislative
Research and General Counsel
From General Fund 204,400
From General Fund, One-Time 34,400

Schedule of Programs:
Administration 238,800

Item 184

To Legislature - Office of the Legislative
Fiscal Analyst
From General Fund 66,400
From General Fund, One-Time 10,200

Schedule of Programs:
Administration and Research 76,600

Item 185

To Legislature - Office of the Legislative
Auditor General
From General Fund 92,500
From General Fund, One-Time 16,600

Schedule of Programs:
Administration 109,100

UTAH NATIONAL GUARD

Item 186

To Utah National Guard
From General Fund 58,000
From General Fund, One-Time 10,200
From Federal Funds 432,600
From Federal Funds, One-Time 69,500
From Dedicated Credits Revenue 400

Schedule of Programs:
Administration 33,200
Operations and Maintenance 537,500

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 187

To Department of Veterans' and Military Affairs -
Veterans' and Military Affairs
From General Fund 39,100
From General Fund, One-Time 7,700
From Federal Funds 9,100
From Federal Funds, One-Time 2,200
From Dedicated Credits Revenue 1,700
From Dedicated Credits Revenue,
One-Time 400

Schedule of Programs:
Administration 14,700
Cemetery 13,400
Military Affairs 3,900
Outreach Services 22,700
State Approving Agency 5,500

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 188

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue 83,800
From Dedicated Credits Revenue,
One-Time 17,000
From Restricted Revenue 600
From Restricted Revenue, One-Time 100
Schedule of Programs:
Alcoholic Beverage Control Act
Enforcement Fund 101,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 189

To Department of Administrative Services -
State Debt Collection Fund
From Dedicated Credits Revenue 21,500
From Dedicated Credits Revenue,
One-Time 6,100
Schedule of Programs:
State Debt Collection Fund 27,600

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 190

To Department of Commerce - Real Estate Education, Research, and Recovery Fund
From Licenses/Fees 3,700
From Licenses/Fees, One-Time 600
Schedule of Programs:
Real Estate Education, Research, and
Recovery Fund 4,300

Item 191

To Department of Commerce -
Residential Mortgage Loan Education,
Research, and Recovery Fund
From Licenses/Fees 2,300
From Licenses/Fees, One-Time 500
Schedule of Programs:
RMLERR Fund 2,800

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 192

To Governor's Office of Economic Development -
Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 2,700
From Dedicated Credits Revenue,
One-Time 700
Schedule of Programs:
Outdoor Recreation Infrastructure
Account 3,400

PUBLIC SERVICE COMMISSION

Item 193

To Public Service Commission - Universal
 Public Telecom Service
 From Dedicated Credits Revenue 4,700
 From Dedicated Credits Revenue,
 One-Time 700
 Schedule of Programs:
 Universal Public Telecommunications
 Service Support 5,400

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 194

To Utah National Guard - National Guard
 MWR Fund
 From Dedicated Credits Revenue 7,500
 From Dedicated Credits Revenue,
 One-Time 700
 Schedule of Programs:
 National Guard MWR Fund 8,200

**DEPARTMENT OF VETERANS'
 AND MILITARY AFFAIRS**

Item 195

To Department of Veterans' and Military Affairs -
 Utah Veterans' Nursing Home Fund
 From Federal Funds 17,200
 From Federal Funds, One-Time 1,300
 Schedule of Programs:
 Veterans' Nursing Home Fund 18,500

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES
 AND CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 196

To Utah Department of Corrections -
 Utah Correctional Industries
 From Dedicated Credits Revenue 172,000
 From Dedicated Credits Revenue,
 One-Time 37,100
 Schedule of Programs:
 Utah Correctional Industries 209,100

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 197

To Department of Agriculture and Food -
 Agriculture Loan Programs
 From Agriculture Resource
 Development Fund 4,300
 From Agriculture Resource
 Development Fund, One-Time 900
 From Utah Rural Rehabilitation
 Loan State Fund 2,200
 From Utah Rural Rehabilitation
 Loan State Fund, One-Time 500
 Schedule of Programs:
 Agriculture Loan Program 7,900

Subsection 1(d). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

LABOR COMMISSION

Item 198

To Labor Commission - Uninsured
 Employers Fund
 From Dedicated Credits Revenue 300
 From Other Financing Sources 700
 Schedule of Programs:
 Uninsured Employers Fund 1,000

Section 2. Effective Date.

This bill takes effect on July 1, 2018.

CHAPTER 399**S. B. 15**

Passed February 7, 2018

Approved March 21, 2018

Effective May 8, 2018

**ENVIRONMENTAL HEALTH
SCIENTIST ACT AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Stewart E. Barlow

LONG TITLE**General Description:**

This bill amends the Environmental Health Scientist Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the qualifications for licensure for an environmental health scientist and an environmental health scientist-in-training;
- ▶ extends the sunset date for the Environmental Health Scientist Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-20a-102, as last amended by Laws of Utah 1997, Chapter 10

58-20a-302, as last amended by Laws of Utah 2009, Chapter 183

63I-1-258, as last amended by Laws of Utah 2017, Chapters 177, 207, and 237

REPEALS:

58-20a-306, as enacted by Laws of Utah 1995, Chapter 95

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-20a-102 is amended to read:**58-20a-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Accredited program” means a degree-offering program from:

(a) an institution, college, or university that is accredited by the Department of Education or the Council for Higher Education Accreditation; or

(b) a non-accredited institution, college, or university that offers education equivalent to Department of Education-accredited programs, as determined by a third party selected by the Board.

[4] (2) “Board” means the Environmental Health Scientist Board created in Section 58-20a-201.

[2] (3) “General supervision” means the supervising environmental health scientist is available for immediate voice communication with the person he or she is supervising.

[3] (4) “Practice of environmental health science” means:

(a) the enforcement of, the issuance of permits required by, or the inspection for the purpose of enforcing state and local public health laws in the following areas:

(i) air quality;

(ii) food quality;

(iii) solid, hazardous, and toxic substances disposal;

(iv) consumer product safety;

(v) housing;

(vi) noise control;

(vii) radiation protection;

(viii) water quality;

(ix) vector control;

(x) drinking water quality;

(xi) milk sanitation;

(xii) rabies control;

(xiii) public health nuisances;

(xiv) indoor clean air regulations;

(xv) institutional and residential sanitation; or

(xvi) recreational facilities sanitation; or

(b) representing oneself in any manner as, or using the titles “environmental health scientist,” “environmental health scientist-in-training,” or “registered sanitarian.”

[4] (5) “Unlawful conduct” is as defined in Section 58-1-501.

[5] (6) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-20a-501 and as may be further defined by division rule.

Section 2. Section 58-20a-302 is amended to read:**58-20a-302. Qualifications for licensure.**

(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific coursework as defined by rule;

(e) pass an examination as determined by division rule in collaboration with the board; and

(f) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

~~[(2) An applicant for licensure who is currently actively engaged in the practice of environmental health science in Utah on July 1, 1995, and has been practicing in Utah for at least three consecutive months immediately prior to July 1, 1995, shall:]~~

~~[(a) submit an application in a form prescribed by the division;]~~

~~[(b) pay a fee determined by the department under Section 63J-1-504;]~~

~~[(c) be of good moral character;]~~

~~[(d) hold a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific coursework as defined by rule;]~~

~~[(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and]~~

~~[(f) submit an affidavit from the applicant's immediate supervisor in the applicant's employment, attesting to the applicant's competence to practice environmental health science.]~~

~~[(3)]~~ (2) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific coursework as defined by rule;

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(f) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 3. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, [2018] 2028.

(4) Section 58-37-4.3 is repealed July 1, 2021.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(14) The following sections are repealed on July 1, 2019:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

Section 4. Repealer.

This bill repeals:

Section 58-20a-306, Holders of license under predecessor law.

CHAPTER 400**S. B. 76**

Passed February 28, 2018

Approved March 21, 2018

Effective January 1, 2019

**COMMERCIAL PROPERTY
TAX AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill amends provisions related to property taxes.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ provides for a property tax exemption for real property that is leased entirely to the state or a local government entity for the taxable year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

59-2-1117, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1117 is enacted to read:**59-2-1117. Definitions -- Exemption for real property leased to the state or a local government entity -- Application process -- Rulemaking authority.**

(1) As used in this section:

(a) (i) "Claimant" means the owner of real property for which an application is submitted under this section.

(ii) "Claimant" includes an agent of an owner of real property for which an application is submitted under this section.

(b) (i) Except as provided in Subsection (1)(b)(ii), "eligible leased real property" means a parcel of property and any improvements upon that parcel of property that are leased to the state or a local government entity under a triple net lease for a taxable year.

(ii) "Eligible leased real property" does not include property:

(A) in which the owner or agent of the owner retains use of part or all of the parcel or any structures upon that parcel;

(B) that is leased to more than one person; or

(C) that is leased for less than the entire taxable year.

(c) "Local government entity" means:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a charter school;

(vi) a public library;

(vii) a local district;

(viii) a special service district; or

(ix) any political subdivision of the state not identified in Subsections (1)(c)(i) through (viii).

(d) "Triple net lease" means a lease agreement under which the tenant or lessee is responsible for the real estate taxes, building insurance, and maintenance on the property in addition to rent and utilities.

(2) Except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, and subject to Subsections (3) through (6), eligible leased real property is exempt from taxation under this chapter.

(3) A claimant shall apply annually for the exemption under this section unless the county board of equalization waives the application requirement.

(4) (a) A claimant applying for an exemption under this section shall file an application with the county board of equalization on or before May 1 of the year in which the claimant is applying for the exemption.

(b) If a claimant fails to file an application in accordance with Subsection (4)(a), the state or a local government entity that is leasing eligible leased property may file an application with the county board of equalization on or before May 15 of the year in which the state or the local government entity seeks for the claimant to receive an exemption under this section.

(5) A claimant, the state, or a local government entity shall submit the following information with the application described in Subsection (4):

(a) a copy of the lease agreement; and

(b) other evidence that:

(i) the commission may require by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) the county board of equalization to which the claimant is submitting the application requires.

(6) (a) If, after a claimant, the state, or a local government entity submits an application under Subsection (4), the terms of the lease of the property for which an exemption was sought or granted change:

(i) in a manner that makes the claimant ineligible for the exemption under this section, the claimant shall submit a notice to the county board of equalization that the real property is no longer eligible for the exemption; or

(ii) in any other manner, the claimant shall submit an amended application with the county board of equalization.

(b) A claimant shall submit the notice or the amended application described in Subsection (6)(a) within 30 days of a change to the terms of the lease.

(c) A claimant shall submit a copy of the new lease agreement with the amended application.

(d) If a claimant fails to submit the notice or the amended application required by Subsection (6)(a), the state or a local government entity that is leasing the property for which an exemption was sought or granted may submit the notice or amended application required by this Subsection (6).

Section 2. Effective date.

This bill takes effect on January 1, 2019, if the amendment to the Utah Constitution proposed by S.J.R. 2, Proposal to Amend Utah Constitution - Property Tax Exemptions, 2018 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 401**S. B. 83**

Passed March 1, 2018

Approved March 21, 2018

Effective May 8, 2018

STATE REAL PROPERTY AMENDMENTS

Chief Sponsor: Margaret Dayton
House Sponsor: Kay J. Christofferson

LONG TITLE**General Description:**

This bill establishes notification and protest requirements for a proposed municipal boundary adjustment that affects state-owned real property.

Highlighted Provisions:

This bill:

- ▶ requires a municipality to provide notice of a proposed municipal boundary change that affects state-owned real property;
- ▶ requires the Utah State Developmental Center Board to provide an opinion of a proposed municipal boundary change that affects state-owned real property affiliated with the Utah State Developmental Center;
- ▶ directs the director of the Division of Facilities and Construction Management to protest a municipal boundary adjustment, under specified circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-2-419, as last amended by Laws of Utah 2010, Chapter 90
62A-5-202.5, as enacted by Laws of Utah 2016, Chapter 300
63A-5-204, as last amended by Laws of Utah 2017, Chapter 56

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-419 is amended to read:**10-2-419. Boundary adjustment -- Notice and hearing -- Protest.**

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) ~~(a)~~ The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

~~(i)~~ (a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary;

~~(ii)~~ (b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a)~~(i)~~ and;

~~(iii)-(A)~~ (c) publish notice:

~~(I)~~ (i) (A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; or

~~(II)~~ (B) if there is no newspaper of general circulation within the municipality, post at least one notice per 1,000 population in places within the municipality that are most likely to give notice to residents of the municipality; and

~~(B)~~ (ii) on the Utah Public Notice Website created in Section 63F-1-701 for three weeks~~[-];~~ and

(d) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, provide written notice, at least 50 days before the public hearing described in Subsection (2)(b), to:

(i) the title holder of any state-owned real property described in this Subsection (2)(d); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202, if any state-owned real property described in this Subsection (2)(d) is associated with the Utah State Developmental Center.

~~(B)~~ (3) The notice required under ~~Subsection (2)(a)(iii)~~ Subsections (2)(c) and (d) shall:

~~(i)~~ (a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

~~(ii)~~ (b) describe the area proposed to be adjusted;

~~(iii)~~ (c) state the date, time, and place of the public hearing required under Subsection ~~(2)(a)(ii)~~ (2)(b);

~~(iv)~~ (d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing under Subsection ~~(2)(a)(ii)~~, written protests (2)(b), a written protest to the adjustment ~~are~~ is filed by ~~the owners~~;

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (2)(d);

~~(v)~~ (e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing

law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

~~[(A)]~~ (i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

~~[(4)]~~ (A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

~~[(4)]~~ (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

~~[(B)]~~ (ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

~~[(v)]~~ (f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

~~[(A)]~~ (i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

~~[(4)]~~ (A) that provides fire protection, paramedic, and emergency services; and

~~[(4)]~~ (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

~~[(B)]~~ (ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

~~[(e)]~~ (4) The first publication of the notice required under Subsection ~~[(2)(a)(iii)(A)]~~ (2)(c)(i)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution under Subsection (2)(a)(~~i~~).

~~[(3)]~~ (5) Upon conclusion of the public hearing under Subsection ~~[(2)(a)(ii)]~~ (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing under Subsection ~~[(2)(a)(ii), written protests]~~ (2)(b), a written protest to the adjustment ~~[have been]~~ is filed with the city recorder or town clerk, ~~as the case may be, by the owners of private real property that~~ by a person described in Subsection (2)(d)(i) or (ii).

~~[(a) is located within the area proposed for adjustment;]~~

~~[(b) covers at least 25% of the total private land area within the area proposed for adjustment; and]~~

~~[(c) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment.]~~

~~[(4)]~~ (6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

~~[(5)]~~ (7) (a) An ordinance adopted under Subsection ~~[(3)]~~ (5) becomes effective when each

municipality involved in the boundary adjustment has adopted an ordinance under Subsection ~~[(3)]~~ (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 2. Section 62A-5-202.5 is amended to read:

62A-5-202.5. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the Department of Human Services.

(2) The board is composed of nine members as follows:

(a) the director of the division or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director of the Department of Human Services or the executive director's designee;

(d) a resident of the developmental center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the developmental center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the developmental center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

- (5) (a) The director shall serve as the chair.
- (b) The board shall appoint a member to serve as vice chair.
- (c) The board shall hold meetings quarterly or as needed.
- (d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.
- (e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.
- (6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) (a) The board shall adopt bylaws governing the board's activities.
- (b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.
- (8) The board shall:
- (a) act for the benefit of the developmental center and the division;
- (b) advise and assist the division with the division's functions, operations, and duties related to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206;
- (c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 62A-5-206.5;
- (d) administer the Utah State Developmental Center Land Fund, as described in Section 62A-5-206.6; ~~and~~
- (e) approve the sale, lease, or other disposition of real property or water rights associated with the developmental center, as described in Subsection 62A-5-206.6(5); ~~and~~
- (f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(2)(d), provide a written opinion regarding the proposed boundary adjustment to:
- (i) the director of the Division of Facilities and Construction Management; and
- (ii) the Legislative Management Committee.

Section 3. Section 63A-5-204 is amended to read:

63A-5-204. Specific powers and duties of director.

- (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.
- (2) (a) The director shall:
- (i) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;
- (ii) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;
- (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;
- (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;
- (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or interest in property belonging to the state or any of its departments, except institutions of higher education and the School and Institutional Trust Lands Administration;
- (vi) report all properties acquired by the state, except those acquired by institutions of higher education, to the director of the Division of Finance for inclusion in the state's financial records;
- (vii) before charging a rate, fee, or other amount for services provided by the division's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:
- (A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and
- (B) obtain the approval of the Legislature as required by Section 63J-1-410;
- (viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available;
- (ix) implement the State Building Energy Efficiency Program under Section 63A-5-701;

(x) convey, lease, or dispose of the real property or water rights associated with the Utah State Developmental Center according to the Utah State Developmental Center Board's determination, as described in Subsection 62A-5-206.6(5); ~~and~~

(xi) after receiving the notice required under Subsection 10-2-419(2)(d), file a written protest at or before the public hearing required under Subsection 10-2-419(2)(b), if:

(A) it is in the best interest of the state to protest the boundary adjustment; or

(B) the Legislature instructs the director to protest the boundary adjustment; and

~~(xi)~~ (xii) take all other action necessary for carrying out the purposes of this chapter.

(b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.

(3) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any agency, except:

- (i) the State Capitol Preservation Board; and
- (ii) state institutions of higher education.

(b) The director may choose to delegate responsibility for these functions only when the director determines that:

- (i) the agency has requested the responsibility;
- (ii) the agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and
- (iii) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and state institutions of higher education are exempt from Division of Facilities Construction and Management oversight.

(d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.

(e) Except for the State Capitol Preservation Board, agencies and institutions that are exempt from division oversight shall annually report their compliance with the facility maintenance standards to the division in the format required by the division.

(f) The division shall:

- (i) prescribe a standard format for reporting compliance with the facility maintenance standards;
- (ii) report agency compliance or noncompliance with the standards to the Legislature; and
- (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.

(4) (a) In making any allocations of space under Subsection (2), the director shall:

- (i) conduct studies to determine the actual needs of each agency; and
- (ii) comply with the restrictions contained in this Subsection (4).

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.

(d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.

(e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(5) The director may:

(a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;

(b) sue and be sued in the name of the division; and

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties.

(6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes other than administration that are under their control and management:

- (a) the Office of Trust Administrator;
- (b) the Department of Transportation;
- (c) the Division of Forestry, Fire, and State Lands;
- (d) the Department of Natural Resources;
- (e) the Utah National Guard;
- (f) any area vocational center or other institution administered by the State Board of Education;
- (g) any institution of higher education; and
- (h) the Utah Science Technology and Research Governing Authority.

(7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings under the director's supervision shall:

(a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials known as ASTM E-329; and

(b) carry a minimum of \$1,000,000 of errors and omissions insurance.

(8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held by it that are under its control.

CHAPTER 402**S. B. 104**

Passed March 6, 2018
Approved March 21, 2018
Effective May 8, 2018

**TALENT DEVELOPMENT
AND RETENTION STRATEGY**

Chief Sponsor: Ann Millner
House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill creates a program to provide an incentive loan to a student who intends to work in a qualifying job.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Talent Development Incentive Loan Program to award an incentive loan to an individual who:
 - pursues a qualifying degree for a qualifying job; and
 - intends to work in a qualifying job in Utah;
- ▶ requires the institution of higher education to award incentive loans;
- ▶ allows an institution of higher education to use money from a business or industry partner for funding or repaying an incentive loan;
- ▶ provides for the Governor's Office of Economic Development to determine which jobs are qualifying jobs and the qualifying degrees for each qualifying job;
- ▶ describes the conditions under which repayment of an incentive loan is waived or required; and
- ▶ requires the State Board of Regents to make rules.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the State Board of Regents Student Assistance Talent Development Incentive Loan Program, as an ongoing appropriation:
 - from the Education Fund, \$2,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-10-201, Utah Code Annotated 1953
53B-10-202, Utah Code Annotated 1953
53B-10-203, Utah Code Annotated 1953
53B-10-204, Utah Code Annotated 1953
53B-10-205, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-10-201 is enacted to read:**CHAPTER 10. INCENTIVE LOAN
PROGRAMS****Part 2. Talent Development Incentive Loan
Program****53B-10-201. Definitions.**

As used in this part:

(1) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(2) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(3) "Incentive loan" means a loan described in Section 53B-10-202.

(4) "Institution" means an institution of higher education that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(5) "Program" means the Talent Development Incentive Loan Program created in Section 53B-10-202.

(6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by GOED under Section 53B-10-203.

(7) "Qualifying job" means a job:

(a) described in Section 53B-10-203 for which an individual may receive an incentive loan for the current two-year period; or

(b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient received an incentive loan; and

(ii) (A) for which the recipient is pursuing a qualifying degree;

(B) for which the recipient completed a qualifying degree; or

(C) in which the recipient is working.

(8) "Recipient" means an individual who receives an incentive loan.

Section 2. Section 53B-10-202 is enacted to read:**53B-10-202. Talent Development Incentive
Loan Program.**

(1) There is created the Talent Development Incentive Loan Program to recruit and train individuals to work in certain jobs that have a high demand for new employees and offer high wages.

(2) Subject to available funds, an institution shall award an incentive loan to an individual who:

(a) is enrolled full time in the institution;

(b) has completed at least:

(i) one semester of full-time equivalent course work if the individual is pursuing an associate's degree; or

(ii) two semesters of full-time equivalent course work if the individual is pursuing a bachelor's degree;

(c) is pursuing or declares an intent to pursue a qualifying degree;

(d) declares an intent to work in a qualifying job described in Subsection 53B-10-201(7)(a) in Utah following graduation;

(e) applies to the institution to receive an incentive loan; and

(f) meets other criteria determined by the board in the rules described in Section 53B-10-205.

(3) (a) An institution may award an incentive loan to a recipient in an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the recipient is enrolled each semester.

(b) An institution may award an incentive loan to a recipient for up to the expected amount of time for the recipient to complete the qualifying degree, as determined by the institution.

(c) An institution may cancel an incentive loan in accordance with the rules described in Section 53B-10-205.

(4) An institution may use money from a partnership with an industry or business for funding or repaying an incentive loan.

(5) The board may use up to 5% of money appropriated for the program for administration.

Section 3. Section 53B-10-203 is enacted to read:

53B-10-203. Selection of qualifying jobs and qualifying degrees.

(1) Every other year, GOED shall select:

(a) five qualifying jobs that:

(i) have the highest demand for new employees; and

(ii) offer high wages; and

(b) the qualifying degrees for each qualifying job.

(2) GOED shall:

(a) ensure that each qualifying job:

(i) ranks in the top 40% of jobs based on an employment index that considers the job's growth rate and total openings;

(ii) ranks in the top 40% of jobs for wages; and

(iii) requires an associate's degree or a bachelor's degree; and

(b) report the five qualifying jobs and qualifying degrees to the board.

Section 4. Section 53B-10-204 is enacted to read:

53B-10-204. Repayment of an incentive loan.

(1) For each year that a recipient works in a qualifying job in Utah following completion of a qualifying degree, the institution that awarded the incentive loan shall waive repayment of the amount of one year of the recipient's incentive loan.

(2) Except as provided in Subsection (3)(a), an institution may not require a recipient to repay an incentive loan.

(3) (a) Except as provided in Subsection (3)(b), an institution shall require a recipient to repay to the institution:

(i) the full amount of an incentive loan if the recipient fails to:

(A) graduate with a qualifying degree within six years of initially receiving the incentive loan; or

(B) work in a qualifying job in Utah within one year of completing a qualifying degree; or

(ii) the outstanding amount of an incentive loan if the recipient works in a qualifying job for fewer years than the number of years required to waive repayment of the full incentive loan.

(b) An institution may waive or delay a repayment described in Subsection (3)(a) in accordance with the rules described in Section 53B-10-205.

(4) An institution may require appropriate interest with the repayment of an incentive loan.

(5) An institution shall use a repayment received under this section for the program.

Section 5. Section 53B-10-205 is enacted to read:

53B-10-205. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(1) establish an application process for an individual to apply for an incentive loan;

(2) subject to Section 53B-10-202, establish qualifying criteria for an individual to receive an incentive loan;

(3) establish how state funding available for incentive loans is divided among institutions;

(4) establish how to determine an amount of money for an incentive loan;

(5) establish the circumstances under which an institution may:

(a) cancel an incentive loan; or

(b) waive or delay repayment of an incentive loan; and

(6) administer the program.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

<u>To State Board of Regents - Student Assistance</u>	
<u>From Education Fund</u>	<u>\$2,500,000</u>

Schedule of Programs:

<u>Talent Development Incentive Loan Program</u>	<u>\$2,500,000</u>
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The Legislature intends that the appropriation provided under this item be used for the Talent Development Incentive Loan Program created in Section 53B-10-202.

CHAPTER 403**S. B. 128**

Passed March 8, 2018

Approved March 21, 2018

Effective May 8, 2018

(Exception clause in Section 5)

TRANSPORTATION REVISIONSChief Sponsor: David G. Buxton
House Sponsor: Kay J. Christofferson**LONG TITLE****General Description:**

This bill amends provisions related to transportation funding and the authority to construct, encroach on, or access a state highway right-of-way.

Highlighted Provisions:

This bill:

- ▶ amends the distribution of the local option highway construction and transportation corridor preservation fee in a county of the first class;
- ▶ requires a highway authority to get permission from the Department of Transportation before any construction, encroachment, or access on a state highway right-of-way;
- ▶ provides construction standards for certain repairs;
- ▶ amends the distribution of revenue and repayment requirements in the County of the First Class Highway Projects Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

41-1a-1222, as last amended by Laws of Utah 2017, Chapter 240

72-2-121, as last amended by Laws of Utah 2017, Chapter 436

72-3-109, as last amended by Laws of Utah 2011, Chapter 303

72-7-102, as last amended by Laws of Utah 2012, Chapter 289

Utah Code Sections Affected by Coordination Clause:

72-2-121, as last amended by Laws of Utah 2017, Chapter 436

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-1222 is amended to read:

41-1a-1222. Local option highway construction and transportation corridor preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may impose a

local option highway construction and transportation corridor preservation fee of up to \$10 on each motor vehicle registration within the county.

(ii) A county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to \$7.75 on each motor vehicle registration for a six-month registration period under Section 41-1a-215.5 within the county.

(iii) A fee imposed under Subsection (1)(a)(i) or (ii) shall be set in whole dollar increments.

(b) If imposed under Subsection (1)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option highway construction and transportation corridor preservation fee established by the county legislative body.

(c) The following are exempt from the fee required under Subsection (1)(a):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3);

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

(iii) a motor vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421.

(2) (a) Except as provided in Subsection (2)(b), the revenue generated under this section shall be:

(i) deposited in the Local Highway and Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(ii) credited to the county from which it is generated; and

(iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be deposited or transferred as follows:

(i) ~~[50%]~~ 70% of the revenue shall be:

(A) deposited in the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) used in accordance with Section 72-2-121; and

~~[(ii) 20% of the revenue shall be:]~~

~~[(A) transferred to the legislative body of a city of the first class:]~~

~~[(I) located in a county of the first class; and]~~

~~[(II) that has:]~~

~~[(Aa) an international airport within its boundaries; and]~~

~~[(Bb) a United States customs office on the premises of the international airport described in Subsection (2)(b)(ii)(A)(II)(Aa); and]~~

~~[(B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction, reconstruction, or maintenance projects; and]~~

~~[(iii)] (ii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection (2)(a).~~

(3) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

- (a) approving the fee;
- (b) setting the amount of the fee; and
- (c) providing an effective date for the fee as provided in Subsection (4).

(4) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection (4)(b) from the county prior to April 1.

(b) The notice described in Subsection (4)(a) shall:

- (i) state that the county will enact, change, or repeal a fee under this part;
- (ii) include a copy of the ordinance imposing the fee; and
- (iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 2. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(b) to be deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

- (A) pedestrian or nonmotorized vehicle trail;
- (B) nonmotorized vehicle storage facility;
- (C) pedestrian or vehicle bridge; or
- (D) vehicle parking lot or parking structure;

(d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);

(e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(h) for fiscal year 2015 only, and after the department has verified that the amount required

under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation ~~[Investment Fund of 2005]~~ Fund created in Section ~~[72-2-124]~~ 72-2-102 until \$28,079,000 has been deposited into the Transportation ~~[Investment Fund of 2005; and]~~ Fund;

(k) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

(l) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state; and

~~[(k)]~~ (m) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation ~~[Investment Fund of 2005]~~ Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(j)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on July 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(j)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

Section 3. Section 72-3-109 is amended to read:

72-3-109. Division of responsibility with respect to state highways in cities and towns.

(1) Except as provided in Subsection (3), the jurisdiction and responsibility of the department and the municipalities for state highways within municipalities is as follows:

(a) The department has jurisdiction over and is responsible for the construction and maintenance of:

(i) the portion of the state highway located between the back of the curb on either side of the state highway; or

(ii) if there is no curb, the traveled way, its contiguous shoulders, and appurtenances.

(b) The department may widen or improve state highways within municipalities.

(c) (i) A municipality has jurisdiction over all other portions of the right-of-way and is responsible for construction and maintenance of the right-of-way.

(ii) If a municipality grants permission for the installation of any pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the portion of the right-of-way under its jurisdiction:

(A) the permission shall contain the condition that any installation will be removed from the right-of-way at the request of the municipality; and

(B) the municipality shall cause any installation to be removed at the request of the department when the department finds the removal necessary:

(I) to eliminate a hazard to traffic safety;

(II) for the construction and maintenance of the state highway; or

(III) to meet the requirements of federal regulations.

(iii) Except as provided in Subsection (1)(h), a municipality may not install or grant permission for the installation of any pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the portion of the state highway right-of-way under its jurisdiction without the prior written approval of the department.

(iv) The department may, by written agreement with a municipality, waive the requirement of its approval under Subsection (1)(c)(iii) for certain types and categories of installations.

(d) If it is necessary that a utility, as defined in Section 72-6-116, be relocated, reimbursement shall be made for the relocation as provided for in Section 72-6-116.

(e) (i) The department shall construct curbs, gutters, and sidewalks on the state highways if necessary for the proper control of traffic, driveway entrances, or drainage.

(ii) If a state highway is widened or altered and existing curbs, gutters, or sidewalks are removed, the department shall replace the curbs, gutters, or sidewalks.

(f) The department may furnish and install street lighting systems for state highways, but their

operation and maintenance is the responsibility of the municipality.

(g) If new storm sewer facilities are necessary in the construction and maintenance of the state highways, the cost of the storm sewer facilities shall be borne by the state and the municipality in a proportion mutually agreed upon between the department and the municipality.

(h) (i) For a portion of a state highway right-of-way for which a municipality has jurisdiction, and upon request of the municipality, the department shall grant permission for the municipality to issue permits within the state highway right-of-way, provided that:

(A) the municipality gives the department seven calendar days to review and provide comments on the permit; and

(B) upon the request of the department, the municipality incorporates changes to the permit as jointly agreed upon by the municipality and the department.

(ii) If the department fails to provide a response as described in Subsection (1)(h)(i) within seven calendar days, the municipality may issue the permit.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the location and construction of approach roads and driveways entering the state highway. The rules shall:

(i) include criteria for the design, location, and spacing of approach roads and driveways based on the functional classification of the adjacent highway, including the urban or rural nature of the area;

(ii) be consistent with the "Manual on Uniform Traffic Control Devices" and the model access management policy or ordinance developed by the department under Subsection 72-2-117(8);

(iii) include procedures for:

(A) the application and review of a permit for approach roads and driveways including review of related site plans that have been recommended according to local ordinances; and

(B) approving, modifying, denying, or appealing the modification or denial of a permit for approach roads and driveways within 45 days of receipt of the application; and

(iv) require written justifications for modifying or denying a permit.

(b) The department may delegate the administration of the rules to the highway authorities of a municipality.

(c) In accordance with this section and Section 72-7-104, an approach road or driveway may not be constructed on a state highway without a permit issued under this section.

(3) The department has jurisdiction and control over the entire right-of-way of interstate highways

within municipalities and is responsible for the construction, maintenance, and regulation of the interstate highways within municipalities.

Section 4. Section 72-7-102 is amended to read:

72-7-102. Excavations, structures, or objects prohibited within right-of-way except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty for violation.

(1) As used in this section, "management costs" means the reasonable, direct, and actual costs a highway authority incurs in exercising authority over the highways under its jurisdiction.

(2) Except as provided in Subsection (3) and Section 54-4-15, a person may not:

(a) dig or excavate, within the right-of-way of any state highway, county road, or city street; or

(b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the right-of-way.

(3) (a) (i) A highway authority having jurisdiction over the right-of-way may allow excavating, installation of utilities and other facilities or access under rules made by the highway authority and in compliance with federal, state, and local law as applicable.

(ii) Notwithstanding Subsection (3)(a)(i), a highway authority may not allow excavating, installation of utilities and other facilities, or access to any portion of a state highway, including portions thereof within a municipality, without the prior written approval of the department. The department may, by written agreement with a municipality, waive the requirement of its approval for certain types and categories of excavations, installations, and access.

(b) (i) The rules may require a permit for any excavation or installation and may require a surety bond or other security.

(ii) The application for a permit for excavation or installation on a state highway shall be accompanied by a fee established under Subsection (4)(f).

(iii) The permit may be revoked and the surety bond or other security may be forfeited for cause.

(iv) Any portion of the right-of-way disturbed by a project permitted under this section shall be repaired using construction standards established by the highway authority with jurisdiction over the disturbed portion of the right-of-way.

(c) (i) For a portion of a state highway right-of-way for which a municipality has jurisdiction, and upon request of the municipality, the department shall grant permission for the municipality to issue permits within the state highway right-of-way, provided that:

(A) the municipality gives the department seven calendar days to review and provide comments on the permit; and

(B) upon the request of the department, the municipality incorporates changes to the permit as jointly agreed upon by the municipality and the department.

(ii) If the department fails to provide a response as described in Subsection (3)(c)(i) within seven calendar days, the municipality may issue the permit.

(4) (a) Except as provided in Section 72-7-108 with respect to the department concerning the interstate highway system, a highway authority may require compensation from a utility service provider for access to the right-of-way of a highway only as provided in this section.

(b) A highway authority may recover from a utility service provider, only those management costs caused by the utility service provider's activities in the right-of-way of a highway under the jurisdiction of the highway authority.

(c) (i) A fee or other compensation under this Subsection (4) shall be imposed on a competitively neutral basis.

(ii) If a highway authority's management costs cannot be attributed to only one entity, the management costs shall be allocated among all privately owned and government agencies using the highway right-of-way for utility service purposes, including the highway authority itself. The allocation shall reflect proportionately the management costs incurred by the highway authority as a result of the various utility uses of the highway.

(d) A highway authority may not use the compensation authority granted under this Subsection (4) as a basis for generating revenue for the highway authority that is in addition to its management costs.

(e) (i) A utility service provider that is assessed management costs or a franchise fee by a highway authority is entitled to recover those management costs.

(ii) If the highway authority that assesses the management costs or franchise fees is a political subdivision of the state and the utility service provider serves customers within the boundaries of that highway authority, the management costs may be recovered from those customers.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall adopt a schedule of fees to be assessed for management costs incurred in connection with issuing and administering a permit on a state highway under this section.

(g) In addition to the requirements of this Subsection (4), a telecommunications tax or fee imposed by a municipality on a telecommunications provider, as defined in Section 10-1-402, is subject to Section 10-1-406.

(5) Permit fees collected by the department under this section shall be deposited with the state treasurer and credited to the Transportation Fund.

(6) Nothing in this section shall affect the authority of a municipality under:

(a) Section 10-1-203 or 10-1-203.5;

(b) Section 11-26-1;

(c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(7) A person who violates the provisions of Subsection (2) is guilty of a class B misdemeanor.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

(2) The amendments to the following sections take effect on July 1, 2018:

(a) Section 41-1a-1222; and

(b) Section 72-2-121.

Section 6. Coordinating S.B. 128 with S.B. 136 -- Substantive and technical amendments.

If this S.B. 128 and S.B. 136, Transportation Governance Amendments, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by renumbering and amending Subsection 72-2-121(8) enacted in S.B. 136 to read:

“(9)(a) Any revenue in the fund that is not specifically allocated and obligated under this section is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory board of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative

body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(e).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation related debt.”

CHAPTER 404**S. B. 228**

Passed March 7, 2018
Approved March 21, 2018
Effective May 8, 2018

**DEVELOPMENTAL
CENTER MODIFICATIONS**

Chief Sponsor: David G. Buxton
House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill makes amendments regarding the sale or lease of land, water rights, or water shares associated with the Utah State Developmental Center.

Highlighted Provisions:

This bill:

- ▶ creates a special revenue fund, subject to appropriation for the money received from the sale or lease of land, water rights, or water shares associated with the developmental center;
- ▶ repeals the expendable special revenue fund for developmental center land; and
- ▶ establishes terms and management procedures for the newly created special revenue fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Special Voting Requirements:

As required by Section 62A-5-206.6, amendments to Section 62A-5-206.6 must pass by the affirmative vote of two-thirds of all the members elected to each house of the Legislature.

Utah Code Sections Affected:**AMENDS:**

51-7-2, as last amended by Laws of Utah 2017, Chapters 343 and 363
62A-5-101, as last amended by Laws of Utah 2017, Chapter 43
62A-5-206.6, as enacted by Laws of Utah 2016, Chapter 300
63A-5-215, as last amended by Laws of Utah 2016, Chapter 298

ENACTS:

62A-5-206.7, Utah Code Annotated 1953
62A-5-206.8, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:**51-7-2. Exemptions from chapter.**

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

- (2) funds of the Utah State Retirement Board;
- (3) funds of the Utah Housing Corporation;
- (4) endowment funds of higher education institutions;
- (5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;
- (6) the State Post-Retirement Benefits Trust Fund;
- (7) the funds of the Utah Educational Savings Plan;
- (8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;
- (9) the funds in the Navajo Trust Fund; ~~and~~
- (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account~~[-]; and~~
- (11) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7.

Section 2. Section 62A-5-101 is amended to read:**62A-5-101. Definitions.**

As used in this chapter:

- (1) "Approved provider" means a person approved by the division to provide home-based services.
- (2) "Board" means the Utah State Developmental Center Board created under Section 62A-5-202.5.
- (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.
- (b) "Brain injury" does not include a deteriorating disease.
- (4) "Designated intellectual disability professional" means:
- (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:
- (i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or
- (B) has at least one year of clinical experience with persons with an intellectual disability; and
- (ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or
- (b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:
- (i) has at least two years of clinical experience with persons with an intellectual disability; and
- (ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

<p>(5) “Deteriorating disease” includes:</p> <ul style="list-style-type: none"> (a) multiple sclerosis; (b) muscular dystrophy; (c) Huntington’s chorea; (d) Alzheimer’s disease; (e) ataxia; or (f) cancer. <p>(6) “Developmental center” means the Utah State Developmental Center, established in accordance with Part 2, Utah State Developmental Center.</p> <p>(7) “Director” means the director of the Division of Services for People with Disabilities.</p> <p>(8) “Direct service worker” means a person who provides services to a person with a disability:</p> <ul style="list-style-type: none"> (a) when the services are rendered in: <ul style="list-style-type: none"> (i) the physical presence of the person with a disability; or (ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and (b) (i) under a contract with the division; (ii) under a grant agreement with the division; or (iii) as an employee of the division. <p>(9) (a) “Disability” means a severe, chronic disability that:</p> <ul style="list-style-type: none"> (i) is attributable to: <ul style="list-style-type: none"> (A) an intellectual disability; (B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. 435.1009; (C) a physical disability; or (D) a brain injury; (ii) is likely to continue indefinitely; (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity: <ul style="list-style-type: none"> (I) self-care; (II) receptive and expressive language; (III) learning; (IV) mobility; (V) self-direction; (VI) capacity for independent living; or (VII) economic self-sufficiency; or (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas: <ul style="list-style-type: none"> (I) memory or cognition; 	<ul style="list-style-type: none"> (II) activities of daily life; (III) judgment and self-protection; (IV) control of emotions; (V) communication; (VI) physical health; or (VII) employment; and <p>(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:</p> <ul style="list-style-type: none"> (A) may continue throughout life; and (B) must be individually planned and coordinated. <p>(b) “Disability” does not include a condition due solely to:</p> <ul style="list-style-type: none"> (i) mental illness; (ii) personality disorder; (iii) deafness or being hard of hearing; (iv) visual impairment; (v) learning disability; (vi) behavior disorder; (vii) substance abuse; or (viii) the aging process. <p>(10) “Division” means the Division of Services for People with Disabilities.</p> <p>(11) “Eligible to receive division services” or “eligibility” means qualification, based on criteria established by the division in accordance with Subsection 62A-5-102(4), to receive services that are administered by the division.</p> <p>(12) “Endorsed program” means a facility or program that:</p> <ul style="list-style-type: none"> (a) is operated: <ul style="list-style-type: none"> (i) by the division; or (ii) under contract with the division; or (b) provides services to a person committed to the division under Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability. <p>(13) “Licensed physician” means:</p> <ul style="list-style-type: none"> (a) an individual licensed to practice medicine under: <ul style="list-style-type: none"> (i) Title 58, Chapter 67, Utah Medical Practice Act; or (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or (b) a medical officer of the United States Government while in this state in the performance of official duties. <p>(14) “Physical disability” means a medically determinable physical impairment that has</p>
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resulted in the functional loss of two or more of a person's limbs.

(15) "Public funds" means state or federal funds that are disbursed by the division.

(16) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

(17) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section 62A-5-206.7.

Section 3. Section 62A-5-206.6 is amended to read:

62A-5-206.6. Utah State Developmental Center land and water rights.

(1) As used in this section, "long-term lease" means:

- (a) a lease with a term of five years or more; or
- (b) a lease with a term of less than five years that may be unilaterally renewed by the lessee.

~~[(2) Notwithstanding Section 63A-5-215, any money received by the board from the sale, lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center shall be deposited in the expendable special revenue fund created in Subsection (3).]~~

~~[(3) (a) There is created an expendable special revenue fund known as the "Utah State Developmental Center Land Fund."]~~

~~[(b) The Division of Finance shall deposit the following money into the expendable special revenue fund:]~~

~~[(i) money from the sale, long-term lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center; and]~~

~~[(ii) money from the sale, long-term lease, or other disposition of water rights associated with the developmental center.]~~

~~[(c) The state treasurer shall invest money in the fund described in Subsection (3) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the revenue from the investment shall remain with the expendable special revenue fund, except as provided in Subsection (4).]~~

~~[(d) (i) Except as provided in Subsection (4), the money or revenue in the fund may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.]~~

~~[(ii) Notwithstanding Section 63J-1-211, the Legislature may not appropriate money or revenue from the fund to eliminate or otherwise reduce an operating deficit if the money or revenue appropriated from the fund is expended or~~

~~committed to be expended for a purpose other than one listed in this section.]~~

~~[(iii) The Legislature may not amend the purposes for which money or revenue in the fund may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.]~~

~~[(4) The board may expend money or revenue from the Utah State Developmental Center Land Fund to:]~~

~~[(a) fulfill the functions of the Utah State Developmental Center as described in Sections 62A-5-201 and 62A-5-203; and]~~

~~[(b) assist the division in the division's administration of services and supports, as described in Sections 62A-5-102 and 62A-5-103.]~~

~~[(5)] (2) (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition of real property [or], water rights, or water shares associated with the developmental center shall be conducted as provided in this Subsection [(5)] (2).~~

(b) The board shall:

(i) approve the sale, long-term lease, or other disposition of real property [or], water rights, or water shares associated with the developmental center;

(ii) secure the approval of the Legislature before offering the real property [or], water rights, or water shares for sale, long-term lease, or other disposition; and

(iii) if the Legislature's approval is secured, as described in Subsection [(5)] (2)(b)(ii), direct the Division of Facilities Construction and Management to convey, lease, or dispose of the real property [or], water rights, or water shares associated with the developmental center according to the board's determination.

Section 4. Section 62A-5-206.7 is enacted to read:

62A-5-206.7. Utah State Developmental Center Long-Term Sustainability Fund.

(1) There is created a special revenue fund entitled the "Utah State Developmental Center Long-Term Sustainability Fund."

(2) The sustainability fund consists of:

(a) revenue generated from the lease, except any lease existing on May 1, 1995, of land associated with the Utah State Developmental Center;

(b) all proceeds from the sale or other disposition of real property, water rights, or water shares associated with the Utah State Developmental Center; and

(c) all existing money in the Utah State Developmental Center Land Fund, created in Section 62A-5-206.6.

(3) The state treasurer shall invest sustainability fund money by following the procedures and requirements in Section 62A-5-206.8.

(4) (a) The board shall ensure that money or revenue deposited into the sustainability fund is irrevocable and is expended only as provided in Subsection (5).

(b) The Legislature may not amend the purposes in Subsection (5) for which money or revenue in the fund may be expended or committed to be expended, except by the affirmative vote of two-thirds of all the members elected to each house.

(5) (a) Money may be expended from the sustainability fund to:

(i) fulfill the functions of the Utah State Developmental Center described in Sections 62A-5-201 and 62A-5-203; and

(ii) assist the division in the division's administration of services and supports described in Sections 62A-5-102 and 62A-5-103.

(b) Money from the sustainability fund may not be expended:

(i) for a purpose other than the purposes described in Subsection (5)(a); or

(ii) to reduce the amount of money that the Legislature appropriates from the General Fund for the purposes described in Subsection (5)(a).

(6) Money may be expended from the sustainability fund only under the following conditions:

(a) if the balance of the sustainability fund is at least \$5,000,000 at the end of the fiscal year, the board may expend the earnings generated by the sustainability fund during the fiscal year for a purpose described in Subsection (5)(a);

(b) if the balance of the sustainability fund is at least \$50,000,000 at the end of the fiscal year, the Legislature may appropriate to the division up to 5% of the balance of the sustainability fund for a purpose described in Subsection (5)(a); and

(c) the board or the division may not expend any money from the sustainability fund, except as provided in Subsection (6)(a), without legislative appropriation.

(7) The sustainability fund is revocable only by the affirmative vote of two-thirds of all the members elected to each house of the Legislature.

Section 5. Section 62A-5-206.8 is enacted to read:

62A-5-206.8. Management of the Utah State Developmental Center Sustainability Fund.

(1) The state treasurer shall invest the assets of the sustainability fund with the primary goal of providing for the stability, income, and growth of the principal.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing

sustainability fund assets from earnings before depositing earnings into the sustainability fund.

(4) (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the sustainability fund.

(b) The state treasurer may only provide compensation to asset managers from earnings generated by the sustainability fund's investments.

(5) The state treasurer shall invest and manage the sustainability fund assets as a prudent investor would under Section 67-19d-302.

Section 6. Section 63A-5-215 is amended to read:

63A-5-215. Disposition of proceeds received by division from sale of property.

(1) [The] Except as provided in Section 62A-5-206.7, the money received by the division from the sale or other disposition of property shall be paid into the state treasury and becomes a part of the funds provided by law for carrying out the building program of the state, and are appropriated for that purpose.

(2) The proceeds from sales of property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that agency.

CHAPTER 405

S. B. 244

Passed March 8, 2018
 Approved March 21, 2018
 Effective May 8, 2018
 (Retrospective operation to January 1, 2018)

TAX REFORM PROVISIONS

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions related to federal tax reform.

Highlighted Provisions:

This bill:

- ▶ prohibits an individual from receiving the homeowner's or renter's credit if the individual is a dependent with respect to whom another individual claims certain tax credits;
- ▶ provides that a corporation may pay taxes on deferred foreign income in installments under certain circumstances;
- ▶ addresses when an individual is considered to have domicile in this state for purposes of income tax; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 59-2-1208, as last amended by Laws of Utah 2016, Chapter 375
- 59-2-1209, as last amended by Laws of Utah 2016, Chapter 375
- 59-10-136, as enacted by Laws of Utah 2011, Chapter 410

ENACTS:

59-7-118, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1208 is amended to read:

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit.

(1) (a) Subject to Subsection (2), for a calendar year beginning on or after January 1, 2007, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$9,159	\$798
\$9,160 -- \$12,214	\$696
\$12,215 -- \$15,266	\$597
\$15,267 -- \$18,319	\$447
\$18,320 -- \$21,374	\$348

\$21,375 -- \$24,246 \$199

\$24,247 -- \$26,941 \$98

(b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

~~(2) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a homeowner's credit under this section may not receive the homeowner's credit.]~~

(2) An individual may not receive the homeowner's credit under this section if:

(a) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section; or

(b) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section.

(3) A payment for a homeowner's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

Section 2. Section 59-2-1209 is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, 2007, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
\$0 -- \$9,159	9.5%
\$9,160 -- \$12,214	8.5%
\$12,215 -- \$15,266	7.0%
\$15,267 -- \$18,319	5.5%
\$18,320 -- \$21,374	4.0%
\$21,375 -- \$24,246	3.0%
\$24,247 -- \$26,941	2.5%

(b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) A claimant may claim a renter's credit under this part only for rent that does not constitute a rental assistance payment.

~~[(3) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a renter's credit under this section may not receive a renter's credit.]~~

(3) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(4) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(5) For calendar years beginning on or after January 1, 2007, a credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 3. Section 59-7-118 is enacted to read:

59-7-118. Section 965, Internal Revenue Code -- Installment payments.

(1) Subject to the other provisions of this section, a corporation may pay in installments the tax owed under this chapter on deferred foreign income described in Section 965, Internal Revenue Code.

(2) Subsection (1) applies:

(a) to a corporation that:

(i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

(ii) apports deferred foreign income described in Section 965, Internal Revenue Code, to this state; and

(b) for a tax year in which a corporation makes an election under Section 965(h), Internal Revenue

Code, for purposes of the corporation's federal income tax.

(3) The same provisions that apply to an election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an installment payment made under this section.

Section 4. Section 59-10-136 is amended to read:

59-10-136. Domicile -- Temporary absence from state.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for

an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax

return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; or

(xii) whether the individual is an individual described in Subsection (1)(b).

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) (a) If an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection (5)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

(6) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Section 5. Retrospective operation.

(1) Except as provided in Subsection (2), this bill has retrospective operation beginning on January 1, 2018.

(2) The amendments to Sections 59-7-118 and 59-10-136 have retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 406**H. B. 9**

Passed March 8, 2018
 Approved March 22, 2018
 Effective March 22, 2018

**REVENUE BONDS AND CAPITAL
 FACILITIES AUTHORIZATIONS**

Chief Sponsor: Gage Froerer
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill authorizes certain state agencies and institutions to issue revenue bonds and authorizes the construction or lease of certain capital facilities.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Building Ownership Authority to issue revenue bonds as follows:
 - up to \$5,451,800 for constructing a Pleasant Grove or Lehi market area liquor store; and
 - up to \$8,659,000 for reconstructing the Store 4: Foothill liquor store;
- ▶ authorizes the Board of Regents to issue revenue bonds as follows:
 - up to \$105,217,000 for constructing a south campus student housing and dining project at the University of Utah;
 - up to \$31,400,000 for constructing the Space Dynamics Laboratory Phase II at Utah State University; and
 - up to \$13,000,000 for constructing a student center on the Jordan Campus at Salt Lake Community College;
- ▶ authorizes Weber State University to use up to \$17,604,700 of agency, institutional, or donated funds to plan, design, and construct the Davis Campus Computer and Automotive Engineering Building and authorizes the use of state funds for operation and maintenance costs and capital improvements of the building; and
- ▶ modifies an existing authorization to allow the Governor's Office of Economic Development to lease, rather than construct, a building for a Southern Utah Welcome Center.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63B-24-201, as enacted by Laws of Utah 2015, Chapter 281

ENACTS:

63B-28-101, Utah Code Annotated 1953
 63B-28-102, Utah Code Annotated 1953
 63B-28-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-24-201 is amended to read:

63B-24-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$8,200,000 in institutional funds to plan, design, and construct the William C. Browning Building Addition with up to 24,000 square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$10,000,000 in institutional funds to plan, design, and construct the Fine Arts Complex Addition/Renovation with up to 17,000 square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) Salt Lake Community College may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$3,900,000 in institutional funds to plan, design, and construct a Strength and Conditioning Center with up to 11,575 square feet;

(b) the college may not use state funds for any portion of this project; and

(c) the college may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Governor's Office of Economic Development may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$1,800,000 in nonlapsing balances and donations to plan, design, and construct or lease a Southern Utah Welcome Center with up to 5,000 square feet;

(b) the office may request additional state funds for the project, unless the office receives donations and begins design or construction of the project; and

(c) the office may use state funds for operation and maintenance costs or capital improvements.

Section 2. Section 63B-28-101 is enacted to read:

CHAPTER 28. 2018 BONDING AND FINANCING AUTHORIZATIONS

Part 1. 2018 Revenue Bond Authorizations

63B-28-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$5,451,800 for a Pleasant Grove or Lehi market area liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$8,659,000 for reconstructing the Store 4: Foothill liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

Section 3. Section 63B-28-102 is enacted to read:

63B-28-102. Revenue bond authorizations -- Board of Regents.

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university,

other than appropriations of the Legislature, to finance the cost of constructing a south campus student housing and dining project;

(b) the University of Utah use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed \$105,217,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct a south campus student housing and dining project, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Space Dynamics Laboratory Phase II;

(b) Utah State University use reimbursement from research projects as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed \$31,400,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Space Dynamics Laboratory Phase II, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Board of Regents, on behalf of Salt Lake Community College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to borrow money on the credit, revenues, and reserves of the college, other than appropriations of the Legislature, to finance the cost of constructing a student center on the Jordan Campus;

(b) Salt Lake Community College use student fees as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed \$13,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the college may plan, design, and construct a student center on the Jordan Campus, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the college may not request state funds for operation and maintenance costs or capital improvements.

Section 4. Section 63B-28-201 is enacted to read:

Part 2. 2018 Capital Facility Design and Construction Authorizations

63B-28-201. Authorization to design and construct capital facilities using institutional or agency funds.

The Legislature intends that:

(1) Weber State University may, subject to the requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$17,604,700 in donations and institutional funds to plan, design, and construct the Davis Campus Computer and Automotive Engineering Building;

(2) the university may not use state funds for any portion of this project; and

(3) the university may use state funds for operation and maintenance costs and capital improvements.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 407**H. B. 41**

Passed March 6, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**MENTAL HEALTH
 CRISIS LINE AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Daniel W. Thatcher
 Cosponsors: Cheryl K. Acton
 Carl R. Albrecht
 Patrice M. Arent
 Stewart E. Barlow
 Kay J. Christofferson
 Susan Duckworth
 Justin L. Fawson
 Gage Froerer
 Stephen G. Handy
 Sandra Hollins
 Eric K. Hutchings
 Brian S. King
 Carol Spackman Moss
 Derrin R. Owens
 Jeremy A. Peterson
 Val K. Potter
 Paul Ray
 Edward H. Redd
 Adam Robertson
 Robert M. Spendlove
 Norman K. Thurston
 R. Curt Webb
 Elizabeth Weight
 John R. Westwood
 Mark A. Wheatley
 Mike Winder

LONG TITLE**General Description:**

This bill addresses the operation of the statewide mental health crisis line and local mental health crisis lines.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Division of Substance Abuse and Mental Health (division) to enter into or modify contracts to provide the statewide mental health crisis line;
- ▶ requires the division to ensure that the statewide mental health crisis line meets certain staffing and operational standards;
- ▶ requires local mental health authorities to ensure that local mental health crisis lines meet certain staffing and operational standards;
- ▶ requires local mental health authorities and the division to ensure that calls may be transferred from local mental health crisis lines to the statewide mental health crisis line to ensure a timely and effective response to calls;
- ▶ amends the duties of the Mental Health Crisis Line Commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-43-301, as last amended by Laws of Utah 2016, Chapter 113
 17-43-305, as last amended by Laws of Utah 2016, Chapter 113
 63C-18-203, as enacted by Laws of Utah 2017, Chapter 23

ENACTS:

62A-15-1301, Utah Code Annotated 1953
 62A-15-1302, Utah Code Annotated 1953
 62A-15-1303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-43-301 is amended to read:**17-43-301. Local mental health authorities -- Responsibilities.**

- (1) As used in this section:
- (a) "Crisis worker" means the same as that term is defined in Section 62A-15-1301.
- (b) "Local mental health crisis line" means the same as that term is defined in Section 63C-18-102.
- (c) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- (d) "Public funds" means the same as that term is defined in Section 17-43-303.
- (e) "Statewide mental health crisis line" means the same as that term is defined in Section 63C-18-102.

[~~(1)~~] (2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52-504, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52-505, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection [~~(1)~~] (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to persons within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local

mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

[~~(2)~~] (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection [~~(3)~~] (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

[~~(3)~~] (4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

[~~(4)~~] (5) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

[~~(5)~~] (6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for persons incarcerated in a county jail or other county correctional facility;

(ii) [~~as provided~~] in accordance with Subsection [~~(5)~~] (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in

accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection ~~[(5)]~~ (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

- (i) inpatient care and services;
- (ii) residential care and services;
- (iii) outpatient care and services;
- (iv) 24-hour crisis care and services;
- (v) psychotropic medication management;
- (vi) psychosocial rehabilitation, including vocational training and skills development;
- (vii) case management;
- (viii) community supports, including in-home services, housing, family support services, and respite services;
- (ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

- (i) collaborate with the statewide mental health crisis line described in Section 62A-15-1302;
- (ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Substance Abuse and Mental Health, in accordance with Section 62A-15-1302; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

~~[(6)]~~ (8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection ~~[(2)]~~ (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection ~~[(4)]~~ (5)(b).

~~[(7)]~~ (9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

~~[(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-303.]~~

~~[(b)]~~ (10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

Section 2. Section 17-43-305 is amended to read:

17-43-305. Responsibility for cost of services provided by local mental health authority.

If a local mental health authority, through its designated provider, provides any service described in Subsection ~~[17-43-301(5)]~~ 17-43-301(6)(b) to a person who resides within the jurisdiction of another local mental health authority, the local mental health authority in whose jurisdiction the person resides is responsible for the cost of that service if its designated provider has authorized the provision of that service.

Section 3. Section 62A-15-1301 is enacted to read:

Part 13. Statewide Mental Health Crisis Line

62A-15-1301. Definitions.

As used in this part:

(1) "Commission" means the Mental Health Crisis Line Commission created in Section 63C-18-202.

(2) "Crisis worker" means an individual who:

(a) meets the standards of qualification or certification that the division sets, in accordance with Section 62A-15-1302; and

(b) staffs the statewide mental health crisis line or a local mental health crisis line under the supervision of at least one mental health therapist.

(3) "Local mental health crisis line" means the same as that term is defined in Section 63C-18-102.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Statewide mental health crisis line" means the same as that term is defined in Section 63C-18-102.

Section 4. Section 62A-15-1302 is enacted to read:

62A-15-1302. Contracts for statewide mental health crisis line -- Crisis worker qualification or certification.

(1) (a) The division shall enter into a new contract or modify an existing contract to manage and operate the statewide mental health crisis line, in accordance with this part, and to encourage collaboration with local mental health crisis lines.

(b) Through the contract described in Subsection (1)(a) and in consultation with the commission, the division shall set standards of care and practice for

the mental health therapists and crisis workers who staff the statewide mental health crisis line.

(2) (a) The division shall establish training and minimum standards for the qualification or certification of crisis workers who staff the statewide mental health crisis line and local mental health crisis lines.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection (2)(a).

Section 5. Section 62A-15-1303 is enacted to read:

62A-15-1303. Statewide mental health crisis line operational standards.

In consultation with the commission, the division shall ensure that:

(1) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

(a) mental health therapists; or

(b) crisis workers;

(2) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (1) answers the call without the caller first:

(a) waiting on hold; or

(b) being screened by an individual other than a mental health therapist or crisis worker; and

(3) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line.

Section 6. Section 63C-18-203 is amended to read:

63C-18-203. Commission duties -- Reporting requirements.

(1) (a) The commission shall:

(i) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(ii) study how to establish and implement a statewide mental health crisis line, including identifying:

(A) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and an N11 number for calls;

(B) a supply of qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(C) a funding mechanism to operate and maintain the statewide mental health crisis line; and

(iii) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a)(i) and (ii).

(b) The commission may conduct other business related to the commission's duties described in Subsection (1)(a).

~~[(2) Before November 30, 2017, the commission shall report to the Political Subdivisions Interim Committee regarding:]~~

~~[(a) the extent to which the commission fulfilled the commission's duties described in Subsection (1); and]~~

~~[(b) recommendations for future legislation related to integrating local mental health crisis lines or establishing a statewide mental health crisis line.]~~

(2) The commission shall consult with the Division of Substance Abuse and Mental Health regarding the standards and operation of the statewide mental health crisis line, in accordance with Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line.

CHAPTER 408**H. B. 42**

Passed March 7, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**MEDICAID WAIVER FOR
 MENTAL HEALTH CRISIS SERVICES**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill requires the Department of Health to seek a Medicaid waiver for certain mental health crisis resources.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires the Department of Health to seek a Medicaid waiver for certain mental health crisis resources.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-18-415, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-415 is enacted to read:

26-18-415. Medicaid waiver for mental health crisis lines and mobile crisis outreach teams.

(1) As used in this section:

(a) "Local mental health crisis line" means the same as that term is defined in Section 63C-18-102.

(b) "Mental health crisis" means:

(i) a mental health condition that manifests itself in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(A) serious danger to the individual's health or well-being; or

(B) a danger to the health or well-being of others; or

(ii) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or the intervention of a mental health therapist.

(c) (i) "Mental health crisis services" means direct mental health services and on-site intervention that a mobile crisis outreach team provides to an

individual suffering from a mental health crisis, including the provision of safety and care plans, prolonged mental health services for up to 90 days, and referrals to other community resources.

(ii) "Mental health crisis services" includes:

(A) local mental health crisis lines; and

(B) the statewide mental health crisis line.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 63C-18-102.

(2) In consultation with the Department of Human Services and the Mental Health Crisis Line Commission created in Section 63C-18-202, the department shall develop a proposal to amend the state Medicaid plan to include mental health crisis services, including the statewide mental health crisis line, local mental health crisis lines, and mobile crisis outreach teams.

(3) By January 1, 2019, the department shall apply for a Medicaid waiver with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services, if necessary to implement, within the state Medicaid program, the mental health crisis services described in Subsection (2).

CHAPTER 409**H. B. 56**

Passed February 9, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**EMERGENCY PERSONNEL
 RECORDING AMENDMENTS**

Chief Sponsor: A. Cory Maloy
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill enacts a provision relating to audio recordings created by emergency first responders.

Highlighted Provisions:

This bill:

- ▶ provides that a training audio recording made during an emergency event when an emergency responder is treating or resuscitating an individual is a protected record under the Government Records Access and Management Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will

interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the

potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or

records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

- (A) relating to research; and
- (B) of:
 - (I) the institution within the state system of higher education defined in Section 53B-1-102; or
 - (II) a sponsor of sponsored research;
 - (iii) unpublished manuscripts;
 - (iv) creative works in process;
 - (v) scholarly correspondence; and
 - (vi) confidential information contained in research proposals;
- (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- (41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and
 - (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;
- (42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:
 - (a) a production facility; or
 - (b) a magazine;
- (43) information:
 - (a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or
 - (b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;
- (44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;
- (45) information regarding National Guard operations or activities in support of the National Guard's federal mission;
- (46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

- (47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;
- (48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:
 - (a) the safety of the general public; or
 - (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or
 - (iii) the property of a private person who provides the Division of Emergency Management information;
- (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;
- (50) as provided in Section 26-39-501:
 - (a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and
 - (b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;
- (51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
 - (a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
 - (b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
 - (i) the nature of the law, ordinance, rule, or order; and
 - (ii) the individual complying with the law, ordinance, rule, or order;
- (52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:
 - (a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
 - (b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a

governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; ~~and~~

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist[-]; and

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service;

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation.

CHAPTER 410**H. B. 237**

Passed March 2, 2018
Approved March 22, 2018
Effective May 8, 2018

**CONCURRENT
ENROLLMENT ENHANCEMENTS**

Chief Sponsor: Mike Winder
Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to eligible instructors for concurrent enrollment courses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Regents to establish a policy describing required qualifications for an individual to be an eligible instructor for a concurrent enrollment course;
- ▶ repeals requirements related to eligible instructors, including a requirement that certain eligible instructors be approved as adjunct faculty by an institution of higher education;
- ▶ requires that certain individuals meet requirements established by the State Board of Regents in order to be eligible instructors; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 53E-10-301, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-10-302, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-10-305, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-10-307, as renumbered and amended by Laws of Utah 2018, Chapter 1

Utah Code Sections Affected by Coordination Clause:

- 53E-10-302, as renumbered and amended by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-10-301 is amended to read:**53E-10-301. Definitions.**

(1) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(2) "Educator" means the same as that term is defined in Section 53E-6-102.

(3) "Eligible instructor" means an instructor who ~~is~~ meets the requirements described in Subsection 53E-10-302(5).

~~[(a) employed as faculty by an institution of higher education; or]~~

~~[(b) (i) employed by an LEA;]~~

~~[(ii) licensed by the State Board of Education under Chapter 6, Education Professional Licensure;]~~

~~[(iii) (A) approved as adjunct faculty by an institution of higher education; or]~~

~~[(B) a mathematics educator who has an upper level mathematics endorsement; and]~~

~~[(iv) supervised by an institution of higher education.]~~

(4) "Eligible student" means a student who:

(a) is enrolled in, and counted in average daily membership in, a high school within the state;

(b) has a plan for college and career readiness, as described in Section 53E-2-304, on file at a high school within the state; and

(c) (i) is a grade 11 or grade 12 student; or

(ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section 53E-10-302.

(5) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies an area of practice to which the license applies.

(6) "Institution of higher education" means ~~the same as that term is defined in Section 53B-3-102~~ an institution that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

~~[(9) "Participating eligible student" means an eligible student enrolled in a concurrent enrollment course.]~~

~~[(10)]~~ (9) "Upper level mathematics endorsement" means an endorsement required by the State Board of Education for an educator to teach calculus.

~~[(11)]~~ (10) "Value of the weighted pupil unit" means the ~~[same as that term is defined in Section 53E-4-301]~~ amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53E-10-302 is amended to read:**53E-10-302. Concurrent enrollment program.**

(1) The State Board of Education and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

- (i) toward high school graduation; and
- (ii) at an institution of higher education;
- (b) includes only [eourses] a course that:
- (i) [lead] leads to a degree or certificate offered by an institution of higher education; and
- (ii) [are] is one of the following:
- (A) a general education [eourses] course;
- (B) a career and technical education [eourses] course;
- (C) a pre-major college level [eourses] course; or
- (D) a foreign language concurrent enrollment [eourses] course described in Section 53E-10-307; [and]
- (c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and
- [e)] (d) is designed and implemented to take full advantage of the most current available education technology.
- (2) The State Board of Education and the State Board of Regents shall coordinate to:
- (a) [to] establish a concurrent enrollment course approval process that ensures:
- (i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and
- (ii) learning outcomes for a concurrent enrollment [eourses] course align with:
- (A) core standards for Utah public schools adopted by the State Board of Education; and
- (B) except for a foreign language concurrent enrollment [eourses] course described in Section 53E-10-307, an institution of higher education lower division [eourses] course numbered at or above the 1000 level; and
- (b) provide advising to an eligible [students] student, including information on;
- (i) [providing information on] general education requirements at institutions of higher education; and
- (ii) [choosing] how to choose concurrent enrollment courses to avoid duplication or excess credit hours.
- (3) [The] After consultation with institution of higher education concurrent enrollment directors, the State Board of Regents shall:
- (a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course~~[-]~~; and
- (b) on or before January 1, 2019, establish a policy that:
- (i) describes the qualifications for an LEA employee to be an eligible instructor; and

(ii) ensures that the qualifications described in Subsection (3)(b)(i):

(A) maximize concurrent enrollment opportunities for eligible students while maintaining quality; and

(B) allow for an individual who teaches a concurrent enrollment course in the 2017-18 or 2018-19 school year to continue to teach the concurrent enrollment course in subsequent years.

(4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) meets the qualifications described in the policy established under Subsection (3)(b); or

(B) has an upper level mathematics endorsement.

(c) Notwithstanding Subsection (5)(b)(iii), an LEA employee is an eligible instructor if:

(i) the State Board of Regents has not established the policy described in Subsection (3)(b); and

(ii) the LEA employee:

(A) meets the requirements described in Subsections (5)(b)(i) and (ii); and

(B) is approved as adjunct faculty by an institution of higher education.

~~(4)~~ (6) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Section 53E-10-307.

~~(6)~~ (7) An institution of higher education shall accept credits earned by a student who completes a

concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

~~[(7) An institution of higher education shall require an eligible instructor to submit to a background check and ongoing monitoring, as described in Section 53G-11-402, in the same manner as a non-licensed employee of an LEA, if the eligible instructor:]~~

~~[(a) teaches a concurrent enrollment course in a high school; and]~~

~~[(b) is not licensed by the State Board of Education under Chapter 6, Education Professional Licensure.]~~

Section 3. Section 53E-10-305 is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) ~~[A higher education institution]~~ An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection ~~[53E-10-301(3)(b)]~~ 53E-10-302(5)(c); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

Section 4. Section 53E-10-307 is amended to read:

53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) “Accelerated foreign language student” means a student who:

(i) has passed a world language advanced placement exam; and

(ii) is in grade 10, grade 11, or grade 12.

(b) “Blended learning delivery model” means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) “State university” means an institution of higher education that offers courses leading to a bachelor’s degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students who are eligible students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor ~~[that is faculty of a state institution of higher education]~~ described in Subsection 53E-10-302(5)(b).

Section 5. Coordinating H.B. 237 with H.B. 46 -- Technical amendments.

If this H.B. 237 and H.B. 46, Educator Licensing Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the language in Subsection 53E-10-302(5)(b)(iii)(B) from “upper level mathematics endorsement” to “upper level mathematics credential issued by the State Board of Education”.

CHAPTER 411**H. B. 249**

Passed March 7, 2018

Approved March 22, 2018

Effective May 8, 2018

**STATEWIDE RESOURCE
MANAGEMENT PLAN ADOPTION**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill adopts the statewide resource management plan.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ adopts the statewide resource management plan, on file with the Public Lands Policy Coordinating Office;
- ▶ requires the Public Lands Policy Coordinating Office, as funding allows, to monitor the implementation of the statewide resource management plan at the state and local levels;
- ▶ creates a reporting requirement for the Public Lands Policy Coordinating Office to the Commission for the Stewardship of Public Lands; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-4-603, as last amended by Laws of Utah 2015, Chapter 283

63J-4-607, as last amended by Laws of Utah 2016, Chapter 265

ENACTS:

63L-10-101, Utah Code Annotated 1953

63L-10-102, Utah Code Annotated 1953

63L-10-103, Utah Code Annotated 1953

63L-10-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-4-603 is amended to read:**63J-4-603. Powers and duties of coordinator and office.**

(1) The coordinator and the office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; and

(v) providing other information or services related to public lands policies as requested by the state planning coordinator;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the Resource Development Coordinating Committee created under Section 63J-4-501;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63F-1-508 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the coordinator, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107; ~~and~~

(m) conduct the public lands transfer study and economic analysis required by Section 63J-4-606[.]; and

(n) fulfill the duties described in Section 63L-10-103.

(2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) if the governor were submitting the material.

(3) The office may enter into a contract or other agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

Section 2. Section 63J-4-607 is amended to read:

63J-4-607. Resource management plan administration.

(1) The office shall consult with the Commission for the Stewardship of Public Lands before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in

accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) \$25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than \$25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in Subsection 17-27a-401(3); and

(B) is adopted under Subsection 17-27a-404(6)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office; or

(B) \$50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(6)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Commission for the Stewardship of Public Lands for review.

(6) Following review of the statewide resource management plan, the Commission for the Stewardship of Public Lands shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

(8) After the statewide resource management plan is approved, as described in Subsection (6), and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

Section 3. Section 63L-10-101 is enacted to read:

CHAPTER 10. STATEWIDE RESOURCE MANAGEMENT PLAN

63L-10-101. Title.

This chapter is known as "Statewide Resource Management Plan."

Section 4. Section 63L-10-102 is enacted to read:

63L-10-102. Definitions.

As used in this chapter:

(1) "Commission" means the Commission for the Stewardship of Public Lands.

(2) "Office" means the Public Lands Policy Coordinating Office established in Section 63J-4-602.

(3) "Plan" means the statewide resource management plan, created pursuant to Section 63J-4-607 and adopted in Section 63L-10-103.

(4) "Public lands" means:

(a) land other than a national park that is managed by the United States Parks Service;

(b) land that is managed by the United States Forest Service; and

(c) land that is managed by the Bureau of Land Management.

Section 5. Section 63L-10-103 is enacted to read:

63L-10-103. Statewide resource management plan adopted.

(1) The statewide resource management plan, dated January 2, 2018, and on file with the office, is hereby adopted.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3) If the office modifies the plan, the office shall notify the commission of the modification and the office's reasoning for the modification within 30 days of the day on which the modification is made.

(4) (a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing what changes, if any, are recommended for the plan and deliver the report to the commission by October 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission by October 31.

(6) If the commission makes a recommendation that the Legislature approve a modification, the commission shall prepare a bill in anticipation of the annual general session of the Legislature to implement the change.

Section 6. Section 63L-10-104 is enacted to read:

63L-10-104. Policy statement.

(1) Except as provided in Subsection (2), state agencies and political subdivisions shall refer to and substantially conform with the statewide resource management plan when making plans for public lands or other public resources in the state.

(2) (a) The office shall, as funding allows, maintain a record of all state agency and political subdivision resource management plans and relevant documentation.

(b) On an ongoing basis, state agencies and political subdivisions shall keep the office informed of any substantive modifications to their resource management plans.

(c) On or before October 31 of each year, the office shall provide a report to the commission that includes the following:

(i) any modifications to the state agency or political subdivision resource management plans that are inconsistent with the statewide resource management plan;

(ii) a recommendation as to how an inconsistency identified under Subsection (2)(c)(i), if any, should be addressed; and

(iii) a recommendation:

(A) as to whether the statewide resource management plan should be modified to address any inconsistency identified under Subsection (2)(c)(i); or

(B) on any other modification to the statewide resource management plan the office determines is necessary.

(3) (a) Subject to Subsection (3)(b), nothing in this section preempts the authority granted to a political subdivision under:

(i) Title 10, Chapter 8, Powers and Duties of Municipalities, or Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

(b) Federal regulations state that, when state and local government policies, plans, and programs conflict, those of higher authority will normally be followed.

CHAPTER 412**H. B. 264**

Passed March 7, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**ELEMENTARY SCHOOL
 COUNSELOR PROGRAM**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Howard A. Stephenson
 Cosponsors: Bruce R. Cutler
 Derrin R. Owens
 Christine F. Watkins
 Mike Winder

LONG TITLE**General Description:**

This bill enacts language authorizing grants for school-based counselors and social workers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the State Board of Education (board) to award grants to local education agencies to provide targeted school-based mental health supports in elementary schools;
- ▶ authorizes the board to make rules for grant applications and awards; and
- ▶ requires a local education agency that receives a grant to submit an annual report to the board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53F-5-209, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-209 is enacted to read:**53F-5-209. Grants for school-based mental health supports.**

- (1) As used in this section:
- (a) “Board” means the State Board of Education.
- (b) “Elementary school” means a school that includes any one or all of grades kindergarten through grade 6.
- (c) “Intergenerational poverty” means the same as that term is defined in Section 35A-9-102.
- (d) “Local education agency” or “LEA” means a school district, charter school, or Utah Schools for the Deaf and the Blind.
- (e) “Qualifying personnel” means a school counselor or school social worker who:
- (i) is licensed by the board; and
- (ii) collaborates with educators and a student’s family or guardian on:

(A) early identification and intervention of a student’s academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for a student’s academic achievement.

(2) Subject to legislative appropriations and Subsection (3), the board shall award a grant to an LEA to provide targeted school-based mental health support in an elementary school, including trauma-informed care, through employment of qualifying personnel.

(3) In awarding a grant under this section, the board shall give:

(a) first priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students exhibiting risk factors for childhood trauma; and

(b) second priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students experiencing intergenerational poverty.

(4) To qualify for a grant, an LEA shall:

(a) submit an application to the board that includes:

(i) measurable goals on improving student safety, student engagement, school culture, and academic achievement; and

(ii) how the LEA intends to meet goals submitted under Subsection (4)(a)(i) through the use of the grant funds; and

(b) provide local funds to match grant funds received under this section in an amount equal to one-half of the amount of the grant funds.

(5) An LEA may not replace federal, state, or local funds previously allocated to employ qualified personnel with funds distributed under this section.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules specifying:

(a) procedures for applying for and awarding grants under this section, including:

(i) a definition of risk factors for childhood trauma;

(ii) the duration of a grant; and

(iii) a schedule for submission of matching grant funds; and

(b) annual reporting requirements for grantees in accordance with Subsection (7).

(7) An LEA that receives a grant under this section shall submit an annual report to the board, including:

(a) progress toward achieving the goals submitted under Subsection (4)(a)(i); and

(b) if the LEA decides to discontinue the qualifying personnel position, the LEA’s reason for discontinuing the position.

(8) Beginning on or before July 1, 2019, the board shall provide training that instructs educators on the impact of trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

CHAPTER 413**H. B. 274**

Corrected Version

Passed March 8, 2018

Approved March 22, 2018

Effective May 8, 2018

(Exception clause in Section 4)

**BRINE SHRIMP
ROYALTY AMENDMENTS**

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Brine Shrimp Royalty Act by amending provisions relating to the brine shrimp royalty.

Highlighted Provisions:

This bill:

- ▶ reduces the royalty rate on the total number of pounds of unprocessed brine shrimp eggs that a person harvests within the state during a tax year;
- ▶ amends the distribution of the revenue generated by the brine shrimp royalty;
- ▶ requires revenue generated by the brine shrimp royalty that is deposited in the Sovereign Lands Management Account to be used for certain purposes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Natural Resources -- Division of Forestry, Fire, and State Lands -- Project Management, as an ongoing appropriation:
 - from the General Fund Restricted -- Sovereign Lands Management, \$125,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-23-4, as last amended by Laws of Utah 2016, Chapter 135

65A-5-1, as last amended by Laws of Utah 2014, Chapter 313

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-23-4 is amended to read:**59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing statement -- Deposit of revenue.**

(1) A person shall pay for each tax year a brine shrimp royalty of [3.75] 3.25 cents multiplied by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within the state during the tax year.

(2) (a) A person that harvests unprocessed brine shrimp eggs shall report to the Department of

Natural Resources the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year on or before the February 15 immediately following the last day of that tax year.

(b) The Department of Natural Resources shall provide the following information to the commission on or before the March 1 immediately following the last day of a tax year:

(i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax year; and

(ii) for each person that harvested unprocessed brine shrimp eggs for that tax year:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year; and

(B) a current billing address for that person; and

(iii) any additional information required by the commission.

(c) (i) The commission shall prepare and mail a billing statement to each person that harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following the last day of a tax year.

(ii) The billing statement under Subsection (2)(c)(i) shall specify:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year;

(B) the brine shrimp royalty that the person owes; and

(C) the date that the brine shrimp royalty payment is due as provided in Section 59-23-5.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the information required under Subsection (2)(b)(iii).

(3) Revenue generated by the brine shrimp royalty shall be deposited [~~in the Species Protection Account created in Section 79-2-303.~~] as follows:

(a) \$125,000 of the revenue generated by the brine shrimp royalty shall be deposited in the Sovereign Lands Management Account created in Section 65A-5-1; and

(b) the remainder of the revenue generated by the brine shrimp royalty shall be deposited in the Species Protection Account created in Section 79-2-303.

Section 2. Section 65A-5-1 is amended to read:**65A-5-1. Sovereign Lands Management Account -- Creation -- Contents -- Appropriation to fund division expenses.**

(1) There is created within the General Fund a restricted account known as the Sovereign Lands Management Account.

(2) The account shall consist of the following:

(a) all revenues derived from sovereign lands;

(b) that portion of all revenues derived from mineral leases on other lands managed by the division necessary to recover management costs; ~~and~~

(c) any fees deposited by the division~~[-]; and~~

(d) amounts deposited into the account in accordance with Section 59-23-4.

(3) All expenditures of the division relating directly to the management of state lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(4) The Legislature may appropriate funds in the account to reimburse one or more state government entities for money spent on the operation of national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency, as defined in Section 79-4-1102.

(5) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section 65A-10-8 as directed by the Great Salt Lake Advisory Council created in Section 73-30-201.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Division of Forestry, Fire, and State Lands

<u>From General Fund Restricted —</u>	
<u>Sovereign Lands Management</u>	<u>\$125,000</u>

Schedule of Programs:

<u>Project Management</u>	<u>\$125,000</u>
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Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2018.

(2) The amendments to the following sections take effect on February 1, 2019:

(a) Section 59-23-4; and

(b) Section 65A-5-1.

CHAPTER 414**H. B. 370**

Passed March 6, 2018
 Approved March 22, 2018
 Effective March 22, 2018

**SUICIDE PREVENTION AND
 MEDICAL EXAMINER PROVISIONS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill makes modifications to suicide prevention and medical examiner provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding medical examiner records;
- ▶ expands the scope of suicide prevention programs in schools;
- ▶ increases the funding available for the implementation of school-based suicide prevention programs;
- ▶ provides for the award of grants for higher education institutions to implement the School Safety and Crisis Line, for the development of five new mobile crisis outreach teams, and for communities to provide mental health crisis response training;
- ▶ creates the Statewide Suicide Prevention Coalition;
- ▶ establishes the Governor's Suicide Prevention Fund;
- ▶ allows a taxpayer to contribute to the Governor's Suicide Prevention Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Human Services, the Division of Substance Abuse and Mental Health -- Community Mental Health Services as a one-time appropriation:
 - from the General Fund, One-time, \$250,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-4-2, as last amended by Laws of Utah 2011, Chapter 297
 26-4-11, as last amended by Laws of Utah 1993, Chapter 38
 26-4-17, as last amended by Laws of Utah 1996, Chapter 201
 53F-5-206, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53G-9-702, as renumbered and amended by Laws of Utah 2018, Chapter 3
 59-10-1304, as last amended by Laws of Utah 2016, Chapters 111 and 135
 62A-15-102, as last amended by Laws of Utah 2015, Chapter 412
 62A-15-1101, as last amended by Laws of Utah 2017, Chapters 296 and 346

62A-15-1102, as last amended by Laws of Utah 2017, Chapter 22

63M-7-301, as last amended by Laws of Utah 2017, Chapter 163

63M-7-303, as last amended by Laws of Utah 2016, Chapter 158

ENACTS:

53E-10-506, Utah Code Annotated 1953

59-10-1320, Utah Code Annotated 1953

62A-15-114, Utah Code Annotated 1953

62A-15-115, Utah Code Annotated 1953

62A-15-1100, Utah Code Annotated 1953

62A-15-1103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-4-2 is amended to read:**26-4-2. Definitions.**

As used in this chapter:

(1) "Dead body" is as defined in Section 26-2-2.

(2) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces, and includes death which appears to have been due to homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

~~(4)~~ (4) "Medical examiner" means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

(5) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent; and

(b) reports that the medical examiner makes regarding a decedent.

~~(4)~~ (6) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

~~(5)~~ (7) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

~~(6)~~ (8) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

~~(7)~~ (9) "Suicide" means death caused by an intentional and voluntary act of a person who

understands the physical nature of the act and intends by such act to accomplish self-destruction.

~~[(8)]~~ (10) “Unattended death” means the death of a person who has not been seen by a physician within the scope of the physician’s professional capacity within 30 days immediately prior to the date of death. This definition does not require an investigation, autopsy, or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.

~~[(9)]~~ (11) (a) “Unavailable for postmortem investigation” means that a dead body is:

- (i) transported out of state;
- (ii) buried at sea;
- (iii) cremated; or

(iv) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) “Unavailable for postmortem investigation” does not include embalming or burial of a dead body pursuant to the requirements of law.

~~[(10)]~~ (12) “Within the scope of the decedent’s employment” means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 2. Section 26-4-11 is amended to read:

26-4-11. Records and reports of investigations.

(1) A complete copy of all written records and reports of investigations and facts resulting from medical care treatment, autopsies conducted by any person on the body of the deceased who died in any manner listed in Section 26-4-7 and the written reports of any investigative agency making inquiry into the incident shall be promptly made and filed with the medical examiner.

(2) The judiciary or a state or local government entity that retains a record, other than a document described in Subsection (1), of the decedent shall provide a copy of the record to the medical examiner:

- (a) in accordance with federal law; and
- (b) upon receipt of the medical examiner’s written request for the record.

(3) Failure to submit reports or records described in Subsection (1) or (2), other than reports of a county attorney, district attorney, or law enforcement agency, [upon written request from the medical examiner] within 10 days after the day on which the person in possession of the report or record receives the medical examiner’s written request for the report or record is a class B misdemeanor.

Section 3. Section 26-4-17 is amended to read:

26-4-17. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall [keep and maintain full and complete original records,] maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every [person] individual whose death is investigated[;];

(b) indicate the place where the body was found[;];

(c) indicate the date[;] of death;

(d) indicate the cause and manner of death[;];

(e) indicate the occupation of the decedent, if available[; and];

(f) include all other relevant information concerning the death[-A]; and

(g) include a full report and detailed findings of the autopsy or report of the investigation [shall be part of the record in each case].

~~[(2) The county attorney, the district attorney, the attorney general, or other law enforcement official having jurisdiction may, upon written request, secure copies of the original records where necessary for the performance of their duties.]~~

~~[(3) The medical examiner shall promptly deliver copies of all reports, findings, and records gathered or compiled in the investigation of a death to the decedent’s next of kin, legal representative, or physicians who attended the decedent during the year before death, upon their written request for the release of documents.]~~

~~[(4) The medical examiner shall maintain the confidentiality of the records which shall be released as provided herein and upon payment of fees prescribed by the department under Section 26-1-6.]~~

(2) Upon written request from an individual described in Subsections (2)(a) through (d), the medical examiner shall provide a copy of the medical examiner’s final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to:

(a) a decedent’s immediate relative;

(b) a decedent’s legal representative;

(c) a physician who attended the decedent during the year before the decedent’s death; or

(d) as necessary for the performance of the individual’s professional duties, a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent’s death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the Department of Health; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical

examiner record and all data obtained from the medical examiner record.

(7) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(8) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 4. Section 53E-10-506 is enacted to read:

53E-10-506. Higher education implementation of School Safety and Crisis Line.

(1) The state suicide prevention coordinator, described in Section 62A-15-1101, shall award a grant to each institution of higher education that:

(a) is located in Utah;

(b) applies for a grant to fully implement the School Safety and Crisis Line, described in Section 53E-10-502; and

(c) demonstrates sufficient funds to pay for at least 50% of the cost of implementation.

(2) A grant awarded under Subsection (1) shall total no more than 50% of the cost for the applicant to fully implement the School Safety and Crisis Line.

(3) Full implementation of the School Safety and Crisis Line includes:

(a) providing access to the School Safety and Crisis Line to every student enrolled in the institution;

(b) revising the institution's conduct and discipline policy to include procedures for the institution to respond to reports received under Subsection 53E-10-502(3); and

(c) informing students enrolled in the institution and school personnel, including faculty and staff, about the School Safety and Crisis Line.

Section 5. Section 53F-5-206 is amended to read:

53F-5-206. Grant awards for elementary suicide prevention programs.

(1) To foster [~~peer-to-peer~~] suicide prevention, resiliency, and anti-bullying programs in elementary schools, the public education suicide prevention coordinator, described in Section 53G-9-702, shall, [~~subject to legislative appropriations,~~] award grants to elementary schools.

(2) A grant award may not exceed \$500 per school per year.

(3) The application for a grant shall contain:

(a) a requested award amount;

(b) a budget; and

(c) a narrative plan of the ~~[peer-to-peer]~~ suicide prevention, resiliency, or anti-bullying program.

(4) When awarding a grant under this section, the public education suicide prevention coordinator shall consider:

(a) the content of a grant application; and

(b) whether an application is submitted in the manner and form prescribed.

(5) Each elementary school applicant may select a program, including a peer-to-peer program or a curriculum-based program, that the applicant determines is appropriate for the elementary school.

Section 6. Section 53G-9-702 is amended to read:

53G-9-702. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the board as described in Subsection (3).

(f) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

~~[(2) (a) In collaboration with the public education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.]~~

~~[(b) A school district or charter school's program shall include the following components:]~~

~~[(i) in collaboration with the training, programs, and initiatives described in Section 53G-9-607, programs and training to address]~~

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school, in the secondary grades of the school district or charter school, shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) bullying and cyberbullying, as those terms are defined in Section 53G-9-601;

~~[(iii)]~~ (b) prevention of youth ~~[suicides]~~ suicide;

~~[(iii)]~~ (c) youth suicide intervention; ~~[and]~~

~~[(iv)]~~ (d) postvention for family, students, and faculty~~[-];~~

(e) underage drinking of alcohol;

(f) methods of strengthening the family; and

(g) methods of strengthening a youth's relationships in the school and community.

(3) The board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools;

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator; and

(c) award grants in accordance with Section 53F-5-206.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, ~~or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school~~ \$1,000.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7) (a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the public education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator;

(iii) the public education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

Section 7. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1310;

(v) the contribution provided for in Section 59-10-1315;

(vi) the sum of the contributions provided for in:

(A) Section 59-10-1316; and

(B) Section 59-10-1317;

(vii) the contribution provided for in Section 59-10-1318; ~~or~~

(viii) the contribution provided for in Section 59-10-1319[-]; or

(ix) the contribution provided for in Section 59-10-1320.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 8. Section 59-10-1320 is enacted to read:

59-10-1320. Contribution to the Governor's Suicide Prevention Fund.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Governor's Suicide Prevention Fund as provided in this part.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Governor's Suicide Prevention Fund created by Section 62A-15-1103.

Section 9. Section 62A-15-102 is amended to read:

62A-15-102. Definitions.

As used in this chapter:

(1) “Criminal risk factors” means a person’s characteristics and behaviors that:

(a) affect the person’s risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) “Director” means the director of the Division of Substance Abuse and Mental Health.

(3) “Division” means the Division of Substance Abuse and Mental Health established in Section 62A-15-103.

(4) “Local mental health authority” means a county legislative body.

(5) “Local substance abuse authority” means a county legislative body.

(6) “Mental health crisis” means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual’s health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist’s designee, requires direct professional observation or intervention.

(7) “Mental health crisis response training” means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) “Mental health crisis services” means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) “Mental health therapist” means the same as that term is defined in Section 58-60-102.

(10) “Mobile crisis outreach team” or “MCOT” means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

~~[(6)]~~ (11) (a) “Public funds” means federal money received from the Department of Human Services or the Department of Health, and state money appropriated by the Legislature to the Department of Human Services, the Department of Health, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) “Public funds” include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of “public funds” while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services pursuant to substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

~~[(7)]~~ (12) “Severe mental disorder” means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(13) “Statewide mental health crisis line” means the same as that term is defined in Section 63C-18-102.

Section 10. Section 62A-15-114 is enacted to read:

62A-15-114. Mobile crisis outreach team expansion.

(1) In consultation with the Crisis Line Commission, established in Section 53E-10-503, the division shall award grants for the development of five mobile crisis outreach teams:

(a) (i) in counties of the second, third, fourth, fifth, or sixth class; or

(ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

(b) to provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

(3) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(4) In consultation with the Crisis Line Commission, established in Section 53E-10-503, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 11. Section 62A-15-115 is enacted to read:

62A-15-115. Mental health crisis response training.

(1) The division shall award grants to communities to conduct mental health crisis response training.

(2) For the application and award of the grants described in Subsection (1), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that determine:

(a) the requirements and process for a community to apply for a grant; and

(b) the substantive mental health crisis response programs that qualify for the award of a grant.

Section 12. Section 62A-15-1100 is enacted to read:

62A-15-1100. Definitions.

As used in this part:

(1) "Advisory Council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) "Coalition" means the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2).

(4) "Coordinator" means the state suicide prevention coordinator appointed under Subsection 62A-15-1101(1).

(5) "Division" means the Division of Substance Abuse and Mental Health.

(6) "Fund" means the Governor's Suicide Prevention Fund created in Section 62A-15-1103.

(7) "Intervention" means an effort to prevent a person from attempting suicide.

(8) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(9) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.

(10) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

Section 13. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

~~[(1) As used in the section:]~~

~~[(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.]~~

~~[(b) "Division" means the Division of Substance Abuse and Mental Health.]~~

~~[(c) "Intervention" means an effort to prevent a person from attempting suicide.]~~

~~[(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.]~~

~~[(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).]~~

~~[(2)] (1) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.~~

~~(2) The coordinator shall:~~

~~(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and~~

~~(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.~~

~~(3) The state suicide prevention program may include the following components:~~

~~(a) delivery of resources, tools, and training to community-based coalitions;~~

~~(b) evidence-based suicide risk assessment tools and training;~~

~~(c) town hall meetings for building community-based suicide prevention strategies;~~

~~(d) suicide prevention gatekeeper training;~~

~~(e) training to identify warning signs and to manage an at-risk individual's crisis;~~

~~(f) evidence-based intervention training;~~

~~(g) intervention skills training; and~~

~~(h) postvention training.~~

(4) The ~~[state suicide prevention]~~ coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53A-15-1301;

(c) the Department of Health;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

(5) The ~~[state suicide prevention]~~ coordinator shall provide a written report to the Health and Human Services Interim Committee, ~~[by]~~ at or before the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections ~~[(2)]~~ (1) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The ~~[state suicide prevention]~~ coordinator shall annually report to the Legislature's:

(a) Education Interim Committee, by the October ~~[2015]~~ 2018 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the public education suicide prevention coordinator as described in Section 53A-15-1301; and

(b) Health and Human Services Interim Committee, ~~[by]~~ at or before the October ~~[2017]~~ meeting, statistics on the number of annual suicides in Utah, including how many suicides were committed with a gun, and if so:

(i) where the victim procured the gun and if the gun was legally possessed by the victim;

(ii) if the victim purchased the gun legally and whether a background check was performed before the victim purchased the gun;

(iii) whether the victim had a history of mental illness or was under the treatment of a mental health professional;

(iv) whether any medication or illegal drugs or alcohol were also involved in the suicide; and

(v) if the suicide incident also involved the injury or death of another individual, whether the shooter had a history of domestic violence.

(7) The ~~[state suicide prevention]~~ coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18), Section 53-10-202.1, and the Suicide Prevention Education Program described in Section 53-10-202.3.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall include:

(i) attendance at a suicide prevention education course; and

(ii) display of posters and distribution of the firearm safety brochures or packets created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

~~[(9) The state suicide prevention coordinator shall present to the Health and Human Services Interim Committee, no later than November 2017, a 10-year statewide suicide prevention plan.]~~

~~[(10)]~~ (9) As funding by the Legislature allows, the ~~[state suicide prevention]~~ coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice Services.

(10) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 14. Section 62A-15-1102 is amended to read:

62A-15-1102. Study on gun use -- Report.

~~[(1) As used in this section:]~~

~~[(a) "Coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.]~~

~~[(b) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.]~~

~~[(c) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.]~~

~~[(2)]~~ (1) The coordinator shall, by October 30, 2018, conduct a study on use of guns in the state and on an ongoing basis report on the progress and findings of the study to the Health and Human Services Interim Committee.

~~[(3)]~~ (2) The study described in Subsection ~~[(2)]~~ (1) shall investigate:

(a) the number of deaths in the state that involved a gun, including deaths from suicide, homicide including gang-related violence, legal intervention, self-defense, and accidents;

(b) where and how a gun that was involved in a death described in Subsection ~~[(3)]~~ (2)(a) was procured, and whether that procurement was legal;

(c) demographic information on the shooter and, where applicable, a victim of a death described in Subsection ~~[(3)]~~ (2)(a), including gender, race, age, criminal history, and gang affiliation, if any;

(d) the total estimated number of gun owners in the state;

(e) information on the shooter, including whether the shooter has a history of:

(i) mental illness; or

(ii) domestic violence; and

(f) whether gun deaths are seasonal.

~~[(4)]~~ (3) The coordinator shall ensure that the study described in Subsection ~~[(2)]~~ (1) is conducted in an unbiased manner, with no preconceived conclusions about potential results.

~~[(5)]~~ (4) The coordinator may contract with another state agency, private entity, or research institution to assist the coordinator and office with the study required by Subsection ~~[(2)]~~ (1).

~~[(6)]~~ (5) (a) The coordinator shall submit a final report on the study described in Subsection ~~[(2)]~~ (1), including proposed legislation and recommendations, to the Health and Human Services Interim Committee before November 30, 2018.

(b) The final report shall include references to all sources of information and data used in the report and study.

Section 15. Section 62A-15-1103 is enacted to read:

62A-15-1103. Governor's Suicide Prevention Fund.

(1) There is created an expendable special revenue fund known as the Governor's Suicide Prevention Fund.

(2) The fund shall consist of gifts, grants, and bequests of real property or personal property made to the fund.

(3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4) or 62A-15-1101(3).

(4) Subject to Subsection (3), money in the fund shall be used for the following activities:

(a) efforts to directly improve mental health crisis response;

(b) efforts that directly reduce risk factors associated with suicide; and

(c) efforts that directly enhance known protective factors associated with suicide reduction.

(5) The division shall establish a grant application and review process for the expenditure of money from the fund.

(6) The grant application and review process shall describe:

(a) requirements to complete a grant application;

(b) requirements to receive funding;

(c) criteria for the approval of a grant application;

(d) standards for evaluating the effectiveness of a project proposed in a grant application; and

(e) support offered by the division to complete a grant application.

(7) The division shall:

(a) review a grant application for completeness;

(b) make a recommendation to the governor or the governor's designee regarding a grant application;

(c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;

(d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and

(e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.

(9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.

(10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.

(11) The governor shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Section 16. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) an elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health or the executive director's designee;

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) a district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) a district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) a juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) a prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-11(2)(b).

~~(4)~~ (u) the following members appointed to serve four-year terms:

(i) a member of the House of Representatives appointed by the speaker of the House of Representatives;

(ii) a member of the Senate appointed by the president of the Senate; and

(iii) a representative appointed by the Utah League of Cities and Towns;

~~(4)~~ (v) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

~~(4)~~ (w) in addition to the voting members described in Subsections (2)(a) through ~~(4)~~ (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through ~~(4)~~ (v) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents prevention professionals;

(iv) one resident of the state who represents treatment professionals;

(v) one resident of the state who represents the physical health care field;

(vi) one resident of the state who is a criminal defense attorney;

(vii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(viii) one resident of the state who represents local law enforcement agencies; and

(ix) one representative of private service providers that serve youth with substance use disorders or mental health disorders.

~~(3) A person]~~

(3) An individual other than ~~a person~~ an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 17. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and

evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;

(g) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv), as provided in Section 63M-7-305; ~~and~~

(h) comply with Section 32B-2-306[-]; and

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report its recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Section 18. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Department of Human Services, Division of Substance Abuse and Mental Health

<u>From General Fund, One-time</u>	<u>\$250,000</u>
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Schedule of Programs:

<u>Community Mental Health Services</u>	<u>\$250,000</u>
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The Legislature intends that the amount provided by this item be used for the award of grants under Section 62A-15-115.

Section 19. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution,

Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 415**S. B. 12**

Passed January 22, 2018

Approved March 22, 2018

Effective March 22, 2018

**PUBLIC EDUCATION RECODIFICATION -
CROSS REFERENCES AND REPEALS**Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson**LONG TITLE****General Description:**

This bill repeals and makes technical cross reference changes to provisions related to the public education code.

Highlighted Provisions:

This bill:

- ▶ repeals outdated provisions related to the public education code;
- ▶ makes technical cross reference changes to provisions related to the public education code; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

9-9-104.6, as last amended by Laws of Utah 2015, Chapter 53
 10-9a-103, as last amended by Laws of Utah 2017, Chapters 17 and 84
 10-9a-305, as last amended by Laws of Utah 2013, Chapter 200
 11-13-302, as last amended by Laws of Utah 2015, Chapter 287
 11-13-310, as last amended by Laws of Utah 2003, Chapter 21
 11-14-202, as last amended by Laws of Utah 2017, Chapters 157, 251, 267 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 267
 11-17-20, as last amended by Laws of Utah 2012, Chapters 201 and 347
 11-36a-102, as last amended by Laws of Utah 2014, Chapter 363
 11-36a-202, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
 11-44-201, as last amended by Laws of Utah 2015, Chapter 181
 11-49-102, as last amended by Laws of Utah 2016, Chapter 350
 13-22-8, as last amended by Laws of Utah 2017, Chapter 98
 17-27a-103, as last amended by Laws of Utah 2017, Chapter 84
 17-27a-305, as last amended by Laws of Utah 2015, Chapter 465
 20A-1-203, as last amended by Laws of Utah 2015, Chapters 111 and 352

20A-14-206, as enacted by Laws of Utah 1995, Chapter 1
 26-1-17.5 (Superseded 07/01/18), as last amended by Laws of Utah 2008, Chapter 382
 26-1-17.5 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 344
 26-7-9 (Effective 07/01/18), as enacted by Laws of Utah 2017, Chapter 344
 26-10-6, as last amended by Laws of Utah 2017, Chapter 351
 26-10-9 (Superseded 07/01/18), as enacted by Laws of Utah 2011, Chapter 147
 26-10-9 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 344
 26-10-10, as enacted by Laws of Utah 2013, Chapter 45
 26-10-11, as last amended by Laws of Utah 2015, Chapter 16
 26-39-402 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 344
 26-41-106, as last amended by Laws of Utah 2015, Chapter 332
 30-1-9, as last amended by Laws of Utah 2000, Chapter 1
 32B-2-304, as last amended by Laws of Utah 2017, Chapter 455
 34A-2-104.5, as enacted by Laws of Utah 2016, Chapter 390
 35A-1-102, as last amended by Laws of Utah 2016, Chapter 226
 35A-3-304, as last amended by Laws of Utah 2016, Chapter 105
 35A-9-401, as enacted by Laws of Utah 2016, Chapter 336
 35A-13-403, as renumbered and amended by Laws of Utah 2016, Chapter 271
 36-22-2, as last amended by Laws of Utah 2016, Chapter 63
 41-1a-422, as last amended by Laws of Utah 2017, Chapters 107, 194, and 383
 41-6a-303, as last amended by Laws of Utah 2010, Chapter 299
 41-6a-1307, as last amended by Laws of Utah 2015, Chapter 412
 41-6a-1309, as enacted by Laws of Utah 2011, Chapter 296
 49-12-102, as last amended by Laws of Utah 2017, Chapter 325
 49-12-202, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363
 49-12-701, as last amended by Laws of Utah 2016, Chapters 144 and 310
 49-13-102, as last amended by Laws of Utah 2017, Chapter 325
 49-13-202, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363
 49-13-701, as last amended by Laws of Utah 2016, Chapters 144 and 310
 49-22-102, as last amended by Laws of Utah 2017, Chapter 325
 49-22-202, as last amended by Laws of Utah 2014, Chapter 363
 51-2a-201.5, as last amended by Laws of Utah 2017, Chapter 11
 51-7-13, as last amended by Laws of Utah 2005, Chapter 178

52-4-103, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441	62A-4a-606, as last amended by Laws of Utah 2017, Chapter 148
52-4-209, as last amended by Laws of Utah 2014, Chapter 363	62A-4a-1002, as last amended by Laws of Utah 2017, Chapter 55
53-3-104, as last amended by Laws of Utah 2014, Chapter 85	62A-5a-102, as last amended by Laws of Utah 2016, Chapters 144 and 271
53-3-505.5, as enacted by Laws of Utah 2003, Chapter 121	62A-5a-105, as last amended by Laws of Utah 2016, Chapter 271
53-7-103, as last amended by Laws of Utah 2011, Chapter 340	62A-15-1101, as last amended by Laws of Utah 2017, Chapters 296 and 346
53-10-202, as last amended by Laws of Utah 2017, Chapter 296	63A-3-106, as last amended by Laws of Utah 2017, Chapter 196
53-10-203, as renumbered and amended by Laws of Utah 1998, Chapter 263	63A-3-402, as last amended by Laws of Utah 2015, Chapters 215, 226, and 283
53B-1-109, as last amended by Laws of Utah 2016, Chapter 200	63A-4-204, as last amended by Laws of Utah 2016, Chapter 189
53B-1-114, as enacted by Laws of Utah 2017, Chapter 382	63A-4-204.5, as last amended by Laws of Utah 2016, Chapter 189
53B-2a-106, as last amended by Laws of Utah 2017, Chapter 382	63G-2-103, as last amended by Laws of Utah 2017, Chapters 196 and 441
53B-10-101, as last amended by Laws of Utah 2006, Chapter 88	63G-2-301, as last amended by Laws of Utah 2014, Chapter 373
53B-16-108, as enacted by Laws of Utah 2015, Chapter 404	63G-2-302, as last amended by Laws of Utah 2017, Chapters 168 and 282
53B-16-404, as last amended by Laws of Utah 2015, Chapter 389	63G-7-102, as last amended by Laws of Utah 2017, Chapter 300
53C-1-203, as last amended by Laws of Utah 2014, Chapter 426	63I-1-253, as last amended by Laws of Utah 2017, Chapters 166 and 181
53D-1-102, as last amended by Laws of Utah 2016, Chapter 144	63I-2-253, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381, 386, and 468
53D-1-403, as last amended by Laws of Utah 2017, Chapter 179	63I-4a-102, as last amended by Laws of Utah 2017, Chapters 345 and 363
58-11a-302, as last amended by Laws of Utah 2017, Chapter 342	63J-1-206, as last amended by Laws of Utah 2017, First Special Session, Chapter 1
58-41-4, as last amended by Laws of Utah 2016, Chapter 144	63J-1-220, as last amended by Laws of Utah 2017, Chapter 173
58-61-307, as last amended by Laws of Utah 2013, Chapter 16	63J-1-602.3, as last amended by Laws of Utah 2017, Chapters 396 and 423
59-2-102, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368	63J-3-102, as last amended by Laws of Utah 2013, Chapter 310
59-2-918.6, as last amended by Laws of Utah 2016, Chapter 98	63J-3-401, as renumbered and amended by Laws of Utah 2008, Chapter 382
59-2-919, as last amended by Laws of Utah 2016, Chapters 341 and 367	63J-7-102, as last amended by Laws of Utah 2017, Chapters 181, 345, and 363
59-2-924, as last amended by Laws of Utah 2017, Chapter 390	63N-3-110, as renumbered and amended by Laws of Utah 2015, Chapter 283
59-2-926, as last amended by Laws of Utah 2016, Chapter 367	63N-12-202, as last amended by Laws of Utah 2017, Chapters 219 and 353
59-2-1101, as last amended by Laws of Utah 2015, Chapters 129 and 261	63N-12-213, as last amended by Laws of Utah 2017, Chapter 382
59-10-1018, as last amended by Laws of Utah 2012, Chapter 295	64-13-42, as last amended by Laws of Utah 2012, Chapter 369
59-10-1307, as last amended by Laws of Utah 2016, Chapter 144	67-1a-11, as enacted by Laws of Utah 2006, Chapter 142
59-10-1318, as last amended by Laws of Utah 2016, Chapter 172	67-8-3, as last amended by Laws of Utah 2006, Chapter 139
59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422	67-16-3, as last amended by Laws of Utah 2017, Chapter 196
59-28-103, as enacted by Laws of Utah 2017, Chapter 166	67-16-4, as last amended by Laws of Utah 2014, Chapter 196
62A-2-108.1, as last amended by Laws of Utah 2007, Chapter 81	67-19-15, as last amended by Laws of Utah 2017, Chapter 463
62A-4a-202.6, as last amended by Laws of Utah 2012, Chapter 293	75-5-201, as last amended by Laws of Utah 1998, Chapter 124
62A-4a-409, as last amended by Laws of Utah 2017, Chapter 459	

76-5-415, as enacted by Laws of Utah 2014, Chapter 135
 76-10-105, as last amended by Laws of Utah 2017, Chapter 330
 77-37-4, as last amended by Laws of Utah 2015, Chapter 311
 78A-6-103 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 330
 78A-6-105, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401
 78A-6-112 (Superseded 07/01/18), as renumbered and amended by Laws of Utah 2008, Chapter 3
 78A-6-112 (Effective 07/01/18), as last amended by Laws of Utah 2017, Chapter 330
 78A-6-319, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78A-6-602, as last amended by Laws of Utah 2017, Chapter 330
 78A-6-603, as last amended by Laws of Utah 2017, Chapter 330
 78A-6-1001, as last amended by Laws of Utah 2010, Chapter 276
 78A-6-1203, as last amended by Laws of Utah 2017, Chapter 330

REPEALS:

53A-1-414, as enacted by Laws of Utah 2016, Chapter 217
 53A-1-901, as last amended by Laws of Utah 2015, Chapter 415
 53A-1-904, as enacted by Laws of Utah 2005, First Special Session, Chapter 2
 53A-1-1101, as repealed and reenacted by Laws of Utah 2017, Chapter 378
 53A-1-1201, as enacted by Laws of Utah 2015, Chapter 449
 53A-1-1301, as enacted by Laws of Utah 2015, Chapter 443
 53A-1-1401, as enacted by Laws of Utah 2016, Chapter 221
 53A-1-1501, as enacted by Laws of Utah 2016, Chapter 318
 53A-1a-101, as enacted by Laws of Utah 1992, Chapter 47
 53A-1a-501, as enacted by Laws of Utah 1998, Chapter 231
 53A-1a-701, as enacted by Laws of Utah 2005, Chapter 35
 53A-1b-101, as enacted by Laws of Utah 2014, Chapter 304
 53A-1b-201, as enacted by Laws of Utah 2016, Chapter 336
 53A-2-401, as enacted by Laws of Utah 2006, Chapter 339
 53A-4-301, as enacted by Laws of Utah 2016, Chapter 331
 53A-6-101, as repealed and reenacted by Laws of Utah 1999, Chapter 108
 53A-8a-101, as enacted by Laws of Utah 2012, Chapter 425
 53A-11-1201, as enacted by Laws of Utah 2007, Chapter 114
 53A-11-1501, as last amended by Laws of Utah 2015, Chapter 442
 53A-11-1601, as enacted by Laws of Utah 2016, Chapter 165

53A-11a-101, as enacted by Laws of Utah 2008, Chapter 197
 53A-15-1001, as enacted by Laws of Utah 2006, Chapter 227
 53A-15-1201, as enacted by Laws of Utah 2011, Chapter 419
 53A-15-1501, as enacted by Laws of Utah 2015, Chapter 389
 53A-15-1701, as enacted by Laws of Utah 2016, Chapter 200
 53A-15-1801, as enacted by Laws of Utah 2016, Chapter 347
 53A-15-1901, as enacted by Laws of Utah 2016, Chapter 320
 53A-15-2001, as enacted by Laws of Utah 2017, Chapter 72
 53A-17a-101, as last amended by Laws of Utah 1999, Chapter 21
 53A-20b-101, as last amended by Laws of Utah 2012, Chapter 201
 53A-21-101, as repealed and reenacted by Laws of Utah 1996, Chapter 326
 53A-25a-101, as enacted by Laws of Utah 1994, Chapter 280
 53A-25b-101, as enacted by Laws of Utah 2009, Chapter 294
 53A-28-101, as enacted by Laws of Utah 1996, Chapter 62
 53A-30-101, as enacted by Laws of Utah 2014, Chapter 433
 53A-31-101, as enacted by Laws of Utah 2015, Chapter 53
 53A-31-401, as enacted by Laws of Utah 2016, Chapter 63

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-9-104.6 is amended to read:**9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.**

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance with Section 26-7-2.5; or

(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of the Department of Health appointed by the executive director of the Department of Health;

(d) the American Indian-Alaskan Native Public Education Liaison appointed in accordance with Section [53A-31-201] 53E-10-402; and

(e) a representative appointed by the chief administrative officer of the following:

- (i) the Department of Human Services;
- (ii) the Department of Natural Resources;
- (iii) the Department of Workforce Services;
- (iv) the Governor's Office of Economic Development;
- (v) the State Board of Education; and
- (vi) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

- (i) the Department of Agriculture and Food;
- (ii) the Department of Heritage and Arts;
- (iii) the Department of Corrections;
- (iv) the Department of Environmental Quality;
- (v) the Department of Public Safety;
- (vi) the Department of Transportation;
- (vii) the Office of the Attorney General;
- (viii) the State Tax Commission; and
- (ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 2. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

- (i) an operating charter school;
- (ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with ~~[Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act]~~ Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

- (8) “Development activity” means:
- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
 - (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
 - (c) any change in the use of land that creates additional demand and need for public facilities.
- (9) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
- (b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- (10) “Educational facility”:
- (a) means:
 - (i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
 - (A) located on the same property as a building described in Subsection (10)(a)(i); and
 - (B) used in support of the use of that building; and
 - (iii) a building to provide office and related space to a school district’s administrative personnel; and
 - (b) does not include:
 - (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
 - (A) not located on the same property as a building described in Subsection (10)(a)(i); and
 - (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
 - (ii) a therapeutic school.
- (11) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (12) “Flood plain” means land that:
- (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
 - (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (13) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.
- (14) “Geologic hazard” means:
- (a) a surface fault rupture;
 - (b) shallow groundwater;
 - (c) liquefaction;
 - (d) a landslide;
 - (e) a debris flow;
 - (f) unstable soil;
 - (g) a rock fall; or
 - (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.
- (15) “Historic preservation authority” means a person, board, commission, or other body designated by a legislative body to:
- (a) recommend land use regulations to preserve local historic districts or areas; and
 - (b) administer local historic preservation land use regulations within a local historic district or area.
- (16) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.
- (17) “Identical plans” means building plans submitted to a municipality that:
- (a) are clearly marked as “identical plans”;
 - (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
 - (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.
- (18) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- (19) “Improvement completion assurance” means a surety bond, letter of credit, financial institution

bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(20) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(21) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(22) "Infrastructure improvement" means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(23) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(25) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(26) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(27) "Land use decision" means a final action of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(28) "Land use permit" means a permit issued by a land use authority.

(29) "Land use regulation":

(a) means an ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land; and

(b) does not include:

(i) a general plan;

(ii) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(iii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(30) "Legislative body" means the municipal council.

(31) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features,

archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(33) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(34) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(35) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(36) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(37) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(38) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(39) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(40) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(41) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city's program to encourage an adequate supply of moderate income housing.

(42) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

(43) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(44) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(45) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(46) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(47) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(48) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(49) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(50) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(51) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(52) “Sending zone” means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(53) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

(54) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(55) “State” includes any department, division, or agency of the state.

(56) “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(57) (a) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (57)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality’s subdivision ordinance.

(58) “Suspect soil” means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(59) “Therapeutic school” means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or
 (ii) the primary service provider of the facility;
 (b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and

(c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(60) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(61) "Unincorporated" means the area outside of the incorporated area of a city or town.

(62) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 3. Section 10-9a-305 is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an

injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section [~~53A-20-108~~] 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a municipal building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector

under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection [~~53A-20-104~~] 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection [~~53A-20-104~~] 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection [~~53A-20-104~~] 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 4. Section 11-13-302 is amended to read:

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal

year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section ~~[53A-17a-135]~~ 53F-2-301; and

(ii) local levies for capital outlay and other purposes under Sections ~~[53A-16-113]~~ 53F-8-303, ~~[53A-17a-133]~~ 53F-8-301, and ~~[53A-17a-164]~~ 53F-8-302.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section ~~[53A-17a-135]~~ 53F-2-301; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in

accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold by the public agency to an energy supplier or suppliers whose tangible

property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

Section 5. Section 11-13-310 is amended to read:

11-13-310. Termination of impact alleviation contract.

If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate. In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section [53A-17a-135] 53F-2-301 for the state minimum school program. In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate. No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it. If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Section 6. Section 11-14-202 is amended to read:

11-14-202. Notice of election -- Contents -- Publication -- Mailing.

(1) The governing body shall ensure that notice of the election is provided:

(a) once per week during three consecutive weeks by publication in a newspaper having general circulation in the local political subdivision in accordance with Section 11-14-316, the first publication occurring not less than 21 nor more than 35 days before the election;

(b) on a website, if available, in accordance with Section 45-1-101 for the three weeks that immediately precede the election; and

(c) in a local political subdivision where there is no newspaper of general circulation, by posting notice of the bond election in at least five public places in the local political subdivision at least 21 days before the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to \$15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days but not more than 45 days before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return

form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section ~~[53A-18-102]~~ 53G-4-603.

Section 7. Section 11-17-20 is amended to read:

11-17-20. Power of the Utah Charter School Finance Authority.

(1) The Utah Charter School Finance Authority may exercise the powers granted to municipalities and counties by this chapter, subject to the same limitations as that imposed on a municipality or county under the chapter, except as provided by ~~[Title 53A, Chapter 20b, Part 1, Utah Charter School Finance Authority]~~ Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program.

(2) As used in this chapter, “governing body” when applied to the Utah Charter School Finance Authority means the authority’s governing board as described in Section ~~[53A-20b-103]~~ 53G-5-602.

(3) Notwithstanding Section 11-17-15, a charter school that receives financing under this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

Section 8. Section 11-36a-102 is amended to read:

11-36a-102. Definitions.

As used in this chapter:

(1) (a) “Affected entity” means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) “Affected entity” does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) “Charter school” includes:

- (a) an operating charter school;
- (b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in [Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act] Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and
- (c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (3) “Development activity” means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.
- (4) “Development approval” means:
- (a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;
- (b) development activity, for a public entity that may develop without written authorization from a local political subdivision;
- (c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:
- (i) to reserve or provide:
- (A) a water right;
- (B) a system capacity; or
- (C) a distribution facility; or
- (ii) to deliver for a development activity:
- (A) culinary water; or
- (B) irrigation water; or
- (d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:
- (i) to reserve or provide:
- (A) sewer collection capacity; or
- (B) treatment capacity; or
- (ii) to provide sewer service for a development activity.
- (5) “Enactment” means:
- (a) a municipal ordinance, for a municipality;
- (b) a county ordinance, for a county; and
- (c) a governing board resolution, for a local district, special service district, or private entity.
- (6) “Encumber” means:
- (a) a pledge to retire a debt; or
- (b) an allocation to a current purchase order or contract.
- (7) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or

appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

(8) (a) “Impact fee” means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) “Impact fee” does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(9) “Impact fee analysis” means the written analysis of each impact fee required by Section 11-36a-303.

(10) “Impact fee facilities plan” means the plan required by Section 11-36a-301.

(11) “Level of service” means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(12) (a) “Local political subdivision” means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(b) “Local political subdivision” does not mean a school district, whose impact fee activity is governed by Section [53A-20-100.5] 11-36a-206.

(13) “Private entity” means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant’s development.

(14) (a) “Project improvements” means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) “Project improvements” does not mean system improvements.

(15) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(16) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities; or

(h) environmental mitigation as provided in Section 11-36a-205.

(17) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of \$500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(18) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(19) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(20) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(21) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 9. Section 11-36a-202 is amended to read:

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development;

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or

(iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:

(A) generally accepted cost accounting practices; and

(B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force; or

(v) on development activity on the state fair park, as defined in Section 63H-6-102.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section ~~[53A-20-100.5]~~ 11-36a-206.

Section 10. Section 11-44-201 is amended to read:

11-44-201. Political subdivision responsibilities -- State responsibilities.

(1) A political subdivision may:

(a) enter into a performance efficiency agreement;

(b) develop and administer a performance efficiency program;

(c) analyze energy consumption by the political subdivision;

(d) designate a staff member who is responsible for a performance efficiency program; and

(e) provide the governing body of the political subdivision with information regarding the performance efficiency program.

(2) The following entities may provide information, technical resources, and other assistance to a political subdivision acting under this chapter:

(a) the Utah Geological Survey, created in Section 79-3-201;

(b) the State Board of Education ~~[, under Title 53A, Chapter 1, Administration of Public Education at the State Level];~~

(c) the Division of Purchasing and General Services, created in Section 63A-2-101; and

(d) the Division of Facilities Construction and Management, created in Section 63A-5-201.

Section 11. Section 11-49-102 is amended to read:

11-49-102. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 11-49-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 11-49-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 11-49-103.

(5) "Political subdivision" means a county, municipality, school district, community reinvestment agency, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section ~~53A-3-101~~ 53G-4-201;

(d) for a community reinvestment agency, the agency board described in Section 17C-1-203;

(e) for a local district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section 11-49-604.

Section 12. Section 13-22-8 is amended to read:

13-22-8. Exemptions.

(1) Section 13-22-5 does not apply to:

(a) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside the group's or corporation's own membership or congregation;

(b) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(c) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;

(d) a political party authorized to transact the political party's affairs within this state and any candidate and campaign worker of the political party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(e) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(f) (i) a public school;

(ii) a public institution of higher learning;

(iii) a school accredited by an accreditation body recognized within the state or the United States;

(iv) an institution of higher learning accredited by an accreditation body recognized within the state or the United States;

(v) an organization within, and authorized by, an entity described in Subsections (1)(f)(i) through (iv); or

(vi) a parent organization, teacher organization, or student organization authorized by an entity described in Subsection (1)(f)(i) or (iii) if:

(A) the parent organization, teacher organization, or student organization is a branch of, or is affiliated with, a central organization;

(B) the parent organization, teacher organization, or student organization is subject to the central organization's general control and supervision;

(C) the central organization holds a United States Internal Revenue Service group tax exemption that covers the parent organization, teacher organization, or student organization; and

(D) the central organization is registered with the division under this chapter;

(g) a public or higher education foundation established under [~~Title 53A, State System of Public Education~~] Title 53E, Public Education System -- State Administration, Title 53G, Public Education System -- Local Administration, or Title 53B, State System of Higher Education;

(h) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(i) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(j) any governmental unit of any state or the United States;

(k) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress;

(l) a solicitation by an applicant for a grant offered by a state agency if:

(i) the terms of the grant provide that the state agency monitors a grant recipient to ensure that grant funds are used in accordance with the grant's purpose; and

(ii) the sum of the amount available to the applicant under grants offered by a state agency that the applicant applies for in a calendar year is less than or equal to \$1,500; and

(m) a chapter of a charitable organization or a person who solicits contributions for a charitable organization, if the charitable organization is registered with the division pursuant to Section 13-22-5, and:

(i) all contributions solicited by the chapter or person are delivered directly to the control of the charitable organization; or

(ii) (A) the charitable organization holds a United States Internal Revenue Service group tax exemption that covers the chapter;

(B) the charitable organization provides a list of its chapters to the division with its registration or renewal of registration;

(C) the chapter is on the list provided under Subsection (1)(m)(ii)(B);

(D) the chapter maintains the information required under Section 13-22-15 and provides the information to the division upon request; and

(E) solicitations by the chapter or the person are limited to the collection of membership-related fees, dues, or assessments from new and existing members.

(2) An organization claiming an exemption under this section bears the burden of proving the organization's eligibility for, or the applicability of, the exemption claimed.

(3) An organization exempt from registration pursuant to this section that makes a material change in the organization's legal status, officers, address, or similar changes shall file a report informing the division of the organization's current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

(4) The division may by rule:

(a) require an organization that is exempt from registration under this section to:

(i) file a notice of claim of exemption; and

(ii) file a renewal of a notice of claim of exemption;

(b) prescribe the contents of a notice of claim of exemption and a renewal of a notice of claim of exemption; and

(c) require a filing fee for a notice of claim of exemption and a renewal of a notice of claim of exemption as determined under Section 63J-1-504.

Section 13. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with ~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~ Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or

adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(8) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(9) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

- (ii) a therapeutic school.
- (12) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (13) “Flood plain” means land that:
- (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
- (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (14) “Gas corporation” has the same meaning as defined in Section 54-2-1.
- (15) “General plan” means a document that a county adopts that sets forth general guidelines for proposed future development of:
- (a) the unincorporated land within the county; or
- (b) for a mountainous planning district, the land within the mountainous planning district.
- (16) “Geologic hazard” means:
- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
- (i) to life;
- (ii) of substantial loss of real property; or
- (iii) of substantial damage to real property.
- (17) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.
- (18) “Identical plans” means building plans submitted to a county that:
- (a) are clearly marked as “identical plans”;
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
- (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
- (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
- (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
- (iv) does not require any additional engineering or analysis.
- (19) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- (20) “Improvement completion assurance” means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
- (a) recording a subdivision plat; or
- (b) development of a commercial, industrial, mixed use, or multifamily project.
- (21) “Improvement warranty” means an applicant’s unconditional warranty that the applicant’s installed and accepted landscaping or infrastructure improvement:
- (a) complies with the county’s written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.
- (22) “Improvement warranty period” means a period:
- (a) no later than one year after a county’s acceptance of required landscaping; or
- (b) no later than one year after a county’s acceptance of required infrastructure, unless the county:
- (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
- (ii) has substantial evidence, on record:
- (A) of prior poor performance by the applicant; or
- (B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.
- (23) “Infrastructure improvement” means permanent infrastructure that an applicant must install:
- (a) pursuant to published installation and inspection specifications for public improvements; and
- (b) as a condition of:
- (i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(24) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(25) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(27) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(28) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(29) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(30) "Land use decision" means a final action of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(31) "Land use permit" means a permit issued by a land use authority.

(32) "Land use regulation":

(a) means an ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land; and

(b) does not include:

(i) a general plan;

(ii) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(iii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(33) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(34) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(35) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(36) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(37) "Mountainous planning district" means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

(38) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(39) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(40) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(41) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(42) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(43) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(44) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(45) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(46) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

(47) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or

report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(48) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(49) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(50) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(51) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(52) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(53) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(54) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(55) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(56) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(57) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's

proposed development activity meets a land use requirement.

(58) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

(59) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(60) "State" includes any department, division, or agency of the state.

(61) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(62) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (62)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (62) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(63) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(64) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral

development, a familial development, or a social development.

(65) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(66) "Unincorporated" means the area outside of the incorporated area of a municipality.

(67) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(68) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 14. Section 17-27a-305 is amended to read:

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section [53A-20-108] 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a county building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location

which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection [~~53A-20-104~~] 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district or charter school used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection [~~53A-20-104~~] 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection [~~53A-20-104~~] 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the Federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 15. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

- (i) a vote on a bond or debt issue;
- (ii) a vote on a voted local levy authorized by Section ~~[53A-16-110]~~ 53F-8-402 or ~~[53A-17a-133]~~ 53F-8-301;
- (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- (v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;
- (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- (vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section ~~[53A-2-117]~~ 53G-3-102, following the creation of a new school district under Section ~~[53A-2-118.1]~~ 53G-3-302;
- (viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

(x) a vote on the creation of a study committee under Sections 17-52-202 and 17-52-203.5;

(xi) a vote on a special property tax under Section ~~[53A-16-110]~~ 53F-8-402;

(xii) a vote on the incorporation of a city in accordance with Section 10-2a-210;

(xiii) a vote on the incorporation of a town in accordance with Section 10-2a-304; or

(xiv) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 16. Section 20A-14-206 is amended to read:

20A-14-206. Student petition for student member on local school board.

(1) A student petition requesting that a local school board appoint a nonvoting student member to the board may be submitted to the board under this section.

(2) The petition shall have the signatures of at least 500 students regularly enrolled in high school in the district or at least 10% of the number of students regularly enrolled in high school in the district, whichever is less.

(3) (a) Upon receipt of the petition, the board may appoint a nonvoting student member to serve a one-year term on the local school board as an addition to the number of regular members authorized by law.

(b) A student member's term begins July 1 and ends on June 30 of the following year.

(4) A student board member shall be enrolled in a high school in the district and may be less than 18 years old.

(5) A student member may participate in all board meetings, except executive sessions.

(6) (a) A student board member shall receive the same expense allowance granted other board members under Section ~~[53A-3-202]~~ 53G-4-204.

(b) A student member is not liable for any acts of the governing board.

Section 17. Section 26-1-17.5 (Superseded 07/01/18) is amended to read:

26-1-17.5 (Superseded 07/01/18).

Confidential records.

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to those persons granted access to records described in Subsection 63G-2-302(1)(b), immunization records may be shared among schools, school districts, and local and state health departments and the state Department of Human Services as necessary to assure compliance with Section ~~[53A-11-301]~~ 53G-9-302 and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section 18. Section 26-1-17.5 (Effective 07/01/18) is amended to read:

26-1-17.5 (Effective 07/01/18). Confidential records.

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to those persons granted access to a private record described in Subsection 63G-2-302(1)(b), schools, school districts, and local and state health departments and the state Department of Human Services may share an immunization record as defined in Section ~~[53A-11-300.5]~~ 53G-9-301 or any other record relating to a vaccination or immunization as necessary to ensure compliance with Title ~~[53A, Chapter 11, Part 3, Immunization of Students]~~ 53G, Chapter 8, Part 3, Immunization Requirements, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section 19. Section 26-7-9 (Effective 07/01/18) is amended to read:

26-7-9 (Effective 07/01/18). Online public health education module.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Nonimmune" means that a child or an individual:

(i) has not received each vaccine required in Section ~~[53A-11-303]~~ 53G-9-305 and has not developed a natural immunity through previous illness to a vaccine-preventable disease, as documented by a health care provider;

(ii) cannot receive each vaccine required in Section ~~[53A-11-303]~~ 53G-9-305; or

(iii) is otherwise known to not be immune to a vaccine-preventable disease.

(c) "Vaccine-preventable disease" means an infectious disease that can be prevented by a vaccination required in Section ~~[53A-11-303]~~ 53G-9-305.

(2) The department shall develop an online education module regarding vaccine-preventable diseases:

(a) to assist a parent of a nonimmune child to:

(i) recognize the symptoms of vaccine-preventable diseases;

(ii) respond in the case of an outbreak of a vaccine-preventable disease;

(iii) protect children who contract a vaccine-preventable disease; and

(iv) prevent the spread of vaccine-preventable diseases;

(b) that contains only the following:

(i) information about vaccine-preventable diseases necessary to achieve the goals stated in Subsection (2)(a), including the best practices to prevent the spread of vaccine-preventable diseases;

(ii) recommendations to reduce the likelihood of a nonimmune individual contracting or transmitting a vaccine-preventable disease; and

(iii) information about additional available resources related to vaccine-preventable diseases and the availability of low-cost vaccines;

(c) that includes interactive questions or activities; and

(d) that is expected to take an average user 20 minutes or less to complete, based on user testing.

(3) In developing the online education module described in Subsection (2), the department shall consult with individuals interested in vaccination or vaccine-preventable diseases, including:

(a) representatives from organizations of health care professionals; and

(b) parents of nonimmune children.

(4) The department shall make the online education module described in Subsection (2) publicly available to parents through:

(a) a link on the department's website;

(b) county health departments, as that term is defined in Section 26A-1-102;

(c) local health departments, as that term is defined in Section 26A-1-102;

(d) local education agencies, as that term is defined in Section ~~[53A-1-401]~~ 53E-3-401; and

(e) other public health programs or organizations.

(5) The department shall report to the Health and Human Services Interim Committee before November 30, 2018, regarding compliance with this section.

Section 20. Section 26-10-6 is amended to read:

26-10-6. Testing of newborn infants.

(1) Except in the case where parents object on the grounds that they are members of a specified, well-recognized religious organization whose teachings are contrary to the tests required by this section, a newborn infant shall be tested for:

(a) phenylketonuria (PKU);

(b) other heritable disorders which may result in an intellectual or physical disability or death and for which:

(i) a preventive measure or treatment is available; and

(ii) there exists a reliable laboratory diagnostic test method;

(c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss; and

(ii) an infant born in a setting other than a hospital with 100 or more live births annually, hearing loss; and

(d) critical congenital heart defects using pulse oximetry.

(2) In accordance with Section 26-1-6, the department may charge fees for:

(a) materials supplied by the department to conduct tests required under Subsection (1);

(b) tests required under Subsection (1) conducted by the department;

(c) laboratory analyses by the department of tests conducted under Subsection (1); and

(d) the administrative cost of follow-up contacts with the parents or guardians of tested infants.

(3) Tests for hearing loss described in Subsection (1) shall be based on one or more methods approved by the Newborn Hearing Screening Committee, including:

(a) auditory brainstem response;

(b) automated auditory brainstem response; and

(c) evoked otoacoustic emissions.

(4) Results of tests for hearing loss described in Subsection (1) shall be reported to:

(a) the department; and

(b) when results of tests for hearing loss under Subsection (1) suggest that additional diagnostic procedures or medical interventions are necessary:

(i) a parent or guardian of the infant;

(ii) an early intervention program administered by the department in accordance with Part C of the

Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and

(iii) the Utah Schools for the Deaf and the Blind, created in Section [~~53A-25b-103~~] 53E-8-201.

(5) (a) There is established the Newborn Hearing Screening Committee.

(b) The committee shall advise the department on:

(i) the validity and cost of newborn infant hearing loss testing procedures; and

(ii) rules promulgated by the department to implement this section.

(c) The committee shall be composed of at least 11 members appointed by the executive director, including:

(i) one representative of the health insurance industry;

(ii) one pediatrician;

(iii) one family practitioner;

(iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;

(v) two audiologists nominated by the Utah Speech-Language-Hearing Association;

(vi) one representative of hospital neonatal nurseries;

(vii) one representative of the Early Intervention Baby Watch Program administered by the department;

(viii) one public health nurse;

(ix) one consumer; and

(x) the executive director or the executive director's designee.

(d) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments shall be for four-year terms except:

(i) for those members who have been appointed to complete an unexpired term; and

(ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.

(e) A majority of the members constitute a quorum, and a vote of the majority of the members present constitutes an action of the committee.

(f) The committee shall appoint a chairman from the committee's membership.

(g) The committee shall meet at least quarterly.

(h) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(i) The department shall provide staff for the committee.

(6) Before implementing the test required by Subsection (1)(d), the department shall conduct a pilot program for testing newborns for critical congenital heart defects using pulse oximetry. The pilot program shall include the development of:

(a) appropriate oxygen saturation levels that would indicate a need for further medical follow-up; and

(b) the best methods for implementing the pulse oximetry screening in newborn care units.

Section 21. Section 26-10-9 (Superseded 07/01/18) is amended to read:

26-10-9 (Superseded 07/01/18).

Immunizations -- Consent of minor to treatment.

(1) This section:

(a) is not intended to interfere with the integrity of the family or to minimize the rights of parents or children; and

(b) applies to a minor, who at the time care is sought is:

(i) married or has been married;

(ii) emancipated as provided for in Section 78A-6-805;

(iii) a parent with custody of a minor child; or

(iv) pregnant.

(2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

(i) immunizations against epidemic infections and communicable diseases as defined in Section 26-6-2; and

(ii) examinations and immunizations required to attend school as provided in [~~Title 53A, Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local Administration.

(b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the immunizations described in Subsections (2)(a)(i) and (ii), and the vaccine for human papillomavirus only if:

(i) the minor represents to the health care provider that the minor is an abandoned minor as defined in Section 76-5-109; and

(ii) the health care provider makes a notation in the minor's chart that the minor represented to the health care provider that the minor is an abandoned minor under Section 76-5-109.

(c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a minor.

(3) The consent of the minor pursuant to this section:

(a) is not subject to later disaffirmance because of the minority of the person receiving the medical services;

(b) is not voidable because of minority at the time the medical services were provided;

(c) has the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by a person of full age and capacity; and

(d) does not require the consent of any other person or persons to authorize the medical services described in Subsections (2)(a) and (b).

(4) A health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the services described in Subsections (2)(a) and (b) without obtaining the consent of another person prior to rendering the medical services.

(5) This section does not remove the requirement for parental consent or notice when required by Section 76-7-304 or 76-7-304.5.

(6) The parents, parent, or legal guardian of a minor who receives medical services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents, parent, or legal guardian consented to the medical services.

Section 22. Section 26-10-9 (Effective 07/01/18) is amended to read:

26-10-9 (Effective 07/01/18). Immunizations -- Consent of minor to treatment.

(1) This section:

(a) is not intended to interfere with the integrity of the family or to minimize the rights of parents or children; and

(b) applies to a minor, who at the time care is sought is:

(i) married or has been married;

(ii) emancipated as provided for in Section 78A-6-805;

(iii) a parent with custody of a minor child; or

(iv) pregnant.

(2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

(i) vaccinations against epidemic infections and communicable diseases as defined in Section 26-6-2; and

(ii) examinations and vaccinations required to attend school as provided in [~~Title 53A, Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local Administration.

(b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human papillomavirus only if:

(i) the minor represents to the health care provider that the minor is an abandoned minor as defined in Section 76-5-109; and

(ii) the health care provider makes a notation in the minor's chart that the minor represented to the health care provider that the minor is an abandoned minor under Section 76-5-109.

(c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a minor.

(3) The consent of the minor pursuant to this section:

(a) is not subject to later disaffirmance because of the minority of the person receiving the medical services;

(b) is not voidable because of minority at the time the medical services were provided;

(c) has the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by a person of full age and capacity; and

(d) does not require the consent of any other person or persons to authorize the medical services described in Subsections (2)(a) and (b).

(4) A health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the services described in Subsections (2)(a) and (b) without obtaining the consent of another person prior to rendering the medical services.

(5) This section does not remove the requirement for parental consent or notice when required by Section 76-7-304 or 76-7-304.5.

(6) The parents, parent, or legal guardian of a minor who receives medical services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents, parent, or legal guardian consented to the medical services.

Section 23. Section 26-10-10 is amended to read:

26-10-10. Cytomegalovirus (CMV) public education and testing.

(1) As used in this section "CMV" means cytomegalovirus.

(2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:

(a) the incidence of CMV;

(b) the transmission of CMV to pregnant women and women who may become pregnant;

(c) birth defects caused by congenital CMV;

(d) methods of diagnosing congenital CMV; and

(e) available preventative measures.

(3) The department shall provide the information described in Subsection (2) to:

(a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing Act, and their employees;

(b) a person described in Subsection 26-39-403(1)(c), (f), (g), (h), (j), or (k);

(c) a person serving as a school nurse under Section [53A-11-204] 53G-9-204;

(d) a person offering health education in a school district;

(e) health care providers offering care to pregnant women and infants; and

(f) religious, ecclesiastical, or denominational organizations offering children's programs as a part of worship services.

(4) If a newborn infant fails the newborn hearing screening test(s) under Subsection 26-10-6(1), a medical practitioner shall:

(a) test the newborn infant for CMV before the newborn is 21 days of age, unless a parent of the newborn infant objects; and

(b) provide to the parents of the newborn infant information regarding:

(i) birth defects caused by congenital CMV; and

(ii) available methods of treatment.

(5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection 26-10-6(1).

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Section 24. Section 26-10-11 is amended to read:

26-10-11. Children's Hearing Aid Program.

(1) The department shall offer a program to provide hearing aids to children who qualify under this section.

(2) The department shall provide hearing aids to a child who:

(a) is younger than six years old;

(b) is a resident of Utah;

(c) has been diagnosed with hearing loss by:

(i) an audiologist with pediatric expertise; and

(ii) a physician;

(d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;

(e) has obtained medical clearance by a medical provider for hearing aid fitting;

(f) does not qualify to receive a contribution that equals the full cost of a hearing aid from the state's

Medicaid program or the Utah Children's Health Insurance Program; and

(g) meets the financial need qualification criteria established by the department by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the program.

(3) (a) There is established the Children's Hearing Aid Advisory Committee.

(b) The committee shall be composed of five members appointed by the executive director, and shall include:

- (i) one audiologist with pediatric expertise;
- (ii) one speech language pathologist;
- (iii) one teacher, certified under [~~Title 53A, State System of Public Education~~] Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;
- (iv) one ear, nose, and throat specialist; and
- (v) one parent whose child:
 - (A) is six years old or older; and
 - (B) has hearing loss.

(c) A majority of the members constitutes a quorum.

(d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.

(e) The committee shall elect a chair from its members.

(f) The committee shall:

- (i) meet at least quarterly;
- (ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and
- (iii) review rules developed by the department.

(g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.

(h) The department shall provide staff to the committee.

(4) (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."

(b) The Children's Hearing Aid Program Restricted Account shall consist of:

- (i) amounts appropriated to the account by the Legislature; and
- (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services,

from any source, or any other conveyance that may be made to the account from private sources.

(c) Upon appropriation, all actual and necessary operating expenses for the committee described in Subsection (3) shall be paid by the account.

(d) Upon appropriation, no more than 9% of the account money may be used for the department's expenses.

(e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

(5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:

- (a) identifying the children who are financially eligible to receive services under the program; and
- (b) reviewing and paying for services provided to a child under the program.

(6) The department shall, before December 1 of each year, submit a report to the Health and Human Services Interim Committee that describes the operation and accomplishments of the program.

Section 25. Section 26-39-402 (Effective 07/01/18) is amended to read:

26-39-402 (Effective 07/01/18). Residential child care certificate.

(1) A residential child care provider of five to eight qualifying children shall obtain a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

(2) The minimum qualifications for a Residential Child Care Certificate are:

- (a) the submission of:
 - (i) an application in the form prescribed by the department;
 - (ii) a certification and criminal background fee established in accordance with Section 26-1-6; and
 - (iii) in accordance with Section 26-39-404, identifying information for each adult person and each juvenile age 12 through 17 years of age who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section 62A-4a-1006;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

- (i) check the immunization record, as defined in Section [~~53A-11-300.5~~] 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a residential care provider of five to eight qualifying children in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

(5) Notwithstanding this section:

(a) a license under Section 26-39-401 is required of a residential child care provider who cares for nine or more qualifying children;

(b) a certified residential child care provider may not provide care to more than two qualifying children under the age of two; and

(c) an inspection may be required of a residential child care provider in connection with a federal child care program.

(6) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 26. Section 26-41-106 is amended to read:

26-41-106. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of this chapter with respect to an anaphylactic reaction:

(a) a qualified adult;

(b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section 26-41-104; and

(d) a qualified entity.

(2) Section [53A-11-601] 53G-9-502 does not apply to the administration of an epinephrine auto-injector in accordance with this chapter.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 27. Section 30-1-9 is amended to read:

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means a male or female under 18 years of age.

(2) (a) If at the time of applying for a license the applicant is a minor, and not before married, a license may not be issued without the signed consent of the minor's father, mother, or guardian given in person to the clerk; however:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) If the male or female is 15 years of age, the minor and the parent or guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(3) (a) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling. This requirement may be waived if premarital counseling is not reasonably available.

(c) The judge or court commissioner may require:

(i) that the person continue to attend school, unless excused under Section [53A-11-102] 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(4) The determination required in Subsection (3) shall be made on the record. Any inquiry conducted

by the judge or commissioner may be conducted in chambers.

Section 28. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section ~~53A-19-201~~ 53E-3-510.

(5) This section does not prohibit the department from selling discontinued items at a discount.

(6) (a) Except as provided in Section ~~53A-13-114~~ 53F-9-304, the department shall collect the markup and remit the markup collected by the department under this section:

(i) to the State Tax Commission monthly on or before the last day of the month immediately following the last day of the previous month; and

(ii) using a form prescribed by the State Tax Commission.

(b) For liquor provided to a package agency on consignment, the department shall remit the markup to the State Tax Commission for the month during which the liquor is provided to the package agency regardless of when the package agency pays the department for the liquor provided to the package agency.

(c) The State Tax Commission shall deposit revenues remitted to it under Subsection (6)(a) into the Markup Holding Fund created in Section 32B-2-301.

(d) The assessment, collection, and refund of a markup under this section shall be in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(e) The department, if it fails to comply with this Subsection (6), is subject to penalties as provided in Section 59-1-401 and interest as provided in Section 59-1-402.

(f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

Section 29. Section 34A-2-104.5 is amended to read:

34A-2-104.5. Nongovernment entity volunteers.

(1) As used in this section:

(a) (i) "Intern" means a student or trainee who works without pay at a trade or occupation in order to gain work experience.

(ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described in Section ~~[53A-29-103]~~ 53G-7-903 or 53B-16-403.

(b) "Nongovernment entity" means an entity or individual that:

(i) is an employer as provided in Section 34A-2-103; and

(ii) is not a government entity.

(c) "Utah minimum wage" means the highest wage designated as Utah's minimum wage under Title 34, Chapter 40, Utah Minimum Wage Act.

(d) (i) "Volunteer" means an individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising nongovernment entity.

(ii) "Volunteer" includes an intern of a nongovernment entity.

(iii) "Volunteer" does not include an individual participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter.

(2) A volunteer for a nongovernment entity is not an employee of the nongovernment entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the nongovernment entity elects in accordance with this section to provide coverage under this chapter and Chapter 3, Utah Occupational Disease Act.

(3) (a) A nongovernment entity may elect to secure coverage for all of the nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with Section 34A-2-201 under the same policy it uses to cover the nongovernment entity's employees.

(b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and Chapter 3, Utah Occupational Disease Act:

(i) a volunteer is considered an employee of the nongovernment entity; and

(ii) these benefits are the exclusive remedy of the volunteer in accordance with Section 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah Occupational Disease Act.

(4) A nongovernment entity shall keep sufficient records of the nongovernment entity's volunteers

and the volunteers' duties to determine compliance with this section.

(5) To compute the disability compensation benefits under Subsection (3), the disability compensation shall be calculated in accordance with Part 4, Compensation and Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the Utah minimum wage at the time of the industrial accident or occupational disease that is the basis for the volunteer's workers' compensation claim.

(6) A workers' compensation insurer shall calculate the premium for a nongovernment entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer provides service to the nongovernment entity, except that a workers' compensation insurer may assume 30 hours worked per week if the nongovernment entity does not provide a record of actual hours worked. The imputed wages shall be assigned to the class code on the policy that best describes the volunteer's duties.

(7) The failure or refusal of a nongovernment entity to make an election under this section in regard to volunteers does not alter, have an effect on, or give rise to any implication or presumption regarding:

(a) the nongovernment entity's duties or liabilities with respect to volunteers; or

(b) the rights of volunteers.

(8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to seek remedies available to the volunteer through a personal insurance policy that the volunteer obtains for the volunteer in addition to any workers' compensation benefits obtained under this section.

(9) A nongovernment entity shall notify a volunteer of an election under Subsection (3)(a) by posting:

(a) printed notices where volunteers are likely to see the notices in conspicuous places about the nongovernment entity's place of business; and

(b) notices on a website that the nongovernment entity uses to recruit or provide information to volunteers.

Section 30. Section 35A-1-102 is amended to read:

35A-1-102. Definitions.

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, local district, special service district, or other political subdivision or administrative unit of the state, a state institution of higher education as defined in Section 53B-2-101, or a local education agency as defined in Section ~~53A-30-102~~ 53G-7-401.

(10) "Public assistance" means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;

(d) SNAP benefits; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

(13) "Stabilization" means addressing the basic living, family care, and social or psychological needs

of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

Section 31. Section 35A-3-304 is amended to read:

35A-3-304. Assessment -- Participation requirements and limitations -- Employment plan -- Mentors.

(1) (a) Within 30 business days of the date of enrollment, the department shall provide that a parent recipient:

(i) is assigned an employment counselor; and

(ii) completes an assessment provided by the department regarding the parent recipient's:

(A) prior work experience;

(B) ability to become employable; and

(C) skills.

(b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be completed by the parent recipient with the assistance of the department.

(2) (a) Within 15 business days of a parent recipient completing an assessment:

(i) the department and the parent recipient shall enter into an employment plan; and

(ii) the parent recipient shall complete a written questionnaire, provided by the department, designed to accurately determine the likelihood of the parent recipient having a substance use disorder involving the misuse of a controlled substance.

(b) The employment plan shall have a target date for entry into employment.

(c) The department shall provide a copy of the employment plan to the parent recipient.

(d) For the parent recipient, the employment plan may include:

(i) job searching requirements;

(ii) if the parent recipient does not have a high school diploma, participation in an educational program to obtain a high school diploma, or its equivalent;

(iii) education or training necessary to obtain employment;

(iv) a combination of work and education or training; and

(v) assisting the Office of Recovery Services in good faith to:

(A) establish the paternity of a minor child; and

(B) establish or enforce a child support order.

(e) If the parent recipient tests positive for the unlawful use of a controlled substance after taking a drug test under Section 35A-3-304.5, the

employment plan shall include an agreement by the parent recipient to:

(i) participate in treatment for a substance use disorder; and

(ii) meet the other requirements of Section 35A-3-304.5.

(f) The department's responsibilities under the employment plan may include:

(i) providing cash and other types of public and employment assistance, including child care;

(ii) assisting the parent recipient to obtain education or training necessary for employment;

(iii) assisting the parent recipient to set up and follow a household budget; and

(iv) assisting the parent recipient to obtain employment.

(g) The department may amend the employment plan to reflect new information or changed circumstances.

(h) If immediate employment is an activity in the employment plan, the parent recipient shall:

(i) promptly commence a search for employment for a specified number of hours each week; and

(ii) regularly submit a report to the department on:

(A) how time was spent in search for a job;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the department.

(i) (i) If full-time education or training to secure employment is an activity in an employment plan, the parent recipient shall promptly undertake a full-time education or training program.

(ii) The employment plan may describe courses, education or training goals, and classroom hours.

(j) (i) The department may only provide cash assistance under this part if the parent recipient agrees in writing to make a good faith effort to comply with the parent recipient's employment plan.

(ii) The department shall establish a process to reconcile disputes between a parent recipient and the department as to whether:

(A) the parent recipient has made a good faith effort to comply with the employment plan; or

(B) the department has complied with the employment plan.

(iii) If a parent recipient consistently fails to show good faith in complying with the employment plan, the department may seek to terminate all or part of

the cash assistance services provided under this part.

(3) The department may only provide cash assistance on behalf of a minor child under this part if the minor child is:

(a) enrolled in and attending school in compliance with Sections ~~[53A-11-101.5]~~ 53G-6-202 and ~~[53A-11-101.7]~~ 53G-6-203; or

(b) exempt from school attendance under Section ~~[53A-11-102]~~ 53G-6-204.

(4) This section does not apply to a person who has received diversion assistance under Section 35A-3-303.

(5) (a) The department may recruit and train volunteers to serve as mentors for parent recipients.

(b) A mentor may advocate on behalf of a parent recipient and help a parent recipient:

(i) develop life skills;

(ii) implement an employment plan; or

(iii) obtain services and support from:

(A) the volunteer mentor;

(B) the department; or

(C) civic organizations.

Section 32. Section 35A-9-401 is amended to read:

35A-9-401. Eligibility determination -- Awarding of scholarship.

(1) As used in this section:

(a) "Eligible child" means an individual who:

(i) is experiencing intergenerational poverty;

(ii) will be four years of age on or before September 2 of the school year in which the individual intends to enroll in a school readiness program; and

(iii) has not enrolled in kindergarten, as reported by the individual's parent or legal guardian.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(c) "Intergenerational poverty scholarship" or "IGP scholarship" means the same as that term is defined in Section ~~[53A-1b-202]~~ 53F-5-301.

(2) The department shall determine if an applicant for an IGP scholarship is eligible for the Intergenerational Poverty School Readiness Scholarship Program, created in Section ~~[53A-1b-206]~~ 53F-5-305.

(3) An individual may apply to the department annually to qualify for a scholarship for an eligible child to attend a high quality school readiness program.

(4) (a) The department shall create an application form that requires an applicant to provide the

information necessary for the department to make the eligibility determination described in Subsection (5).

(b) The department may:

(i) require an applicant to submit supporting documentation; and

(ii) create a deadline for an applicant to apply for an IGP scholarship.

(5) The department shall determine if:

(a) the information contained in an application submitted under Subsection (3) is accurate and complete; and

(b) the child for whom the applicant is applying for an IGP scholarship is an eligible child.

(6) (a) Except as provided in Subsection (6)(b), and subject to legislative appropriations, the department shall:

(i) award an IGP scholarship for an individual who is determined to be an eligible child under Subsection (5); and

(ii) with input from the State Board of Education, determine the value of an IGP scholarship.

(b) If the department receives an appropriation for IGP scholarships that is not sufficient to award a scholarship to each eligible child, the department shall prioritize awarding IGP scholarships to eligible children who are at the highest risk as determined by the department.

(7) The department shall coordinate with the State Board of Education, as necessary, to enroll a recipient of an IGP scholarship in a high quality school readiness program of the recipient's parent's choice, space permitting, as described in Section ~~[53A-1b-206]~~ 53F-5-305.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to administer this section.

Section 33. Section 35A-13-403 is amended to read:

35A-13-403. Services provided by the division.

The division may:

(1) provide:

(a) a business enterprise program;

(b) workshops, employment, and training; and

(c) vocational rehabilitation, training and adjustment, sight conservation, prevention of blindness, low vision lenses, and recreational services;

(2) assist public education officials in the discharge of their duties towards children who are blind or have visual impairments, and perform services related to vision screening under Section ~~[53A-11-203]~~ 53G-9-404;

(3) maintain a register of individuals who are blind or have visual impairments, including such facts as the office considers necessary for proper planning, administration, and operations, but protecting against unwarranted invasions of privacy;

(4) establish and operate community service centers, rehabilitation facilities, and workshops; and

(5) perform other duties assigned by the director or the executive director.

Section 34. Section 36-22-2 is amended to read:

36-22-2. Duties.

(1) The committee shall:

(a) serve as a liaison between Utah Native American tribes and the Legislature;

(b) recommend legislation for each annual general session of the Legislature if the committee determines that modifications to current law are in the best interest of the state of Utah and of the Utah Native American tribes;

(c) review the operations of the Division of Indian Affairs and other state agencies working with Utah Native American tribes;

(d) help sponsor meetings and other opportunities for discussion with and between Native Americans; and

(e) hold a meeting at which public education is discussed as required by Section ~~[53A-31-405]~~ 53F-5-604.

(2) In conducting its business, the committee shall comply with the rules of legislative interim committees.

Section 35. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans' and Military Affairs for veterans' programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section [53A-1-304] 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102; or

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges.

(ii) (A) For a veterans' special group license plate, "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name

at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

- (i) the name of the contributor;
- (ii) the institution to which a donation was made;
- (iii) the date of the donation; and
- (iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

- (i) unless collected by the named institution under Subsection (2), collected by the division;
- (ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;
- (iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 36. Section 41-6a-303 is amended to read:

41-6a-303. Definition of reduced speed school zone -- Operation of warning lights -- School crossing guard requirements -- Responsibility provisions -- Rulemaking authority.

(1) As used in this section "reduced speed school zone" means a designated length of a highway extending from a school zone speed limit sign with warning lights operating to an end school zone sign.

(2) The Department of Transportation for state highways and local highway authorities for highways under their jurisdiction:

(a) shall establish reduced speed school zones at elementary schools after written assurance by a local highway authority that the local highway authority complies with Subsections (3) and (4); and

(b) may establish reduced speed school zones for secondary schools at the request of the local highway authority.

(3) For all reduced speed school zones on highways, including state highways within the jurisdictional boundaries of a local highway authority, the local highway authority shall:

(a) (i) provide shuttle service across highways for school children; or

(ii) provide, train, and supervise school crossing guards in accordance with this section;

(b) provide for the:

(i) operation of reduced speed school zones, including providing power to warning lights and turning on and off the warning lights as required under Subsections (4) and (5); and

(ii) maintenance of reduced speed school zones except on state highways as provided in Section 41-6a-302; and

(c) notify the Department of Transportation of reduced speed school zones on state highways that are in need of maintenance.

(4) While children are going to or leaving school during opening and closing hours all reduced speed school zones shall have:

(a) the warning lights operating on each school zone speed limit sign; and

(b) a school crossing guard present if the reduced speed school zone is for an elementary school.

(5) The warning lights on a school zone speed limit sign may not be operating except as provided under Subsection (4).

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules establishing criteria and specifications for the:

(i) establishment, location, and operation of school crosswalks, school zones, and reduced speed school zones;

(ii) training, use, and supervision of school crossing guards at elementary schools and secondary schools; and

(iii) content and implementation of child access routing plans under Section ~~[53A-3-402]~~ 53G-4-402.

(b) If a school crosswalk is established at a signalized intersection in accordance with the requirements of this section, a local highway authority may reduce the speed limit at the signalized intersection to 20 miles per hour for a highway under its jurisdiction.

(7) Each local highway authority shall pay for providing, training, and supervising school crossing guards in accordance with this section.

Section 37. Section 41-6a-1307 is amended to read:

41-6a-1307. School bus parking zones -- Establishment -- Uniform markings -- Penalty.

(1) As used in this section, "school bus parking zone" means a parking space that is clearly identified as reserved for use by a school bus.

(2) A highway authority for highways under its jurisdiction and school boards for roadways located on school property may establish and locate school bus parking zones in accordance with specifications established under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation, after consultation with local highway authorities and school boards which may include input from school traffic safety committees established under Section ~~[53A-3-402]~~ 53G-4-402, shall make rules establishing specifications for uniform signage or markings to clearly identify school bus parking zones.

(4) A person may not stop, stand, or park a vehicle other than a school bus, whether occupied or not, in a clearly identified school bus parking zone.

(5) (a) A violation of Subsection (4) is an infraction.

(b) A person who violates Subsection (4) shall pay a minimum fine of \$75.

Section 38. Section 41-6a-1309 is amended to read:

41-6a-1309. Advertising on a school bus.

(1) A local school board or charter school governing board may sell advertising space on the exterior of a school bus in accordance with this section.

(2) (a) A local school board or charter school governing board that sells advertising space on the exterior of a school bus shall adopt guidelines for the type of advertising that will be permitted.

(b) Advertising on a school bus:

(i) shall be age appropriate;

(ii) shall be consistent with the instructional requirements of Section ~~[53A-13-101]~~ 53G-10-402;

(iii) may not contain:

(A) promotion of any substance or activity that is illegal for minors, such as alcohol, tobacco, drugs, or gambling;

(B) promotion of any political party, candidate, or issue; or

(C) sexual material; and

(iv) may not resemble a traffic-control device as defined in Section 41-6a-102.

(3) (a) The Department of Transportation shall make and enforce rules pursuant to Section 41-6a-1304 governing the placement and size of an advertisement on a school bus.

(b) Rules made under Subsection (3)(a) shall:

(i) prohibit the placement of an advertisement on the back or the front of a school bus; and

(ii) limit the size of an advertisement to no more than 35% of the area of the side of a school bus.

(4) (a) A school bus advertisement shall be painted or affixed by decal on a school bus in a manner that complies with rules adopted under Subsection (3).

(b) A commercial advertiser that contracts with a school district for the use of space for an advertisement shall pay:

(i) the cost of placing the advertisement on a school bus; and

(ii) for the removal of the advertisement after the term of the contract has expired.

(5) A school district or charter school shall use revenue from the sale of advertising space on a school bus for expenditures made within accounting function classification 2700, School Transportation Services, of the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics.

Section 39. Section 49-12-102 is amended to read:

49-12-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided":

(a) means a benefit offered by an employer, including:

(i) a leave benefit of any kind;

(ii) insurance coverage of any kind if the employer pays some or all of the premium for the coverage;

(iii) employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and

(iv) a retirement benefit of any kind if the employer pays some or all of the cost of the benefit; and

(b) does not include:

(i) a payment for social security;

(ii) workers' compensation insurance;

(iii) unemployment insurance;

(iv) a payment for Medicare;

(v) a payment or insurance required by federal or state law that is similar to a payment or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

(vi) any other benefit that state or federal law requires an employer to provide an employee who would not otherwise be eligible to receive the benefit; or

(vii) any benefit that an employer provides an employee in order to avoid a penalty or tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section ~~53A-17a-173~~ 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), (d), and (e).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(e) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-12-201 and 49-12-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407;

(iv) a faculty member or employee of an institution of higher education who is considered full-time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Contributory Retirement System created under this chapter.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 40. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982 if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (4); or

(d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (4).

(3) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) (a) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 41. Section 49-12-701 is amended to read:

49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on reemployment.

(1) Any member of this system may retire and receive the allowance allowed under Subsection (2) if the member meets the following requirements as of the member's retirement date:

(a) the member is eligible for retirement under Section 49-12-401, or has 25 years of service credit;

(b) the member elects to forfeit any stipend for retirement offered by the participating employer; and

(c) the member elects to retire from this system by applying for retirement by the date established under Subsection (3)(a) or (3)(b).

(2) (a) A member who retires under Subsection (1) shall receive 2% of that member's final average salary for all years of service credit.

(b) An actuarial reduction may not be applied to the allowance granted under this section.

(3) In order to receive the allowance allowed by this section, a member shall submit an application to the office as follows:

(a) (i) For state and school employees under Level A, the application shall be filed by May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, or September, 1987.

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.

(iii) If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

(b) (i) For political subdivision employees under Level B, the application shall be filed by September 30, 1987.

(ii) The retirement date shall then be set by the member on the 1st or 16th day of July, August, September, October, November, or December, 1987.

(4) (a) The cost of providing the allowance under this section shall be funded in fiscal year 1987-88 by a supplemental appropriation in the 1988 General

Session based on the retirement contribution rate increase established by the consulting actuary and approved by the board.

(b) The cost of providing the allowance under this section shall be funded beginning July 1, 1988, by means of an increase in the retirement contribution rate established by the consulting actuary and approved by the board.

(c) The rate increase under Subsections (4)(a) and (b) shall be funded:

(i) for state employees, by an appropriation from the account established by the Division of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement incentive and a work force reduction;

(ii) for school employees, by direct contributions from the employing unit, which may not be funded through an increase in the retirement contribution amount established in [~~Title 53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School Program; and

(iii) for political subdivisions under Level B, by direct contributions by the participating employer.

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the costs of funding the increase and the costs of paying insurance, sick leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to the Legislature and shall be appropriated as provided by law.

(ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account into which all savings derived from this early retirement incentive shall be deposited as the savings are realized.

(iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the amount of savings derived from this early retirement incentive.

(iv) The State Board of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.

(5) A member who retires under this section is subject to Section 49-11-504 and Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

(6) The board may adopt rules to administer this section.

(7) The Legislative Auditor General shall perform an audit to ensure compliance with this section.

Section 42. Section 49-13-102 is amended to read:

49-13-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) Except as provided in Subsection (2)(c), "compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law; and

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section [~~53A-17a-173~~] 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and (d).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment and for purposes of computing the member's final average salary only, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement.

(d) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-13-201 and 49-13-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-13-407;

(iv) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Noncontributory Retirement System.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 43. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under ~~[Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act]~~ Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section ~~[53A-1a-512]~~ 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5);

(d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (5); or

(e) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) (a) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

(b) For a purchase made under this Subsection (6), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 44. Section 49-13-701 is amended to read:

49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on reemployment.

(1) Any member of this system may retire and receive the allowance allowed under Subsection (2) if the member meets the following requirements as of the member's retirement:

(a) the member is eligible for retirement under Section 49-13-401, or has 25 years of service credit;

(b) the member elects to forfeit any stipend for retirement offered by the participating employer; and

(c) the member elects to retire from this system by applying for retirement by the date established under Subsection (3)(a) or (3)(b).

(2) (a) A member who retires under Subsection (1) shall receive 2% of that member's final average salary for all years of service credit.

(b) No actuarial reduction may be applied to the allowance granted under this section.

(3) In order to receive the allowance allowed by this section, a member shall submit an application to the office as follows:

(a) (i) For state and school employees under Level A, the application shall be filed by May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, or September, 1987.

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.

(iii) If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

(b) (i) For political subdivision employees under Level B, the application shall be filed by September 30, 1987.

(ii) The member's retirement date shall then be set by the member on the 1st or 16th day of July, August, September, October, November, or December, 1987.

(4) (a) The cost of providing the allowance under this section shall be funded in fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the retirement contribution rate increase established by the consulting actuary and approved by the board.

(b) The cost of providing the allowance under this section shall be funded beginning July 1, 1988, by means of an increase in the retirement contribution rate established by the consulting actuary and approved by the board.

(c) The rate increase under Subsections (4)(a) and (b) shall be funded:

(i) for state employees, by an appropriation from the account established by the Division of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement incentive and a work force reduction;

(ii) for school employees, by direct contributions from the employing unit, which may not be funded through an increase in the retirement contribution amount established in [~~Title 53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School Program; and

(iii) for political subdivisions under Level B, by direct contributions by the participating employer.

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the costs of funding the increase and the costs of paying insurance, sick leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to the Legislature and shall be appropriated as provided by law.

(ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account into which all

savings derived from this early retirement incentive shall be deposited as the savings are realized.

(iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the amount of savings derived from this early retirement incentive.

(iv) The State Board of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.

(5) A member who retires under this section is subject to Section 49-11-504 and Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

(6) The board may make rules to administer this section.

(7) The Legislative Auditor General shall perform an audit to ensure compliance with this section.

Section 45. Section 49-22-102 is amended to read:

49-22-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" has the same meaning as defined in Section 49-12-102.

(2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments,

severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section [53A-17a-173] 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(4) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d), and (e).

(a) Except as provided in Subsection (4)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (4)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(e) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(5) "Participating employer" means an employer which meets the participation requirements of:

(a) Sections 49-12-201 and 49-12-202;

(b) Sections 49-13-201 and 49-13-202;

(c) Section 49-19-201; or

(d) Section 49-22-201 or 49-22-202.

(6) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an appointive officer whose appointed position is full time as certified by the participating employer;

(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the attorney general, and a state legislator;

(v) an elected official not included under Subsection (6)(b)(iv) whose elected position is full time as certified by the participating employer;

(vi) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(vii) an individual who otherwise meets the definition of this Subsection (6) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include:

(i) a firefighter service employee as defined in Section 49-23-102;

(ii) a public safety service employee as defined in Section 49-23-102;

(iii) a classified school employee:

(A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(iv) a classified school employee:

(A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(E) who is a person working on a contract:

(I) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(II) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(7) "System" means the New Public Employees' Tier II Contributory Retirement System created under this chapter.

(8) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 46. Section 49-22-202 is amended to read:

49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements.

(1) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407; or

(c) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of its governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) If a participating employer purchases service credit on behalf of a regular full-time employee for service rendered prior to the participating employer's admission to this system, the participating employer:

(a) shall purchase credit in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered; and

(b) shall comply with the provisions of Section 49-11-403.

Section 47. Section 51-2a-201.5 is amended to read:

51-2a-201.5. Accounting reports required -- Reporting to state auditor.

(1) As used in this section:

(a) (i) "Federal pass through money" means federal money received by a nonprofit corporation through a subaward or contract from the state or a political subdivision.

(ii) "Federal pass through money" does not include federal money received by a nonprofit corporation as payment for goods or services purchased by the state or political subdivision from the nonprofit corporation.

(b) (i) "Local money" means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues.

(ii) "Local money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the political subdivision.

(c) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fee or tax revenues.

(ii) "State money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the state agency.

(2) (a) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is \$1,000,000 or more shall cause an audit to be made of its accounts by an independent certified public accountant.

(b) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$350,000 but less than \$1,000,000 shall cause a review to be made of its accounts by an independent certified public accountant.

(c) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$100,000 but less than \$350,000 shall cause a compilation to be made of its accounts by an independent certified public accountant.

(d) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is less than \$100,000 but greater than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

(3) A nonprofit corporation described in Subsection 51-2a-102(6)(f) shall provide the state auditor a copy of an accounting report prepared under this section within six months of the end of the nonprofit corporation's fiscal year.

(4) (a) A state agency that disburses federal pass through money or state money to a nonprofit corporation shall enter into a written agreement with the nonprofit corporation that requires the nonprofit corporation to annually disclose whether:

(i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection (2) in the previous fiscal year of the nonprofit corporation; or

(ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed in Subsection (2) in the fiscal year the money is disbursed.

(b) If the nonprofit corporation discloses to the state agency that the nonprofit corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state agency shall notify the state auditor.

(5) This section does not apply to a nonprofit corporation that is a charter school created under [Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act] Title 53G, Chapter 5, Charter Schools. A charter school is subject to the requirements of Section [53A-1a-507] 53G-5-404.

(6) A nonprofit corporation is exempt from Section 51-2a-201.

Section 48. Section 51-7-13 is amended to read:

51-7-13. Funds of member institutions of state system of higher education and public education foundations -- Authorized deposits or investments.

(1) The provisions of this section apply to all funds of:

(a) higher education institutions, other than endowment funds, that are not transferred to the state treasurer under Section 51-7-4; and

(b) public education foundations established under Section [53A-4-205] 53E-3-403.

(2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds issued by or for the benefit of the institution shall be invested according to the requirements of:

(i) Section 51-7-11 and the rules of the council; or

(ii) the terms of the borrowing instruments applicable to those bonds and funds if those terms are more restrictive than Section 51-7-11.

(b) (i) The public treasurer shall invest the proceeds of bonds other than general obligation bonds issued by or for the benefit of the institution and all funds pledged or otherwise dedicated to the payment of interest and principal of bonds other than general obligation bonds according to the terms of the borrowing instruments applicable to those bonds.

(ii) If no provisions governing investment of bond proceeds or pledged or dedicated funds are contained in the borrowing instruments applicable to those bonds or funds, the public treasurer shall comply with the requirements of Section 51-7-11 in investing those proceeds and funds.

(c) All other funds in the custody or control of any of those institutions or public education foundations shall be invested as provided in Section 51-7-11 and the rules of the council.

(3) (a) Each institution shall make monthly reports detailing the deposit and investment of funds in its custody or control to its institutional council and the State Board of Regents.

(b) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each institution.

(c) The State Board of Regents shall:

(i) require whatever internal controls and supervision are necessary to ensure the appropriate safekeeping, investment, and accounting for all funds of these institutions; and

(ii) submit annually to the governor and the Legislature a summary report of all investments by institutions under its jurisdiction.

Section 49. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;
- (d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance gathering or social gathering; or
- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

- (i) no public funds are appropriated for expenditure during the time the public body is convened; and
- (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as defined in Section ~~[53A-1-1601]~~ 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity as defined in Section ~~[53A-1-1601]~~ 53G-7-1101.

(b) "Public body" includes:

(i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking; and

(ii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council as defined in Section ~~[53A-1a-108.1]~~ 53G-7-1203; or

(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) “Quorum” does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) “Recording” means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) “Specified body”:

(a) means an administrative, advisory, executive, or legislative body that:

- (i) is not a public body;
- (ii) consists of three or more members; and
- (iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii).

(14) “Transmit” means to send, convey, or communicate an electronic message by electronic means.

Section 50. Section 52-4-209 is amended to read:

52-4-209. Electronic meetings for charter school board.

(1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:

(a) “Anchor location” means a physical location where:

(i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and

(ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.

(b) “Charter school board” means the governing board of a school created under [Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act] Title 53G, Chapter 5, Charter Schools.

(c) “Meeting” means the convening of a charter school board:

(i) with a quorum who:

(A) monitors a website at least once during the electronic meeting; and

(B) casts a vote on a website, if a vote is taken; and

(ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.

(d) “Monitor” means to:

(i) read all the content added to a website by the public or a charter school board member; and

(ii) view a vote cast by a charter school board member on a website.

(e) “Participate” means to add content to a website.

(2) (a) A charter school board may convene and conduct an electronic meeting in accordance with Section 52-4-207.

(b) A charter school board may convene and conduct an electronic meeting in accordance with this section that is in writing on a website if:

(i) the chair verifies that a quorum monitors the website;

(ii) the content of the website is available to the public;

(iii) the chair controls the times in which a charter school board member or the public participates; and

(iv) the chair requires a person to identify himself or herself if the person:

(A) participates; or

(B) casts a vote as a charter school board member.

(3) A charter school that conducts an electronic meeting under this section shall:

(a) give public notice of the electronic meeting:

(i) in accordance with Section 52-4-202; and

(ii) by posting written notice at the anchor location as required under Section 52-4-207;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;

(ii) a description of how the members and the public may be connected to the electronic meeting;

(iii) a start and end time for the meeting, which shall be no longer than 5 days; and

(iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and

(c) provide an anchor location.

(4) The chair shall:

(a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and

(b) allow a charter school board member to change a vote until the end time for when a vote will be taken.

(5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding

an issue over which the charter school board has jurisdiction.

(6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.

(7) (a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.

(b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).

(ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.

(c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.

(8) (a) A charter school board shall ensure that the website used to conduct an electronic meeting:

(i) is secure; and

(ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.

(b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).

(9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Section 51. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter; and

(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section ~~53A-13-208~~ 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of a person who is an applicant for voter registration under Section 20A-2-206; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Section 52. Section 53-3-505.5 is amended to read:

53-3-505.5. Behind-the-wheel training requirements.

(1) Except as provided under Subsection (2), a driver education course under this part or [~~Title 53A, Chapter 13, Part 2, Driver Education Classes~~] Title 53G, Chapter 10, Part 5, Driver Education Classes, that is used to satisfy the driver training requirement under Section 53-3-204 shall require each student to complete at least six hours of behind-the-wheel driving a dual-control motor vehicle with a certified instructor seated in the front seat next to the student driver.

(2) Up to three hours of the behind-the-wheel driving may be substituted as follows:

(a) two hours of range driving on an approved driving range under Section [~~53A-13-201~~] 53G-10-502 equals one hour of the behind-the-wheel driving required under Subsection (1);

(b) two hours of driving simulation practice on a driving simulation device that is fully interactive as set forth in rules made under Section 53-3-505, equals one hour of the behind-the-wheel driving required under Subsection (1); and

(c) four hours of driving simulation practice on a driving simulation device that is not fully interactive as set forth in rules made under Section 53-3-505, equals one hour of the behind-the-wheel driving required under Subsection (1), with a maximum of one hour of the behind-the-wheel driving required under Subsection (1) that may be substituted under this Subsection (2)(c).

(3) The behind-the-wheel driving required under Subsection (1) shall include, if feasible, driving on interstate and other multilane highways.

Section 53. Section 53-7-103 is amended to read:

53-7-103. State Fire Marshal Division -- Creation -- State fire marshal -- Appointment, qualifications, duties, and compensation.

(1) There is created within the department the State Fire Marshal Division.

(2) (a) The director of the division is the state fire marshal, who shall be appointed by the commissioner upon the recommendation of the Utah Fire Prevention Board created in Section 53-7-203 and with the approval of the governor.

(b) The state fire marshal is the executive and administrative head of the division, and shall be qualified by experience and education to:

(i) enforce the state fire code;

(ii) enforce rules made under this chapter; and

(iii) perform the duties prescribed by the commissioner.

(3) The state fire marshal acts under the supervision and control of the commissioner and may be removed from the position at the will of the commissioner.

(4) The state fire marshal shall:

(a) enforce the state fire code and rules made under this chapter in accordance with Section 53-7-104;

(b) complete the duties assigned by the commissioner;

(c) examine plans and specifications for school buildings, as required by Section [~~53A-20-104~~] 53E-3-706;

(d) approve criteria established by the state superintendent for building inspectors;

(e) promote and support injury prevention public education programs; and

(f) perform all other duties provided in this chapter.

(5) The state fire marshal shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Section 54. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

(c) other statistics as required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and [53A-11-502] 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for

motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5.

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal;

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal; and

(18) within funds appropriated by the Legislature for the purpose, implement and manage the operation of firearm safety and suicide prevention education programs, in conjunction with the state suicide prevention coordinator, as described in this section and Section 62A-15-1101, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce a firearm safety brochure with information about the safe handling and use of firearms that includes:

(A) rules for safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention and awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section;

(iii) produce a firearm safety packet that includes both the firearm safety brochure described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection (18)(a)(ii); and

(iv) create a suicide prevention education course that:

(A) provides information that includes posters for display and pamphlets or brochures for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify persons who may be suicidal;

(C) provides information regarding crisis intervention resources; and

(D) provides continuing education in the area of suicide prevention;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mental health practitioners;

(iii) other public health suicide prevention organizations;

(iv) entities that teach firearm safety courses; and

(v) school districts for use in the seminar, described in Section ~~[53A-15-1302]~~ 53G-9-703, for parents of students in the school district;

(c) creating and administering a redeemable coupon program described in this section and Section 76-10-526, that may include:

(i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase of a gun safe from a participating federally licensed firearms dealer, as defined in Section 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;

(ii) advertising the redeemable coupon program to all federally licensed firearms dealers and maintaining a list of dealers who wish to participate in the program;

(iii) printing or writing the name of a Utah resident who has filed an application for a concealed firearm permit on the redeemable coupon;

(iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents who have filed an application for a concealed firearm permit; and

(v) collecting from the participating dealers receipts described in Section 76-10-526 and reimbursing the dealers;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Law Enforcement and Criminal Justice Interim Committee regarding implementation and success of the firearm safety program:

(i) during the 2016 interim, before November 1; and

(ii) during the 2018 interim, before June 1.

Section 55. Section 53-10-203 is amended to read:

53-10-203. Missing persons -- Reports -- Notification.

(1) Each law enforcement agency that is investigating the report of a missing person shall provide information regarding that report to the division. The report shall include descriptive information and the date and location of the last-known contact with the missing person.

(2) The division shall notify the state registrar of Vital Statistics and the FBI National Crime Information Center of all missing persons reported in accordance with Subsection (1) and shall provide the state registrar with information concerning the identity of those missing persons.

(3) If the division has reason to believe that a missing person reported in accordance with Subsection (1) has been enrolled in a specific school in this state, the division shall also notify the last-known school of that report.

(4) Upon learning of the recovery of a missing person, the division shall notify the state registrar and any school that it has previously informed of the person's disappearance.

(5) The division shall, by rule, determine the manner and form of reports, notices, and information required by this section.

(6) Upon notification by the state registrar or school personnel that a request for a birth certificate, school record, or other information concerning a missing person has been made, or that an investigation is needed in accordance with Section ~~[53A-11-503]~~ 53G-6-603, the division shall immediately notify the local law enforcement authority.

Section 56. Section 53B-1-109 is amended to read:

53B-1-109. Coordination of higher education and public education information technology systems -- Use of unique student identifier.

(1) As used in this section, "unique student identifier" means the same as that term is defined in Section ~~[53A-1-603.5]~~ 53E-4-308.

(2) The State Board of Regents and State Board of Education shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section ~~[53A-1-603.5]~~ 53E-4-308.

(3) Information technology systems utilized at an institution within the state system of higher education shall utilize the unique student identifier of all students who have previously been assigned a unique student identifier.

Section 57. Section 53B-1-114 is amended to read:

53B-1-114. Coordination for education.

(1) At least quarterly, in order to coordinate education services, individuals who have responsibilities related to Utah's education system shall meet, including:

(a) the state superintendent of public instruction described in Section ~~[53A-1-301]~~ 53E-3-301;

(b) the commissioner;

(c) the commissioner of technical education described in Section 53B-2a-102;

(d) the executive director of the Department of Workforce Services described in Section 35A-1-201;

(e) the executive director of the Governor's Office of Economic Development described in Section 63N-1-202;

(f) the chair of the State Board of Education;

(g) the chair of the State Board of Regents;

(h) the chair of the Utah System of Technical Colleges Board of Trustees described in Section 53B-2a-103; and

(i) the chairs of the Education Interim Committee.

(2) A meeting described in this section is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 58. Section 53B-2a-106 is amended to read:

53B-2a-106. Technical colleges -- Duties.

(1) Each technical college shall, within the geographic area served by the technical college:

(a) offer a noncredit postsecondary and secondary career and technical education curriculum;

(b) offer that curriculum at:

(i) low cost to adult students, as approved by the board of trustees; and

(ii) no tuition to secondary students;

(c) provide career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;

(d) develop cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the technical college; and

(e) after consulting with school districts and charter schools within the geographic area served by the technical college:

(i) ensure that secondary students in the public education system have access to career and technical education at the technical college; and

(ii) prepare and submit an annual report to the board of trustees detailing:

(A) how the career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at the technical college;

(C) how the emphasis on high demand, high wage, high skill jobs in business and industry described in Subsection (1)(c)(ii) is being provided; and

(D) student tuition and fees.

(2) A technical college may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section ~~[53A-1-402]~~ 53E-3-501;

(b) noncredit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program;

(c) noncredit courses of interest when similar offerings to the community are limited and courses are financially self-supporting; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section ~~[53A-15-1205]~~ 53F-4-504.

(3) Except as provided in Subsection (2)(d), a technical college may not:

(a) offer courses other than noncredit career and technical education or the noncredit, basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

(c) offer career and technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement between an affected institution, except as provided in Subsection (6);

(d) provide tenure or academic rank for its instructors; or

(e) participate in intercollegiate athletics.

(4) The mission of a technical college is limited to noncredit career and technical education and may not expand to include credit-based academic programs typically offered by community colleges or other institutions of higher education.

(5) A technical college shall be recognized as a member of the Utah System of Technical Colleges, and regional affiliation shall be retained and recognized through local designations such as "Bridgerland Technical College: A member technical college of the Utah System of Technical Colleges."

(6) (a) A technical college may offer career and technical education or basic instruction outside the geographic area served by the technical college without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the career and technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the technical college notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the technical college, to the employer, craft, trade, or apprenticeship program about offering the requested career and technical education or basic instruction, provided that the proposal shall be presented no later than one business week from the delivery of the notice described under Subsection (6)(a)(ii).

(b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior training relationship.

Section 59. Section 53B-10-101 is amended to read:

53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans.

(1) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and train superior candidates for teaching in Utah's public school system as a component of the teacher quality continuum referred to in Subsections [53A-1a-104] 53E-2-302(7) and [53A-6-102] 53E-6-103(2)(a).

(b) Under the program, the incentive loans may be used in any of Utah's state-operated institutions of higher education or at a private institution of higher education in Utah that offers a state-approved teacher education program.

(2) (a) The State Board of Regents shall award the incentive loans to college students who have been admitted to, or have made application to and are prepared to enter into, a program preparing students for licensure and who declare an intent to complete the prescribed course of instruction and to teach in this state in accordance with the priorities described under Subsection (5)(c).

(b) The incentive loan may be canceled at any time by the institution of attendance if:

(i) the student fails to make reasonable progress towards completion of licensing requirements; or

(ii) it appears to be a reasonable certainty that the student does not intend to teach in Utah.

(c) The State Board of Regents may grant leaves of absence to incentive loan holders.

(3) The State Board of Regents may require an incentive loan recipient who fails to complete the requirements for licensing without good cause to repay all tuition and fees provided by the loan, together with appropriate interest.

(4) (a) The State Board of Regents may require an incentive loan recipient who does not work in the state's public school system or a private school within the state within two years after graduation to repay all tuition and fees provided by the loan, together with appropriate interest, unless waived for good cause.

(b) (i) A recipient who does not teach for a term equal to the number of years of the incentive loan within a reasonable period of time after graduation shall repay a graduated portion of the tuition and fees based upon the uncompleted term.

(ii) One year of teaching is credit for one year's tuition and fees.

(c) All repayments made under this Subsection (4) are for use in the Terrel H. Bell Teaching Incentive Loans program.

(5) (a) Each incentive loan is valid for up to four years of full-time equivalent enrollment, or until requirements for licensing or advanced licensing have been met, whichever is less.

(b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to conditions approved by the State Board of Regents, based upon criteria developed to insure that all recipients of the loans will pursue an education career within the state.

(ii) An incentive loan for tuition and fees at a private institution may not exceed the average scholarship amounts granted for tuition and fees at public institutions of higher education within the state.

(c) Incentive loans shall be awarded in accordance with prioritized critical areas of need for teaching expertise within the state, as determined by the State Board of Education's criticality index and school district priorities based upon data provided by the school district, and may include preparing persons as:

(i) a special education teacher;

(ii) a speech or language pathologist; or

(iii) another licensed professional providing services in the public schools to pupils with disabilities.

Section 60. Section 53B-16-108 is amended to read:

53B-16-108. Courses offered through the Statewide Online Education Program.

An institution of higher education listed in Section 53B-2-101 may offer a secondary school level course through the Statewide Online Education Program in accordance with Section [53A-15-1205] 53F-4-504.

Section 61. Section 53B-16-404 is amended to read:

53B-16-404. Internship programs -- Criminal background checks.

An institution of higher education shall require an officer or employee of the institution or a cooperating employer, who will be given significant unsupervised access to a minor student in connection with the student's activities as an intern, to submit to a criminal background check on the same basis as a volunteer under Section [53A-15-1503] 53G-11-402.

Section 62. Section 53C-1-203 is amended to read:

53C-1-203. Board of trustees nominating committee -- Composition -- Responsibilities -- Per diem and expenses.

(1) There is established an 11 member board of trustees nominating committee.

(2) (a) The State Board of Education shall appoint five members to the nominating committee from different geographical areas of the state.

(b) The governor shall appoint five members to the nominating committee on or before the December 1 of the year preceding the vacancy on the nominating committee as follows:

(i) one individual from a nomination list of at least two names of individuals knowledgeable about institutional trust lands submitted on or before the October 1 of the year preceding the vacancy on the nominating committee by the University of Utah and Utah State University on an alternating basis every four years;

(ii) one individual from a nomination list of at least two names submitted by the Utah Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool Growers' Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iii) one individual from a nomination list of at least two names submitted by the Utah Petroleum Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iv) one individual from a nomination list of at least two names submitted by the Utah Mining Association on or before the October 1 of the year preceding the vacancy on the nominating committee; and

(v) one individual from a nomination list of at least two names submitted by the executive director of the Department of Natural Resources after consultation with statewide wildlife and conservation organizations on or before the October 1 of the year preceding the vacancy on the nominating committee.

(c) The president of the Utah Association of Counties shall designate the chair of the Public Lands Steering Committee, who must be an elected county commissioner or councilor, to serve as the eleventh member of the nominating committee.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the state board and the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The nominating committee shall select a chair and vice chair from its membership by majority vote.

(5) (a) The nominating committee shall nominate at least two candidates for each position or vacancy which occurs on the board of trustees except for the governor's appointee under Subsection 53C-1-202(5).

(b) The nominations shall be by majority vote of the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The School Children's Trust Section, established in Section [53A-16-101.6] 53E-3-514, shall provide staff support to the nominating committee.

Section 63. Section 53D-1-102 is amended to read:

53D-1-102. Definitions.

(1) "Account" means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.

(2) "Beneficiaries":

(a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and

(b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.

(3) "Board" means the board of trustees established in Section 53D-1-301.

(4) "Director" means the director of the office.

(5) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.

(6) "Nominating committee" means the committee established under Section 53D-1-501.

(7) "Office" means the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(8) "School children's trust section" means the School Children's Trust Section under the State Board of Education, established in Section ~~[53A-16-101.6]~~ 53E-3-514.

(9) "Trust fund" means money derived from:

(a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;

(b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and

(c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Section 64. Section 53D-1-403 is amended to read:

53D-1-403. Reports.

(1) At least annually, the director shall report in person to the Legislative Management Committee, the governor, and the State Board of Education, concerning the office's investments, performance, estimated distributions, and other activities.

(2) The director shall report to the board concerning the work of the director and the investment activities and other activities of the office:

(a) in a public meeting at least six times per year; and

(b) as otherwise requested by the board.

(3) (a) Before November 1 of each year, the director shall:

(i) submit a written report to school community councils, created under Section ~~[53A-1a-108]~~ 53G-7-1202, and charter trust land councils, established under Section ~~[53A-16-101.5]~~ 53F-2-404 concerning the office's investments, performance, estimated distributions, and other activities; and

(ii) post the written report described in Subsection (3)(a)(i) on the office's website.

(b) A report under Subsection (3)(a) shall be prepared in simple language designed to be understood by the general public.

(4) The director shall provide to the board:

(a) monthly written reports on the activities of the office;

(b) quarterly financial reports; and

(c) any other report requested by the board.

(5) The director shall:

(a) invite the director of the school children's trust section to attend any meeting at which the director gives a report under this section; and

(b) provide the director of the school children's trust section:

(i) a copy of any written report prepared under this section; and

(ii) any other report requested by the director of the school children's trust section.

Section 65. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(d)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(e) meet the examination requirement established by rule.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,000 hours of experience as a barber; and

(f) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(d)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(e) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

(iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(e) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

(f) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(d)(iii)(A); and

(e) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(e) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(f) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience in esthetics; and

(f) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(d)(ii)(A); or

(iii) being a state licensed cosmetologist/barber; and

(e) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(d)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(e) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a

minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

(f) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21) (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).

(22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond

the age of compulsory high school attendance as prescribed by ~~[Title 53A, Chapter 11, Students in Public Schools]~~ Title 53G, Chapter 6, Part 2, Compulsory Education; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

(24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

Section 66. Section 58-41-4 is amended to read:

58-41-4. Exemptions from chapter.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of speech-language pathology and audiology subject to the stated circumstances and limitations without being licensed under this chapter:

(a) a qualified person licensed in this state under any law existing in this state prior to May 13, 1975, from engaging in the profession for which he is licensed;

(b) a medical doctor, physician, or surgeon licensed in this state, from engaging in his specialty in the practice of medicine;

(c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may not conduct audiologic testing on persons under the age of 18 years except under the direct supervision of an audiologist licensed under this chapter;

(d) a person who has obtained a valid and current credential issued by the State Board of Education while performing specifically the functions of a speech-language pathologist or audiologist, in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and only in the academic interest of the schools by which employed in this state;

(e) a person employed as a speech-language pathologist or audiologist by federal government agencies or subdivisions or, prior to July 1, 1989, by state or local government agencies or subdivisions, while specifically performing speech-language pathology or audiology services in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and in the specific interest of that agency or subdivision;

(f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or monetary or other compensation, without being licensed; however,

such person may elect to be subject to the requirements of this chapter;

(g) a person employed by accredited colleges or universities as a speech-language pathologist or audiologist from performing the services or functions described in this chapter when they are:

(i) performed solely as an assigned teaching function of employment;

(ii) solely in academic interest and pursuit as a function of that employment;

(iii) in no way for their own interest; and

(iv) provided for no fee, monetary or otherwise, other than their agreed institutional salary;

(h) a person pursuing a course of study leading to a degree in speech-language pathology or audiology while enrolled in an accredited college or university, provided those activities constitute an assigned, directed, and supervised part of his curricular study, and in no other interest, and that all examinations, tests, histories, charts, progress notes, reports, correspondence, and all documents and records which he produces be identified clearly as having been conducted and prepared by a student in training and that such a person is obviously identified and designated by appropriate title clearly indicating the training status and provided that he does not hold himself out directly or indirectly as being qualified to practice independently;

(i) a person trained in elementary audiometry and qualified to perform basic audiometric tests while employed by a licensed medical doctor to perform solely for him while under his direct supervision, the elementary conventional audiometric tests of air conduction screening, air conduction threshold testing, and tympanometry;

(j) a person while performing as a speech-language pathologist or audiologist for the purpose of obtaining required professional experience under the provisions of this chapter, if he meets all training requirements and is professionally responsible to and under the supervision of a speech-language pathologist or audiologist who holds the CCC or a state license in speech-language pathology or audiology. This provision is applicable only during the time that person is obtaining the required professional experience;

(k) a corporation, partnership, trust, association, group practice, or like organization engaging in speech-language pathology or audiology services without certification or license, if it acts only through employees or consists only of persons who are licensed under this chapter;

(l) performance of speech-language pathology or audiology services in this state by a speech-language pathologist or audiologist who is not a resident of this state and is not licensed under this chapter if those services are performed for no more than one month in any calendar year in association with a speech-language pathologist or audiologist licensed under this chapter, and if that

person meets the qualifications and requirements for application for licensure described in Section 58-41-5; and

(m) a person certified under [~~Title 53A, State System of Public Education~~] Title 53E, Public Education System -- State Administration, as a teacher of the deaf, from providing the services or performing the functions he is certified to perform.

(2) No person is exempt from the requirements of this chapter who performs or provides any services as a speech-language pathologist or audiologist for which a fee, salary, bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who engages any part of his professional work for a fee practicing in conjunction with, by permission of, or apart from his position of employment as speech-language pathologist or audiologist in any branch or subdivision of local, state, or federal government or as otherwise identified in this section.

Section 67. Section 58-61-307 is amended to read:

58-61-307. Exemptions from licensure.

(1) Except as modified in Section 58-61-301, the exemptions from licensure in Section 58-1-307 apply to this chapter.

(2) In addition to the exemptions from licensure in Section 58-1-307, the following when practicing within the scope of the license held, may engage in acts included within the definition of practice as a psychologist, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b, Nurse Practice Act;

(c) a recognized member of the clergy while functioning in his ministerial capacity as long as he does not represent himself as or use the title of psychologist;

(d) an individual who is offering expert testimony in any proceeding before a court, administrative hearing, deposition upon the order of any court or other body having power to order the deposition, or proceedings before any master, referee, or alternative dispute resolution provider;

(e) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:

(i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;

(B) consults with a client to determine current motivation and behavior patterns;

(C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;

(D) tests clients to determine degrees of suggestibility;

(E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and

(F) trains clients in self-hypnosis conditioning;

(ii) may not:

(A) engage in the practice of mental health therapy;

(B) represent himself using the title of a license classification in Subsection 58-60-102(5); or

(C) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;

(f) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;

(g) an individual holding an earned doctoral degree in psychology who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing delivery or supervision of professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

(h) any individual who was employed as a psychologist by a state, county, or municipal agency or other political subdivision of the state prior to July 1, 1981, and who subsequently has maintained employment as a psychologist in the same state, county, or municipal agency or other political subdivision while engaged in the performance of his official duties for that agency or political subdivision;

(i) an individual licensed as a school psychologist under Section [~~53A-6-104~~] 53E-6-201:

(i) may represent himself as and use the terms "school psychologist" or "licensed school psychologist"; and

(ii) is restricted in his practice to employment within settings authorized by the State Board of Education;

(j) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; and

(k) an individual who is licensed, in good standing, to practice mental health therapy in a state or territory of the United States outside of Utah may provide short term transitional mental health therapy remotely to a client in Utah only if:

(i) the individual is present in the state or territory where the individual is licensed to practice mental health therapy;

(ii) the client relocates to Utah;

(iii) the client is a client of the individual immediately before the client relocates to Utah;

(iv) the individual provides the short term transitional mental health therapy to the client only during the 45 day period beginning on the day on which the client relocates to Utah;

(v) within 10 days after the day on which the client relocates to Utah, the individual provides written notice to the division of the individual's intent to provide short term transitional mental health therapy remotely to the client; and

(vi) the individual does not engage in unlawful conduct or unprofessional conduct.

Section 68. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be

maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(8) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Section ~~[53A-17a-135]~~ 53F-2-301, or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(9) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

- (ii) used or licensed as taxicabs or limousines;
- (iii) used as rental passenger cars, travel trailers, or motor homes;
- (iv) used or licensed in this state for use as ambulances or hearses;
- (v) especially designed and used for garbage and rubbish collection; or
- (vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:

- (i) a county; and
 - (ii) a school district.
- (b) “Designated tax area” includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:
- (i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or
 - (ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.

(11) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:

- (a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and
- (b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:
 - (i) \$5,000; or
 - (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

- (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;
- (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or
- (iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) “Escaped property” does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) (a) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(b) “Farm machinery and equipment” does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(15) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(16) “Geothermal resource” means:

- (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and
- (b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(17) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).

(b) The following factors apply to Subsection (17)(a)(ii):

- (i) superior management skills;
- (ii) reputation;
- (iii) customer relationships;
- (iv) patronage; or

(v) a factor similar to Subsections (17)(b)(i) through (iv).

(c) “Goodwill” does not include:

(i) the intangible property described in Subsection (21)(a) or (b);

(ii) locational attributes of real property, including:

- (A) zoning;
- (B) location;
- (C) view;
- (D) a geographic feature;
- (E) an easement;
- (F) a covenant;
- (G) proximity to raw materials;
- (H) the condition of surrounding property; or
- (I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(18) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(19) (a) For purposes of Section 59-2-103:

(i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have

established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(20) (a) Except as provided in Subsection (20)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (20)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (20)(a); and

(B) installed solely to serve the operation of the item described in Subsection (20)(a); and

(ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(21) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

- (v) representative property;
- (vi) franchises;
- (vii) licenses;
- (viii) trade names;
- (ix) copyrights; and
- (x) patents;
- (b) a low-income housing tax credit;
- (c) goodwill; or
- (d) a renewable energy tax credit or incentive, including:
 - (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
 - (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
 - (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- (iv) a tax credit under Subsection 59-7-614(5).
- (22) "Livestock" means:
 - (a) a domestic animal;
 - (b) a fish;
 - (c) a fur-bearing animal;
 - (d) a honeybee; or
 - (e) poultry.
- (23) "Low-income housing tax credit" means:
 - (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
 - (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.
- (26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
- (27) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:
 - (i) is capable of flight or is attached to an aircraft that is capable of flight; or
 - (ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
 - (A) during multiple flights;
 - (B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(30) "Personal property" includes:

(a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(31) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(32) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection (33) and Subsection (36).

(34) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(35) (a) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(36) (a) Subject to Subsection (36)(b), “residential property,” for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (36)(c), “residential property”:

(i) except as provided in Subsection (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection (33) and this Subsection (36).

(37) “Split estate mineral rights owner” means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(38) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire that are specified in Subsection (9)(c) as county-assessed commercial vehicles.

(39) “Subdivided lot” means a lot, parcel, or other division of land, that is a division of a base parcel.

(40) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(41) “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

(42) “Taxing entity” means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(43) (a) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) “Tax roll” includes tax books, tax lists, and other similar materials.

Section 69. Section 59-2-918.6 is amended to read:

59-2-918.6. New and remaining school district budgets -- Advertisement -- Public hearing.

(1) As used in this section, “existing school district,” “new school district,” and “remaining school district” are as defined in Section [53A-2-117] 53G-3-102.

(2) For the first fiscal year in which a new school district created under Section [53A-2-118.1]

53G-3-302 assumes responsibility for providing student instruction, the new school district and the remaining school district or districts may not impose a property tax unless the district imposing the tax:

(a) advertises its intention to do so in accordance with Subsection (3); and

(b) holds a public hearing in accordance with Subsection (4).

(3) The advertisement required by this section:

(a) may be combined with the advertisement described in Section 59-2-919;

(b) shall be at least 1/4 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919; and

(c) shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the district's proposed property tax levy and the tax impact on an average residential and business property located within the taxing entity compared to the property tax levy imposed in the prior year by the existing school district.

(4) (a) The date, time, and place of public hearings required by this section shall be included on the notice provided to property owners pursuant to Section 59-2-919.1.

(b) If a final decision regarding the property tax levy is not made at the public hearing, the school district shall announce at the public hearing the scheduled time and place for consideration and adoption of the budget and property tax levies.

Section 70. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that

operates under the county executive-council form of government described in Section 17-52-504.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

- (A) county council;
- (B) county executive; or
- (C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(v):

(i) shall be mailed to each owner of property:

- (A) within the calendar year taxing entity; and
- (B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual

tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section ~~53A-17a-133~~ 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

**"NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)"**

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity

rounded to the nearest thousand dollars) residence would increase from \$_____ to \$_____, which is \$_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$_____ to \$_____, which is \$_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar

year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 71. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(c) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(d) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(e) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(f) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth.

(g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

(h) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(i) "Project area" means the same as that term is defined in Section 17C-1-102.

(j) "Project area new growth" means an amount equal to the incremental value that is no longer provided to an agency as tax increment.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by subtracting eligible new growth from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the

municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section ~~[53A-16-113]~~ 53F-8-303, ~~[53A-17a-133]~~ 53F-8-301, or ~~[53A-17a-164]~~ 53F-8-302; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic

means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 72. Section 59-2-926 is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a levy pursuant to Section ~~[53A-17a-135]~~ 53F-2-301 that exceeds the certified revenue levy as defined in Section ~~[53A-17a-103]~~ 53F-2-102 or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

“NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from \$_____ to \$_____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) \$_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) \$_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.);

(c) a home valued at \$100,000 in the state of Utah which based on last year’s (levy for the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or both) paid \$_____ in property taxes would pay the following:

(i) \$_____ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) \$_____ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah.”

Section 73. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) “Educational purposes” includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) “Exclusive use exemption” means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) “Government exemption” means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) “Nonprofit entity” includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) “Tax relief” means an exemption, deferral, or abatement that is authorized by this part.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 74. Section 59-10-1018 is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Dependent adult with a disability" means an individual who:

(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;

(ii) is not the claimant or the claimant's spouse; and

(iii) is:

(A) 18 years of age or older;

(B) eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and

(C) not enrolled in an education program for students with disabilities that is authorized under Section [~~53A-15-301~~] 53E-7-202.

(b) "Dependent child with a disability" means an individual 21 years of age or younger who:

(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;

(ii) is not the claimant or the claimant's spouse; and

(iii) is:

(A) an eligible student with a disability; or

(B) identified under guidelines of the Department of Health as qualified for Early Intervention or Infant Development Services.

(c) "Eligible student with a disability" means an individual who is:

(i) diagnosed by a school district representative under rules the State Board of Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as having a disability classified as autism, deafness, preschool developmental delay, dual sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment;

(ii) not receiving residential services from the Division of Services for People with Disabilities created under Section 62A-5-102 or a school established under [~~Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind~~] Title 53E, Chapter 8, Utah Schools for the Deaf and the Blind; and

(iii) (A) enrolled in an education program for students with disabilities that is authorized under Section [~~53A-15-301~~] 53E-7-202; or

(B) a recipient of a scholarship awarded under [~~Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act~~] Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program.

(d) "Head of household filing status" means a head of household, as defined in Section 2(b),

Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(e) "Joint filing status" means:

(i) a husband and wife who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(f) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, the product of:

(A) the difference between:

(I) the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and

(II) any amount of state or local income taxes the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and

(B) 6%; and

(b) the product of:

(i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year, plus an additional 75% of the amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year with respect to each dependent adult with a disability or dependent child with a disability; and

(ii) 6%.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For taxable years beginning on or after January 1, 2009, the commission shall increase or decrease the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 75. Section 59-10-1307 is amended to read:

59-10-1307. Contributions for education.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this part to:

(a) the foundation of any school district if that foundation is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) a school district described in [~~Title 53A, Chapter 2, School Districts~~] Title 53G, Chapter 3, School District Creation and Change, if the school district has not established a foundation.

(2) If a resident or nonresident individual designates an amount as a contribution under:

(a) Subsection (1)(a), but does not designate a particular school district foundation to receive the contribution, the contribution shall be made to the State Board of Education to be distributed to one or more associations of foundations:

(i) if those foundations that are members of the association are established in accordance with Section ~~[53A-4-205]~~ 53E-3-403; and

(ii) as determined by the State Board of Education; or

(b) Subsection (1)(b), but does not designate a particular school district to receive the contribution, the contribution shall be made to the State Board of Education.

(3) The commission shall:

(a) determine annually the total amount of contributions designated to each entity described in Subsection (1) in accordance with this section; and

(b) subject to Subsection (2), credit the amounts described in Subsection (1) to the entities.

Section 76. Section 59-10-1318 is amended to read:

59-10-1318. Contribution to Invest More for Education Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Invest More for Education Account; and

(b) expended as provided in Section ~~[53A-16-115]~~ 53F-9-205.

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for a taxable year; and

(b) credit the amount described in Subsection (2)(a) to the Invest More for Education Account created in Section ~~[53A-16-115]~~ 53F-9-205.

Section 77. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

- (n) Section 59-12-1402;
- (o) Section 59-12-1802;
- (p) Section 59-12-2003;
- (q) Section 59-12-2103;
- (r) Section 59-12-2213;
- (s) Section 59-12-2214;
- (t) Section 59-12-2215;
- (u) Section 59-12-2216;
- (v) Section 59-12-2217;
- (w) Section 59-12-2218; or
- (x) Section 59-12-2219.
- (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
- (i) an airline as defined in Section 59-2-102; or
- (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
- (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
- (i) check, diagnose, overhaul, and repair:
- (A) an onboard system of a fixed wing turbine powered aircraft; and
- (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
- (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
- (A) an inspection;
- (B) a repair, including a structural repair or modification;
- (C) changing landing gear; and
- (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
- (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (9) "Alcoholic beverage" means a beverage that:
- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.
- (10) "Alternative energy" means:
- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
- (i) coal-to-liquids;
- (ii) nuclear fuel;
- (iii) oil-impregnated diatomaceous earth;
- (iv) oil sands;
- (v) oil shale;
- (vi) petroleum coke; or
- (vii) waste heat from:
- (A) an industrial facility; or
- (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.
- (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
- (b) "Ancillary service" includes:
- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.
- (13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.
- (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
- (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is

50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute “clothing” under the agreement.

(22) “Coal-to-liquid” means the process of converting coal into a liquid synthetic fuel.

(23) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person who, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(c) “Common carrier” does not include a person that provides transportation network services, as defined in Section 13–51–102.

(25) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

- (ii) as required by 21 C.F.R. Sec. 101.36.

(35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

- (b) “Digital audio work” includes a ringtone.

(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided:
 - (I) by a purchaser of the mailing list; or
 - (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(39) “Directory assistance” means an ancillary service of providing:

- (a) address information; or
- (b) telephone number information.

(40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) “Drilling equipment manufacturer” means a facility:

- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

- (i) recognized in:
 - (A) the official United States Pharmacopoeia;
 - (B) the official Homeopathic Pharmacopoeia of the United States;
 - (C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(44) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the

federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) "Employee" means the same as that term is defined in Section 59-10-401.

(47) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(55) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(56) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and

development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (66)(a) through (g); or
- (j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- (68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.
- (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."
- (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:
- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- (ii) appropriate for use in a:
- (A) home; or
- (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.
- (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).
- (c) "Mobility enhancing equipment" does not include:
- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) "Optional computer software maintenance contract" means a computer software maintenance

contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.
- (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.
- (b) "Prosthetic device" includes:
- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.
- (c) "Prosthetic device" does not include:
- (i) corrective eyeglasses; or
- (ii) contact lenses.
- (97) (a) "Protective equipment" means an item:
- (i) for human wear; and
- (ii) that is:
- (A) designed as protection:
- (I) to the wearer against injury or disease; or
- (II) against damage or injury of other persons or property; and
- (B) not suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
- (A) characteristics;
- (B) copyright;
- (C) form;
- (D) format;
- (E) method of reproduction; or
- (F) source; and
- (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or services are:
- (A) sold;
- (B) leased; or
- (C) rented.
- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
- (ii) expenses of the seller, including:
- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;
- (iii) a charge by the seller for any service necessary to complete the sale; or
- (iv) consideration a seller receives from a person other than the purchaser if:
- (A) (I) the seller actually receives consideration from a person other than the purchaser; and
- (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
- (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
- (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
- (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
- (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) “Purchase price” and “sales price” do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) “Purchaser” means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(101) “Qualifying enterprise data center” means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) “Regularly rented” means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) “Rental” means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), “repairs or renovations of tangible personal property” means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) “Research and development” means the process of inquiry or experimentation aimed at the

discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(110) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) “Sale at retail” means the same as that term is defined in Subsection (109).

(112) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) “Sales price” means the same as that term is defined in Subsection (99).

(114) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(115) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section ~~53A-15-1002~~ 53E-10-601.

(116) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;
- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

- (i) designed for human use; and
- (ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

- (v) a refrigerator;
- (vi) a stove;
- (vii) a washer; or
- (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(126) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or
- (ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) "Telecommunications maintenance or repair equipment, machinery, or software" means

equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

(129) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

- (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
 - (A) on the code, form, or protocol of the content;
 - (B) for the purpose of electronic conveyance, routing, or transmission; and
 - (C) regardless of whether the service:
 - (I) is referred to as voice over Internet protocol service; or
 - (II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a prepaid calling service;

(vii) a postpaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;
- (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is

purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership

or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (138)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 78. Section 59-28-103 is amended to read:

59-28-103. Imposition -- Rate -- Revenue distribution.

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at a rate of .32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the state collects from the tax under this chapter into the Hospitality and Tourism Management Education Account created in Section ~~[53A-15-207]~~ 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section ~~[53A-15-206]~~ 53E-3-515.

(ii) The commission may not deposit more than \$300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education

Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section 63N-9-205 to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202.

Section 79. Section 62A-2-108.1 is amended to read:

62A-2-108.1. Coordination of human services and educational services -- Licensing of programs -- Procedures.

(1) For purposes of this section:

(a) "accredited private school" means a private school that is accredited by an accrediting entity recognized by the Utah State Board of Education; and

(b) "education entitled children" means children:

(i) subject to compulsory education under Section ~~[53A-11-101.5]~~ 53G-6-202;

(ii) subject to the school attendance requirements of Section ~~[53A-11-101.7]~~ 53G-6-203; or

(iii) entitled to educational services under Section ~~[53A-15-301]~~ 53E-7-202.

(2) Subject to Subsection (8) or (9), a human services program may not be licensed to serve education entitled children unless the human services program presents an educational service plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that children served by the human services program shall receive appropriate educational services satisfying the requirements of applicable law.

(3) Subject to Subsection (8) or (9), if a human services program serves any education entitled children whose custodial parents or legal guardians reside outside the state, then the program shall also provide an educational funding plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that all costs for educational services to be provided to the education entitled children,

including tuition, and school fees approved by the local school board, shall be borne by the human services program.

(4) Subject to Subsection (8) or (9), and in accordance with Subsection (2), the human services program shall obtain and provide the office with a letter:

(a) from the entity referred to in Subsection (2)(a)(ii):

(i) approving the educational service plan referred to in Subsection (2); or

(ii) (A) disapproving the educational service plan referred to in Subsection (2); and

(B) listing the specific requirements the human services program must meet before approval is granted; and

(b) from the entity referred to in Subsection (3)(a)(ii):

(i) approving the educational funding plan, referred to in Subsection (3); or

(ii) (A) disapproving the educational funding plan, referred to in Subsection (3); and

(B) listing the specific requirements the human services program must meet before approval is granted.

(5) Subject to Subsection (8), failure of a local school board or school district superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent to approval of the plan by the local school board or school district superintendent if the human services program provides to the office:

(a) proof that:

(i) the human services program submitted the proposed plan to the local school board or school district superintendent; and

(ii) more than 45 days have passed from the day on which the plan was submitted; and

(b) an affidavit, on a form produced by the office, stating:

(i) the date that the human services program submitted the proposed plan to the local school board or school district superintendent;

(ii) that more than 45 days have passed from the day on which the plan was submitted; and

(iii) that the local school board or school district superintendent described in Subsection (5)(b)(i) failed to respond to the proposed plan within 45 days from the day on which the plan was submitted.

(6) If a licensee that is licensed to serve an education entitled child fails to comply with its approved educational service plan or educational funding plan, then:

(a) the office shall give the licensee notice of intent to revoke the licensee's license; and

(b) if the licensee continues its noncompliance for more than 30 days after receipt of the notice described in Subsection (6)(a), the office shall revoke the licensee's license.

(7) If an education entitled child whose custodial parent or legal guardian resides within the state is provided with educational services by a school district other than the school district in which the custodial parent or legal guardian resides, then the funding provisions of Section [53A-2-210] 53G-6-405 apply.

(8) A human services program that is an accredited private school:

(a) for purposes of Subsection (2):

(i) is only required to submit proof to the office that the accreditation of the private school is current; and

(ii) is not required to submit an educational service plan for approval by an entity described in Subsection (2)(a)(ii);

(b) for purposes of Subsection (3):

(i) is only required to submit proof to the office that all costs for educational services provided to education entitled children will be borne by the human services program; and

(ii) is not required to submit an educational funding plan for approval by an entity described in Subsection (3)(a)(ii); and

(c) is not required to comply with Subsections (4) and (5).

(9) Except for Subsection (7), the provisions of this section do not apply to a human services program that is:

(a) a foster home; and

(b) required to be licensed by the office.

Section 80. Section 62A-4a-202.6 is amended to read:

62A-4a-202.6. Conflict child protective services investigations -- Authority of investigators.

(1) (a) The division shall contract with an independent child protective service investigator from the private sector to investigate reports of abuse or neglect of a child that occur while the child is in the custody of the division.

(b) The executive director shall designate an entity within the department, other than the division, to monitor the contract for the investigators described in Subsection (1)(a).

(c) Subject to Subsection (4), when a report is made that a child is abused or neglected while in the custody of the division:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the division, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the division, conduct a conflict investigation of the report.

(d) Subsection (1)(c)(ii) does not prevent a law enforcement officer from, without the consent of the division, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) The investigators described in Subsections (1)(c) and (d) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) The investigators described in Subsection (1), if not peace officers, shall have the same rights, duties, and authority of a child protective services investigator employed by the division to:

(a) make a thorough investigation upon receiving either an oral or written report of alleged abuse or neglect of a child, with the primary purpose of that investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of their investigation, including determination regarding whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and forward a copy of that report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections ~~[53A-11-101]~~ 53G-6-201 through ~~[53A-11-103]~~ 53G-6-206 when a report is based upon or includes an allegation of educational neglect.

(4) If there is a lapse in the contract with a private child protective service investigator and no other investigator is available under Subsection (1)(a) or (c), the department may conduct an independent investigation.

Section 81. Section 62A-4a-409 is amended to read:

**62A-4a-409. Investigation by division --
Temporary protective custody --
Preremoval interviews of children.**

(1) (a) The division shall make a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections ~~[53A-11-101]~~ 53G-6-201 through ~~[53A-11-103]~~ 53G-6-206.

(6) When the division completes its initial investigation under this part, it shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal

interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

- (A) a school teacher;
- (B) an administrator;
- (C) a guidance counselor;
- (D) a child care provider;
- (E) a family member;
- (F) a family advocate; or
- (G) clergy; and

(ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection unit was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing the case.

Section 82. Section 62A-4a-606 is amended to read:

62A-4a-606. Child-placing agency responsibility for educational services -- Payment of costs.

(1) A child-placing agency shall ensure that the requirements of Subsections [~~53A-11-101.5~~] 53G-6-202(2) and [~~53A-11-101.7~~] 53G-6-203(1) are met through the provision of appropriate educational services for all children served in the state by the agency.

(2) If the educational services are to be provided through a public school, and:

(a) the custodial parent or legal guardian resides outside the state, then the child placing agency shall pay all educational costs required under Sections [~~53A-2-205~~] 53G-6-306 and [~~53A-12-102~~] 53G-7-503; or

(b) the custodial parent or legal guardian resides within the state, then the child placing agency shall pay all educational costs required under Section [~~53A-12-102~~] 53G-7-503.

(3) Children in the custody or under the care of a Utah state agency are exempt from the payment of fees required under Subsection (2).

(4) A public school shall admit any child living within its school boundaries who is under the supervision of a child placing agency upon payment by the agency of the tuition and fees required under Subsection (2).

Section 83. Section 62A-4a-1002 is amended to read:

62A-4a-1002. Definitions.

As used in this part:

(1) (a) Except as provided in Subsection (1)(b), "severe type of child abuse or neglect" means:

(i) if committed by a person 18 years of age or older:

- (A) chronic abuse;
- (B) severe abuse;
- (C) sexual abuse;
- (D) sexual exploitation;
- (E) abandonment;
- (F) chronic neglect; or
- (G) severe neglect; or

(ii) if committed by a person under the age of 18:

(A) serious physical injury, as defined in Subsection 76-5-109(1), to another child which indicates a significant risk to other children; or

(B) sexual behavior with or upon another child which indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with

Subsection [53A-11-802] 53G-8-302(2) or Section 76-2-401;

(ii) a person's conduct that:

(A) is justified under Section 76-2-401; or

(B) constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another person from physical injury; or

(iii) a health care decision made for a child by the child's parent or guardian, unless, subject to Subsection 62A-4a-1004(2), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(2) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the division that focus on:

- (a) age;
- (b) social factors;
- (c) emotional factors;
- (d) sexual factors;
- (e) intellectual factors;
- (f) family risk factors; and
- (g) other related considerations.

Section 84. Section 62A-5a-102 is amended to read:

62A-5a-102. Definitions.

As used in this chapter:

(1) "Council" means the Coordinating Council for Persons with Disabilities.

(2) "State agencies" means:

(a) the Division of Services for People with Disabilities and the Division of Substance Abuse and Mental Health, within the Department of Human Services;

(b) the Division of Health Care Financing within the Department of Health;

(c) family health services programs established under Title 26, Chapter 10, Family Health Services, operated by the Department of Health;

(d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

(e) special education programs operated by the State Board of Education and local school districts under [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~] Title 53E, Chapter 7, Part 2, Special Education Program.

Section 85. Section 62A-5a-105 is amended to read:

62A-5a-105. Coordination of services for school-age children.

(1) Within appropriations authorized by the Legislature, the state director of special education, the director of the Utah State Office of Rehabilitation created in Section 35A-1-202, the executive director of the Department of Human Services, and the family health services director within the Department of Health, or their designees, and the affected local school district shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~] Title 53E, Chapter 7, Part 2, Special Education Program, who also require services from the Department of Human Services, the Department of Health, or the Utah State Office of Rehabilitation.

(2) Distribution of costs for services and supports described in Subsection (1) shall be determined through a process established by the State Board of Education, the Department of Human Services, and the Department of Health.

Section 86. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) As used in the section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Division" means the Division of Substance Abuse and Mental Health.

(c) "Intervention" means an effort to prevent a person from attempting suicide.

(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

- (d) suicide prevention gatekeeper training;
- (e) training to identify warning signs and to manage an at-risk individual's crisis;
- (f) evidence-based intervention training;
- (g) intervention skills training; and
- (h) postvention training.

(4) The state suicide prevention coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section ~~[53A-15-1301]~~ 53G-9-702;

(c) the Department of Health;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

(5) The state suicide prevention coordinator shall provide a written report to the Health and Human Services Interim Committee, by the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (2) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The state suicide prevention coordinator shall report to the Legislature's:

(a) Education Interim Committee, by the October 2015 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the public education suicide prevention coordinator as described in Section ~~[53A-15-1301]~~ 53G-9-702; and

(b) Health and Human Services Interim Committee, by the October 2017 meeting, statistics on the number of annual suicides in Utah, including how many suicides were committed with a gun, and if so:

(i) where the victim procured the gun and if the gun was legally possessed by the victim;

(ii) if the victim purchased the gun legally and whether a background check was performed before the victim purchased the gun;

(iii) whether the victim had a history of mental illness or was under the treatment of a mental health professional;

(iv) whether any medication or illegal drugs or alcohol were also involved in the suicide; and

(v) if the suicide incident also involved the injury or death of another individual, whether the shooter had a history of domestic violence.

(7) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18), Section 53-10-202.1, and the Suicide Prevention Education Program described in Section 53-10-202.3.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall include:

(i) attendance at a suicide prevention education course; and

(ii) display of posters and distribution of the firearm safety brochures or packets created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

(9) The state suicide prevention coordinator shall present to the Health and Human Services Interim Committee, no later than November 2017, a 10-year statewide suicide prevention plan.

(10) As funding by the Legislature allows, the state suicide prevention coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice Services.

Section 87. Section 63A-3-106 is amended to read:

63A-3-106. Per diem rates for board members.

(1) As used in this section and Section 63A-3-107:

(a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(b) "Board member" means a person appointed or designated by statute to serve on a board.

(c) "Executive branch" means an agency within the executive branch of state government.

(d) (i) "Governmental entity" has the same meaning, except as provided in Subsection (1)(d)(ii), as provided under Section 63G-2-103.

(ii) "Governmental entity" does not include an association as defined in Section ~~[53A-16-101]~~ 53G-7-1101.

(e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.

(f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(g) "Official meeting" means a meeting of a board that is called in accordance with statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.

(3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:

(a) within the executive branch, except as provided under Subsection (3)(b);

(b) within higher education, unless higher education pays the costs of the per diem;

(c) on a board that is:

(i) not included under Subsection (3)(a) or (b); and

(ii) created by a statute that adopts the per diem rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:

(i) this section; or

(ii) the rule establishing the per diem rates.

(4) (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section

36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 88. Section 63A-3-402 is amended to read:

63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website under Section ~~[53A-1-1112]~~ 53E-5-211.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63N-6-301;

(ii) the Utah Housing Corporation, created in Section 63H-8-201; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means:

(A) the construction of a school or school facility that did not previously exist in a local education agency; or

(B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.

(iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.

(iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than \$2,000,000, including:

(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or

(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.

(8) A person who negligently discloses a record that is classified as private, protected, or controlled

by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 89. Section 63A-4-204 is amended to read:

63A-4-204. School district participation in Risk Management Fund.

(1) (a) For the purpose of this section, action by a public school district shall be taken upon resolution by a majority of the members of the school district's board of education.

(b) (i) Upon approval by the state risk manager and the board of education of the school district, a public school district may participate in the Risk Management Fund and may permit a foundation established under Section ~~[53A-4-205]~~ 53E-3-403 to participate in the Risk Management Fund.

(ii) Upon approval by the state risk manager and the State Board of Education, a state public education foundation may participate in the Risk Management Fund.

(c) Subject to any cancellation or other applicable coverage provisions, either the state risk manager or the public school district may terminate participation in the fund.

(2) The state risk manager shall contract for all insurance, legal, loss adjustment, consulting, loss control, safety, and other related services necessary to support the insurance program provided to a participating public school district, except that all supporting legal services are subject to the prior approval of the state attorney general.

(3) (a) The state risk manager shall treat each participating public school district as a state agency when participating in the Risk Management Fund.

(b) Each public school district participating in the fund shall comply with the provisions of this part that affect state agencies.

(4) (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (4)(b) regarding the coverage against legal liability provided a school district employee of this state:

(i) by the Risk Management Fund;

(ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b) (i) The information described in Subsection (4)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;

(B) the basic nature of the coverage for a school district employee, including what is not covered; and

(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is

commonly available to a school district employee in this state.

(ii) The information described in Subsection (4)(a) may include:

(A) comparisons the risk manager considers beneficial to a school district employee between:

(I) the coverage described in Subsection (4)(a); and

(II) other coverage the risk manager knows is commonly available to a school district employee in this state; and

(B) any other information the risk manager considers appropriate.

(c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (4) to each school district that participates in the Risk Management Fund.

(d) A school district that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (4)(c) to each school district employee within the school district no later than the first day of each school year.

(e) If a school district hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the school district shall provide the information described in Subsection (4)(c) to the employee.

Section 90. Section 63A-4-204.5 is amended to read:

63A-4-204.5. Charter school participation in Risk Management Fund.

(1) A charter school established under the authority of [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, may participate in the Risk Management Fund upon the approval of the state risk manager and the governing body of the charter school.

(2) (a) For purposes of administration, the state risk manager shall treat each charter school participating in the fund as a state agency.

(b) Each charter school participating in the fund shall comply with the provisions of this part that affect state agencies.

(3) (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (3)(b) regarding the coverage against legal liability provided a charter school employee of this state:

- (i) by the Risk Management Fund;
- (ii) under Title 63G, Chapter 7, Utah Governmental Immunity Act of Utah; and
- (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b) (i) The information described in Subsection (3)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;

(B) the basic nature of the coverage for a charter school employee, including what is not covered; and

(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a charter school employee in this state.

(ii) The information described in Subsection (3)(a) may include:

(A) comparisons the risk manager considers beneficial to a charter school employee between:

(I) the coverage described in Subsection (3)(a); and

(II) other coverage the risk manager knows is commonly available to a charter school employee in this state; and

(B) any other information the risk manager considers appropriate.

(c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (3) to each charter school that participates in the Risk Management Fund.

(d) A charter school that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (3)(c) to each charter school employee within the charter school no later than the first day of each school year.

(e) If a charter school hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the charter school shall provide the information described in Subsection (3)(c) to the employee.

Section 91. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a

record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustible units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and

(iv) an association as defined in Section ~~53A-1-160~~ 53G-7-1101.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses,

and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section [53A-1-1601] 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; or

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 92. Section 63G-2-301 is amended to read:

63G-2-301. Public records.

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by

Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

- (i) titles or encumbrances to real property;
- (ii) restrictions on the use of real property;
- (iii) the capacity of persons to take or convey title to real property; or

(iv) tax status for real and personal property;

(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;

(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;

(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;

(k) summary data;

(l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsection 63G-2-302(1)(j) or (k);

(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;

(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section ~~53A-1a-108.1~~ 53G-7-1203;

(o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and

(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under

Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

(a) administrative staff manuals, instructions to staff, and statements of policy;

(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

(d) contracts entered into by a governmental entity;

(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);

(g) chronological logs and initial contact reports;

(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(i) empirical data contained in drafts if:

(i) the empirical data is not reasonably available to the requester elsewhere in similar form; and

(ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

(j) drafts that are circulated to anyone other than:

(i) a governmental entity;

(ii) a political subdivision;

(iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;

(iv) a government-managed corporation; or

(v) a contractor or private provider;

(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

(l) original data in a computer program if the governmental entity chooses not to disclose the program;

(m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

(n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;

(o) records that would disclose information relating to formal charges or disciplinary actions

against a past or present governmental entity employee if:

(i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and

(ii) the charges on which the disciplinary action was based were sustained;

(p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;

(q) final audit reports;

(r) occupational and professional licenses;

(s) business licenses; and

(t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline.

(4) The list of public records in this section is not exhaustive and should not be used to limit access to records.

Section 93. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(n) information obtained through a criminal background check under Title 11, Chapter 40,

Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission;

(u) a record described in Subsection [53A-11a-203] 53G-9-604(3) that verifies that a parent was notified of an incident or threat; and

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the

possession of a nongovernmental medical care provider.

Section 94. Section 63G-7-102 is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) “Arises out of or in connection with, or results from,” when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) “Claim” means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee’s personal capacity.

(3) (a) “Employee” includes:

(i) a governmental entity’s officers, employees, servants, trustees, or commissioners;

(ii) members of a governing body;

(iii) members of a government entity board;

(iv) members of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children’s Justice Center created in accordance with Section 67-5b-102;

(vi) student teachers holding a letter of authorization in accordance with Sections ~~[53A-6-103]~~ 53E-6-102 and ~~[53A-6-104]~~ 53E-6-201;

(vii) educational aides;

(viii) students engaged in providing services to members of the public in the course of an approved medical, nursing, or other professional health care clinical training program;

(ix) volunteers as defined by Subsection 67-20-2(3); and

(x) tutors.

(b) “Employee” includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) “Employee” does not include an independent contractor.

(4) “Governmental entity” means the state and its political subdivisions as both are defined in this section.

(5) (a) “Governmental function” means each activity, undertaking, or operation of a governmental entity.

(b) “Governmental function” includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) “Governmental function” includes a governmental entity’s failure to act.

(6) “Injury” means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person’s agent.

(7) “Personal injury” means an injury of any kind other than property damage.

(8) “Political subdivision” means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) “Property damage” means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) “State” means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children’s Justice Center, or other instrumentality of the state.

(11) “Willful misconduct” means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor’s conduct will probably result in injury.

Section 95. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) ~~[Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program] Section 53F-2-514~~, is repealed July 1, 2020.

(4) Section ~~[53A-13-106.5]~~ 53F-6-201 is repealed July 1, 2019.

(5) Section ~~[53A-15-106]~~ 53F-5-203 is repealed July 1, 2019.

(6) Sections ~~[53A-15-206]~~ 53E-3-515 and ~~[53A-15-207]~~ 53F-9-501 are repealed January 1, 2023.

(7) ~~[Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan~~

~~Pilot Program] Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.~~

(8) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 96. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

~~[(1) Section 53A-1-403.5 is repealed July 1, 2017.]~~

~~[(2) Section 53A-1-411 is repealed July 1, 2017.]~~

~~[(3) (1) Section [53A-1-415] 53F-4-204 is repealed July 1, 2019.~~

~~[(4) (2) Section [53A-1-709] 53F-6-202 is repealed July 1, 2020.~~

~~[(5) (3) Subsection [53A-1-1207] 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.~~

~~[(6) (4) Section [53A-1-1208] 53E-5-307 is repealed July 1, 2020.~~

~~[(7) Subsection 53A-1a-513(4) is repealed July 1, 2017.]~~

~~[(8) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.]~~

~~[(9) Section 53A-24-601 is repealed January 1, 2018.]~~

~~[(10) (5) Section 53A-24-602 is repealed July 1, 2018.~~

~~[(11) (6) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.~~

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(12) Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]~~

~~[(13) (7) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.~~

~~[(14) (8) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.~~

~~[(15) (9) (a) The following sections are repealed on July 1, 2023:~~

~~(i) Section 53B-8-202;~~

~~(ii) Section 53B-8-203;~~

~~(iii) Section 53B-8-204; and~~

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(16) (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.~~

Section 97. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

(i) manufacture a good or service;

(ii) process a good or service;

(iii) sell a good or service;

(iv) offer for sale a good or service;

(v) rent a good or service;

(vi) lease a good or service;

(vii) deliver a good or service;

(viii) distribute a good or service; or

(ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

(i) the state; or

(ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

(i) the Legislature;

(ii) an entity or agency of the Legislature;

(iii) the state auditor;

(iv) the state treasurer;

(v) the Office of the Attorney General;

(vi) the Utah Dairy Commission created in Section 4-22-103;

(vii) the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(viii) the Utah State Railroad Museum Authority created in Section 63H-5-102;

(ix) the Utah Housing Corporation created in Section 63H-8-201;

(x) the Utah State Fair Corporation created in Section 63H-6-103;

(xi) the Utah State Retirement Office created in Section 49-11-201;

(xii) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under ~~[Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act]~~ Title 53G, Chapter 5, Charter Schools;

(xiii) the Utah Schools for the Deaf and the Blind created in ~~[Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind]~~ Title 53E, Chapter 8, Utah Schools for the Deaf and the Blind;

(xiv) an institution of higher education as defined in Section 53B-3-102;

(xv) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(xvi) the Utah Communications Authority created in Section 63H-7a-201; or

(xvii) the Utah Capital Investment Corporation created in Section 63N-6-301.

(3) "Agency head" means the chief administrative officer of an agency.

(4) "Board" means the Free Market Protection and Privatization Board created in Section 63I-4a-202.

(5) "Commercial activity" means to engage in an activity that can be obtained in whole or in part from a private enterprise.

(6) "Local entity" means:

(a) a political subdivision of the state, including a:

(i) county;

(ii) city;

(iii) town;

(iv) local school district;

(v) local district; or

(vi) special service district;

(b) an agency of an entity described in this Subsection (6), including a department, office, division, authority, commission, or board; or

(c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

(7) "Private enterprise" means a person that engages in an activity for profit.

(8) "Privatize" means that an activity engaged in by an agency is transferred so that a private enterprise engages in the activity, including a transfer by:

(a) contract;

(b) transfer of property; or

(c) another arrangement.

(9) "Special district" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102; or

(c) a conservation district, as defined in Section 17D-3-102.

Section 98. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) As used in this section, "work program" means a budget that contains revenues and expenditures for specific purposes or functions within an item of appropriation.

(2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(3) (a) Each appropriation item is to be expended subject to any schedule of programs and any restriction attached to the appropriation item, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in Subsection (3)(c)(ii), an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, or division to any other department, agency, institution, or division.

(ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert money to another department, agency, institution, or division only for the purposes of law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

(d) The money appropriated subject to a schedule or programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within an item of appropriation, the following procedure shall be followed:

(i) The department, agency, or institution seeking to make the transfer shall prepare:

(A) a new work program for the fiscal year involved that consists of the currently approved work program and the transfer sought to be made; and

(B) a written justification for the new work program that sets forth the purpose and necessity for the transfer.

(ii) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.

(f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from one item of appropriation to any other item of appropriation.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items of appropriation in accordance with Section ~~[53A-17a-105]~~ 53F-2-205.

(g) (i) The procedures for transferring money between programs within an item of appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in ~~[Title 53A, Chapter 21, Public Education Capital Outlay Act]~~ Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (3)(g)(i) only as provided by Section ~~[53A-17a-105]~~ 53F-2-205.

Section 99. Section 63J-1-220 is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Management and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the minimum school program, as defined in Subsection ~~[53A-17a-103]~~ 53F-2-102(7)(e).

Section 100. Section 63J-1-602.3 is amended to read:

63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.

(1) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(2) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(3) Appropriations made to the Division of Emergency Management from the State Disaster

Recovery Restricted Account, as provided in Section 53-2a-603.

(4) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(5) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(7) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(8) The Canine Body Armor Restricted Account created in Section 53-16-201.

(9) The School Readiness Restricted Account created in Section ~~[53A-1b-104]~~ 53F-9-402.

(10) Appropriations to the State Board of Education, as provided in Section ~~[53A-17a-105]~~ 53F-2-205.

(11) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(12) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(13) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(14) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(15) Subject to Subsection 54-5-1.5(4)(d), appropriations from the Public Utility Regulatory Restricted Account created in Section 54-5-1.5.

(16) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(17) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(18) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

(19) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 101. Section 63J-3-102 is amended to read:

63J-3-102. Purpose of chapter -- Limitations on state mandated property tax, state appropriations, and state debt.

(1) (a) It is the purpose of this chapter to:

(i) place a limitation on the state mandated property tax rate under ~~[Title 53A, Chapter 17a, Minimum School Program Act]~~ Title 53F, Chapter 2, State Funding -- Minimum School Program;

(ii) place limitations on state government appropriations based upon the combined changes in population and inflation; and

(iii) place a limitation on the state's outstanding general obligation debt.

(b) The limitations imposed by this chapter are in addition to limitations on tax levies, rates, and revenues otherwise provided for by law.

(2) (a) This chapter may not be construed as requiring the state to collect the full amount of tax revenues permitted to be appropriated by this chapter.

(b) This chapter's purpose is to provide a ceiling, not a floor, limitation on the appropriations of state government.

(3) The recommendations and budget analysis prepared by the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst, as required by Title 36, Chapter 12, Legislative Organization, shall be in strict compliance with the limitations imposed under this chapter.

Section 102. Section 63J-3-401 is amended to read:

63J-3-401. State mandated property tax limitation -- Vote requirement needed to exceed limitation.

The state mandated property tax rate in ~~[Title 53A, Chapter 17a, Minimum School Program Act]~~ Title 53F, Chapter 2, State Funding -- Minimum School Program, as of July 1, 1989, may not be increased without more than a two-thirds vote of both houses of the Legislature.

Section 103. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in Section 4-22-103;

(k) a grant to the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

(m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

(n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

(o) a grant to the Utah State Retirement Office created in Section 49-11-201;

(p) a grant to the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

(r) a grant to the Medical Education Program created in Section 53B-24-202;

(s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

(t) a grant to the Utah Charter School Finance Authority created in Section ~~[53A-20b-103]~~ 53G-5-602;

(u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or

(v) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 104. Section 63N-3-110 is amended to read:

63N-3-110. Selection of educational technology provider to implement whole-school one-to-one mobile device technology deployment plan for schools.

The board shall select an educational technology provider to develop and implement a whole-school one-to-one mobile device technology deployment plan for schools in accordance with the requirements of this part and Section ~~[53A-1-709]~~ 53F-6-202.

Section 105. Section 63N-12-202 is amended to read:

63N-12-202. Definitions.

As used in this part:

(1) "Board" means the STEM Action Center Board created in Section 63N-12-203.

(2) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.

(3) "Director" means the director appointed by the board to oversee the administration of the STEM Action Center.

(4) "Educator" means the same as that term is defined in Section ~~[53A-6-103]~~ 53E-6-102.

(5) "Foundation" means a foundation established as described in Subsections 63N-12-204(3) and (4).

(6) "Fund" means the STEM Action Center Foundation Fund created in Section 63N-12-204.5.

(7) "Grant program" means the Computing Partnerships Grants program created in this part.

(8) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

(9) "Institution of higher education" means an institution listed in Section 53B-1-102.

(10) "K-16" means kindergarten through grade 12 and post-secondary education programs.

(11) "Office" means the Governor's Office of Economic Development.

(12) "Provider" means a provider selected on behalf of the board by the staff of the board and the staff of the State Board of Education:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section 63N-12-206.

(13) "Review committee" means the committee established under Section 63N-12-214.

(14) "Stacked credentials" means credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) are part of a career pathway system;

(c) provide a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitate multiple exit and entry points; and

(e) recognize sub-goals or momentum points.

(15) "STEM" means science, technology, engineering, and mathematics.

(16) "STEM Action Center" means the center described in Section 63N-12-205.

(17) "Talent Ready Utah" means a partnership between the Governor's Office of Economic Development, the Governor's Education Advisor, the Department of Workforce Services, the Utah State Board of Education, the Utah System of Higher Education, representatives of post-secondary technical education, industry partners, and the Utah STEM Action Center.

Section 106. Section 63N-12-213 is amended to read:

63N-12-213. Computer science initiative for public schools.

(1) As used in this section:

(a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.

(b) "Computer coding" means the process of writing script for a computer program or mobile device.

(c) "Educator" means the same as that term is defined in Section ~~[53A-6-103]~~ 53E-6-102.

(d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.

(e) (i) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.

(ii) "Institution of higher education" includes a technical college described in Section 53B-2a-105.

(f) "Employer" means a private employer, public employer, industry association, union, or the military.

(g) "License" means the same as that term is defined in Section ~~[53A-6-103]~~ 53E-6-102.

(2) Subject to legislative appropriations, on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate to develop and implement a computer science initiative for public schools by:

(a) creating an online repository that:

(i) is available for school districts and charter schools to use as a resource; and

(ii) includes high quality computer science instructional resources that are designed to teach students in all grade levels:

(A) computational thinking skills; and

(B) computer coding skills;

(b) providing for professional development on teaching computer science by:

(i) including resources for educators related to teaching computational thinking and computer coding in the STEM education high quality professional development application described in Section 63N-12-210; and

(ii) providing statewide or regional professional development institutes; and

(c) awarding grants to a school district or charter school, on a competitive basis, that may be used to provide incentives for an educator to earn a computer science endorsement.

(3) A school district or charter school may enter into an agreement with one or more of the following entities to jointly apply for a grant under Subsection (2)(c):

(a) a school district;

(b) a charter school;

(c) an employer;

(d) an institution of higher education; or

(e) a non-profit organization.

(4) To apply for a grant described in Subsection (2)(c), a school district or charter school shall submit a plan to the State Board of Education for the use of the grant, including a statement of purpose that describes the methods the school district or charter school proposes to use to incentivize an educator to earn a computer science endorsement.

(5) The board and the State Board of Education shall encourage schools to independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.

(6) The board shall include information on the status of the computer science initiative in the annual report described in Section 63N-12-208.

Section 107. Section 64-13-42 is amended to read:

64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender education and training programs.

(1) (a) There is created within the General Fund a restricted account known as the Prison Telephone Surcharge Account.

(b) The Prison Telephone Surcharge Account consists of:

(i) beginning July 1, 2006, revenue generated by the state from pay telephone services located at any correctional facility as defined in Section 64-13-1;

(ii) interest on account money;

(iii) (A) money paid by inmates participating in postsecondary education provided by the department; and

(B) money repaid by former inmates who have a written agreement with the department to pay for a specified portion of the tuition costs under the department's deferred tuition payment program;

(iv) money collected by the Office of State Debt Collection for debt described in Subsection (1)(b)(iii); and

(v) money appropriated by the Legislature.

(2) Upon appropriation by the Legislature, money from the Prison Telephone Surcharge Account shall be used by the department for education and training programs for offenders and inmates as defined in Section 64-13-1.

~~[(3) Funds appropriated from the Prison Telephone Surcharge Account may only be used by the department for purposes under Subsections 53A-1-403.5(3)(a)(i) and (iv).]~~

Section 108. Section 67-1a-11 is amended to read:

67-1a-11. Commission on Civic and Character Education -- Duties and responsibilities.

The commission shall:

(1) promote supportive coalitions and collaborative efforts to develop public awareness, and training regarding the provisions of Section ~~[53A-13-109]~~ 53G-10-204 in recognition that the cultivation of a continuing understanding and appreciation of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state; and

(2) provide leadership to the state's continuous focus on civic and character education in the public schools and institutions of higher education and make recommendations to local school boards and school administrators.

Section 109. Section 67-8-3 is amended to read:

67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.

(1) (a) The executive director of the Department of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, ~~[53A-1-302]~~ 53E-3-302, 53B-1-105, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

(3) (a) After consultation with the attorney general, the executive director of the Department of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.

(b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.

(c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Section 110. Section 67-16-3 is amended to read:

67-16-3. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) any department, division, agency, commission, board, council, committee, authority, or any other institution of the state or any of its political subdivisions; or

(b) an association as defined in Section ~~[53A-16-101]~~ 53G-7-1101.

(2) "Agency head" means the chief executive or administrative officer of any agency.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(4) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(5) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(6) "Controlled, private, or protected information" means information classified as

controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

(7) "Governmental action" means any action on the part of the state, a political subdivision, or an agency, including:

(a) any decision, determination, finding, ruling, or order; and

(b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.

(8) "Improper disclosure" means disclosure of controlled, private, or protected information to any person who does not have the right to receive the information.

(9) "Legislative employee" means any officer or employee of the Legislature, or any committee of the Legislature, who is appointed or employed to serve, either with or without compensation, for an aggregate of less than 800 hours during any period of 365 days. "Legislative employee" does not include legislators.

(10) "Legislator" means a member or member-elect of either house of the Legislature of the state of Utah.

(11) "Political subdivision" means a district, school district, or any other political subdivision of the state that is not an agency, but does not include a municipality or a county.

(12) (a) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by:

(i) the state;

(ii) a political subdivision of the state; or

(iii) an association as defined in Section [53A-1-1601] 53G-7-1101.

(b) "Public employee" does not include legislators or legislative employees.

(13) (a) "Public officer" means an elected or appointed officer:

(i) (A) of the state;

(B) of a political subdivision of the state; or

(C) an association as defined in Section [53A-1-1601] 53G-7-1101; and

(ii) who occupies a policymaking post.

(b) "Public officer" does not include legislators or legislative employees.

(14) "State" means the state of Utah.

(15) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding capital

stock of a corporation or a 10% interest in any other business entity.

Section 111. Section 67-16-4 is amended to read:

67-16-4. Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment that would impair independence of judgment or ethical performance -- Exception.

(1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to:

(a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;

(b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;

(c) use or attempt to use his official position to:

(i) further substantially the officer's or employee's personal economic interest; or

(ii) secure special privileges or exemptions for himself or others;

(d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or

(e) accept other employment that he might expect would interfere with the ethical performance of his public duties.

(2) (a) Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.

(b) The conduct referred to in Subsection (2)(a) is subject to Section [53A-1-402.5] 53E-3-512.

(3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Section 112. Section 67-19-15 is amended to read:

67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Utah Science Technology and Research Initiative (USTAR);

(iii) the Public Lands Policy Coordinating Council;

(iv) the Office of the State Auditor; and

(v) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section ~~53A-25b-102~~ 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and

(q) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the executive director; or

(ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veteran's Preference.

(3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.

(c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Section 113. Section 75-5-201 is amended to read:

75-5-201. Status of guardian of minor -- General.

(1) (a) A person becomes a guardian of a minor by acceptance of a testamentary appointment, through appointment by a local school board under Section ~~[53A-2-202]~~ 53G-6-303, or upon appointment by the court.

(b) The guardianship status continues until terminated, without regard to the location from time to time of the guardian and minor ward.

(2) (a) A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.

(b) The procedure for obtaining approval of a guardianship under Subsection (2)(a) shall be identical to the procedure required under this part for obtaining a court appointment of a guardian.

Section 114. Section 76-5-415 is amended to read:

76-5-415. Educator's license subject to action for violation of this part.

Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, by an educator as defined in Section ~~[53A-6-103]~~ 53E-6-102, is grounds under Section ~~[53A-6-501]~~ 53E-6-604 for disciplinary action against the educator, including revocation of the educator's license.

Section 115. Section 76-10-105 is amended to read:

76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.

(1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C misdemeanor and subject to:

(a) a minimum fine or penalty of \$60; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation is committed on school property. If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

(a) a fine or penalty, in accordance with Section 78A-6-117; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(3) A compliance officer appointed by a board of education under Section ~~[53A-3-402]~~ 53G-4-402 may not issue a citation for a violation of this section committed on school property. A cited violation committed on school property shall be addressed in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

Section 116. Section 77-37-4 is amended to read:

77-37-4. Additional rights -- Children.

In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.

(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.

(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

(4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.

(5) (a) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.

(b) A court order described in Subsection (5)(a):

(i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and

(ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.

(c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order.

(d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.

(6) (a) The following offices and their designated employees may distribute and receive a recording or transcript to and from one another without a court order:

- (i) the Division of Child and Family Services;
- (ii) administrative law judges employed by the Department of Human Services;
- (iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section 62A-4a-202.6;
- (iv) an office of the city attorney, county attorney, district attorney, or attorney general;
- (v) a law enforcement agency;
- (vi) a Children's Justice Center established under Section 67-5b-102; or
- (vii) the attorney for the child who is the subject of the interview.

(b) In a criminal case or in a juvenile court in which the state is a party:

(i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;

(ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;

(iii) the attorney for the defendant or respondent may do one or both of the following:

(A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or

(B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and

(iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.

(c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.

(d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.

(e) (i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:

(A) the suspect is a parent or guardian of the child victim;

(B) the suspect resides in the home with the child victim; or

(C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.

(ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).

(iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e).

(f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.

(g) A Children's Justice Center:

(i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and

(ii) may display, but may not distribute, a recording or transcript to an authorized trainee.

(h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.

(i) (i) In an investigation under Section ~~[53A-6-306]~~ 53E-6-506, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under State Board of Education authorization, upon the investigator's written request.

(ii) If the respondent in a case investigated under Section ~~[53A-6-306]~~ 53E-6-506 requests a hearing authorized under that section, the investigator operating under State Board of Education authorization may display, release, or distribute the recording or transcript to the prosecutor operating under State Board of Education authorization or to an expert retained by an investigator.

(iii) Upon request for a hearing under Section ~~[53A-6-306]~~ 53E-6-506, a prosecutor operating under State Board of Education authorization may display the recording or transcript to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.

(iv) The parties to a hearing authorized under Section ~~[53A-6-306]~~ 53E-6-506 may display and

enter into evidence a recording or transcript in the course of a prosecution.

(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.

Section 117. Section 78A-6-103 (Effective 07/01/18) is amended to read:

78A-6-103 (Effective 07/01/18). Jurisdiction of juvenile court -- Original -- Exclusive.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a child who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding offenses:

(i) in Section ~~[53A-11-911]~~ 53G-8-211 until such time that the child is referred to the courts under Section ~~[53A-11-911]~~ 53G-8-211; and

(ii) in Subsection 78A-7-106(2);

(b) a child who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78A-6-105;

(c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:

(i) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(iii) the best interests of the child will be better served in the district court;

(d) appointment of a guardian of the person or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(e) the emancipation of a minor in accordance with Part 8, Emancipation;

(f) the termination of the legal parent-child relationship in accordance with Part 5, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(g) the treatment or commitment of a minor who has an intellectual disability;

(h) the judicial consent to the marriage of a child under age 16 upon a determination of voluntariness

or where otherwise required by law, employment, or enlistment of a child when consent is required by law;

(i) any parent or parents of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent or parents of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has supervision of that parent's or parents' child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(k) subject to Subsection (8), the treatment or commitment of a child with a mental illness;

(l) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

(n) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; and

(o) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child.

(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over the following offenses committed by a child:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Section 73-18-12, reckless operation; and

(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(b) A juvenile court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(3) The juvenile court has jurisdiction over an ungovernable or runaway child who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that child when, despite earnest and persistent efforts by the division or agency, the child has demonstrated that the child:

(a) is beyond the control of the child's parent, guardian, or lawful custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(b) has run away from home.

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78A-6-702.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 78A-6-323.

(7) The juvenile court has jurisdiction of matters transferred to it by another trial court pursuant to Subsection 78A-7-106(5) and subject to Section [53A-11-911] 53G-8-211.

(8) The court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.

Section 118. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) “Abused child” means a child who has been subjected to abuse.

(3) “Adjudication” means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.

(4) “Adult” means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.

(5) “Board” means the Board of Juvenile Court Judges.

(6) “Child” means a person under 18 years of age.

(7) “Child placement agency” means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) “Clandestine laboratory operation” means the same as that term is defined in Section 58-37d-3.

(9) “Commit” means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) “Court” means the juvenile court.

(11) “Criminogenic risk factors” means evidence-based factors that are associated with a minor’s likelihood of reoffending.

(12) “Delinquent act” means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) “Dependent child” includes a child who is homeless or without proper care through no fault of the child’s parent, guardian, or custodian.

(14) “Deprivation of custody” means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(15) “Detention” means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(16) “Detention risk assessment tool” means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses

a minor’s risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(17) “Division” means the Division of Child and Family Services.

(18) “Evidence-based” means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(19) “Formal probation” means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(20) “Formal referral” means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court’s jurisdiction and that a case must be reviewed.

(21) “Group rehabilitation therapy” means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(22) “Guardianship of the person” includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another person, agency, or institution.

(23) “Habitual truant” means the same as that term is defined in Section ~~[53A-11-101]~~ 53G-6-201.

(24) “Harm” means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child’s growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(25) (a) “Incest” means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator’s ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (25)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(26) “Intake probation” means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(27) “Intellectual disability” means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person’s effectiveness in meeting the standards expected for the person’s age by the person’s cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(28) “Legal custody” means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(29) “Material loss” means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss;

(c) lost wages; or

(d) medical expenses.

(30) “Mental disorder” means a serious emotional and mental disturbance that severely limits a minor’s development and welfare over a significant period of time.

(31) “Minor” means:

(a) a child; or

(b) a person who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

(32) “Mobile crisis outreach team” means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(33) “Molestation” means that a person, with the intent to arouse or gratify the sexual desire of any person:

(a) touches the anus or any part of the genitals of a child;

(b) takes indecent liberties with a child; or

(c) causes a child to take indecent liberties with the perpetrator or another.

(34) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

(35) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child’s health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused; or

(v) abandonment of a child through an unregulated custody transfer.

(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii), means that, after receiving a notice of compulsory education violation under Section [53A-11-101.5] 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by the child’s parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(36) “Neglected child” means a child who has been subjected to neglect.

(37) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

(38) “Not competent to proceed” means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(39) “Physical abuse” means abuse that results in physical injury or damage to a child.

(40) “Probation” means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor’s home under prescribed conditions.

(41) “Protective supervision” means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor’s home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(42) “Related condition” means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(43) (a) “Residual parental rights and duties” means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child’s religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(44) “Secure facility” means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

(45) “Severe abuse” means abuse that causes or threatens to cause serious harm to a child.

(46) “Severe neglect” means neglect that causes or threatens to cause serious harm to a child.

(47) “Sexual abuse” means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (25);

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children; or

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7.

(48) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(49) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(50) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(51) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(52) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(53) "Supported" means the same as that term is defined in Section 62A-4a-101.

(54) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(55) "Therapist" means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(56) "Unregulated custody transfer" means the placement of a child:

(a) with a person who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the person taking custody of the child.

(57) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(58) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(59) "Without merit" means the same as that term is defined in Section 62A-4a-101.

Section 119. Section 78A-6-112 (Superseded 07/01/18) is amended to read:

78A-6-112 (Superseded 07/01/18). Minor taken into custody by peace officer, private citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds for peace officer to take adult into custody.

(1) A minor may be taken into custody by a peace officer without order of the court if:

(a) in the presence of the officer the minor has violated a state law, federal law, local law, or municipal ordinance;

(b) there are reasonable grounds to believe the minor has committed an act which if committed by an adult would be a felony;

(c) the minor:

(i) (A) is seriously endangered in the minor's surroundings; or

(B) seriously endangers others; and

(ii) immediate removal appears to be necessary for the minor's protection or the protection of others;

(d) there are reasonable grounds to believe the minor has run away or escaped from the minor's parents, guardian, or custodian; or

(e) there is reason to believe that the minor is:

(i) subject to the state's compulsory education law; and

(ii) absent from school without legitimate or valid excuse, subject to Section ~~[53A-11-105]~~ 53G-6-208.

(2) (a) A private citizen or a probation officer may take a minor into custody if under the circumstances he could make a citizen's arrest if the minor was an adult.

(b) A probation officer may also take a minor into custody under Subsection (1) or if the minor has violated the conditions of probation, if the minor is under the continuing jurisdiction of the juvenile court or in emergency situations in which a peace officer is not immediately available.

(3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall without unnecessary delay notify the parents, guardian, or custodian.

(ii) The minor shall then be released to the care of the minor's parent or other responsible adult, unless the minor's immediate welfare or the protection of the community requires the minor's detention.

(b) If the minor is taken into custody or detention for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent taking the minor into custody shall, as soon as practicable or as established under Subsection ~~[53A-11-1001]~~

53G-8-402(2), notify the school superintendent of the district in which the minor resides or attends school for the purposes of the minor's supervision and student safety.

(i) The notice shall disclose only:

(A) the name of the minor;

(B) the offense for which the minor was taken into custody or detention; and

(C) if available, the name of the victim, if the victim:

(I) resides in the same school district as the minor; or

(II) attends the same school as the minor.

(ii) The notice shall be classified as a protected record under Section 63G-2-305.

(iii) All other records disclosures are governed by Title 63G, Chapter 2, Government Records Access and Management Act and the Federal Family Educational Rights and Privacy Act.

(c) Employees of a governmental agency are immune from any criminal liability for providing or failing to provide the information required by this section unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(d) Before the minor is released, the parent or other person to whom the minor is released shall be required to sign a written promise on forms supplied by the court to bring the minor to the court at a time set or to be set by the court.

(4) (a) A child may not be held in temporary custody by law enforcement any longer than is reasonably necessary to obtain the child's name, age, residence, and other necessary information and to contact the child's parents, guardian, or custodian.

(b) If the minor is not released under Subsection (3), the minor shall be taken to a place of detention or shelter without unnecessary delay.

(5) (a) The person who takes a minor to a detention or shelter facility shall promptly file with the detention or shelter facility a written report on a form provided by the division stating the details of the presently alleged offense, the facts which bring the minor within the jurisdiction of the juvenile court, and the reason the minor was not released by law enforcement.

(b) (i) The designated youth corrections facility staff person shall immediately review the form and determine, based on the guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202, whether to admit the minor to secure detention, admit the minor to home detention, place the minor in a placement other than detention, or return the minor home upon written promise to bring the minor to the court at a time set, or without restriction.

(ii) If the designated youth corrections facility staff person determines to admit the minor to home detention, that staff person shall notify the juvenile court of that determination. The court shall order that notice be provided to the designated persons in the local law enforcement agency and the school or transferee school, if applicable, which the minor attends of the home detention. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency and the school which the minor attends who discloses the notification of home detention is not:

(A) civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(c) A minor may not be admitted to detention unless the minor is detainable based on the guidelines or the minor has been brought to detention pursuant to a judicial order or division warrant pursuant to Section 62A-7-504.

(d) If a minor taken to detention does not qualify for admission under the guidelines established by the division under Section 62A-7-104, detention staff shall arrange appropriate placement.

(e) If a minor is taken into custody and admitted to a secure detention or shelter facility, facility staff shall:

(i) immediately notify the minor's parents, guardian, or custodian; and

(ii) promptly notify the court of the placement.

(f) If the minor is admitted to a secure detention or shelter facility outside the county of the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3) that detention shall continue, the judge or commissioner shall direct the sheriff of the county of the minor's residence to transport the minor to a detention or shelter facility as provided in this section.

(6) A person may be taken into custody by a peace officer without a court order if the person is in apparent violation of a protective order or if there is reason to believe that a child is being abused by the person and any of the situations outlined in Section 77-7-2 exist.

Section 120. Section 78A-6-112 (Effective 07/01/18) is amended to read:

78A-6-112 (Effective 07/01/18). Minor taken into custody by peace officer, private citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds for peace officer to take adult into custody.

(1) A minor may be taken into custody by a peace officer without order of the court if:

(a) in the presence of the officer the minor has violated a state law, federal law, local law, or municipal ordinance;

(b) there are reasonable grounds to believe the minor has committed an act which if committed by an adult would be a felony;

(c) the minor:

(i) (A) is seriously endangered in the minor's surroundings; or

(B) seriously endangers others; and

(ii) immediate removal appears to be necessary for the minor's protection or the protection of others;

(d) there are reasonable grounds to believe the minor has run away or escaped from the minor's parents, guardian, or custodian; or

(e) there is reason to believe that the minor is:

(i) subject to the state's compulsory education law; and

(ii) absent from school without legitimate or valid excuse, subject to Section ~~[53A-11-105]~~ 53G-6-208.

(2) (a) A private citizen or a probation officer may take a minor into custody if under the circumstances the private citizen or probation officer could make a citizen's arrest if the minor was an adult.

(b) A probation officer may also take a minor into custody under Subsection (1) or if the minor has violated the conditions of probation, if the minor is under the continuing jurisdiction of the juvenile court or in emergency situations in which a peace officer is not immediately available.

(3) (a) (i) If an officer or other person takes a minor into temporary custody under Subsection (1) or (2), the officer or person shall without unnecessary delay notify the parents, guardian, or custodian.

(ii) The minor shall then be released to the care of the minor's parent or other responsible adult, unless the minor's immediate welfare or the protection of the community requires the minor's detention.

(b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention under Subsection (4) for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent taking the minor into custody shall, as soon as practicable or as established under Subsection ~~[53A-11-1001]~~ 53G-8-402(2), notify the school superintendent of the district in which the minor resides or attends school for the purposes of the minor's supervision and student safety.

(i) The notice shall disclose only:

(A) the name of the minor;

(B) the offense for which the minor was taken into custody or detention; and

(C) if available, the name of the victim, if the victim:

(I) resides in the same school district as the minor; or

(II) attends the same school as the minor.

(ii) The notice shall be classified as a protected record under Section 63G-2-305.

(iii) All other records disclosures are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the federal Family Educational Rights and Privacy Act.

(c) Employees of a governmental agency are immune from any criminal liability for providing or failing to provide the information required by this section unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(d) Before the minor is released, the parent or other person to whom the minor is released shall be required to sign a written promise on forms supplied by the court to bring the minor to the court at a time set or to be set by the court.

(4) (a) A child may not be held in temporary custody by law enforcement any longer than is reasonably necessary to obtain the child's name, age, residence, and other necessary information and to contact the child's parents, guardian, or custodian.

(b) If the minor is not released under Subsection (3), the minor shall be taken to a place of detention or shelter without unnecessary delay.

(5) (a) The person who takes a minor to a detention or shelter facility shall promptly file with the detention or shelter facility a written report on a form provided by the division stating:

(i) the details of the presently alleged offense;

(ii) the facts that bring the minor within the jurisdiction of the juvenile court;

(iii) the reason the minor was not released by law enforcement; and

(iv) the eligibility of the minor under the division guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor is under consideration for detention.

(b) (i) The designated facility staff person shall immediately review the form and determine, based on the guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment, and the criteria for detention eligibility under Section 78A-6-113, whether to:

(A) admit the minor to secure detention;

(B) admit the minor to home detention;

(C) place the minor in another alternative to detention; or

(D) return the minor home upon written promise to bring the minor to the court at a time set, or without restriction.

(ii) If the designated facility staff person determines to admit the minor to home detention, that staff person shall notify the juvenile court of that determination. The court shall order that notice be provided to the designated persons in the local law enforcement agency and the school or transferee school, if applicable, which the minor attends of the home detention. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iii) Any employee of the local law enforcement agency and the school which the minor attends who discloses the notification of home detention is not:

(A) civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.

(iv) The person who takes a minor to a detention facility or the designated facility staff person may release a minor to a less restrictive alternative even if the minor is eligible for secure detention under this Subsection (5).

(c) A minor may not be admitted to detention unless the minor is detainable based on the guidelines or the minor has been brought to detention pursuant to a judicial order or division warrant pursuant to Section 62A-7-504.

(d) If a minor taken to detention does not qualify for admission under the guidelines established by the division under Section 62A-7-104 or the eligibility criteria under Subsection (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.

(e) If a minor is taken into custody and admitted to a secure detention or shelter facility, facility staff shall:

(i) immediately notify the minor's parents, guardian, or custodian; and

(ii) promptly notify the court of the placement.

(f) If the minor is admitted to a secure detention or shelter facility outside the county of the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3) that detention shall continue, the judge or commissioner shall direct the sheriff of the county of the minor's residence to transport the minor to a detention or shelter facility as provided in this section.

(6) A person may be taken into custody by a peace officer without a court order if the person is in apparent violation of a protective order or if there is reason to believe that a child is being abused by the person and any of the situations outlined in Section 77-7-2 exist.

Section 121. Section 78A-6-319 is amended to read:

78A-6-319. Educational neglect of a child -- Procedures -- Defenses.

(1) With regard to a child who is the subject of a petition under this chapter based on educational neglect:

(a) if allegations include failure of a child to make adequate educational progress, the court shall permit demonstration of the child's educational skills and abilities based upon any of the criteria used in granting school credit, in accordance with Section ~~[53A-11-102.5]~~ 53G-6-702;

(b) parental refusal to comply with actions taken by school authorities in violation of ~~[Sections 53A-13-101.1]~~ Section 53G-10-202, ~~[53A-13-101.2]~~ 53G-10-205, 53G-10-403, or ~~[53A-13-101.3]~~ 53G-10-203, does not constitute educational neglect;

(c) parental refusal to support efforts by a school to encourage a child to act in accordance with any educational objective that focuses on the adoption or expression of a personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and discipline in the school, prevent unreasonable endangerment of persons or property, or to maintain concepts of civility and propriety appropriate to a school setting, does not constitute educational neglect; and

(d) an allegation of educational neglect may not be sustained, based solely on a child's absence from school, unless the child has been absent from school or from any given class, without good cause, for more than 10 consecutive school days or more than 1/16 of the applicable school term.

(2) A child may not be considered to be educationally neglected, for purposes of this chapter:

(a) unless there is clear and convincing evidence that:

(i) the child has failed to make adequate educational progress, and school officials have complied with the requirements of Section ~~[53A-11-103]~~ 53G-6-206; and

(ii) the child is two or more years behind the local public school's age group expectations in one or more basic skills, and is not receiving special educational services or systematic remediation efforts designed to correct the problem;

(b) if the child's parent or guardian establishes by a preponderance of the evidence that:

(i) school authorities have failed to comply with the requirements of ~~[Title 53A, Chapter 11, Students in Public Schools, or Chapter 13, Curriculum in the Public Schools]~~ Title 53G, Public Education System -- Local Administration;

(ii) the child is being instructed at home in compliance with Section ~~[53A-11-102]~~ 53G-6-204;

(iii) there is documentation that the child has demonstrated educational progress at a level commensurate with the child's ability;

(iv) the parent, guardian, or other person in control of the child has made a good faith effort to secure the child's regular attendance in school;

(v) good cause or a valid excuse exists for the child's absence from school;

(vi) the child is not required to attend school pursuant to court order or is exempt under other applicable state or federal law;

(vii) the student has performed above the twenty-fifth percentile of the local public school's age group expectations in all basic skills, as measured by a standardized academic achievement test administered by the school district where the student resides; or

(viii) the parent or guardian has proffered a reasonable alternative to required school curriculum, in accordance with Section ~~[53A-13-101-2]~~ 53G-10-205 or 53G-10-403, that alternative was rejected by the school district, but the parents have implemented the alternative curriculum; or

(c) if the child is attending school on a regular basis.

Section 122. Section 78A-6-602 is amended to read:

78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal referral -- Citation -- Failure to appear.

(1) A proceeding in a minor's case is commenced by petition, except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.

(2) (a) A peace officer or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours, excluding weekends and holidays. A formal referral under Section ~~[53A-11-911]~~ 53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject to referral under Section ~~[53A-11-911]~~ 53G-8-211.

(b) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the minor is eligible to enter into a written consent agreement with the probation department and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2). The court's probation department shall offer a nonjudicial adjustment if the minor:

(i) is referred with a misdemeanor, infraction, or status offense;

(ii) has fewer than three prior adjudications; and

(iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(c) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a validated risk and needs assessment and may request that the prosecutor review the referral pursuant to Subsection (2)(g) to determine whether to dismiss the referral or file a petition instead of offering a nonjudicial adjustment if:

(A) the results of the assessment indicate the youth is high risk; or

(B) the results of the assessment indicate the youth is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(ii) The court's probation department, may offer a nonjudicial adjustment to any other minor who does not meet the criteria provided in Subsection (2)(b).

(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an admission of guilt.

(iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to pay a financial penalty under Subsection (2)(d).

(v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.

(d) The nonjudicial adjustment of a case may include conditions agreed upon as part of the nonjudicial closure:

(i) payment of a financial penalty of not more than \$250 to the juvenile court subject to the terms established under Subsection (2)(e);

(ii) payment of victim restitution;

(iii) satisfactory completion of compensatory service;

(iv) referral to an appropriate provider for counseling or treatment;

(v) attendance at substance use disorder programs or counseling programs;

(vi) compliance with specified restrictions on activities and associations; and

(vii) other reasonable actions that are in the interest of the child or minor and the community.

(e) A fee, fine, or restitution included in a nonjudicial closure in accordance with Subsection (2)(d) shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1, 2018.

(f) If a minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial closure, or if a minor is not offered or declines a nonjudicial adjustment pursuant to Subsection (2)(b) or (2)(c)(ii), the prosecutor shall review the case and take one of the following actions:

(i) dismiss the case;

(ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or

(iii) in accordance with Subsections (2)(h), file a petition with the court.

(g) Notwithstanding Subsection (2)(f), a petition may only be filed upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support conviction beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

(h) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (2)(f)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (2)(d) or those imposed through any other court diversion program.

(i) A violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court may include a fine or penalty and participation in a court-approved tobacco education program, which may include a participation fee.

(j) If the prosecutor files a petition in court, the court may refer the case to the probation department for another offer of nonjudicial adjustment.

(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.

(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is required.

(b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.

Section 123. Section 78A-6-603 is amended to read:

78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to appear.

(1) As used in this section, "citation" means an abbreviated referral and is sufficient to invoke the jurisdiction of the court in lieu of a petition.

(2) A citation shall be submitted to the court within five days of issuance.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that is alleged to have been violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested minor into custody as provided in Section 78A-6-112;

(i) the date and time when the minor is to appear, or a statement that the minor and parent or legal guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the parent or legal guardian, if present, agreeing to appear at the juvenile court as designated on the citation.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or legal guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) In accordance with Section ~~53A-11-911~~ 53G-8-211, the following offenses may be sent to the juvenile court as a citation:

(a) violations of wildlife laws;

(b) violations of boating laws;

(c) violations of curfew laws;

(d) any class B misdemeanor or less traffic violations where the person is under the age of 16;

(e) any class B or class C misdemeanor or infraction;

(f) any other infraction or misdemeanor as designated by general order of the Board of Juvenile Court Judges; and

(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.

(7) A minor offense defined under Section 78A-6-1202, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be sent to the prosecutor or the juvenile court in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

(8) A preliminary inquiry by the prosecutor, and if appropriate, the court, under Section 78A-6-117 is required.

(9) Subsection (5) may not apply to a runaway child.

(10) (a) A minor receiving a citation described in this section shall appear at the juvenile court designated in the citation on the time and date specified in the citation or when notified by the juvenile court.

(b) A citation may not require a minor to appear sooner than five days following its issuance.

(11) A minor who receives a citation and willfully fails to appear before the juvenile court pursuant to a citation may be found in contempt of court. The court may proceed against the minor as provided in Section 78A-6-1101.

(12) When a citation is issued under this section, bail may be posted and forfeited under Section 78A-6-113 with the consent of:

(a) the court; and

(b) if the minor is a child, the parent or legal guardian of the child cited.

Section 124. Section 78A-6-1001 is amended to read:

78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of delinquency not required for conviction.

(1) The court shall have jurisdiction, concurrent with the district court or justice court otherwise having subject matter jurisdiction, to try adults for the following offenses committed against minors:

(a) unlawful sale or furnishing of an alcoholic product to minors in violation of Section 32B-4-403;

(b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;

(c) harboring a runaway in violation of Section 62A-4a-501;

(d) misdemeanor custodial interference in violation of Section 76-5-303;

(e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and

(f) failure to comply with compulsory education requirements in violation of Section ~~[53A-11-101.5]~~ 53G-6-202.

(2) It is not necessary for the minor to be found to be delinquent or to have committed a delinquent act

for the court to exercise jurisdiction under Subsection (1).

Section 125. Section 78A-6-1203 is amended to read:

78A-6-1203. Youth court -- Authorization -- Referral.

(1) Youth court is a diversion program that provides an alternative disposition for cases involving juvenile offenders in which youth participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.

(a) Youth who appear before youth courts have been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed acts which indicate a need for intervention to prevent further development toward juvenile delinquency, but which appear to be acts that can be appropriately addressed outside the juvenile court process.

(b) Youth courts may only hear cases as provided for in this part.

(c) Youth court is a diversion program and not a court established under the Utah Constitution, Article VIII.

(2) A youth court may not accept referrals from law enforcement, schools, prosecuting attorneys, or a juvenile court unless the youth court is certified by the Utah Youth Court Board.

(3) Any person may refer youth to a youth court for minor offenses or for any other eligible offense under Section ~~[53A-11-911]~~ 53G-8-211. Once a referral is made, the case shall be screened by an adult coordinator to determine whether it qualifies as a youth court case.

(4) Youth courts have authority over youth:

(a) referred for one or more minor offenses or who are referred for other eligible offenses under Section ~~[53A-11-911]~~ 53G-8-211, or who are granted permission for referral under this part;

(b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing, request youth court involvement; and

(c) who, along with a parent, guardian, or legal custodian, agree to follow the youth court disposition of the case.

(5) Except with permission granted under Subsection (6), or pursuant to Section ~~[53A-11-911]~~ 53G-8-211, youth courts may not exercise authority over youth who are under the continuing jurisdiction of the juvenile court for law violations, including any youth who may have a matter pending which has not yet been adjudicated. Youth courts may, however, exercise authority over youth who are under the continuing jurisdiction of the juvenile court as set forth in this Subsection (5) if the offense before the youth court is not a law violation, and the referring agency has notified the juvenile court of the referral.

(6) Youth courts may exercise authority over youth described in Subsection (5), and over any other offense with the permission of the juvenile court and the prosecuting attorney in the county or district that would have jurisdiction if the matter were referred to juvenile court.

(7) Permission of the juvenile court may be granted by a probation officer of the court in the district that would have jurisdiction over the offense being referred to youth court.

(8) Youth courts may decline to accept a youth for youth court disposition for any reason and may terminate a youth from youth court participation at any time.

(9) A youth or the youth's parent, guardian, or legal custodian may withdraw from the youth court process at any time. The youth court shall immediately notify the referring source of the withdrawal.

(10) The youth court may transfer a case back to the referring source for alternative handling at any time.

(11) Referral of a case to youth court may not, if otherwise eligible, prohibit the subsequent referral of the case to any court.

(12) Proceedings and dispositions of a youth court may only be shared with the referring agency, juvenile court, and victim.

(13) When a person does not complete the terms ordered by a youth court, and if the case is referred to a juvenile court, the youth court shall provide the case file to the juvenile court.

Section 126. Repealer.

This bill repeals:

Section 53A-1-414, School expenditures -- Report.

Section 53A-1-901, Title.

Section 53A-1-904, No Child Left Behind -- State implementation.

Section 53A-1-1101, Title.

Section 53A-1-1201, Title.

Section 53A-1-1301, Title.

Section 53A-1-1401, Title.

Section 53A-1-1501, Title.

Section 53A-1a-101, Short title.

Section 53A-1a-501, Short title.

Section 53A-1a-701, Title.

Section 53A-1b-101, Title.

Section 53A-1b-201, Title.

Section 53A-2-401, Title.

Section 53A-4-301, Title.

Section 53A-6-101, Title.

Section 53A-8a-101, Title.

Section 53A-11-1201, Title.

Section 53A-11-1501, Title.

Section 53A-11-1601, Title.

Section 53A-11a-101, Title.

Section 53A-15-1001, Title.

Section 53A-15-1201, Title.

Section 53A-15-1501, Title.

Section 53A-15-1701, Title.

Section 53A-15-1801, Title.

Section 53A-15-1901, Title.

Section 53A-15-2001, Title.

Section 53A-17a-101, Title.

Section 53A-20b-101, Title.

Section 53A-21-101, Title.

Section 53A-25a-101, Title.

Section 53A-25b-101, Title.

Section 53A-28-101, Title.

Section 53A-30-101, Title.

Section 53A-31-101, Title.

Section 53A-31-401, Title.

Section 127. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 128. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if any of the following bills do not pass:

(1) H.B. 10, Public Education Recodification - State System;

(2) H.B. 11, Public Education Recodification - Funding; or

(3) S.B. 11, Public Education Recodification - Local System.

CHAPTER 416**S. B. 14**

Passed February 1, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**INDUSTRIAL ACCIDENT
 RESTRICTED ACCOUNT SUNSET**

Chief Sponsor: Karen Mayne
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies provisions relating to the Industrial Accident Restricted Account.

Highlighted Provisions:

This bill:

- ▶ eliminates language that provides for a repeal of provisions related to the Industrial Accident Restricted Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-234, as last amended by Laws of Utah 2016, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates, Titles 34 and 34A.

(1) Section 34A-2-202.5 is repealed December 31, 2020.

~~[(2) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1, 2018.]~~

~~[(3)]~~ (2) Section 34A-2-213, Coordination of benefits with health benefit plan -- Timely payment of claims, is repealed July 1, 2018.

CHAPTER 417**S. B. 16**

Passed March 8, 2018
 Approved March 22, 2018
 Effective July 1, 2018

PUBLIC SAFETY FEE REVISIONS

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends fees for services provided by the Department of Public Safety.

Highlighted Provisions:

This bill:

- ▶ changes some fee amounts for services provided by the Department of Public Safety;
- ▶ removes some Department of Public Safety fees from statute to regulatory fees; and
- ▶ makes conforming and technical corrections.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ To Department of Public Safety - Programs & Operations
 - From General Fund \$96,000
 - From Dedicated Credits Revenue (\$1,500,000)

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-6a-904, as last amended by Laws of Utah 2016, Chapters 59 and 303
- 53-1-106, as last amended by Laws of Utah 2013, Chapter 295
- 53-3-105, as last amended by Laws of Utah 2014, Chapters 225, 252, and 343
- 53-3-106, as last amended by Laws of Utah 2014, Chapters 252 and 343
- 53-3-109, as last amended by Laws of Utah 2016, Chapter 175
- 53-3-205, as last amended by Laws of Utah 2016, Chapter 175
- 53-3-223, as last amended by Laws of Utah 2017, Chapter 446
- 53-3-231, as last amended by Laws of Utah 2014, Chapter 7
- 53-5-706, as last amended by Laws of Utah 2017, Chapter 286
- 53-5-707, as last amended by Laws of Utah 2017, Chapter 286
- 53-5-707.5, as enacted by Laws of Utah 2017, Chapter 286
- 53-7-223, as last amended by Laws of Utah 2010, Chapter 61
- 53-7-224, as enacted by Laws of Utah 1993, Chapter 234
- 53-9-111, as last amended by Laws of Utah 2014, Chapter 378
- 53-10-108, as last amended by Laws of Utah 2015, Chapters 255 and 389
- 53-11-115, as last amended by Laws of Utah 2015, Chapter 170

76-10-526, as last amended by Laws of Utah 2014, Chapter 226

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-904 is amended to read:

41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(i) reduce the speed of the vehicle;

(ii) provide as much space as practical to the stationary authorized emergency vehicle; and

(iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, the requirements in Subsection (2)(a) apply.

(ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

(3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(i) reduce the speed of the vehicle; and

(ii) provide as much space as practical to the stationary tow truck or highway maintenance vehicle.

(b) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if practical, with due

regard to safety and traffic conditions, make a lane change out of the HOV lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

(4) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

(5) (a) (i) In addition to the penalties prescribed under Subsection (7), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

- (A) the Driver License Division; or
- (B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection (5)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

- (i) violates a provision of Subsections (1) through (3); and
- (ii) fails to meet the requirements of Subsection (5)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection (5)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection (5)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection (5)(a)(i) if the certificate of attendance is received before the completion of the suspension period.

(d) A person whose license is suspended under Subsection (5)(b) and a person whose suspension is shortened as described under Subsection (5)(c) shall pay the license reinstatement fees under Subsection 53-3-105~~(23)~~(24).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

(7) A violation of Subsection (1), (2), or (3) is an infraction.

Section 2. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702; and

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact.

(2) (a) The department ~~may~~ shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) ~~The~~ All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 3. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is ~~[\$25]~~ \$32.

(2) An original provisional license application for a class D license under Section 53-3-205 is ~~[\$30]~~ \$39.

(3) An original application for a motorcycle endorsement under Section 53-3-205 is ~~[\$9.50]~~ \$11.

(4) An original application for a taxicab endorsement under Section 53-3-205 is ~~[\$7]~~ \$9.

(5) A learner permit application under Section 53-3-210.5 is ~~[\$15]~~ \$19.

(6) A renewal of a class D license under Section 53-3-214 is [~~\$25~~] \$32 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is [~~\$25~~] \$32.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is [~~\$9.50~~] \$11.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is [~~\$7~~] \$9.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is [~~\$13~~] \$17.

(11) An extension of a class D license under Section 53-3-214 is [~~\$20~~] \$26 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is [~~\$20~~] \$26.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is [~~\$9.50~~] \$11.

(14) An extension of a taxicab endorsement under Section 53-3-214 is [~~\$7~~] \$9.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is [~~\$11~~] \$14.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is [~~]~~ \$52.

~~[(a) \$40 for the knowledge test; and]~~

~~[(b) \$60 for the skills test.]~~

(17) A commercial class A, B, or C license skills test is \$78.

~~[(17)] (18)~~ Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is [~~\$7~~] \$9.

~~[(18)] (19)~~ An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is [~~\$7~~] \$9.

~~[(19)] (20)~~ A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is [~~\$7~~] \$9.

~~[(20)] (21)~~ (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is [~~\$20~~] \$26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is [~~\$40~~] \$52.

~~[(21)] (22)~~ A retake of a CDL endorsement test provided for in Section 53-3-205 is [~~\$7~~] \$9.

~~[(22)] (23)~~ A duplicate class A, B, C, or D license certificate under Section 53-3-215 is [~~\$18~~] \$23.

~~[(23)] (24)~~ (a) A license reinstatement application under Section 53-3-205 is [~~\$30~~] \$40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or

combination of alcohol and any drug-related offense is [~~\$35~~] \$45 in addition to the fee under Subsection [~~(23)~~] (24)(a).

~~[(24)] (25)~~ (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is [~~\$230~~] \$255.

(b) This administrative fee is in addition to the fees under Subsection [~~(23)~~] (24).

~~[(25)] (26)~~ (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is [~~\$6~~] \$8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

~~[(26)] (27)~~ A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

~~[(27)] (28)~~ (a) Except as provided under Subsections [~~(27)~~] (28)(b) and (c), an identification card application under Section 53-3-808 is [~~\$18~~] \$23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is [~~\$13~~] \$17.

(c) A fee may not be charged for an identification card application if the person applying:

- (i) has not been issued a Utah driver license;
- (ii) is indigent; and
- (iii) is at least 18 years of age.

~~[(28)] (29)~~ An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is [~~\$13~~] \$17.

~~[(29)] (30)~~ An extension of a regular identification card under Subsection 53-3-807(6) is [~~\$18~~] \$23.

~~[(30)] (31)~~ In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

~~[(31)] (32)~~ An original mobility vehicle permit application under Section 41-6a-1118 is [~~\$25~~] \$30.

~~[(32)] (33)~~ A renewal of a mobility vehicle permit under Section 41-6a-1118 is [~~\$25~~] \$30.

~~[(33)] (34)~~ A duplicate mobility vehicle permit under Section 41-6a-1118 is [~~\$10~~] \$12.

Section 4. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105[(24)](25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$100 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105[(30)](31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health, on or before December 31, the amount the department expects to collect under Subsection 53-3-105[(24)](25) in the next fiscal year.

Section 5. Section 53-3-109 is amended to read:

53-3-109. Records -- Access -- Fees -- Rulemaking.

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may only disclose personal identifying information:

(i) when the division determines it is in the interest of the public safety to disclose the information; and

(ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(c) The division may disclose personal identifying information:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter; or

(iii) to a depository institution as defined in Section 7-1-103 for use in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(c)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and

status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may charge fees:

(a) ~~collect fees~~ in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) ~~prepare~~ for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee ~~under~~ set in accordance with Section 63J-1-504 for each document authenticated; and

(c) ~~charge reasonable fees~~ established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(c).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(c); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

(8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

Section 6. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving

**record transferred from other states --
Reinstatement -- Fee required -- License
agreement.**

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application [~~and fees~~] for a commercial class A, B, or C license [~~entitle~~] entitles the applicant to:

(a) not more than two attempts to pass a knowledge test [~~and not more than two attempts to pass a skills test within six months of the date of the application~~] when accompanied by the fee provided in Subsection 53-3-105(16);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(17) within six months of the date of application;

~~[(b)]~~ (c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

~~[(e)]~~ (d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(20)(b)(17).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104,

unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105[(22)](23) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105[(22)](23) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 7. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) (a) When a peace officer gives notice on behalf of the division, the peace officer shall:

(i) take the Utah license certificate or permit, if any, of the driver;

(ii) issue a temporary license certificate effective for only 29 days from the date of arrest; and

(iii) supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(b) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) the person's license certificate;

- (b) a copy of the citation issued for the offense;
- (c) a signed report in a manner specified by the division indicating the chemical test results, if any; and
- (d) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

- (A) the county in which the arrest occurred; or
- (B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

- (i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
- (ii) whether the person refused to submit to the test; and
- (iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

- (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or
- (B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 30th day after the date of arrest for a first suspension; or

(B) two years beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 30th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) The division shall deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if:

(A) the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest; and

(B) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

(c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 30th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~(23) and~~(24) and (25).

(iv) The driver license reinstatements authorized under this Subsection (7)(c) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall shorten a person's two-year license suspension period that is currently in effect to a six-month suspension period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable written documentation to shorten a

person's driver license suspension period under Subsection (8)(a)(iii)(G).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~(23) and~~(24) and (25).

(9) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If a person's license is reinstated under Subsection (10)(a), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~(23) and~~(24) and (25).

Section 8. Section 53-3-231 is amended to read:

53-3-231. Person under 21 may not operate a vehicle or motorboat with detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.

(1) (a) As used in this section:

(i) "Local substance abuse authority" has the same meaning as provided in Section 62A-15-102.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6a-502(1).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in the person's body as shown by a chemical test.

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection (8).

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32B-4-409, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the arrest, give notice of the division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under this section.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall:

(a) take the Utah license certificate or permit, if any, of the operator;

(b) issue a temporary license certificate effective for only 29 days from the date of arrest if the driver had a valid operator's license; and

(c) supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate under Subsection (4)(b).

(6) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) the person's driver license certificate, if any;

(b) a copy of the citation issued for the offense;

(c) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and

(d) any other basis for a peace officer's determination that the person has violated Subsection (2).

(7) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32B-4-409.

(ii) The request shall be made within 10 calendar days of the day on which notice is provided.

(b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) In connection with a hearing, the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the division may conduct the hearing.

(f) Any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(8) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a), if the person fails to appear before the division as required in the notice, or if the person does not request a hearing under this section, the division shall for a person under 21 years of age on the date of arrest:

(a) deny the person's license until the person complies with Subsection (12)(b)(i) but for a period of not less than six months beginning on the 30th day after the date of arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

(b) suspend the person's license until the person complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 30th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection (12)(b)(i) but for a period of not less than six months if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a first offense under Subsection (2)(a) committed on or after July 1, 2009;

(d) deny the person's application for a license or learner's permit until the person complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

(e) deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest and the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed prior to May 14, 2013.

(9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall shorten a person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection (9).

(c) If a person's license sanction is shortened under this Subsection (9), the person is required to pay the license reinstatement fees under Subsections 53-3-105~~(23) and~~(24) and (25).

(10) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(ii) This fee shall be canceled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(11) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.

(12) (a) In addition to the penalties in Subsection (8), a person who violates Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection (8) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse and Mental Health.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the division in:

- (i) conducting the assessments;
- (ii) making appropriate recommendations for action; and
- (iii) notifying the division about the person's status regarding completion of the recommended action.

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection (12)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse authority's policies and practices regarding fees for services or determined by the substance abuse program.

Section 9. Section 53-5-706 is amended to read:

53-5-706. Permit -- Fingerprints transmitted to bureau -- Report from bureau.

(1) (a) Except as provided in Subsection (2), the fingerprints of each applicant for a permit under Section 53-5-707 or 53-5-707.5 shall be taken on a form prescribed by the bureau.

(b) Upon receipt of the fingerprints, the applicant fingerprint card fee prescribed in Section 53-10-108, and the fee prescribed in Section 53-5-707 or 53-5-707.5, the bureau shall conduct a search of its files for criminal history information pertaining to the applicant, and shall request the Federal Bureau of Investigation to conduct a similar search through its files.

(c) If the fingerprints are insufficient for the Federal Bureau of Investigation to conduct a search of its files for criminal history information, the application or concealed firearm permit may be denied, suspended, or revoked until sufficient fingerprints are submitted by the applicant.

(2) (a) If the permit applicant has previously applied to the bureau for a permit to carry concealed firearms, the bureau shall note the previous identification numbers and other data which would provide positive identification in the files of the bureau on the copy of any subsequent permit submitted to the bureau in accordance with this section.

(b) No additional application form, fingerprints, or fee are required under this Subsection (2).

Section 10. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay a fee of ~~[\$24.75]~~ \$25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is ~~[\$15.]~~ \$20. A nonresident shall pay an additional \$5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is \$10.

(4) (a) The late fee for the renewal permit is \$7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account shall be used to cover costs relating to the issuance of concealed firearm permits under this part and may not be used for any other purpose.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

~~[(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.]~~

~~[(e)]~~ (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and

Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 11. Section 53-5-707.5 is amended to read:

53-5-707.5. Provisional concealed firearm permit -- Fees -- Disposition of fees.

(1) (a) An applicant for a provisional concealed firearm permit, as described in Section 53-5-704.5, shall pay a fee of [~~\$24.75~~] \$25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

(2) The replacement fee for the permit is \$10.

(3) Fees collected under this section shall be remitted to the Concealed Weapons Account, as described in Subsection 53-5-707(5).

(4) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

~~[(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (4)(a) is the nearest even dollar amount to that total.]~~

~~[(e)]~~ (b) The bureau shall promptly forward any fees collected under Subsection (4)(a) to the appropriate agency.

Section 12. Section 53-7-223 is amended to read:

53-7-223. State license for display operators, special effects operators, and flame effects operators -- Permit -- Fee -- Division duties -- Revocation.

(1) (a) A person may not purchase or possess display fireworks, special effects fireworks, or flame effects, or discharge any of them in public unless the person has obtained the appropriate license from the division, except under Subsection (1)(b).

(b) (i) Subsection (1)(a) does not apply to any person who participates in a meeting, as limited under Subsection (1)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection (1)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

(2) The division shall:

(a) issue an annual license to any display operator, special effects operator, or flame effects operator who:

(i) applies for the permit;

(ii) pays [~~a \$40~~] the fee set in accordance with Section 63J-1-504;

(iii) demonstrates proof of competence; and

(iv) certifies that the operator will comply with board rules governing placement and discharge of fireworks or flame effects;

(b) provide the licensee with a copy of the rules governing placement and discharge of fireworks or flame effects made under Section 53-7-204; and

(c) together with county and municipal officers enforce Sections 53-7-220 through 53-7-225.

(3) The division may:

(a) revoke a license issued under this section for cause;

(b) seize display and special effects fireworks, fireworks, and unclassified fireworks that are offered for sale, sold, or in the possession of an individual in violation of Sections 53-7-220 through 53-7-225;

(c) prevent or stop the use of flame effects that is unlawful or that is endangering persons or property; and

(d) create application and certification forms.

Section 13. Section 53-7-224 is amended to read:

53-7-224. Licensing importers and wholesalers -- Fee.

The division shall:

(1) annually license each importer and wholesaler of pyrotechnic devices; and

(2) charge an annual license fee [~~of \$250~~] set in accordance with Section 63J-1-504.

Section 14. Section 53-9-111 is amended to read:

53-9-111. License and registration fees -- Deposit in General Fund.

(1) Fees for individual and agency licensure and renewal [~~are as follows:~~] shall be in accordance with Section 63J-1-504.

~~[(a) for an original agency license application and license, \$215, plus an additional fee for the costs of fingerprint processing and background investigation;]~~

~~[(b) for the renewal of an agency license, \$115;]~~

~~[(c) for an original registrant or apprentice license application and license, \$115, plus an additional fee for the costs of fingerprint processing and background investigation;]~~

~~[(d) for the renewal of a registrant or apprentice license, \$65;]~~

~~[(e) for filing an agency renewal application more than 30 days after the expiration date of the license, a delinquency fee of \$65;]~~

~~[(f) for filing a registrant or apprentice renewal application more than 30 days after the expiration date of the registration, a delinquency fee of \$45;]~~

~~[(g) for the reinstatement of any license, \$65;]~~

~~[(h) for a duplicate identification card, \$25; and]~~

~~[(4) for the fingerprint processing fee, an amount that does not exceed the cost to the bureau charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information.]~~

(2) (a) The bureau may renew a license granted under this chapter:

(i) to a resident of the state;

(ii) upon receipt of a renewal application on forms as prescribed by the bureau; and

(iii) upon receipt of the fees prescribed in Subsection (1).

(b) (i) The renewal of a license requires the filing of all certificates of insurance or proof of surety bond as required by this chapter.

(ii) Renewal of a license may not be granted more than 180 days after expiration.

(c) A licensee may not engage in activity subject to this chapter during the period between the date of expiration of the license and the renewal of the license.

(3) (a) The bureau shall renew a suspended license if:

(i) the period of suspension has been completed;

(ii) the bureau has received a renewal application from the applicant on forms prescribed by the bureau; and

(iii) the applicant has:

(A) filed all certificates of insurance or proof of surety bond as required by this chapter; and

(B) paid the fees required by this section for renewal, including a delinquency fee if the application is not received by the bureau within 30 days of the termination of the suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in activity regulated by this chapter, or in other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The bureau may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year from the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the bureau under this section shall be deposited in the General Fund.

Section 15. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check or name check, or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(f) or (2)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to

whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information under Subsection (2)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (2)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (2)(g) for purposes other than those specified under Subsection (4)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (2)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(g) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (2)(g).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with

Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(g) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) [~~is \$15. This fee remains in effect until changed by the commissioner through the process under~~] shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted

by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

- (i) the WIN Database rap back system, or any successor system;
- (ii) the FBI Rap Back System; or
- (iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:

- (i) has the authority through state or federal statute or federal executive order;
- (ii) obtains a signed waiver from the individual whose fingerprints are being registered; and
- (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

~~[(15) (a) (i) The applicant fingerprint card fee under Subsection (2) is \$20.]~~

~~[(ii) The name check fee under Subsection (2) is \$15-.]~~

~~[(iii) The fee to register fingerprints under Subsection (13)(a)(i) is \$5-.]~~

~~[(iv) The fees described in this Subsection (15)(a) remain in effect until changed by the division through the process under Section 63J-1-504.]~~

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

Section 16. Section 53-11-115 is amended to read:

53-11-115. License fees -- Deposit in General Fund.

(1) Fees for individual and agency licensure, registration, and renewal ~~[are:]~~ shall be set in accordance with Section 63J-1-504.

~~[(a) for an original bail enforcement agent license application and license, \$250, which shall include the costs of fingerprint processing and background investigation;]~~

~~[(b) for the renewal of a bail enforcement agent or bail bond recovery agency license, \$150;]~~

~~[(c) for an original bail recovery agent license application and license, \$150, which shall include the costs of fingerprint processing and background investigation;]~~

~~[(d) for the renewal of each bail recovery agent license, \$100;]~~

~~[(e) for an original bail recovery apprentice license application and license, \$150, which shall include the costs of fingerprint processing and background investigation;]~~

~~[(f) for the renewal of each bail recovery apprentice license, \$100;]~~

~~[(g) for filing a renewal application under Subsection (1)(b) more than 30 days after the expiration date of the license, a delinquency fee of \$50;]~~

~~[(h) for filing a renewal application under Subsection (1)(d) more than 30 days after the expiration date of the registration, a delinquency fee of \$30;]~~

~~[(i) for filing a renewal application under Subsection (1)(f) more than 30 days after the expiration date of the apprentice license, a delinquency fee of \$30;]~~

~~[(j) for the reinstatement of a bail enforcement agent or bail bond recovery agency license, \$50;]~~

~~[(k) for a duplicate identification card, \$10; and]~~

~~[(l) for reinstatement of an identification card, \$10-.]~~

(2) (a) The bureau may renew a license granted under this chapter upon receipt of an application on forms as prescribed by the board and upon receipt of the applicable fees ~~[prescribed in Subsection (1);]~~ if the licensee's application meets all the requirements for renewal.

(b) If the bureau determines the license renewal application does not meet all the requirements for renewal, the bureau shall submit the renewal application to the board for review and action.

(c) A license may not be renewed more than 90 days after its expiration.

(d) A licensee may not engage in any activity subject to this chapter during any period between the date of expiration of the license and the renewal of the license.

(3) (a) The board may reinstate a suspended license upon completion of the term of suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

(4) The board may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year after the date of revocation.

(5) All fees, except the fingerprint processing fee, collected by the department under this section shall be deposited in the General Fund.

Section 17. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

- (i) the dealer identification number;
- (ii) the name and address of the individual receiving the firearm;
- (iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and
- (iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided

by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) [(i)] A dealer shall collect a criminal history background check fee [~~of \$7.50~~] for the sale of a firearm under this section. [(ii)] This fee remains in effect until changed by the bureau through the process ~~under~~ in accordance with Section 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification. This section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) (a) A dealer may participate in the redeemable coupon program described in this Subsection (15) and Subsection 53-10-202(18).

(b) A participating dealer shall:

(i) accept the redeemable coupon only from the individual whose name is on the coupon and apply it only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of gun safes using the redeemable coupon and send them to the Bureau of Criminal Identification for redemption; and

(iii) make the firearm safety brochure described in Subsection 53-10-202(18) available to customers free of charge.

Section 18. FY 2019 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

ITEM 1

To Department of Public Safety - Bureau of Criminal Identification

<u>From General Fund</u>	<u>\$1,500,000</u>
<u>From Dedicated Credits Revenue</u>	<u>(\$1,500,000)</u>

ITEM 2

To Department of Human Services - Division of Juvenile Justice Services - Community Providers

<u>From General Fund</u>	<u>(\$1,404,000)</u>
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Schedule of Programs:

<u>Provider Payments</u>	<u>(\$1,404,000)</u>
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The Legislature intends that if the Department of Public Safety encounters a revenue shortfall by the end of FY 2019 within the Bureau of Criminal Identification line item, that the Department of Public Safety report to the Executive Offices and Criminal Justice Appropriations Subcommittee and set aside up to \$1,000,000 as a reserve amount in the Programs and Operations line item for potential reallocation in the 2019 General Session for the Legislature to transfer up to \$1,000,000 from the Department of Public Safety - Programs and Operations line item to ensure they do not run a deficit at the close of FY 2019.

The Legislature intends that should the Department of Public Safety collect more fee revenue than what is appropriated, that the surplus fee revenue may not lapse at the end of FY 2019, but remain unexpended by the Department for potential use in FY 2020, including as an offset for any fee adjustments for FY 2020.

Section 19. Fees.

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2018 and ending June 30, 2019.

Department of Public Safety

Programs & Operations

CITS Bureau of Criminal Identification

<u>Western Identification Network (WIN) Fingerprint</u>	<u>15.00</u>
<u>Background Check</u>	
<u>Name Check</u>	
<u>[from 53-10-108(15)(a)(ii)]</u>	<u>15.00</u>
<u>Fingerprint Registration</u>	
<u>[from 53-10-108(15)(a)(iii)]</u>	<u>5.00</u>
<u>Criminal History Report</u>	<u>15.00</u>
<u>Firearm Purchase Criminal History Background Check</u>	<u>7.50</u>

Private Investigator

<u>Original agency license application and license</u>	215.00
<u>Renewal of an agency license</u>	115.00
<u>Original registrant or apprentice license application and license</u>	115.00
<u>Renewal of a registrant or apprentice license</u>	65.00
<u>Delinquency fee for filing an agency renewal application more than 30 days after the expiration date of the license</u>	65.00
<u>Delinquency fee for filing a registrant or apprentice renewal application more than 30 days after the expiration date of the registration</u>	45.00
<u>Reinstatement of any license</u>	65.00
<u>Duplicate identification card</u>	25.00

Bail Enforcement

<u>Original bail enforcement agent license application and license</u>	250.00
<u>Renewal of a bail enforcement agent or bail bond recovery agency license</u>	150.00
<u>Original bail recovery agent license application and license</u>	150.00
<u>Renewal of each bail recovery agent license</u>	100.00
<u>Original bail recovery apprentice license application and license</u>	150.00
<u>Renewal of each bail recovery apprentice license</u>	100.00
<u>Delinquency fee for filing a renewal application for a bail enforcement agent or bail bond recovery agency license more after the than 30 days expiration date of the license</u>	50.00
<u>Delinquency fee for filing a renewal application for bail recovery agent more than 30 days after the expiration date of the license</u>	30.00
<u>Delinquency fee for filing a renewal application for bail recovery apprentice license more than 30 days after the expiration date of the license</u>	30.00
<u>Reinstatement of a bail enforcement agent or bail bond recovery agency license</u>	50.00
<u>Duplicate identification card</u>	10.00
<u>Reinstatement of an identification card</u>	10.00

Fire Marshall - Fire Operations

<u>Annual license for display operator, special effects operator, or flame effects operator</u>	40.00
<u>Annual license for importer and wholesaler of pyrotechnic devices</u>	250.00

Section 20. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 418**S. B. 34**

Passed February 1, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**LEGISLATIVE WATER DEVELOPMENT
 COMMISSION AMENDMENTS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill deals with the duties of the Legislative Water Development Commission.

Highlighted Provisions:

This bill:

- ▶ removes the sunset date for the Legislative Water Development Commission;
- ▶ authorizes the Legislative Water Development Commission to meet up to six times per calendar year without approval from the Legislative Management Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-273, as last amended by Laws of Utah 2008, Chapters 148, 311 and renumbered and amended by Laws of Utah 2008, Chapter 382

73-27-103, as last amended by Laws of Utah 2016, Chapter 309

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates, Title 73.

~~[(1) Title 73, Chapter 27, State Water Development Commission, is repealed December 31, 2018.]~~

~~[(2)] The instream flow water right for trout habitat established in Subsection 73-3-30(3) is repealed December 31, 2018.~~

Section 2. Section 73-27-103 is amended to read:

73-27-103. Duties of commission.

(1) The commission shall consider and make recommendations to the Legislature and governor on the following issues:

(a) how the water needs of the state's growing municipal and industrial sectors will be met;

(b) what the impact of federal regulations and legislation will be on the ability of the state to manage and develop its compacted water rights;

(c) how the state will fund water projects;

(d) whether the state should become an owner and operator of water projects;

(e) how the state will encourage the implementation of water conservation programs; and

(f) other water issues of statewide importance.

(2) The commission shall:

(a) consult with the Division of Water Resources and the Board of Water Resources regarding:

(i) recommendations for rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(ii) the scope of any request for proposals that may be issued by the Division of Water Resources and Board of Water Resources to assist in creating the rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(b) report the recommendations described in Subsection (2)(a) to the Natural Resources, Agriculture, and Environment Interim Committee and the Legislative Management Committee by October 30, 2016.

(3) The commission may:

(a) form one or more working groups from the membership of the commission to consider and study the issues described in this section~~[-]~~; and

(b) meet up to six times per calendar year without approval from the Legislative Management Committee.

CHAPTER 419**S. B. 46**

Passed February 14, 2018

Approved March 22, 2018

Effective May 8, 2018

ADJUSTMENT OF LIMITS ON DAMAGES

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies a provision relating to the adjustment of limits on damages against governmental entities.

Highlighted Provisions:

This bill:

- ▶ modifies the deadline for the Office of the Legislative Fiscal Analyst to communicate biennial adjustments of limits on damages to the state risk manager.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-605, as enacted by Laws of Utah 2017, Chapter 151

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-605 is amended to read:**63G-7-605. Adjustments to limitation of judgment amounts.**

(1) As used in this section:

(a) "Adjusted consumer price factor" means what the consumer price index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code, would be without the medical care component and the medical services component.

(b) "Aggregate limit" means the limit on the aggregate amount of personal injury damages claims from a single occurrence, as provided in Subsection 63G-7-604(1)(d).

(c) "Individual limit" means the limit on the amount of a judgment for damages for personal injury, as provided in Subsection 63G-7-604(1)(a).

(d) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk manager under this section.

(e) "Latest individual limit" means the individual limit, as last adjusted by the risk manager under this section.

(f) "Latest property damage limit" means the property damage limit, as last adjusted by the risk manager under this section.

(g) "Medical care component" means the medical care sub-index of the consumer price index, as

provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(h) "Medical services component" means the medical services sub-index of the consumer price index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(i) "Property damage limit" means the limit on the amount of a judgment for property damage, as provided in Subsection 63G-7-604(1)(c).

(2) (a) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection (3):

(i) adjust the individual limit by an amount equal to the sum of:

(A) 66.5% of the latest individual limit, multiplied by the adjusted consumer price factor;

(B) 16.75% of the latest individual limit, multiplied by the medical care component; and

(C) 16.75% of the latest individual limit, multiplied by the medical services component;

(ii) adjust the aggregate limit by an amount equal to the sum of:

(A) 66.5% of the latest aggregate limit, multiplied by the adjusted consumer price factor;

(B) 16.75% of the latest aggregate limit, multiplied by the medical care component; and

(C) 16.75% of the latest aggregate limit, multiplied by the medical services component;

(iii) adjust the property damage limit as a percentage equal to the percentage increase or decrease in the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code; and

(iv) no later than ~~June~~ May 1, communicate the adjusted limits under Subsections (2)(a)(i), (ii), and (iii) to the risk manager.

(b) The legislative fiscal analyst shall round up to the nearest \$100 the individual limit, aggregate limit, and property damage limit adjusted under Subsection (2)(a).

(3) The legislative fiscal analyst may not adjust an individual limit or aggregate limit under Subsection (2) if the adjustment results in a decrease in the amount of the limit.

(4) (a) Each even-numbered year, the risk manager shall make rules, to become effective no later than July 1 of that year, that establish a new individual limit, aggregate limit, and property damage limit, as adjusted under Subsection (2).

(b) An adjustment to the individual limit, aggregate limit, or property damage limit under this section has prospective effect only from the date the rules establishing the new limit take effect.

(c) An individual limit, aggregate limit, or property damage limit, as adjusted under this section, applies only to a claim for injury or loss that occurs after the effective date of the rules that establish the adjusted limit.

CHAPTER 420**S. B. 69**

Passed February 14, 2018

Approved March 22, 2018

Effective May 8, 2018

STATE SOVEREIGN LANDS AMENDMENTS

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions regarding state lands and the Division of Forestry, Fire, and State Lands.

Highlighted Provisions:

This bill:

- ▶ modifies trespassing provisions on state lands;
- ▶ repeals the “Leaf It To Us Children’s Crusade for Trees” program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-3-1, as last amended by Laws of Utah 2015, Chapters 95 and 390

REPEALS:

65A-8-104, as renumbered and amended by Laws of Utah 2007, Chapter 136

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-3-1 is amended to read:**65A-3-1. Trespassing on state lands -- Penalties.**

(1) As used in this section:

(a) “Anchored” means the same as that term is defined in Section 73-18-2.

(b) “Beached” means the same as that term is defined in Section 73-18-2.

(c) “Motorboat” means the same as that term is defined in Section 73-18-2.

(d) “Vessel” means the same as that term is defined in Section 73-18-2.

(2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;

(b) grazes livestock on state lands;

(c) uses, occupies, or constructs improvements or structures on state lands;

(d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) starts ~~[a campfire or camps on the bed of a navigable lake or river]~~ or maintains a fire on state lands except in a posted and designated area;

(h) camps on state lands, except in posted or designated areas;

(i) camps on state lands for longer than 15 consecutive days at the same location or within one mile of the same location;

(j) camps on state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

(k) leaves an anchored or beached vessel unattended for longer than 48 hours on ~~[sovereign land or navigable lakes or rivers]~~ state lands;

(l) anchors or beaches a vessel on state lands at the same location for longer than 72 hours or within two miles of the same location for longer than 72 hours;

(m) anchors or beaches a vessel on state lands at the same location for 72 hours, and then returns to anchor or beach the vessel at the same location or within two miles of the same location before 72 hours have elapsed after the day on which the person left that location;

~~[(4)]~~ (n) posts a sign claiming state land as private property; ~~[or]~~

~~[(4m)]~~ (o) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division~~[-]; or~~

~~[(n) anchors or beaches a vessel for longer than 72 hours at the same location, on sovereign land or navigable lakes or rivers, and then fails to move the vessel at least two miles from that location; or]~~

~~[(e)]~~ (p) parks or operates a motor ~~[vehicles]~~ vehicle on the ~~[beds]~~ bed of a navigable ~~[lakes and rivers]~~ lake or river except in those areas:

(i) supervised by the Division of Parks and Recreation or another state or local enforcement entity; and

(ii) which are posted as open to vehicle use.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is specifically posted by the division as closed for usage;

(b) camps, except in an area that is posted and designated as open to camping;

(c) exceeds a speed limit of 10 miles per hour while operating a motor vehicle;

(d) drives recklessly while operating a motor vehicle;

(e) parks or operates a motor vehicle within an area between the water's edge and 100 feet of the water's edge except as necessary to:

(i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;

(ii) transport an individual with limited mobility;
or

(iii) deposit or retrieve equipment to a beach site;

(f) travels in a motor vehicle parallel to the water's edge:

(i) in areas designated by the division as closed;

(ii) a distance greater than 500 yards; or

(iii) for purposes other than travel to or from a beach site;

(g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or

(h) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Section 2. Repealer.

This bill repeals:

Section 65A-8-104, Leaf-It-To-Us Children's Crusade for Trees program created -- Purpose -- Matching funds.

CHAPTER 421**S. B. 103**

Passed February 7, 2018
 Approved March 22, 2018
 Effective May 8, 2018

STRATEGIC WORKFORCE INVESTMENTS

Chief Sponsor: Ann Millner
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill amends provisions related to strategic workforce investment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the definition of an eligible partnership to include a statewide partnership;
- ▶ requires the Governor's Office of Economic Development to report to the Legislature, the State Board of Regents, and the Utah System of Technical Colleges Board of Trustees;
- ▶ amends provisions related to a proposal for strategic workforce investment funding;
- ▶ places restrictions on the use of an appropriation for strategic workforce investment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-26-102, as last amended by Laws of Utah 2017, Chapter 382
 53B-26-103, as last amended by Laws of Utah 2017, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-26-102 is amended to read:**53B-26-102. Definitions.**

As used in this chapter:

- (1) "CTE" means career and technical education.
- (2) "CTE region" means an economic service area created in Section 35A-2-101.
- (3) "Eligible partnership" means ~~[a partnership]~~
~~[(a) between at least two of the following:]~~
~~[(i) a technical college;]~~
~~[(ii) a school district or charter school; or]~~
~~[(iii) an institution of higher education; and]~~
~~[(b) that provides educational services within the same CTE region.]~~
 - (a) a regional partnership; or
 - (b) a statewide partnership.

(4) "Employer" means a private employer, public employer, industry association, the military, or a union.

(5) "Industry advisory group" means:

(a) a group of at least five employers that represent the ~~[strategic industry cluster that] workforce needs to which a proposal submitted under Section 53B-26-103 [is responsive to] responds; and~~

(b) a representative of the Governor's Office of Economic Development, appointed by the executive director of the Governor's Office of Economic Development.

(6) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

(7) "Regional partnership" means a partnership that:

(a) provides educational services within one CTE region; and

(b) is between at least two of the following located in the CTE region:

(i) a technical college;

(ii) a school district or charter school; or

(iii) an institution of higher education.

~~[(7)] (8) "Stackable sequence of credentials" means a sequence of credentials that:~~

(a) an individual can build upon to access an advanced job or higher wage;

(b) is part of a career pathway system;

(c) provides a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitates multiple exit and entry points; and

(e) recognizes sub-goals or momentum points.

(9) "Statewide partnership" means a partnership between at least two regional partnerships.

~~[(8)] (10) "Technical college" means:~~

(a) a college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;

(c) Utah State University Eastern established under Section 53B-18-1201; or

(d) the Snow College Richfield campus established under Section 53B-16-205.

Section 2. Section 53B-26-103 is amended to read:**53B-26-103. GOED reporting requirement -- Proposals -- Funding.**

(1) ~~[The] Every other year, the Governor's Office of Economic Development shall [publish, on a~~

biannual basis, a report detailing] report to the Legislature, the board, and the Utah System of Technical Colleges Board of Trustees on the high demand technical jobs projected to support economic growth in the following high need strategic industry clusters~~], including~~:

- (a) aerospace and defense;
- (b) energy and natural resources;
- (c) financial services;
- (d) life sciences;
- (e) outdoor products;
- (f) software development and information technology; ~~[ø]~~ and

(g) any other strategic industry cluster designated by the Governor's Office of Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Legislature~~[- (a) on or before July 1, 2016, for fiscal year 2017; or (b)]~~ on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) ~~[The]~~ A proposal described in Subsection (2) shall include:

- (a) a program of ~~[study]~~ instruction that:
 - (i) is responsive to the workforce needs ~~[of the CTE region in a high need strategic industry cluster as identified by the Governor's Office of Economic Development under]~~ of a strategic industry cluster described in Subsection (1)];

(A) in one CTE region, for a proposal submitted by a regional partnership; or

(B) in at least two CTE regions, for a proposal submitted by a statewide partnership;

(ii) leads to the attainment of a stackable sequence of credentials; and

(iii) includes a non-duplicative progression of courses that include both academic and CTE content;

(b) expected student enrollment, attainment rates, and job placement rates;

(c) evidence of input and support for the proposal from an industry advisory group;

(d) a description of any financial or in-kind contributions for the program from an industry advisory group;

(e) a description of the job opportunities available at each exit point in the stackable sequence of credentials;

~~[(d)]~~ (f) evidence of an official action in support of the proposal from:

(i) the Utah System of Technical Colleges Board of Trustees, if the eligible partnership includes a technical college described in Subsection 53B-26-102(10)(a); or

(ii) the [Board of Regents] board, if the eligible partnership includes:

(A) an institution of higher education; or

(B) a college described in Subsection ~~[53B-26-102(8)]~~ 53B-26-102(10)(b), (c), or (d); ~~[and]~~

(g) if the program of instruction described in Subsection (3)(a) requires board approval under Section 53B-16-102, evidence of board approval of the program of instruction; and

~~[(e)]~~ (h) a funding request, including justification for the request.

(4) The Legislature shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) for a proposal from a regional partnership, support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet state or regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) fund the proposal through the appropriations process.

(5) An eligible partnership that receives funding under this section:

(a) shall use the money to deliver the program of instruction described in the eligible partnership's proposal; and

(b) may not use the money for administration.

CHAPTER 422**S. B. 111**

Passed February 28, 2018

Approved March 22, 2018

Effective May 8, 2018

**COMMUNITY REINVESTMENT
AGENCY CHANGES**

Chief Sponsor: Wayne A. Harper

House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill amends provisions related to a community reinvestment agency's determination of blight.

Highlighted Provisions:

This bill:

- ▶ allows a community reinvestment agency board to make a finding of blight if a survey area includes a site used for the disposal of solid or hazardous waste; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-5-405, as enacted by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-5-405 is amended to read:**17C-5-405. Conditions on board determination of blight -- Conditions of blight caused by a participant.**

(1) A board may not make a finding of blight in a resolution under Subsection 17C-5-402(2)(c)(ii) unless the board finds that:

(a) (i) the survey area consists predominantly of nongreenfield parcels;

(ii) the survey area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the survey area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes;

(iv) the present condition or use of the survey area substantially impairs the sound growth of the community, delays the provision of housing accommodations, constitutes an economic liability, or is detrimental to the public health, safety, or welfare, as shown by the existence within the survey area of at least four of the following factors:

(A) although sometimes interspersed with well maintained buildings and infrastructure, substantial physical dilapidation, deterioration, or defective construction of buildings or

infrastructure, or significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the survey area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, which require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the survey area, higher than that of comparable nonblighted areas in the municipality or county; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately owned parcels within the survey area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately owned acreage within the survey area; or

(b) the survey area includes some or all of:

(i) a superfund site^[,];

(ii) a site used for the disposal of solid waste or hazardous waste, as those terms are defined in Section 19-6-102;

(iii) an inactive industrial site^[,]; or

(iv) an inactive airport site.

(2) A single parcel comprising 10% or more of the acreage within the survey area may not be counted as satisfying the requirement described in Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of the parcel is occupied by buildings or improvements.

(3) (a) Except as provided in Subsection (3)(b), for purposes of Subsection (1), if a participant or proposed participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the survey area, that condition may not be used in the determination of blight.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who later becomes a participant.

CHAPTER 423**S. B. 131**

Passed March 6, 2018
 Approved March 22, 2018
 Effective May 8, 2018

TALENT READY UTAH AMENDMENTS

Chief Sponsor: Ann Millner
 House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill creates the Talent Ready Utah Center within the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Talent Ready Utah Center within GOED;
- ▶ creates the Talent Ready Utah Board within GOED;
- ▶ describes the duties of the center and the board; and
- ▶ requires that the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget provide in their annual reports data and metrics that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement, as determined by the executive directors of the three departments or offices named above.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Governor's Office of Economic Development -- Talent Ready Utah Center as a one-time appropriation:
 - from the General Fund, One-time, \$75,000;
- ▶ to the Governor's Office of Economic Development -- Talent Ready Utah Center as an ongoing appropriation:
 - from the General Fund, \$250,000; and
- ▶ to the Department of Workforce Services -- Administration as a one-time appropriation:
 - from the General Fund, \$75,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 35A-1-109, as enacted by Laws of Utah 2014, Chapter 371
 35A-1-201, as last amended by Laws of Utah 2014, Chapter 371
 63I-2-235, as last amended by Laws of Utah 2017, Chapter 420
 63J-4-301, as last amended by Laws of Utah 2013, Chapter 310
 63J-4-708, as enacted by Laws of Utah 2017, Chapter 253
 63N-1-203, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-1-301, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-12-202, as last amended by Laws of Utah 2017, Chapters 219 and 353

ENACTS:

- 35A-1-110, Utah Code Annotated 1953
 63N-12-501, Utah Code Annotated 1953
 63N-12-502, Utah Code Annotated 1953
 63N-12-503, Utah Code Annotated 1953
 63N-12-504, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-109 is amended to read:**35A-1-109. Annual report -- Content -- Format.**

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the department to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the department, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14; ~~and~~

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website~~[-]~~; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

Section 2. Section 35A-1-110 is enacted to read:

35A-1-110. Employment training and placement metrics.

Before September 1, 2018, the department shall identify data and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement to be reported under Sections 35A-1-109, 63J-4-708, and 63N-1-301.

Section 3. Section 35A-1-201 is amended to read:

35A-1-201. Executive director -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Deputy directors.

(1) (a) The chief administrative officer of the department is the executive director, who is appointed by the governor with the consent of the Senate.

(b) The executive director serves at the pleasure of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director shall:

(a) administer and supervise the department in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;

(b) supervise and coordinate between the economic service areas and directors created under Chapter 2, Economic Service Areas;

(c) coordinate policies and program activities conducted through the divisions and economic service areas of the department;

(d) approve the proposed budget of each division, the Workforce Appeals Board, and each economic service area within the department;

(e) approve all applications for federal grants or assistance in support of any department program; ~~and~~

(f) coordinate with the executive directors of the Governor's Office of Economic Development and the Governor's Office of Management and Budget to review data and metrics to be reported to the Legislature as described in Subsection 35A-1-109(2)(b); and

~~[(f)]~~ (g) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title.

(3) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

(4) The executive director shall at least annually provide for the sharing of information between the advisory councils established under this title.

Section 4. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates -- Title 35A.

(1) Section 35A-1-110 is repealed July 1, 2019.

~~[(1)]~~ (2) Section 35A-3-208 is repealed July 1, 2019.

~~[(2)]~~ (3) Subsection 35A-8-604(6) is repealed October 1, 2020.

Section 5. Section 63J-4-301 is amended to read:

63J-4-301. Duties of the executive director and office.

(1) The executive director and the office shall:

(a) comply with the procedures and requirements of Title 63J, Chapter 1, Budgetary Procedures Act;

(b) under the direct supervision of the governor, assist the governor in the preparation of the governor's budget recommendations;

(c) advise the governor with regard to approval or revision of agency work programs as specified in Section 63J-1-209;

(d) establish benchmarking practices for measuring operational costs, quality of service, and effectiveness across all state agencies and programs;

(e) assist agencies with the development of an operational plan that uses continuous improvement tools and operational metrics to increase statewide capacity and improve interagency integration;

(f) review and assess agency budget requests and expenditures using a clear set of goals and measures;

(g) develop and maintain enterprise portfolio and electronic information systems to select and oversee the execution of projects, ensure a return on investment, and trace and report performance metrics; ~~and~~

(h) coordinate with the executive directors of the Department of Workforce Services and the

Governor's Office of Economic Development to review data and metrics to be reported to the Legislature as described in Subsection 63J-4-708(2)(d); and

~~(4)~~ (i) perform other duties and responsibilities as assigned by the governor.

(2) (a) The executive director of the Governor's Office of Management and Budget or the executive director's designee is the Federal Assistance Management Officer.

(b) In acting as the Federal Assistance Management Officer, the executive director or designee shall:

(i) study the administration and effect of federal assistance programs in the state and advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and the Executive Appropriations Committee, of alternative recommended methods and procedures for the administration of these programs;

(ii) assist in the coordination of federal assistance programs that involve or are administered by more than one state agency; and

(iii) analyze and advise on applications for new federal assistance programs submitted to the governor for approval as required by Chapter 5, Federal Funds Procedures Act.

Section 6. Section 63J-4-708 is amended to read:

63J-4-708. Reporting.

(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee ~~and~~, the Economic Development and Workforce Services Interim Committee, and the Talent Ready Utah Board created in Section 63N-12-503.

(2) The written report shall include:

(a) information regarding the fiscal intermediary, the programmatic intermediary, the eligible program provider, and the independent evaluator that have been selected;

(b) the results of the feasibility analysis conducted in accordance with Section 63J-4-706;

(c) information regarding how many eligible participants have been served by the education, employability training, and workforce placement program;

(d) data and metrics:

(i) used to measure the progress, performance, effectiveness, and scope of the Employability to Careers Program, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services,

and the Governor's Office of Economic Development;

~~(d)~~ (e) a description of program expenses, including what payments have been made to the intermediary and the cost to the state for each successful eligible participant outcome; and

~~(e)~~ (f) recommendations to the Legislature on any potential improvements to the Employability to Careers Program, including whether the program should continue to receive funding from the state.

Section 7. Section 63N-1-203 is amended to read:

63N-1-203. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

(3) The executive director, with the approval of the governor:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

(4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

(5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Management and Budget to review data and metrics to be reported to the Legislature as described in Subsection 63N-1-301(2)(b).

Section 8. Section 63N-1-301 is amended to read:

63N-1-301. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Management and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14; ~~and~~

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website~~;~~; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

Section 9. Section 63N-12-202 is amended to read:

63N-12-202. Definitions.

As used in this part:

(1) "Board" means the STEM Action Center Board created in Section 63N-12-203.

(2) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.

(3) "Director" means the director appointed by the board to oversee the administration of the STEM Action Center.

(4) "Educator" means the same as that term is defined in Section 53A-6-103.

(5) "Foundation" means a foundation established as described in Subsections 63N-12-204(3) and (4).

(6) "Fund" means the STEM Action Center Foundation Fund created in Section 63N-12-204.5.

(7) "Grant program" means the Computing Partnerships Grants program created in this part.

(8) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

(9) "Institution of higher education" means an institution listed in Section 53B-1-102.

(10) "K-16" means kindergarten through grade 12 and post-secondary education programs.

(11) "Office" means the Governor's Office of Economic Development.

(12) "Provider" means a provider selected on behalf of the board by the staff of the board and the staff of the State Board of Education:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section 63N-12-206.

(13) "Review committee" means the committee established under Section 63N-12-214.

(14) "Stacked credentials" means credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) are part of a career pathway system;

(c) provide a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitate multiple exit and entry points; and

(e) recognize sub-goals or momentum points.

(15) "STEM" means science, technology, engineering, and mathematics.

(16) "STEM Action Center" means the center described in Section 63N-12-205.

(17) "Talent Ready Utah" means ~~[a partnership between the Governor's Office of Economic Development, the Governor's Education Advisor, the Department of Workforce Services, the Utah State Board of Education, the Utah System of Higher Education, representatives of post-secondary technical education, industry~~

partners, and the Utah STEM Action Center] the Talent Ready Utah Center created in Section 63N-12-502.

Section 10. Section 63N-12-501 is enacted to read:

Part 5. Talent Ready Utah Center

63N-12-501. Definitions.

As used in this part:

(1) "Center" means the Talent Ready Utah Center created in Section 63N-12-502.

(2) "Talent ready board" means the Talent Ready Utah Board created in Section 63N-12-503.

(3) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 11. Section 63N-12-502 is enacted to read:

63N-12-502. Talent Ready Utah Center.

(1) There is created within GOED the Talent Ready Utah Center.

(2) The executive director shall appoint a director of the center.

(3) The director of the center may appoint staff with the approval of the executive director.

(4) The center shall coordinate with the talent ready board to:

(a) further education and industry alignment in the state;

(b) coordinate the development of new education programs that align with industry demand;

(c) coordinate or partner with other state agencies to administer grant programs;

(d) promote the inclusion of industry partners in education;

(e) provide outreach and information to employers regarding workforce programs and initiatives;

(f) develop and analyze stackable credential programs;

(g) determine efficiencies among workforce providers;

(h) map available workforce programs focusing on programs that successfully create high-paying jobs; and

(i) support initiatives of the talent ready board.

Section 12. Section 63N-12-503 is enacted to read:

63N-12-503. Talent Ready Utah Board.

(1) There is created within GOED the Talent Ready Utah Board composed of the following 13 members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

(c) the commissioner of technical education or the commissioner of technical education's designee;

(d) the executive director of the Department of Workforce Services or the executive director of the department's designee;

(e) the executive director of GOED or the executive director's designee;

(f) the governor's education advisor or the advisor's designee;

(g) one member of the Senate, appointed by the president of the Senate;

(h) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(i) the president of the Salt Lake Chamber or the president's designee;

(j) three representatives of private industry chosen by the talent ready board; and

(k) a representative of the technology industry chosen by the talent ready board.

(2) The talent ready board shall select a chair and vice chair from among the members of the talent ready board.

(3) The talent ready board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent ready board constitutes a quorum for the transaction of official talent ready board business.

(5) Formal action by the talent ready board requires the majority vote of a quorum.

(6) A member of the talent ready board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent ready board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

- (b) make recommendations to the center regarding how to better align training and education in the state with industry demand;
- (c) make recommendations to the center regarding how to better align technical education with current and future workforce needs; and
- (d) coordinate with the center to meet the responsibilities described in Subsection 63N-12-502(4).

Section 13. Section 63N-12-504 is enacted to read:

63N-12-504. Reporting.

The center shall prepare an annual report describing the center's operations and recommendations for inclusion in GOED's annual written report described in Section 63N-1-301.

Section 14. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Development -- Talent Ready Utah Center

<u>From General Fund, One-time</u>	<u>\$75,000</u>
<u>From General Fund</u>	<u>\$250,000</u>
<u>Schedule of Programs:</u>	
<u>Talent Ready Utah Center</u>	<u>\$325,000</u>

ITEM 2

To Workforce Services -- Administration

<u>From General Fund, One-time</u>	<u>\$75,000</u>
<u>Schedule of Programs:</u>	
<u>Administration</u>	<u>\$75,000</u>

CHAPTER 424**S. B. 136**

Passed March 7, 2018

Approved March 22, 2018

Effective May 8, 2018

(Exception clause in Section 56)

**TRANSPORTATION
GOVERNANCE AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies governance of certain public transit districts, amends provisions related to registration fees, modifies taxes related to transportation, modifies the governance of the Department of Transportation, and makes other changes.

Highlighted Provisions:

This bill:

- ▶ amends and enacts provisions to allow local jurisdictions to share property tax revenue for transportation capital development projects;
- ▶ defines “large public transit district” and “small public transit district”;
- ▶ vests in the Legislature the authority to name a large public transit district;
- ▶ modifies the makeup of the board of trustees of a large public transit district by:
 - reducing membership from 16 to three;
 - vesting nomination responsibilities in executives of local governments and appointment responsibilities in the governor; and
 - defining responsibilities of the members of the board of trustees;
- ▶ requires a large public transit district to have legal counsel from the Utah attorney general, and provides for a transition for an existing large public transit district;
- ▶ creates a local advisory board for a large public transit district and defines the membership and duties of a local advisory board;
- ▶ requires a large public transit district to transition retirement benefits to fall under the provisions and oversight provided in the Utah State Retirement and Insurance Benefit Act;
- ▶ exempts certain meetings of members of the board of trustees of a large public transit district from the Open and Public Meetings Act;
- ▶ creates the Transportation and Tax Review Task Force;
- ▶ defines “alternative fuel vehicle,” “diesel fuel,” “electric motor vehicle,” “hybrid electric motor vehicle,” “motor fuel,” “natural gas,” and “plug-in hybrid electric motor vehicle”;
- ▶ modifies provisions imposing registration fees on motor vehicles;
- ▶ reduces funds allocated from the General Fund into the Transportation Investment Fund of 2005 and deposits funds from the General Fund into the Transit Transportation Investment Fund;

- ▶ creates the “Transit Transportation Investment Fund” within the Transportation Investment Fund of 2005;
- ▶ imposes a deadline for certain local governments to impose certain local option sales and use taxes;
- ▶ authorizes a new local option sales and use tax for certain counties with public transit services;
- ▶ allows a county, city, or town to impose certain local option sales and use taxes without submitting the question to the county’s, city’s, or town’s registered voters;
- ▶ allows a city to impose certain local option sales and use taxes not imposed by the county;
- ▶ amends provisions related to the expenditure of certain local option sales and use taxes;
- ▶ modifies certain responsibilities of the Department of Transportation and the executive director of the Department of Transportation related to supervision and oversight of certain projects and cooperation with other entities involved in a project;
- ▶ modifies governance of the Department of Transportation, including:
 - requiring a second deputy director;
 - describing the qualifications for each deputy; and
 - describing the responsibilities of each deputy director;
- ▶ creates the Planning and Investment Division within the Department of Transportation;
- ▶ modifies requirements for the Department of Transportation to develop statewide strategic initiatives for coordinating and planning multimodal transportation;
- ▶ requires the Department of Transportation to study a road user charge and implement a demonstration program;
- ▶ requires the Transportation Commission to consider public transit projects in the prioritization process to allocate funds;
- ▶ modifies criteria for the Transportation Commission to consider while prioritizing transportation and public transit projects;
- ▶ allows corridor preservation funds to be used for public transit district corridors; and
- ▶ requires the Department of Transportation to assume responsibilities for review and approval of projects under the requirements of the National Environmental Policy Act of 1969.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2018:

- ▶ to the Legislature – Senate – Administration as a one-time appropriation:
 - from the General Fund, One-time, \$12,800; and
- ▶ to the Legislature – House of Representatives – Administration as a one-time appropriation:
 - from the General Fund, One-time, \$19,200.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

11-13-103, as last amended by Laws of Utah 2016, Chapter 382

11-13-202, as last amended by Laws of Utah 2009, Chapter 218

11-13-206, as last amended by Laws of Utah 2015, Chapter 265

11-13-207, as last amended by Laws of Utah 2015, Chapter 265

17B-1-301, as last amended by Laws of Utah 2014, Chapter 362

17B-1-702, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-1-703, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-2a-802, as last amended by Laws of Utah 2016, Chapter 387

17B-2a-804, as last amended by Laws of Utah 2017, Chapters 181 and 427

17B-2a-807, as last amended by Laws of Utah 2017, Chapter 70

17B-2a-808, as last amended by Laws of Utah 2010, Chapter 281

17B-2a-810, as last amended by Laws of Utah 2016, Chapter 56

17B-2a-811, as last amended by Laws of Utah 2010, Chapter 281

17B-2a-826, as enacted by Laws of Utah 2017, Chapter 427

41-1a-102, as last amended by Laws of Utah 2016, Chapter 40

41-1a-1201, as last amended by Laws of Utah 2017, Chapters 261 and 406

41-1a-1206, as last amended by Laws of Utah 2017, Chapters 261, 406 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 261

41-1a-1221, as last amended by Laws of Utah 2012, Chapter 397

52-4-103, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441

59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422

59-12-2202, as enacted by Laws of Utah 2010, Chapter 263

59-12-2203, as last amended by Laws of Utah 2015, Chapter 275

59-12-2217, as last amended by Laws of Utah 2017, Chapter 240

59-12-2218, as last amended by Laws of Utah 2017, Chapter 240

59-12-2219, as last amended by Laws of Utah 2016, Chapter 373

63G-6a-1402, as last amended by Laws of Utah 2017, Chapter 348

67-5-3, as last amended by Laws of Utah 2015, Chapter 258

72-1-102, as last amended by Laws of Utah 2001, Chapter 372

72-1-202, as last amended by Laws of Utah 2013, Chapter 78

72-1-203, as last amended by Laws of Utah 2006, Chapter 139

72-1-204, as last amended by Laws of Utah 2017, Chapter 97

72-1-208, as last amended by Laws of Utah 2016, Chapter 350

72-1-211, as last amended by Laws of Utah 2008, Chapter 382

72-1-213, as enacted by Laws of Utah 2015, Chapter 275

72-1-214, as enacted by Laws of Utah 2017, Chapter 160

72-1-303, as last amended by Laws of Utah 2011, Chapter 256

72-1-304, as last amended by Laws of Utah 2008, Chapter 382

72-1-305, as last amended by Laws of Utah 2009, Chapter 364

72-2-117.5, as last amended by Laws of Utah 2017, Chapter 240

72-2-121, as last amended by Laws of Utah 2017, Chapter 436

72-2-124, as last amended by Laws of Utah 2017, Chapter 436

72-5-401, as last amended by Laws of Utah 2005, Chapter 254

72-6-120, as last amended by Laws of Utah 2015, Chapter 144

ENACTS:

11-13-227, Utah Code Annotated 1953

17B-2a-803.1, Utah Code Annotated 1953

17B-2a-807.1, Utah Code Annotated 1953

17B-2a-808.1, Utah Code Annotated 1953

17B-2a-808.2, Utah Code Annotated 1953

17B-2a-810.1, Utah Code Annotated 1953

17B-2a-811.1, Utah Code Annotated 1953

36-29-103, Utah Code Annotated 1953

59-12-2220, Utah Code Annotated 1953

REPEALS:

17B-2a-807.5, as enacted by Laws of Utah 2009, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-103 is amended to read:**11-13-103. Definitions.**

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, local district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) (a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an

ownership, leasehold, right-of-way, or permitted interest.

(10) "Governing authority" means a governing board or joint administrator.

(11) (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.

(c) "Governing board" does not include a board as defined in Subsection (2).

(12) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).

(17) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah interlocal entity or electric interlocal entity and required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity; and

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project.

(18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) "Public agency" means:

(a) a city, town, county, school district, local district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(21) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(22) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

[~~22~~] (23) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

[~~23~~] (24) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

Section 2. Section 11-13-202 is amended to read:

11-13-202. Agreements for joint or cooperative undertaking, for providing or exchanging services, or for law enforcement services -- Effective date of agreement -- Public agencies may restrict their authority or exempt each other regarding permits and fees.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

(a) for joint or cooperative action;

(b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services; [øø]

(e) to create a transportation reinvestment zone as defined in Section 11-13-103; or

[~~e~~] (f) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until it has been approved, as provided in Section 11-13-202.5, by each public agency that is a party to it.

(3) (a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

(i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and

(ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) An interlocal agreement between a county and one or more municipalities for law enforcement service within an area that includes some or all of the unincorporated area of the county shall require the law enforcement service provided under the agreement to be provided by or under the direction of the county sheriff.

Section 3. Section 11-13-206 is amended to read:

11-13-206. Requirements for agreements for joint or cooperative action.

(1) Each agreement under Section 11-13-202, 11-13-203, ~~11-13-205~~, or 11-13-227 shall specify:

- (a) its duration;
- (b) if the agreement creates an interlocal entity:
 - (i) the precise organization, composition, and nature of the interlocal entity;
 - (ii) the powers delegated to the interlocal entity;
 - (iii) the manner in which the interlocal entity is to be governed; and
 - (iv) subject to Subsection (2), the manner in which the members of its governing board are to be appointed or selected;
- (c) its purpose or purposes;
- (d) the manner of financing the joint or cooperative action and of establishing and maintaining a budget for it;
- (e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;
- (f) the process, conditions, and terms for withdrawal of a participating public agency from the interlocal entity or the joint or cooperative undertaking;
- (g) (i) whether voting is based upon one vote per member or weighted; and
 - (ii) if weighted voting is allowed, the basis upon which the vote weight will be determined; and
- (h) any other necessary and proper matters.

(2) Each agreement under Section 11-13-203 or 11-13-205 that creates an interlocal entity shall require that Utah public agencies that are parties to the agreement have the right to appoint or select members of the interlocal entity's governing board with a majority of the voting power.

Section 4. Section 11-13-207 is amended to read:

11-13-207. Additional requirements for agreement not establishing interlocal entity.

(1) If an agreement under Section 11-13-202 or 11-13-227 does not establish an interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the items specified in Section 11-13-206, provide for:

- (a) the joint or cooperative undertaking to be administered by:
 - (i) an administrator; or
 - (ii) a joint board with representation from the public agencies that are parties to the agreement;
- (b) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;

(c) the functions to be performed by the joint or cooperative undertaking; and

(d) the powers of the joint administrator.

(2) The creation, operation, governance, and fiscal procedures of a joint or cooperative undertaking are governed by this chapter.

Section 5. Section 11-13-227 is enacted to read:

11-13-227. Transportation reinvestment zones.

(1) Subject to the provisions of this part, any two or more public agencies may enter into an agreement with one another to create a transportation reinvestment zone as described in this section.

(2) To create a transportation reinvestment zone, two or more public agencies, at least one of which has land use authority over the transportation reinvestment zone area, shall:

- (a) define the transportation infrastructure need and proposed improvement;
- (b) define the boundaries of the zone;
- (c) establish terms for sharing sales tax revenue among the members of the agreement;
- (d) establish a base year to calculate the increase of property tax revenue within the zone;
- (e) establish terms for sharing any increase in property tax revenue within the zone; and
- (f) before an agreement is approved as required in Section 11-13-202.5, hold a public hearing regarding the details of the proposed transportation reinvestment zone.

(3) Any agreement to establish a transportation reinvestment zone is subject to the requirements of Sections 11-13-202, 11-13-202.5, 11-13-206, and 11-13-207.

(4) (a) Each public agency that is party to an agreement under this section shall annually publish a report including a statement of the increased tax revenue and the expenditures made in accordance with the agreement.

(b) Each public agency that is party to an agreement under this section shall transmit a copy of the report described in Subsection (4)(a) to the state auditor.

(5) If any surplus revenue remains in a tax revenue account created as part of a transportation reinvestment zone agreement, the parties may use the surplus for other purposes as determined by agreement of the parties.

Section 6. Section 17B-1-301 is amended to read:

17B-1-301. Board of trustees duties and powers.

(1) (a) Each local district shall be governed by a board of trustees which shall manage and conduct the business and affairs of the district and shall determine all questions of district policy.

(b) All powers of a local district are exercised through the board of trustees.

(2) The board of trustees may:

(a) fix the location of the local district's principal place of business and the location of all offices and departments, if any;

(b) fix the times of meetings of the board of trustees;

(c) select and use an official district seal;

(d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the local district and its properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

(e) require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;

(f) contract for or employ professionals to perform work or services for the local district that cannot satisfactorily be performed by the officers or employees of the district;

(g) through counsel, prosecute on behalf of or defend the local district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

(i) adopt and enforce rules and regulations for the orderly operation of the local district or for carrying out the district's purposes;

(j) prescribe a system of civil service for district employees;

(k) on behalf of the local district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the local district;

(m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the local district and its

properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the local district board is elected, the period of time that:

(A) begins on the day on which an election is held to elect a local district board member; and

(B) ends on the day on which the local district board member-elect begins the member's term; or

(ii) if any member of the local district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the person who is appointed by the local district board to fill the vacancy begins the person's term.

(b) (i) The local district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the local district may hire an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new local district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected local district board members who held office on the day of the election for the local district board members, whose term of office was vacant for the election are re-elected to the local district board; and

(ii) all the appointed local district board members who were appointed whose term of appointment was expiring are re-appointed to the local district board.

(4) A local district board that hires an interim manager, a chief executive officer, a chief administrative officer, an executive director, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, executive director, or similar position.

Section 7. Section 17B-1-702 is amended to read:

17B-1-702. Local districts to submit budgets.

(1) (a) Except as provided in Subsection (1)(b), within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of each local district with an annual budget of \$50,000 or more shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

(i) each of its constituent entities that has in writing requested a copy; and

(ii) to each of its customer agencies that has in writing requested a copy.

(b) Within 30 days after it is approved by the board, and at least 30 days before the board adopts a final budget, the board of trustees of a large public transit district [serving a population of more than 200,000 people] as defined in Section 17B-2a-802 shall send a copy of its tentative budget and notice of the time and place for its budget hearing to:

(i) each of its constituent entities;

(ii) each of its customer agencies that has in writing requested a copy;

(iii) the governor; and

(iv) the Legislature.

(c) The local district shall include with the tentative budget a signature sheet that includes:

(i) language that the constituent entity or customer agency received the tentative budget and has no objection to it; and

(ii) a place for the chairperson or other designee of the constituent entity or customer agency to sign.

(2) Each constituent entity and each customer agency that receives the tentative budget shall review the tentative budget submitted by the district and either:

(a) sign the signature sheet and return it to the district; or

(b) attend the budget hearing or other meeting scheduled by the district to discuss the objections to the proposed budget.

(3) (a) If any constituent entity or customer agency that received the tentative budget has not returned the signature sheet to the local district within 15 calendar days after the tentative budget was mailed, the local district shall send a written notice of the budget hearing to each constituent entity or customer agency that did not return a signature sheet and invite them to attend that hearing.

(b) If requested to do so by any constituent entity or customer agency, the local district shall schedule a meeting to discuss the budget with the constituent entities and customer agencies.

(c) At the budget hearing, the local district board shall:

(i) explain its budget and answer any questions about it;

(ii) specifically address any questions or objections raised by the constituent entity, customer agency, or those attending the meeting; and

(iii) seek to resolve the objections.

(4) Nothing in this part prevents a local district board from approving or implementing a budget over any or all constituent entity's or customer agency's protests, objections, or failure to respond.

Section 8. Section 17B-1-703 is amended to read:

17B-1-703. Local districts to submit audit reports.

(1) (a) Except as provided in Subsection (1)(b), within 30 days after it is presented to the board, the board of each local district with an annual budget of \$50,000 or more shall send a copy of any audit report to:

(i) each of its constituent entities that has in writing requested a copy; and

(ii) each of its customer agencies that has in writing requested a copy.

(b) Within 30 days after it is presented to the board, the board of a large public transit district [serving a population of more than 200,000 people] as defined in Section 17B-2a-802 shall send a copy of its annual audit report to:

(i) each of its constituent entities; and

(ii) each of its customer agencies that has in writing requested a copy.

(2) Each constituent entity and each customer agency that received the audit report shall review the audit report submitted by the district and, if necessary, request a meeting with the district board to discuss the audit report.

(3) At the meeting, the local district board shall:

(a) answer any questions about the audit report; and

(b) discuss their plans to implement suggestions made by the auditor.

Section 9. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households

that meet specific area median income targets or ranges of area median income targets.

(b) “Affordable housing” does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) “Appointing entity” means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) “Chief executive officer” means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) “Chief executive officer” shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) “Council of governments” means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

[44] (5) “Department” means the Department of Transportation created in Section 72-1-201.

(6) “Executive director” means a person appointed by the board of trustees of a large public transit district to serve as executive director.

[45] (7) (a) “General manager” means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) “General manager” shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(8) “Large public transit district” means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

[46] (9) (a) “Locally elected public official” means a person who holds an elected position with a county or municipality.

(b) “Locally elected public official” does not include a person who holds an elected position if the elected position is not with a county or municipality.

[47] (10) “Metropolitan planning organization” means the same as that term is defined in Section 72-1-208.5.

[48] (11) “Multicounty district” means a public transit district located in more than one county.

[49] (12) “Operator” means a public entity or other person engaged in the transportation of passengers for hire.

[49] (13) “Public transit” means the transportation of passengers only and their incidental baggage by means other than:

- (a) chartered bus;
- (b) sightseeing bus; or
- (c) taxi.

(14) “Public transit district” means a local district that provides public transit services.

(15) “Small public transit district” means any public transit district that is not a large public transit district.

[41] (16) “Transit facility” means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

- (i) railway or other right-of-way;
- (ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[44] (17) “Transit vehicle” means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

[42] (18) “Transit-oriented development” means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a public transit district that serves a county of the first class.

[43] (19) “Transit-supportive development” means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a public transit district.

Section 10. Section 17B-2a-803.1 is enacted to read:

17B-2a-803.1. Authority to name a large public transit district.

(1) The authority to name any large public transit district is vested in the Legislature and the name shall be codified in this section.

(2) (a) For the large public transit district in existence and with a portion of the district within a county of the first class as of May 8, 2018, and beginning on May 8, 2018, the large public transit district shall be called Transit District of Utah.

(b) The board of trustees of the large public transit district described in Subsection (2)(a) shall implement the name change over time and as resources permit.

Section 11. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise

contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p):

(i) in the manner described in Subsection (1)(p)(i) or (ii); and

(ii) on no more than eight transit-oriented developments or transit-supportive developments selected by the board of trustees.

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and

county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

- (i) service and ridership;
- (ii) regional plans made by the metropolitan planning agency;
- (iii) the local economy;
- (iv) the environment and air quality;
- (v) affordable housing; and
- (vi) integration with other modes of transportation; and

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service.

(4) A public transit district may be funded from any combination of federal, state, local, or private funds.

(5) A public transit district may not acquire property by eminent domain.

Section 12. Section 17B-2a-807 is amended to read:

17B-2a-807. Small public transit district board of trustees -- Appointment -- Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.

(1) (a) ~~[If 200,000 people or fewer reside within the boundaries of a]~~ For a small public transit district, the board of trustees shall consist of members appointed by the legislative bodies of each municipality, county, or unincorporated area within any county on the basis of one member for each full unit of regularly scheduled passenger routes proposed to be served by the district in each municipality or unincorporated area within any county in the following calendar year.

(b) For purposes of determining membership under Subsection (1)(a), the number of service miles comprising a unit shall be determined jointly by the legislative bodies of the municipalities or counties comprising the district.

(c) The board of trustees of a public transit district under this ~~[Subsection (1)]~~ section may include a member that is a commissioner on the

Transportation Commission created in Section 72-1-301 and appointed as provided in Subsection ~~[(11)]~~ (8), who shall serve as a nonvoting, ex officio member.

(d) Members appointed under this ~~[Subsection (1)]~~ section shall be appointed and added to the board or omitted from the board at the time scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties annex to or withdraw from the district using the same appointment procedures.

(e) For purposes of appointing members under this ~~[Subsection (1)]~~ section, municipalities, counties, and unincorporated areas of counties in which regularly scheduled passenger routes proposed to be served by the district in the following calendar year is less than a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated municipality or unincorporated area to form a whole unit and may appoint one member for each whole unit formed.

~~[(2) (a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the boundaries of a public transit district, the board of trustees shall consist of:]~~

~~[(i) 11 members:]~~

~~[(A) appointed as described under this Subsection (2); or]~~

~~[(B) retained in accordance with Section 17B-2a-807.5:]~~

~~[(ii) three members appointed as described in Subsection (4);]~~

~~[(iii) one voting member appointed as provided in Subsection (11); and]~~

~~[(iv) one nonvoting member appointed as provided in Subsection (12).]~~

~~[(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting members to each county within the district using an average of:]~~

~~[(i) the proportion of population included in the district and residing within each county, rounded to the nearest 1/11 of the total transit district population; and]~~

~~[(ii) the cumulative proportion of transit sales and use tax collected from areas included in the district and within each county, rounded to the nearest 1/11 of the total cumulative transit sales and use tax collected for the transit district.]~~

~~[(c) The board shall join an entire or partial county not apportioned a voting member under this Subsection (2) with an adjacent county for representation. The combined apportionment basis included in the district of both counties shall be used for the apportionment.]~~

~~[(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county or combination of counties with the smallest additional fraction of a whole member proportion shall have one less member apportioned to it.]~~

~~[(ii) If rounding to the nearest 1/11 of the total public transit district apportionment basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county or combination of counties with the largest additional fraction of a whole member proportion shall have one more member apportioned to it.]~~

~~[(e) If the population of a county is at least 750,000, the county executive, with the advice and consent of the county legislative body, shall appoint one voting member to represent the population of the county.]~~

~~[(f) If a municipality's population is at least 160,000, the chief municipal executive, with the advice and consent of the municipal legislative body, shall appoint one voting member to represent the population within a municipality.]~~

~~[(g) (i) The number of voting members appointed from a county and municipalities within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting member apportionment under this Subsection (2).]~~

~~[(ii) Notwithstanding Subsections (2)(l) and (10), no more than one voting member appointed by an appointing entity may be a locally elected public official.]~~

~~[(h) If the entire county is within the district, the remaining voting members for the county shall represent the county or combination of counties, if Subsection (2)(e) applies, or the municipalities within the county.]~~

~~[(i) If the entire county is not within the district, and the county is not joined with another county under Subsection (2)(e), the remaining voting members for the county shall represent a municipality or combination of municipalities.]~~

~~[(j) (i) Except as provided under Subsections (2)(e) and (f), voting members representing counties, combinations of counties if Subsection (2)(e) applies, or municipalities within the county shall be designated and appointed by a simple majority of the chief executives of the municipalities within the county or combinations of counties if Subsection (2)(e) applies.]~~

~~[(ii) The appointments shall be made by joint written agreement of the appointing municipalities, with the consent and approval of the county legislative body of the county that has at least 1/11 of the district's apportionment basis.]~~

~~[(k) Voting members representing a municipality or combination of municipalities shall be designated and appointed by the chief executive officer of the municipality or simple majority of chief executive officers of municipalities with the consent of the legislative body of the municipality or municipalities.]~~

~~[(l) The appointment of members shall be made without regard to partisan political affiliation from among citizens in the community.]~~

~~[(m) Each member shall be a bona fide resident of the municipality, county, or unincorporated area or areas which the member is to represent for at least six months before the date of appointment, and shall continue in that residency to remain qualified to serve as a member.]~~

~~[(n) (i) All population figures used under this section shall be derived from the most recent official census or census estimate of the United States Bureau of the Census.]~~

~~[(ii) If population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.]~~

~~[(iii) All transit sales and use tax totals shall be obtained from the State Tax Commission.]~~

~~[(o) (i) The board shall be apportioned as provided under this section in conjunction with the decennial United States Census Bureau report every 10 years.]~~

~~[(ii) Within 120 days following the receipt of the population estimates under this Subsection (2)(o), the district shall reapportion representation on the board of trustees in accordance with this section.]~~

~~[(iii) The board shall adopt by resolution a schedule reflecting the current and proposed apportionment.]~~

~~[(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to each of its constituent entities as defined under Section 17B-1-701.]~~

~~[(v) The appointing entities gaining a new board member shall appoint a new member within 30 days following receipt of the resolution.]~~

~~[(vi) The appointing entities losing a board member shall inform the board of which member currently serving on the board will step down:]~~

~~[(A) upon appointment of a new member under Subsection (2)(o)(v); or]~~

~~[(B) in accordance with Section 17B-2a-807.5.]~~

~~[(3) (2) Upon the completion of an annexation to a public transit district under Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the same basis as if the area had been included in the district as originally organized.~~

~~[(4) In addition to the voting members appointed in accordance with Subsection (2), the board shall consist of three voting members appointed as follows:]~~

~~[(a) one member appointed by the speaker of the House of Representatives;]~~

~~[(b) one member appointed by the president of the Senate; and]~~

~~[(c) one member appointed by the governor.]~~

~~[(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of the board shall~~

~~be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.]~~

~~[(6)] (3) (a) Vacancies for members shall be filled by the official appointing the member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy within 90 days.~~

(b) If the appointing official under Subsection (1) does not fill the vacancy within 90 days, the board of trustees of the authority shall fill the vacancy.

~~[(c)] If the appointing official under Subsection (2) does not fill the vacancy within 90 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.]~~

~~[(7)] (4) (a) Each voting member may cast one vote on all questions, orders, resolutions, and ordinances coming before the board of trustees.~~

(b) A majority of all voting members of the board of trustees are a quorum for the transaction of business.

(c) The affirmative vote of a majority of all voting members present at any meeting at which a quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

~~[(8)] (5) Each public transit district shall pay to each member per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.~~

~~[(9)] (6) (a) Members of the initial board of trustees shall convene at the time and place fixed by the chief executive officer of the entity initiating the proceedings.~~

(b) The board of trustees shall elect from its voting membership a chair, vice chair, and secretary.

(c) The members elected under Subsection ~~[(9)]~~ (6)(b) shall serve for a period of two years or until their successors shall be elected and qualified.

(d) On or after January 1, 2011, a locally elected public official is not eligible to serve as the chair, vice chair, or secretary of the board of trustees.

~~[(10)] (7) (a) Except as otherwise authorized under [Subsections (2)(g) and (10)(b) and Section 17B-2a-807.5] Subsection (7)(b), at the time of a member's appointment or during a member's tenure in office, a member may not hold any employment, except as an independent contractor or locally elected public official, with a county or municipality within the district.~~

(b) A member appointed by a county or municipality may hold employment with the county or municipality if the employment is disclosed in writing and the public transit district board of trustees ratifies the appointment.

~~[(11)] (8) The Transportation Commission created in Section 72-1-301[-(a) for a public transit district serving a population of 200,000 people or fewer,] may appoint a commissioner of the~~

Transportation Commission to serve on the board of trustees of a small public transit district as a nonvoting, ex officio member~~[- and].~~

~~[(b)] for a public transit district serving a population of more than 200,000 people, shall appoint a commissioner of the Transportation Commission to serve on the board of trustees as a voting member.]~~

~~[(12) (a) The board of trustees of a public transit district serving a population of more than 200,000 people shall include a nonvoting member who represents all municipalities and unincorporated areas within the district that are located within a county that is not annexed into the public transit district.]~~

~~[(b) The nonvoting member representing the combination of municipalities and unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a weighted vote of the majority of the chief executive officers of the municipalities described in Subsection (12)(a).]~~

~~[(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the proportion of the public transit district population that resides within that municipality and the adjacent unincorporated areas within the same county.]~~

~~[(13)] (9) (a) (i) Each member of the board of trustees of a public transit district is subject to recall at any time by the legislative body of the county or municipality from which the member is appointed.~~

(ii) Each recall of a board of trustees member shall be made in the same manner as the original appointment.

(iii) The legislative body recalling a board of trustees member shall provide written notice to the member being recalled.

(b) Upon providing written notice to the board of trustees, a member of the board may resign from the board of trustees.

~~(c) [Except as provided in Section 17B-2a-807.5, if] If a board member is recalled or resigns under this Subsection ~~[(13)]~~ (9), the vacancy shall be filled as provided in Subsection ~~[(6)]~~ (3).~~

Section 13. Section 17B-2a-807.1 is enacted to read:

17B-2a-807.1. Large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1) (a) For a large public transit district, the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(b) (i) The governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making:

(A) one appointment from the nominees described in Subsection (1)(b)(ii);

(B) one appointment from the nominees described in Subsection (1)(b)(iii); and

(C) one appointment from the nominees described in Subsection (1)(b)(iv).

(ii) The chief executive officer of a county of the first class within a large public transit district, with approval of the legislative body of the county, shall nominate two or more individuals to the governor for appointment to the board of trustees.

(iii) (A) Subject to Subsection (1)(b)(iii)(B), the executive governing individuals or bodies of a county or counties of the second class, with a population over 500,000, within a large public transit district, shall nominate two or more individuals to the governor for appointment to the board of trustees.

(B) To select individuals for nomination, the executive governing individuals or bodies described in Subsection (1)(b)(iii)(A) shall consult with the executive governing individual or body of a county of the third or smaller class within the large public transit district.

(iv) (A) Subject to Subsection (1)(b)(iv)(B), the executive governing individuals or bodies of any county or counties of the second class, with a population of 500,000 or less, within a large public transit district, shall jointly nominate two or more individuals to the governor for appointment to the board of trustees.

(B) To select individuals for nomination, the executive governing individuals or bodies described in Subsection (1)(b)(iv)(A) shall consult with the executive governing individual or body of a county of the third or smaller class within the large public transit district different from a third or smaller class county consulting with the county or counties described in Subsection (1)(b)(iii).

(c) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(d) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(e) The compensation package for the board of trustees shall be determined by the local advisory board as described in Section 17B-2a-808.2.

(2) (a) Subject to Subsections (3) and (4), each member of the board of trustees of a large public transit district shall serve for a term of three years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(3) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(4) The first time the board of trustees is appointed under this section, the governor shall stagger the initial term of each of the members of the board of trustees as follows:

(a) one member of the board of trustees shall serve an initial term of two years;

(b) one member of the board of trustees shall serve an initial term of three years; and

(c) one member of the board of trustees shall serve an initial term of four years.

(5) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(6) (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1) for the member creating the vacancy.

(b) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (2)(b).

(c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

(7) For any large public transit district in existence as of May 8, 2018:

(a) the individuals or bodies providing nominations as described in this section shall provide the nominations to the governor as described in this section before July 31, 2018;

(b) the governor shall appoint the members of the board of trustees before August 31, 2018; and

(c) the new board shall assume control of the large public transit district on or before November 1, 2018.

Section 14. Section 17B-2a-808 is amended to read:

17B-2a-808. Small public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a small public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each small public transit district shall:

(a) appoint and fix the salary of a general manager, a chief executive officer, or both, as provided in Section 17B-2a-811;

(b) determine the transit facilities that the district should acquire or construct;

(c) supervise and regulate each transit facility that the district owns and operates, including:

(i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals, and charges; and

(ii) making and enforcing rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(d) control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(e) invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(g) (i) cause an annual audit of all district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to the chief administrative officer and legislative body of each county and municipality with territory within the district a financial report showing:

(A) the result of district operations during the preceding fiscal year; and

(B) the district's financial status on the final day of the fiscal year; and

(iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon request in a quantity that the board considers appropriate;

(h) report at least annually to the Transportation Commission created in Section 72-1-301 the district's short-term and long-range public transit plans, including the transit portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134;

(i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines to be the most critical to the success of the organization; and

(j) hear audit reports for audits conducted in accordance with Subsection (2)(i).

(3) A board of trustees of a public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the government and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the general manager or other officer or deputy as the board prescribes;

(c) (i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(f).

(4) A member of the board of trustees of a public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote with each affirmative and negative vote recorded.

(b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or order by voice vote.

(ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if a member of the board so demands.

(c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public transit district may not adopt an ordinance unless it is:

(A) introduced at least a day before the board of trustees adopts it; or

(B) mailed by registered mail, postage prepaid, to each member of the board of trustees at least five days before the day upon which the ordinance is presented for adoption.

(ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote of all board members present at a meeting at which at least 3/4 of all board members are present.

(d) Each ordinance adopted by a public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

Section 15. Section 17B-2a-808.1 is enacted to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section

are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory board;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory board, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory board:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) (i) in partnership with the Department of Transportation, study and evaluate the feasibility of a strategic transition of a large public transit district into a state entity; and

(ii) in partnership with the Department of Transportation, before November 30 of each year, report on the progress of the study to the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee;

(j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director;

(ii) the chief internal auditor;

(iii) the chief people officer;

(iv) any vice president level officer; and

(v) the chief safety, security, and technology officer;

(k) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) in consultation with the local advisory board created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory board created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory board created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory board, develop and approve other board policies, ordinances, and bylaws; and

(u) review and approve any:

(i) contract or expense exceeding \$200,000; or

(ii) proposed change order to an existing contract if the value of the change order exceeds:

(A) 15% of the total contract; or

(B) \$200,000.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory board created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Bonding Commission created in Section 63B-1-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed \$150,000, plus additional retirement and other standard benefits.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or

before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Section 16. Section 17B-2a-808.2 is enacted to read:

17B-2a-808.2. Large public transit district local advisory board -- Powers and duties.

(1) A large public transit district shall create and consult with a local advisory board.

(2) (a) The local advisory board shall have membership selected as described in Subsection (2)(b) on or before November 1, 2018.

(b) (i) The council of governments of a county of the first class within a large public transit district shall appoint three members to the local advisory board.

(ii) The chief executive officer of a city that is the county seat within a county of the first class within a large public transit district shall appoint one member to the local advisory board.

(iii) The council of governments of a county of the second class with a population of 500,000 or more within a large public transit district shall appoint two members to the local advisory board.

(iv) The council of governments of a county of the second class with a population under 500,000 within a large public transit district shall each appoint one member to the local advisory board.

(v) The councils of governments of any counties of the third class or smaller within a large public transit district shall jointly appoint one member to the local advisory board.

(c) The population numbers used to apportion appointment powers described in Subsection (2)(b) shall be based on the most recent official census or census estimate of the United States Census Bureau.

(3) The local advisory board shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.

(4) The duties of the local advisory board shall include:

(a) setting the compensation packages of the board of trustees;

(b) reviewing, approving, and recommending final adoption by the board of trustees of the large public transit district service plans at least every two and one-half years;

(c) reviewing, approving, and recommending final adoption by the board of trustees of project development plans, including funding, of all new capital development projects;

(d) reviewing, approving, and recommending final adoption by the board of trustees of any plan for a transit-oriented development where a large public transit district is involved;

(e) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;

(f) assisting with coordinated mobility and constituent services provided by the public transit district;

(g) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and

(h) other duties described in Section 17B-2a-808.1.

(5) The local advisory board shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Section 17. Section 17B-2a-810 is amended to read:

17B-2a-810. Officers of a public transit district.

(1) (a) The officers of a public transit district shall consist of:

(i) the members of the board of trustees;

(ii) for a small public transit district, a chair and vice chair, appointed by the board of trustees, subject to Subsection (1)(c);

(iii) a secretary, appointed by the board of trustees;

(iv) (A) for a small public transit district, a general manager, appointed by the board of trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of trustees, at the board of trustees' discretion, to a chief executive officer, or both; or

(B) for a large public transit district, an executive director appointed by the board of trustees as provided in Section 17B-2a-811.1;

(v) for a small public transit district, a chief executive officer appointed by the board of trustees, as provided in Section 17B-2a-811;

(vi) for a small public transit district, a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);

(vii) a treasurer, appointed as provided in Section 17B-1-633;

(viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);

(ix) for a [public transit district with more than 200,000 people residing within the boundaries of the] large public transit district, an internal auditor, appointed by the board of trustees, subject to Subsection (1)(f); and

(x) other officers, assistants, and deputies that the board of trustees considers necessary.

(b) The board of trustees of a small public transit district may, at its discretion, appoint a president, who shall also be considered an officer of a public transit district.

(c) The district chair and vice chair of a small public transit district shall be members of the board of trustees.

(d) The person appointed as general counsel for a small public transit district shall:

(i) be admitted to practice law in the state; and

(ii) have been actively engaged in the practice of law for at least seven years next preceding the appointment.

(e) The person appointed as comptroller shall have been actively engaged in the practice of accounting for at least seven years next preceding the appointment.

(f) The person appointed as internal auditor shall be a licensed certified internal auditor or certified public accountant with at least five years experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(2) (a) ~~[The]~~ For a small public transit district, the district's general manager or chief executive officer, as the board prescribes, or for a large public transit district, the executive director, shall appoint all officers and employees not specified in Subsection (1).

(b) Each officer and employee appointed by the district's general manager or chief executive officer of a small public transit district, or the executive director of a large public transit district, serves at the pleasure of the appointing general manager [or], chief executive officer, or executive director.

(3) The board of trustees shall by ordinance or resolution fix the compensation of all district officers and employees, except as otherwise provided in this part.

(4) (a) Each officer appointed by the board of trustees or by the district's general manager [or], chief executive officer, or executive director shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district secretary no later than 15 days after the commencement of the officer's term of office.

Section 18. Section 17B-2a-810.1 is enacted to read:

17B-2a-810.1. Attorney general as legal counsel for a large public transit district -- Large public transit district may sue and be sued.

(1) Subject to Subsection (2), in accordance with Title 67, Chapter 5, Attorney General, the Utah attorney general shall serve as legal counsel for a large public transit district.

(2) (a) For any large public transit district in existence as of May 8, 2018, the transition to legal representation by the Utah attorney general shall occur as described in this Subsection (2), but no later than July 1, 2019.

(b) (i) For any large public transit district in existence as of May 8, 2018, in partnership with the Utah attorney general, the board of trustees of the large public transit district shall study and develop a strategy to transition legal representation from a general counsel to the Utah attorney general.

(ii) In partnership with the Utah attorney general, the board of trustees of the large public transit district shall present a report to the Transportation Interim Committee before November 30, 2018, to:

(A) outline the transition strategy; and

(B) request any legislation that might be required for the transition.

(3) Sections 67-5-6 through 13, Attorney General Career Service Act, apply to representation of a large public transit district by the Utah attorney general.

(4) A large public transit district may sue, and it may be sued only on written contracts made by it or under its authority.

(5) In all matters requiring legal advice in the performance of the attorney general's duties and in the prosecution or defense of any action growing out of the performance of the attorney general's duties, the attorney general is the legal adviser of a large public transit district and shall perform any and all legal services required by the large public transit district.

(6) The attorney general shall aid in any investigation, hearing, or trial under the provisions of this part and institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state or any rule or ordinance of the large public transit district affecting and related to public transit, persons, and property.

Section 19. Section 17B-2a-811 is amended to read:

17B-2a-811. General manager or chief executive officer of a small public transit district.

(1) (a) The board of trustees of a small public transit district shall appoint a person as a general manager.

(b) The board of trustees of a small public transit district may, at its discretion, appoint a person as a chief executive officer.

(c) The board of trustees of a small public transit district shall allocate the responsibilities defined in Subsection (2) between the general manager and the chief executive officer, if the board of trustees appoints a chief executive officer.

(d) The chief executive officer shall have the same rights allocated to the general manager under Subsections (3) and (4).

(e) The appointment of a general manager, chief executive officer, or both, shall be by the affirmative vote of a majority of all members of the board of trustees.

(f) The board's appointment of a person as general manager, chief executive officer, or both, shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.

(g) A person appointed as general manager or chief executive officer of a small public transit district is not required to be a resident of the state at the time of appointment.

(2) A general manager or chief executive officer of a small public transit district shall have the following responsibilities as allocated by the board of trustees:

(a) be a full-time officer and devote full time to the district's business;

(b) ensure that all district ordinances are enforced;

(c) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;

(d) keep the board of trustees advised as to the district's needs;

(e) prepare or cause to be prepared all plans and specifications for the construction of district works;

(f) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times; and

(g) attend meetings of the board of trustees.

(3) A general manager of a small public transit district:

(a) serves at the pleasure of the board of trustees;

(b) holds office for an indefinite term;

(c) may be removed by the board of trustees upon the adoption of a resolution by the affirmative vote of a majority of all members of the board, subject to Subsection (5);

(d) has full charge of:

(i) the acquisition, construction, maintenance, and operation of district facilities; and

(ii) the administration of the district's business affairs;

(e) is entitled to participate in the deliberations of the board of trustees as to any matter before the board; and

(f) may not vote at a meeting of the board of trustees.

(4) The board of trustees may not reduce the general manager's salary below the amount fixed at the time of original appointment unless:

(a) the board adopts a resolution by a vote of a majority of all members; and

(b) if the general manager demands in writing, the board gives the general manager the opportunity to be publicly heard at a meeting of the board before the final vote on the resolution reducing the general manager's salary.

(5) (a) Before adopting a resolution providing for a general manager's removal as provided in Subsection (3)(c), the board shall, if the manager makes a written demand:

(i) give the general manager a written statement of the reasons alleged for the general manager's removal; and

(ii) allow the general manager to be publicly heard at a meeting of the board of trustees.

(b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district may suspend a general manager from office pending and during a hearing under Subsection (5)(a)(ii).

(6) The action of a board of trustees suspending or removing a general manager or reducing the general manager's salary is final.

Section 20. Section 17B-2a-811.1 is enacted to read:

17B-2a-811.1. Executive director of a large public transit district.

(1) (a) The board of trustees of a large public transit district shall appoint a person as an executive director.

(b) The appointment of an executive director shall be by the affirmative vote of a majority of the board of trustees.

(c) The board's appointment of a person as executive director shall be based on the person's qualifications, with special reference to the person's actual experience in or knowledge of accepted practices with respect to the duties of the office.

(d) A person appointed as executive director of a large public transit district is not required to be a resident of the state at the time of appointment.

(2) An executive director of a large public transit district shall:

(a) be a full-time officer and devote full time to the district's business;

(b) serve at the pleasure of the board of trustees;

(c) hold office for an indefinite term;

(d) ensure that all district ordinances are enforced;

(e) prepare and submit to the board of trustees, as soon as practical but not less than 45 days after the end of each fiscal year, a complete report on the district's finances and administrative activities for the preceding year;

(f) advise the board of trustees regarding the needs of the district;

(g) in consultation with the board of trustees, prepare or cause to be prepared all plans and specifications for the construction of district works;

(h) cause to be installed and maintained a system of auditing and accounting that completely shows the district's financial condition at all times;

(i) attend meetings of the board of trustees;

(j) in consultation with the board of trustees, have charge of:

(i) the acquisition, construction, maintenance, and operation of district facilities; and

(ii) the administration of the district's business affairs; and

(k) be entitled to participate in the deliberations of the board of trustees as to any matter before the board.

(3) The board of trustees may not remove the executive director or reduce the executive director's salary below the amount fixed at the time of original appointment unless:

(a) the board adopts a resolution by a vote of a majority of all members; and

(b) if the executive director demands in writing, the board gives the executive director the opportunity to be publicly heard at a meeting of the board before the final vote on the resolution removing the executive director or reducing the executive director's salary.

(4) (a) Before adopting a resolution providing for the removal of the executive director or a reduction in the executive director's salary as provided in Subsection (3), the board shall, if the executive director makes a written demand:

(i) give the executive director a written statement of the reasons alleged for the removal or reduction in salary; and

(ii) allow the executive director to be publicly heard at a meeting of the board of trustees.

(b) Notwithstanding Subsection (4)(a), the board of trustees of a public transit district may suspend an executive director from office pending and during a hearing under Subsection (4)(a)(ii).

(5) The action of a board of trustees suspending or removing an executive director or reducing the executive director's salary is final.

Section 21. Section 17B-2a-826 is amended to read:

17B-2a-826. Public transit district office of constituent services and office of coordinated mobility.

(1) (a) The board of trustees of a large public transit district [serving a population over 200,000 people] shall create and employ an office of constituent services.

(b) The duties of the office of constituent services described in Subsection (1)(a) shall include:

(i) establishing a central call number to hear and respond to complaints, requests, comments,

concerns, and other communications from customers and citizens within the district;

(ii) keeping a log of the complaints, comments, concerns, and other communications from customers and citizens within the district; and

(iii) reporting complaints, comments, concerns, and other communications to management and to the [citizens'] local advisory board created in [Subsection (2)] Section 17B-2a-808.2.

~~[(2) (a) A public transit district serving a population over 200,000 people shall create and oversee a citizens' advisory board.]~~

~~[(b) (i) The board of trustees of the public transit district shall select up to 12 members for the public transit district citizens' advisory board with membership representing the diversity of the public transit district area.]~~

~~[(ii) The board of trustees shall ensure that each member of the citizens' advisory board regularly uses the public transit district services.]~~

~~[(e) The public transit district citizens' advisory board shall meet as needed or quarterly in a meeting open to the public for comment, to discuss the service, operations, and any concerns with the public transit district operations and functionality.]~~

~~[(d) The public transit district management shall meet at least quarterly with and consult with the citizens' advisory board and take into consideration the input of the citizens' advisory board in managing and operating the public transit district.]~~

~~[(3) (2) (a) A large public transit district [serving a population over 200,000 people] shall create and employ an office of coordinated mobility.~~

(b) The duties of the office of coordinated mobility shall include:

(i) establishing a central call number to facilitate human services transportation;

(ii) coordinating all human services transportation needs within the public transit district;

(iii) receiving requests and other communications regarding human services transportation;

(iv) receiving requests and other communications regarding vans, buses, and other vehicles available for use from the public transit district to maximize the utility of and investment in those vehicles; and

(v) supporting local efforts and applications for additional funding.

Section 22. Section 36-29-103 is enacted to read:

36-29-103. Transportation and Tax Review Task Force.

(1) As used in this section:

(a) "Task force" means the Transportation and Tax Review Task Force created in Subsection (2).

(b) "Transportation" includes:

(i) state transportation systems as defined in Section 72-1-102;

(ii) public transit as defined in Section 17B-2a-802;

(iii) active transportation, including walking, cycling, and other modes of human powered transportation; and

(iv) any other modes of transportation in this state.

(2) There is created the Transportation and Tax Review Task Force consisting of the following members:

(a) four members of the Senate appointed by the president of the Senate, with one senator from the minority party;

(b) six members of the House of Representatives appointed by the speaker of the House of Representatives, with one member from the minority party; and

(c) three members of the executive branch appointed by the governor.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force, but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(6) (a) A vacancy shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2).

(b) Each member of the task force shall serve until a successor is appointed and qualified.

(7) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the task force.

(8) The task force shall:

(a) review, evaluate, study, prepare a report, and make recommendations on transportation and taxation related topics, including:

(i) possible reforms to taxes and fees related to transportation funding, including:

(A) vehicle registration fees;

(B) a road user charge;

(C) local option sales and use taxes;

(D) statewide sales and use taxes;

(E) motor and special fuel taxes; and

(F) fiscal impacts of existing tax credits and exemptions;

(ii) a review of the governance structures of agencies and districts relevant to transportation and public transit;

(iii) other topics the task force determines are relevant to improve transportation and transit services in the state;

(iv) recommendations on simplifying and modernizing the state's tax system, including:

(A) strategies to broaden the tax base and lower tax rates; and

(B) minimizing burdens of compliance and administration of the tax system; and

(v) recommendations on how to improve the state tax system's:

(A) economical neutrality;

(B) reliability;

(C) equity;

(D) responsiveness to interstate and international competition;

(E) simplicity for compliance and administration; and

(F) accountability and transparency;

(b) review modernization of state and local revenue systems to ensure the state's revenue structure is responsive to a changing economy, with a sustainable fiscal structure for taxpayers and for state and local governments;

(c) ensure the state's revenue structure:

(i) remains economically competitive; and

(ii) is equitable; and

(d) review sales tax.

(9) The task force shall solicit public feedback and involvement, including coordination with individuals and entities with relevant transportation and taxation expertise.

(10) (a) The task force shall report the task force's findings and recommendations to the Transportation Interim Committee and Revenue and Taxation Interim Committee before December 1 of each year that the task force is in effect.

(b) The task force shall remain in effect until March 31, 2020.

Section 23. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) “Actual miles” means the actual distance a vehicle has traveled while in operation.

(2) “Actual weight” means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) “All-terrain type I vehicle” [~~has the same meaning provided~~] means the same as that term is defined in Section 41-22-2.

(4) “All-terrain type II vehicle” [~~has the same meaning provided~~] means the same as that term is defined in Section 41-22-2.

(5) “Alternative fuel vehicle” means:

- (a) an electric motor vehicle;
- (b) a hybrid electric motor vehicle;
- (c) a plug-in hybrid electric motor vehicle; or
- (d) a motor vehicle powered by a fuel other than:
 - (i) motor fuel;
 - (ii) diesel fuel;
 - (iii) natural gas; or
 - (iv) propane.

(5) (6) “Amateur radio operator” means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(6) (7) “Autocycle” means the same as that term is defined in Section 53-3-102.

(7) (8) “Branded title” means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(8) (9) “Camper” means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(9) (10) “Certificate of title” means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(10) (11) “Certified scale weigh ticket” means a weigh ticket that has been issued by a weighmaster.

(11) (12) “Commercial vehicle” means a motor vehicle, trailer, or semitrailer used or maintained

for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(12) (13) “Commission” means the State Tax Commission.

(13) (14) “Consumer price index” means the same as that term is defined in Section 59-13-102.

(14) (15) “Dealer” means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(15) (16) “Diesel fuel” means the same as that term is defined in Section 59-13-102.

(16) (17) “Division” means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(17) (18) “Electric motor vehicle” means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(18) (19) “Essential parts” means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(19) (20) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) (21) (a) “Farm truck” means a truck used by the owner or operator of a farm solely for his own use in the transportation of:

- (i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;
- (ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and
- (iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) “Farm truck” does not include the operation of trucks by commercial processors of agricultural products.

(21) (22) “Fleet” means one or more commercial vehicles.

(22) (23) “Foreign vehicle” means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other

than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

~~[(20)]~~ (24) “Gross laden weight” means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

~~[(21)]~~ (25) “Highway” or “street” means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(26) “Hybrid electric motor vehicle” means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

~~[(22)]~~ (27) (a) “Identification number” means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) “Identification number” includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

~~[(23)]~~ (28) “Implement of husbandry” means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

~~[(24)]~~ (29) (a) “In-state miles” means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, “in-state miles” means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

~~[(25)]~~ (30) “Interstate vehicle” means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

~~[(26)]~~ (31) “Jurisdiction” means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

~~[(27)]~~ (32) “Lienholder” means a person with a security interest in particular property.

~~[(28)]~~ (33) “Manufactured home” means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent

chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

~~[(29)]~~ (34) “Manufacturer” means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

~~[(30)]~~ (35) “Mobile home” means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(36) “Motor fuel” means the same as that term is defined in Section 59-13-102.

~~[(33)]~~ (37) (a) “Motor vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) “Motor vehicle” does not include an off-highway vehicle.

~~[(31)]~~ (38) “Motorboat” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 73-18-2.

~~[(32)]~~ (39) “Motorcycle” means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autogyro.

(40) “Natural gas” means a fuel of which the primary constituent is methane.

~~[(34)]~~ (41) (a) “Nonresident” means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

~~[(35)]~~ (42) “Odometer” means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

~~[(36)]~~ (43) “Off-highway implement of husbandry” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 41-22-2.

~~[(37)]~~ (44) “Off-highway vehicle” ~~[has the same meaning as provided]~~ means the same as that term is defined in Section 41-22-2.

~~[(38)]~~ (45) “Operate” means to drive or be in actual physical control of a vehicle or to navigate a vessel.

[39] (46) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

[40] (47) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises his option to purchase the vehicle.

[41] (48) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[42] (49) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[43] (50) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(51) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

[44] (52) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

[45] (53) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The

division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[46] (54) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[47] (55) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[48] (56) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[49] (57) "Recreational vehicle" ~~has the same meaning as provided~~ means the same as that term is defined in Section 13-14-102.

[50] (58) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[51] (59) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[52] (60) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[53] (61) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[54] (62) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[55] (63) "Sailboat" means the same as that term is defined in Section 73-18-2.

[56] (64) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[57] (65) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[(458)] (66) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[(459)] (67) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [(459)] (67)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[(460)] (68) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[(461)] (69) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[(462)] (70) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[(463)] (71) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[(464)] (72) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[(465)] (73) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[(466)] (74) "Transferor" means a person who transfers his ownership in property by sale, gift, or any other means except by creation of a security interest.

[(467)] (75) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[(468)] (76) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[(469)] (77) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[(470)] (78) "Vessel" means the same as that term is defined in Section 73-18-2.

[(471)] (79) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[(472)] (80) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[(473)] (81) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 24. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422, 41-1a-1220, 41-1a-1221, and 41-1a-1223 all fees collected under this part shall be deposited in the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and Section 41-1a-1212 may be used by the commission to cover

the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.

(5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(6) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited in the Transportation Investment Fund of 2005 created under Section 72-2-124:

(i) \$30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), [~~(3)~~, and ~~(6)~~] (4), and (7);

(ii) \$21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) \$2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) \$23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) \$24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) \$1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited in the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) \$23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) \$23 of each registration fee collected under Subsection 41-1a-1206(2)(~~b~~)(a)(ii).

(7) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited in the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited in the Public Safety Restricted Account created in Section 53-3-106.

(8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(9) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund created in Section 26-54-102.

Section 25. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) \$46.00 for each motorcycle;

(b) \$44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; ~~and~~

(g) \$45 for each vintage vehicle that is less than 40 years old~~[-]; and~~

(h) in addition to the fee described in Subsection (1)(b):

(i) for each electric motor vehicle:

(A) \$60 during calendar year 2019;
(B) \$90 during calendar year 2020; and
(C) \$120 beginning January 1, 2021, and thereafter;

(ii) for each hybrid electric motor vehicle:

(A) \$10 during calendar year 2019;
(B) \$15 during calendar year 2020; and
(C) \$20 beginning January 1, 2021, and thereafter;

(iii) for each plug-in hybrid electric motor vehicle:

(A) \$26 during calendar year 2019;
(B) \$39 during calendar year 2020; and
(C) \$52 beginning January 1, 2021, and thereafter; and

(iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

(A) \$60 during calendar year 2019;
(B) \$90 during calendar year 2020; and
(C) \$120 beginning January 1, 2021, and thereafter.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

{(a)} (i) \$34.50 for each motorcycle; and

{(b)} (ii) \$33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) for each electric motor vehicle:

(A) \$46.50 during calendar year 2019;
(B) \$69.75 during calendar year 2020; and
(C) \$93 beginning January 1, 2021, and thereafter;

(ii) for each hybrid electric motor vehicle:

(A) \$7.50 during calendar year 2019;
(B) \$11.25 during calendar year 2020; and
(C) \$15 beginning January 1, 2021, and thereafter;

(iii) for each plug-in hybrid electric motor vehicle:

(A) \$20 during calendar year 2019;

(B) \$30 during calendar year 2020; and

(C) \$40 beginning January 1, 2021, and thereafter; and

(iv) for each motor vehicle not described in Subsections (2)(b)(i) through (iii) that is fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

(A) \$46.50 during calendar year 2019;
(B) \$69.75 during calendar year 2020; and
(C) \$93 beginning January 1, 2021, and thereafter.

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2022, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(i)(C), (1)(h)(ii)(C), (1)(h)(iii)(C), (1)(h)(iv)(C), (2)(b)(i)(C), (2)(b)(ii)(C), (2)(b)(iii)(C), and (2)(b)(iv)(C) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

{(3)} (4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

{(4)} (5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

{(5)} (6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

~~[(6)]~~ (7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

~~[(7)]~~ (8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

~~[(8)]~~ (9) A violation of Subsection ~~[(7)]~~ (8) is an infraction that shall be punished by a fine of not less than \$200.

~~[(9)]~~ (10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 26. Section 41-1a-1221 is amended to read:

41-1a-1221. Fees to cover the cost of electronic payments.

(1) As used in this section:

(a) "Electronic payment" means use of any form of payment processed through electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

(b) "Electronic payment fee" means the fee assessed to defray:

(i) the charge, discount fee, or processing fee charged by credit card companies or processing agents to process an electronic payment; or

(ii) costs associated with the purchase of equipment necessary for processing electronic payments.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and ~~[(3)]~~ (4).

(b) The fee described in Subsection (2)(a):

(i) shall be imposed regardless of the method of payment for a particular transaction; and

(ii) need not be separately identified from the fees imposed for registration and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and ~~[(3)]~~ (4).

(3) The division shall establish the fee according to the procedures and requirements of Section 63J-1-504.

(4) A fee imposed under this section:

(a) shall be deposited in the Electronic Payment Fee Restricted Account created by Section 41-1a-121; and

(b) is not subject to Subsection 63J-2-202(2).

Section 27. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering; ~~[(e)]~~

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405[-]; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as defined in Section 53A-1-1601, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity as defined in Section 53A-1-1601.

(b) "Public body" includes:

(i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking; and

(ii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council as defined in Section 53A-1a-108.1; or

(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 28. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber’s customer:

(A) a product; or

(B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include annual membership dues to private organizations.

(4) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) “Agreement combined tax rate” means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218; ~~or~~

(x) Section 59-12-2219[-]; or

(y) Section 59-12-2220.

(7) “Aircraft” means the same as that term is defined in Section 72-10-102.

(8) “Aircraft maintenance, repair, and overhaul provider” means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

- (i) on a transaction; and
- (ii) in the states that are members of the agreement;
- (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

- (a) a computer to perform a task; or
- (b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

- (a) future updates or upgrades to computer software;
- (b) support services with respect to computer software; or
- (c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

- (i) by a seller of:
 - (A) tangible personal property;
 - (B) a product transferred electronically; or
 - (C) services; and
 - (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

- (i) transportation;
- (ii) shipping;
- (iii) postage;
- (iv) handling;
- (v) crating; or
- (vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

- (i) a vitamin;
- (ii) a mineral;
- (iii) an herb or other botanical;
- (iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(35) “Digital audio–visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided:

- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address.
- (39) "Directory assistance" means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- (b) "Disposable home medical equipment or supplies" does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (41) "Drilling equipment manufacturer" means a facility:
- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- (42) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- (ii) intended for use in the:
- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
- (A) the structure of the body; or
- (B) any function of the body.
- (b) "Drug" does not include:
- (i) food and food ingredients;
- (ii) a dietary supplement;
- (iii) an alcoholic beverage; or
- (iv) a prosthetic device.
- (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:
- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.
- (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).
- (c) "Durable medical equipment" does not include mobility enhancing equipment.
- (44) "Electronic" means:
- (a) relating to technology; and
- (b) having:
- (i) electrical capabilities;
- (ii) digital capabilities;

- (iii) magnetic capabilities;
- (iv) wireless capabilities;
- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) “Employee” means the same as that term is defined in Section 59-10-401.

(47) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(50) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (91)(b)(iii).

(c) “Food and food ingredients” does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) “Fundraising sales” means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

- (i) a school;
- (ii) the State Board of Education;
- (iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

- (v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

- (d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:

- (i) tangible personal property; or
- (ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

- (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
- (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

- (c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:

- (I) \$100; or
- (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

- (A) home; or
- (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.
- (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).
- (c) "Mobility enhancing equipment" does not include:
- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.
- (71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- (72) "Model 2 seller" means a seller registered under the agreement that:
- (a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- (b) retains responsibility for remitting all of the sales tax:
- (i) collected by the seller; and
- (ii) to the appropriate local taxing jurisdiction.
- (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:
- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
- (A) for an agreement sales and use tax; and
- (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.
- (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.
- (74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.
- (75) "Modular home" means a modular unit as defined in Section 15A-1-302.
- (76) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- (77) "Oil sands" means impregnated bituminous sands that:
- (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;
- (b) yield mixtures of liquid hydrocarbon; and
- (c) require further processing other than mechanical blending before becoming finished petroleum products.
- (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.
- (79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.
- (80) (a) "Other fuels" means products that burn independently to produce heat or energy.
- (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.
- (81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.
- (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.
- (82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- (83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- (84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:
- (i) the attachment of the tangible personal property to the real property:
- (A) is essential to the use of the tangible personal property; and
- (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or
- (ii) if the tangible personal property is detached from the real property, the detachment would:
- (A) cause substantial damage to the tangible personal property; or
- (B) require substantial alteration or repair of the real property to which the tangible personal property is attached.
- (b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

- (B) a content service; or
- (C) an ancillary service;
- (b) that:
 - (i) is paid for in advance; and
 - (ii) enables the origination of a call using an:
 - (A) access number; or
 - (B) authorization code;
 - (c) that is dialed:
 - (i) manually; or
 - (ii) electronically; and
 - (d) sold in predetermined units or dollars that decline:
 - (i) by a known amount; and
 - (ii) with use.
- (91) (a) "Prepared food" means:
 - (i) food:
 - (A) sold in a heated state; or
 - (B) heated by a seller;
 - (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
 - (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:
 - (A) plate;
 - (B) knife;
 - (C) fork;
 - (D) spoon;
 - (E) glass;
 - (F) cup;
 - (G) napkin; or
 - (H) straw.
 - (b) "Prepared food" does not include:
 - (i) food that a seller only:
 - (A) cuts;
 - (B) repackages; or
 - (C) pasteurizes; or
 - (ii) (A) the following:
 - (I) raw egg;
 - (II) raw fish;
 - (III) raw meat;
 - (IV) raw poultry; or
 - (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and
 - (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food

and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software"

means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(97) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), “publication” means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “photocopy.”

(99) (a) “Purchase price” and “sales price” mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) “Purchase price” and “sales price” include:

(i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) “Purchase price” and “sales price” do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) “Purchaser” means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(101) “Qualifying enterprise data center” means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) “Regularly rented” means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) “Rental” means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), “repairs or renovations of tangible personal property” means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal

property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) “Research and development” means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(110) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" means the same as that term is defined in Subsection (109).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" means the same as that term is defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

- (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(115) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by

rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(126) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(129) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

(a) a cigarette;

- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 29. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

- (a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller

keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);

- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

- (B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in

Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in

Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) Notwithstanding Subsections (4) through (12), an amount required to be expended or deposited in accordance with Subsections (4) through (12) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 30. Section 59-12-2202 is amended to read:

59-12-2202. Definitions.

As used in this part:

(1) “Airline” [is as] means the same as that term is defined in Section 59-2-102.

(2) “Airport facility” [is as] means the same as that term is defined in Section 59-12-602.

(3) “Airport of regional significance” means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) “Annexation” means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) “Annexing area” means an area that is annexed into a county, city, or town.

(6) “Council of governments” [is as] means the same as that term is defined in Section 72-2-117.5.

(7) “Fixed guideway” [is as] means the same as that term is defined in Section 59-12-102.

(8) “Large public transit district” means the same as that term is defined in Section 17B-2a-802.

~~(9)~~ (9) “Major collector highway” [is as] means the same as that term is defined in Section 72-4-102.5.

~~(10)~~ (10) “Metropolitan planning organization” [is as] means the same as that term is defined in Section 72-1-208.5.

~~(11)~~ (11) “Minor arterial highway” [is as] means the same as that term is defined in Section 72-4-102.5.

~~(12)~~ (12) “Minor collector road” [is as] means the same as that term is defined in Section 72-4-102.5.

~~(13)~~ (13) “Principal arterial highway” [is as] means the same as that term is defined in Section 72-4-102.5.

~~(14)~~ (14) “Regionally significant transportation facility” means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

(b) in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance.

~~(15)~~ (15) “State highway” means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

~~(16)~~ (16) (a) Subject to Subsection ~~(15)~~ (16)(b), “system for public transit” [has the same meaning as] means the same as the term “public transit” [as] is defined in Section 17B-2a-802.

(b) “System for public transit” includes:

- (i) the following costs related to public transit:
- (A) maintenance costs; or
 - (B) operating costs;
- (ii) a fixed guideway;
- (iii) a park and ride facility;
- (iv) a passenger station or passenger terminal;
- (v) a right-of-way for public transit; or
- (vi) the following that serve a public transit facility:
- (A) a maintenance facility;
 - (B) a platform;
 - (C) a repair facility;
 - (D) a roadway;
 - (E) a storage facility;
 - (F) a utility line; or
 - (G) a facility or item similar to Subsections [(15)] (16)(b)(vi)(A) through (F).

Section 31. Section 59-12-2203 is amended to read:

59-12-2203. Authority to impose a sales and use tax under this part.

(1) As provided in this Subsection (1), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

(4) A county may impose the sales and use tax authorized by Section 59-12-2219 in accordance with Section 59-12-2219.

(5) A county, city, or town may impose the sales and use tax authorized by Section 59-12-2220 in accordance with Section 59-12-2220.

Section 32. Section 59-12-2217 is amended to read:

59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, and subject to Subsection (10), a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7); and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service described in Subsection (2)(a) [~~as provided in Subsection (8)~~]; or

(c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).

(3) If a project or service described in Subsection (2) is for:

(a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:

(i) county and municipal master plan; and

(ii) (A) statewide long-range plan; or

(B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.

(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:

- (a) a principal arterial highway;
 - (b) a minor arterial highway;
 - (c) a collector road in a county of the second class;
- or
- (d) a major collector highway in a rural area.

(5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first [~~or second~~] class, 25% or more shall be expended for the purpose described in Subsection (2)(b).

(6) (a) As provided in this Subsection (6), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).

(b) The written prioritization process described in Subsection (6)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:

- (i) the cost effectiveness of a project;
- (ii) the degree to which a project will mitigate regional congestion;
- (iii) the compliance requirements of applicable federal laws or regulations;
- (iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

- (i) the written prioritization process; or
- (ii) any proposed amendment to the written prioritization process.

(7) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

- (i) the written prioritization process; and
- (ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and

(ii) make the reasons described in Subsection (7)(d)(i) publicly available.

(e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.

~~[(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:]~~

~~[(i) deposited in or transferred to the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5; and]~~

~~[(ii) expended as provided in Section 72-2-117.5.]~~

~~[(b)] (8) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:~~

~~[(i)] (a) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and~~

~~[(ii)] (b) expended as provided in Section 72-2-121.~~

(9) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(10) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (10)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 33. Section 59-12-2218 is amended to read:

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, and subject to Subsection (11), the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:

(a) .10%; or

(b) .25%.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town; or

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town;

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104; or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;

(F) street lighting; or

(G) a combination of Subsections (4)(f)(i)(A) through (F);

(ii) the construction of an active transportation facility that:

(A) is for nonmotorized vehicles and multimodal transportation; and

(B) connects an origin with a destination; or

(iii) a combination of Subsections (4)(f)(i) and (ii); or

(g) deposited or expended for a combination of Subsections (4)(a) through (f).

(5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this section for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:

(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or

(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.

(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5.

(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.

(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:

(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

(ii) has continuously imposed a tax described in Subsection (2)(b):

(A) beginning after July 1, 2010; and

(B) for a five-year period.

(7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

(i) expend the revenues in accordance with Subsection (4); or

(ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:

(A) a project or service relating to the airport facility; and

(B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):

(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service

relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

(i) are required to be expended for a purpose described in Subsection (6)(a) into the Local

Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

(ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax; and

(C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

(10) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(11) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county, city, or town is annexed into a large public transit district, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the county, city, or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county, city, or town is annexed into a large public transit district, the county, city, or town legislative body may not pass the ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (11)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 34. Section 59-12-2219 is amended to read:

59-12-2219. County, city, and town option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

(a) "Class B road" means the same as that term is defined in Section 72-3-103.

(b) "Class C road" means the same as that term is defined in Section 72-3-104.

(c) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, and subject to Subsection (17), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) [The] Subject to Subsections (11) and (12), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through (10).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (8); and

(c) .05% shall be distributed to the county legislative body.

(5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district that also has a county of the first class annexed into the same public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (8);

(ii) .10% shall be distributed as provided in Subsection (9); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (8);

(ii) .10% shall be distributed as provided in Subsection (9); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (7)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(8) (a) Subject to Subsection (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), ~~and~~ (9)(d)(ii)(A), and (12)(c)(i) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), ~~and~~ (9)(d)(ii)(A), and (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), ~~and~~ (9)(d)(ii)(A), and (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (9)(e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that obtains approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (9).

(d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district or an eligible political

subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (9)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (8); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (9)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (9)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (9)(e) and approved by the county legislative body in accordance with Subsection (9)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a) or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (9)(g)(ii) from the county.

(ii) The notice described in Subsection (9)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (9)(a) or (e); and

(B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(10) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution

required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(11) (a) (i) Notwithstanding Subsections (4) through (10), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (11)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (11)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (4) through (10).

(c) Subject to Subsection (12), for a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (4) through (10).

(12) (a) Beginning on July 1, 2020, if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (12)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose the sales and use tax as described in Subsection (12)(a):

(i) in a county of the first, second, or third class, a city or town that:

(A) has been annexed into a public transit district; or

(B) is an eligible political subdivision; or

(ii) a city or town that:

(A) is in a county of the third or smaller class; and

(B) has been annexed into a large public transit district.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (8); and

(ii) .125%, as applicable, to:

(A) the large public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (12)(c).

[(41)] (13) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

(a) a class B road;

(b) a class C road;

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections [(41)] (13)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections [(41)] (13)(a) through (e).

[(42)] (14) A public transit district or an eligible political subdivision may expend revenue the

commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

[(43)] (15) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection [(43)] (15)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

(16) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(17) (a) (i) (A) Notwithstanding any other provision in this section, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(B) A city legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(ii) (A) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(B) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (17)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 35. Section 59-12-2220 is enacted to read:

59-12-2220. County option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, beginning on July 1, 2019, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is annexed into a large public transit district; and

(ii) the county has imposed the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision as defined in Section 59-12-2219; or

(ii) a city or town within the boundary of the county is an eligible political subdivision as defined in Section 59-12-2219; or

(c) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county, if there is a small public transit district within the boundary of the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of up to .2%.

(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:

(a) a public transit district;

(b) an eligible political subdivision; or

(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.

(4) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and

use tax under this section on or before June 30, 2023.

(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.

(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.

(6) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county has budgeted for transportation or public transit as of the date the tax becomes effective for a county.

(b) The limitation under Subsection (6)(a) does not apply to a designated transportation or public transit capital or reserve account a county may have established prior to the date the tax becomes effective.

Section 36. Section 63G-6a-1402 is amended to read:

63G-6a-1402. Procurement of design-build transportation project contracts.

(1) As used in this section:

(a) "Design-build transportation project contract" means the procurement of both the design and construction of a transportation project in a single contract with a company or combination of companies capable of providing the necessary engineering services and construction.

(b) "Transportation agency" means:

(i) the Department of Transportation;

(ii) a county of the first or second class, as defined in Section 17-50-501;

(iii) a municipality of the first class, as defined in Section 10-2-301;

(iv) a large public transit district [~~that has more than 200,000 people residing within its boundaries~~] as defined in Section 17B-2a-802; and

(v) a public airport authority.

(2) Except as provided in Subsection (3), a transportation agency may award a design-build transportation project contract for any transportation project that has an estimated cost of at least \$50,000,000 by following the requirements of this section.

(3) (a) The Department of Transportation:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(b) A public transit district that has more than 200,000 people residing within its boundaries:

(i) may award a design-build transportation project contract for any transportation project by following the requirements of this section; and

(ii) shall pass ordinances or a resolution establishing requirements for the procurement of its design-build transportation project contracts in addition to those required by this section.

(c) A design-build transportation project contract authorized under this Subsection (3) is not subject to the estimated cost threshold described in Subsection (2).

(d) A design-build transportation project contract may include provision by the contractor of operations, maintenance, or financing.

(4) (a) Before entering into a design-build transportation project contract, a transportation agency may issue a request for qualifications to prequalify potential contractors.

(b) Public notice of the request for qualifications shall be given in accordance with board rules.

(c) A transportation agency shall require, as part of the qualifications specified in the request for qualifications, that potential contractors at least demonstrate their:

- (i) construction experience;
- (ii) design experience;
- (iii) financial, manpower, and equipment resources available for the project; and
- (iv) experience in other design-build transportation projects with attributes similar to the project being procured.

(d) The request for qualifications shall identify the number of eligible competing proposers that the transportation agency will select to submit a proposal, which may not be less than two.

(5) The transportation agency shall:

- (a) evaluate the responses received from the request for qualifications;
- (b) select from their number those qualified to submit proposals; and
- (c) invite those respondents to submit proposals based upon the transportation agency's request for proposals.

(6) If the transportation agency fails to receive at least two qualified eligible competing proposals, the transportation agency shall readvertise the project.

(7) The transportation agency shall issue a request for proposals to those qualified respondents that:

- (a) includes a scope of work statement constituting an information for proposal that may include:
 - (i) preliminary design concepts;
 - (ii) design criteria, needs, and objectives;

(iii) warranty and quality control requirements;

(iv) applicable standards;

(v) environmental documents;

(vi) constraints;

(vii) time expectations or limitations;

(viii) incentives or disincentives; and

(ix) other special considerations;

(b) requires submitters to provide:

(i) a sealed cost proposal;

(ii) a critical path matrix schedule, including cash flow requirements;

(iii) proposal security; and

(iv) other items required by the department for the project; and

(c) may include award of a stipulated fee to be paid to offerors who submit unsuccessful proposals.

(8) The transportation agency shall:

(a) evaluate the submissions received in response to the request for proposals from the prequalified offerors;

(b) comply with rules relating to discussion of proposals, best and final offers, and evaluations of the proposals submitted; and

(c) after considering price and other identified factors, award the contract to the responsible offeror whose responsive proposal is most advantageous to the transportation agency or the state.

Section 37. Section 67-5-3 is amended to read:

67-5-3. "Agency" defined -- Performance of legal services for agencies -- Billing.

(1) As used in this act, "agency" means a department, division, agency, commission, board, council, committee, authority, institution, ~~[or]~~ other entity within the state government of Utah, or a large public transit district as defined in Section 17B-2a-802.

(2) (a) The attorney general may assign a legal assistant to perform legal services for any agency of state government.

(b) The attorney general shall bill that agency for the legal services performed, if:

(i) the agency billed receives federal funds to pay for the legal services rendered; ~~[or]~~

(ii) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered~~[.]; or~~

(iii) the agency is a large public transit district as defined in Section 17B-2a-802.

(c) An agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered.

Section 38. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Commission" means the Transportation Commission created under Section 72-1-301.

(2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

(10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

(13) "Municipality" has the same meaning set forth in Section 10-1-104.

(14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States

Secretary of Transportation under Title 23, Highways, U.S.C.

(15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(17) "Public transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(17) (18) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(18) (19) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(19) (20) "Semitrailer" has the meaning set forth in Section 41-1a-102.

(20) (21) "SR" means state route and has the same meaning as state highway as defined in this section.

(21) (22) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

(22) (23) "State highway purposes" has the meaning set forth in Section 72-5-102.

(23) (24) "State transportation systems" means all streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures, airports, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

(24) (25) "Trailer" has the meaning set forth in Section 41-1a-102.

(25) (26) "Truck tractor" has the meaning set forth in Section 41-1a-102.

(26) (27) "UDOT" means the Utah Department of Transportation.

(27) (28) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 39. Section 72-1-202 is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, after consultation with the commission and with the consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

~~(d)~~ (d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

~~(e)~~ (e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business; and

~~(f)~~ (f) purchase all necessary equipment and supplies for the department.

Section 40. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint ~~a deputy director, who shall be a registered professional engineer in the state and~~ two deputy directors, who shall serve at the discretion of the executive director.

(2) (a) The deputy director of engineering and operations shall be a registered professional engineer in the state and is the chief engineer of the department. The deputy director of engineering and operations shall assist the executive director

~~[and is responsible for]~~ with areas of responsibility including:

~~(a) program and project development; and]~~

~~(b) operation and maintenance of the state transportation systems.]~~

(i) project development;

(ii) oversight of the management of the region offices described in Section 72-1-205;

(iii) management of operations; and

(iv) oversight of operations of motor carriers and ports.

(b) The deputy director of planning and investment shall assist the executive director with areas of responsibility including:

(i) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of transportation;

(B) coordination with metropolitan planning organizations and local governments; and

(C) corridor and area planning;

(ii) asset management;

(iii) programming and prioritization of transportation projects;

(iv) fulfilling requirements for environmental studies and impact statements; and

(v) resource investment, including identification and development of public-private partnership opportunities.

(3) The executive director may also appoint assistants to administer the divisions of the department. These assistants shall serve at the discretion of the executive director.

(4) In addition, the executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Department of Human Resource Management.

Section 41. Section 72-1-204 is amended to read:

72-1-204. Divisions enumerated -- Duties.

The divisions of the department are:

(1) the Comptroller Division responsible for:

(a) all financial aspects of the department, including budgeting, accounting, and contracting;

(b) providing all material data and documentation necessary for effective fiscal planning and programming; and

(c) procuring administrative supplies;

(2) the Internal Audit Division responsible for:

(a) conducting and verifying all internal audits and reviews within the department;

(b) performing financial and compliance audits to determine the allowability and reasonableness of

proposals, accounting records, and final costs of consultants, contractors, utility companies, and other entities used by the department; and

(c) implementing audit procedures that meet or exceed generally accepted auditing standards relating to revenues, expenditures, and funding;

(3) the Communications Division responsible for:

(a) developing, managing, and implementing the department's public hearing processes and programs;

(b) responding to public complaints, requests, and input;

(c) assisting the divisions and regions in the department's public involvement programs;

(d) developing and managing internal department communications; and

(e) managing and overseeing department media relations;

(4) the Program Development Division responsible for:

(a) developing transportation plans for state transportation systems;

(b) collecting, processing, and storing transportation data to support department's engineering functions;

(c) maintaining and operating the asset management systems;

(d) designating state transportation systems qualifications;

(e) developing a statewide transportation improvement program for approval by the commission;

(f) providing cartographic services to the department;

(g) assisting local governments in participating in federal-aid transportation programs; and

(h) providing research services associated with transportation programs;

(5) the Project Development Division responsible for:

(a) developing statewide standards for project design and construction;

(b) providing support for project development in the areas of design environment, right-of-way, materials testing, structures, value engineering, and construction; and

(c) designing specialty projects; ~~and~~

(6) the Operations Division responsible for:

(a) maintaining the state transportation systems;

(b) state transportation systems safety;

(c) operating state ports-of-entry;

(d) operating state motor carrier safety programs in accordance with this title and federal law;

(e) aeronautical operations;

(f) providing equipment for department engineering and maintenance functions; and

(g) risk management[-]; and

(7) the Planning and Investment Division responsible for:

(a) creating and managing an intermodal terminal facility to promote economic development and investment;

(b) promoting strategies to synergize development of an intermodal inland port; and

(c) overseeing and coordinating public-private partnerships.

Section 42. Section 72-1-208 is amended to read:

72-1-208. Cooperation with counties, cities, towns, the federal government, and all state departments -- Inspection of work done by a public transit district.

(1) The department shall cooperate with the counties, cities, towns, and community reinvestment agencies in the construction, maintenance, and use of the highways and in all related matters, and may provide services to the counties, cities, towns, and community reinvestment agencies on terms mutually agreed upon.

(2) The department, with the approval of the governor, shall cooperate with the federal government in all federal-aid projects and with all state departments in all matters in connection with the use of the highways.

(3) The department:

(a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, relating to safety appliances and procedures; and

(b) may make further additions or changes necessary for the purpose of safety to employees and the general public.

(4) (a) The department may assume responsibility for any public transit project that traverses any portion of the state highway systems.

(b) To determine whether the department will assume responsibility for a public transit project, the executive director and the public transit agency proposing the development shall jointly determine whether the department will assume responsibility.

Section 43. Section 72-1-211 is amended to read:

72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.

(1) (a) The executive director shall develop statewide strategic initiatives ~~[for the department]~~ across all modes of transportation.

(b) To develop the strategic initiatives described in Subsection (1)(a), the executive director shall consult with the commission and relevant stakeholders, including:

- (i) metropolitan planning organizations;
- (ii) county and municipal governments;
- (iii) transit districts; and
- (iv) other transportation stakeholders.

(c) To develop the strategic initiatives described in Subsection (1)(a), the executive director shall consider:

- (i) regional transportation plans developed by metropolitan planning organizations;
- (ii) local transportation plans developed by county and municipal governments;
- (iii) public transit plans developed by public transit districts; and
- (iv) other relevant transportation plans developed by other stakeholders.

(d) To develop the strategic initiatives described in Subsection (1)(a), the executive director shall consider projected major centers of economic activity, population growth, and job centers.

(2) (a) The strategic initiatives developed under Subsection (1) shall include consideration of the following factors:

- [~~(a)~~] (i) corridor preservation;
- (ii) congestion reduction;
- (iii) economic development and job creation;
- (iv) asset management;
- (v) sustainability;
- (vi) optimization of return on investment;
- [~~(b)~~] (vii) development of new transportation capacity projects;
- [~~(c)~~] (viii) long-term maintenance and operations of the transportation system;
- [~~(d)~~] (ix) safety;
- [~~(e)~~] (x) incident management; [~~and~~]
- [~~(f)~~] (xi) homeland security[-];
- (xii) mobility and access; and
- (xiii) transportation-related air quality.

(b) The strategic initiatives shall include an assessment of capacity needs and establish goals for corridors that meet all of the following:

- (i) high volume of travel and throughput;
- (ii) connection of projected major centers of economic activity, population growth, and future job centers;
- (iii) major freight corridors; and

(iv) corridors accommodating multiple modes of travel.

(3) (a) The executive director or the executive director's designee shall report the strategic initiatives of the department developed under Subsection (1) to the Transportation Commission and, before December 1 of each year, the Transportation Interim Committee.

(b) The report required under Subsection (3)(a) shall include the measure that will be used to determine whether the strategic initiatives have been achieved.

(4) After compliance with Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing the strategic initiatives developed under this part.

(5) The executive director shall ensure that the strategic initiatives developed under Subsection (1):

- (a) are reviewed and updated as needed, but no less frequent than every four years; and
- (b) cover at least a 20-year horizon.

Section 44. Section 72-1-213 is amended to read:

72-1-213. Road usage charge study -- Recommendations.

(1) (a) The department shall [~~-(1) continue to~~] study a road usage charge mileage-based revenue system, including a [~~potential~~] demonstration program, as an alternative to the motor and special tax [~~;- and~~].

[~~(2) make recommendations to the Legislature and other policymaking bodies on the potential use and future implementation of a road usage charge within the state.~~]

(b) The demonstration program may consider:

- (i) the necessity of protecting all personally identifiable information used in reporting highway use;
- (ii) alternatives to recording and reporting highway use;
- (iii) alternatives to administration of a road usage charge program; and
- (iv) other factors as determined by the department.

(2) (a) The department shall create a Road Usage Charge Advisory Committee to assist the department to conduct a road usage charge demonstration program.

(b) The executive director shall appoint members of the committee, considering individuals with experience and expertise in the following areas:

- (i) telecommunications;
- (ii) data security and privacy;
- (iii) privacy rights advocacy organizations;

(iv) transportation agencies with technical expertise;

(v) national research;

(vi) members of the Legislature;

(vii) representatives from the State Tax Commission; and

(viii) other relevant stakeholders as determined by the executive director.

(c) The executive director or the executive director's designee shall serve as chair of the committee.

(d) A member of the committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(3) (a) Beginning in 2019, and no later than September 30 of each year, the department shall prepare and submit a report of its findings based on the results of the road usage charge demonstration program to the:

(i) Road Usage Charge Advisory Committee created under Subsection (2);

(ii) Transportation Commission;

(iii) Transportation Interim Committee of the Legislature; and

(iv) Revenue and Taxation Interim Committee of the Legislature.

(b) The report shall review the following issues:

(i) cost;

(ii) privacy, including recommendations regarding public and private access, including by law enforcement, to data collected and stored for purposes of the road usage charge to ensure individual privacy rights are protected;

(iii) jurisdictional issues;

(iv) feasibility;

(v) complexity;

(vi) acceptance;

(vii) use of revenues;

(viii) security and compliance, including a discussion of processes and security measures necessary to minimize fraud and tax evasion rates;

(ix) data collection technology, including a discussion of the advantages and disadvantages of various types of data collection equipment and the

privacy implications and considerations of the equipment;

(x) potential for additional driver services; and

(xi) implementation issues.

(c) The report may make recommendations to the Legislature and other policymaking bodies on the potential use and future implementation of a road usage charge within the state.

(4) Upon full implementation of a road user charge program for alternative fuel vehicles, which shall occur no later than January 1, 2020, the department, in coordination with the Motor Vehicle Division, shall offer the option to an owner of an alternative fuel vehicle as defined in Section 41-1a-102 to:

(a) pay an increased motor vehicle registration fee required in Subsection 41-1a-1206(1)(h) or (2)(b); or

(b) participate in a road user charge program.

Section 45. Section 72-1-214 is amended to read:

72-1-214. Department designated as state safety oversight agency for rail fixed guideway public transportation safety -- Powers and duties -- Rulemaking.

(1) (a) Except as provided in Subsection (1)(b), as used in this section, "fixed guideway" means the same as that term is defined in Section 59-12-102.

(b) For purposes of this section, "fixed guideway" does not include a rail system subject to regulation by the Federal Railroad Administration.

(2) The department is designated as the state safety oversight agency for rail fixed guideway public transportation safety in accordance with 49 U.S.C. Sec. 5329(e)(4).

(3) As the state safety oversight agency, the department may, to the extent necessary to fulfill the department's obligations under federal law:

(a) enter into and inspect the property of a fixed guideway rail system receiving federal funds without prior notice to the operator;

(b) audit an operator of a fixed guideway rail system receiving federal funds for compliance with:

(i) federal and state laws regarding the safety of the fixed guideway rail system; and

(ii) a public transportation agency safety plan adopted by a specific operator in accordance with 49 U.S.C. Sec. 5329(d);

(c) direct the operator of a fixed guideway rail system to correct a safety hazard by a specified date and time;

(d) prevent the operation of all or part of a fixed guideway rail system that the department has determined to be unsafe;

(e) audit, review, approve, and oversee an operator of a fixed guideway rail system receiving

federal funds for compliance with a plan adopted by the operator in compliance with 49 U.S.C. Sec. 5329(d); and

(f) enforce statutes, rules, regulations, and executive orders relating to the operation of a fixed guideway rail public transportation system in Utah.

(4) The department shall, at least annually, provide a status report on the safety of the rail fixed guideway public transportation systems the department oversees to:

- (a) the Federal Transit Administration;
- (b) the governor; and

(c) members of the board of any rail fixed guideway public transportation system that the department oversees in accordance with this section.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to administer and enforce this section[,], including rules providing for the legal and financial independence of state safety oversight agency activities and functions.

(b) The rules made in accordance with Subsection (5)(a) shall conform to the requirements of and regulations enacted in accordance with 49 U.S.C. Sec. 5329.

(6) (a) Notwithstanding any other agreement, a county, city, or town with fixed guideway rail transit service provided by a public transit district that is subject to safety oversight as provided in this section may request local option transit sales tax in accordance with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the department to meet nonfederal match requirements for costs of safety oversight described in this section.

(b) A county, city, or town that requests local option transit sales tax as described in Subsection (6)(a) shall transmit to the department all of the funds requested under Subsection (6)(a) and transmitted to the county, city, or town under Subsection 59-12-2206(5)(b).

(c) A county, city, or town that requests local option transit sales tax as described in Subsection (6)(a) may not request more local option transit sales tax than is necessary to carry out the state safety oversight functions under this section and the amount shall only reflect a maximum of 20% nonfederal match requirement of eligible costs of state safety oversight.

Section 46. Section 72-1-303 is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects in the state transportation systems and capital development of new public transit facilities

for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public hearings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department in state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting, ex officio member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; and

(j) reviewing administrative rules made, amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over

sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

Section 47. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways, or public transit projects that add capacity to the public transit systems within the state.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the funds for the project as required by Subsection 72-2-124(7)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate[.], which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) recreation;

(C) commerce; and

(D) residential areas;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsection 72-2-124(7)(e).

(3) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(5) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (4).

Section 48. Section 72-1-305 is amended to read:

72-1-305. Project selection using the written prioritization process -- Public comment -- Report.

(1) Except as provided in Subsection (4), in determining priorities and funding levels of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new transportation capacity projects, the commission shall use the weighted criteria system adopted in the written prioritization process under Section 72-1-304.

(2) Prior to finalizing priorities and funding levels of projects in the state transportation system, the commission shall conduct public hearings at locations around the state and accept public comments on:

(a) the written prioritization process;

(b) the merits of new transportation capacity projects that will be prioritized under this section; and

(c) the merits of new transportation capacity projects as recommended by a consensus of local elected officials participating in a metropolitan planning organization as defined in Section 72-1-208.5.

(3) The commission shall make the weighted criteria system ranking for each project publicly available prior to the public hearings held under Subsection (2).

(4) (a) If the commission prioritizes a project over another project with a higher rank under the weighted criteria system, the commission shall identify the change and accept public comment at a hearing held under this section on the merits of prioritizing the project above higher ranked projects.

(b) The commission shall make the reasons for the prioritization under Subsection (4)(a) publicly available.

(5) (a) The executive director or the executive director's designee shall report annually to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

~~(a)~~ (i) the projects prioritized under this section during the year prior to the report; and

~~(b)~~ (ii) the status and progress of all projects prioritized under this section.

(b) Annually, before any funds are programmed and allocated from the Transit Transportation Investment Fund created in Section 72-2-124 for each fiscal year, the executive director or the executive director's designee, along with the executive director of a large public transit district as described in Section 17B-2a-802, shall report to the governor and a committee designated by the Legislative Management Committee no later than the last day of October:

(i) the public transit projects prioritized under this section during the year prior to the report; and

(ii) the status and progress of all public transit projects prioritized under this section.

(6) (a) The department may not delay a new transportation capacity project that was funded by the Legislature in an appropriations act to a different fiscal year than programmed by the commission due to an unavoidable shortfall in revenues unless the project delays are prioritized and approved by the Transportation Commission.

(b) The Transportation Commission shall prioritize and approve any new transportation capacity project delays for projects that were funded by the Legislature in an appropriations act due to an unavoidable shortfall in revenues.

Section 49. Section 72-2-117.5 is amended to read:

72-2-117.5. Definitions -- Local Highway and Transportation Corridor Preservation Fund -- Disposition of fund money.

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Highway and Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) ~~and required by Subsection 59-12-2217(8)(a) to be~~ deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) The department shall distribute the funds allocated to each county, city, or town under Subsection (4)(c) to each county, city, or town.

(e) The money allocated and distributed under this Subsection (4):

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated and distributed under this Subsection (4), unless there is a written agreement in place with the department prior to the purchase of the asset stipulating a reimbursement by the state to the county, city, or town of no more than the original purchase price paid by the county, city, or town; and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) A highway authority may acquire real property or any interests in real property for state, county, and municipal highway or public transit corridors subject to:

(i) money available in the fund to each county under Subsection (4); and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated and distributed under Subsection (4) may be used by a county highway authority for countywide transportation or public transit planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation or public transit planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated and distributed under Subsection (4) may be used by a county highway authority for transportation or public transit corridor planning that is part of the corridor elements of an ongoing work program of transportation or public transit projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund, a local highway authority shall repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of the third, fourth, fifth, or sixth class for:

(A) the construction, operation, or maintenance of a class B road or class C road; or

(B) the restoration or repair of survey monuments associated with transportation infrastructure.

(ii) A county, city, or town may not use more than 50% of the current balance of fund money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

(iii) A county, city, or town may not use more than 50% of the fund revenue collections allocated to a county, city, or town in the current fiscal year for the purposes described in Subsection (5)(g)(i).

(6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be used to preserve highway and public transit corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Highway and Transportation Corridor Preservation Fund shall only be used to preserve a highway or public transit corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; ~~or~~

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(V) a transit facility as defined in Section 17B-2a-802; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5; [or]

(V) a minor collector road as defined in Section 72-4-102.5[-]; or

(VI) a transit facility as defined in Section 17B-2a-802.

(iii) The Local Highway and Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) A highway authority shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

(i) endorsed by the council of governments; and

(ii) for a right-of-way purchase for a highway or public transit corridor authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation or public transit corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway and public transit preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority or public transit district, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities or public transit district.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Highway and Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not expend money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets department requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the department to acquire real property or any interests in real

property on behalf of the local highway authority under this section.

(11) The county shall ensure, to the extent possible, that the fund money allocated and distributed to a city or town in accordance with Subsection (4) is expended:

(a) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

(b) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(i) secured by money allocated to the city or town; and

(ii) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(c) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(d) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(12) Notwithstanding any other provision in this section, any amounts within the fund allocated to a public transit district or for a public transit corridor may only be derived from the portion of the fund that does not include constitutionally restricted sources related to the operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid motor fuel to propel a motor vehicle.

Section 50. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Subsection 59-12-2217~~(2)(b) and required by Subsection 59-12-2217(8)(b) to be~~ deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);

(e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(h) for fiscal year 2015 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and

(k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) Any revenue in the County of the First Class Highway Projects Fund created in Section 72-2-121 that is not specifically allocated and obligated in Section 72-2-121 is subject to the review process described in this Subsection (8).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (8)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (8)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory board of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (8)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the funds received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

Section 51. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

~~[(e)]~~ (d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

~~[(d) registration fees designated under Section 41-1a-1201; and]~~

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any

fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(7) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (7)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project if the public transit district or political subdivision provides funds of equal to or greater than 40% of the funds needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to provide all or part of the 40% requirement described in Subsection (7)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 52. Section 72-5-401 is amended to read:

72-5-401. Definitions.

As used in this part:

(1) "Corridor" means the path or proposed path of a transportation facility, including a public transit facility, that exists or that may exist in the future [A corridor], and may include the land occupied or to be occupied by a transportation facility, and any other land that may be needed for expanding a transportation facility or for controlling access to it.

(2) "Corridor preservation" means planning or acquisition processes intended to:

(a) protect or enhance the capacity of existing corridors; and

(b) protect the availability of proposed corridors in advance of the need for and the actual commencement of the transportation facility construction.

(3) "Development" means:

(a) the subdividing of land;

(b) the construction of improvements, expansions, or additions; or

(c) any other action that will appreciably increase the value of and the future acquisition cost of land.

(4) "Official map" means a map, drawn by government authorities and recorded in county recording offices that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) for counties and municipalities may be adopted as an element of the general plan, pursuant to Title 17, Chapter 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, General Plan.

(5) "Taking" means an act or regulation, either by exercise of eminent domain or other police power, whereby government puts private property to public use or restrains use of private property for public purposes, and that requires compensation to be paid to private property owners.

Section 53. Section 72-6-120 is amended to read:

72-6-120. Department authorized to participate in federal program assuming responsibility for environmental review of highway projects -- Rulemaking authority.

(1) The department may:

(a) assume responsibilities under 23 U.S.C. Sec. 326 for:

(i) determining whether state highway design and construction projects are categorically excluded from requirements for environmental assessments or environmental impact statements; and

(ii) environmental review, consultation, or other actions required under federal law for categorically excluded projects;

(b) assume responsibilities under 23 U.S.C. Sec. 327 with respect to one or more railroad, public transportation, highway [projects], or multimodal projects within the state under the National Environmental Policy Act of 1969 for environmental review, consultation, or other action required under any federal environmental law pertaining to the review or approval of a specific highway project;

(c) enter one or more memoranda of understanding with the United States Department of Transportation related to federal highway programs as provided in 23 U.S.C. Secs. 326 and 327 subject to the requirements of Subsection 72-1-207(5);

(d) accept, receive, and administer grants, other money, or gifts from public and private agencies, including the federal government, for the purpose of carrying out the programs authorized under this section; and

(e) cooperate with the federal government in implementing this section and any memorandum of understanding entered into under Subsection 72-1-207(5).

(2) Notwithstanding any other provision of law, in implementing a program under this section that is approved by the United States Department of Transportation, the department is authorized to:

(a) perform or conduct any of the activities described in a memorandum of understanding entered into under Subsection 72-1-207(5);

(b) take actions necessary to implement the program; and

(c) adopt relevant federal environmental standards as the standards for this state for categorically excluded projects.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the provisions of this section.

Section 54. Repealer.

This bill repeals:

Section 17B-2a-807.5, Public transit district board of trustees -- Transitional provisions.

Section 55. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

From General Fund, one-time \$12,800

Schedule of Programs:

Administration \$12,800

ITEM 2

To Legislature - House of Representatives

From General Fund, one-time \$19,200

Schedule of Programs:

Administration \$19,200

Section 56. Effective date.

This bill takes effect on May 8, 2018, except that the amendments to Sections 41-1a-102, 41-1a-1201, 41-1a-1206, and 59-12-103 in this bill take effect on January 1, 2019.

CHAPTER 425**S. B. 137**

Passed March 8, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**AMENDMENTS RELATING
 TO GOVERNMENT RECORDS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies provisions relating to government records.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the protected status of records of closed meetings;
- ▶ modifies provisions relating to the posting of documents to the Utah Public Notice Website;
- ▶ modifies a provision relating to appeals of records requests; and
- ▶ makes related technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-203, as last amended by Laws of Utah 2017, Chapters 12 and 13
 52-4-206, as last amended by Laws of Utah 2010, Chapter 239
 52-4-304, as last amended by Laws of Utah 2008, Chapter 382
 63G-2-305, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415
 63G-2-403, as last amended by Laws of Utah 2015, Chapters 374, 382, and 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-203 is amended to read:**52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.**

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

- (i) the date, time, and place of the meeting;
- (ii) the names of members present and absent;
- (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) ["Website"] "State website" means the Utah Public Notice Website created under Section 63F-1-701.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved

the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Section 2. Section 52-4-206 is amended to read:

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent; and

(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) ~~Both a~~ A recording ~~and~~, transcript, report, and written minutes of a closed ~~meetings~~ meeting are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.

(6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and

(b) the provisions of Subsection (1) of this section do not apply.

Section 3. Section 52-4-304 is amended to read:

52-4-304. Action challenging closed meeting.

(1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

(a) review the recording or written minutes of the closed meeting in camera; and

(b) decide the legality of the closed meeting.

(2) (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.

(b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

(3) Nothing in this section may be construed to affect the ability of a public body to reclassify a record, as defined in Section 63G-2-103, as provided in Section 63G-2-307.

Section 4. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property,

governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of

Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation

before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is

engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws

of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording; and

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist.

Section 5. Section 63G-2-403 is amended to read:

63G-2-403. Appeals to the records committee.

(1) (a) A records committee appellant appeals to the records committee by filing a notice of appeal with the executive secretary of the records committee no later than 30 days after the date of issuance of the decision being appealed.

(b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the executive secretary of the records committee no later than 45 days after the day on which the record request is made if:

(i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

(ii) the chief administrative officer fails to make a decision under Section 63G-2-401.

(2) The notice of appeal shall:

(a) contain the name, mailing address, and daytime telephone number of the records committee appellant;

(b) be accompanied by a copy of the decision being appealed; and

(c) state the relief sought.

(3) The records committee appellant:

(a) shall, on the day on which the notice of appeal is filed with the records committee, serve a copy of the notice of appeal on:

(i) the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party; or

(ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the records committee, if the records committee appellant is a political subdivision; and

(b) may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) Except as provided in Subsections (4)(b) and (c), no later than seven business days after receiving a notice of appeal, the executive secretary of the records committee shall:

(i) schedule a hearing for the records committee to discuss the appeal at the next regularly scheduled committee meeting falling at least 16 days after the date the notice of appeal is filed but no

longer than 64 calendar days after the date the notice of appeal was filed except that the records committee may schedule an expedited hearing upon application of the records committee appellant and good cause shown;

(ii) send a copy of the notice of hearing to the records committee appellant; and

(iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:

(A) each member of the records committee;

(B) the records officer and the chief administrative officer of the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party;

(C) any person who made a business confidentiality claim under Section 63G-2-309 for a record that is the subject of the appeal; and

(D) all persons who participated in the proceedings before the governmental entity's chief administrative officer, if the appeal is of the chief administrative officer's decision affirming an access denial.

(b) (i) The executive secretary of the records committee may decline to schedule a hearing if the record series that is the subject of the appeal has been found by the committee in a previous hearing involving the same governmental entity to be appropriately classified as private, controlled, or protected.

(ii) (A) If the executive secretary of the records committee declines to schedule a hearing, the executive secretary of the records committee shall send a notice to the records committee appellant indicating that the request for hearing has been denied and the reason for the denial.

(B) The committee shall make rules to implement this section as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The executive secretary of the records committee may schedule a hearing on an appeal to the records committee at a regularly scheduled records committee meeting that is later than the period described in Subsection (4)(a)(i) if that records committee meeting is the first regularly scheduled records committee meeting at which there are fewer than 10 appeals scheduled to be heard.

(5) (a) No later than five business days before the hearing, a governmental entity shall submit to the executive secretary of the records committee a written statement of facts, reasons, and legal authority in support of the governmental entity's position.

(b) The governmental entity shall send a copy of the written statement by first class mail, postage prepaid, to the requester or interested party involved in the appeal. The executive secretary shall forward a copy of the written statement to each member of the records committee.

(6) (a) No later than 10 business days after the notice of appeal is sent by the executive secretary, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention before the records committee.

(b) Any written statement of facts, reasons, and legal authority in support of the intervenor's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the records committee.

(7) The records committee shall hold a hearing within the period of time described in Subsection (4).

(8) At the hearing, the records committee shall allow the parties to testify, present evidence, and comment on the issues. The records committee may allow other interested persons to comment on the issues.

(9) (a) (i) The records committee:

(A) may review the disputed records; and

(B) shall review the disputed records, if the committee is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) Members of the records committee may not disclose any information or record reviewed by the committee in camera unless the disclosure is otherwise authorized by this chapter.

(10) (a) Discovery is prohibited, but the records committee may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a records committee subpoena disobeys or fails to comply with the subpoena, the records committee may file a motion for an order to compel obedience to the subpoena with the district court.

(c) (i) The records committee's review shall be de novo, if the appeal is an appeal from a decision of a chief administrative officer:

(A) issued under Section 63G-2-401; or

(B) issued by a chief administrative officer of a political subdivision that has not established a local appeals board.

(ii) For an appeal from a decision of a local appeals board, the records committee shall review and consider the decision of the local appeals board.

(11) (a) No later than seven business days after the hearing, the records committee shall issue a signed order:

(i) granting the relief sought, in whole or in part; or

(ii) upholding the governmental entity's access denial, in whole or in part.

(b) Except as provided in Section 63G-2-406, the records committee may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.

(c) In making a determination under Subsection (11)(b), the records committee shall consider and, where appropriate, limit the requester's or interested party's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of a private or controlled record;

(ii) business confidentiality interests in the case of a record protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records.

(12) The order of the records committee shall include:

(a) a statement of reasons for the decision, including citations to this chapter, court rule or order, another state statute, federal statute, or federal regulation that governs disclosure of the record, if the citations do not disclose private, controlled, or protected information;

(b) a description of the record or portions of the record to which access was ordered or denied, if the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

(c) a statement that any party to the proceeding before the records committee may appeal the records committee's decision to district court; and

(d) a brief summary of the appeals process, the time limits for filing an appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(13) If the records committee fails to issue a decision within 73 calendar days of the filing of the notice of appeal, that failure is the equivalent of an order denying the appeal. A records committee appellant shall notify the records committee in writing if the records committee appellant considers the appeal denied.

(14) A party to a proceeding before the records committee may seek judicial review in district court of a records committee order by filing a petition for review of the records committee order as provided in Section 63G-2-404.

(15) (a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party to the proceeding shall comply with the order of the records committee.

(b) If a party disagrees with the order of the records committee, that party may file a notice of intent to appeal the order of the records committee.

(c) If the records committee orders the governmental entity to produce a record and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a record, the governmental entity shall:

(i) produce the record; and

(ii) file a notice of compliance with the records committee.

(d) (i) If the governmental entity that is ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the records committee may do either or both of the following:

(A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

(B) send written notice of the governmental entity's noncompliance to~~[:]~~ the governor.

~~[(I) the governor for executive branch entities;]~~

~~[(II) the Legislative Management Committee for legislative branch entities; and]~~

~~[(III) the Judicial Council for judicial branch agencies entities.]~~

(ii) In imposing a civil penalty, the records committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional.

CHAPTER 426**S. B. 141**

Passed March 8, 2018

Approved March 22, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

ELECTRIC ENERGY AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill modifies provisions relating to electric energy.

Highlighted Provisions:

This bill:

- ▶ modifies the periods during which installation of a residential photovoltaic energy system qualifies for a specified tax credit;
- ▶ modifies a provision relating to a corporate income tax credit for the installation of a residential energy system; and
- ▶ provides for the repeal of provisions relating to net metering of electricity.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-614, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

59-10-1014, as last amended by Laws of Utah 2017, Chapter 33

63I-1-254, as last amended by Laws of Utah 2016, Chapter 393

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614 is amended to read:**59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.**

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) “Office” means the Office of Energy Development created in Section 63M-4-401.

(l) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) “Photovoltaic system” means an active solar system that generates electricity from sunlight.

~~(m)~~ (n) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

~~(m)~~ (o) “Residential energy system” means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

~~(o)~~ (p) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

(A) Section 59-2-404;

(B) Section 59-2-405;

(C) Section 59-2-405.1;

(D) Section 59-2-405.2; or

(E) Section 59-2-405.3.

~~(p)~~ (q) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through ~~(v)~~ (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer’s tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

~~(v)~~ (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed \$2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018 but on or before December 31, 2020, \$1,600;

(ii) for a system installed on or after January 1, 2021 but on or before December 31, 2021, \$1,200;

(iii) for a system installed on or after January 1, 2022 but on or before December 31, 2022, \$800;

(iv) for a system installed on or after January 1, 2023 but on or before December 31, 2023, \$400; and

(v) for a system installed on or after January 1, 2024, \$0.

[(e)] (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the

state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 2. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) “Geothermal energy” means energy generated by heat that is contained in the earth.

(f) “Geothermal heat pump system” means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) “Office” means the Office of Energy Development created in Section 63M-4-401.

(i) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) “Photovoltaic system” means an active solar system that generates electricity from sunlight.

(k) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) “Residential energy system” means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(m) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

(A) Section 59-2-404;

(B) Section 59-2-405;

(C) Section 59-2-405.1;

(D) Section 59-2-405.2; or

(E) Section 59-2-405.3.

(n) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or ~~before December 31, 2021~~ after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) \$2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on before December 31, 2017, \$2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, ~~[2018]~~ 2020, \$1,600;

(C) for a system installed on or after January 1, [2019] 2021, but on or before December 31, [2019] 2021, \$1,200;

(D) for a system installed on or after January 1, [2020] 2022, but on or before December 31, [2020] 2022, \$800; [and]

(E) for a system installed on or after January 1, [2021] 2023, but on or before December 31, [2021] 2023, \$400[-]; and

(F) for a system installed on or after January 1, 2024, \$0.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes,

the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 3. Section 63I-1-254 is amended to read:

63I-1-254. Repeal dates -- Title 54.

(1) The language of Subsection 54-4-13.4(1)(a)(ii) after "do not exceed \$5,000,000 in any calendar year" is repealed July 1, 2018.

(2) Subsection 54-7-13.5(2)(d) is repealed on December 31, 2019.

(3) Title 54, Chapter 15, Net Metering of Electricity, is repealed January 1, 2036.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 427**S. B. 143**

Passed March 6, 2018
Approved March 22, 2018
Effective May 8, 2018

EMPLOYMENT BACKGROUND CHECKS

Chief Sponsor: Wayne A. Harper
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill provides certain state agencies with the authority to require background checks for employees, contractors, and volunteers.

Highlighted Provisions:

This bill:

- ▶ provides the following entities with the authority to conduct local, regional, and national background checks for employees, contractors, appointees, and volunteers, as applicable:
 - Department of Environmental Quality;
 - Department of Financial Institutions;
 - Department of Health;
 - Department of Human Resource Management;
 - Department of Workforce Services;
 - Division of Purchasing;
 - governor's office;
 - State Auditor;
 - State Tax Commission; and
 - Utah Science Technology and Research Governing Authority;
- ▶ requires the Bureau of Criminal Identification to provide agencies with the results of the background checks; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-1-102, as last amended by Laws of Utah 2016, Chapter 226
53-10-108, as last amended by Laws of Utah 2015, Chapters 255 and 389
63A-3-201, as last amended by Laws of Utah 2016, Chapter 298

ENACTS:

7-1-212, Utah Code Annotated 1953
19-1-308, Utah Code Annotated 1953
26-1-17.1, Utah Code Annotated 1953
35A-1-104.1, Utah Code Annotated 1953
59-1-206.1, Utah Code Annotated 1953
63A-2-106, Utah Code Annotated 1953
63M-2-304, Utah Code Annotated 1953
67-3-10, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-1-212 is enacted to read:**7-1-212. Background checks for employees.**

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department shall require current employees in, and all applicants for, the following positions to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment:

- (a) agency information security managers;
- (b) financial institutions examiners;
- (c) financial institutions managers; and
- (d) financial institutions specialists.

(3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(4) The department shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 2. Section 19-1-308 is enacted to read:**19-1-308. Background checks for employees.**

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department shall require all appointees and applicants for the following positions to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment:

- (a) administrative services managers;
- (b) financial analysts;
- (c) financial managers; and
- (d) schedule AB and AD employees, in accordance with Section 67-19-15, in appointed positions.

(3) Each appointee or applicant for a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(4) The department shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 3. Section 26-1-17.1 is enacted to read:

26-1-17.1. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department; and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(4) The department shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information;

(b) determine the type of crimes and the severity that would disqualify an individual from holding a position; and

(c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 4. Section 35A-1-102 is amended to read:

35A-1-102. Definitions.

Unless otherwise specified, as used in this title:

(1) “Client” means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) “Department” means the Department of Workforce Services created in Section 35A-1-103.

(3) “Economic service area” means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) “Employment assistance” means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(5) “Employment center” is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) “Employment counselor” means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) “Employment plan” means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) “Executive director” means the executive director of the department appointed under Section 35A-1-201.

(9) “Government entity” means the state or any county, municipality, local district, special service district, or other political subdivision or administrative unit of the state, a state institution of higher education as defined in Section 53B-2-101, or a local education agency as defined in Section 53A-30-102.

(10) “Public assistance” means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;

(d) SNAP benefits; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) “SNAP” means the federal “Supplemental Nutrition Assistance Program” under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) “SNAP benefit” or “SNAP benefits” means a financial benefit, coupon, or privilege available under SNAP.

(13) “Stabilization” means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

(14) “Vulnerable populations” means children or adults with a life situation that substantially affects that individual’s ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult’s own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Section 5. Section 35A-1-104.1 is enacted to read:

35A-1-104.1. Background checks for employees.

(1) As used in this section, “bureau” means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require current employees in, and all applicants for, the following positions to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment:

(a) employees that access or may access federal tax information; and

(b) employees serving or interacting with vulnerable populations as defined in Section 35A-1-102.

(3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(4) The department shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the department that meets the requirements of Section 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 6. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record [or], including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

~~(b)~~ (d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

~~(e)~~ (e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

~~(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and]~~

~~(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;]~~

~~(e)~~ (f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

~~(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and]~~

~~(ii)~~ (g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

~~(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and]~~

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

~~(h)~~ (k) other agencies and individuals as the commissioner authorizes and finds necessary for

protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(~~(f)~~ or ~~(2)(h)~~)(j) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information ~~under Subsection (2)(g)~~, a qualifying entity ~~must~~ under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver ~~must~~ shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15)(a)(ii).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15)(a)(i).

(~~(e)~~) (e) Information received by a qualifying entity under Subsection (2)(~~(g)~~)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) may only be:

(i) available to ~~persons~~ individuals involved in the hiring or background investigation of the job applicant or employee; ~~and~~

(ii) used for the purpose of assisting in making an employment, appointment, selection, or promotion decision~~;~~; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(~~(d)~~ A ~~person~~) (f) An individual who disseminates or uses information obtained from the division under ~~Subsection (2)(g)~~ Subsections (2)(c) through (i) for purposes other than those specified under Subsection (4)(~~(e)~~)(e), in addition to any penalties

provided under this section, is subject to civil liability.

(~~(e)~~) (g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) that obtains background check information ~~under Subsection (2)(g)~~ shall provide the ~~employee or employment applicant~~ subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(~~(f)~~) (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(~~(g)~~) (i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under ~~Subsection (2)(g)~~ Subsections (2)(c) through (i).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(~~(e)~~)(f) may be provided by the agency to the ~~person~~ individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(~~(g)~~)(c) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(~~(f)~~(~~(ii)~~)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity ~~[or an entity described in Subsection (2)(b)]~~ under Subsection (2)(c), state agency, or other agency or individual described in Subsection (2)(d) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity ~~[or an entity described in Subsection (2)(b)]~~ under Subsection (2)(c), state agency, other agency or individual described in Subsection (2)(d) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) ~~(i)~~ ~~The~~ For a noncriminal justice applicant:

(i) the applicant fingerprint card fee under Subsection (2) is \$20[-]; and

(ii) ~~The~~ the name background check fee under Subsection (2) is \$15.

~~(iii)~~ (b) The fee to register fingerprints under Subsection (13)(a)(i) is \$5.

~~(iv)~~ (c) The fees described in ~~this Subsection~~ Subsections (15)(a) and (b) remain in effect until changed by the division through the process under Section 63J-1-504.

~~(b)~~ (d) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

~~(e)~~ (e) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h) or (2)(i), the Department of Human Resource Management, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

Section 7. Section 59-1-206.1 is enacted to read:

59-1-206.1. Definitions -- Background checks for employees.

(1) As used in this section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(b) "Return information" means the same as that term is defined in 26 U.S.C. Sec. 6103.

(2) The commission shall:

(a) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring of that nationwide criminal background check as a condition of employment:

(i) an employee or contractor of the commission that has access to return information in the custody of the commission, regardless of whether access by the employee or contractor is authorized; and

(ii) an employee or contractor of the commission that has access to information in the custody of the commission in the Utah Criminal Justice Information System, regardless of whether access by the employee or contractor is authorized; and

(b) require the following individuals to submit to a nationwide criminal background check and ongoing monitoring of the nationwide criminal background check:

(i) an employee or contractor of another state agency, or an employee of the office of the attorney general, that has access to return information in the custody of the commission, regardless of whether access by the employee or contractor is authorized; and

(ii) an employee or contractor of another state agency, or an employee of the office of the attorney general, that has access to information in the custody of the commission in the Utah Criminal Justice Information System, regardless of whether access by the employee or contractor is authorized.

(3) The commission shall collect the following from an individual required to submit to a background check under Subsection (2):

(a) the personal identifying information required on the fingerprint card; and

(b) consent, on a form specified by the commission, for:

(i) an initial fingerprint-based state, regional, and national background check by the Federal Bureau of Investigation and the bureau upon submission of the application; and

(ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Subsection 53-10-108(13).

(4) For an individual required to submit to a background check under Subsection (2), the commission shall submit the individual's personal identifying information to the bureau for:

(a) an initial fingerprint-based background check by the Federal Bureau of Investigation and the bureau; and

(b) ongoing monitoring through registration with the systems described in Subsection 53-10-108(13) if the results of the initial background check do not

contain disqualifying criminal history information as determined by the commission.

(5) The commission shall:

(a) submit any fees required under Subsection 53-10-108(15) to the bureau; and

(b) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the commission only receives notifications for individuals described in Subsection (2).

(6) The bureau shall provide all the results from the state, regional, and nationwide criminal history background checks and monitoring performed under Subsection (4) to the commission.

(7) On or before May 1, 2019, the commission shall:

(a) collect the information and consent described in Subsection (3) from individuals described in Subsection (2)(a) who:

(i) were employed by or under contract with the commission prior to May 8, 2018; and

(ii) are employed by or under contract with the commission; and

(b) submit the information and consent described in Subsection (3) to the bureau for ongoing monitoring through registration with the systems described in Subsection 53-10-108(13).

(8) Upon receipt of criminal history information under Subsection 53-10-108(13) regarding an individual described in Subsection (2)(a), the commission shall assess the employment status of the employee or contractor.

(9) Upon receipt of criminal history information under Subsection 53-10-108(13) regarding an individual described in Subsection (2)(b), the commission shall deny the employee or contractor access to:

(a) return information in the custody of the commission; and

(b) information in the custody of the commission in the Utah Criminal Justice Information System.

Section 8. Section 63A-2-106 is enacted to read:

63A-2-106. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the division shall require all applicants for the following positions to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment:

(a) assistant directors;

(b) contract analysts; and

(c) purchasing agents.

(3) Each applicant for a position listed in Subsection (2) shall provide a completed fingerprint card to the division upon request.

(4) The division shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the division that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the division shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The division is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the division will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 9. Section 63A-3-201 is amended to read:

63A-3-201. Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3) (a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means:

(A) an executive branch agency; or

(B) a state educational institution with the exception of an institution defined in Subsection 53B-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Bureau of Criminal Identification shall provide all the results from the state, regional, and nationwide criminal history background checks to the division.

~~(d)~~ (d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to implement this section.

Section 10. Section 63M-2-304 is enacted to read:

63M-2-304. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the governing authority:

(a) shall require all applicants for Schedule A positions, in accordance with Section 67-19-15, to submit to a fingerprint-based local, regional, and national criminal history background check and

ongoing monitoring as a condition of employment; and

(b) may require applicants for time limited positions to submit to a fingerprint-based, local, regional, and national criminal history background check and ongoing monitoring as a condition of employment if the applicant, as an employee:

(i) will interact with children, or vulnerable adults as defined in Section 62A-2-120; or

(ii) may have access to sensitive personal and financial information.

(3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the governing authority upon request.

(4) The governing authority shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the governing authority that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the governing authority shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The governing authority is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The governing authority may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the governing authority will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 11. Section 67-3-10 is enacted to read:

67-3-10. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the state auditor shall require employees involved in an audit, investigation, or review requiring access to information and records, the access to which requires a background check by federal statute or regulation, to submit to a fingerprint-based local, regional, and national criminal history background

check and ongoing monitoring as a condition of employment.

(3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the state auditor upon request.

(4) The state auditor shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the state auditor that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the state auditor shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The state auditor is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The state auditor may set office policy that:

(a) determines how the state auditor will assess the employment status of an individual upon receipt of background information; and

(b) identifies the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

CHAPTER 428**S. B. 146**

Passed March 7, 2018
 Approved March 22, 2018
 Effective May 8, 2018

TECHNOLOGY SUMMIT INCENTIVES

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill modifies provisions related to the Industrial Assistance Account.

Highlighted Provisions:

This bill:

- ▶ modifies the allowable distribution of money from the Industrial Assistance Account;
- ▶ requires the Governor's Office of Economic Development to annually report on the grants provided through the Industrial Assistance Account;
- ▶ allows some nonprofit organizations engaged in publicizing, developing, and promoting the high tech sector to qualify for a grant from the Industrial Assistance Account;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Economic Development Industrial Assistance Account as an ongoing appropriation:
 - from the General Fund, \$250,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63N-3-102, as last amended by Laws of Utah 2016, Chapter 34

63N-3-103, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-3-109, as renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.;"

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

[49] (20) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

[20] (21) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

[21] (22) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 2. Section 63N-3-102 is amended to read:

63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

(2) "Best available control technology" means a pollution control method that is approved by the United States Environmental Protection Agency or the Department of Environmental Quality to control a certain pollutant type to a specified degree.

(3) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:

(a) odors;

(b) noise;

(c) pollution;

(d) health hazards; or

(e) other activities similar to those described in Subsections (3)(a) through (d).

(4) "Economic opportunities" means unique business situations or community circumstances, including the development of recreation infrastructure and the promotion of the high tech sector in the state, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the board.

(5) "Economically disadvantaged rural area" means a geographic area designated by the board under Section 63N-3-111.

(6) "Nonattainment area" means a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

(7) "Replacement company" means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.

(8) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

(9) "Targeted industry" means an industry or group of industries targeted by the board under Section 63N-3-111, for economic development in the state.

Section 3. Section 63N-3-103 is amended to read:

63N-3-103. Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.

(1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account" of which annually:

(a) up to 50% of the unencumbered money in the account may be used in economically disadvantaged rural areas;

(b) up to [25%] the greater of \$250,000 or 25% of the unencumbered money in the account may be used to take timely advantage of economic opportunities as they arise; and

(c) up to 4% of the unencumbered money in the account may be used to promote business and economic development in rural areas of the state with the Business Expansion and Retention Initiative.

(2) The administrator shall administer:

(a) the restricted account created under Subsection (1), under the policy direction of the board; and

(b) the Business Expansion and Retention Initiative for the rural areas of the state.

(3) The administrator may hire appropriate support staff to perform the duties required under this section.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

(6) The office shall review the activities and progress of grant recipients under this chapter on a regular basis and, as part of the office's annual written report described in Section 63N-1-301, report on the economic impact of activities funded by the grants.

Section 4. Section 63N-3-109 is amended to read:

63N-3-109. Financial assistance to entities offering economic opportunities.

(1) Subject to the duties and powers of the board under Section 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator; and

(b) meets the qualifications of Subsection (2).

(2) The applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles;

(d) in the case of an economic opportunity that includes the retention of jobs, demonstrate how the potential relocation of jobs outside the state is related to a merger, acquisition, consolidation, or similar business reason other than the applicant simply requesting state assistance to remain in the state;

(e) satisfy other criteria the administrator considers appropriate; ~~and~~

(f) if the applicant meets the requirements of Subsection (2)(g)(i)(C):

(i) demonstrate that the funding request will be used primarily to reimburse the applicant for expenses related to a program of out-of-state advertising, marketing, and branding for an annual conference for the high tech sector with at least 10,000 attendees; and

(ii) subject to Subsection (3)(c), demonstrate that the annual conference described in Subsection (2)(f)(i) met post-performance requirements designated by the administrator regarding:

(A) economic impact on the state;

(B) new tax revenue to the state; and

(C) attendance of out-of-state business prospects; and

~~(f)~~ (g) be either:

(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state, including:

(A) an entity that is a sports development organization under contract with the state for sports development and sporting event attraction and related activities that provide an economic impact or promotional value to the state; ~~or~~

(B) an entity that implements technology innovation in public schools, including whole-school one-to-one mobile device technology deployment for the purpose of incubating technology solutions related to economic and workforce development~~[-]; or~~

(C) an entity that is a nonprofit organization engaged in publicizing, developing, and promoting the high tech sector in the state through activities that include organizing and hosting an annual conference for the high tech sector with at least 10,000 attendees; or

(ii) a company or individual that meets the requirements of Subsections (2)(a) through (f) but does not otherwise qualify under Section 63N-3-105.

(3) Subject to the duties and powers of the board under Section 63N-1-402, the administrator shall:

(a) make findings as to whether an applicant has satisfied each of the conditions set forth in Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) (i) if an applicant that meets the requirements of Subsection (2)(g)(i)(C) has not received funding under this section in a previous year:

(A) require that the annual conference described in Subsection (2)(f)(i) be attended by at least 100 out-of-state business prospects; and

(B) establish additional requirements as described in Subsection (2)(f)(ii); and

(ii) if an applicant that meets the requirements of Subsection (2)(g)(i)(C) received funding under this section in a previous year, require that the annual conference described in Subsection (2)(f)(i):

(A) have an economic impact on the state of at least 125% of the economic impact of the annual conference in the previous year;

(B) generate new tax revenue to the state that is at least 125% of the new tax revenue generated by the the annual conference in the previous year; and

(C) have attendance by out-of-state business prospects that is at least 125% of the attendance by out-of-state business prospects at the annual conference in the previous year;

[(e)] (d) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

[(d)] (e) make funding decisions based upon appropriate findings and compliance.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Economic Development —
Industrial Assistance Account

From General Fund \$250,000

Schedule of Programs:

Industrial Assistance Account \$250,000

The Legislature intends that the appropriation to the Industrial Assistance Account be used by the Governor's Office of Economic Development to provide money to an entity offering an economic opportunity under Subsection 63N-3-109 (2)(g)(i)(C).

CHAPTER 429**S. B. 148**

Passed March 1, 2018

Approved March 22, 2018

Effective May 8, 2018

**PUBLIC EDUCATION ENROLLMENT
APPLICATION AMENDMENTS**

Chief Sponsor: Daniel Hemmert

House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill amends provisions related to local school board rules governing acceptance or rejection of an enrollment request.

Highlighted Provisions:

This bill:

- ▶ enacts language related to local school board standards for accepting or rejecting an application for enrollment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-6-403, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-403 is amended to read:**53G-6-403. Rules for acceptance and rejection of applications.**

(1) (a) A local school board shall adopt rules governing acceptance and rejection of applications required under Section 53G-6-402.

(b) The rules adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).

(2) Standards for accepting or rejecting an application for enrollment may include:

(a) for an elementary school, the capacity of the grade level;

(b) for a secondary school, the capacity of a comprehensive program;

~~(f)~~ (c) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;

~~(e)~~ (d) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;

~~(d)~~ (e) maintenance of reduced class sizes;

(i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or

(ii) in a school that uses school trust money to reduce class size;

~~(e)~~ (f) willingness of prospective students to comply with district policies; and

~~(f)~~ (g) giving priority to intradistrict transfers over interdistrict transfers.

(3) (a) Standards for accepting or rejecting applications for enrollment may not include:

(i) previous academic achievement;

(ii) athletic or other extracurricular ability;

(iii) the fact that the student requires special education services for which space is available;

(iv) proficiency in the English language; or

(v) previous disciplinary proceedings, except as provided in Subsection (3)(b).

(b) A board may provide for the denial of applications from students who:

(i) have committed serious infractions of the law or school rules, including rules of the district in which enrollment is sought; or

(ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:

(A) endanger persons or property;

(B) cause serious disruptions in the school; or

(C) place unreasonable burdens on school staff.

(c) A board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.

(4) (a) The State Board of Education, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.

(b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).

(5) For each school in the district, the local school board shall post on the school district's website:

(a) the school's maximum capacity;

(b) the school's adjusted capacity;

(c) the school's projected enrollment used in the calculation of the open enrollment threshold;

(d) actual enrollment on October 1, January 2, and April 1;

(e) the number of nonresident student enrollment requests;

(f) the number of nonresident student enrollment requests accepted; and

(g) the number of resident students transferring to another school.

CHAPTER 430**S. B. 161**

Passed March 7, 2018

Approved March 22, 2018

Effective May 8, 2018

(Exception clause in Section 23)

**NURSE HOME VISITING
PAY-FOR-SUCCESS PROGRAM**

Chief Sponsor: Luz Escamilla

House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill creates an evidence-based nurse home visiting pay-for-success program within the Department of Health.

Highlighted Provisions:

This bill:

- ▶ creates an evidence-based Nurse Home Visiting Pay-for-Success Program within the Department of Health;
- ▶ describes the requirements of the nurse home visiting pay-for-success program;
- ▶ provides that the program is funded through a contractual relationship between the Department of Health and one or more private investors;
- ▶ initiates the program as a pilot program;
- ▶ provides for success payments to investors if performance goals outlined in the pay-for-success contract are met by the program;
- ▶ makes changes to the Nurse Home Visiting Restricted Account;
- ▶ creates a reporting requirement; and
- ▶ sets a sunset date for the new program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to General Fund Restricted - Nurse Home Visiting Restricted Account, as an ongoing appropriation:
 - from the General Fund, \$500,000; and
- ▶ to Department of Health - Family Health and Preparedness - Nurse Home Visiting Pay-for-Success, as an ongoing appropriation:
 - from the General Fund Restricted - Nurse Home Visiting Restricted Account, \$500,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2017, Chapters 177 and 443

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63J-1-602.1 (Superseded 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 194, and 383

63J-1-602.1 (Effective 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 107, 194, and 383

RENUMBERS AND AMENDS:

26-62-601, (Renumbered from 26-10-12, as enacted by Laws of Utah 2017, Chapter 155)

ENACTS:

26-62-101, Utah Code Annotated 1953

26-62-102, Utah Code Annotated 1953

26-62-201, Utah Code Annotated 1953

26-62-202, Utah Code Annotated 1953

26-62-203, Utah Code Annotated 1953

26-62-204, Utah Code Annotated 1953

26-62-301, Utah Code Annotated 1953

26-62-302, Utah Code Annotated 1953

26-62-303, Utah Code Annotated 1953

26-62-401, Utah Code Annotated 1953

26-62-402, Utah Code Annotated 1953

26-62-403, Utah Code Annotated 1953

26-62-501, Utah Code Annotated 1953

26-62-502, Utah Code Annotated 1953

26-62-503, Utah Code Annotated 1953

26-62-504, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-62-101 is enacted to read:**CHAPTER 62. NURSE HOME VISITING
PAY-FOR-SUCCESS PROGRAM****Part 1. General Provisions****26-62-101. Title.**

This chapter is known as the “Nurse Home Visiting Pay-for-Success Program.”

Section 2. Section 26-62-102 is enacted to read:**26-62-102. Definitions.**

As used in this chapter:

(1) “At-risk individual” means an individual who qualifies for coverage under:

(a) the Children’s Health Insurance Program created in Chapter 40, Utah Children’s Health Insurance Act;

(b) the Medicaid program, as defined in Section 26-18-2;

(c) the Special Supplemental Nutrition Program for Women, Infants, and Children, established in 42 U.S.C. Sec. 1786; or

(d) Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.

(2) “Eligible participant” means an individual who:

(a) is referred to the program as an at-risk individual; and

(b) is appropriate for participation in the program as determined by a service provider.

(3) “Fiscal intermediary entity” means an organization that has the necessary experience to coordinate the funding and management of a pay-for-success contract.

(4) “Independent evaluator” means a person that is contracted to conduct an annual evaluation of the performance outcome measures specified in the pay-for-success contract.

(5) “Investor” means a private person that:

(a) provides an up-front cash payment to fund the program; and

(b) receives a success payment if the performance outcome measures are satisfied.

(6) “Pay-for-success contract” means a contract entered into by the department in accordance with Section 26-62-301.

(7) “Performance outcome measure” means a measurable outcome established by the department under Section 26-62-302.

(8) “Program” means the Nurse Home Visiting Pay-for-Success Program created in Section 26-62-201.

(9) “Programmatic intermediary entity” means a private, not-for-profit organization that enters into a pay-for-success contract with the department to operate the program.

(10) “Qualified nurse” means an individual who is licensed to practice as a registered nurse in the state.

(11) “Restricted account” means the Nurse Home Visiting Restricted Account created in Section 26-62-601.

(12) “Service provider” means a person that receives a contract from the programmatic intermediary entity to provide the services described in Section 26-62-203.

(13) “Success payment” means the amount paid by the department to an investor from the restricted fund in accordance with the terms of a pay-for-success contract.

Section 3. Section 26-62-201 is enacted to read:

Part 2. Nurse Home Visiting Pay-for-Success Program

26-62-201. Creation.

There is created the Nurse Home Visiting Pay-for-Success Program in the department.

Section 4. Section 26-62-202 is enacted to read:

26-62-202. Department duties.

The department shall:

(1) administer the pilot program described in Section 26-62-401;

(2) negotiate and enter into:

(a) a pay-for-success contract to provide the services described in Section 26-62-203; and

(b) a contract with an independent evaluator to perform the evaluation described in Section 26-62-303;

(3) provide necessary data to the independent evaluator to facilitate assessment of the performance outcome metrics;

(4) if the independent evaluator determines that the specified performance outcome measures have been achieved, make a success payment to the investors in the amount specified in the pay-for-success contract;

(5) refer pregnant at-risk individuals who are likely to be first-time mothers to the program for potential enrollment; and

(6) calculate the potential savings to the state through a Medicaid waiver or a state plan amendment under Section 26-62-502.

Section 5. Section 26-62-203 is enacted to read:

26-62-203. Nurse home visiting program.

(1) A participant in a program shall receive ongoing in-person home visits from a qualified nurse from early in the participant's pregnancy to up to two years after the participant's child is born.

(2) (a) To participate in the program, an individual must be an eligible participant at the time of enrollment.

(b) The program shall prioritize the enrollment of first-time mothers, as defined by the programmatic intermediary entity.

(c) The programmatic intermediary entity may request a limited waiver from the requirement in Subsection (2)(a) from the department if the programmatic intermediary entity can demonstrate that a group:

(i) is significantly underserved; and

(ii) meets all other requirements of the program.

(3) The services provided during a home visit described in Subsection (1) shall be provided according to a set of standards that:

(a) are nationally recognized;

(b) are evidence-based, with support from at least two reliable, randomized control trials with statistically significant results; and

(c) have demonstrated sizable and sustained results.

Section 6. Section 26-62-204 is enacted to read:

26-62-204. Service providers.

(1) The programmatic intermediary entity may contract with one or more qualified service providers to provide the services described in Section 26-62-203 for the program.

(2) A service provider that receives a contract under Subsection (1) shall:

(a) have a demonstrated record of providing social services to low-income populations;

(b) agree to deliver services according to the standards set by the programmatic intermediary entity; and

(c) submit data to the independent evaluator that are necessary to evaluate the performance outcome measures.

(3) The programmatic intermediary entity shall seek approval from the department before entering into a contract with a service provider under this section.

(4) The selection of a service provider by the programmatic intermediary entity:

(a) shall be conducted with input from the department; and

(b) shall be conducted in accordance with a rigorous, evidence-based selection process.

Section 7. Section 26-62-301 is enacted to read:

Part 3. Pay-for-Success Contract

26-62-301. Pay-for-success contract --

Success payments -- Outcome measures.

The department shall implement a program under this chapter through a pay-for-success contract, which:

(1) shall include at least all of the following as parties to the contract:

(a) the department;

(b) an independent evaluator;

(c) an intermediary agency; and

(d) an investor;

(2) shall include clear performance outcome measures that trigger a success payment;

(3) shall establish a payment schedule for investors if the performance outcome measures are achieved;

(4) shall only allow repayment with funds appropriated from the restricted account;

(5) shall prohibit civil action by investors against the state if a success payment is not made because performance outcome measures are not achieved; and

(6) may not, under any circumstance, cause the total outstanding obligations under this chapter to exceed \$25,000,000.

Section 8. Section 26-62-302 is enacted to read:

26-62-302. Performance outcome measures.

(1) The department shall establish performance outcome measures that shall be used to determine the conditions of a success payment under a contract described in Section 26-62-301.

(2) (a) Before entering into a pay-for-success contract under this chapter, the department shall report the terms of the proposed pay-for-success contract, including the proposed outcome measures, to the Executive Appropriations Committee.

(b) The report described in Subsection (2)(a) shall include, at a minimum, the following items:

(i) the populations selected as targetable and high-need populations, including the department's assessment of whether similar publicly funded services are available to those populations;

(ii) the benchmarks selected to measure each performance outcome measure;

(iii) the targets selected for each performance outcome measure; and

(iv) the amount that will be paid to each party in the pay-for-success contract if a target is reached.

(c) The department may not enter into a pay-for-success contract under this chapter until after the department makes the report described in Subsection (2)(a) to the Executive Appropriations Committee.

(3) The performance outcome measures described in Subsection (2) shall include, at a minimum, the following categories:

(a) preterm births;

(b) child injury;

(c) child immunization rates through age two;

(d) screening for postpartum depression; and

(e) enrollment targets for the program.

(4) The program outcome measures shall be determined using data from:

(a) the pilot phase described in Section 26-62-401;

(b) peer-reviewed studies; or

(c) any government entity.

(5) The enrollment targets described in Subsection (3)(e) shall include a measure of:

(a) the number of participants in the program; and

(b) the proportion of participants who come from a zip code in which 15% or more of households have incomes below the federal poverty guidelines established by the secretary of the United States Department of Health and Human Services.

Section 9. Section 26-62-303 is enacted to read:

26-62-303. Independent evaluator.

(1) The department shall contract with an independent evaluator who will perform an assessment for the pay-for-success contract.

(2) The independent evaluator shall:

(a) have demonstrated expertise in evaluating home visiting programs; and

(b) have successfully completed at least two independent evaluations of a program that utilizes the pay-for-success contract model before entering into the contract.

Section 10. Section 26-62-401 is enacted to read:

Part 4. Implementation

26-62-401. Pilot phase.

(1) Before July 1, 2019, the department shall:

(a) identify whether there is a targetable, high-need population for the implementation of the home visiting program;

(b) identify service providers that are able to reach the targeted population with the program; and

(c) gather data needed to make the evaluation in Subsection (3).

(2) The department may:

(a) contract with a third party with the necessary expertise to act as a programmatic intermediary agency to administer the pilot phase described in Subsection (1);

(b) contract with a fiscal intermediary entity to administer the pilot phase described in Subsection (1); and

(c) execute a single contract with the programmatic intermediary agency to administer the pilot phase described in this section and the implementation phase described in Section 26-62-402.

(3) The department shall begin the implementation phase described in Section 26-62-203 if the department determines that:

(a) there is at least one identifiable high-need population that would benefit from the program;

(b) there are sufficient service providers to provide services under the program to the population described in Subsection (3)(a);

(c) there is evidence that the program would produce positive outcomes for the state; and

(d) there are persons that are qualified and have expressed an interest in serving as:

(i) an intermediary entity;

(ii) an independent evaluator; and

(iii) an investor.

Section 11. Section 26-62-402 is enacted to read:

26-62-402. Implementation phase.

(1) If all of the conditions described in Subsection 26-62-401(3) are satisfied, and after the department has made the report described in Subsection 26-62-302(2), the department shall enter into a pay-for-success contract with a

programmatic intermediary entity, an independent evaluator, and investors to provide the services required under Section 26-62-203.

(2) The department shall make success payments from the restricted fund to investors in accordance with the terms of the pay-for-success contract.

(3) The program shall operate for six years.

Section 12. Section 26-62-403 is enacted to read:

26-62-403. Study and expansion phase.

Before July 1, 2025, the department shall create a report to the Legislature describing:

(1) cost savings and other benefits to the state resulting from the program; and

(2) options for:

(a) increasing the number of individuals served by home visiting programs;

(b) improving the effectiveness of home visiting programs funded by the state;

(c) leveraging private and government funding, including Medicaid funding, to increase the use and effectiveness of home visiting programs in the state;

(d) coordinating the identification of individuals who could benefit from home visiting programs;

(e) coordinating the delivery of services provided through multiple home visiting programs, where appropriate; and

(f) funding home visiting programs if funding through the federal government's Maternal, Infant, and Early Childhood Home Visiting program is eliminated or reduced.

Section 13. Section 26-62-501 is enacted to read:

Part 5. Miscellaneous Provisions

26-62-501. Reporting requirement.

The department shall report to the Health and Human Services Interim Committee, before October 1 of each year while the program is in operation, regarding:

(1) the number of participants enrolled in the program;

(2) the amount of any success payments that have been made;

(3) an estimate of savings to the state resulting from this program; and

(4) suggestions for legislation that would make a home visiting program or a pay-for-success contract more efficient or widely available throughout the state.

Section 14. Section 26-62-502 is enacted to read:

26-62-502. Medicaid waiver.

(1) The department may submit a Medicaid waiver to the secretary of the United States Department of Health and Human Services to

expand the Nurse Home Visiting Pay-for-Success Program.

(2) The department shall report to the Health and Human Services Interim Committee or the Health and Human Services Standing Committee within 60 days after the date on which the department submits a waiver request under Subsection (1).

Section 15. Section 26-62-503 is enacted to read:

26-62-503. Limited liability.

(1) An investor may not take any action against the state, a political subdivision, a programmatic intermediary entity, a service provider, or a financial intermediary entity for:

(a) the failure of a success payment due to the failure to achieve the performance outcome measures; or

(b) any amount over the \$25,000,000 limit for all success payments in the aggregate for the program.

(2) The limitation described in Subsection (1) does not prohibit an investor from taking action against the state for a failure to make a success payment in accordance with the pay-for-success contract if the performance outcome measures are achieved and the limit has not been exceeded.

Section 16. Section 26-62-504 is enacted to read:

26-62-504. Repeal date.

This chapter is repealed on July 1, 2026, in accordance with Section 63I-1-226.

Section 17. Section 26-62-601, which is renumbered from Section 26-10-12 is renumbered and amended to read:

**Part 6. Nurse Home Visiting
Restricted Account**

[26-10-12]. 26-62-601. Nurse Home Visiting Restricted Account.

(1) As used in this section, "home visiting" means an evidence-based program designed to meet the needs of pregnant women and families with children under four years of age by improving maternal mental and physical health, supporting positive parenting, preventing child abuse and neglect, and promoting child health, development, and school readiness.]

[(2)-(a)] (1) There is created a restricted account within the General Fund known as the "Nurse Home Visiting Restricted Account."

[(b)] (2) The restricted account consists of:

[(i)] (a) money appropriated to the restricted account by the Legislature;

[(ii)] (b) private donations; and

[(iii)] (c) all income and interest derived from the deposit and investment of money in the account.

[(e) Money in the restricted account may be used only for appropriations by the Legislature to fund

evidence-based home visiting programs in the state.]

(3) Subject to legislative appropriations, money in the restricted account may be used to fund activities related to the program created in this chapter.

Section 18. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

~~[(7) Section 26-38-2.5 is repealed July 1, 2017.]~~

~~[(8) Section 26-38-2.6 is repealed July 1, 2017.]~~

~~[(9)] (7) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.~~

(8) Title 26, Chapter 62, Nurse Home Visiting Pay-for-Success Program is repealed July 1, 2026.

Section 19. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(20) is repealed July 1, 2026.

(13) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(14) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(15) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(16) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(17) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~(17)(c)~~ (17)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~(17)(b)~~ (17)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(18) Section 63N-2-512 is repealed on July 1, 2021.

(19) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~(19)(b)~~ (19)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(20) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(21) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(22) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 20. Section 63J-1-602.1

(Superseded 09/30/18) is amended to read:
63J-1-602.1 (Superseded 09/30/18). List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The Native American Repatriation Restricted Account created in Section 9-9-407.

(5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(6) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(7) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(8) The Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5.

(9) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(13) The primary care grant program created in Section 26-10b-102.

(14) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(15) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(16) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(17) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(18) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(19) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(20) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(21) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

Section 21. Section 63J-1-602.1 (Effective 09/30/18) is amended to read:

63J-1-602.1 (Effective 09/30/18). List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The Native American Repatriation Restricted Account created in Section 9-9-407.

(5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(6) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(7) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(8) The Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5.

(9) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(13) The primary care grant program created in Section 26-10b-102.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(17) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(18) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(19) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(20) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

Section 22. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending

June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 22(a). Restricted Fund and Account Transfers. The Legislature authorizes the Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted - Nurse Home Visiting Restricted Account

<u>From General Fund</u>	<u>\$500,000</u>
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Schedule of Programs:

<u>General Fund Restricted - Nurse Home Visiting Restricted Account</u>	<u>\$500,000</u>
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Subsection 22(b). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Department of Health - Family Health and Preparedness

<u>From General Fund Restricted - Nurse Home Visiting Restricted Account</u>	<u>\$500,000</u>
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Schedule of Programs:

<u>Nurse Home Visiting Pay-for-Success Program</u>	<u>\$500,000</u>
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Section 23. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

(2) The actions affecting Section 63J-1-602.1 (Effective 09/30/18) take effect on September 30, 2018.

CHAPTER 431**S. B. 166**

Passed March 5, 2018

Approved March 22, 2018

Effective May 8, 2018

ENERGY FACILITY AMENDMENTS

Chief Sponsor: J. Stuart Adams
House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill allows the delegation of certain authority regarding an energy assessment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the governing body of a local entity to adopt a certain resolution to delegate to an officer of the entity the authority to:
 - designate an energy assessment area;
 - levy an energy assessment;
 - approve certain terms of energy assessment bonds; and
 - issue energy assessment bonds;
- ▶ amends Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, to provide for the delegation of energy assessment authority; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-42a-102, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-104, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-201, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-204, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-205, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-301, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-401, as enacted by Laws of Utah 2017, Chapter 470

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42a-102 is amended to read:**11-42a-102. Definitions.**

(1) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(2) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(3) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(4) "Bond" means an assessment bond and a refunding assessment bond.

(5) (a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

- (i) commercial;
- (ii) mining;
- (iii) agricultural;
- (iv) industrial;
- (v) manufacturing;
- (vi) trade;
- (vii) professional;
- (viii) a private or public club;
- (ix) a lodge;
- (x) a business; or
- (xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that[~~(i)~~] is used as or held for dwelling purposes[;] and contains:

[~~(ii) contains~~] (A) more than four rental units[-]; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property that the military installation development authority, created in Section 63H-1-201, owns.

(6) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(7) "C-PACE" means commercial property assessed clean energy.

(8) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(9) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle, as those terms are defined in Section 59-7-605.

(10) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(11) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(12) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(13) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(14) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (15)(b)(i) through (xv).

(16) “Governing body” means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district; and

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102.

(17) “Improvement” means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(18) “Incidental refunding costs” means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(19) “Installment payment date” means the date on which an installment payment of an assessment is payable.

(20) “Jurisdictional boundaries” means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

(21) “Local district” means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(22) (a) “Local entity” means:

(i) a county, city, town, or metro township;

(ii) a special service district, a local district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority created in Section 63H-1-201; or

(v) any political subdivision of the state.

(b) “Local entity” includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

(23) “Local entity obligations” means energy assessment bonds and refunding assessment bonds that a local entity issues.

(24) “OED” means the Office of Energy Development created in Section 63M-4-401.

(25) “Overhead costs” means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

(26) “Parameters resolution” means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

~~[(26)]~~ (27) “Prior bonds” means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

~~[(27)]~~ (28) “Prior energy assessment ordinance” means the ordinance levying the assessments from which the prior bonds are payable.

~~[(28)]~~ (29) “Prior energy assessment resolution” means the resolution levying the assessments from which the prior bonds are payable.

~~[(29)]~~ (30) “Property” includes real property and any interest in real property, including water rights and leasehold rights.

~~[(30)]~~ (31) “Public electrical utility” means a large-scale electric utility as that term is defined in Section 54-2-1.

[~~(31)~~] (32) “Reduced payment obligation” means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[~~(32)~~] (33) “Refunding assessment bond” means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

[~~(33)~~] (34) (a) “Renewable energy system” means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

- (A) a photovoltaic system;
- (B) a solar thermal system;
- (C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection [~~(33)~~] (34)(a)(i) or (ii).

(b) “Renewable energy system” does not include a system described in Subsection [~~(33)~~] (34)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

[~~(34)~~] (35) “Special service district” means the same as that term is defined in Section 17D-1-102.

[~~(35)~~] (36) “State interlocal entity” means:

(a) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state’s population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

[~~(36)~~] (37) “Third-party lender” means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 2. Section 11-42a-104 is amended to read:

11-42a-104. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) (a) A person may commence a civil action against a local entity to contest an assessment, a proceeding to designate an energy assessment area, or a proceeding to levy an assessment.

(b) The remedies available in a civil action described in Subsection (1)(a) are:

(i) setting aside the proceeding to designate an energy assessment area; or

(ii) enjoining the levy or collection of an assessment.

(2) (a) A person bringing an action under Subsection (1) shall bring the action in the district court with jurisdiction in the county in which the energy assessment area is located.

(b) A person may not begin the action against or serve a summons relating to the action on the local entity more than 30 days after the earlier of:

(i) the date of publication or posting of the notice of the adoption of a parameters resolution that the local entity adopts in accordance with Section 11-42a-201;

(ii) the effective date of the energy assessment resolution[, the energy assessment] or ordinance[,]; or

(iii) the written agreement between a local entity and a third-party lender, described in Section 11-42a-302.

(3) An action under Subsection (1) is the exclusive remedy of a person:

(a) claiming an error or irregularity in an assessment, a proceeding to designate an energy assessment area, or a proceeding to levy an assessment; or

(b) challenging a bondholder’s or third-party lender’s right to repayment.

(4) A court may not set aside, in part or in whole or declare invalid an assessment, a proceeding to designate an energy assessment area, or a

proceeding to levy an assessment because of an error or irregularity that does not relate to the equity or justice of the assessment or proceeding.

(5) Except as provided in Subsection (6), after the expiration of the 30-day period described in Subsection (2)(b):

(a) the following become incontestable against any person that has not commenced an action and served a summons as provided in this section:

(i) the written agreement entered into or to be entered into under Section 11-42a-302;

(ii) the energy assessment bonds and refunding assessment bonds:

(A) that a local entity has issued or intends to issue; or

(B) with respect to the creation of an energy assessment area; and

(iii) assessments levied on property in the energy assessment area; and

(b) a court may not inquire into and a person may not bring a suit to enjoin or challenge:

(i) the issuance or payment of an energy assessment bond or a refunding assessment bond;

(ii) the payment under the written agreement between a local entity and a third-party lender described in Section 11-42a-302;

(iii) the levy, collection, or enforcement of an assessment;

(iv) the legality of an energy assessment bond, a refunding assessment bond, or a written agreement between a local entity and a third-party lender described in Section 11-42a-302; or

(v) an assessment.

(6) (a) A person may bring a claim of misuse of assessment funds through a mandamus action regardless of the expiration of the 30-day period described in Subsection (2)(b).

(b) This section does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 3. Section 11-42a-201 is amended to read:

11-42a-201. Resolution or ordinance designating an energy assessment area, levying an assessment, and issuing an energy assessment bond.

(1) (a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:

(i) designates an energy assessment area;

(ii) levies an assessment within the energy assessment area; and

(iii) if applicable, authorizes the issuance of an energy assessment bond.

(b) The governing body of a local entity may, by adopting a parameters resolution, delegate to an officer of the local entity, in accordance with the parameters resolution, the authority to:

(i) execute an energy assessment resolution or ordinance that:

(A) designates an energy assessment area;

(B) levies an energy assessment lien; and

(C) approves the final interest rate, price, principal amount, maturities, redemption features, and other terms of the energy assessment bonds; and

(ii) approve and execute all documents related to the designation of the energy assessment area, the levying of the energy assessment lien, and the issuance of the energy assessment bonds.

~~(4b)~~ (c) The boundaries of a proposed energy assessment area may:

(i) include property that is not intended to be assessed; and

(ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

~~(e)~~ (d) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) or a parameters resolution under Subsection (1)(b) shall give notice of the adoption of the energy assessment resolution or ordinance or the parameters resolution by:

(i) publishing a copy or a summary of the resolution or ordinance once in a newspaper of general circulation where the energy assessment area is located; or

(ii) if there is no newspaper of general circulation where the energy assessment area is located, posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days.

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect on the later of:

~~(a)~~ the date on which the governing body of the local entity adopts the energy assessment resolution or ordinance;

~~[(a) or]~~ (b) the date of publication or posting of the notice ~~[under]~~ of adoption of either the energy assessment resolution or ordinance or the parameters resolution described in Subsection (2); or

~~[(b)]~~ (c) at a later date as provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the property to be assessed; and

(ii) describe the property to be assessed by legal description and tax identification number.

(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no effect on the validity of an assessment levied under an energy assessment resolution or ordinance adopted under Subsection (1).

Section 4. Section 11-42a-204 is amended to read:

11-42a-204. Limit on amount of assessment.

(1) An assessment levied within an energy assessment area may not, in the aggregate, exceed the sum of:

(a) the contract price or estimated contract price;

(b) overhead costs not to exceed 15% of the sum of the contract price or estimated contract price;

(c) an amount for contingencies of not more than 10% of the sum of the contract price or estimated contract price, if the assessment is levied before the completion of the construction of the improvements in the energy assessment area;

(d) capitalized interest; or

(e) an amount sufficient to fund a reserve fund.

(2) A local entity may only use the proceeds of an energy assessment bond or any third-party financing to refinance or reimburse the costs of improvements authorized under this chapter if the property owner incurred or financed the costs no earlier than three years before the day on which the local entity ~~[issues the energy assessment bond or]~~:

(a) adopts a parameters resolution;

(b) adopts an energy assessment resolution or ordinance; or

(c) assigns the energy assessment lien.

Section 5. Section 11-42a-205 is amended to read:

11-42a-205. Installment payment of assessments.

(1) In an energy assessment resolution or ordinance that a local entity adopts under Subsection 11-42a-201(1)(a), the governing body may provide that some or all of the assessment be paid in installments:

(a) in accordance with the resolution or ordinance; and

(b) over a period not to exceed 30 years from the effective date of the resolution or ordinance.

(2) (a) Each governing body that adopts an energy assessment resolution or ordinance that provides for the assessment to be paid in installments shall ensure that the resolution or ordinance provides that the unpaid balance of the assessment bears interest at a fixed rate, a variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date that the resolution or ordinance specifies.

(b) Each governing body that adopts an energy assessment resolution or ordinance that provides for the unpaid balance of the assessment to bear interest at a variable rate shall ensure that the resolution or ordinance specifies:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(3) Interest payable on assessments may include:

(a) interest on energy assessment bonds;

(b) ongoing costs that the local entity incurs for administration of the energy assessment area; ~~[and]~~

(c) a trustee's fees and expenses; and

~~[(e)]~~ (d) any costs that the local entity incurs with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(4) A property owner shall pay interest imposed in an energy assessment resolution or ordinance annually or at more frequent intervals as the resolution or ordinance provides, in addition to the amount of each installment.

(5) (a) At any time, a property owner may prepay some or all of the assessment levied against the owner's property.

(b) A local entity may require that a prepayment of an installment include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on a bond issued or a loan made in anticipation of the collection of the assessment; and

(ii) the amount necessary, as determined by the governing body or the officer that the governing body designates, to ensure the availability of money to pay:

(A) interest that becomes due and payable on a bond or loan described in Subsection (5)(b)(i); and

(B) any premiums that become payable on a loan that is prepaid or on a bond that is called for redemption in order to use the money from the prepaid assessment installment.

Section 6. Section 11-42a-301 is amended to read:

11-42a-301. Assessment constitutes a lien -- Characteristics of an energy assessment lien.

(1) Each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a lien against the assessed property, beginning on the effective date of the energy assessment resolution or ordinance that the local entity adopts under Subsection 11-42a-201(1)(a).

(2) An energy assessment lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) has the same priority as, but is separate and distinct from:

(i) a lien for general property taxes; ~~or~~

(ii) any other energy assessment lien levied under this chapter; or

(iii) an assessment lien levied under Title 11, Chapter 42, Assessment Area Act;

(c) applies to any reduced payment obligations without interruption, change in priority, or alteration in any manner; and

(d) continues until the assessment and any related reduced payment obligations, interest, penalties, and costs are paid, regardless of:

(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 7. Section 11-42a-401 is amended to read:

11-42a-401. Local entity may authorize the issuance of energy assessment bonds -- Limit on amount of bonds -- Features of energy assessment bonds.

(1) A local entity may, subject to the requirements of this chapter, authorize the issuance of a bond to pay, refinance, or reimburse the costs of improvements in an energy assessment area, and other related costs, against the funds that the local entity will receive because of an assessment in an energy assessment area.

(2) A local entity may, by adoption of a parameters resolution ~~[or ordinance]~~, delegate to one or more officers of the issuer the authority to:

(a) in accordance with the parameters ~~[in the] resolution [or ordinance]~~, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(b) approve and execute all documents relating to the issuance of a bond.

(3) The aggregate principal amount of a bond authorized under Subsection (1) may not exceed:

(a) the unpaid balance of assessments at the time the bond is issued; or

(b) the total costs of the improvements to be refinanced or reimbursed if the property owner incurred the costs of improvements to be refinanced or reimbursed no earlier than three years before the date ~~[of issuance of the energy assessment bond, the total costs of the improvements to be refinanced or reimbursed.]~~ on which the local entity:

(i) adopted a parameters resolution;

(ii) adopted an energy assessment resolution or ordinance; or

(iii) assigned the energy assessment lien.

(4) The issuer of an energy assessment bond issued under this section shall ensure that:

(a) the energy assessment bond:

(i) is fully negotiable for all purposes;

(ii) matures at a time that does not exceed the period that installments of assessments in the assessment area are due and payable, plus one year;

~~[(iii) bears interest at the lowest rate or rates reasonably obtainable;]~~

~~[(iv)]~~ (iii) is issued in registered form as provided in Title 15, Chapter 7, Registered Public Obligations Act;

~~[(v)]~~ (iv) provides that interest be paid semiannually, annually, or at another interval as specified by the governing body; and

~~[(vi)]~~ (v) is not dated earlier than the effective date of the assessment ordinance; and

(b) the resolution authorizing the issuance of the bond defines the place where the bond is payable, the form of the bond, and the manner in which the bond is sold.

(5) (a) A local entity may:

(i) (A) provide that an energy assessment bond may be called for redemption before maturity; and

(B) fix the terms and conditions of redemption, including the notice to be given and any premium to be paid;

(ii) subject to Subsection (5)(b), require an energy assessment bond to bear interest at a fixed or variable rate, or a combination of fixed and variable rates;

(iii) specify the terms and conditions under which:

(A) an energy assessment bond bearing interest at a variable interest rate may be converted to bear interest at a fixed interest rate; and

(B) the local entity agrees to repurchase the bonds;

(iv) engage a remarketing agent and indexing agent, subject to the terms and conditions to which the governing body agrees; and

(v) include all costs associated with an energy assessment bond, including any costs resulting from any of the actions the local entity is authorized to take under this section, in an assessment levied under Section 11-42a-203.

(b) If an energy assessment bond carries a variable interest rate, the local entity shall specify:

(i) the basis upon which the variable rate is to be determined over the life of the bond;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the bond may carry.

(6) A local entity may only use the proceeds of an energy assessment bond to refinance or reimburse costs of improvements authorized under this chapter if the property owner incurred the costs no earlier than three years before the date ~~[of issuance of the energy assessment bond.]~~ on which the local entity:

(a) adopted a parameters resolution;

(b) adopted an energy assessment resolution or ordinance; or

(c) assigned the energy assessment lien.

CHAPTER 432**S. B. 169**

Passed March 5, 2018
Approved March 22, 2018
Effective January 1, 2019

**MOTOR HOME STATEWIDE
FEE AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies provisions related to the uniform statewide fee for a motor home.

Highlighted Provisions:

This bill:

- ▶ enacts an age-based uniform statewide fee for motor homes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-405.3, as last amended by Laws of Utah 2011, Chapter 180
59-2-407, as last amended by Laws of Utah 2005, Chapters 217 and 244

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-405.3 is amended to read:**59-2-405.3. Uniform statewide fee on motor homes -- Distribution of revenues.**

(1) For purposes of this section, "motor home" means:

(a) a motor home, as defined in Section 13-14-102, that is required to be registered with the state; or

(b) a self-propelled vehicle that is:

(i) modified for primary use as a temporary dwelling for travel, recreational, or vacation use; and

(ii) required to be registered with the state.

(2) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), [~~beginning on January 1, 2006,~~] a motor home is:

(a) exempt from the tax imposed by Section 59-2-103; and

(b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide [~~fee as provided~~] fee described in Subsection (3).

[~~(3) The uniform statewide fee described in Subsection (2)(b) is:~~]

[~~(a) beginning on January 1, 2006, and ending December 31, 2007, 1.25% of the fair market value of the motor home, as established by the commission; and~~]

[~~(b) beginning on January 1, 2008, 1% of the fair market value of the motor home, as established by the commission.~~]

(3) The uniform statewide fee for a motor home is:

<u>Age of Motor Home</u>	<u>Uniform Statewide Fee</u>
<u>15 or more years</u>	<u>\$90</u>
<u>12 or more years but less than 15 years</u>	<u>\$180</u>
<u>9 or more years but less than 12 years</u>	<u>\$315</u>
<u>6 or more years but less than 9 years</u>	<u>\$425</u>
<u>3 or more years but less than 6 years</u>	<u>\$540</u>
<u>Less than 3 years</u>	<u>\$690</u>

(4) [~~(a)~~] Notwithstanding Section 59-2-407 [~~and subject to Subsection (4)(b)~~], a motor home subject to the uniform statewide fee imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

[~~(b) Subsection (4)(a) does not apply to a motor home that is:~~]

[~~(i) brought into the state for the sole purpose of selling the motor home to a licensed dealer; and~~]

[~~(ii) purchased for resale by a person licensed as a dealer under Section 41-3-201.~~]

(5) (a) Each county shall distribute the revenue collected by the county from the uniform statewide fee imposed by this section to each taxing entity in which each motor home subject to the uniform statewide fee is located in the same proportion in which revenue collected from the ad valorem property tax is distributed.

(b) Each taxing entity described in Subsection (5)(a) that receives revenue from the uniform statewide fee imposed by this section shall distribute the revenue in the same proportion in which revenue collected from the ad valorem property tax is distributed.

(6) An appeal relating to the uniform statewide fee imposed on a motor home by this section shall be filed pursuant to Section 59-2-1005.

Section 2. Section 59-2-407 is amended to read:**59-2-407. Administration of uniform fees.**

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections 59-2-404, 59-2-405, and 59-2-405.3 shall be assessed at the same time and in the same manner as ad valorem personal

property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in [Subsection] Subsections 59-2-405.1(4), 59-2-405.2(5), and 59-2-405.3(4), the uniform fee imposed by Section 59-2-405.1, 59-2-405.2, or 59-2-405.3 shall be assessed at the time of:

(i) registration as defined in Section 41-1a-102; and

(ii) renewal of registration.

~~[(c) Except as provided in Subsection 59-2-405.2(4), the uniform statewide fee imposed by Section 59-2-405.2 shall be assessed at the time of:]~~

~~[(i) registration as defined in Section 41-1a-102; and]~~

~~[(ii) renewal of registration.]~~

(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

Section 3. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 433**S. B. 180**

Passed March 8, 2018

Approved March 22, 2018

Effective May 8, 2018

OFFENSE REDUCTION MODIFICATIONS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Marc K. Roberts

LONG TITLE**General Description:**

This bill reduces penalties in the Utah Code.

Highlighted Provisions:

This bill:

- ▶ reduces to an infraction certain class B misdemeanor offenses in the Utah Code; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-23-111, as renumbered and amended by Laws of Utah 2017, Chapter 345

13-13-7, as last amended by Laws of Utah 1991, Chapter 241

13-19-3, as last amended by Laws of Utah 1991, Chapter 241

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 4-23-111 is amended to read:****4-23-111. Holding a raccoon or coyote in captivity prohibited -- Penalty.**

(1) No ~~person~~ individual may hold in captivity a raccoon or coyote, except as provided by rules of the Agricultural and Wildlife Damage Prevention Board.

(2) The Division of Wildlife Resources, with the cooperation of the department and the Department of Health, shall enforce this section.

(3) Any violation of this section is [~~a class B misdemeanor~~] an infraction.

Section 2. Section 13-13-7 is amended to read:**13-13-7. Violation an infraction.**

It is unlawful for any person to willfully violate any provision of this chapter. [~~Any such~~] A violation of this chapter is [~~a class B misdemeanor~~] an infraction.

Section 3. Section 13-19-3 is amended to read:**13-19-3. Violation an infraction.**

Notwithstanding the provisions of Section 76-6-606, a violation of this [~~section is a class B misdemeanor~~] chapter is an infraction.

CHAPTER 434**S. B. 190**

Passed March 7, 2018

Approved March 22, 2018

Effective May 8, 2018

**UNINSURED AND UNDERINSURED
MOTORIST COVERAGE AMENDMENTS**Chief Sponsor: Curtis S. Bramble
House Sponsor: Michael K. McKell**LONG TITLE****General Description:**

This bill amends provisions related to uninsured and underinsured motorist coverage.

Highlighted Provisions:

This bill:

- ▶ addresses the relationship between uninsured and underinsured motorist coverage and workers' compensation benefits;
- ▶ repeals provisions related to an underinsured motorist insurer's right to subrogation;
- ▶ provides that an underinsured motorist insurer does not have a right of reimbursement against another insurer if an insurer of a person liable for the damages resulting from the injury-causing occurrence has tendered the policy limit;
- ▶ addresses the effect on the applicable statute of limitations when a claimant submits an uninsured or underinsured motorist claim to binding arbitration; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-305, as last amended by Laws of Utah 2014, Chapters 290 and further amended by Revisor Instructions, Laws of Utah 2014, Chapters 290, 300, and 300

31A-22-305.3, as last amended by Laws of Utah 2016, Chapter 361

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-305 is amended to read:**31A-22-305. Uninsured motorist coverage.**

(1) As used in this section, "covered persons" includes:

- (a) the named insured;
- (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;
- (c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

- (i) referred to in the policy; or
- (ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

- (i) is filed with the department;
- (ii) is provided by the insurer;
- (iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by

the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits

available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household

constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

~~(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;~~

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier;

(iii) may not be reduced by any benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b)(ii).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

~~(4d)~~ (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)~~(4d)~~(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)~~(4d)~~(e)(ii), the parties shall select a panel of three arbitrators.

~~(e)~~ (f) If the parties select a panel of three arbitrators under Subsection (9)~~(4d)~~(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)~~(4e)~~(f)(i) shall select one additional arbitrator to be included in the panel.

~~(4)~~ (g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)~~(4d)~~(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)~~(4d)~~(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)~~(4e)~~(f)(ii).

~~(4g)~~ (h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

~~(4h)~~ (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

~~(4)~~ (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

~~(4j)~~ (k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

~~(4k)~~ (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable

uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

~~[(4)]~~ (m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

- (i) whether the claimant is a covered person;
- (ii) whether the policy extends coverage to the loss; or
- (iii) any allegations or claims asserting consequential damages or bad faith liability.

~~[(4)]~~ (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

~~[(4)]~~ (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

~~[(4)]~~ (p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)~~[(4)]~~~~(m)~~ between the parties unless:

- (i) the award was procured by corruption, fraud, or other undue means;
- (ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)~~[(4)]~~~~(p)~~(ii)(A).

~~[(4)]~~ (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)~~[(4)]~~~~(p)~~, the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)~~[(4)]~~~~(p)~~(ii)(A).

~~[(4)]~~ (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)~~[(4)]~~~~(p)~~, does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)~~[(4)]~~~~(p)~~, does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)~~[(4)]~~~~(r)~~(iv), the costs under this Subsection (9)~~[(4)]~~~~(r)~~ shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)~~[(4)]~~~~(r)~~ may not exceed \$2,500 unless Subsection (10)(h)~~(iii)~~ applies.

~~[(4)]~~ (s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)~~[(4)]~~~~(r)~~, a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

~~[(4)]~~ (t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

~~[(4)]~~ (u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

~~[(4)]~~ (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist

benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities and records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or

later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 2. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); [øø]

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), “new policy” means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured’s motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that “underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance”; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), “additional motor vehicle” means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured’s motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity’s coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) \$10,000 for one person in any one accident; and

(ii) at least \$20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured’s underinsured motorist coverage, as described in Subsection (2), is

secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) Except as provided in Subsection (4)(b)(ii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(ii) (A) A covered person may recover benefits from no more than two additional policies, one

additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(ii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iii) A covered person's recovery under any available policies may not exceed the full amount of damages.

(iv) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(v) The primary and the secondary coverage may not be set off against the other.

(vi) A covered person as described under Subsection (4)(b)(i) is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(vii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

~~(i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers' Compensation Act;~~

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier;

(iii) may not be reduced by benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

~~[(6)(a) Except as provided in Subsection (6)(d), within five business days after notification that all liability insurers have tendered the liability insurers' policy limits, the underinsured carrier shall either:]~~

~~[(i) waive any subrogation claim the underinsured carrier may have against the person liable for the injuries caused in the accident; or]~~

~~[(ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.]~~

~~[(b) If neither option is exercised under Subsection (6)(a), the subrogation claim is considered to be waived by the underinsured carrier.]~~

~~[(c) The notification under Subsection (6)(a) shall include:]~~

~~[(i) the name, address, and phone number for all liability insurers;]~~

~~[(ii) the liability insurers' liability policy limits; and]~~

~~[(iii) the claim number associated with each liability insurer.]~~

~~[(d)(i) A claimant may demand payment of policy limits from all liability insurers by sending notice to all applicable underinsured motorist insurers demanding payment.]~~

~~[(ii) The notice under Subsection (6)(d)(i) shall include the name, address, and claim number of all liability insurers from which the claimant has demanded policy limits.]~~

~~[(iii) The claimant shall send a copy of the notice to all liability insurers from which the claimant has demanded policy limits.]~~

~~[(e) Upon the liability insurer tendering limits to a claimant, the liability insurer shall provide notice of the tender to all underinsured motorist insurers for which the liability insurer received notice under Subsection (6)(d).]~~

~~[(f) If a claimant accepts the policy limits tender of each liability insurer, the liability insurer shall pay the claimant the accepted policy limits.]~~

~~[(g)(i) The subrogation rights of an underinsured motorist insurer are waived, unless:]~~

~~[(A) within five days of delivery of the notice of tender from the liability insurer, the underinsured motorist insurer affirmatively asserts the underinsured motorist insurer's rights to subrogation by delivering notice to the liability insurer of the underinsured motorist insurer's rights to subrogate; and]~~

~~[(B) the underinsured motorist insurer reimburses the liability insurer for the policy limits paid to the claimant.]~~

~~[(ii) If the subrogation rights of an underinsured motorist insurer are not waived under Subsection (6)(g)(i), any liability release signed by the claimant or the claimant's representative is rescinded.]~~

~~[(iii) A claimant's underinsured motorist coverage is preserved if the claimant provides notice to the underinsured motorist insurer as described in Subsection (6)(d).]~~

~~[(h) A person providing a notice required in this Subsection (6) shall deliver the notice by a service that provides proof of delivery.]~~

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

~~(d)~~ For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

~~(4d)~~ (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)~~(4d)~~(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)~~(4d)~~(e)(ii), the parties shall select a panel of three arbitrators.

~~(4e)~~ (f) If the parties select a panel of three arbitrators under Subsection (8)~~(4d)~~(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)~~(4e)~~(f)(i) shall select one additional arbitrator to be included in the panel.

~~(4f)~~ (g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)~~(4d)~~(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)~~(4d)~~(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)~~(4e)~~(f)(ii).

~~(4g)~~ (h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

~~(4h)~~ (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

~~(4i)~~ (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

~~(4j)~~ (k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

~~(4k)~~ (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

~~(4l)~~ (m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

~~(4m)~~ (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

~~(4n)~~ (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

~~(4o)~~ (p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)~~(4l)~~(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)~~(4o)~~(p)(ii)(A).

~~(4p)~~ (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)~~(4o)~~(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)~~(4o)~~(p)(ii)(A).

~~(4q)~~ (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)~~(4o)~~(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award,

the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(~~(q)~~)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(~~(q)~~)(r)(iv), the costs under this Subsection (8)(~~(q)~~)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(~~(q)~~)(r) may not exceed \$2,500 unless Subsection (9)(h)(iii) applies.

(~~(s)~~) (s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(~~(q)~~)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(~~(t)~~) (t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(~~(u)~~) (u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(~~(v)~~) (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed

health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy

limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

CHAPTER 435**S. B. 195**

Passed March 6, 2018
 Approved March 22, 2018
 Effective May 8, 2018

CREDIT ACCEPTANCE BY HIGHER EDUCATION INSTITUTIONS

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill requires an institution of higher education to accept certain competency-based credit.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a student to transfer credit earned for a competency-based general education course offered by a regionally accredited institution or private provider under certain conditions;
- ▶ requires the State Board of Regents to enter into an articulation agreement with a private competency-based general education provider under certain conditions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-16-105, as enacted by Laws of Utah 2004, Chapter 125

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-16-105 is amended to read:**53B-16-105. Common course numbering -- Credit by examination -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.**

(1) As used in this section:

(a) “Articulation agreement” means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

(b) “Competency-based” means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(c) “Competency-based general education provider” or “provider” means a private institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

(d) “Institution of higher education” means an institution within the Utah System of Higher Education.

(e) “Regionally accredited institution” means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by a regional accrediting body recognized by the United States Department of Education.

(f) “Utah System of Higher Education” means the institutions described in Subsection 53B-1-102(1)(a).

(1) (2) The board shall:

(a) facilitate articulation and the seamless transfer of courses within the [state system of higher education] Utah System of Higher Education;

(b) provide for the efficient and effective progression and transfer of students within the [state system of higher education] Utah System of Higher Education;

(c) avoid the unnecessary duplication of courses; and

(d) allow [students] a student to proceed toward [their] the student’s educational objectives as rapidly as [their] the student’s circumstances permit.

(2) (3) The board shall develop, coordinate, and maintain a transfer and articulation system within the [state system of higher education] Utah System of Higher Education that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows [students] a student to transfer courses among institutions of higher education to meet requirements for general education and lower division courses that transfer to baccalaureate majors;

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from a regionally accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases [communications] communication and coordination between institutions of higher education; and

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education.

~~[(3)]~~ (4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course numbers.

(b) ~~[All institutions]~~ An institution of higher education shall accept ~~[the courses]~~ a course described ~~[under Subsection (3)(a)]~~ in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

~~[(4)]~~ (5) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across ~~[all]~~ institutions of higher education.

(b) The commissioner shall appoint committees of faculty members from the institutions of higher education to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) ~~[All institutions]~~ An institution of higher education shall accept ~~[the courses approved under]~~ a course described in Subsection ~~[(4)(a)]~~ (3)(c), (3)(d), or (5)(a) toward filling graduation requirements.

~~[(5)]~~ (6) The board shall identify minimum scores and maximum credit for each:

(a) College Level Examination Program (CLEP) general examination;

(b) College Level Examination Program (CLEP) subject examination;

(c) College Board advanced placement examination; and

(d) other examination for credit.

~~[(6)]~~ (7) (a) ~~[Institutions]~~ An institution of higher education shall award credit ~~[if competencies have been demonstrated]~~ to a student who demonstrates competency by passing a challenge examination.

(b) ~~[Institutions]~~ An institution of higher education shall award credit for ~~[the specific courses]~~ a course for which competency has been demonstrated by successfully passing a challenge examination described ~~[under]~~ in Subsection ~~[(5)]~~ (6)(a) unless the award of credit duplicates credit already awarded.

(8) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection (8)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection (8)(a) to determine whether the course is equally rigorous

and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

~~[(7)]~~ (9) The board shall establish policies to administer the policies and requirements ~~[under Subsections (2) through (6)]~~ described in this section.

~~[(8)]~~ (10) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection ~~[(7)]~~ (9) in the annual report ~~[of its activities to the governor and to the Legislature required under]~~ described in Section 53B-1-107.

CHAPTER 436**S. B. 200**

Passed March 8, 2018
Approved March 22, 2018
Effective January 1, 2019

AERONAUTICS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

LONG TITLE**General Description:**

This bill amends provisions related to aeronautics.

Highlighted Provisions:

This bill:

- ▶ transfers certain functions related to aeronautics from the State Tax Commission to the Department of Transportation;
- ▶ grants rulemaking authority to the Department of Transportation;
- ▶ permits the Department of Transportation to assess the value of certain aircraft;
- ▶ requires an aircraft without a valid airworthiness certificate to apply for a certificate of registration; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

9-7-401, as last amended by Laws of Utah 2005, Chapters 217 and 244
59-2-407, as last amended by Laws of Utah 2005, Chapters 217 and 244
59-2-924.2, as last amended by Laws of Utah 2016, Chapter 350
59-7-614, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1014, as last amended by Laws of Utah 2017, Chapter 33
72-10-109, as last amended by Laws of Utah 2017, Chapter 364
72-10-110, as last amended by Laws of Utah 2016, Chapters 224 and 333
72-10-112, as last amended by Laws of Utah 2016, Chapter 333

ENACTS:

72-10-110.5, Utah Code Annotated 1953

REPEALS:

59-2-404, as last amended by Laws of Utah 2008, Chapter 206

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-7-401 is amended to read:**9-7-401. Tax for establishment and maintenance of public library -- City library fund.**

(1) A city governing body may establish and maintain a public library.

(2) For this purpose, cities may levy annually a tax not to exceed .001 of taxable value of taxable property in the city. The tax is in addition to all taxes levied by cities and is not limited by the levy limitation imposed on cities by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes described in Subsection (2) shall:

(a) be levied and collected in the same manner as other general taxes of the city; and

(b) constitute a fund to be known as the city library fund.

(4) The city library fund shall receive a portion of:

~~[(a) the uniform fee imposed by Section 59-2-404 in accordance with the procedures established in Section 59-2-404;]~~

~~[(b)]~~ (a) the statewide uniform fee imposed by Section 59-2-405 in accordance with the procedures established in Section 59-2-405;

~~[(c)]~~ (b) the statewide uniform fee imposed by Section 59-2-405.1 in accordance with the procedures established in Section 59-2-405.1;

~~[(d)]~~ (c) the uniform statewide fee imposed by Section 59-2-405.2 in accordance with the procedures established in Section 59-2-405.2; ~~[and]~~

~~[(e)]~~ (d) the uniform statewide fee imposed by Section 59-2-405.3 in accordance with the procedures established in Section 59-2-405.3; ~~[and]~~

(e) the uniform fee imposed by Section 72-10-110.5 in accordance with the procedures established in Section 72-10-110.5.

Section 2. Section 59-2-407 is amended to read:**Part 4. Assessment of Transitory Personal Property and Interstate Carriers****59-2-407. Administration of uniform fees.**

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections ~~[59-2-404,]~~ 59-2-405, ~~[and]~~ 59-2-405.3, and 72-10-110.5 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in Subsection 59-2-405.1~~[(4)]~~(5), the uniform fee imposed by Section 59-2-405.1 shall be assessed at the time of:

(i) registration as defined in Section 41-1a-102; and

(ii) renewal of registration.

(c) Except as provided in Subsection 59-2-405.2[~~(4)~~](5), the uniform statewide fee imposed by Section 59-2-405.2 shall be assessed at the time of:

(i) registration as defined in Section 41-1a-102; and

(ii) renewal of registration.

(2) The remedies for nonpayment of the uniform fees authorized by Sections [~~59-2-404,~~] 59-2-405, 59-2-405.1, 59-2-405.2, [~~and~~] 59-2-405.3, and 72-10-110.5 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

Section 3. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section [~~59-2-404,~~] 59-2-405, 59-2-405.1, 59-2-405.2, [~~or~~] 59-2-405.3, or 72-10-110.5 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section [~~59-2-404,~~] 59-2-405, 59-2-405.1, 59-2-405.2, [~~or~~] 59-2-405.3, or 72-10-110.5 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Ab) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(I) for a participating county, in the unincorporated area of the county; and

(II) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section

10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value under Section 17C-1-102 shall be reduced for any year to the extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value under Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value under Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county

assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Agency Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

Section 4. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Office" means the Office of Energy Development created in Section 63M-4-401.

(l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

- (A) an interest charge; or
- (B) a maintenance expense.

(n) "Residential energy system" means the following used to supply energy to or for a residential unit:

- (i) an active solar system;
- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

(o) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

- (A) is located in the state; and
- (B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

- ~~[(A) Section 59-2-404;]~~
- ~~[(B)] (A) Section 59-2-405;~~
- ~~[(C)] (B) Section 59-2-405.1;~~
- ~~[(D)] (C) Section 59-2-405.2; [or]~~
- ~~[(E)] (D) Section 59-2-405.3[-]; or~~
- (E) Section 72-10-110.5.

(p) "Wind system" means a system of apparatus and equipment that is capable of:

- (i) intercepting and converting wind energy into mechanical or electrical energy; and
- (ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (3) may not exceed \$2,000 per residential unit.

(c) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 5. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 63M-4-401.

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) “Residential energy system” means the following used to supply energy to or for a residential unit:

- (i) an active solar system;
- (ii) a biomass system;
- (iii) a direct use geothermal system;
- (iv) a geothermal heat pump system;
- (v) a hydroenergy system;
- (vi) a passive solar system; or
- (vii) a wind system.

(m) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

- (A) is located in the state; and
- (B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

- ~~[(A)] Section 59-2-404;~~
- ~~[(B)]~~ (A) Section 59-2-405;
- ~~[(C)]~~ (B) Section 59-2-405.1;
- ~~[(D)]~~ (C) Section 59-2-405.2; ~~[or]~~
- ~~[(E)]~~ (D) Section 59-2-405.3[-]; or
- (E) Section 72-10-110.5.

(n) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or before December 31, 2021, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

- (a) the claimant, estate, or trust:
 - (i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or
 - (ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;
- (b) the residential energy system is installed on or after January 1, 2007; and
- (c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) \$2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but before December 31, 2017, \$2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2018, \$1,600;

(C) for a system installed on or after January 1, 2019, but on or before December 31, 2019, \$1,200;

(D) for a system installed on or after January 1, 2020, but on or before December 31, 2020, \$800; and

(E) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$400.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant’s, estate’s, or trust’s tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection

(3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is

required to keep books and records under Section 59-1-1406.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 6. Section 72-10-109 is amended to read:

72-10-109. Certificate of registration of aircraft required -- Exceptions.

(1) (a) A person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft ~~located~~ domiciled in this state unless the aircraft has a current certificate of registration issued by ~~[this state through the county in which the aircraft is located]~~ the department.

(b) ~~[This]~~ The restriction described in Subsection (1)(a) does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft centrally assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

(3) Unmanned aircraft as defined in Section 72-14-102 are exempt from the state registration requirement under Subsection (1).

Section 7. Section 72-10-110 is amended to read:

72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

(1) All applications for aircraft registration shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the Federal Aviation Administration aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in Subsection (3), at the time application is made for registration or renewal

of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the average wholesale value of ~~the~~ an aircraft under Subsection (2)(a) or (3)(d), the ~~[State Tax Commission]~~ department shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(c) For an aircraft not listed in the Aircraft Bluebook Price Digest, the department shall calculate the average wholesale value of the aircraft using common industry standards.

(d) (i) An owner of an aircraft may challenge the department's calculation of the average wholesale value of the aircraft.

(ii) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for challenging the department's calculation under Subsection (2)(d)(i).

(3) (a) An annual registration fee of \$100 is imposed on ~~[the following aircraft]~~ an aircraft that is used:

~~[(i) an aircraft not listed in the Aircraft Bluebook Price Digest;]~~

~~[(ii) an experimental aircraft; or]~~

~~[(iii) an aircraft that is used;]~~

~~[(A)]~~ (i) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and

~~[(B)]~~ (ii) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft ~~[50]~~ 60 years or older equal to the lesser of:

(i) \$100; or

(ii) the annual registration fee provided for under Subsection (2)(a).

~~[(e) An aircraft that]~~

(c) (i) Except as provided in Subsection (3)(c)(iii), an owner of an aircraft shall apply for a certificate of registration described in Section 72-10-109, if the aircraft:

(A) is in the manufacture, construction, fabrication, assembly, or repair process;

(B) is not complete; and

(C) does not have a valid airworthiness certificate ~~[for a period of six months or more: (i) may not apply for a certificate of registration required under Section 72-10-109; and].~~

(ii) An aircraft described in Subsection (3)(c)(i) is exempt from ~~[an]~~ the annual registration fee ~~[until the aircraft has a valid airworthiness certificate.]~~ described in Subsection (2)(a).

(iii) The registration requirement described in Subsection (3)(c)(i) does not apply to an aircraft that, in accordance with Section 59-12-104, is exempt from the taxes imposed under Title 59, Chapter 12, Sales and Use Tax Act.

(d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:

(i) used by an air charter service for air charter; and

(ii) owned by a person other than the air charter service.

(e) The annual registration fee required in this section is due on December 31 of each year.

(4) (a) The ~~[State Tax Commission]~~ department shall provide a registration card to an owner of an aircraft if:

(i) the owner complies with the registration requirements of this section; and

(ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the ~~[State Tax Commission]~~ department to be distributed as provided in Subsection (6).

(6) After deducting the costs of administering all aircraft registrations under this chapter, the ~~[State Tax Commission]~~ department shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.

(7) Aircraft which are initially registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) For purposes of this section, an aircraft based at the owner's airport means an aircraft that is hangared, tied down, or parked at an owner's airport for a plurality of the year.

(b) Semi-annually, an owner or operator of an airport open to public use, or of an airport that receives grant funding from the state, shall provide a list of all aircraft based at the owner's airport to the ~~[Utah Division of Aeronautics]~~ department.

(9) ~~[(a) The Utah Division of Aeronautics]~~ The department shall maintain a statewide database of all aircraft based within the state.

~~[(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the State Tax Commission with the data the State Tax Commission requires from the database described in Subsection (9)(a).]~~

~~[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (9)(a).]~~

~~[(d) The State Tax Commission shall annually provide the Utah Division of Aeronautics a list of all aircraft registered in this state.]~~

~~(1) The [State Tax Commission] department may suspend or revoke a registration if [it] the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.~~

Section 8. Section 72-10-110.5 is enacted to read:

**72-10-110.5. Uniform fee on aircraft --
Collection of fee by department --
Distribution of fees.**

(1) In accordance with Utah Constitution, Article XIII, Section 2, Subsection (6), beginning on January 1, 2009, an aircraft required to be registered with the state is:

(a) exempt from the tax imposed by Section 59-2-103; and

(b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee of \$25, assessed in accordance with Section 59-2-407.

(2) (a) The department shall collect the uniform fee and distribute the uniform fee to the county in which the aircraft is based.

(b) A based aircraft is an aircraft that is hanged, tied down, parked, or domiciled in the state for a plurality of the year.

(3) (a) The uniform fees received by a county under Subsection (2) shall be distributed to each taxing entity within the county in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (3)(a) that receives revenues from the uniform fee imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(4) The remedies for nonpayment of the uniform fee described in this section are as described in Section 59-2-407.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement this section.

Section 9. Section 72-10-112 is amended to read:

**72-10-112. Failure to register -- Penalty --
Compliance audits and inspections --
Rulemaking.**

(1) Failure to register any aircraft required to be registered with the state [in the county in which the aircraft is located] subjects the owners of the aircraft to the same penalties provided for motor vehicles under Sections 41-1a-1101, 41-1a-1301, and 41-1a-1307.

(2) (a) The [division] department shall conduct compliance audits and inspections as needed to

enforce state laws related to the registration of aircraft.

(b) The [division] department shall coordinate with airport operators to determine and verify accurate reporting of aircraft that are based within the state for the purpose of administering and enforcing state aircraft registration laws.

(3) (a) In addition to the penalties described in Subsection (1), the [division] department may impose a fine of 10% of the registration fee for the first month and 5% of the registration fee for each subsequent month an aircraft is operated in violation of Section 72-10-109.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [division] department shall make rules establishing procedures for the enforcement of state aircraft registration laws and the administration of penalties described in this section.

(c) The [division] department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted for the enforcement of penalties under this section.

Section 10. Repealer.

This bill repeals:

**Section 59-2-404, Uniform fee on aircraft --
Collection of fee by commission --
Distribution of fees.**

Section 11. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 437**S. B. 205**

Passed March 7, 2018
 Approved March 22, 2018
 Effective May 8, 2018

INCARCERATION REPORTS

Chief Sponsor: Todd Weiler
 House Sponsor: Carol Spackman Moss

LONG TITLE**General Description:**

This bill relates to in-custody deaths and alcohol and substance use treatment policies in county jails and the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Corrections and county jails to report to the Commission on Criminal and Juvenile Justice regarding:
 - in-custody inmate deaths;
 - treatment policies for inmates with a substance or alcohol addiction; and
 - medications dispensed to an inmate during incarceration;
- ▶ requires the Utah Substance Use and Mental Health Advisory Council to convene a workgroup to study alcohol and substance use withdrawal in county jails; and
- ▶ requires the Commission on Criminal and Juvenile Justice and the Utah Substance Use and Mental Health Advisory Council to report to the Law Enforcement and Criminal Justice Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a repeal date.

Utah Code Sections Affected:**ENACTS:**

17-22-32, Utah Code Annotated 1953
 64-13-45, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-32 is enacted to read:**17-22-32. County jail reporting requirements.**

(1) As used in this section:

(a) (i) “In-custody death” means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) “In-custody death” includes an inmate death that occurs while the inmate is:

- (A) being transported for medical care; or
- (B) receiving medical care outside of a county jail.

(b) “Inmate” means an individual who is processed or booked into custody or housed in a county jail in the state.

(c) “Opiate” means the same as that term is defined in Section 58-37-2.

(2) So that the state may oversee the inmate health care system, a county jail shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before August 1 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year;

(b) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);

(c) the county jail’s policy for notifying an inmate’s next of kin after the inmate’s in-custody death;

(d) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates; and

(ii) relating to the county jail’s provision, or lack of provision, of medications used to treat, mitigate, or address an inmate’s symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(e) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

Section 2. Section 64-13-45 is enacted to read:**64-13-45. Department reporting requirements.**

(1) As used in this section:

(a) (i) “In-custody death” means an inmate death that occurs while the inmate is in the custody of the department.

(ii) “In-custody death” includes an inmate death that occurs while the inmate is:

- (A) being transported for medical care; or

(B) receiving medical care outside of a correctional facility, other than a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) So that the state may oversee the inmate health care system, the department shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before August 1 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year;

(b) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);

(c) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(d) the department policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates; and

(ii) relating to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(e) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

Section 3. Substance use in county jails study -- Creation -- Membership -- Duties.

(1) The Utah Substance Use and Mental Health Advisory Council shall convene a workgroup to study substance use treatment in county jails.

(2) The workgroup shall consist of individuals representing:

(a) the Division of Substance Abuse and Mental Health within the Department of Human Services;

(b) the Utah Sheriffs' Association;

(c) the Statewide Association of Prosecutors of Utah;

(d) the Utah Association of Counties;

(e) a district attorney or a county attorney actively engaged in the practice of civil or constitutional law from:

(i) a county of the first class described in Section 17-50-501; and

(ii) one county of the second, third, fourth, fifth, or sixth class described in Section 17-50-501;

(f) the Department of Health;

(g) the Utah Association of Criminal Defense Lawyers;

(h) substance abuse treatment providers in Utah; and

(i) other stakeholders, as determined by the council.

(3) The workgroup shall identify:

(a) the number of deaths in county jails in the state after December 31, 2012, and before January 1, 2017;

(b) treatment and other resources available to an offender suffering from alcohol or substance use withdrawal in a county jail in the state; and

(c) other issues regarding substance use disorder related treatment in county jails in the state.

(4) The council shall present a report of the workgroup's findings, including any recommendations for legislation, to the Law Enforcement and Criminal Justice Interim Committee before November 30, 2018.

Section 4. Repeal date.

Uncodified Section 3, Substance Use in County Jails Study, is repealed November 30, 2018.

CHAPTER 438**S. B. 217**

Passed March 8, 2018

Approved March 22, 2018

Effective September 1, 2018

PHYSICIAN TESTING AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill enacts language related to certain age-based physician testing.

Highlighted Provisions:

This bill:

- ▶ unless the test reflects certain nationally recognized standards, prohibits the following from requiring that a physician take a cognitive exam at a certain age:
 - a health care facility for purposes of employment, privileges, or reimbursement;
 - a managed care organization or other third party for purposes of reimbursement; and
 - the Division of Occupational and Professional Licensing for purposes of licensing; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

58-67-302, as last amended by Laws of Utah 2012, Chapters 162 and 225

58-67-302.5, as last amended by Laws of Utah 2011, Chapter 214

58-68-302, as last amended by Laws of Utah 2012, Chapters 162 and 225

ENACTS:

26-21-30, Utah Code Annotated 1953

31A-45-305, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-21-30 is enacted to read:**26-21-30. Prohibition on certain age-based physician testing.**

A health care facility may not require for purposes of employment, privileges, or reimbursement, that a physician, as defined in Section 58-67-102, take a cognitive test when the physician reaches a specified age, unless the test reflects nationally recognized standards adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients.

Section 2. Section 31A-45-305 is enacted to read:**31A-45-305. Prohibition on certain age-based physician testing.**

A managed care organization or other third party may not require for purposes of reimbursement that a physician, as defined in Section 58-67-102, take a cognitive test when the physician reaches a specified age, unless the test reflects nationally recognized standards adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients.

Section 3. Section 58-67-302 is amended to read:**58-67-302. Qualifications for licensure.**

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or

(ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the

applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

(f) pass the licensing examination sequence required by division rule made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

(i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following requirements for licensure:

(a) a post-residency board certification [as a requirement for licensure.]; or

(b) a cognitive test when the physician reaches a specified age, unless the test reflects nationally recognized standards adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients.

Section 4. Section 58-67-302.5 is amended to read:

58-67-302.5. Licensing of graduates of foreign medical schools.

(1) Notwithstanding any other provision of law to the contrary, an individual enrolled in a medical school outside the United States, its territories, the District of Columbia, or Canada is eligible for licensure as a physician and surgeon in this state if the individual has satisfied the following requirements:

(a) meets all the requirements of Subsection 58-67-302(1), except for Subsection 58-67-302(1)(d);

(b) has studied medicine in a medical school located outside the United States which is recognized by an organization approved by the division;

(c) has completed all of the formal requirements of the foreign medical school except internship or social service;

(d) has attained a passing score on the educational commission for foreign medical graduates examination or other qualifying examinations such as the United States Medical Licensing Exam parts I and II, which are approved by the division or a medical school approved by the division;

(e) has satisfactorily completed one calendar year of supervised clinical training under the direction of a United States medical education setting accredited by the liaison committee for graduate medical education and approved by the division;

(f) has completed the postgraduate hospital training required by Subsection 58-67-302(1)(e)(i); and

(g) has passed the examination required by the division of all applicants for licensure.

(2) Satisfaction of the requirements of Subsection (1) is in lieu of:

(a) the completion of any foreign internship or social service requirements; and

(b) the certification required by Subsection 58-67-302(1)(d).

(3) Individuals who satisfy the requirements of Subsections (1)(a) through (f) shall be eligible for admission to graduate medical education programs within the state, including internships and residencies, which are accredited by the liaison committee for graduate medical education.

(4) A document issued by a medical school located outside the United States shall be considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a physician and surgeon in this state if:

(a) the foreign medical school is recognized by an organization approved by the division;

(b) the document granted by the foreign medical school is issued after the completion of all formal requirements of the medical school except internship or social service; and

(c) the foreign medical school certifies that the person to whom the document was issued has satisfactorily completed the requirements of Subsection (1)(c).

(5) The division may not require as a requirement for licensure a cognitive test when the physician reaches a specified age, unless the test reflects nationally recognized standards adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients.

~~[(5)]~~ (6) The provisions for licensure under this section shall be known as the "fifth pathway program."

Section 5. Section 58-68-302 is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having successfully completed a program of professional

education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

(e) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)(d); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)(d);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

(f) pass the licensing examination sequence required by division rule, as made in collaboration with the board;

(g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

(h) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure;

(i) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following as a requirement for licensure:

(a) a post-residency board certification [as a requirement for licensure.]; or

(b) a cognitive test when the physician reaches a specified age, unless the test reflects nationally recognized standards adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients.

Section 6. Contingent effective date.

(1) Except as provided in Subsection (2), this bill takes effect when the Division of Occupational and Professional Licensing certifies to the Health and Human Services Interim Committee that the American Medical Association has adopted standards for testing whether an older physician remains able to provide safe and effective care for patients.

(2) If the certification described in Subsection (1) does not occur before September 1, 2018, this bill takes effect on September 1, 2018.

CHAPTER 439**S. B. 222**

Passed March 8, 2018
 Approved March 22, 2018
 Effective May 8, 2018

TOXICOLOGY AMENDMENTS

Chief Sponsor: Gene Davis
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill makes remuneration for the referral of an individual for substance use disorder treatment an unlawful act.

Highlighted Provisions:

This bill:

- ▶ makes remuneration for the referral of an individual, including an individual's clinical sample, for substance use disorder treatment a class A misdemeanor;
- ▶ specifies permissible exceptions; and
- ▶ coordinates with H.B. 14, Substance Abuse Treatment Facility Patient Brokering.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

62A-2-116, as last amended by Laws of Utah 2016, Chapter 211

Utah Code Sections Affected by Coordination Clause:

62A-2-116, as last amended by Laws of Utah 2016, Chapter 211

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-2-116 is amended to read:**62A-2-116. Violation -- Criminal penalties.**

(1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a human services program in violation of this chapter is guilty of a class A misdemeanor if the violation endangers or harms the health, welfare, or safety of persons participating in that program.

(b) Conviction in a criminal proceeding does not preclude the office from:

- (i) assessing a civil penalty or an administrative penalty;
- (ii) denying, placing conditions on, suspending, or revoking a license; or
- (iii) seeking injunctive or equitable relief.

(2) Any person that violates a provision of this chapter, lawful orders of the office, or rules adopted under this chapter may be assessed a penalty not to exceed the sum of \$10,000 per violation, in:

- (a) a judicial civil proceeding; or

(b) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:

- (a) seeking criminal penalties;
- (b) denying, placing conditions on, suspending, or revoking a license; or
- (c) seeking injunctive or equitable relief.

(4) The office may assess the human services program the cost incurred by the office in placing a monitor.

(5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers, pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus, kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return for:

(a) referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder;

(b) receiving a referred individual for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder; or

(c) referring a clinical sample to a person, including a laboratory, for testing that is used toward the furnishing of any item or service for the treatment of a substance use disorder.

(6) Subsection (5) does not prohibit:

(a) any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

(b) patient referrals within a practice group;

(c) payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance use disorder goods or services under a health benefit plan;

(d) payments to or by a health care provider, practice group, or substance use disorder treatment program that has contracted with a local mental health authority, a local substance abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance use disorder services;

(e) payments by a health care provider, practice group, or substance use disorder treatment program to a health, mental health, or substance use disorder information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, if the information service:

(i) does not attempt, through standard questions for solicitation of consumer criteria or through any other means, to steer or lead a consumer to select or consider selection of a particular health care provider, practice group, or substance use disorder treatment program;

(ii) does not provide or represent that the information service provides diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment; and

(iii) charges and collects fees from a health care provider, practice group, or substance use disorder treatment program participating in information services that:

(A) are set in advance;

(B) are consistent with the fair market value for those information services; and

(C) are not based on the potential value of the goods or services that a health care provider, practice group, or substance use disorder treatment program may provide to a patient; or

(f) payments by a laboratory to a person that:

(i) does not have a financial interest in or with a facility or person who refers a clinical sample to the laboratory;

(ii) is not related to an owner of a facility or a person who refers a clinical sample to the laboratory;

(iii) is not related to and does not have a financial relationship with a health care provider who orders the laboratory to conduct a test that is used toward the furnishing of an item or service for the treatment of a substance use disorder;

(iv) identifies, in advance of providing marketing or sales services, the types of clinical samples that each laboratory will receive, if the person provides marketing or sales services to more than one laboratory;

(v) the person does not identify as or hold itself out to be a laboratory or part of a network with an insurance payor, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(v)(B);

(vi) the person identifies itself in all marketing materials as a salesperson for a licensed laboratory and identifies each laboratory that the person represents, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(v)(B); and

(vii) (A) is a sales person employed by the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment; or

(B) is a person under contract with the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment, if the total compensation paid by the laboratory does not exceed the total compensation

that the laboratory pays to employees of the laboratory for similar marketing or sales services.

Section 2. Coordinating S.B. 222 with H.B. 14 -- Substantive amendment.

If this S.B. 222 and H.B. 14, Substance Abuse Treatment Facility Patient Brokering, both pass and become law, the Legislature intends that the amendments to Section 62A-2-116 in this bill supersede the amendments to Section 62A-2-116 in H.B. 14, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 440**S. B. 223**

Passed March 7, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**UTAH HEALTH CARE
 MALPRACTICE ACT AMENDMENTS**

Chief Sponsor: Daniel Hemmert
 House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill amends provisions of the Utah Health Care Malpractice Act.

Highlighted Provisions:

This bill:

- ▶ requires a health care provider that signs an affidavit of merit to provide certain information to the Division of Occupational and Professional Licensing;
- ▶ requires the Division of Occupational and Professional Licensing to request and compile certain information related to a request for a medical liability pre-litigation panel review;
- ▶ amends the elements of a nonplaintiff cause of action; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-3-423, as enacted by Laws of Utah 2010, Chapter 97
 78B-3-426, as enacted by Laws of Utah 2016, Chapter 257

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-423 is amended to read:**78B-3-423. Affidavit of merit.**

(1) (a) ~~Before~~ For a cause of action that arises on or after July 1, 2010, before a claimant may receive a certificate of compliance under Sections 78B-3-416 and 78B-3-418, a claimant shall file an affidavit of merit under this section[.].

(b) The claimant shall file an affidavit of merit:

(i) within 60 days ~~[of the date of the panel's]~~ after the day on which the pre-litigation panel issues an opinion, if the claimant receives a finding from the pre-litigation panel in accordance with Section 78B-3-418 of non-meritorious for either:

(A) the claim of breach of applicable standard of care; or

(B) that the breach of care was the proximate cause of injury;

(ii) within 60 days ~~[of the expiration of]~~ after the day on which the time limit in Subsection 78B-3-416(3)(b)(ii) expires, if a pre-litigation hearing is not held within the time limits under Subsection 78B-3-416(3)(b)(ii); or

(iii) within 30 days ~~[of the division's]~~ after the day on which the division makes a determination under Subsection 78B-3-416(3)(d)(ii)(B), if the division makes a determination under Subsection 78B-3-416(3)(d)(ii)(B).

~~[(b)]~~ (c) A claimant who is required to file an affidavit of merit under Subsection (1)(a) shall:

(i) file the affidavit of merit with the division; and

(ii) serve each defendant with the affidavit of merit in accordance with Subsection 78B-3-412(3).

(2) The affidavit of merit shall:

(a) be executed by the claimant's attorney or the claimant if the claimant is proceeding pro se, stating that the affiant has consulted with and reviewed the facts of the case with a health care provider who has determined after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of a medical liability action; and

(b) include an affidavit signed by a health care provider who meets the requirements of Subsection ~~[(3), which states that in the health care provider's opinion]~~ (4):

(i) stating that in the health care provider's opinion, there are reasonable grounds to believe that the applicable standard of care was breached;

(ii) stating that in the health care provider's opinion, the breach was a proximate cause of the injury claimed in the notice of intent to commence action; and

(iii) stating the reasons for the health care provider's opinion.

~~[(e)]~~ (3) The statement required in Subsection (2)(b)(i) shall be waived if the claimant received an opinion that there was a breach of the applicable standard of care under Subsection 78B-3-418(2)(a)(i).

~~[(3)]~~ (4) A health care provider who signs ~~[the]~~ an affidavit ~~[of merit]~~ under Subsection (2)(b) shall:

(a) if none of the respondents is a physician ~~[licensed under Title 58, Chapter 67, Utah Medical Practice Act,]~~ or an osteopathic physician ~~[licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act,]~~ hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state in the same specialty or of the same class of license as the respondents; or

(b) if at least one of the respondents is a physician ~~[licensed under Title 58, Chapter 67, Utah Medical Practice Act,]~~ or an osteopathic physician ~~[licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act,]~~ hold a current unrestricted

license issued by the appropriate licensing authority of Utah or another state to practice medicine in all its branches.

[44] (5) A claimant's attorney or claimant may obtain up to a 60-day extension to file the affidavit of merit if:

(a) the claimant or the claimant's attorney submits a signed affidavit for extension with notice to the division attesting to the fact that the claimant is unable to submit an affidavit of merit as required by this section because:

(i) a statute of limitations would impair the action; and

(ii) the affidavit of merit could not be obtained before the expiration of the statute of limitations; and

(b) the claimant or claimant's attorney submits the affidavit for extension to each named respondent in accordance with Subsection 78B-3-412(3) no later than 60 days after the date specified in Subsection ~~[(1)(a)(i)]~~ (1)(b)(i).

[45] (6) (a) A claimant or claimant's attorney who submits allegations in an affidavit of merit that are found to be without reasonable cause and untrue, based on information available to the plaintiff at the time the affidavit was submitted to the division, is liable to the defendant for the payment of reasonable expenses and reasonable attorney fees actually incurred by the defendant or the defendant's insurer.

(b) An affidavit of merit is not admissible, and cannot be used for any purpose, in a subsequent lawsuit based on the claim that is the subject of the affidavit, except for the purpose of establishing the right to recovery under Subsection ~~[(5)]~~ (6)(c).

(c) A court, or arbitrator under Section 78B-3-421, may award costs and attorney fees under Subsection ~~[(5)]~~ (6)(a) if the defendant files a motion for costs and attorney fees within 60 days of the judgment or dismissal of the action in favor of the defendant. The person making a motion for attorney fees and costs may depose and examine the health care provider who prepared the affidavit of merit under Subsection (2)(b).

[46] (7) If a claimant or the claimant's attorney does not file an affidavit of merit as required by this section, the division may not issue a certificate of compliance for the claimant and the malpractice action shall be dismissed by the court.

[47] (8) ~~[This section applies to a cause of action that arises on or after July 1, 2010.]~~ For each request for prelitigation panel review under Subsection 78B-3-416(2)(b), the division shall compile the following information:

(a) whether the cause of action arose on or after July 1, 2010;

(b) the number of respondents named in the request; and

(c) for each respondent named in the request:

(i) the respondent's license class;

(ii) if the respondent has a professional specialty, the respondent's professional specialty;

(iii) if the division does not issue a certificate of compliance at the conclusion of the prelitigation process, the reason a certificate was not issued;

(iv) if the division issues a certificate of compliance, the reason the certificate of compliance was issued;

(v) if an affidavit of merit was filed by the claimant, for each health care provider who submitted an affidavit under Subsection (2)(b):

(A) the health care provider's license class and professional specialty; and

(B) whether the health care provider meets the requirements of Subsection 78B-3-416(4)(b); and

(vi) whether the claimant filed an action in court against the respondent.

(9) The division may require the following persons to submit the information to the division necessary for the division to comply with Subsection (8):

(a) a claimant;

(b) a respondent;

(c) a health care provider who submits an affidavit under Subsection (2)(b); and

(d) a medical liability pre-litigation panel.

Section 2. Section 78B-3-426 is amended to read:

78B-3-426. Nonpatient plaintiffs.

(1) For purposes of this section, a nonpatient plaintiff does not include a patient, as defined in Subsection 78B-3-403(23).

(2) This section does not apply to a ~~health care~~ health care malpractice action brought or seeking recovery under Section 30-2-11, 78B-3-106, 78B-3-107, or 78B-3-502.

(3) To establish a malpractice action against a health care provider, a nonpatient plaintiff shall be required to show that:

(a) the health care provider owes a duty to the nonpatient plaintiff;

~~[(a)]~~ (b) the nonpatient plaintiff suffered ~~[an]~~ a foreseeable injury;

~~[(b)]~~ (c) the nonpatient plaintiff's injury was proximately caused by an act or omission of the health care provider; and

~~[(e)]~~ (d) the health care provider's act or omission was conduct that manifests a knowing and reckless indifference toward, and a disregard of, the injury suffered by the nonpatient plaintiff.

CHAPTER 441**S. B. 232**

Passed March 7, 2018

Approved March 22, 2018

Effective May 8, 2018

**SCHOOL TRANSPORTATION
AMENDMENTS**

Chief Sponsor: David P. Hinkins

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill provides for reimbursement for certain student transportation costs.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ subject to legislative appropriations, requires the State Board of Education to provide a reimbursement for student transportation costs incurred by certain district schools and charter schools.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53F-5-209, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-209 is enacted to read:**53F-5-209. Rural school transportation reimbursement.**

(1) As used in this section:

(a) “Eligible school” means a district school or a charter school:

(i) that is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501;

(ii) in which at least 65% of the students enrolled in the school qualify for free or reduced price lunch; and

(iii) that has provided transportation to and from the school for a regular school day for students for at least five years.

(b) “Local board” means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) A local board may annually submit a request to the State Board of Education to receive reimbursement for an expense that:

(a) the local board incurs transporting a student to or from an eligible school for the regular school day; and

(b) the local board does not pay using state funding for pupil transportation described in Section 53F-2-402 or 53F-2-403.

(3) (a) Subject to legislative appropriations, and except as provided in Subsection (3)(b), the State Board of Education shall reimburse a local school board for an expense included in a request described in Subsection (2).

(b) If the legislative appropriation for this section is insufficient to fund an expense in a request received under Subsection (2), the State Board of Education may reduce a local school board’s reimbursement in accordance with the rules described in Subsection (4).

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

(a) requirements for information a local school board shall include in a reimbursement request described in Subsection (2);

(b) a deadline by which a local school board shall submit a request described in Subsection (2); and

(c) a formula for reducing a local school board’s allocation under Subsection (3).

(5) Nothing in this section affects a school district’s allocation for pupil transportation under Sections 53F-2-402 and 53F-2-403.

CHAPTER 442**S. B. 240**

Passed March 8, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**MILITARY INSTALLATION
 DEVELOPMENT AUTHORITY
 AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill amends provisions of the Military Installation Development Authority Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Military Installation Development Authority accommodations tax;
- ▶ amends provisions related to sales and use tax;
- ▶ amends provisions related to the governing board of the Military Installation Development Authority;
- ▶ amends provisions related to property tax within a project area;
- ▶ requires certain property owners to pay an annual payment to the authority;
- ▶ amends provisions related to allowable uses of funds; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 59-1-306, as last amended by Laws of Utah 2017, Chapter 430
 59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429
 63H-1-102, as last amended by Laws of Utah 2017, Chapter 216
 63H-1-302, as last amended by Laws of Utah 2013, Chapter 362
 63H-1-501, as last amended by Laws of Utah 2015, Chapter 377
 63H-1-502, as last amended by Laws of Utah 2015, Chapter 377

ENACTS:

- 59-28-108, Utah Code Annotated 1953
 63H-1-205, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-306 is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of

money deposited into the restricted account.

(1) As used in this section, “qualifying tax, fee, or charge” means a tax, fee, or charge the commission administers under:

- (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (c) Section 19-6-714;
- (d) Section 19-6-805;
- (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- (f) Section 59-27-105; [øø]
- (g) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges[-]; or
- (h) Section 63H-1-205.

(2) There is created a restricted account within the General Fund known as the “State Tax Commission Administrative Charge Account.”

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

- (a) 1.5%; or
- (b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 2. Section 59-12-104 is amended to read:**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

- (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;
- (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

- (a) construction materials except:
- (i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and
- (ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or
- (b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;
- (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- (i) the proceeds of each sale do not exceed \$1; and
- (ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and
- (b) Subsection (3)(a) applies to:
- (i) food and food ingredients; or
- (ii) prepared food;
- (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- (i) alcoholic beverages;
- (ii) food and food ingredients; or
- (iii) prepared food;
- (b) sales of tangible personal property or a product transferred electronically:
- (i) to a passenger;
- (ii) by a commercial airline carrier; and
- (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- (c) services related to Subsection (4)(a) or (b);
- (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:
- (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
- (II) for:
- (Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;
- (Bb) renovation of an aircraft; or
- (Cc) repair of an aircraft; or
- (B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or
- (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and
- (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:
- (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;
- (iv) for sales and use taxes paid under this chapter on the sale;
- (v) in accordance with Section 59-1-1410; and
- (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;
- (6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;
- (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;
- (b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and
- (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
- (i) governing the circumstances under which sales are at the same business location; and
- (ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;
- (8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;
- (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

<p>(a) not registered in this state; and</p> <p>(b) (i) not used in this state; or</p> <p>(ii) used in this state:</p> <p>(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:</p> <p>(I) 30 days in any calendar year; or</p> <p>(II) the time period necessary to transport the vehicle to the borders of this state; or</p> <p>(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;</p> <p>(10) (a) amounts paid for an item described in Subsection (10)(b) if:</p> <p>(i) the item is intended for human use; and</p> <p>(ii) (A) a prescription was issued for the item; or</p> <p>(B) the item was purchased by a hospital or other medical facility; and</p> <p>(b) (i) Subsection (10)(a) applies to:</p> <p>(A) a drug;</p> <p>(B) a syringe; or</p> <p>(C) a stoma supply; and</p> <p>(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:</p> <p>(A) “syringe”; or</p> <p>(B) “stoma supply”;</p> <p>(11) purchases or leases exempt under Section 19-12-201;</p> <p>(12) (a) sales of an item described in Subsection (12)(c) served by:</p> <p>(i) the following if the item described in Subsection (12)(c) is not available to the general public:</p> <p>(A) a church; or</p> <p>(B) a charitable institution;</p> <p>(ii) an institution of higher education if:</p> <p>(A) the item described in Subsection (12)(c) is not available to the general public; or</p> <p>(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or</p> <p>(b) sales of an item described in Subsection (12)(c) provided for a patient by:</p> <p>(i) a medical facility; or</p> <p>(ii) a nursing facility; and</p> <p>(c) Subsections (12)(a) and (b) apply to:</p> <p>(i) food and food ingredients;</p> <p>(ii) prepared food; or</p>	<p>(iii) alcoholic beverages;</p> <p>(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:</p> <p>(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and</p> <p>(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(b) this Subsection (13) does not apply if:</p> <p>(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or</p> <p>(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:</p> <p>(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or</p> <p>(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and</p> <p>(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:</p> <p>(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;</p> <p>(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;</p> <p>(14) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts with an economic life of three or more years by:</p> <p>(a) a manufacturing facility, except as provided in Subsection (86), that:</p> <p>(i) is located in the state; and</p> <p>(ii) uses the machinery, equipment, or normal operating repair or replacement parts:</p>
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(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

- (I) machinery;
- (II) equipment;
- (III) materials; or
- (IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

- (I) office equipment and supplies; or
- (II) equipment and supplies used in:
 - (Aa) the sale or distribution of farm products;
 - (Bb) research; or
 - (Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

- (A) purchased outside of this state;
- (B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its

original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

- (I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

- (31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

- (33) sales, leases, or uses of the following:

- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
 - (i) sold or leased to or used by an authorized carrier; and
 - (ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

- (a) snowmaking equipment;
- (b) ski slope grooming equipment;
- (c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

- (i) governing the circumstances under which sales are at the same business location; and
- (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

- (i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

- (ii) NAICS Code 51219; and
- (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:
- (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or
- (ii) define:
- (A) “commercial distribution”;
- (B) “live musical performance”;
- (C) “live news program”;
- (D) “live sporting event”;
- (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
- (A) is an alternative energy electricity production facility;
- (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or
- (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or
- (I) other equipment used for locating a power line or pole; and
- (b) this Subsection (55) does not apply to:
- (i) tangible personal property used in construction of:
- (A) a new alternative energy electricity production facility; or
- (B) the increase in the capacity of an alternative energy electricity production facility;
- (ii) contracted services required for construction and routine maintenance activities; and

- (iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:
- (A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- (B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);
- (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
- (A) is a waste energy production facility;
- (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or
- (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
- (A) generating equipment;
- (B) a control and monitoring system;
- (C) a power line;
- (D) substation equipment;
- (E) lighting;
- (F) fencing;
- (G) pipes; or
- (H) other equipment used for locating a power line or pole; and
- (b) this Subsection (56) does not apply to:
- (i) tangible personal property used in construction of:
- (A) a new waste energy facility; or
- (B) the increase in the capacity of a waste energy facility;
- (ii) contracted services required for construction and routine maintenance activities; and
- (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may

claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;
- (83) amounts paid or charged for a purchase or lease of molten magnesium;
- (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:
- (i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and
- (ii) except for office:
- (A) equipment; or
- (B) supplies; and
- (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:
- (i) of 50% of the tax paid on the amounts paid or charged; and
- (ii) in accordance with Section 59-1-1410;
- (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:
- (a) are used in the operation of the establishment; and
- (b) have an economic life of one or more years; and
- (86) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility that:
- (a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (c) is located in the state; and
- (d) uses the machinery, equipment, or normal operating repair or replacement parts in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (87) amounts paid or charged for a purchase or lease of equipment or normal operating repair or replacement parts with an economic life of less than three years by a manufacturing facility that:
- (a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (c) is located in the state; and
- (d) uses the equipment or normal operating repair or replacement parts to manufacture hydrogen;
- (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle; ~~and~~
- (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2)[,]; and

(90) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205.

Section 3. Section 59-28-108 is enacted to read:

59-28-108. Military Installation Development Authority exemption.

Amounts paid or charged for accommodations and services, as defined in Section 63H-1-205, are exempt from the tax described in Section 59-28-103, if the amounts are paid to or charged by a proprietor subject to the MIDA accommodations tax imposed under Section 63H-1-205.

Section 4. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized before the year in

which the authority ~~[issues a building permit for a building within that portion of]~~ creates the project area.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation ~~[it]~~ the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or [an activity occurring]

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

~~[(40)]~~ (11) “Military Installation Development Authority energy tax” or “MIDA energy tax” means the tax levied under Section 63H-1-204.

~~[(41)]~~ (12) “Military land” means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense or the Utah National Guard.

~~[(42)]~~ (13) “Municipal energy tax” means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

~~[(43)]~~ (14) “Municipal services revenue” means revenue that the authority:

- (a) collects from the authority’s:
 - (i) levy of a municipal energy tax;
 - (ii) levy of a MIDA energy tax;
 - (iii) levy of a telecommunications tax;
 - (iv) imposition of a transient room tax; and
 - (v) imposition of a resort communities tax;
- (b) receives under Subsection 59-12-205(2)(b)(ii); and
- (c) receives as dedicated tax collections.

~~[(44)]~~ (15) “Municipal tax” means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

~~[(45)]~~ (16) “Project area” means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

~~[(46)]~~ (17) “Project area budget” means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

- (a) the base taxable value of property in the project area;
- (b) the projected property tax allocation expected to be generated within the project area;
- (c) the amount of the property tax allocation expected to be shared with other taxing entities;
- (d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
- (e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

- (i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or
- (B) a legal description of the portion of the project area from which the property tax allocation will be collected; and
- (ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and
- (g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

~~[(47)]~~ (18) “Project area plan” means a written plan that, after ~~its~~ the plan’s effective date, guides and controls the development within a project area.

~~[(48)]~~ (19) (a) “Property tax” includes a privilege tax, except as described in Subsection ~~[(48)]~~ (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) “Property tax” does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

~~[(4)]~~ (A) a lessee of military land has constructed a facility on the military land that is part of a project area;

~~[(4ii)]~~ (B) the lessee leases space in the facility to the military for the entire calendar year; and

~~[(4iii)]~~ (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses[-]; or

(ii) of a hotel that is owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity in which the privately owned entity agrees to operate the hotel.

~~[(49)]~~ (20) “Property tax allocation” means the difference between:

- (a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and
- (b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

~~[(20)]~~ (21) “Public entity” means:

- (a) the state, including each department or agency of the state; or
- (b) a political subdivision of the state, including a county, city, town, school district, local district,

special service district, or interlocal cooperation entity.

~~[(21)]~~ (22) (a) “Publicly owned infrastructure and improvements” means infrastructure, improvements, facilities, or buildings that benefit the public and are:

(i) publicly owned by the military, the authority, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) “Publicly owned infrastructure and improvements” includes:

(i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

~~[(22)]~~ (23) “Remaining municipal services revenue” means municipal services revenue that the authority has not:

(a) spent during ~~[its]~~ the authority’s fiscal year for municipal services as provided in Subsection 63H-1-503(1)~~[-]~~; or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

~~[(23)]~~ (24) “Resort communities tax” means a sales and use tax imposed under Section 59-12-401.

~~[(24)]~~ (25) “Taxable value” means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

~~[(25)]~~ (26) “Taxing entity” means a public entity that levies a tax on property within a project area.

~~[(26)]~~ (27) “Telecommunications tax” means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

~~[(27)]~~ (28) “Transient room tax” means a tax under Section 59-12-352.

Section 5. Section 63H-1-205 is enacted to read:

63H-1-205. MIDA accommodations tax.

(1) As used in this section:

(a) “Accommodations and services” means an accommodation or service described in Subsection 59-12-103(1)(i).

(b) “Accommodations and services” does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and

services, if the place of accommodation is located on authority-owned or other government-owned property within the project area.

(3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(8) (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.

(10) (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 6. Section 63H-1-302 is amended to read:

63H-1-302. Number of board members -- Appointment.

(1) The authority's board shall consist of seven members.

(2) ~~[Five]~~ The governor shall appoint five members of the board ~~[shall be appointed by the governor]~~ as follows:

(a) one member shall be appointed who is interested in supporting military efforts in the state;

(b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and

(c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.

(3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.

(4) (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.

(d) If there are more than three project areas located in different counties or municipalities, ~~[at~~

~~the expiration of a member's term who is appointed under Subsection (2)(b),] the governor [shall appoint]:~~

~~[(i) a mayor of a municipality or county that:]~~

~~[(A) is adjacent to or in close proximity to a project area; and]~~

~~[(B) is not already represented on the board; or]~~

~~[(ii) a member of a legislative body of a municipality or county that:]~~

~~[(A) is adjacent to or in close proximity to a project area; and]~~

~~[(B) is not already represented on the board.]~~

(i) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector;

(ii) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the second-highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector; and

(iii) may appoint one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board.

(e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) The authority may:

(a) appoint nonvoting members of the board, including a member from a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board under Subsection (2)(b); and

(b) set terms for nonvoting members appointed under Subsection (5)(a).

Section 7. Section 63H-1-501 is amended to read:

63H-1-501. Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.

(1) (a) The authority may:

(i) subject to Subsection (1)(b), receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and

(ii) use the property tax allocation during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first property tax allocation from that parcel.

(2) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) (a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall enter into a contract with the authority to make an annual payment to the authority:

(i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and

(ii) until the parcel becomes subject to the property tax described in Subsection (2).

(b) The authority may use the revenue from payments described in Subsection (3)(a) for any purpose described in Subsection 63H-1-502(1).

~~[(3)]~~ (4) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

~~[(4)]~~ (5) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.

Section 8. Section 63H-1-502 is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and

improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area; ~~and~~

(f) to pay the principal and interest on bonds issued by the authority[-];

(g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected; or

(h) to pay for the promotion of:

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax ~~[revenues]~~ revenue received under Subsection 59-12-205(2)(b)(ii);

(b) resort communities tax [revenues generated from a project area that contains private land; and] revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated[-];

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

(g) payments received under Subsection 63H-1-501(3).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

CHAPTER 443**S. B. 241**

Passed March 6, 2018
 Approved March 22, 2018
 Effective May 8, 2018

**MEDICAL BENEFITS
 RECOVERY AMENDMENTS**

Chief Sponsor: Daniel Hemmert
 House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill amends and enacts provisions related to state recovery of medical assistance benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends and enacts provisions related to recovery of medical assistance from a recipient's estate or trust;
- ▶ provides for the imposition of a lien, authorized by the federal Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) against the real property of an individual who is an inpatient in a care facility, during the life of that individual;
- ▶ establishes procedures, requirements, and exemptions, relating to imposing a TEFRA lien; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-4-107.5, as enacted by Laws of Utah 2007, Chapter 64
 31A-22-610, as last amended by Laws of Utah 2007, Chapter 307
 31A-22-610.5, as last amended by Laws of Utah 2017, Chapters 168 and 292
 34A-2-417, as last amended by Laws of Utah 2010, Chapter 174
 34A-2-422, as last amended by Laws of Utah 2007, Chapter 63
 75-3-803, as last amended by Laws of Utah 2010, Chapter 223
 75-3-805, as last amended by Laws of Utah 1998, Chapter 145
 75-7-508, as last amended by Laws of Utah 2014, Chapter 142
 75-7-511, as renumbered and amended by Laws of Utah 2004, Chapter 89

ENACTS:

- 26-19-404, Utah Code Annotated 1953
 26-19-501, Utah Code Annotated 1953
 26-19-502, Utah Code Annotated 1953
 26-19-503, Utah Code Annotated 1953
 26-19-504, Utah Code Annotated 1953
 26-19-505, Utah Code Annotated 1953
 26-19-506, Utah Code Annotated 1953
 26-19-507, Utah Code Annotated 1953
 26-19-508, Utah Code Annotated 1953

- 26-19-509, Utah Code Annotated 1953
 75-3-104.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 26-19-101, (Renumbered from 26-19-1, as enacted by Laws of Utah 1981, Chapter 126)
 26-19-102, (Renumbered from 26-19-2, as last amended by Laws of Utah 2007, Chapter 64)
 26-19-103, (Renumbered from 26-19-3, as last amended by Laws of Utah 1984, Chapter 34)
 26-19-201, (Renumbered from 26-19-4.5, as last amended by Laws of Utah 1998, Chapter 145)
 26-19-301, (Renumbered from 26-19-4.7, as enacted by Laws of Utah 2007, Chapter 64)
 26-19-302, (Renumbered from 26-19-14, as last amended by Laws of Utah 2017, Chapter 292)
 26-19-303, (Renumbered from 26-19-9.5, as enacted by Laws of Utah 2004, Chapter 72)
 26-19-304, (Renumbered from 26-19-9, as enacted by Laws of Utah 1993, Chapter 145)
 26-19-305, (Renumbered from 26-19-8, as last amended by Laws of Utah 2011, Chapter 297)
 26-19-401, (Renumbered from 26-19-5, as last amended by Laws of Utah 2005, Chapter 103)
 26-19-402, (Renumbered from 26-19-6, as last amended by Laws of Utah 2009, Chapter 388)
 26-19-403, (Renumbered from 26-19-7, as last amended by Laws of Utah 2011, Chapter 297)
 26-19-405, (Renumbered from 26-19-13.5, as last amended by Laws of Utah 2011, Chapter 366)
 26-19-406, (Renumbered from 26-19-13.7, as enacted by Laws of Utah 1998, Chapter 145)
 26-19-601, (Renumbered from 26-19-9.7, as enacted by Laws of Utah 2004, Chapter 72)
 26-19-602, (Renumbered from 26-19-19, as enacted by Laws of Utah 1998, Chapter 145)
 26-19-603, (Renumbered from 26-19-15, as last amended by Laws of Utah 1984, Chapter 34)
 26-19-604, (Renumbered from 26-19-16, as enacted by Laws of Utah 1981, Chapter 126)
 26-19-605, (Renumbered from 26-19-17, as last amended by Laws of Utah 1984, Chapter 34)

Be it enacted by the Legislature of the state of Utah:

**Section 1. Section 26-19-101, which is renumbered from Section 26-19-1 is renumbered and amended to read:
 Part 1. General Provisions**

[26-19-1]. 26-19-101. Title.

This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the “Medical Benefits Recovery Act.”

Section 2. Section 26-19-102, which is renumbered from Section 26-19-2 is renumbered and amended to read:

[26-19-2]. 26-19-102. Definitions.

As used in this chapter:

(1) “Annuity” shall have the same meaning as provided in Section 31A-1-301.

(2) “Care facility” means:

(a) a nursing facility;

(b) an intermediate care facility for an individual with an intellectual disability; or

(c) any other medical institution.

[2] (3) “Claim” means:

(a) a request or demand for payment; or

(b) a cause of action for money or damages arising under any law.

[3] (4) “Employee welfare benefit plan” means a medical insurance plan developed by an employer under 29 U.S.C. Section 1001, et seq., the Employee Retirement Income Security Act of 1974 as amended.

(5) “Health insurance entity” means:

(a) an insurer;

(b) a person who administers, manages, provides, offers, sells, carries, or underwrites health insurance, as defined in Section 31A-1-301;

(c) a self-insured plan;

(d) a group health plan, as defined in Subsection 607(1) of the federal Employee Retirement Income Security Act of 1974;

(e) a service benefit plan;

(f) a managed care organization;

(g) a pharmacy benefit manager;

(h) an employee welfare benefit plan; or

(i) a person who is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.

(6) “Inpatient” means an individual who is a patient and a resident of a care facility.

[6] (7) “Insurer” includes:

(a) a group health plan as defined in Subsection 607(1) of the federal Employee Retirement Income Security Act of 1974;

(b) a health maintenance organization; and

(c) any entity offering a health service benefit plan.

[7] (8) “Medical assistance” means:

(a) all funds expended for the benefit of a recipient under Title 26, Chapter 18, Medical Assistance Act, or under Titles XVIII and XIX, federal Social Security Act; and

(b) any other services provided for the benefit of a recipient by a prepaid health care delivery system under contract with the department.

[8] (9) “Office of Recovery Services” means the Office of Recovery Services within the Department of Human Services.

[9] (10) “Provider” means a person or entity who provides services to a recipient.

[10] (11) “Recipient” means:

(a) ~~[a person]~~ an individual who has applied for or received medical assistance from the state;

(b) the guardian, conservator, or other personal representative of ~~[a person]~~ an individual under Subsection [10] (11)(a) if the ~~[person]~~ individual is a minor or an incapacitated person; or

(c) the estate and survivors of ~~[a person]~~ an individual under Subsection [10] (11)(a), if the ~~[person]~~ individual is deceased.

[4] (12) [~~“Estate”~~] “Recovery estate” means, regarding a deceased recipient:

(a) all real and personal property or other assets included within a decedent’s estate as defined in Section 75-1-201;

(b) the decedent’s augmented estate as defined in Section 75-2-203; and

(c) that part of other real or personal property in which the decedent had a legal interest at the time of death including assets conveyed to a survivor, heir, or assign of the decedent through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

[11] (13) “State plan” means the state Medicaid program as enacted in accordance with Title XIX, federal Social Security Act.

(14) “TEFRA lien” means a lien, authorized under the Tax Equity and Fiscal Responsibility Act of 1982, against the real property of an individual prior to the individual’s death, as described in 42 U.S.C. Sec. 1396p.

[12] (15) “Third party” includes:

(a) an individual, institution, corporation, public or private agency, trust, estate, insurance carrier, employee welfare benefit plan, health maintenance organization, health service organization, preferred provider organization, governmental program such as Medicare, CHAMPUS, and workers’ compensation, which may be obligated to pay all or part of the medical costs of injury, disease, or disability of a recipient, unless any of these are excluded by department rule; and

(b) a spouse or a parent who:

(i) may be obligated to pay all or part of the medical costs of a recipient under law or by court or administrative order; or

(ii) has been ordered to maintain health, dental, or accident and health insurance to cover medical expenses of a spouse or dependent child by court or administrative order.

[419] (16) "Trust" shall have the same meaning as provided in Section 75-1-201.

Section 3. Section 26-19-103, which is renumbered from Section 26-19-3 is renumbered and amended to read:

[26-19-3]. 26-19-103. Program established by department -- Promulgation of rules.

(1) The department shall establish and maintain a program for the recoupment of medical assistance.

(2) The department may promulgate rules to implement the purposes of this chapter.

Section 4. Section 26-19-201, which is renumbered from Section 26-19-4.5 is renumbered and amended to read:

Part 2. Assignment of Rights

[26-19-4.5]. 26-19-201. Assignment of rights to benefits.

(1) (a) To the extent that medical assistance is actually provided to a recipient, all benefits for medical services or payments from a third party otherwise payable to or on behalf of a recipient are assigned by operation of law to the department if the department provides, or becomes obligated to provide, medical assistance, regardless of who made application for the benefits on behalf of the recipient.

(b) The assignment:

(i) authorizes the department to submit its claim to the third party and authorizes payment of benefits directly to the department; and

(ii) is effective for all medical assistance.

(2) The department may recover the assigned benefits or payments in accordance with Section [26-19-5] 26-19-401 and as otherwise provided by law.

(3) The assignment of benefits includes medical support and third party payments ordered, decreed, or adjudged by any court of this state or any other state or territory of the United States. That assignment is not in lieu of, and does not supersede or alter any other court order, decree, or judgment.

(4) When an assignment takes effect, the recipient is entitled to receive medical assistance, and the benefits paid to the department are a reimbursement to the department.

Section 5. Section 26-19-301, which is renumbered from Section 26-19-4.7 is renumbered and amended to read:

Part 3. Insurance Provisions

[26-19-4.7]. 26-19-301. Health insurance entity -- Duties related to state claims for Medicaid payment or recovery.

As a condition of doing business in the state, a health insurance entity shall:

(1) with respect to [a person] an individual who is eligible for, or is provided, medical assistance under the state plan, upon the request of the Department of Health, provide information to determine:

(a) during what period the [person] individual, or the spouse or dependent of the [person] individual, may be or may have been, covered by the health insurance entity; and

(b) the nature of the coverage that is or was provided by the health insurance entity described in Subsection (1)(a), including the name, address, and identifying number of the plan;

(2) accept the state's right of recovery and the assignment to the state of any right of [a person] an individual to payment from a party for an item or service for which payment has been made under the state plan;

(3) respond to any inquiry by the Department of Health regarding a claim for payment for any health care item or service that is submitted no later than three years after the day on which the health care item or service is provided; and

(4) not deny a claim submitted by the Department of Health solely on the basis of the date of submission of the claim, the type or format of the claim form, or failure to present proper documentation at the point-of-sale that is the basis for the claim, if:

(a) the claim is submitted no later than three years after the day on which the item or service is furnished; and

(b) any action by the Department of Health to enforce the rights of the state with respect to the claim is commenced no later than six years after the day on which the claim is submitted.

Section 6. Section 26-19-302, which is renumbered from Section 26-19-14 is renumbered and amended to read:

[26-19-14]. 26-19-302. Insurance policies not to deny or reduce benefits of individuals eligible for state medical assistance -- Exemptions.

(1) A policy of accident or sickness insurance may not contain any provision denying or reducing benefits because services are rendered to an insured or dependent who is eligible for or receiving medical assistance from the state.

(2) An association, corporation, or organization may not deliver, issue for delivery, or renew any subscriber's contract which contains any provisions denying or reducing benefits because services are rendered to a subscriber or dependent who is eligible for or receiving medical assistance from the state.

(3) An association, corporation, business, or organization authorized to do business in this state and which provides or pays for any health care benefits may not deny or reduce benefits because

services are rendered to a beneficiary who is eligible for or receiving medical assistance from the state.

(4) Notwithstanding Subsection (1), (2), or (3), the Utah State Public Employees Health Program, administered by the Utah State Retirement Board, is not required to reimburse any agency of state government for custodial care which the agency provides, through its staff or facilities, to members of the Utah State Public Employees Health Program.

Section 7. Section 26-19-303, which is renumbered from Section 26-19-9.5 is renumbered and amended to read:

[26-19-9.5]. 26-19-303. Availability of insurance policy.

If the third party does not pay the department's claim or lien within 30 days from the date the claim or lien is received, the third party shall:

- (1) provide a written explanation if the claim is denied;
- (2) specifically describe and request any additional information from the department that is necessary to process the claim; and
- (3) provide the department or its agent a copy of any relevant or applicable insurance or benefit policy.

Section 8. Section 26-19-304, which is renumbered from Section 26-19-9 is renumbered and amended to read:

[26-19-9]. 26-19-304. Employee benefit plans.

As allowed pursuant to 29 U.S.C. Section 1144, an employee benefit plan may not include any provision that has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan based on the fact that the individual is eligible for or is provided services under the state plan.

Section 9. Section 26-19-305, which is renumbered from Section 26-19-8 is renumbered and amended to read:

[26-19-8]. 26-19-305. Statute of limitations -- Survival of right of action -- Insurance policy not to limit time allowed for recovery.

- (1) (a) Subject to Subsection (6), action commenced by the department under this chapter against a health insurance entity shall be commenced within:
 - (i) subject to Subsection (7), six years after the day on which the department submits the claim for recovery or payment for the health care item or service upon which the action is based; or
 - (ii) six months after the date of the last payment for medical assistance, whichever is later.

(b) An action against any other third party, the recipient, or anyone to whom the proceeds are payable shall be commenced within:

- (i) four years after the date of the injury or onset of the illness; or
 - (ii) six months after the date of the last payment for medical assistance, whichever is later.
- (2) The death of the recipient does not abate any right of action established by this chapter.

(3) (a) No insurance policy issued or renewed after June 1, 1981, may contain any provision that limits the time in which the department may submit its claim to recover medical assistance benefits to a period of less than 24 months from the date the provider furnishes services or goods to the recipient.

(b) No insurance policy issued or renewed after April 30, 2007, may contain any provision that limits the time in which the department may submit its claim to recover medical assistance benefits to a period of less than that described in Subsection (1)(a).

(4) The provisions of this section do not apply to Section [26-19-13.5] 26-19-405 or Part 5, TEFRA Liens.

(5) The provisions of this section supercede any other sections regarding the time limit in which an action shall be commenced, including Section 75-7-509.

(6) (a) Subsection (1)(a) extends the statute of limitations on a cause of action described in Subsection (1)(a) that was not time-barred on or before April 30, 2007.

(b) Subsection (1)(a) does not revive a cause of action that was time-barred on or before April 30, 2007.

(7) An action described in Subsection (1)(a) may not be commenced if the claim for recovery or payment described in Subsection (1)(a)(i) is submitted later than three years after the day on which the health care item or service upon which the claim is based was provided.

Section 10. Section 26-19-401, which is renumbered from Section 26-19-5 is renumbered and amended to read:

Part 4. General Recovery Provisions

[26-19-5]. 26-19-401. Recovery of medical assistance from third party -- Lien -- Notice -- Action -- Compromise or waiver -- Recipient's right to action protected.

- (1) (a) When the department provides or becomes obligated to provide medical assistance to a recipient that a third party is obligated to pay for, the department may recover the medical assistance directly from that third party.
 - (b) Any claim arising under Subsection (1)(a) or Section [26-19-4.5] 26-19-201 to recover medical assistance provided to a recipient is a lien against any proceeds payable to or on behalf of the recipient by that third party. This lien has priority over all

other claims to the proceeds, except claims for [attorney's] attorney fees and costs authorized under Subsection [~~26-19-7~~] 26-19-403(2)(c)(ii).

(2) (a) The department shall mail or deliver written notice of its claim or lien to the third party at its principal place of business or last-known address.

(b) The notice shall include:

(i) the recipient's name;

(ii) the approximate date of illness or injury;

(iii) a general description of the type of illness or injury; and

(iv) if applicable, the general location where the injury is alleged to have occurred.

(3) The department may commence an action on its claim or lien in its own name, but that claim or lien is not enforceable as to a third party unless:

(a) the third party receives written notice of the department's claim or lien before it settles with the recipient; or

(b) the department has evidence that the third party had knowledge that the department provided or was obligated to provide medical assistance.

(4) The department may:

(a) waive a claim or lien against a third party in whole or in part; or

(b) compromise, settle, or release a claim or lien.

(5) An action commenced under this section does not bar an action by a recipient or a dependent of a recipient for loss or damage not included in the department's action.

(6) The department's claim or lien on proceeds under this section is not affected by the transfer of the proceeds to a trust, annuity, financial account, or other financial instrument.

Section 11. Section 26-19-402, which is renumbered from Section 26-19-6 is renumbered and amended to read:

[~~26-19-6~~]. 26-19-402. Action by department -- Notice to recipient.

(1) (a) Within 30 days after commencing an action under Subsection [~~26-19-5~~] 26-19-401(3), the department shall give the recipient, [his] the recipient's guardian, personal representative, trustee, estate, or survivor, whichever is appropriate, written notice of the action by:

(i) personal service or certified mail to the last known address of the person receiving the notice; or

(ii) if no last-known address is available, by publishing a notice:

(A) once a week for three successive weeks in a newspaper of general circulation in the county where the recipient resides; and

(B) in accordance with Section 45-1-101 for three weeks.

(b) Proof of service shall be filed in the action.

(c) The recipient may intervene in the department's action at any time before trial.

(2) The notice required by Subsection (1) shall name the court in which the action is commenced and advise the recipient of:

(a) the right to intervene in the proceeding;

(b) the right to obtain a private attorney; and

(c) the department's right to recover medical assistance directly from the third party.

Section 12. Section 26-19-403, which is renumbered from Section 26-19-7 is renumbered and amended to read:

[~~26-19-7~~]. 26-19-403. Notice of claim by recipient -- Department response -- Conditions for proceeding -- Collection agreements.

(1) (a) A recipient may not file a claim, commence an action, or settle, compromise, release, or waive a claim against a third party for recovery of medical costs for an injury, disease, or disability for which the department has provided or has become obligated to provide medical assistance, without the department's written consent as provided in Subsection (2)(b) or (4).

(b) For purposes of Subsection (1)(a), consent may be obtained if:

(i) a recipient who files a claim, or commences an action against a third party notifies the department in accordance with Subsection (1)(d) within 10 days of the recipient making the claim or commencing an action; or

(ii) an attorney, who has been retained by the recipient to file a claim, or commence an action against a third party, notifies the department in accordance with Subsection (1)(d) of the recipient's claim:

(A) within 30 days after being retained by the recipient for that purpose; or

(B) within 30 days from the date the attorney either knew or should have known that the recipient received medical assistance from the department.

(c) Service of the notice of claim to the department shall be made by certified mail, personal service, or by e-mail in accordance with Rule 5 of the Utah Rules of Civil Procedure, to the director of the Office of Recovery Services.

(d) The notice of claim shall include the following information:

(i) the name of the recipient;

(ii) the recipient's Social Security number;

(iii) the recipient's date of birth;

(iv) the name of the recipient's attorney if applicable;

(v) the name or names of individuals or entities against whom the recipient is making the claim, if known;

(vi) the name of the third party's insurance carrier, if known;

(vii) the date of the incident giving rise to the claim; and

(viii) a short statement identifying the nature of the recipient's claim.

(2) (a) Within 30 days of receipt of the notice of the claim required in Subsection (1), the department shall acknowledge receipt of the notice of the claim to the recipient or the recipient's attorney and shall notify the recipient or the recipient's attorney in writing of the following:

(i) if the department has a claim or lien pursuant to Section ~~[26-19-5]~~ 26-19-401 or has become obligated to provide medical assistance; and

(ii) whether the department is denying or granting written consent in accordance with Subsection (1)(a).

(b) The department shall provide the recipient's attorney the opportunity to enter into a collection agreement with the department, with the recipient's consent, unless:

(i) the department, prior to the receipt of the notice of the recipient's claim pursuant to Subsection (1), filed a written claim with the third party, the third party agreed to make payment to the department before the date the department received notice of the recipient's claim, and the agreement is documented in the department's record; or

(ii) there has been a failure by the recipient's attorney to comply with any provision of this section by:

(A) failing to comply with the notice provisions of this section;

(B) failing or refusing to enter into a collection agreement;

(C) failing to comply with the terms of a collection agreement with the department; or

(D) failing to disburse funds owed to the state in accordance with this section.

(c) (i) The collection agreement shall be:

(A) consistent with this section and the attorney's obligation to represent the recipient and represent the state's claim; and

(B) state the terms under which the interests of the department may be represented in an action commenced by the recipient.

(ii) If the recipient's attorney enters into a written collection agreement with the department, or includes the department's claim in the recipient's claim or action pursuant to Subsection (4), the department shall pay ~~[attorney's]~~ attorney fees at the rate of 33.3% of the department's total recovery and shall pay a proportionate share of the litigation expenses directly related to the action.

(d) The department is not required to enter into a collection agreement with the recipient's attorney for collection of personal injury protection under Subsection 31A-22-302(2).

(3) (a) If the department receives notice pursuant to Subsection (1), and notifies the recipient and the recipient's attorney that the department will not enter into a collection agreement with the recipient's attorney, the recipient may proceed with the recipient's claim or action against the third party if the recipient excludes from the claim:

(i) any medical expenses paid by the department; or

(ii) any medical costs for which the department is obligated to provide medical assistance.

(b) When a recipient proceeds with a claim under Subsection (3)(a), the recipient shall provide written notice to the third party of the exclusion of the department's claim for expenses under Subsection (3)(a)(i) or (ii).

(4) If the department receives notice pursuant to Subsection (1), and does not respond within 30 days to the recipient or the recipient's attorney, the recipient or the recipient's attorney:

(a) may proceed with the recipient's claim or action against the third party;

(b) may include the state's claim in the recipient's claim or action; and

(c) may not negotiate, compromise, settle, or waive the department's claim without the department's consent.

~~[(5) The department has an unconditional right to intervene in an action commenced by a recipient against a third party for the purpose of recovering medical costs for which the department has provided or has become obligated to provide medical assistance.]~~

~~[(6) (a) If the recipient proceeds without complying with the provisions of this section, the department is not bound by any decision, judgment, agreement, settlement, or compromise rendered or made on the claim or in the action.]~~

~~[(b) The department may recover in full from the recipient or any party to which the proceeds were made payable all medical assistance which it has provided and retains its right to commence an independent action against the third party, subject to Subsection 26-19-5(3).]~~

~~[(7) Any amounts assigned to and recoverable by the department pursuant to Sections 26-19-4.5 and 26-19-5 collected directly by the recipient shall be remitted to the Bureau of Medical Collections within the Office of Recovery Services no later than five business days after receipt.]~~

~~[(8) (a) Any amounts assigned to and recoverable by the department pursuant to Sections 26-19-4.5 and 26-19-5 collected directly by the recipient's attorney shall be remitted to the Bureau of Medical Collections within the Office of Recovery Services no later than 30 days after the funds are placed in the attorney's trust account.]~~

~~(b) The date by which the funds shall be remitted to the department may be modified based on agreement between the department and the recipient's attorney.]~~

~~(c) The department's consent to another date for remittance may not be unreasonably withheld.]~~

~~(d) If the funds are received by the recipient's attorney, no disbursements shall be made to the recipient or the recipient's attorney until the department's claim has been paid.]~~

~~(9) A recipient or recipient's attorney who knowingly and intentionally fails to comply with this section is liable to the department for:]~~

~~(a) the amount of the department's claim or lien pursuant to Subsection (5);]~~

~~(b) a penalty equal to 10% of the amount of the department's claim; and]~~

~~(c) attorney fees and litigation expenses related to recovering the department's claim.]~~

Section 13. Section 26-19-404 is enacted to read:

26-19-404. Department's right to intervene -- Department's interests protected -- Remitting funds -- Disbursements -- Liability and penalty for noncompliance.

(1) The department has an unconditional right to intervene in an action commenced by a recipient against a third party for the purpose of recovering medical costs for which the department has provided or has become obligated to provide medical assistance.

(2) (a) If the recipient proceeds without complying with the provisions of Section 26-19-403, the department is not bound by any decision, judgment, agreement, settlement, or compromise rendered or made on the claim or in the action.

(b) The department:

(i) may recover in full from the recipient, or any party to which the proceeds were made payable, all medical assistance that the department has provided; and

(ii) retains its right to commence an independent action against the third party, subject to Subsection 26-19-401(3).

(3) Any amounts assigned to and recoverable by the department pursuant to Sections 26-19-201 and 26-19-401 collected directly by the recipient shall be remitted to the Bureau of Medical Collections within the Office of Recovery Services no later than five business days after receipt.

(4) (a) Any amounts assigned to and recoverable by the department pursuant to Sections 26-19-201 and 26-19-401 collected directly by the recipient's attorney shall be remitted to the Bureau of Medical Collections within the Office of Recovery Services no later than 30 days after the funds are placed in the attorney's trust account.

(b) The date by which the funds shall be remitted to the department may be modified based on agreement between the department and the recipient's attorney.

(c) The department's consent to another date for remittance may not be unreasonably withheld.

(d) If the funds are received by the recipient's attorney, no disbursements shall be made to the recipient or the recipient's attorney until the department's claim has been paid.

(5) A recipient or recipient's attorney who knowingly and intentionally fails to comply with this section is liable to the department for:

(a) the amount of the department's claim or lien pursuant to Subsection (1);

(b) a penalty equal to 10% of the amount of the department's claim; and

(c) attorney fees and litigation expenses related to recovering the department's claim.

Section 14. Section 26-19-405, which is renumbered from Section 26-19-13.5 is renumbered and amended to read:

~~26-19-13.5.~~ 26-19-405. Estate and trust recovery.

(1) ~~[Upon]~~ (a) Except as provided in Subsection (1)(b), upon a recipient's death, the department may recover from the recipient's recovery estate and any trust, in which the recipient is the grantor and a beneficiary, medical assistance correctly provided for the benefit of the recipient when the recipient was 55 years of age or older ~~[if, at the time of death, the recipient has no:]~~

~~(a) surviving spouse; or]~~

~~(b) child;]~~

~~(i) younger than 21 years of age; or]~~

~~(ii) who is blind or has a permanent and total disability.]~~

(b) The department may not make an adjustment or a recovery under Subsection (1)(a):

(i) while the deceased recipient's spouse is still living; or

(ii) if the deceased recipient has a surviving child who is:

(A) under age 21; or

(B) blind or disabled, as defined in the state plan.

(2) (a) The amount of ~~[medical]~~ medical assistance correctly provided for the benefit of a recipient and recoverable under this section is a lien against the deceased recipient's recovery estate ~~[of the deceased recipient]~~ or any trust when the recipient is the grantor and a beneficiary.

(b) The lien holds the same priority as reasonable and necessary medical expenses of the last illness as provided in Section 75-3-805.

~~(3) (a) The department shall perfect the lien by filing a notice in the court of appropriate~~

jurisdiction for the amount of the lien, in the same manner as a creditor's claim is filed, prior to final distribution.]

(b) The department may file an amended lien prior to the entry of the final order closing the estate.]

(3) (a) For a lien described in Subsection (2), the department shall provide notice in accordance with Section 38-12-102.

(b) Before final distribution, the department shall perfect the lien as follows:

(i) for an estate, by presenting the lien to the estate's personal representative in accordance with Section 75-3-804; and

(ii) for a trust, by presenting the lien to the trustee in accordance with Section 75-7-510.

(c) The department may file an amended lien before the entry of the final order to close the estate or trust.

(4) Claims against a deceased recipient's inter vivos trust shall be presented in accordance with Sections 75-7-509 and 75-7-510.

(5) Any trust provision that denies recovery for medical assistance is void at the time of its making.

(6) Nothing in this section affects the right of the department to recover Medicaid assistance before a recipient's death under Section [26-19-4.5] 26-19-201 or Section [26-19-13.7] 26-19-406.

(7) A lien imposed under this section is of indefinite duration.

Section 15. Section 26-19-406, which is renumbered from Section 26-19-13.7 is renumbered and amended to read:

[26-19-13.7]. 26-19-406. Recovery from recipient of incorrectly provided medical assistance.

The department may:

(1) recover medical assistance incorrectly provided, whether due to administrative or factual error or fraud, from the recipient or [his] the recipient's recovery estate; and

(2) pursuant to a judgment, impose a lien against real property of the recipient.

Section 16. Section 26-19-501 is enacted to read:

Part 5. TEFRA Liens

26-19-501. TEFRA liens authorized -- Grounds for TEFRA liens -- Exemptions.

(1) Except as provided in Subsections (2) and (3), the department may impose a TEFRA lien on the real property of an individual for the amount of medical assistance provided for, or to, the individual while the individual is an inpatient in a care facility, if:

(a) the individual is an inpatient in a care facility;

(b) the individual is required, as a condition of receiving services under the state plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs; and

(c) the department determines that the individual cannot reasonably be expected to:

(i) be discharged from the care facility; and

(ii) return to the individual's home.

(2) The department may not impose a lien on the home of an individual described in Subsection (1), if any of the following individuals are lawfully residing in the home:

(a) the spouse of the individual;

(b) a child of the individual, if the child is:

(i) under 21 years of age; or

(ii) blind or permanently and totally disabled, as defined in Title 42 U.S.C. Sec. 1382c(a)(3)(F); or

(c) a sibling of the individual, if the sibling:

(i) has an equity interest in the home; and

(ii) resided in the home for at least one year immediately preceding the day on which the individual was admitted to the care facility.

(3) The department may not impose a TEFRA lien on the real property of an individual, unless:

(a) the individual has been an inpatient in a care facility for the 180-day period immediately preceding the day on which the lien is imposed;

(b) the department serves:

(i) a preliminary notice of intent to impose a TEFRA lien relating to the real property, in accordance with Section 26-19-503; and

(ii) a final notice of intent to impose a TEFRA lien relating to the real property, in accordance with Section 26-19-504; and

(c) (i) the individual does not file a timely request for review of the department's decision under Title 63G, Chapter 4, Administrative Procedures Act; or

(ii) the department's decision is upheld upon final review or appeal under Title 63G, Chapter 4, Administrative Procedures Act.

Section 17. Section 26-19-502 is enacted to read:

26-19-502. Presumption of permanency.

There is a rebuttable presumption that an individual who is an inpatient in a care facility cannot reasonably be expected to be discharged from a care facility and return to the individual's home, if the individual has been an inpatient in a care facility for a period of at least 180 consecutive days.

Section 18. Section 26-19-503 is enacted to read:

26-19-503. Preliminary notice of intent to impose a TEFRA lien.

(1) Prior to imposing a TEFRA lien on real property, the department shall serve a preliminary notice of intent to impose a TEFRA lien, on the individual described in Subsection 26-19-501(1), who owns the property.

(2) The preliminary notice of intent shall:

(a) be served in person, or by certified mail, on the individual described in Subsection 26-19-501(1), and, if the department is aware that the individual has a legally authorized representative, on the representative;

(b) include a statement indicating that, according to the department's records, the individual:

(i) meets the criteria described in Subsections 26-19-501(1)(a) and (b);

(ii) has been an inpatient in a care facility for a period of at least 180 days immediately preceding the day on which the department provides the notice to the individual; and

(iii) is legally presumed to be in a condition where it cannot reasonably be expected that the individual will be discharged from the care facility and return to the individual's home;

(c) indicate that the department intends to impose a TEFRA lien on real property belonging to the individual;

(d) describe the real property that the TEFRA lien will apply to;

(e) describe the current amount of, and purpose of, the TEFRA lien;

(f) indicate that the amount of the lien may continue to increase as the individual continues to receive medical assistance;

(g) indicate that the individual may seek to prevent the TEFRA lien from being imposed on the real property by providing documentation to the department that:

(i) establishes that the individual does not meet the criteria described in Subsection 26-19-501(1)(a) or (b);

(ii) establishes that the individual has not been an inpatient in a care facility for a period of at least 180 days;

(iii) rebuts the presumption described in Section 26-19-502; or

(iv) establishes that the real property is exempt from imposition of a TEFRA lien under Subsection 26-19-501(2);

(h) indicate that if the owner fails to provide the documentation described in Subsection (2)(g) within 30 days after the day on which the preliminary notice of intent is served, the department will issue a final notice of intent to impose a TEFRA lien on the real property and will proceed to impose the lien;

(i) identify the type of documentation that the owner may provide to comply with Subsection (2)(g);

(j) describe the circumstances under which a TEFRA lien is required to be released; and

(k) describe the circumstances under which the department may seek to recover the lien.

Section 19. Section 26-19-504 is enacted to read:

26-19-504. Final notice of intent to impose a TEFRA lien.

(1) The department may issue a final notice of intent to impose a TEFRA lien on real property if:

(a) a preliminary notice of intent relating to the property is served in accordance with Section 26-19-503;

(b) it is at least 30 days after the day on which the preliminary notice of intent was served; and

(c) the department has not received documentation or other evidence that adequately establishes that a TEFRA lien may not be imposed on the real property.

(2) The final notice of intent to impose a TEFRA lien on real property shall:

(a) be served in person, or by certified mail, on the individual described in Subsection 26-19-501(1), who owns the property, and, if the department is aware that the individual has a legally authorized representative, on the representative;

(b) indicate that the department has complied with the requirements for filing the final notice of intent under Subsection (1);

(c) include a statement indicating that, according to the department's records, the individual:

(i) meets the criteria described in Subsections 26-19-501(1)(a) and (b);

(ii) has been an inpatient in a care facility for a period of at least 180 days immediately preceding the day on which the department provides the notice to the individual; and

(iii) is legally presumed to be in a condition where it cannot reasonably be expected that the individual will be discharged from the care facility and return to the individual's home;

(d) indicate that the department intends to impose a TEFRA lien on real property belonging to the individual;

(e) describe the real property that the TEFRA lien will apply to;

(f) describe the current amount of, and purpose of, the TEFRA lien;

(g) indicate that the amount of the lien may continue to increase as the individual continues to receive medical assistance;

(h) describe the circumstances under which a TEFRA lien is required to be released;

(i) describe the circumstances under which the department may seek to recover the lien;

(j) describe the right of the individual to challenge the decision of the department in an adjudicative proceeding; and

(k) indicate that failure by the individual to successfully challenge the decision of the department will result in the TEFRA lien being imposed.

Section 20. Section 26-19-505 is enacted to read:

26-19-505. Review of department decision.

An individual who has been served with a final notice of intent to impose a TEFRA lien under Section 26-19-504 may seek agency or judicial review of that decision under Title 63G, Chapter 4, Administrative Procedures Act.

Section 21. Section 26-19-506 is enacted to read:

26-19-506. Dissolution and removal of TEFRA lien.

(1) A TEFRA lien shall dissolve and be removed by the department if the individual described in Subsection 26-19-501(1):

(a) (i) is discharged from the care facility; and

(ii) returns to the individual's home; or

(b) provides sufficient documentation to the department that:

(i) rebuts the presumption described in Section 26-19-502; or

(ii) any of the following individuals are lawfully residing in the individual's home:

(A) the spouse of the individual;

(B) a child of the individual, if the child is under 21 years of age or blind or permanently and totally disabled, as defined in Title 42 U.S.C. Sec. 1382c(a)(3)(F); or

(C) a sibling of the individual, if the sibling has an equity interest in the home and resided in the home for at least one year immediately preceding the day on which the individual was admitted to the care facility.

(2) An individual described in Subsection 26-19-501(1)(a) may, at any time after the department has imposed a lien under this part, file a request for the department to remove the lien.

(3) A request filed under Subsection (2) shall be considered and reviewed pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

Section 22. Section 26-19-507 is enacted to read:

26-19-507. Expenditures included in lien -- Other proceedings.

(1) A TEFRA lien imposed on real property under this part includes all expenses relating to medical

assistance provided or paid for under the state plan from the first day that the individual is placed in a care facility, regardless of when the lien is imposed or filed on the property.

(2) Nothing in this part affects or prevents the department from bringing or pursuing any other legally authorized action to recover medical assistance or to set aside a fraudulent or improper conveyance.

Section 23. Section 26-19-508 is enacted to read:

26-19-508. Contract with another government agency.

If the department contracts with another government agency to recover funds paid for medical assistance under this chapter, that government agency shall be the sole agency that determines whether to impose or remove a TEFRA lien under this part.

Section 24. Section 26-19-509 is enacted to read:

26-19-509. Precedence of the Tax Equity and Fiscal Responsibility Act of 1982.

If any provision of this part conflicts with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 for imposing a lien against the property of an individual prior to the individual's death, under 42 U.S.C. Sec. 1396p, the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 take precedence and shall be complied with by the department.

Section 25. Section 26-19-601, which is renumbered from Section 26-19-9.7 is renumbered and amended to read:

Part 6. Miscellaneous Provisions

[26-19-9.7]. 26-19-601. Legal recognition of electronic claims records.

Pursuant to Title 46, Chapter 4, Uniform Electronic Transactions Act:

(1) a claim submitted to the department for payment may not be denied legal effect, enforceability, or admissibility as evidence in any court in any civil action because it is in electronic form; and

(2) a third party shall accept an electronic record of payments by the department for medical services on behalf of a recipient as evidence in support of the department's claim.

Section 26. Section 26-19-602, which is renumbered from Section 26-19-19 is renumbered and amended to read:

[26-19-19]. 26-19-602. Direct payment to the department by third party.

(1) Any third party required to make payment to the department pursuant to this chapter shall make the payment directly to the department or its designee.

(2) The department may negotiate a payment or payment instrument it receives in connection with

Subsection (1) without the cosignature or other participation of the recipient or any other party.

Section 27. Section 26-19-603, which is renumbered from Section 26-19-15 is renumbered and amended to read:

[26-19-15]. 26-19-603. Attorney general or county attorney to represent department.

The attorney general or a county attorney shall represent the department in any action commenced under this chapter.

Section 28. Section 26-19-604, which is renumbered from Section 26-19-16 is renumbered and amended to read:

[26-19-16]. 26-19-604. Department's right to attorney fees and costs.

In any action brought by the department under this chapter in which it prevails, the department shall recover along with the principal sum and interest, a reasonable ~~attorney's~~ attorney fee and costs incurred.

Section 29. Section 26-19-605, which is renumbered from Section 26-19-17 is renumbered and amended to read:

[26-19-17]. 26-19-605. Application of provisions contrary to federal law prohibited.

In no event shall any provision contained in this chapter be applied contrary to existing federal law.

Section 30. Section 31A-4-107.5 is amended to read:

31A-4-107.5. Penalty for failure of a regulated health insurance entity to fulfill duties related to state claims for Medicaid payment or recovery.

(1) For purposes of this section, "regulated health insurance entity" means a health insurance entity, as defined in Section ~~[26-19-2]~~ 26-19-102, that is subject to regulation by the department.

(2) If a regulated health insurance entity fails to comply with the provisions of Section ~~[26-19-4.7]~~ 26-19-301:

(a) the commissioner may revoke or suspend, in whole or in part, a license, certificate of authority, registration, or other authority that is granted by the commissioner to the regulated health insurance entity; and

(b) the regulated health insurance entity is subject to the penalties and procedures provided for in Section 31A-2-308.

Section 31. Section 31A-22-610 is amended to read:

31A-22-610. Dependent coverage from moment of birth or adoption.

(1) As used in this section:

(a) "Child" means, in connection with any adoption, or placement for adoption of the child, an

individual who is younger than 18 years of age as of the date of the adoption or placement for adoption.

(b) "Placement for adoption" means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child.

(2) (a) Except as provided in Subsection (5), if an accident and health insurance policy provides coverage for any members of the policyholder's or certificate holder's family, the policy shall provide that any health insurance benefits applicable to dependents of the insured are applicable on the same basis to:

(i) a newly born child from the moment of birth; and

(ii) an adopted child:

(A) beginning from the moment of birth, if placement for adoption occurs within 30 days of the child's birth; or

(B) beginning from the date of placement, if placement for adoption occurs 30 days or more after the child's birth.

(b) The coverage described in this Subsection (2):

(i) is not subject to any preexisting conditions; and

(ii) includes any injury or sickness, including the necessary care and treatment of medically diagnosed:

(A) congenital defects;

(B) birth abnormalities; or

(C) prematurity.

(c) (i) Subject to Subsection (2)(c)(ii), a claim for services for a newly born child or an adopted child may be denied until the child is enrolled.

(ii) Notwithstanding Subsection (2)(c)(i), an otherwise eligible claim denied under Subsection (2)(c)(i) is eligible for payment and may be resubmitted or reprocessed once a child is enrolled pursuant to Subsection (2)(d) or (e).

(d) If the payment of a specific premium is required to provide coverage for a child of a policyholder or certificate holder, for there to be coverage for the child, the policyholder or certificate holder shall enroll:

(i) a newly born child within 30 days after the date of birth of the child; or

(ii) an adopted child within 30 days after the day of placement of adoption.

(e) If the payment of a specific premium is not required to provide coverage for a child of a policyholder or certificate holder, for the child to receive coverage the policyholder or certificate holder shall enroll a newly born child or an adopted child no later than 30 days after the first notification of denial of a claim for services for that child.

(3) (a) The coverage required by Subsection (2) as to children placed for the purpose of adoption with a policyholder or certificate holder continues in the same manner as it would with respect to a child of the policyholder or certificate holder unless:

(i) the placement is disrupted prior to legal adoption; and

(ii) the child is removed from placement.

(b) The coverage required by Subsection (2) ends if the child is removed from placement prior to being legally adopted.

(4) The provisions of this section apply to employee welfare benefit plans as defined in Section ~~26-19-2~~ 26-19-102.

(5) If an accident and health insurance policy that is not subject to the special enrollment rights described in 45 C.F.R. Sec. 146.117(b) provides coverage for one individual, the insurer may choose to:

(a) provide coverage according to this section; or

(b) allow application, subject to the insurer's underwriting criteria for:

(i) a newborn;

(ii) an adopted child; or

(iii) a child placed for adoption.

Section 32. Section 31A-22-610.5 is amended to read:

31A-22-610.5. Dependent coverage.

(1) As used in this section, "child" has the same meaning as defined in Section 78B-12-102.

(2) (a) Any individual or group accident and health insurance policy or managed care organization contract that provides coverage for a policyholder's or certificate holder's dependent may not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's 26th birthday and shall, upon application, provide coverage for all unmarried dependents up to age 26.

(b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be included in the premium on the same basis as other dependent coverage.

(c) This section does not prohibit the employer from requiring the employee to pay all or part of the cost of coverage for unmarried dependents.

(d) An individual or group health insurance policy or managed care organization shall continue in force coverage for a dependent through the last day of the month in which the dependent ceases to be a dependent:

(i) if premiums are paid; and

(ii) notwithstanding Sections 31A-22-618.6 and 31A-22-618.7.

(3) (a) When a parent is required by a court or administrative order to provide health insurance

coverage for a child, an accident and health insurer may not deny enrollment of a child under the accident and health insurance plan of the child's parent on the grounds the child:

(i) was born out of wedlock and is entitled to coverage under Subsection (4);

(ii) was born out of wedlock and the custodial parent seeks enrollment for the child under the custodial parent's policy;

(iii) is not claimed as a dependent on the parent's federal tax return; or

(iv) does not reside with the parent or in the insurer's service area.

(b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of the accident and health insurance plan contract pertaining to services received outside of an insurer's service area.

(4) When a child has accident and health coverage through an insurer of a noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer shall:

(a) provide information to the custodial parent as necessary for the child to obtain benefits through that coverage, but the insurer or employer, or the agents or employees of either of them, are not civilly or criminally liable for providing information in compliance with this Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

(b) permit the custodial parent or the service provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) make payments on claims submitted in accordance with Subsection (4)(b) directly to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid agency.

(5) When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

(a) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to an enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program; and

(c) (i) when the child is covered by an individual policy, not disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(A) the court or administrative order is no longer in effect; or

(B) the child is or will be enrolled in comparable accident and health coverage through another

insurer which will take effect not later than the effective date of disenrollment; or

(ii) when the child is covered by a group policy, not disenroll or eliminate coverage of the child unless the employer is provided with satisfactory written evidence, which evidence is also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

(6) An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for accident and health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

(7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level in effect on May 1, 1993.

(8) When a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this state, the employer shall:

(a) permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program;

(c) not disenroll or eliminate coverage of the child unless the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect;

(ii) the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) the employer has eliminated family health coverage for all of its employees; and

(d) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer.

(9) An order issued under Section 62A-11-326.1 may be considered a "qualified medical support order" for the purpose of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

(10) This section does not affect any insurer's ability to require as a precondition of any child being covered under any policy of insurance that:

(a) the parent continues to be eligible for coverage;

(b) the child shall be identified to the insurer with adequate information to comply with this section; and

(c) the premium shall be paid when due.

(11) This section applies to employee welfare benefit plans as defined in Section ~~26-19-2~~ 26-19-102.

(12) (a) A policy that provides coverage to a child of a group member may not deny eligibility for coverage to a child solely because:

(i) the child does not reside with the insured; or

(ii) the child is solely dependent on a former spouse of the insured rather than on the insured.

(b) A child who does not reside with the insured may be excluded on the same basis as a child who resides with the insured.

Section 33. Section 34A-2-417 is amended to read:

34A-2-417. Claims and benefits -- Time limits for filing -- Burden of proof.

(1) (a) Except with respect to prosthetic devices or in a permanent total disability case, an employee is entitled to be compensated for a medical expense if:

(i) the medical expense is:

(A) reasonable in amount; and

(B) necessary to treat the industrial accident; and

(ii) the employee submits or makes a reasonable attempt to submit the medical expense:

(A) to the employee's employer or insurance carrier for payment; and

(B) within one year from the later of:

(I) the day on which the medical expense is incurred; or

(II) the day on which the employee knows or in the exercise of reasonable diligence should have known that the medical expense is related to the industrial accident.

(b) For an industrial accident that occurs on or after July 1, 1988, and is the basis of a claim for a medical expense, an employee is entitled to be compensated for the medical expense if the employee meets the requirements of Subsection (1)(a).

(2) (a) A claim described in Subsection (2)(b) is barred, unless the employee:

(i) files an application for hearing with the Division of Adjudication no later than six years from the date of the accident; and

(ii) by no later than 12 years from the date of the accident, is able to meet the employee's burden of proving that the employee is due the compensation claimed under this chapter.

(b) Subsection (2)(a) applies to a claim for compensation for:

(i) temporary total disability benefits;

- (ii) temporary partial disability benefits;
- (iii) permanent partial disability benefits; or
- (iv) permanent total disability benefits.

(c) The commission may enter an order awarding or denying an employee's claim for compensation under this chapter within a reasonable time period beyond 12 years from the date of the accident, if:

(i) the employee complies with Subsection (2)(a); and

(ii) 12 years from the date of the accident:

(A) (I) the employee is fully cooperating in a commission approved reemployment plan; and

(II) the results of that commission approved reemployment plan are not known; or

(B) the employee is actively adjudicating issues of compensability before the commission.

(3) A claim for death benefits is barred unless an application for hearing is filed within one year of the date of death of the employee.

(4) (a) (i) Subject to Subsections (2)(c) and (4)(b), after an employee files an application for hearing within six years from the date of the accident, the Division of Adjudication may enter an order to show cause why the employee's claim should not be dismissed because the employee has failed to meet the employee's burden of proof to establish an entitlement to compensation claimed in the application for hearing.

(ii) The order described in Subsection (4)(a)(i) may be entered on the motion of the:

(A) Division of Adjudication;

(B) employee's employer; or

(C) employer's insurance carrier.

(b) Under Subsection (4)(a), the Division of Adjudication may dismiss a claim:

(i) without prejudice; or

(ii) with prejudice only if:

(A) the Division of Adjudication adjudicates the merits of the employee's entitlement to the compensation claimed in the application for hearing; or

(B) the employee fails to comply with Subsection (2)(a)(ii).

(c) If a claim is dismissed without prejudice under Subsection (4)(b), the employee is subject to the time limits under Subsection (2)(a) to claim compensation under this chapter.

(5) A claim for compensation under this chapter is subject to a claim or lien for recovery under Section ~~[26-19-5]~~ 26-19-401.

Section 34. Section 34A-2-422 is amended to read:

34A-2-422. Compensation exempt from execution -- Transfer of payment rights.

(1) For purposes of this section:

(a) "Payment rights under workers' compensation" means the right to receive compensation under this chapter or Chapter 3, Utah Occupational Disease Act, including the payment of a workers' compensation claim, award, benefit, or settlement.

(b) (i) Subject to Subsection (1)(b)(ii), "transfer" means:

(A) a sale;

(B) an assignment;

(C) a pledge;

(D) an hypothecation; or

(E) other form of encumbrance or alienation for consideration.

(ii) "Transfer" does not include the creation or perfection of a security interest in a right to receive a payment under a blanket security agreement entered into with an insured depository institution, in the absence of any action to:

(A) redirect the payments to:

(I) the insured depository institution; or

(II) an agent or successor in interest to the insured depository institution; or

(B) otherwise enforce a blanket security interest against the payment rights.

(2) Compensation before payment:

(a) is exempt from:

(i) all claims of creditors; and

(ii) attachment or execution; and

(b) shall be paid only to employees or their dependents, except as provided in Sections ~~[26-19-5]~~ 26-19-401 and 34A-2-417.

(3) (a) Subject to Subsection (3)(b), beginning April 30, 2007, a person may not:

(i) transfer payment rights under workers' compensation; or

(ii) accept or take any action to provide for a transfer of payment rights under workers' compensation.

(b) A person may take an action prohibited under Subsection (3)(a) if the commission approves the transfer of payment rights under workers' compensation:

(i) before the transfer of payment rights under workers' compensation takes effect; and

(ii) upon a determination by the commission that:

(A) the person transferring the payment rights under workers' compensation received before

executing an agreement to transfer those payment rights:

(I) adequate notice that the transaction involving the transfer of payment rights under workers' compensation involves the transfer of those payment rights; and

(II) an explanation of the financial consequences of and alternatives to the transfer of payment rights under workers' compensation in sufficient detail that the person transferring the payment rights under workers' compensation made an informed decision to transfer those payment rights; and

(B) the transfer of payment rights under workers' compensation is in the best interest of the person transferring the payment rights under workers' compensation taking into account the welfare and support of that person's dependents.

(c) The approval by the commission of the transfer of a person's payment rights under workers' compensation is a full and final resolution of the person's payment rights under workers' compensation that are transferred:

(i) if the commission approves the transfer of the payment rights under workers' compensation in accordance with Subsection (3)(b); and

(ii) once the person no longer has a right to appeal the decision in accordance with this title.

Section 35. Section 75-3-104.5 is enacted to read:

75-3-104.5. Notice to the state.

(1) Within 30 days after the day on which a petitioner or personal representative files an action under this chapter for a decedent who was at least 55 years old, the petitioner or personal representative shall send a copy of the pleadings, by certified mail, to the Office of Recovery Services created in Section 62A-1-105.

(2) Failure to provide notice as described in Subsection (1) tolls all limitations concerning the state's presentation or enforcement of a lien or claim under Section 26-19-405.

Section 36. Section 75-3-803 is amended to read:

75-3-803. Limitations on presentation of claims.

(1) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision of it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented within the earlier of the following dates:

(a) one year after the decedent's death; or

(b) within the time provided by Subsection 75-3-801(2) for creditors who are given actual notice, and where notice is published, within the

time provided in Subsection 75-3-801(1) for all claims barred by publication.

(2) In all events, claims barred by the nonclaim statute at the decedent's domicile are also barred in this state.

(3) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any of its subdivisions, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(a) a claim based on a contract with the personal representative within three months after performance by the personal representative is due; or

(b) any other claim within the later of three months after it arises, or the time specified in Subsection (1)(a).

(4) Nothing in this section affects or prevents:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which [he] the decedent or the personal representative is protected by liability insurance; [or]

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate~~[-]~~; or

(d) medical assistance recovery under Title 26, Chapter 19, Medical Benefits Recovery Act.

(5) If a personal representative has not been timely appointed in accordance with this chapter, one may be appointed for the limited purposes of Subsection (4)(b) for any claim timely brought against the decedent.

Section 37. Section 75-3-805 is amended to read:

75-3-805. Classification of claims.

(1) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(a) reasonable funeral expenses;

(b) costs and expenses of administration;

(c) debts and taxes with preference under federal law;

(d) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending [him] the decedent, and medical assistance if Section [26-19-13.5] 26-19-405 applies;

(e) debts and taxes with preference under other laws of this state; and

(f) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Section 38. Section 75-7-508 is amended to read:

75-7-508. Notice to creditors.

(1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may publish a notice to creditors:

(i) once a week for three successive weeks in a newspaper of general circulation in the county where the settlor resided at the time of death; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (1)(a) shall:

(i) provide the trustee's name and address; and

(ii) notify creditors:

(A) of the deceased settlor; and

(B) to present their claims within three months after the date of the first publication of the notice or be forever barred from presenting the claim.

(2) A trustee shall give written notice by mail or other delivery to any known creditor of the deceased settlor, notifying the creditor to present [his] the creditor's claim within 90 days from the published notice if given as provided in Subsection (1) or within 60 days from the mailing or other delivery of the notice, whichever is later, or be forever barred. Written notice shall be the notice described in Subsection (1) or a similar notice.

(3) (a) If the deceased settlor received medical assistance, as defined in Section [26-19-2] 26-19-102, at any time after the age of 55, the trustee for an inter vivos revocable trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the Office of Recovery Services, on behalf of the Department of Health, to present any claim under Section [26-19-13.5] 26-19-405 within 60 days from the mailing or other delivery of notice, whichever is later, or be forever barred.

(b) If the trustee does not mail notice to the director of the Office of Recovery Services on behalf of the department in accordance with Subsection (3)(a), the department shall have one year from the death of the settlor to present its claim.

(4) The trustee is not liable to any creditor or to any successor of the deceased settlor for giving or failing to give notice under this section.

(5) The notice to creditors shall be valid against any creditor of the trust and also against any creditor of the estate of the deceased settlor.

Section 39. Section 75-7-511 is amended to read:

75-7-511. Classification of claims.

(1) If the applicable assets of the deceased settlor's estate or trust estate are insufficient to pay all claims in full, the trustee shall make payment in the following order:

(a) reasonable funeral expenses;

(b) costs and expenses of administration;

(c) debts and taxes with preference under federal law;

(d) reasonable and necessary medical and hospital expenses of the last illness of the deceased settlor, including compensation of persons attending [him] the deceased settlor, and medical assistance if Section [26-19-13.5] 26-19-405 applies;

(e) debts and taxes with preference under other laws of this state; and

(f) all other claims.

(2) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

CHAPTER 444**S. B. 242**

Passed March 8, 2018

Approved March 22, 2018

Effective May 8, 2018

CYBERCRIME AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions relating to cybercrime.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to electronic communication harassment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-9-201, as last amended by Laws of Utah 2017, Chapter 462

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 76-9-201 is amended to read:****76-9-201. Electronic communication harassment -- Definitions -- Penalties.**

(1) As used in this section:

(a) "Adult" means a person 18 years of age or older.

(b) "Electronic communication" means any communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at any specific individual.

(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or any other device or medium that can be used to communicate electronically.

(d) "Minor" means a person who is younger than 18 years of age.

(e) "Personal identifying information" means the same as that term is defined in Section 76-6-1102.

(2) A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to intimidate, abuse, threaten, [~~harass, frighten,~~] or disrupt the electronic communications of another, the person:

(a) (i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person;

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device; or

(e) electronically publishes, posts, or otherwise discloses personal identifying information of another person, in a public online site or forum, without that person's permission.

(3) (a) (i) Electronic communication harassment committed against an adult is a class B misdemeanor, except under Subsection (3)(a)(ii).

(ii) A second or subsequent offense under Subsection (3)(a)(i) is a:

(A) class A misdemeanor if all prior violations of this section were committed against adults; and

(B) a third degree felony if any prior violation of this section was committed against a minor.

(b) (i) Electronic communication harassment committed against a minor is a class A misdemeanor, except under Subsection (3)(b)(ii).

(ii) A second or subsequent offense under Subsection (3)(b)(i) is a third degree felony, regardless of whether any prior violation of this section was committed against a minor or an adult.

(4) (a) Except under Subsection (4)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of any of the offenses under this section.

(b) This section does not create any civil cause of action based on electronic communications made for legitimate business purposes.

CHAPTER 445**H. B. 63**

Passed February 16, 2018

Approved March 23, 2018

Effective May 8, 2018

**COSMETOLOGY AND ASSOCIATED
PROFESSIONS AMENDMENTS**Chief Sponsor: Karen Kwan
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies provisions related to cosmetology and associated professions.

Highlighted Provisions:

This bill:

- ▶ allows the Division of Occupational and Professional Licensing to offer required examinations for cosmetology and related professions in languages in addition to English.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-11a-302, as last amended by Laws of Utah 2017, Chapter 342

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-11a-302 is amended to read:**58-11a-302. Qualifications for licensure.**

- (1) Each applicant for licensure as a barber shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) be of good moral character;
 - (d) provide satisfactory documentation of:
 - (i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
 - (ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and
 - (B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(d)(ii)(A); or

- (iii) completion of an approved barber apprenticeship; and

- (e) meet the examination requirement established by rule.

- (2) Each applicant for licensure as a barber instructor shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as a barber;
 - (d) be of good moral character;
 - (e) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;
 - (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 2,000 hours of experience as a barber; and
 - (f) meet the examination requirement established by rule.

- (3) Each applicant for licensure as a barber school shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;

- (a) submit an application in a form prescribed by the division;

- (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

- (c) provide satisfactory documentation that the applicant is currently licensed as a barber;

- (d) be of good moral character;
- (e) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;
 - (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 2,000 hours of experience as a barber; and
 - (f) meet the examination requirement established by rule.

- (3) Each applicant for licensure as a barber school shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;

- (a) submit an application in a form prescribed by the division;

- (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504; and

- (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;

- (b) pay a fee determined by the department under Section 63J-1-504; and

- (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;

- (b) pay a fee determined by the department under Section 63J-1-504; and

- (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;

- (b) pay a fee determined by the department under Section 63J-1-504; and

- (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(d)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(e) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

(iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(e) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

(f) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(d)(iii)(A); and

(e) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(e) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(f) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience in esthetics; and

(f) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(d)(ii)(A); or

(iii) being a state licensed cosmetologist/barber; and

(e) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(d)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(e) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

(f) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21) (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).

(22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53A, Chapter 11, Students in Public Schools; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

(24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

(25) In order to encourage economic development in the state in accordance with Subsection 63G-1-201(4)(e), the department may offer any required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

CHAPTER 446**H. B. 197**

Passed March 7, 2018
 Approved March 23, 2018
 Effective May 8, 2018

CANNABIS CULTIVATION AMENDMENTS

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill deals with the cultivation, processing, and sale of cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Agriculture and Food, by January 1, 2019, to ensure the cultivation and processing of cannabis in the state for academic or medical research purposes;
- ▶ authorizes the Department of Agriculture and Food to:
 - contract with a third party to cultivate or process cannabis; and
 - make rules;
- ▶ establishes a state dispensary for cannabis that has been processed into a medical dosage form;
- ▶ states that an individual who possesses, processes, or grows cannabis does not violate the Controlled Substances Act if the individual is authorized to possess, process, or grow cannabis for academic or medical research purposes; and
- ▶ directs the Department of Financial Institutions to issue cannabis payment processor licenses and enforce cannabis payment processor operating requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-1-401, as last amended by Laws of Utah 2015, Chapter 284
 58-37-3.6, as enacted by Laws of Utah 2017, Chapter 398

ENACTS:

4-41-201, Utah Code Annotated 1953
 4-41-202, Utah Code Annotated 1953
 4-41-203, Utah Code Annotated 1953
 4-41-204, Utah Code Annotated 1953
 4-41-301, Utah Code Annotated 1953
 4-41-302, Utah Code Annotated 1953
 4-41-303, Utah Code Annotated 1953
 4-41-304, Utah Code Annotated 1953
 7-26-101, Utah Code Annotated 1953
 7-26-102, Utah Code Annotated 1953
 7-26-201, Utah Code Annotated 1953
 7-26-202, Utah Code Annotated 1953
 7-26-203, Utah Code Annotated 1953
 7-26-204, Utah Code Annotated 1953
 7-26-301, Utah Code Annotated 1953
 7-26-401, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41-201 is enacted to read:

Part 2. Cannabis Cultivation

4-41-201. Title.

This part is known as “Cannabis Cultivation.”

Section 2. Section 4-41-202 is enacted to read:

4-41-202. Definitions.

As used in this part:

(1) “Cannabis” means any part of a cannabis plant, whether growing or not, with tetrahydrocannabinol content greater than 0.3%.

(2) “Medicinal dosage form” means the same as that term is defined in Section 58-37-3.6.

Section 3. Section 4-41-203 is enacted to read:

4-41-203. Department to cultivate cannabis.

(1) The department shall, by January 1, 2019:

(a) ensure the cultivation of cannabis in the state for academic or medical research purposes; and

(b) ensure that cannabis grown in the state pursuant to Subsection (1)(a) may be processed into a medicinal dosage form.

(2) The department may contract with a private entity to fulfill the duty described in Subsection (1).

(3) In issuing a contract to a private entity as described in Subsection (2), the department shall:

(a) comply with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) provide regular, strict oversight of a private entity awarded a contract to ensure that the private entity complies with the awarded contract, state law, and department rules.

(4) The department shall set a fee, to be paid by a person who is awarded a contract under Subsections (2) and (3), consistent with Section 4-2-103.

Section 4. Section 4-41-204 is enacted to read:

4-41-204. Department to make rules regarding cultivation and processing.

The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) to ensure:

(a) cannabis cultivated in the state pursuant to this chapter is cultivated from state-approved seed sources; and

(b) a private entity contracted to cultivate cannabis has sufficient security protocols; and

(2) governing an entity that puts cannabis into a medicinal dosage form, including standards for health and safety.

Section 5. Section 4-41-301 is enacted to read:

4-41-301. Department to establish a state dispensary.

(1) The department shall by July 1, 2019, establish a state dispensary as described in this section.

(2) The state dispensary shall:

(a) receive cannabis that has been processed into a medicinal dosage form by a private entity with a contract pursuant to Section 4-41-203 from the private entity; and

(b) sell the cannabis that has been processed into a medicinal dosage form at the price set by the department pursuant to Section 4-41-303 to any of the following purchasers:

(i) a qualified academic research institution, as described in Section 4-41-304;

(ii) a qualified medical research institution, as described in Section 4-41-304; or

(iii) a patient with a recommendation to try cannabis from the patient's physician.

(3) In selling cannabis that has been processed into a medicinal dosage form to a patient, as described in Subsection (2)(b)(iii), the state dispensary shall only sell up to the amount of cannabis recommended by the patient's physician.

(4) (a) The department may contract with a private entity to serve as a courier for the state dispensary, delivering purchased cannabis that has been processed into a medicinal dosage form to a purchaser described in Subsection (2).

(b) In issuing the contract described in Subsection (4)(a), the department shall comply with Title 63G, Chapter 6a, Utah Procurement Code, and provide regular oversight of the private entity.

Section 6. Section 4-41-302 is enacted to read:

4-41-302. Labeling.

The department shall, in conjunction with the Division of Occupational and Professional Licensing, establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards for labeling cannabis that has been processed into a medicinal dosage form and is being sold at the state dispensary established in Section 4-41-301.

Section 7. Section 4-41-303 is enacted to read:

4-41-303. Department to set prices.

(1) The department shall set a price schedule for cannabis that has been processed into a medicinal dosage form and sold at the state dispensary.

(2) The price schedule described in Subsection (1) shall take into consideration:

(a) the demand for the product;

(b) the labor required to cultivate and process the product into a medicinal dosage form;

(c) the regulatory burden involved in the creation of the product; and

(d) any other consideration the department considers necessary.

(3) The price set by the department under Subsection (1) shall include:

(a) sales tax, to be remitted by the state dispensary to the State Tax Commission; and

(b) a set fee, to be retained by the department to fund the state dispensary and the courier described in Subsection 4-41-301(3), if any.

Section 8. Section 4-41-304 is enacted to read:

4-41-304. Department to make rules regarding purchasers, communication -- Report.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) to determine whether an entity engaged in academic or medical research qualifies to purchase cannabis pursuant to this chapter; and

(b) on how the state dispensary shall provide information to a patient's physician after a patient purchases cannabis from the state dispensary.

(2) The department shall immediately report to the Legislature, or the Health and Human Services Interim Committee if the Legislature is not in general session, if cannabis is removed from the list of Schedule I drugs under the Controlled Substances Act so that the Legislature may repeal this chapter and any relevant section in state code.

Section 9. Section 7-1-401 is amended to read:

7-1-401. Fees payable to commissioner.

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately proceeding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

(i) on the first \$5,000,000 of these assets, the greater of:

(A) 65 cents per \$1,000; or

(B) \$500;

(ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;

(iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;

(iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;

(v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;

(vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and

(vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

(a) an annual fee of \$500; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

(a) an annual fee of \$200; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713, 7-5-3, [ø] 7-18a-202, or 7-26-201 shall pay:

(a) (i) a filing fee of \$500 if on the day on which the application or request is filed the person:

(A) is a person with authority to transact business as:

(I) a depository institution;

(II) a trust company; or

(III) any other person described in Section 7-1-501 as being subject to the jurisdiction of the department; and

(B) has total assets in an amount less than \$5,000,000; or

(ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

(b) all reasonable expenses incurred in processing the application.

(7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55 per hour:

(i) for each examiner; and

(ii) per hour worked.

(b) For an examination of a branch or office of a financial institution located outside of this state, in addition to the per diem assessment under this Subsection (7), the institution shall pay all reasonable travel, lodging, and other expenses incurred by each examiner while conducting the examination.

(8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

(9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

Section 10. Section 7-26-101 is enacted to read:

CHAPTER 26. CANNABIS PAYMENT PROCESSOR

7-26-101. Title.

This chapter is known as “Cannabis Payment Processor.”

Section 11. Section 7-26-102 is enacted to read:

7-26-102. Definitions.

As used in this chapter:

(1) “Cannabis” means the same as that term is defined in Section 4-41-202.

(2) “Cannabis payment processor” means a person that facilitates payment:

(a) without using cash;

(b) electronically; and

(c) between a cannabis producer and an entity engaged in academic or medical research.

(3) “Cannabis producer” means:

(a) a private entity that is contracted with the Department of Agriculture and Food, pursuant to Section 4-41-203, to cultivate cannabis or process it into a medicinal dosage form; and

(b) the Department of Agriculture and Food, if the Department of Agriculture and Food is engaged in the cultivation or processing of cannabis.

Section 12. Section 7-26-201 is enacted to read:

7-26-201. Cannabis payment processor -- License.

(1) A person may not act as a cannabis payment processor without a license issued by the department under this section.

(2) An applicant for a cannabis payment processor license shall:

(a) submit to the department:

(i) the applicant's name, business address, and place of incorporation;

(ii) the name of each owner, officer, director, board member, shareholder, agent, employee, or volunteer of the applicant; and

(iii) a fee in accordance with Section 7-1-401; and

(b) present evidence to the department that:

(i) the applicant is capable of electronically receiving funds from, and distributing funds to:

(A) a cannabis producer; and

(B) an entity engaged in academic or medical research;

(ii) the applicant has a partnership, service agreement, or service contract with a federally insured depository institution that agrees to clear cannabis product transactions; and

(iii) the applicant is, at minimum:

(A) a level one payment card industry data security standard-validated provider;

(B) certified by Europay, MasterCard, and Visa; and

(C) capable of integrating with 50 payment processors.

(3) A license issued under this section is valid for two years.

(4) The department may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) any additional information an applicant for a cannabis payment processor is required to submit to the department; and

(b) procedural requirements for an applicant for a license under this chapter.

(5) An applicant for a cannabis payment processor license under this section may request that the department treat information that the applicant submits to the department as confidential under Section 7-1-802.

Section 13. Section 7-26-202 is enacted to read:

7-26-202. Renewal -- Abandonment.

The department shall renew a person's cannabis payment processor license every two years if, at the time of renewal, the person:

(1) meets the requirements of Section 7-26-201;

(2) demonstrates the criteria described in Subsection 7-26-203(2); and

(3) pays the department a license renewal fee in an amount that is the same as the licensing fee determined by the department in accordance with Section 7-1-401.

Section 14. Section 7-26-203 is enacted to read:

7-26-203. Number of licenses -- Criteria for awarding a license.

(1) The department may issue up to a number of cannabis payment processor licenses determined by the department.

(2) The department shall evaluate an applicant for a cannabis payment processor license to determine to what extent the applicant has demonstrated:

(a) experience with:

(i) establishing and running a business in a related field;

(ii) operating a payment processing system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees;

(b) connections to the local community;

(c) that the applicant will keep the cost of the applicant's products or services low; and

(d) that the applicant will maximize convenience, efficiency, and security for processing cannabinoid product payments.

(3) After an appropriate supervisor reviews an applicant's application under Section 7-26-201 and evaluates the application for the criteria described in Subsection (2), the appropriate supervisor shall submit the department's findings and recommendations to the commissioner.

(4) After reviewing the findings and recommendations described in Subsection (3), the commissioner shall make a final determination that awards or denies a cannabis payment processor license to an applicant.

(5) In making a recommendation of which applicant to award a cannabis payment processor license under Subsection (1), the department shall consult, to the extent that the consultation involves compatibility and coordination of a cannabis payment processor licensee with other state cannabinoid medicine regulation, with:

(a) the executive director of the Department of Commerce or the executive director's designee;

(b) the chair of the State Tax Commission or the chair's designee;

(c) the chief information officer of the Department of Technology Services or the chief information officer's designee;

(d) the executive director of the Department of Health or the executive director's designee;

(e) the commissioner of the Department of Agriculture and Food or the commissioner's designee; and

(f) the commissioner of the Department of Public Safety or the commissioner's designee.

(6) An applicant for which the department denies an application is entitled to judicial review under Section 7-1-714.

Section 15. Section 7-26-204 is enacted to read:

7-26-204. Cash system if no cannabis payment processor available.

(1) The department shall determine if no qualified cannabis payment processor submitted an application for a license under this chapter.

(2) If the department makes the determination described in Subsection (1), the department shall issue a statement that a cannabis payment processor is not available and that an academic or medical research entity may use cash to pay for products and services related to cannabinoid products.

Section 16. Section 7-26-301 is enacted to read:

7-26-301. Operating requirements.

(1) Except as provided in Section 7-26-204, a cannabis payment processor may not accept or disburse cash in a transaction involving cannabis.

(2) A cannabis payment processor may not act as a cannabis payment processor for a person unless the person is:

- (a) a cannabis cultivator; or
- (b) an academic or medical research entity.

Section 17. Section 7-26-401 is enacted to read:

Part 4. Enforcement

7-26-401. Examination -- Administrative action.

(1) The department may examine the records or activities of a cannabis payment processor at any time in order to determine if the cannabis payment processor is complying with this chapter.

(2) If the department determines that a person is acting as a cannabis payment processor without a license issued under this section, the department may:

- (a) order the person to cease and desist from acting as a cannabis payment processor; and
 - (b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) If the department determines that a person with a cannabis payment processor license issued by the department has violated this chapter, the department may:

(a) order the person to cease and desist from the violation;

(b) assess the person a fine in an amount determined by the department by rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(c) revoke the person's license.

Section 18. Section 58-37-3.6 is amended to read:

58-37-3.6. Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

- (i) contains an extract or concentrate that is obtained from cannabis;
- (ii) is prepared in a medicinal dosage form; and
- (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Expanded cannabinoid product" means a product intended for human ingestion that:

- (i) contains an extract or concentrate that is obtained from cannabis;
- (ii) is prepared in a medicinal dosage form; and
- (iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) "Medicinal dosage form" means:

- (i) a tablet;
- (ii) a capsule;
- (iii) a concentrated oil;
- (iv) a liquid suspension;
- (v) a transdermal preparation; or
- (vi) a sublingual preparation.

(f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter, an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act.

(3) Notwithstanding any other provision of this chapter, an individual who grows, processes, or possesses cannabis is not subject to the penalties described in this title for the growth, processing, or possession of marijuana to the extent that the individual is authorized to grow, process, or possess

the cannabis under Section 4-41-203 and is in compliance with any rules made pursuant to Section 4-41-204.

CHAPTER 447**H. B. 240**

Passed March 2, 2018

Approved March 23, 2018

Effective May 8, 2018

UTAH STATE FAIR BOARD AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill addresses the membership of the Utah State Fair Corporation board of directors.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the membership of the board of directors of the Utah State Fair Corporation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63H-6-104, as last amended by Laws of Utah 2017, Chapter 256

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-6-104 is amended to read:**63H-6-104. Board of directors -- Membership -- Term -- Quorum -- Vacancies -- Duties.**

(1) The corporation is governed by a board of directors.

(2) The board is composed of members as follows:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee;

(c) two members, appointed by the president of the Senate^[,];

(i) who have business related experience [~~and are not legislators~~]; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(d) two members, appointed by the speaker of the House^[,];

(i) who have business related experience [~~and are not legislators~~]; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(e) five members, of whom only one may be a legislator, in accordance with Subsection (3)(e),

appointed by the governor with the consent of the Senate as follows:

(i) two members who represent agricultural interests;

(ii) two members who have business related experience; and

(iii) one member who is recommended by the Utah Farm Bureau Federation;

(f) one member, appointed by the mayor of Salt Lake City with the consent of the Senate, who is a resident of the neighborhood located adjacent to the state fair park;

(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the corporation; and

(h) a representative of the Days of '47 Rodeo^[, if the Days of '47 Rodeo is party to an executed lease agreement with the corporation].

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.

(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.

(c) (i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the individual who appointed the board member shall appoint a replacement.

(ii) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.

(d) The president of the Senate, the speaker of the House, the governor, or the mayor of Salt Lake City, as appropriate, shall fill any vacancy that occurs on the board for any reason by appointing an individual in accordance with the procedures described in this section for the unexpired term of the vacated member.

(e) No more than a combined total of two legislators may be appointed under Subsections (2)(c), (d), and (e).

(4) The governor shall select the board's chair.

(5) A majority of the members of the board is a quorum for the transaction of business.

(6) The board may elect a vice chair and any other board offices.

(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.

(8) In carrying out the board's duties under this chapter, the board shall cooperate with and, upon request, appear before the State Fair Park Committee.

(9) No later than November 30 of each year, the board shall provide the following to the State Fair Park Committee:

(a) a report on the general state of the financial and business affairs of the corporation;

(b) a report on that year's annual exhibition described in Subsection 63H-6-103(4)(j), including the exhibition's attendance, operations, and revenue;

(c) any appropriation request that the board plans to submit to the Legislature; and

(d) any other report that the State Fair Park Committee requests.

CHAPTER 448**H. B. 404**

Passed March 8, 2018
Approved March 23, 2018
Effective July 1, 2018

**LAND TRUSTS PROTECTION
AND ADVOCACY ACT**

Chief Sponsor: Bradley G. Last
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill creates the Land Trusts Protection and Advocacy Office and amends provisions related to school and institutional trust lands.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Land Trusts Protection and Advocacy Office (advocacy office), with oversight by the state treasurer, to protect the interests of the current and future school and institutional trust lands beneficiaries;
- ▶ creates the Land Trusts Protection and Advocacy Committee to appoint an advocacy office director and oversee the activities of the advocacy office;
- ▶ provides for the appointment of an advocacy office director to carry out the duties of the advocacy office;
- ▶ creates the Land Trusts Protection and Advocacy Account;
- ▶ amends provisions related to school and institutional trust lands, including replacing certain State Board of Education duties with advocacy office duties;
- ▶ amends provisions related to the School LAND Trust Program; and
- ▶ makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 53C-1-103, as last amended by Laws of Utah 2012, Chapter 224
53C-1-203, as last amended by Laws of Utah 2014, Chapter 426
53D-1-101, as enacted by Laws of Utah 2014, Chapter 426
53D-1-102, as last amended by Laws of Utah 2016, Chapter 144
53D-1-202, as enacted by Laws of Utah 2014, Chapter 426
53D-1-304, as last amended by Laws of Utah 2017, Chapter 179
53D-1-401, as last amended by Laws of Utah 2017, Chapter 179
53D-1-402, as last amended by Laws of Utah 2015, Chapter 258
53D-1-403, as last amended by Laws of Utah 2017, Chapter 179

- 53D-1-501, as last amended by Laws of Utah 2017, Chapter 179
53D-1-502, as enacted by Laws of Utah 2014, Chapter 426
53F-2-203, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-404, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-9-201, as renumbered and amended by Laws of Utah 2018, Chapter 2
53G-5-410, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-1202, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-1203, as renumbered and amended by Laws of Utah 2018, Chapter 3
67-4-1, as last amended by Laws of Utah 2017, Chapter 11

ENACTS:

- 53D-2-101, Utah Code Annotated 1953
53D-2-102, Utah Code Annotated 1953
53D-2-201, Utah Code Annotated 1953
53D-2-202, Utah Code Annotated 1953
53D-2-203, Utah Code Annotated 1953
53D-2-204, Utah Code Annotated 1953
53G-7-1205, Utah Code Annotated 1953
53G-7-1206, Utah Code Annotated 1953

REPEALS:

- 53E-3-514, as renumbered and amended by Laws of Utah 2018, Chapter 1

Utah Code Sections Affected by Coordination Clause:

- 53D-1-403, as last amended by Laws of Utah 2017, Chapter 179
53F-2-414, Utah Code Annotated 1953
53G-7-1202, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53C-1-103 is amended to read:**53C-1-103. Definitions.**

As used in this title:

- (1) "Administration" means the School and Institutional Trust Lands Administration.
- (2) "Board" or "board of trustees" means the School and Institutional Trust Lands Board of Trustees.
- (3) "Director" or "director of school and institutional trust lands" means the chief executive officer of the School and Institutional Trust Lands Administration.
- (4) "Mineral" includes oil, gas, and hydrocarbons.
- (5) "Nominating committee" means the committee that nominates candidates for positions and vacancies on the board.
- (6) "Policies" means statements applying to the administration that broadly prescribe a future course of action and guiding principles.
- (7) "Primary beneficiary representative" means the ~~[State Board of Education]~~ the Land Trusts

Protection and Advocacy Office, created in Section 53D-2-201, acting as representative on behalf of the following trusts:

- (a) the trust established for common schools;
- (b) the trust established for schools for the blind; and
- (c) the trust established for schools for the deaf.
- (8) "School and institutional trust lands" or "trust lands" means those properties granted by the United States in the Utah Enabling Act to the state in trust, and other lands transferred to the trust, which must be managed for the benefit of:

- (a) the state's public education system; or
- (b) the institutions of the state which are designated by the Utah Enabling Act as beneficiaries of trust lands.

Section 2. Section 53C-1-203 is amended to read:

53C-1-203. Board of trustees nominating committee -- Composition -- Responsibilities -- Per diem and expenses.

(1) There is established an 11 member board of trustees nominating committee.

(2) (a) ~~The~~ (i) Through July 30, 2018, the State Board of Education shall appoint five members to the nominating committee from different geographical areas of the state.

(ii) Beginning on August 1, 2018, the five members of the Land Trusts Protection and Advocacy Committee, created in Section 53D-2-202, shall serve on the nominating committee.

(b) The governor shall appoint five members to the nominating committee on or before the December 1 of the year preceding the vacancy on the nominating committee as follows:

(i) (A) through July 30, 2018, one individual from a nomination list of at least two names of individuals knowledgeable about institutional trust lands submitted on or before the October 1 of the year preceding the vacancy on the nominating committee by the University of Utah and Utah State University on an alternating basis every four years; and

(B) beginning on August 1, 2018, one individual who is knowledgeable about real estate development;

(ii) one individual from a nomination list of at least two names submitted by the Utah Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool Growers' Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iii) one individual from a nomination list of at least two names submitted by the Utah Petroleum Association on or before the October 1 of the year

preceding the vacancy on the nominating committee;

(iv) one individual from a nomination list of at least two names submitted by the Utah Mining Association on or before the October 1 of the year preceding the vacancy on the nominating committee; and

(v) one individual from a nomination list of at least two names submitted by the executive director of the Department of Natural Resources after consultation with statewide wildlife and conservation organizations on or before the October 1 of the year preceding the vacancy on the nominating committee.

(c) The president of the Utah Association of Counties shall designate the chair of the Public Lands Steering Committee, who must be an elected county commissioner or councilor, to serve as the eleventh member of the nominating committee.

(3) (a) Except as required by [Subsection] Subsections (3)(b) and (d), each member shall serve a four-year term.

~~(b) [Notwithstanding the requirements of Subsection (3)(a), the state board and the]~~ The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) The term of a member of the nominating committee who is appointed under Subsection (2)(a)(i) or (2)(b)(i)(A) shall end on July 30, 2018.

(4) The nominating committee shall select a chair and vice chair from its membership by majority vote.

(5) (a) The nominating committee shall nominate at least two candidates for each position or vacancy which occurs on the board of trustees except for the governor's appointee under Subsection 53C-1-202(5).

(b) The nominations shall be by majority vote of the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The [School Children's Trust Section, established in Section 53A-16-101.6] Land Trusts Protection and Advocacy Office, created in Section 53D-2-201, shall provide staff support to the nominating committee.

Section 3. Section 53D-1-101 is amended to read:

TITLE 53D. SCHOOL AND INSTITUTIONAL TRUST FUND MANAGEMENT AND LAND TRUSTS PROTECTION AND ADVOCACY OFFICE

53D-1-101. Title.

(1) This title is known as ~~“School and Institutional Trust Fund.”~~ “School and Institutional Trust Fund Management and Land Trusts Protection and Advocacy Office.”

(2) This chapter is known as the “School and Institutional Trust Fund Management Act.”

Section 4. Section 53D-1-102 is amended to read:

53D-1-102. Definitions.

As used in this chapter:

(1) “Account” means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.

(2) “Advocacy office director” means the director of the Land Trusts Protection and Advocacy Office, appointed under ~~Section 53D-2-203.~~

~~(2)~~ (3) “Beneficiaries”:

(a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and

(b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.

~~(3)~~ (4) “Board” means the board of trustees established in Section 53D-1-301.

~~(4)~~ (5) “Director” means the director of the office.

~~(5)~~ (6) “Enabling act” means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.

~~(6)~~ (7) “Nominating committee” means the committee established under Section 53D-1-501.

~~(7)~~ (8) “Office” means the School and Institutional Trust Fund Office, created in Section 53D-1-201.

~~(8)~~ “School children’s trust section” means the School Children’s Trust Section under the State Board of Education, established in Section 53A-16-101.6.

(9) “Land Trusts Protection and Advocacy Office” or “advocacy office” means the Land Trusts Protection and Advocacy Office created in Section 53D-2-201.

~~(9)~~ (10) “Trust fund” means money derived from:

(a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;

(b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and

(c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Section 5. Section 53D-1-202 is amended to read:

53D-1-202. Access to office records and personnel.

(1) The office shall provide board members and the ~~[director of the school children’s trust section]~~ advocacy office director access to all office records and personnel as necessary for board members and the ~~[director of the school children’s trust section]~~ advocacy office director to fulfill their responsibilities to ensure that the office is in full compliance with applicable law and policies.

(2) If the director requires, board members and the ~~[director of the school children’s trust section]~~ advocacy office director shall maintain confidentiality of information they obtain from office records and personnel.

Section 6. Section 53D-1-304 is amended to read:

53D-1-304. Board meetings.

(1) The board shall hold at least six meetings per year to conduct business.

(2) The board chair or two board members:

(a) may call a board meeting; and

(b) if calling a board meeting, shall provide as much advance notice as is reasonable under the circumstances to all board members, the director, and the ~~[director of the school children’s trust section]~~ advocacy office director.

(3) Any board member may place an item on a board meeting agenda.

(4) The board shall annually adopt a set of parliamentary procedures to govern board meetings.

(5) The board may establish an attendance policy to govern the attendance of board members at board meetings.

Section 7. Section 53D-1-401 is amended to read:

53D-1-401. Appointment of director -- Qualifications -- Nature of employment -- Removal by petition.

(1) The office shall be managed by a director.

(2) If there is a vacancy in the director position, the board shall appoint an individual as director.

(3) The board shall ensure that an individual appointed as director possesses:

(a) outstanding professional qualifications pertinent to the prudent investment of trust fund money; and

(b) expertise in institutional investment management.

(4) The director is an at-will employee who may be removed by the board at any time with or without cause.

(5) (a) The ~~[State Board of Education]~~ advocacy office director may submit a written petition to the board requesting the board to remove the director for cause, explained in the petition.

(b) The board shall hold a hearing on a petition under Subsection (5)(a) within 45 days after receiving the petition.

(c) If, after holding a hearing, the board finds by a preponderance of the evidence that there is cause for removing the director, the board shall remove the director.

Section 8. Section 53D-1-402 is amended to read:

53D-1-402. Director duties and responsibilities.

(1) The director has broad authority to manage the office to fulfill its purposes, consistent with the enabling act, the Utah Constitution, state law, and board policies.

(2) The director shall:

(a) before assuming the duties of director, take an oath that includes the following:

“I solemnly swear to carry out my duties as director of the School and Institutional Trust Fund Office with undivided loyalty to the beneficiaries of the trust fund managed by the office, to the best of my abilities and consistent with the law.”;

(b) carry out the policies of the board;

(c) act with undivided loyalty to those entitled to the benefit of income from the trust fund, consistent with the director’s fiduciary duties and responsibilities;

(d) follow the prudent investor rule, prudently seeking to obtain the optimum return from the investment of trust fund money and assets, balancing short-term and long-term interests under the principle of intergenerational equity;

(e) exercise full discretionary authority to manage, maintain, transfer, or sell assets of the trust fund in the manner that the director determines to be most favorable to beneficiaries;

(f) maintain the integrity of the trust fund and prevent, through prudent management, the misapplication of trust fund money;

(g) adopt rules, as provided in Subsection 53D-1-103(4), that are necessary for the proper exercise of the director’s duties under this chapter and policies established by the board;

(h) faithfully manage the office under policies established by the board;

(i) annually submit to the board:

(i) an office budget; and

(ii) a financial plan for operations of the office;

(j) after board approval of the office budget, submit the budget to the governor and the Legislature;

(k) direct and control budget expenditures;

(l) establish job descriptions and, within budgetary constraints, employ staff necessary to accomplish the purposes of the office;

(m) in accordance with generally accepted principles of fund accounting, establish a system to identify and account for the trust fund assets;

(n) notify the ~~[director of the school children’s trust section]~~ advocacy office director of major items that the director knows may be useful to the ~~[director of the school children’s trust section]~~ advocacy office director in protecting the rights of beneficiaries;

(o) maintain appropriate records of trust fund activities to enable auditors to conduct periodic audits;

(p) respond in writing within a reasonable time to a request by the ~~[director of the school children’s trust section]~~ advocacy office director for information on policies and practices affecting the management of the trust fund; and

(q) respond to a question that the board submits under Subsection 53D-1-303(4)(b) within a reasonable time after receiving the question.

(3) The office may:

(a) sue or be sued; and

(b) contract with other public agencies for personnel management services.

Section 9. Section 53D-1-403 is amended to read:

53D-1-403. Reports.

(1) At least annually, the director shall report in person to the Legislative Management Committee, the governor, and the ~~[State Board of Education]~~ advocacy office, concerning the office’s investments, performance, estimated distributions, and other activities.

(2) The director shall report to the board concerning the work of the director and the investment activities and other activities of the office:

(a) in a public meeting at least six times per year; and

(b) as otherwise requested by the board.

(3) (a) Before November 1 of each year, the director shall:

(i) submit a written report to school community councils, created under Section ~~[53A-1a-108]~~ 53G-7-1202, and charter trust land councils, established under Section ~~[53A-16-101.5]~~ 53G-7-1205, concerning the office’s investments, performance, estimated distributions, and other activities; and

(ii) post the written report described in Subsection (3)(a)(i) on the office’s website.

(b) A report under Subsection (3)(a) shall be prepared in simple language designed to be understood by the general public.

(4) The director shall provide to the board:

(a) monthly written reports on the activities of the office;

(b) quarterly financial reports; and

(c) any other report requested by the board.

(5) The director shall:

(a) invite the [~~director of the school children's trust section~~] advocacy office director to attend any meeting at which the director gives a report under this section; and

(b) provide the [~~director of the school children's trust section~~] advocacy office director:

(i) a copy of any written report prepared under this section; and

(ii) any other report requested by the [~~director of the school children's trust section~~] advocacy office director.

Section 10. Section 53D-1-501 is amended to read:

53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies -- Compensation.

(1) There is established a School and Institutional Trust Fund Nominating Committee.

(2) The nominating committee consists of:

(a) four members, appointed by the [~~State Board of Education~~] state treasurer upon recommendation by the [~~director of the school children's trust section~~] advocacy office director, each of whom is a member of a respected professional investment organization;

(b) the chief investment officer of the University of Utah endowment;

(c) the chief investment officer of the Utah State University endowment; and

(d) the [~~director of the school children's trust section~~] advocacy office director.

(3) An individual appointed as a member of the nominating committee under Subsection (2)(a) shall be appointed based on the individual's expertise in:

(a) investment finance;

(b) institutional asset management;

(c) trust administration; or

(d) the practice of law in the areas of capital markets, securities law, trusts, foundations, endowments, investment finance, institutional asset management, or trust administration.

(4) The term of a member appointed under Subsection (2)(a) is four years.

(5) A nominating committee member shall serve until a successor is appointed and qualified.

(6) (a) If a member appointed under Subsection (2)(a) leaves office, the vacancy shall be filled in the same manner as the initial appointment under Subsection (2)(a).

(b) An individual appointed to fill a vacancy under Subsection (6)(a) serves the remainder of the unexpired term.

(7) A member of the nominating committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 11. Section 53D-1-502 is amended to read:

53D-1-502. Chair and vice chair -- Quorum and voting requirements -- Bylaws -- Staff.

(1) The nominating committee shall select a chair and vice chair from its members.

(2) (a) Four members of the nominating committee constitute a quorum.

(b) An action of the nominating committee requires the affirmative vote of at least four members.

(3) The nominating committee shall establish bylaws to govern the nominating committee.

(4) The [~~school children's trust section~~] advocacy office shall provide staff support to the nominating committee.

Section 12. Section 53D-2-101 is enacted to read:

CHAPTER 2. LAND TRUSTS PROTECTION AND ADVOCACY OFFICE

Part 1. General Provisions

53D-2-101. Title.

This chapter is known as "Land Trusts Protection and Advocacy Office."

Section 13. Section 53D-2-102 is enacted to read:

53D-2-102. Definitions.

As used in this chapter:

(1) "Advocacy committee" means the Land Trusts Protection and Advocacy Committee, created in Section 53D-2-202.

(2) "Advocacy director" means the director of the advocacy office, appointed as described in Section 53D-2-203.

(3) "Advocacy office" means the Land Trusts Protection and Advocacy Office, created in Section 53D-2-201.

(4) “School and institutional trust” or “trust” includes:

(a) school and institutional trust lands, as defined in Section 53C-1-103, and related assets; and

(b) funds and investments of school and institutional trust land revenue, as described in Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(5) “School and Institutional Trust System” means:

(a) the School and Institutional Trust Lands Administration, described in Title 53C, School and Institutional Trust Lands Management Act;

(b) the School and Institutional Trust Fund Office, described in Title 53D, Chapter 1, School and Institutional Trust Fund Management Act;

(c) the Land Trusts Protection and Advocacy Office, described in this chapter; and

(d) the School LAND Trust Program, described in Sections 53F-2-404 and 53G-7-1206.

(6) “Trust beneficiaries” means those for whose benefit the school and institutional trust is managed and preserved, as required by:

(a) the Utah Enabling Act;

(b) the Utah Constitution; and

(c) state law.

Section 14. Section 53D-2-201 is enacted to read:

Part 2. Land Trusts Protection and Advocacy Office

53D-2-201. Land Trusts Protection and Advocacy Office -- State treasurer oversight and rulemaking -- Advocacy office duties.

(1) There is created the Land Trusts Protection and Advocacy Office to represent the beneficiary interests of the school and institutional trust in advocating for:

(a) distribution of trust revenue to current beneficiaries; and

(b) generation of trust revenue for future beneficiaries.

(2) The state treasurer shall:

(a) acting in a fiduciary capacity to trust beneficiaries, oversee and support the advocacy of the advocacy office, including:

(i) determining reporting requirements for the advocacy director and advocacy office; and

(ii) submitting an advocacy office budget to the Legislature; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, make rules to administer the advocacy office, including the duties described in Subsection (2)(a).

(3) The advocacy office shall have an advocacy director, as described in Section 53D-2-203.

(4) In accordance with the Utah Enabling Act, the Utah Constitution, and state law, the advocacy office shall act with undivided loyalty to the trust beneficiaries, advocating against the state using a trust asset to pursue a state goal that is inconsistent with a purpose of the trust associated with that asset.

(5) To protect current and future beneficiary rights and interests as described in Subsection (1), the advocacy office shall advocate for:

(a) productive use of and optimal revenue from school and institutional trust lands by the School and Institutional Trust Lands Administration, as described in Title 53C, School and Institutional Trust Lands Management Act;

(b) prudent and profitable investment of trust funds by the School and Institutional Trust Fund Office, as described in Title 53D, Chapter 1, School and Institutional Trust Fund Management Act;

(c) effective distribution of funds to public schools through the School LAND Trust Program described in Sections 53F-2-404 and 53G-7-1206; and

(d) optimization of revenue to all trust beneficiaries.

(6) To fulfill the advocacy office’s duties to trust beneficiaries, the advocacy office shall:

(a) stay informed on the administration of the trust and trust assets, including:

(i) major School and Institutional Trust Land Administration transactions; and

(ii) the School and Institutional Trust Fund Office investments and investment policy statements;

(b) fulfill advocacy office responsibilities and manage advocacy office activities in a prudent and professional manner;

(c) promote efficient use of trust budgets for trust beneficiaries; and

(d) properly account to trust beneficiaries and the Legislature, as described in Section 53D-2-203.

Section 15. Section 53D-2-202 is enacted to read:

53D-2-202. Land Trusts Protection and Advocacy Committee -- Duties -- Governance.

(1) There is created the Land Trusts Protection and Advocacy Committee to:

(a) oversee the activities of the advocacy director and the advocacy office;

(b) submit advocacy director candidate names to the state treasurer, as described in Section 53D-2-203;

(c) determine the advocacy director’s compensation and annually review the compensation and performance of the advocacy director;

(d) receive quarterly reports from the advocacy director;

(e) review, amend as necessary, and transmit to the state treasurer proposed rules submitted by the advocacy director;

(f) receive the annual report described in Section 53D-2-203 from the advocacy director; and

(g) give policy direction to the advocacy office.

(2) In accordance with Subsection (3), the advocacy committee consists of the following five members:

(a) two individuals appointed by the School and Institutional Trust Lands Board of Trustees;

(b) one individual appointed by the School and Institutional Trust Fund Board of Trustees;

(c) one individual appointed by the state treasurer; and

(d) a State Board of Education staff member who administers the School LAND Trust Program, designated as described in Section 53G-7-1206.

(3) A member of the advocacy committee:

(a) may not be:

(i) the state treasurer or a current employee of the state treasurer;

(ii) a member of the School and Institutional Trust Lands Board of Trustees;

(iii) an employee of the School and Institutional Trust Lands Administration;

(iv) a member of the School and Institutional Trust Fund Board of Trustees; or

(v) an employee of the School and Institutional Trust Fund Office;

(b) shall have significant qualifications related to the purposes and activities of the school and institutional trust, such as:

(i) nonrenewable resource development;

(ii) renewable resource management;

(iii) real estate development; or

(iv) investment management; and

(c) shall have demonstrated a commitment of time and loyalty to the purposes of the trust.

(4) (a) Except as provided in Subsections (4)(b) and (c), an appointed member of the advocacy committee shall:

(i) serve a four-year term; and

(ii) receive notification of an appointment on or before December 1 of the year before the vacancy occurs for which the member is appointed.

(b) At the time of appointment or reappointment, the state treasurer shall adjust the length of the initial terms of the advocacy committee's appointed members to ensure that the terms are staggered so

that approximately half of the advocacy committee is appointed every two years.

(c) If a vacancy occurs during the course of an appointed member's term, the appointing entity shall immediately appoint a replacement for the unexpired term.

(5) Advocacy committee members shall annually elect a chair.

(6) (a) The advocacy committee shall meet at least quarterly, at a time set by the chair.

(b) The chair or any two members of the advocacy committee may call an additional meeting.

(7) (a) A quorum for the transaction of business is four members of the advocacy committee.

(b) Action by a majority of a quorum present constitutes the action of the advocacy committee.

(8) An advocacy committee member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The state treasurer's office shall provide staff support to the advocacy committee.

Section 16. Section 53D-2-203 is enacted to read:

53D-2-203. Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1) (a) The advocacy committee shall:

(i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);

(ii) determine the two most qualified candidates; and

(iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

(i) business;

(ii) finance;

(iii) economics;

(iv) natural resources; or

(v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2) (a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

(a) removal of the advocacy director is scheduled on the agenda for the meeting; and

(b) a majority of a committee quorum votes to remove the advocacy director.

(4) In accordance with state and federal law, the advocacy director may attend a presentation, discussion, meeting, or other gathering related to the school and institutional trust.

(5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the advocacy director shall:

(a) maintain a direct relationship with each individual who is key to fulfilling the state's trustee obligations and duties related to the trust;

(b) facilitate open communication among key individuals described in Subsection (5)(a);

(c) actively seek necessary and accurate information;

(d) review and, if necessary, recommend the state auditor audit, activities involved in:

(i) generating trust revenue;

(ii) protecting trust assets; or

(iii) distributing funds for the exclusive use of trust beneficiaries;

(e) promote accurate record keeping of all records relevant to the trust and distribution to trust beneficiaries;

(f) report at least quarterly to the advocacy committee and the state treasurer on the current activities of the advocacy office;

(g) annually submit a proposed advocacy office budget to the state treasurer;

(h) regarding the trust's compliance with law, and among the School and Institutional Trust Lands System as a whole, report annually to:

(i) the advocacy committee;

(ii) the state treasurer;

(iii) the State Board of Education; and

(iv) the Executive Appropriations Committee;

(i) annually send a financial report regarding the relevant individual trust, and, upon request, report in person to:

(i) Utah State University, on behalf of the agricultural college trust;

(ii) the University of Utah;

(iii) the Utah State Hospital, on behalf of the mental hospital trust;

(iv) the Utah Schools for the Deaf and the Blind, on behalf of the institution for the blind trust and the deaf and dumb asylum trust;

(v) the youth in custody program at the State Board of Education, on behalf of the reform school trust;

(vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the reservoir trust;

(vii) the College of Mines and Earth Sciences created in Section 53B-17-401;

(viii) each state teachers' college, based on the college's annual number of teacher graduates, on behalf of the normal school trust;

(ix) the Miners' Hospital described in Section 53B-17-201; and

(x) the State Capitol Preservation Board, created in Section 63C-9-201, on behalf of the public buildings trust;

(j) as requested by the state treasurer, draft proposed rules and submit the proposed rules to the advocacy committee for review;

(k) in accordance with state and federal law, respond to external requests for information about the School and Institutional Trust Lands System;

(l) in accordance with state and federal law, speak on behalf of trust beneficiaries:

(i) at School and Institutional Trust Lands Administration meetings;

(ii) at School and Institutional Trust Fund Office meetings; and

(iii) with the media;

(m) review proposed legislation that affects the school and institutional trust and trust beneficiaries and advocate for legislative change that best serves the interests of the trust beneficiaries; and

(n) educate the public regarding the School and Institutional Trust Lands System.

(6) With regard to reviewing the activities described in Subsection (5)(d), the advocacy director may have access to the financial reports and other data required for a review.

Section 17. Section 53D-2-204 is enacted to read:

53D-2-204. Land Trusts Protection and Advocacy Account -- Funding of advocacy office operations.

(1) As used in this section:

(a) "Account" means the Land Trusts Protection and Advocacy Account created in this section.

(b) “School and Institutional Trust Fund Office director” or “SITFO director” means the director of the School and Institutional Trust Fund Office, appointed under Section 53D-1-401.

(c) “Trust fund” means the same as that term is defined in Section 53D-1-102.

(2) There is created an enterprise fund known as the Land Trusts Protection and Advocacy Account.

(3) The account is funded by money deposited into the account as provided in Subsection (4).

(4) (a) During a fiscal year, the SITFO director shall deposit into the account a total amount of money, taken proportionately from trust fund assets according to the value of the various funds established for the trust beneficiaries, that is equal to the annual appropriation that the Legislature makes to the advocacy office.

(b) The advocacy office may use money in the account to pay for the advocacy office’s operating costs.

(c) If the amount of money deposited into the account under Subsection (4)(a) in any fiscal year exceeds the amount required by the advocacy office during that year to fund advocacy office operations, the SITFO director shall distribute the excess money proportionately to the various funds established for the trust beneficiaries, based on the balances of those funds as of June 30.

Section 18. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of local education board allocation based on insufficient revenues.

(1) As used in this section, “Minimum School Program funds” means the total of state and local funds appropriated for the minimum school program, excluding:

(a) the state-supported voted local levy program pursuant to Section 53F-2-601;

(b) the state-supported board local levy program pursuant to Section 53F-2-602; and

(c) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each local education board, shall allocate the reduction among school districts and charter schools in proportion to each school district’s or charter school’s percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a local education board shall determine which programs

are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A local education board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) USTAR centers provided in Section 53F-2-505;

(e) the School LAND Trust Program [~~created in Section~~] described in Sections 53F-2-404 and 53F-7-1206; or

(f) a special education program within the Basic School Program.

(6) A local education board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A local education board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school’s Annual Financial and Program report.

Section 19. Section 53F-2-404 is amended to read:

53F-2-404. School LAND Trust Program distribution of funds.

~~[(1) As used in this section:]~~

~~[(a) “Charter agreement” means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.]~~

~~[(b) “Charter school authorizer” means the same as that term is defined in Section 53G-5-102.]~~

~~[(c) “Charter trust land council” means a council established by a charter school governing board under this section.]~~

~~[(d) “Council” means a school community council or a charter trust land council.]~~

~~[(e) “District school” means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(f) “School community council” means a council established at a district school in accordance with Section 53G-7-1202.]~~

~~[(2) There is established the School LAND (Learning And Nurturing Development) Trust Program to:]~~

~~[(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school's school improvement plan or a charter school's charter agreement; and]~~

~~[(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.]~~

~~[(3)] (1) (a) The [program] School LAND Trust Program, established in Section 53G-7-1206, shall be funded each fiscal year:~~

~~(i) from the Trust Distribution Account created in Section 53F-9-201; and~~

~~(ii) in the amount of the sum of the following:~~

~~(A) on or about July 15 each year, out of the distributions from the investment of money in the permanent State School Fund deposited to the Trust Distribution Account [on or about July 15 each year]; and~~

~~(B) interest accrued on the Trust Distribution Account in the immediately preceding fiscal year.~~

~~(b) The program shall be funded as provided in Subsection [(3)] (1)(a) up to an amount equal to 3% of the funds provided for the Minimum School Program, pursuant to this chapter, each fiscal year.~~

~~(c) [(4)] The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Trust Distribution Account created in Section 53F-9-201 to be used for [the] administration of the School LAND Trust Program.~~

~~[(A) the administration of the School LAND Trust Program; and]~~

~~[(B) the performance of duties described in Section 53E-3-514.]~~

~~[(iii)] (d) Any unused balance remaining from an amount appropriated under Subsection [(3)(e)(i)] (1)(c) shall be deposited in the Trust Distribution Account for distribution to schools in the School LAND Trust Program.~~

~~[(4)] (2) (a) The State Board of Education shall allocate the money referred to in Subsection [(3)] (1) annually as follows:~~

~~(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:~~

~~(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and~~

~~(B) the total amount available for distribution under Subsection [(3)] (1);~~

~~(ii) charter schools shall receive funding equal to the product of:~~

~~(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and~~

~~(B) the total amount available for distribution under Subsection [(3)] (1); and~~

~~(iii) of the funds available for distribution under Subsection [(3)] (1) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:~~

~~(A) school districts shall receive 10% of the funds on an equal basis; and~~

~~(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.~~

~~(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules specifying a formula to distribute the amount allocated under Subsection [(4)] (2)(a)(ii) to charter schools.~~

~~(ii) In making rules under Subsection [(4)] (2)(b)(i), the State Board of Education shall:~~

~~(A) consult with the State Charter School Board; and~~

~~(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.~~

~~(c) A school district shall distribute its allocation under Subsection [(4)] (2)(a)(iii) to each school within the school district on an equal per student basis.~~

~~(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection [(4)] (2)(a)(iii).~~

~~[(5) To receive its allocation under Subsection (4):]~~

~~[(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;]~~

~~[(b) a charter school shall have established a charter trust land council in accordance with Subsection (9); and]~~

~~[(c) the school's principal provide a signed, written assurance that the school is in compliance with Subsection (5)(a) or (b).]~~

~~[(6) (a) A council shall create a program to use its allocation under Subsection (4) to implement a component of the school's improvement plan or charter agreement, including:]~~

~~[(i) the school's identified most critical academic needs;]~~

~~[(ii) a recommended course of action to meet the identified academic needs;]~~

~~[(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and]~~

~~[(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.]~~

~~[(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.]~~

~~[(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.]~~

~~[(c) A council shall:]~~

~~[(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (6)(b) on the School LAND Trust Program website; and]~~

~~[(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.]~~

~~[(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.]~~

~~[(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:]~~

~~[(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan; and]~~

~~[(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (6)(d)(ii)(A).]~~

~~[(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.]~~

~~[(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:]~~

~~[(i) charter school governing board; and]~~

~~[(ii) charter school's charter school authorizer.]~~

~~[(7) (a) A district school or charter school shall:]~~

~~[(i) implement the program as approved;]~~

~~[(ii) provide ongoing support for the council's program; and]~~

~~[(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.]~~

~~[(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.]~~

~~[(ii) The report shall detail the use of program funds received by the school under this section and~~

~~an assessment of the results obtained from the use of the funds.]~~

~~[(iii) A summary of the report shall be provided to parents or guardians of students attending the school.]~~

~~[(8) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection (4)(e) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (7)(b).]~~

~~[(9) (a) The governing board of a charter school shall establish a council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements listed in Subsection (6).]~~

~~[(b) (i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.]~~

~~[(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.]~~

~~[(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (9)(b)(ii).]~~

~~[(d) (i) Except as provided in Subsection (9)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.]~~

~~[(ii) Subsection (9)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.]~~

~~[(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.]~~

~~[(10) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.]~~

~~[(11) (3) If the amount of money prescribed for funding the School LAND Trust Program under this section is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding the School LAND Trust Program in this section, up to a maximum of an amount equal to 3% of the funds provided for the Minimum School Program.]~~

~~[(12) (4) The State Board of Education shall distribute the money appropriated in Subsection [(11) (3)] in accordance with this section and rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

Section 20. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

(2) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of the average of:

(i) 4% of the average market value of the permanent State School Fund based on an annual review each July of the past 12 consecutive quarters; and

(ii) the prior year's distribution from the Trust Distribution Account as described in Section 53F-2-404, increased by prior year changes in the percentage of student enrollment growth and in the consumer price index.

(3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the average market value of the permanent State School Fund over the past 12 consecutive quarters.

(4) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review distribution of the Trust Distribution Account; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula described in Subsection (2)(b).

(5) (a) Upon appropriation by the Legislature, the director of the School and Institutional Trust Fund Office created in Section 53D-1-201 shall place in the Trust Distribution Account funds for:

(i) the administration of the School LAND Trust Program as ~~[provided in Section]~~ described in Sections 53F-2-404 and 53G-7-1206;

~~[(ii) the performance of duties described in Section 53E-3-514;]~~

~~[(iii)]~~ (ii) the School and Institutional Trust Fund Office; and

~~[(iv)]~~ (iii) the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301.

(b) The Legislature may appropriate any remaining balance for the support of the public education system.

Section 21. Section 53G-5-410 is amended to read:

53G-5-410. Safe technology utilization and digital citizenship.

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section ~~[53F-2-404]~~ 53G-7-1206:

(1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(a) a student to make smart media and online choices; and

(b) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child;

(2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection 53G-7-216(3); and

(3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

Section 22. Section 53G-7-1202 is amended to read:

53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53G-7-1204;

(ii) create the School LAND Trust Program in accordance with Section [53F-2-404] 53G-7-1206;

(iii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and

(v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of

harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3).

(b) To fulfill the school community council's duties described in Subsections (3)(a)(iv) and (v), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by

secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or

guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on ~~[the following statutes governing school community councils:]~~ this part.

~~[(i) Section 53G-7-1202;]~~

~~[(ii) Section 53G-7-1203;]~~

~~[(iii) Section 53G-7-1204; and]~~

~~[(iv) Section 53F-2-404.]~~

Section 23. Section 53G-7-1203 is amended to read:

53G-7-1203. School community councils -- Open and public meeting requirements.

(1) As used in this section:

(a) (i) "Charter trust land council" means a council established by a charter school governing board under Section ~~[53F-2-404]~~ 53G-7-1205.

(ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.

(b) "School community council" means a council established at a school within a school district under Section 53G-7-1202.

(c) "Council" means a school community council or a charter trust land council.

(2) A school community council or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) As required by Section 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

(4) (a) A meeting of a council is open to the public.

(b) A council may not close any portion of a meeting.

(5) A council shall, at least one week prior to a meeting, post the following information on the school's website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

(6) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:

(i) the proposed council meeting schedule for the year;

(ii) a telephone number or email address, or both, where each council member can be reached directly; and

(iii) a summary of the annual report required under Section ~~[53F-2-404]~~ 53G-7-1206 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.

(b) (i) A council shall identify and use methods of providing the information listed in Subsection (6)(a) to a parent or guardian who does not have Internet access.

(ii) Money allocated to a school under the School LAND Trust Program ~~[created in]~~ under Section 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).

(7) (a) The notice requirement of Subsection (5) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a council may not be held unless:

(i) an attempt has been made to notify all the members of the council; and

(ii) a majority of the members of the council approve the meeting.

(8) (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (8)(a) shall be listed under an agenda item on the meeting agenda.

(c) A council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (8)(b); and

(ii) included with the advance public notice required by Subsection (5).

(9) (a) Written minutes shall be kept of a council meeting.

(b) Written minutes of a council meeting shall include:

- (i) the date, time, and place of the meeting;
- (ii) the names of members present and absent;
- (iii) a brief statement of the matters proposed, discussed, or decided;
- (iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the council; and

(B) after being recognized by the chair, provided testimony or comments to the council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (9)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

(10) (a) As used in this Subsection (10), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A council shall:

(i) adopt rules of order and procedure to govern a public meeting of the council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (10)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (10)(b)(i) available to the public:

(A) at each public meeting of the council; and

(B) on the school's website.

Section 24. Section 53G-7-1205 is enacted to read:

53G-7-1205. Charter trust land councils.

(1) To receive School LAND Trust Program funding as described in Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall prepare a plan for the use of School LAND Trust

Program money that includes the elements described in Subsection 53G-7-1206(4).

(2) (a) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(b) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(3) A charter school governing board may serve as the charter trust land council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (2)(b).

(4) (a) Except as provided in Subsection (4)(b), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(b) Subsection (4)(a) does not apply to a charter school governing board that serves as the charter trust land council that prepares a plan for the use of School LAND Trust Program money.

(5) A parent or guardian of a student enrolled at the school shall serve as chair or co-chair of a charter trust land council that prepares a plan for the use of School LAND Trust Program money.

Section 25. Section 53G-7-1206 is enacted to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

(a) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(b) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(c) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(d) "Council" means a school community council or a charter trust land council.

(e) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(f) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program under the State Board of Education to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school's school improvement plan or a charter school's charter agreement; and

(b) involve parents and guardians of a school's students in decision making regarding the

expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's improvement plan or charter agreement, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:

(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan; and

(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(6) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The School LAND Trust Program shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii) (A) a school community council; or

(B) a charter trust land council.

(b) The School LAND Trust Program shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(9) The School LAND Trust Program shall annually review each school's compliance with

applicable law, including rules adopted by the State Board of Education, by:

(a) reading each School LAND Trust Program plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(10) The board shall designate a staff member who administers the School LAND Trust Program:

(a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and

(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

Section 26. Section 67-4-1 is amended to read:

67-4-1. Duties.

(1) The state treasurer shall:

(a) receive and maintain custody of all state funds;

(b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(c) pay warrants drawn by the Division of Finance as they are presented;

(d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;

(e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;

(f) account for all money received and disbursed;

(g) keep separate account of the different funds;

(h) keep safe all bonds, warrants, and securities delivered into his custody;

(i) at the request of either house of the Legislature, or of any legislative committee, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;

(j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;

(k) authenticate and validate documents when necessary;

(l) adopt a seal and file a description and an impression of it with the Division of Archives; ~~and~~

(m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah[-]; and

(n) oversee and support the advocacy of the Land Trusts Protection and Advocacy Office, created in Title 53D, Chapter 2, Land Trusts Protection and Advocacy Office.

(2) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.

(3) The state treasurer may take temporary custody of public funds if ordered by a court to do so under Subsection 67-3-1(11).

Section 27. Repealer.

This bill repeals:

Section 53E-3-514, Creation of School Children's Trust Section -- Duties.

Section 28. Effective date.

This bill takes effect on July 1, 2018.

Section 29. Coordinating H.B. 404 with H.B. 230 -- Technical amendment.

If this H.B. 404 and H.B. 230, Related to Basic School Programs Review, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify the reference in Subsection 53F-2-414(3)(l) from "Section 53F-2-404" to "Sections 53F-2-404 and 53G-7-1206".

Section 30. Coordinating H.B. 404 with S.B. 12 -- Technical amendment.

If this H.B. 404 and S.B. 12, Public Education Recodification -- Cross References and Repeals, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the amendments to Section 53D-1-403 in this bill supersede the amendments to Section 53D-1-403 in S.B. 12 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 31. Coordinating H.B. 404 with S.B. 179 -- Technical amendment.

If this H.B. 404 and S.B. 179, Education Code Modifications, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the amendments to Section 53G-7-1202 in this bill supersede the amendments to Section 53G-7-1202 in S.B. 179 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 449**H. B. 422**

Passed March 8, 2018
 Approved March 23, 2018
 Effective May 8, 2018

**NATURAL GAS
 INFRASTRUCTURE AMENDMENTS**

Chief Sponsor: Michael E. Noel
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill enacts provisions relating to natural gas infrastructure.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to requests for approval of an energy utility's resource decision;
- ▶ includes a project for rural gas infrastructure development as a resource decision that a gas corporation may request approval of from the Public Service Commission;
- ▶ provides requirements related to a request for approval of rural gas infrastructure development; and
- ▶ authorizes the Public Service Commission to spread rural gas infrastructure development costs to the larger customer base and to approve the inclusion of rural gas infrastructure development costs within a gas corporation's base rates under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 54-17-401, as last amended by Laws of Utah 2008, Chapter 382
 54-17-402, as last amended by Laws of Utah 2008, Chapter 382
 54-17-403, as enacted by Laws of Utah 2005, Chapter 11

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-17-401 is amended to read:

54-17-401. Definitions -- Rules.

(1) As used in this part:

(1) (a) "Energy utility" means one of the following with 200,000 retail customers in the state:

(a) (i) an electrical corporation; or

(a) (ii) a gas corporation.

(2) (a) (b) "Resource decision" means a decision, other than a decision to construct or acquire a significant energy resource, involving:

(i) an energy utility's acquisition, management, or operation of energy production, processing,

transmission, or distribution facilities or processes including:

(A) a facility or process for the efficient, reliable, or safe provision of energy to retail customers; or

(B) an energy efficiency and conservation program; or

(C) rural gas infrastructure development; or

(ii) a decision determined by the commission to be appropriate for review under this part.

(c) "Rural gas infrastructure development" means the planning, development, and construction of an extension or expansion of natural gas main lines to serve previously unserved rural areas of the state.

(2) The commission may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify the nature of resource decisions subject to approval under Section 54-17-402.

Section 2. Section 54-17-402 is amended to read:

54-17-402. Request for review of resource decision.

(1) Beginning on February 25, 2005, before implementing a resource decision, an energy utility may request that the commission approve all or part of a resource decision in accordance with this part.

(2) (a) To obtain the approval permitted by Subsection (1), the energy utility shall file a request for approval with the commission.

(b) The request for approval required by this section shall include any information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) A request for approval of natural gas infrastructure development shall include:

(i) a description of the proposed rural gas infrastructure development project;

(ii) an explanation of projected benefits from the proposed rural gas infrastructure development project;

(iii) the estimated costs of the rural gas infrastructure development project; and

(iv) any other information the commission requires.

(3) In ruling on a request for approval of a resource decision, the commission shall determine whether the decision:

(a) is reached in compliance with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) is in the public interest, taking into consideration:

(i) whether it will most likely result in the acquisition, production, and delivery of utility

services at the lowest reasonable cost to the retail customers of an energy utility located in this state;

~~[(iii)]~~ (B) long-term and short-term impacts;

~~[(iii)]~~ (C) risk;

~~[(iv)]~~ (D) reliability;

~~[(v)]~~ (E) financial impacts on the energy utility; and

~~[(vi)]~~ (F) other factors determined by the commission to be relevant[-]; or

(ii) for a request for approval of rural gas infrastructure development:

(A) the potential benefits to previously unserved rural areas;

(B) the potential number of new customers;

(C) natural gas consumption; and

(D) revenues, costs, and other factors determined by the commission to be relevant.

(4) In a decision relating to a request for approval of rural gas infrastructure development, the commission may determine that spreading all or a portion of the costs of the rural gas infrastructure development to the larger customer base is in the public interest.

~~[(4)]~~ (5) (a) If the commission approves a proposed resource decision only in part, the commission shall explain in the order issued under this section why the commission does not approve the resource decision in total.

(b) Recovery of expenses incurred in connection with parts of a resource decision that are not approved is subject to the review of the commission as part of a rate hearing under Section 54-7-12.

~~[(5)]~~ (6) The commission may not approve a resource decision in whole or in part under this section before holding a public hearing.

~~[(6)]~~ (7) Unless the commission determines that additional time to analyze a resource decision is warranted and is in the public interest, within 180 days of the day on which the energy utility files a request for approval, the commission shall:

(a) approve all or part of the resource decision;

(b) approve all or part of the resource decision subject to conditions imposed by the commission; or

(c) disapprove all or part of the resource decision.

~~[(7)]~~ (8) The commission shall include in its order under this section:

(a) findings as to the approved projected costs of a resource decision; and

(b) the basis upon which the findings described in Subsection ~~[(7)]~~ (8)(a) are made.

~~[(8)]~~ (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process

for approval of a resource decision under this section.

Section 3. Section 54-17-403 is amended to read:

54-17-403. Cost recovery.

(1) (a) Except as otherwise provided in this section, if the commission approves any portion of an energy utility's resource decision under Section 54-17-402, the commission shall, in a general rate case or other appropriate commission proceeding, include in the energy utility's retail rates the state's share of costs:

(i) relevant to that proceeding;

(ii) incurred by the energy utility in implementing the approved resource decision; and

(iii) up to the projected costs specified in the commission's order issued under Section 54-17-402.

(b) Except to the extent that the commission issues an order under Section 54-17-404, any increase from the projected costs specified in the commission's order issued under Section 54-17-402 shall be subject to review by the commission as part of a rate hearing under Section 54-7-12.

(c) If the commission approves a request for approval of rural gas infrastructure development under Section 54-17-402, the commission may approve the inclusion of rural gas infrastructure development costs within the gas corporation's base rates if:

(i) the inclusion of those costs will not increase the base distribution non-gas revenue requirement by more than 2% in any three-year period;

(ii) the distribution non-gas revenue requirement increase related to the infrastructure development costs under Subsection (1)(c)(i) does not exceed 5% in the aggregate; and

(iii) the applicable distribution non-gas revenue requirement is the annual revenue requirement determined in the gas corporation's most recent rate case.

(2) (a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i) or (ii), the commission may disallow some or all costs incurred in connection with an approved resource decision if the commission finds that an energy utility's actions in implementing an approved resource decision are not prudent because of new information or changed circumstances that occur after:

(i) the commission approves the resource decision under Section 54-17-402; or

(ii) the commission issues an order to proceed under Section 54-17-404.

(b) In making a determination of prudence under Subsection (2)(a), the commission shall use the standards identified in Section 54-4-4.

(3) Notwithstanding any other provision of this chapter, the commission may disallow some or all of

the costs incurred by an energy utility in connection with an approved resource decision upon a finding by the commission that the energy utility is responsible for a material misrepresentation or concealment in connection with an approval process under this chapter.

CHAPTER 450**S. B. 21**

Passed February 7, 2018

Approved March 23, 2018

Effective July 1, 2018

**PUBLIC SAFETY AND FIREFIGHTER
RETIREMENT DEATH BENEFIT
AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: Carol Spackman Moss**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to retirement death benefits for certain public safety service employees and firefighter service employees.

Highlighted Provisions:

This bill:

- ▶ amends the death benefits payable to a member of Division A or Division B in the Public Safety Contributory Retirement Act;
- ▶ amends the death benefits payable to a member of Division B in the Public Safety Noncontributory Retirement Act;
- ▶ amends the death benefits payable to a member of the Firefighters' Retirement Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-14-501, as last amended by Laws of Utah 2016, Chapter 84
 49-14-502, as last amended by Laws of Utah 2016, Chapter 84
 49-15-502, as last amended by Laws of Utah 2016, Chapter 84
 49-16-501, as last amended by Laws of Utah 2016, Chapter 84

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 49-14-501 is amended to read:****49-14-501. Death of active member in Division A -- Payment of benefits.**

(1) If an active member of this system enrolled in Division A under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) (A) an allowance equal to 30% of the deceased member's final average monthly salary[-]; or

(B) if the member has accrued 20 or more years of public safety service credit, the death benefit payable to a surviving spouse under Section 49-14-504.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of public safety service credit but less than 20 years of public safety service credit at the time of death, the surviving spouse shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(iii) If the member has accrued 20 or more years of public safety service credit:

(A) the member shall be considered to have retired with an allowance calculated under Section 49-14-402; and

(B) the surviving spouse shall receive the death benefit payable to a surviving spouse under Section 49-14-504.

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children of members covered under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 2. Section 49-14-502 is amended to read:**49-14-502. Death of active member in Division B -- Payment of benefits.**

(1) If an active member of this system enrolled in Division B under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) (A) an allowance equal to 37.5% of the member's final average monthly salary[-]; or

(B) if the member has accrued 20 or more years of public safety service credit, the greater of:

(I) an allowance equal to 37.5% of the member's final average monthly salary; or

(II) the death benefit payable to a surviving spouse under Section 49-14-504.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued two or more years of public safety service credit at the time of death, the death is considered a line-of-duty death and the surviving spouse shall receive:

(A) a lump sum of \$1,500; and

(B) an allowance as provided under Subsection (1)(a)(ii).

(ii) If the member has accrued less than two years of public safety service credit at the time of death, the surviving spouse shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

(c) (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive a monthly allowance of \$50.

(ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Sections 49-11-609 and 49-11-610.

(2) If the member dies and there is no surviving spouse, any amounts that would have been the surviving spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.

(3) If a benefit is not distributed under Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined annual payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 3. Section 49-15-502 is amended to read:

49-15-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the surviving spouse shall receive:

(i) a lump sum equal to six months of the active member's final average salary; and

(ii) (A) an allowance equal to 37.5% of the member's final average monthly salary[-]; or

(B) if the member has accrued 20 or more years of public safety service credit, the greater of:

(I) an allowance equal to 37.5% of the member's final average monthly salary; or

(II) the death benefit payable to a surviving spouse under Section 49-15-504.

(b) If the death is not classified by the office as a line-of-duty death, and the member has accrued two or more years of public safety service credit at the time of death, the death is considered line-of-duty and the surviving spouse shall receive:

(i) a lump sum of \$1,500; and

(ii) an allowance as provided under Subsection (1)(a)(ii).

(c) If the death is not classified by the office as a line-of-duty death, and the member has accrued less than two years of public safety service credit at the time of death, the surviving spouse shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

(d) (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive an allowance of \$50.

(ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Section 49-11-609 or 49-11-610.

(2) If the member dies and there is no surviving spouse, any amounts that would have been the surviving spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.

(3) If a benefit is not distributed under Subsection (1) or (2), and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined payments to beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 4. Section 49-16-501 is amended to read:

49-16-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the surviving spouse shall receive a lump sum equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the surviving spouse shall receive the death benefit payable to a surviving spouse under Section 49-16-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of firefighter service credit, the beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of firefighter service credit but less than 20 years of firefighter service credit, the surviving spouse shall receive a sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(iii) If the member has accrued 20 or more years of firefighter service credit:

(A) the member shall be considered to have retired with an allowance calculated under Section 49-16-402; and

(B) the surviving spouse shall receive the death benefit payable to a surviving spouse under Section 49-16-504.

(2) (a) If the member dies without a surviving spouse, the surviving spouse's allowance shall be

equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payment shall be made to a duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If the benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 5. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 451**S. B. 40**

Passed March 8, 2018
 Approved March 23, 2018
 Effective July 1, 2018

**WORKERS' COMPENSATION
 DEPENDENT BENEFIT AMENDMENTS**

Chief Sponsor: Karen Mayne
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies provisions related to workers' compensation disability benefits.

Highlighted Provisions:

This bill:

- ▶ modifies the calculation of benefits paid to one or more dependents of an employee with a disability under the Workers' Compensation Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 34A-2-410, as last amended by Laws of Utah 2015, Chapter 258
 34A-2-411, as last amended by Laws of Utah 1999, Chapter 261
 34A-2-412, as renumbered and amended by Laws of Utah 1997, Chapter 375
 34A-2-413, as last amended by Laws of Utah 2016, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-410 is amended to read:**34A-2-410. Temporary disability -- Amount of payments -- State average weekly wage defined.**

(1) (a) Subject to Subsections (1)(b) and (5), in case of temporary disability, so long as the disability is total, the employee shall receive 66-2/3% of that employee's average weekly wages at the time of the injury but:

(i) not more than a maximum of 100% of the state average weekly wage at the time of the injury per week; and

(ii) (A) subject to Subsections (1)(a)(ii)(B) and (C), not less than a minimum of \$45 per week plus:

(I) [\$5] \$20 for a dependent spouse; and

(II) [\$5] \$20 for each dependent child under the age of 18 years, up to a maximum of four dependent children;

(B) not to exceed the average weekly wage of the employee at the time of the injury; and

(C) not to exceed 100% of the state average weekly wage at the time of the injury per week.

(b) In no case shall the compensation benefits exceed 312 weeks at the rate of 100% of the state average weekly wage at the time of the injury over a period of 12 years from the date of the injury.

(2) If a light duty medical release is obtained before the employee reaches a fixed state of recovery and no light duty employment is available to the employee from the employer, temporary disability benefits shall continue to be paid.

(3) The "state average weekly wage" as referred to in this chapter and Chapter 3, Utah Occupational Disease Act, shall be determined by the commission as follows:

(a) On or before June 1 of each year, the total wages reported on contribution reports to the Unemployment Insurance Division for the preceding calendar year shall be divided by the average monthly number of insured workers determined by dividing the total insured workers reported for the preceding year by 12.

(b) The average annual wage obtained under Subsection (3)(a) shall be divided by 52.

(c) The average weekly wage determined under Subsection (3)(b) is rounded to the nearest dollar.

(4) The state average weekly wage determined under Subsection (3) shall be used as the basis for computing the maximum compensation rate for:

(a) injuries or disabilities arising from occupational disease that occurred during the 12-month period commencing July 1 following the June 1 determination; and

(b) any death resulting from the injuries or disabilities arising from occupational disease.

(5) The commission may reduce or terminate temporary disability compensation in accordance with Section 34A-2-410.5.

Section 2. Section 34A-2-411 is amended to read:**34A-2-411. Temporary partial disability -- Amount of payments.**

(1) If the injury causes temporary partial disability for work, the employee shall receive weekly compensation equal to:

(a) 66-2/3% of the difference between the employee's average weekly wages before the accident and the weekly wages the employee is able to earn after the accident, but not more than 100% of the state average weekly wage at the time of injury; plus

(b) [\$5] \$20 for a dependent spouse and [\$5] \$20 for each dependent child under the age of 18 years, up to a maximum of four such dependent children, but only up to a total weekly compensation that does not exceed 100% of the state average weekly wage at the time of injury.

(2) The commission may order an award for temporary partial disability for work at any time

prior to 12 years after the date of the injury to an employee:

(a) whose physical condition resulting from the injury is not finally healed and fixed 12 years after the date of injury; and

(b) who files an application for hearing under Section 34A-2-417.

(3) The duration of weekly payments may not exceed 312 weeks nor continue more than 12 years after the date of the injury. Payments shall terminate when the disability ends or the injured employee dies.

Section 3. Section 34A-2-412 is amended to read:

34A-2-412. Permanent partial disability -- Scale of payments.

(1) An employee who sustained a permanent impairment as a result of an industrial accident and who files an application for hearing under Section 34A-2-417 may receive a permanent partial disability award from the commission.

(2) Weekly payments may not in any case continue after the disability ends, or the death of the injured person.

(3) (a) In the case of the injuries described in Subsections (4) through (6), the compensation shall be 66-2/3% of that employee's average weekly wages at the time of the injury, but not more than a maximum of 66-2/3% of the state average weekly wage at the time of the injury per week and not less than a minimum of \$45 per week plus [\$5] \$20 for a dependent spouse and [\$5] \$20 for each dependent child under the age of 18 years, up to a maximum of four dependent children, but not to exceed 66-2/3% of the state average weekly wage at the time of the injury per week.

(b) The compensation determined under Subsection (3)(a) shall be:

(i) paid in routine pay periods not to exceed four weeks for the number of weeks provided for in this section; and

(ii) in addition to the compensation provided for temporary total disability and temporary partial disability.

(4) For the loss of: Number of Weeks

(a) Upper extremity

(i) Arm

(A) Arm and shoulder (forequarter amputation).....218

(B) Arm at shoulder joint, or above deltoid insertion.....187

(C) Arm between deltoid insertion and elbow joint, at elbow joint, or below elbow joint proximal to insertion of biceps tendon.....178

(D) Forearm below elbow joint distal to insertion of biceps tendon.....168

(ii) Hand

(A) At wrist or midcarpal or midmetacarpal amputation.....168

(B) All fingers except thumb at metacarpophalangeal joints.....101

(iii) Thumb

(A) At metacarpophalangeal joint or with resection of carpometacarpal bone.....67

(B) At interphalangeal joint.....50

(iv) Index finger

(A) At metacarpophalangeal joint or with resection of metacarpal bone.....42

(B) At proximal interphalangeal joint.....34

(C) At distal interphalangeal joint..... 18

(v) Middle finger

(A) At metacarpophalangeal joint or with resection of metacarpal bone.....34

(B) At proximal interphalangeal joint..... 27

(C) At distal interphalangeal joint..... 15

(vi) Ring finger

(A) At metacarpophalangeal joint or with resection of metacarpal bone17

(B) At proximal interphalangeal joint..... 13

(C) At distal interphalangeal joint..... 8

(vii) Little finger

(A) At metacarpophalangeal joint or with resection of metacarpal bone 8

(B) At proximal interphalangeal joint..... 6

(C) At distal interphalangeal joint..... 4

(b) Lower extremity

(i) Leg

(A) Hemipelvectomy (leg, hip and pelvis)..... 156

(B) Leg at hip joint or three inches or less below tuberosity of ischium.....125

(C) Leg above knee with functional stump, at knee joint or Gritti–Stokes amputation or below knee with short stump (three inches or less below intercondylar notch).....112

(D) Leg below knee with functional stump..... 88

(ii) Foot

(A) Foot at ankle..... 88

(B) Foot partial amputation (Chopart’s)..... 66

(C) Foot midmetatarsal amputation..... 44

(iii) Toes

(A) Great toe

(I) With resection of metatarsal bone..... 26

(II) At metatarsophalangeal joint..... 16

(III) At interphalangeal joint..... 12

(B) Lesser toe (2nd -- 5th)

(I) With resection of metatarsal bone..... 4

(II) At metatarsophalangeal joint..... 3

(III) At proximal interphalangeal joint..... 2

(IV) At distal interphalangeal joint..... 1

(C) All toes at metatarsophalangeal joints..... 26

(iv) Miscellaneous

(A) One eye by enucleation..... 120

(B) Total blindness of one eye..... 100

(C) Total loss of binaural hearing..... 109

(5) Permanent and complete loss of use shall be deemed equivalent to loss of the member. Partial loss or partial loss of use shall be a percentage of the complete loss or loss of use of the member. This Subsection (5) does not apply to the items listed in Subsection (4)(b)(iv).

(6) (a) For any permanent impairment caused by an industrial accident that is not otherwise provided for in the schedule of losses in this section,

permanent partial disability compensation shall be awarded by the commission based on the medical evidence.

(b) Compensation for any impairment described in Subsection (6)(a) shall, as closely as possible, be proportionate to the specific losses in the schedule set forth in this section.

(c) Permanent partial disability compensation may not:

(i) exceed 312 weeks, which shall be considered the period of compensation for permanent total loss of bodily function; and

(ii) be paid for any permanent impairment that existed prior to an industrial accident.

(7) The amounts specified in this section are all subject to the limitations as to the maximum weekly amount payable as specified in this section, and in no event shall more than a maximum of 66-2/3% of the state average weekly wage at the time of the injury for a total of 312 weeks in compensation be required to be paid.

Section 4. Section 34A-2-413 is amended to read:

34A-2-413. Permanent total disability -- Amount of payments -- Rehabilitation.

(1) (a) In the case of a permanent total disability resulting from an industrial accident or occupational disease, the employee shall receive compensation as outlined in this section.

(b) To establish entitlement to permanent total disability compensation, the employee shall prove by a preponderance of evidence that:

(i) the employee sustained a significant impairment or combination of impairments as a result of the industrial accident or occupational disease that gives rise to the permanent total disability entitlement;

(ii) the employee has a permanent, total disability; and

(iii) the industrial accident or occupational disease is the direct cause of the employee’s permanent total disability.

(c) To establish that an employee has a permanent, total disability the employee shall prove by a preponderance of the evidence that:

(i) the employee is not gainfully employed;

(ii) the employee has an impairment or combination of impairments that reasonably limit the employee’s ability to do basic work activities;

(iii) the industrial or occupationally caused impairment or combination of impairments prevent the employee from performing the essential functions of the work activities for which the employee has been qualified until the time of the industrial accident or occupational disease that is the basis for the employee’s permanent total disability claim; and

(iv) the employee cannot perform other work reasonably available, taking into consideration the employee’s:

- (A) age;
- (B) education;
- (C) past work experience;
- (D) medical capacity; and
- (E) residual functional capacity.

(d) Evidence of an employee's entitlement to disability benefits other than those provided under this chapter and Chapter 3, Utah Occupational Disease Act, if relevant:

- (i) may be presented to the commission;
- (ii) is not binding; and

(iii) creates no presumption of an entitlement under this chapter and Chapter 3, Utah Occupational Disease Act.

(e) In determining under Subsections (1)(b) and (c) whether an employee cannot perform other work reasonably available, the following may not be considered:

(i) whether the employee is incarcerated in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) whether the employee is not legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(2) For permanent total disability compensation during the initial 312-week entitlement, compensation is 66-2/3% of the employee's average weekly wage at the time of the injury, limited as follows:

(a) compensation per week may not be more than 85% of the state average weekly wage at the time of the injury;

(b) (i) subject to Subsection (2)(b)(ii), compensation per week may not be less than the sum of \$45 per week and:

(A) [\$5] \$20 for a dependent spouse; and

(B) [\$5] \$20 for each dependent child under the age of 18 years, up to a maximum of four dependent minor children; and

(ii) the amount calculated under Subsection (2)(b)(i) may not exceed:

(A) the maximum established in Subsection (2)(a); or

(B) the average weekly wage of the employee at the time of the injury; and

(c) after the initial 312 weeks, the minimum weekly compensation rate under Subsection (2)(b) is 36% of the current state average weekly wage, rounded to the nearest dollar.

(3) This Subsection (3) applies to claims resulting from an accident or disease arising out of and in the

course of the employee's employment on or before June 30, 1994.

(a) The employer or the employer's insurance carrier is liable for the initial 312 weeks of permanent total disability compensation except as outlined in Section 34A-2-703 as in effect on the date of injury.

(b) The employer or the employer's insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The Employers' Reinsurance Fund shall for an overpayment of compensation described in Subsection (3)(b), reimburse the overpayment:

(i) to the employer or the employer's insurance carrier; and

(ii) out of the Employers' Reinsurance Fund's liability to the employee.

(d) After an employee receives compensation from the employee's employer, the employer's insurance carrier, or the Employers' Reinsurance Fund for any combination of disabilities amounting to 312 weeks of compensation at the applicable permanent total disability compensation rate, the Employers' Reinsurance Fund shall pay all remaining permanent total disability compensation.

(e) Employers' Reinsurance Fund payments shall commence immediately after the employer or the employer's insurance carrier satisfies its liability under this Subsection (3) or Section 34A-2-703.

(4) This Subsection (4) applies to claims resulting from an accident or disease arising out of and in the course of the employee's employment on or after July 1, 1994.

(a) The employer or the employer's insurance carrier is liable for permanent total disability compensation.

(b) The employer or the employer's insurance carrier may not be required to pay compensation for any combination of disabilities of any kind, as provided in this section and Sections 34A-2-410 through 34A-2-412 and Part 5, Industrial Noise, in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate under Subsection (2).

(c) The employer or the employer's insurance carrier may recoup the overpayment of compensation described in Subsection (4) by reasonably offsetting the overpayment against future liability paid before or after the initial 312 weeks.

(5) (a) A finding by the commission of permanent total disability is not final, unless otherwise agreed to by the parties, until:

(i) an administrative law judge reviews a summary of reemployment activities undertaken pursuant to Section 34A-2-413.5;

(ii) the employer or the employer's insurance carrier submits to the administrative law judge:

(A) a reemployment plan as prepared by a qualified rehabilitation provider reasonably designed to return the employee to gainful employment; or

(B) notice that the employer or the employer's insurance carrier will not submit a plan; and

(iii) the administrative law judge, after notice to the parties, holds a hearing, unless otherwise stipulated, to:

(A) consider evidence regarding rehabilitation; and

(B) review any reemployment plan submitted by the employer or the employer's insurance carrier under Subsection (5)(a)(ii).

(b) Before commencing the procedure required by Subsection (5)(a), the administrative law judge shall order:

(i) the initiation of permanent total disability compensation payments to provide for the employee's subsistence; and

(ii) the payment of any undisputed disability or medical benefits due the employee.

(c) Notwithstanding Subsection (5)(a), an order for payment of benefits described in Subsection (5)(b) is considered a final order for purposes of Section 34A-2-212.

(d) The employer or the employer's insurance carrier shall be given credit for any disability payments made under Subsection (5)(b) against its ultimate disability compensation liability under this chapter or Chapter 3, Utah Occupational Disease Act.

(e) An employer or the employer's insurance carrier may not be ordered to submit a reemployment plan. If the employer or the employer's insurance carrier voluntarily submits a plan, the plan is subject to Subsections (5)(e)(i) through (iii).

(i) The plan may include, but not require an employee to pay for:

(A) retraining;

(B) education;

(C) medical and disability compensation benefits;

(D) job placement services; or

(E) incentives calculated to facilitate reemployment.

(ii) The plan shall include payment of reasonable disability compensation to provide for the employee's subsistence during the rehabilitation process.

(iii) The employer or the employer's insurance carrier shall diligently pursue the reemployment plan. The employer's or insurance carrier's failure to diligently pursue the reemployment plan is cause for the administrative law judge on the administrative law judge's own motion to make a final decision of permanent total disability.

(f) If a preponderance of the evidence shows that successful rehabilitation is not possible, the administrative law judge shall order that the employee be paid weekly permanent total disability compensation benefits.

(g) If a preponderance of the evidence shows that pursuant to a reemployment plan, as prepared by a qualified rehabilitation provider and presented under Subsection (5)(e), an employee could immediately or without unreasonable delay return to work but for the following, an administrative law judge shall order that the employee be denied the payment of weekly permanent total disability compensation benefits:

(i) incarceration in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or

(ii) not being legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

(6) (a) The period of benefits commences on the date the employee acquired the permanent, total disability, as determined by a final order of the commission based on the facts and evidence, and ends:

(i) with the death of the employee; or

(ii) when the employee is capable of returning to regular, steady work.

(b) An employer or the employer's insurance carrier may provide or locate for a permanently totally disabled employee reasonable, medically appropriate, part-time work in a job earning at least minimum wage, except that the employee may not be required to accept the work to the extent that it would disqualify the employee from social security disability benefits.

(c) An employee shall:

(i) fully cooperate in the placement and employment process; and

(ii) accept the reasonable, medically appropriate, part-time work.

(d) In a consecutive four-week period when an employee's gross income from the work provided under Subsection (6)(b) exceeds \$500, the employer or insurance carrier may reduce the employee's permanent total disability compensation by 50% of the employee's income in excess of \$500.

(e) If a work opportunity is not provided by the employer or the employer's insurance carrier, an employee with a permanent, total disability may obtain medically appropriate, part-time work subject to the offset provisions of Subsection (6)(d).

(f) (i) The commission shall establish rules regarding the part-time work and offset.

(ii) The adjudication of disputes arising under this Subsection (6) is governed by Part 8, Adjudication.

(g) The employer or the employer's insurance carrier has the burden of proof to show that medically appropriate part-time work is available.

(h) The administrative law judge may:

(i) excuse an employee from participation in any work:

(A) that would require the employee to undertake work exceeding the employee's:

(I) medical capacity; or

(II) residual functional capacity; or

(B) for good cause; or

(ii) allow the employer or the employer's insurance carrier to reduce permanent total disability benefits as provided in Subsection (6)(d) when reasonable, medically appropriate, part-time work is offered, but the employee fails to fully cooperate.

(7) When an employee is rehabilitated or the employee's rehabilitation is possible but the employee has some loss of bodily function, the award shall be for permanent partial disability.

(8) As determined by an administrative law judge, an employee is not entitled to disability compensation, unless the employee fully cooperates with any evaluation or reemployment plan under this chapter or Chapter 3, Utah Occupational Disease Act. The administrative law judge shall dismiss without prejudice the claim for benefits of an employee if the administrative law judge finds that the employee fails to fully cooperate, unless the administrative law judge states specific findings on the record justifying dismissal with prejudice.

(9) (a) The loss or permanent and complete loss of the use of the following constitutes total and permanent disability that is compensated according to this section:

(i) both hands;

(ii) both arms;

(iii) both feet;

(iv) both legs;

(v) both eyes; or

(vi) any combination of two body members described in this Subsection (9)(a).

(b) A finding of permanent total disability pursuant to Subsection (9)(a) is final.

(10) (a) An insurer or self-insured employer may periodically reexamine a permanent total disability claim, except those based on Subsection (9), for which the insurer or self-insured employer had or has payment responsibility to determine whether

the employee continues to have a permanent, total disability.

(b) Reexamination may be conducted no more than once every three years after an award is final, unless good cause is shown by the employer or the employer's insurance carrier to allow more frequent reexaminations.

(c) The reexamination may include:

(i) the review of medical records;

(ii) employee submission to one or more reasonable medical evaluations;

(iii) employee submission to one or more reasonable rehabilitation evaluations and retraining efforts;

(iv) employee disclosure of Federal Income Tax Returns;

(v) employee certification of compliance with Section 34A-2-110; and

(vi) employee completion of one or more sworn affidavits or questionnaires approved by the division.

(d) The insurer or self-insured employer shall pay for the cost of a reexamination with appropriate employee reimbursement pursuant to rule for reasonable travel allowance and per diem as well as reasonable expert witness fees incurred by the employee in supporting the employee's claim for permanent total disability benefits at the time of reexamination.

(e) If an employee fails to fully cooperate in the reasonable reexamination of a permanent total disability finding, an administrative law judge may order the suspension of the employee's permanent total disability benefits until the employee cooperates with the reexamination.

(f) (i) If the reexamination of a permanent total disability finding reveals evidence that reasonably raises the issue of an employee's continued entitlement to permanent total disability compensation benefits, an insurer or self-insured employer may petition the Division of Adjudication for a rehearing on that issue. The insurer or self-insured employer shall include with the petition, documentation supporting the insurer's or self-insured employer's belief that the employee no longer has a permanent, total disability.

(ii) If the petition under Subsection (10)(f)(i) demonstrates good cause, as determined by the Division of Adjudication, an administrative law judge shall adjudicate the issue at a hearing.

(iii) Evidence of an employee's participation in medically appropriate, part-time work may not be the sole basis for termination of an employee's permanent total disability entitlement, but the evidence of the employee's participation in medically appropriate, part-time work under Subsection (6) may be considered in the reexamination or hearing with other evidence relating to the employee's status and condition.

(g) In accordance with Section 34A-1-309, the administrative law judge may award reasonable attorney fees to an attorney retained by an employee to represent the employee's interests with respect to reexamination of the permanent total disability finding, except if the employee does not prevail, the attorney fees shall be set at \$1,000. The attorney fees awarded shall be paid by the employer or the employer's insurance carrier in addition to the permanent total disability compensation benefits due.

(h) During the period of reexamination or adjudication, if the employee fully cooperates, each insurer, self-insured employer, or the Employers' Reinsurance Fund shall continue to pay the permanent total disability compensation benefits due the employee.

(11) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section is given effect without the invalid provision or application.

Section 5. Effective date.

This bill takes effect on July 1, 2018.

CHAPTER 452**S. B. 130**

Passed March 6, 2018

Approved March 23, 2018

Effective May 8, 2018

(Exception clause in Section 48)

CANNABIDIOL PRODUCT ACT

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill enacts and amends provisions related to cannabidiol products.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the Department of Agriculture and Food to make rules regarding cannabidiol;
- ▶ authorizes the cultivation, production, and possession of hemp and the sale and use of cannabidiol products under certain circumstances;
- ▶ directs the Department of Agriculture and Food to issue licenses and enforce operating requirements;
- ▶ grants the Department of Agriculture and Food, the Division of Occupational and Professional Licensing, the Department of Financial Institutions, and the Department of Health rulemaking authority;
- ▶ creates an exemption from sales and use tax for sales of cannabidiol products;
- ▶ imposes a special tax on the sale of cannabidiol products;
- ▶ creates the Cannabinoid Product Restricted Account;
- ▶ amends provisions related to driving with a measurable metabolite of cannabinoid medicine; and
- ▶ prohibits a court from discriminating against a parent in a child custody case based on the parent's legal use of a cannabidiol product.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 4-41-101, as enacted by Laws of Utah 2014, Chapter 25
- 4-41-102, as enacted by Laws of Utah 2014, Chapter 25
- 41-6a-517, as last amended by Laws of Utah 2017, Chapter 446
- 58-37-3.6, as enacted by Laws of Utah 2017, Chapter 398
- 58-37f-203, as last amended by Laws of Utah 2015, Chapters 89 and 326
- 78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

ENACTS:

- 4-41-201, Utah Code Annotated 1953

- 4-41-202, Utah Code Annotated 1953
- 4-41-203, Utah Code Annotated 1953
- 4-41-204, Utah Code Annotated 1953
- 4-43-101, Utah Code Annotated 1953
- 4-43-102, Utah Code Annotated 1953
- 4-43-201, Utah Code Annotated 1953
- 4-43-202, Utah Code Annotated 1953
- 4-43-203, Utah Code Annotated 1953
- 4-43-301, Utah Code Annotated 1953
- 4-43-401, Utah Code Annotated 1953
- 4-43-402, Utah Code Annotated 1953
- 4-43-501, Utah Code Annotated 1953
- 4-43-502, Utah Code Annotated 1953
- 4-43-503, Utah Code Annotated 1953
- 4-43-601, Utah Code Annotated 1953
- 4-43-602, Utah Code Annotated 1953
- 4-43-701, Utah Code Annotated 1953
- 4-43-702, Utah Code Annotated 1953
- 4-43-703, Utah Code Annotated 1953
- 4-43-801, Utah Code Annotated 1953
- 26-62-101, Utah Code Annotated 1953
- 26-62-102, Utah Code Annotated 1953
- 26-62-103, Utah Code Annotated 1953
- 26-62-201, Utah Code Annotated 1953
- 26-62-202, Utah Code Annotated 1953
- 58-67-808, Utah Code Annotated 1953
- 58-68-808, Utah Code Annotated 1953
- 58-88-101, Utah Code Annotated 1953
- 58-88-102, Utah Code Annotated 1953
- 58-88-103, Utah Code Annotated 1953
- 58-88-104, Utah Code Annotated 1953
- 59-12-104.8, Utah Code Annotated 1953
- 59-29-101, Utah Code Annotated 1953
- 59-29-102, Utah Code Annotated 1953
- 59-29-103, Utah Code Annotated 1953
- 59-29-104, Utah Code Annotated 1953
- 59-29-105, Utah Code Annotated 1953
- 59-29-106, Utah Code Annotated 1953
- 59-29-107, Utah Code Annotated 1953
- 59-29-108, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

58-37f-203, as last amended by Laws of Utah 2015, Chapters 89 and 326

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41-101 is amended to read:**CHAPTER 41. HEMP AND CANNABIDIOL ACT****Part 1. Industrial Hemp Research****4-41-101. Title.**

(1) This chapter is known as the "Hemp and Cannabidiol Act."

(2) This part is known as "Industrial Hemp Research [Act]."

Section 2. Section 4-41-102 is amended to read:**4-41-102. Definitions.**

For purposes of this chapter:

(1) "Cannabidiol product" means a chemical compound extracted from a hemp product that:

- (a) is processed into a medicinal dosage form; and
- (b) contains less than 0.3% tetrahydrocannabinol by weight before processing and no more than a 10:1 ratio of cannabidiol to tetrahydrocannabinol after processing.

[4.] (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

[2.] (3) "Industrial hemp certificate" means a certificate issued by the department to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(4) "Medicinal dosage form" means the same as that term is defined in Section 26-62-102.

Section 3. Section 4-41-201 is enacted to read:

Part 2. Cannabidiol Product Act

4-41-201. Title.

This part is known as "Cannabidiol Product Act."

Section 4. Section 4-41-202 is enacted to read:

4-41-202. Cannabidiol sales and use authorized.

(1) The sale or use of a cannabidiol product is prohibited:

- (a) except as provided in this chapter;
- (b) except as provided in Title 26, Chapter 56, Hemp Extract Registration Act; or
- (c) unless the product is approved by the United States Food and Drug Administration.

(2) The department shall keep a list of registered cannabidiol products that the department has determined, pursuant to Section 4-41-203, are safe for human consumption.

(3) A person may sell or use a cannabidiol product that is in the list of registered cannabidiol products described in Subsection (2).

Section 5. Section 4-41-203 is enacted to read:

4-41-203. Standards for registration.

(1) The department shall determine by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards for a registered cannabidiol product, including standards for:

- (a) testing to ensure the product is safe for human consumption;
- (b) accurate labeling; and
- (c) any other issue the department considers necessary.

(2) The department shall set a fee for a registered cannabidiol product, in accordance with Section 4-2-103.

(3) The fee described in Subsection (2) may be paid by a producer, manufacturer, or distributor of a cannabidiol product, but a cannabidiol product may not be registered with the department until the fee is paid.

(4) The department shall set an administrative fine, larger than the fee described in Subsection (2), for a person who sells a cannabidiol product that is not registered by the department.

Section 6. Section 4-41-204 is enacted to read:

4-41-204. Department duties.

(1) The department shall work with the state's federal congressional delegation and relevant federal agencies to seek a federal waiver from the Controlled Substances Act, in whatever form that waiver may take, for a cannabidiol product produced in:

(a) compliance with the rules established pursuant to Subsection 4-41-203(1); or

(b) another state with similarly stringent rules, as determined by the department, to the rules established pursuant to Subsection 4-41-203(1).

(2) The department shall report to the Legislature:

(a) on the rules established pursuant to Subsection 4-41-203(1) by October 31, 2018; and

(b) in the event the department is successful in procuring a federal waiver.

(3) The department may seize and destroy any cannabidiol product offered for sale in this state from a person that is not registered with the department.

(4) The department shall assess the fine described in Subsection 4-41-203(4) against any person who offers an unregistered cannabidiol product for sale in this state.

Section 7. Section 4-43-101 is enacted to read:

CHAPTER 43. CANNABIDIOL PRODUCERS

Part 1. General Provisions

4-43-101. Title.

This chapter is known as "Cannabidiol Producers."

Section 8. Section 4-43-102 is enacted to read:

4-43-102. Definitions.

As used in this chapter:

(1) "Agent" means an employee or independent contractor of an entity.

(2) "Cannabidiol laboratory" means a person that:

(a) conducts a chemical or other analysis of a cannabidiol product; or

(b) possesses a cannabidiol product with the intent to conduct a chemical or other analysis of the cannabidiol product.

(3) “Cannabidiol processor” means a person that:

(a) manufactures a hemp-grade product into a cannabidiol product;

(b) purchases or possesses a hemp-grade product with the intent to manufacture a cannabidiol product; or

(c) sells or intends to sell a cannabidiol product to a cannabidiol-qualified pharmacy.

(4) “Cannabidiol product” means the same as that term is defined in Section 4-41-102.

(5) “Cannabidiol-qualified pharmacy” means a facility that:

(a) sells a cannabidiol product at retail to a patient with a written recommendation from the patient’s physician; and

(b) complies with any rules issued by the Division of Professional Licensing under Section 58-88-104.

(6) “Cannabinoid Product Restricted Account” means the account created in Section 4-43-801.

(7) “Hemp cultivator” means a person licensed by the department to grow hemp.

(8) “Medical dosage form” means the same as that term is defined in Section 26-62-102.

(9) “Physician” means the same as that term is defined in Section 26-62-102.

Section 9. Section 4-43-201 is enacted to read:

Part 2. Cannabidiol Producer License

**4-43-201. Cannabidiol processor --
Cannabidiol laboratory -- License --
Renewal.**

(1) A person may not act as a cannabidiol processor or a cannabidiol laboratory without a cannabidiol producer license issued by the department in accordance with this chapter.

(2) A person may submit an application to the department for a cannabidiol producer license of the class of:

(a) cannabidiol processor; or

(b) cannabidiol laboratory.

(3) An applicant for a license described in Subsection (2) shall submit to the department:

(a) an application in a form determined by the department that includes information required by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) a bond, as required by Section 4-43-203, for each license for which the person applies;

(c) an application fee established by the department, in accordance with Section 63J-1-504, in an amount equal to the amount necessary to cover the department’s cost to implement this chapter; and

(d) an operating plan that complies with minimum operating standards determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that includes a plan for:

(i) security;

(ii) a cannabidiol processor:

(A) cannabidiol extraction; and

(B) processing technique; and

(iii) a cannabidiol laboratory:

(A) testing method; and

(B) testing capability.

(4) The department shall require a separate license and separate license fee for each physical location of a cannabidiol processor and cannabidiol laboratory.

(5) The department may not issue a license to operate a hemp cultivator or a hemp producer to a person:

(a) that holds a license for or has an ownership interest in a cannabidiol-qualified pharmacy in the state; or

(b) that otherwise has an interest in a cannabidiol-qualified pharmacy, as determined by the department.

(6) The department may not issue a license to operate a cannabidiol laboratory to a person:

(a) that holds a license for or has an ownership interest in a cannabidiol-qualified pharmacy, a cannabidiol processor, or a hemp cultivator in the state; or

(b) that otherwise has an interest in a cannabidiol-qualified pharmacy, a cannabidiol processor, or a hemp cultivator as determined by the department.

(7) The department may establish additional application criteria and procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 10. Section 4-43-202 is enacted to read:

4-43-202. Renewal.

Except as provided in Subsection (2), the department shall renew the license of a cannabidiol processor or cannabidiol laboratory licensed under Section 4-43-201 every two years if, at the time of renewal:

(1) the cannabidiol processor or cannabidiol laboratory meets the requirements of Section 4-43-201; and

(2) the cannabidiol processor or cannabidiol laboratory pays the department a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.

Section 11. Section 4-43-203 is enacted to read:

4-43-203. Bond required for license.

(1) A cannabidiol processor or cannabidiol laboratory licensed under Section 4-43-201 shall post a \$100,000 cash bond or surety bond, payable to the department.

(2) A cannabidiol processor or cannabidiol laboratory licensed under Section 4-43-201 shall maintain the bond described in Subsection (1) for as long as the processor or laboratory continues to operate.

(3) The department shall require a bond posted under this section to be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the cannabidiol processor or cannabidiol laboratory's compliance with this chapter.

(4) If a bond described in Subsection (1) is canceled due to a processor's or laboratory's negligence, the department may assess the producer or laboratory a \$300 reinstatement fee.

(5) A processor or laboratory may not withdraw any part of a bond posted under Subsection (1):

(a) during the period when the license is in effect; or

(b) while a license revocation proceeding is pending against the processor or laboratory.

(6) A processor or laboratory forfeits a bond posted under Subsection (1) if the processor's or laboratory's license is revoked.

(7) The department may, without revoking a license, make a claim against a bond posted under Subsection (1) for money the processor or laboratory owes the department under this chapter.

Section 12. Section 4-43-301 is enacted to read:

Part 3. Hemp Producer Agents

4-43-301. Cannabidiol processor and laboratory agents.

(1) A cannabidiol processor or cannabidiol laboratory licensed under Section 4-43-201 shall maintain a current list of each agent of the cannabidiol processor or cannabidiol laboratory.

(2) A cannabidiol processor or cannabidiol laboratory shall submit the list described in Subsection (1) to the department before:

(a) January 1 of each year; and

(b) July 1 of each year.

(3) The department may audit the list described in Subsection (1) at any time, at random, in order to determine that the list is accurate.

(4) A cannabidiol processor or cannabidiol laboratory is guilty of an infraction if the cannabidiol processor or cannabidiol laboratory fails to maintain an accurate list of each agent of the cannabidiol processor or cannabidiol laboratory in accordance with this section.

Section 13. Section 4-43-401 is enacted to read:

Part 4. Cannabidiol Processor or Cannabidiol Laboratory General Operating Requirements

4-43-401. Cannabidiol processor or cannabidiol laboratory -- General operating requirements.

(1) (a) A cannabidiol processor or cannabidiol laboratory shall operate in accordance with the operating plan provided to the department under Section 4-43-201.

(b) A cannabidiol processor or cannabidiol laboratory shall notify the department within 30 days of any change in the cannabidiol processor or cannabidiol laboratory operation plan.

(c) The department shall review a cannabidiol processor's or cannabidiol laboratory's operating plan for compliance with state law and administrative rules.

(d) A cannabidiol processor or cannabidiol laboratory may not operate under an operating plan until the operating plan is reviewed and approved by the department under Subsection (1)(c).

(2) The department shall establish physical facility standards for a cannabidiol processor or cannabidiol laboratory by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 14. Section 4-43-402 is enacted to read:

4-43-402. Cannabidiol processor or cannabidiol laboratory -- Inspection by department.

(1) Subject to Subsection (2), the department shall inspect the records and facility of a cannabidiol processor or cannabidiol laboratory in order to determine if the cannabidiol processor or cannabidiol laboratory complies with the requirements of this chapter.

(2) The department may inspect the records and facility of a cannabidiol processor or cannabidiol laboratory:

(a) as many as four times per year, scheduled or unscheduled; and

(b) if the department has reason to believe that the cannabidiol processor or cannabidiol laboratory has violated the law, at any time, scheduled or unscheduled.

Section 15. Section 4-43-501 is enacted to read:

Part 5. Cannabidiol Processor Operating Requirements

4-43-501. Cannabidiol processor -- Operating requirements.

(1) A cannabidiol processor shall ensure that a cannabidiol product that the cannabidiol processor sells or provides to a cannabidiol-qualified pharmacy complies with the requirements of this part.

(2) A cannabidiol processor shall operate in a facility with a carbon filtration system for air output.

(3) The department shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, physical facility standards for a cannabidiol processor.

Section 16. Section 4-43-502 is enacted to read:

4-43-502. Cannabidiol product.

A cannabidiol processor may only produce a cannabidiol product in a medicinal dosage form.

Section 17. Section 4-43-503 is enacted to read:

4-43-503. Cannabidiol medicine -- Labeling and packaging.

(1) A cannabidiol processor shall ensure that any cannabidiol product that the cannabidiol processor distributes to a cannabidiol-qualified pharmacy has a label or package that:

(a) clearly displays the cannabidiol profile of the product; and

(b) has a unique batch identifier that identifies the unique manufacturing process when the cannabidiol product was manufactured.

(2) In addition to Subsection (1), the department shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, labeling and packaging standards for a cannabidiol product produced by a cannabidiol processor.

Section 18. Section 4-43-601 is enacted to read:

Part 6. Cannabidiol Laboratory Operating Requirements

4-43-601. Hemp and cannabidiol product testing.

(1) A cannabidiol laboratory may not operate unless the cannabidiol laboratory is capable of accurately testing a cannabidiol product as described in this section.

(2) A cannabidiol laboratory shall, before cannabidiol is offered for sale at a cannabidiol-qualified pharmacy, test the cannabidiol as described in this section.

(3) A cannabidiol laboratory shall determine if a cannabidiol product contains, in an amount that is harmful to human health:

(a) mold;

(b) fungus;

(c) pesticides;

(d) other microbial contaminants; or

(e) another harmful substance identified by the department under Subsection (5).

(4) For a cannabidiol product that is manufactured using a process that involves extraction using hydrocarbons, a cannabidiol laboratory shall test the cannabidiol product for residual solvents.

(5) The department shall determine by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the amount of substances described in Subsection (3) and the amount of residual solvents that are safe for human consumption;

(b) additional cannabidiol testing that a cannabidiol laboratory is required to perform; and

(c) minimum standards for a cannabidiol laboratory's testing methods and procedures.

Section 19. Section 4-43-602 is enacted to read:

4-43-602. Reporting -- Inspections.

(1) A cannabidiol laboratory shall report the results of each product test to the department.

(2) A cannabidiol laboratory shall determine if the results of a lab test indicate that a cannabidiol product batch is unsafe for human consumption.

(3) If a cannabidiol laboratory makes a determination described in Subsection (2), the cannabidiol laboratory may not release the batch to a cannabidiol processor or a cannabidiol-qualified pharmacy until the department has an opportunity to respond to the cannabidiol laboratory within a period of time determined by the department.

(4) (a) If the department determines that a cannabidiol product batch is unsafe for human consumption, the department shall destroy the product batch.

(b) If the department determines that a cannabidiol product batch was not cultivated in accordance with this title, the department may seize, embargo, or destroy the cannabidiol product batch.

(5) The department shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the amount of time that a cannabidiol laboratory is required to hold a batch under Subsection (3).

(6) The department may conduct a test to:

(a) determine the accuracy of a cannabidiol laboratory's:

(i) cannabidiol product test results; or

(ii) analytical method; or

(b) validate a cannabidiol laboratory's testing methods.

Section 20. Section 4-43-701 is enacted to read:

Part 7. Enforcement

4-43-701. Enforcement -- Fine -- Citation.

(1) The department may, for a violation of this chapter by a cannabidiol processor or cannabidiol laboratory:

- (a) revoke a license;
- (b) refuse to renew a license;
- (c) assess an administrative penalty; or
- (d) take any other appropriate administrative action.

(2) The department shall deposit an administrative penalty imposed under this section into the Cannabinoid Product Restricted Account established in Section 4-43-801.

(3) (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon inspection or investigation, that:

- (i) the person has violated the provisions of this chapter or a rule made under this chapter; or
- (ii) the person prepared a cannabidiol product batch in a manner, or such that the batch contains a substance, that poses a threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a)(i), the department shall:

- (i) issue the person a citation in writing;
- (ii) attempt to negotiate a stipulated settlement; or
- (iii) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(c) If the department makes the determination about a person described in Subsection (3)(a)(ii), the department may:

- (i) seize, embargo, or destroy a hemp or cannabidiol product batch; and
- (ii) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section:

(a) assess the person a fine in an amount determined by the department in accordance with Section 63J-1-504; or

(b) order the person to cease and desist from the action that creates a violation.

(5) The department may not revoke a license issued pursuant to this chapter via a citation.

(6) If, within 15 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the basis of the department's final order.

(7) The department may, for a person that fails to comply with a citation under this section:

- (a) refuse to issue or renew the person's license; or

(b) suspend, revoke, or place on probation the person's license.

Section 21. Section 4-43-702 is enacted to read:

4-43-702. Report to the Legislature.

The department shall report, each year before November 1, to the Health and Human Services Interim Committee, on the department's administration and enforcement of this chapter.

Section 22. Section 4-43-703 is enacted to read:

4-43-703. Fees -- Deposit into Cannabinoid Product Restricted Account.

The department shall deposit fees the department collects under this chapter into the Cannabinoid Product Restricted Account created in Section 4-43-801.

Section 23. Section 4-43-801 is enacted to read:

Part 8. Restricted Account

4-43-801. Cannabinoid Product Restricted Account -- Creation.

(1) There is created in the General Fund a restricted account known as the "Cannabinoid Product Restricted Account."

(2) The account created in this section is funded from:

(a) money deposited by the State Tax Commission under Title 59, Chapter 29, Cannabidiol Product Tax Act;

(b) money deposited into the account by the Department of Agriculture and Food under Title 4, Chapter 43, Cannabidiol Producers;

(c) appropriations made to the account by the Legislature; and

(d) the interest described in Subsection (3).

(3) Interest earned on the account is deposited into the account.

(4) The money in the account may only be used to fund, upon appropriation:

(a) the cost of state regulation of cannabidiol products under:

(i) Title 4, Chapter 43, Cannabidiol Producers;

(ii) Title 26, Chapter 62, Cannabidiol Product Act;

(iii) Title 59, Chapter 29, Cannabidiol Product Tax Act; and

(b) the cost to the state for investigation and enforcement related to cannabinoid products.

(5) Subject to appropriation and available funds in the restricted account, at the end of fiscal year 2020 and fiscal year 2021, the director of the Division of Finance shall transfer into the General Fund from the Cannabinoid Product Restricted Account an amount equal to the General Fund appropriation in fiscal year 2018 and fiscal year 2019, respectively, to implement the programs described in Subsection (4).

Section 24. Section 26-62-101 is enacted to read:

CHAPTER 62. CANNABIDIOL PRODUCT ACT

Part 1. General Provisions

26-62-101. Title.

This chapter is known as the "Cannabidiol Product Act."

Section 25. Section 26-62-102 is enacted to read:

26-62-102. Definitions.

(1) "Agent" means an employee or independent contractor of an entity.

(2) "Cannabidiol laboratory" means the same as that term is defined in Section 4-43-102.

(3) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

(4) "Cannabidiol-qualified pharmacy" means the same as that term is defined in Section 4-43-102.

(5) "Cannabinoid Product Restricted Account" means the account created in Section 4-43-801.

(6) "Medicinal dosage form" means a qualifying dosage form for a cannabidiol product under Section 26-62-103.

(7) "Physician" means an individual who is licensed to practice:

(a) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

Section 26. Section 26-62-103 is enacted to read:

26-62-103. Medicinal dosage form.

(1) For the purpose of this chapter, any of the following is a qualifying medicinal dosage form for a cannabidiol product:

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a liquid suspension;

(e) a transdermal preparation; and

(f) a sublingual preparation.

(2) A patient may not purchase, use, or possess a cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

(3) A cannabidiol-qualified pharmacy may not purchase, possess, or sell a cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

(4) The department may recommend that the Legislature approve the use of an additional medicinal dosage form.

Section 27. Section 26-62-201 is enacted to read:

Part 2. Miscellaneous

26-62-201. Insurance coverage.

An insurance carrier, third-party administrator, or employer is not required to provide reimbursement for treatment of an individual with a cannabinoid product under this chapter.

Section 28. Section 26-62-202 is enacted to read:

26-62-202. Rules -- Report to the Legislature.

(1) The department shall make rules regarding data to be:

(a) collected by a physician who recommends a cannabinoid product to a patient; and

(b) reported to the department.

(2) The department shall, before November 1 each year, report to the Health and Human Services Interim Committee on the department's administration and enforcement of this chapter.

Section 29. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused or recommended by a physician for use by the accused; or

(c) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the

number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or

unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 30. Section 58-37-3.6 is amended to read:

58-37-3.6. Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

(a) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

~~(a)~~ (b) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

~~(b)~~ (c) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

~~(c)~~ (d) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

~~(d)~~ (e) "Expanded cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

~~(e)~~ (f) "Medicinal dosage form" means:

(i) a tablet;

(ii) a capsule;

(iii) a concentrated oil;

(iv) a liquid suspension;

(v) a transdermal preparation; or

(vi) a sublingual preparation.

~~(f)~~ (g) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter[.];

(a) an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act[.];

(b) an individual who grows, processes, possesses, transports, or distributes cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent that the individual's growth, processing, possession, transportation, or distribution of the cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol Producers; and

(c) a person who processes, possesses, or sells cannabidiol is not subject to the penalties described in this title if:

(i) the person is a cannabidiol-qualified pharmacy; or

(ii) the person is an individual whose physician has recommended use of the cannabidiol and the

individual purchased the cannabidiol from a cannabidiol-qualified pharmacy.

Section 31. Section 58-37f-203 is amended to read:

58-37f-203. Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist in charge of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division:

(i) in accordance with the requirements of this section;

(ii) in accordance with the procedures established by the division; and

(iii) in the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) The pharmacist described in Subsection (2) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division the following information:

(a) the name of the prescribing practitioner;

(b) the date of the prescription;

(c) the date the prescription was filled;

(d) the name of the individual for whom the prescription was written;

(e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;

(f) the name of the controlled substance;

(g) the quantity of the controlled substance prescribed;

(h) the strength of the controlled substance;

(i) the quantity of the controlled substance dispensed;

(j) the dosage quantity and frequency as prescribed;

(k) the name of the drug outlet dispensing the controlled substance; ~~and~~

(l) the name of the pharmacist dispensing the controlled substance~~;~~; and

(m) in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product:

(i) the name of the recommending physician;

(ii) the date of the recommendation;

(iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;

(iv) the name of the individual for whom the recommendation was written; and

(v) any other information the division requires by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including the electronic format in which the information required under this section shall be submitted to the division.

(7) The division shall ensure that the database system records and maintains for reference:

(a) the identification of each individual who requests or receives information from the database;

(b) the information provided to each individual; and

(c) the date and time that the information is requested or provided.

Section 32. Section 58-67-808 is enacted to read:

58-67-808. Recommendation of cannabidiol products.

(1) (a) A physician may recommend the use of a cannabidiol product to a patient.

(b) A physician who recommends a cannabinoid product to a patient shall:

(i) consult the controlled substance database before recommending cannabinoid to a patient to determine if the patient is abusing cannabinoid products;

(ii) report an adverse event experienced by a patient related to the patient's cannabinoid product use to the Department of Health; and

(iii) report other data on cannabinoid products required by Section 26-62-202.

(2) It is not a breach of the applicable standard of care for a physician to recommend treatment with a cannabidiol product to an individual under this section.

(3) A physician who recommends treatment with a cannabidiol product to an individual under this section may not, solely based on that recommendation, be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under this title.

Section 33. Section 58-68-808 is enacted to read:

58-68-808. Recommendation of cannabidiol products.

(1) (a) A physician may recommend the use of a cannabidiol product to a patient.

(b) A physician who recommends a cannabinoid product to a patient shall:

(i) consult the controlled substance database before recommending cannabinoid to a patient to determine if the patient is abusing cannabinoid products;

(ii) report an adverse event experienced by a patient related to the patient's cannabinoid product use to the Department of Health; and

(iii) report other data on cannabinoid products required by Section 26-62-202.

(2) It is not a breach of the applicable standard of care for a physician to recommend treatment with a cannabidiol product to an individual under this section.

(3) A physician who recommends treatment with a cannabidiol product to an individual under this

section may not, solely based on that recommendation, be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under this title.

Section 34. Section 58-88-101 is enacted to read:

CHAPTER 88. CANNABIDIOL-QUALIFIED PHARMACIES

Part 1. General Provisions

58-88-101. Title.

This chapter is known as "Cannabidiol-Qualified Pharmacies."

Section 35. Section 58-88-102 is enacted to read:

58-88-102. Definitions.

As used in this chapter:

(1) "Cannabidiol-qualified pharmacy" means a pharmacy that sells cannabidiol at retail to a patient with a written recommendation from the patient's physician.

(2) "Physician" means an individual who is licensed to practice:

(a) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

Section 36. Section 58-88-103 is enacted to read:

58-88-103. Cannabidiol-qualified pharmacy requirements.

(1) A pharmacy licensed in this state may become a cannabidiol-qualified pharmacy if it:

(a) registers with the division, on a form and in a manner prescribed by the division; and

(b) complies with all rules issued by the division under Section 58-88-104.

(2) A cannabidiol-qualified pharmacy may sell a cannabidiol product to a patient if the patient produces a written recommendation from the patient's physician.

Section 37. Section 58-88-104 is enacted to read:

58-88-104. Division to make rules -- Study.

(1) A pharmacy that seeks to sell cannabidiol at retail shall do so in accordance with rules established by the division.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:

(a) the requirements for a pharmacy to become a cannabidiol-qualified pharmacy, including:

(i) the manner in which a pharmacy registers with the division to become a cannabidiol-qualified pharmacy;

(ii) requirements for the division to accept or reject a pharmacy's registration as a cannabidiol-qualified pharmacy;

(iii) the class of pharmacy that may become a cannabidiol-qualified pharmacy; and

(iv) any other requirements the division considers reasonably necessary to implement its duties under this chapter; and

(b) the manner in which a pharmacy may sell cannabidiol at retail.

(3) The department shall prepare a de-identified set of data based on records described in Section 58-37f-203(m) and make the set of data available to researchers at a higher education institution for the purpose of the use of cannabidiol.

Section 38. Section 59-12-104.8 is enacted to read:

59-12-104.8. Exemption from sales tax for cannabinoid products.

(1) As used in this section:

(a) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

(b) "Cannabidiol-qualified pharmacy" means the same as that term is defined in Section 58-88-102.

(2) In addition to the exemptions described in Section 59-12-104, the sale by a cannabidiol-qualified pharmacy of a cannabidiol product is not subject to the taxes imposed by this chapter.

Section 39. Section 59-29-101 is enacted to read:

CHAPTER 29. CANNABIDIOL PRODUCT TAX ACT

Part 1. General Provisions

59-29-101. Title.

This chapter is known as the "Cannabidiol Product Tax Act."

Section 40. Section 59-29-102 is enacted to read:

59-29-102. Definitions.

As used in this chapter:

(1) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

(2) "Cannabidiol-qualified pharmacy" means the same as that term is defined in Section 58-88-102.

(3) "Cannabinoid Product Restricted Account" means the account created in Section 4-43-801.

Section 41. Section 59-29-103 is enacted to read:

59-29-103. Imposition of tax -- Rate -- Administration.

(1) There is imposed a tax on the retail purchaser of a cannabidiol product at a cannabidiol-qualified pharmacy in the state in an amount equal to 5.77%

of amounts paid or charged for the cannabidiol product.

(2) The commission shall administer, collect, and enforce the tax authorized under this chapter in accordance with the provisions of Chapter 1, General Taxation Policies, and Chapter 12, Sales and Use Tax Act.

Section 42. Section 59-29-104 is enacted to read:

59-29-104. Collection of tax.

A cannabidiol-qualified pharmacy shall:

(1) collect the tax imposed by Section 59-29-103 from a cannabidiol product purchaser; and

(2) file a return with the commission and pay the tax calculated on the return to the commission:

(a) quarterly on or before the last day of the month immediately following the last day of the previous calendar quarter if:

(i) the cannabidiol-qualified pharmacy is required to file a quarterly sales and use tax return with the commission under Section 59-12-107; or

(ii) the cannabidiol-qualified pharmacy is not required to file a sales and use tax return with the commission under Chapter 12, Sales and Use Tax Act; or

(b) monthly on or before the last day of the month immediately following the last day of the previous calendar month if the cannabidiol-qualified pharmacy is required to file a monthly sales and use tax return with the commission under Section 59-12-108.

Section 43. Section 59-29-105 is enacted to read:

59-29-105. Deposit of tax revenue.

The commission shall deposit revenues generated by the tax imposed by this chapter into the Cannabinoid Product Restricted Account created in Section 4-43-801.

Section 44. Section 59-29-106 is enacted to read:

59-29-106. Records.

(1) A cannabidiol-qualified pharmacy shall maintain any record typically considered necessary to determine the amount of tax that the pharmacy is required to remit to the commission under this chapter.

(2) The commission may require a cannabidiol-qualified pharmacy to keep any record the commission reasonably considers necessary to constitute sufficient evidence of the amount of tax the cannabidiol-qualified pharmacy is required to remit to the commission under this chapter:

(a) by notice served upon the cannabidiol-qualified pharmacy; or

(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Upon notice by the commission, a cannabidiol-qualified pharmacy shall open the

pharmacy's records for examination by the commission.

Section 45. Section 59-29-107 is enacted to read:

59-29-107. Rulemaking authority.

The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) implement the tax imposed by this chapter; and

(2) enforce payment of the tax imposed by this chapter.

Section 46. Section 59-29-108 is enacted to read:

59-29-108. Penalties and interest.

A cannabidiol-qualified pharmacy that fails to comply with any provision of this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Section 47. Section 78A-6-508 is amended to read:

78A-6-508. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter,

education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent because of the parent's possession or consumption of a cannabidiol product, in accordance with Title 26, Chapter 62, Cannabidiol Product Act.

~~[(3)]~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

~~[(4)]~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection ~~[(4)]~~ (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

~~[(5)]~~ (6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

~~[(6)]~~ (7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 48. Contingent effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

(2) The following sections take effect on July 1, 2019 or the day on which the Department of Agriculture and Food receives a federal waiver as described in Section 4-41-204, whichever comes first:

- (a) Section 4-43-101;
- (b) Section 4-43-102;
- (c) Section 4-43-201;
- (d) Section 4-43-202;
- (e) Section 4-43-203;
- (f) Section 4-43-301;
- (g) Section 4-43-401;
- (h) Section 4-43-402;
- (i) Section 4-43-501;
- (j) Section 4-43-502;
- (k) Section 4-43-503;
- (l) Section 4-43-601;
- (m) Section 4-43-602;
- (n) Section 4-43-701;
- (o) Section 4-43-702;
- (p) Section 4-43-703;
- (q) Section 4-43-801;
- (r) Section 26-62-101;
- (s) Section 26-62-102;
- (t) Section 26-62-103;
- (u) Section 26-62-201;
- (v) Section 26-62-202;
- (w) Section 41-6a-517;
- (x) Section 58-37-3.6;
- (y) Section 58-37f-203;
- (z) Section 58-67-808;
- (aa) Section 58-68-808;
- (bb) Section 58-88-101;
- (cc) Section 58-88-102;
- (dd) Section 58-88-103;
- (ee) Section 58-88-104;
- (ff) Section 59-12-104.8;
- (gg) Section 59-29-101;
- (hh) Section 59-29-102;
- (ii) Section 59-29-103;
- (jj) Section 59-29-104;
- (kk) Section 59-29-105;
- (ll) Section 59-29-106;
- (mm) Section 59-29-107;

(nn) Section 59-29-108; and

(oo) Section 78A-6-508.

Section 49. Coordinating S.B. 130 with H.B. 158 -- Substantive and technical amendments.

If this S.B. 130 and H.B. 158, Controlled Substance Database Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication on July 1, 2019, by amending Subsection 58-37f-203(3) to read:

“(3)(a) The pharmacist-in-charge and the pharmacist described in Subsection (2) shall, for each controlled substance dispensed by a pharmacist under the pharmacist’s supervision other than those dispensed for an inpatient at a health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6).

(b) The pharmacist described in Subsection (2) shall, in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product, submit the following information to the division:

- (i) the name of the recommending physician;
- (ii) the date of the recommendation;
- (iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;
- (iv) the name of the individual for whom the recommendation was written; and
- (v) any other information the division requires by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”

Section 50. Coordinating S.B. 130 with H.B. 197 -- Substantive and technical amendments.

If this S.B. 130 and H.B. 197, Cannabis Cultivation Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by not enacting Title 7, Chapter 26, Cannabis Payment Processor.

CHAPTER 453**S. B. 239**

Passed March 8, 2018
 Approved March 23, 2018
 Effective May 8, 2018

UTAH SCIENCE TECHNOLOGY AND RESEARCH INITIATIVE AMENDMENTS

Chief Sponsor: Daniel Hemmert
 House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Science Technology and Research Governing Authority (USTAR) Act and other related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions that require USTAR to provide ongoing funding for certain researchers at the University of Utah and Utah State University;
- ▶ modifies reporting requirements related to researchers that receive state funding;
- ▶ requires USTAR to transfer ownership of:
 - a certain research building located on the campus of the University of Utah to the university; and
 - a certain research building located on the campus of Utah State University to the university;
- ▶ creates a new restricted account;
- ▶ amends provisions related to the Governor's Office of Economic Development's Technology Commercialization and Innovation Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Utah Science Technology and Research Governing Authority -- Research Capacity Building -- various programs described in this bill:
 - from the General Fund as an ongoing appropriation, (\$6,519,000); and
 - from Beginning Nonlapsing Balances as a one-time appropriation, (\$250,000);
- ▶ to the General Fund:
 - from nonlapsing balances -- Utah Science Technology and Research Governing Authority as a one-time appropriation, \$250,000;
- ▶ to the University of Utah -- Education and General:
 - from the General Fund as an ongoing appropriation, \$2,000,000; and
 - from the General Fund as a one-time appropriation, (\$307,300);
- ▶ to Utah State University -- Education and General:
 - from the General Fund as an ongoing appropriation, \$1,000,000; and

- from the General Fund as a one-time appropriation, \$1,000,000;
- ▶ To USTAR -- Grant Programs -- various programs described in this bill:
 - from the General Fund as an ongoing appropriation, (\$9,220,000); and
 - from the General Fund as a one-time appropriation, \$9,220,000;
- ▶ To Governor's Office of Economic Development -- Business Development -- Outreach and International Trade:
 - from the General Fund as an ongoing appropriation, (\$2,448,900); and
 - from the General Fund as a one-time appropriation, \$2,448,900; and
- ▶ To Workforce Development Restricted Account:
 - from the General Fund as an ongoing appropriation, \$12,187,900; and
 - from the General Fund as a one-time appropriation, (\$9,111,600).

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63I-1-253, as last amended by Laws of Utah 2017, Chapters 166 and 181
 63M-2-502, as enacted by Laws of Utah 2016, Chapter 240
 63M-2-602, as enacted by Laws of Utah 2016, Chapter 240
 63M-2-802, as last amended by Laws of Utah 2017, Chapter 18
 63N-3-204, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

- 13-1-14, Utah Code Annotated 1953
 53B-17-1101, Utah Code Annotated 1953
 53B-17-1102, Utah Code Annotated 1953
 53B-18-1501, Utah Code Annotated 1953
 53B-18-1502, Utah Code Annotated 1953

REPEALS:

- 63M-2-702, as enacted by Laws of Utah 2016, Chapter 240
 63M-2-704, as enacted by Laws of Utah 2016, Chapter 240
 63M-2-705, as enacted by Laws of Utah 2016, Chapter 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-1-14 is enacted to read:**13-1-14. Workforce Development Restricted Account.**

(1) There is created a restricted account within the General Fund known as the Workforce Development Restricted Account.

(2) The restricted account shall be administered to provide funding for collaborative projects that support:

- (a) economic development in the state;
- (b) workforce development in the state;

(c) the support of scientific and technical innovation and entrepreneurship in the state; and

(d) the programs and duties of the governing authority in accordance with this chapter.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited into the restricted account.

(4) The restricted account shall be funded by appropriations made to the account by the Legislature.

(5) Subject to appropriation and direction from the Legislature, account money may be used in accordance with this part.

Section 2. Section 53B-17-1101 is enacted to read:

Part 11. USTAR Researchers

53B-17-1101. Definitions.

As used in this part:

(1) "Researcher" means an individual who:

(a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

(b) before May 8, 2018, received funding from USTAR for some or all of the researcher's startup costs or salary;

(c) was recruited to become a member of the university's faculty; and

(d) after May 8, 2018, receives some or all of the researcher's start up costs or salary from a legislative appropriation to the university for that purpose.

(2) "University" means the University of Utah.

(3) "USTAR" means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

Section 3. Section 53B-17-1102 is enacted to read:

53B-17-1102. Researcher reporting requirements.

(1) On or before September 1 each year, the university shall submit a written report to the governor, the Legislature, and the Business, Economic Development, and Labor Appropriations Subcommittee.

(2) A report under Subsection (1) shall contain:

(a) the amount and sources of funding expended on a researcher's research program, including:

(i) university funds and other state funds;

(ii) legislative appropriations;

(iii) federal funds;

(iv) philanthropic or nonprofit funds; and

(v) industry funds;

(b) a copy of each:

(i) technology disclosure that a researcher files with the university;

(ii) license agreement that the university enters into with respect to a technology developed by a researcher, including any current, expired, or breached license; and

(iii) patent filed by the university based on technology developed by a researcher;

(c) publications in which a researcher participated, including a citation for each peer reviewed publication;

(d) the number of jobs maintained by a researcher's research program and average wages paid to those holding those jobs;

(e) expenses paid by legislative appropriations for each researcher, including:

(i) salary and benefits for a researcher or staff;

(ii) operational expenses;

(iii) capital equipment expenses; and

(iv) travel; and

(f) compensation, including salary and benefits, that a researcher received from a publicly funded source other than legislative appropriations under this part.

Section 4. Section 53B-18-1501 is enacted to read:

Part 15. USTAR Researchers

53B-18-1501. Definitions.

As used in this part:

(1) "Researcher" means an individual who:

(a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

(b) before May 8, 2018, received funding from USTAR for some or all of the researcher's startup costs or salary;

(c) was recruited to become a member of the university's faculty; and

(d) after May 8, 2018, receives some or all of the researcher's start up costs or salary from a legislative appropriation to the university for that purpose.

(2) "University" means Utah State University.

(3) "USTAR" means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

Section 5. Section 53B-18-1502 is enacted to read:

53B-18-1502. Researcher reporting requirements.

(1) On or before September 1 each year, the university shall submit a written report to the governor, the Legislature, and the Business,

Economic Development, and Labor Appropriations Subcommittee.

(2) A report under Subsection (1) shall contain:

(a) the amount and sources of funding expended on a researcher's research program, including:

(i) university funds and other state funds;

(ii) legislative appropriations;

(iii) federal funds;

(iv) philanthropic or nonprofit funds; and

(v) industry funds;

(b) a copy of each:

(i) technology disclosure that a researcher files with the university;

(ii) license agreement that the university enters into with respect to a technology developed by a researcher, including any current, expired, or breached license; and

(iii) patent filed by the university based on technology developed by a researcher;

(c) publications in which a researcher participated, including a citation for each peer reviewed publication;

(d) the number of jobs maintained by a researcher's research program and average wages paid to those holding those jobs;

(e) expenses paid by legislative appropriations for each researcher, including:

(i) salary and benefits for a researcher or staff;

(ii) operational expenses;

(iii) capital equipment expenses; and

(iv) travel; and

(f) compensation, including salary and benefits, that a researcher received from a publicly funded source other than legislative appropriations under this part.

Section 6. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.

(4) Section 53A-13-106.5 is repealed July 1, 2019.

(5) Section 53A-15-106 is repealed July 1, 2019.

(6) Sections 53A-15-206 and 53A-15-207 are repealed January 1, 2023.

(7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Title 53B, Chapter 18, Part 15, USTAR Researchers, is repealed July 1, 2028.

[~~8~~] (10) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

[~~9~~] (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 7. Section 63M-2-502 is amended to read:

63M-2-502. Principal researchers -- Agreement requirements -- Discontinuing funding.

(1) Subject to Subsection (6) and legislative appropriation, the governing authority shall:

(a) provide funding to help a research university honor its commitments to principal researchers employed by the research university; and

(b) give priority to funding provided under Subsection (1)(a).

(2) The governing authority shall enter into a written agreement with a higher education institution that employs a principal researcher:

(a) establishing performance standards and expectations for a principal researcher; and

(b) requiring the higher education institution to require a principal researcher to comply with reporting requirements set forth in Section 63M-2-702.

(3) (a) A principal researcher may not be hired on or after May 10, 2016 without the approval of the governing authority and the higher education institution.

(b) A higher education institution that enters into or renews an agreement with a principal researcher on or after May 10, 2016 shall include in the agreement:

(i) a specific time period for the commitment of USTAR funding;

(ii) the amount of USTAR funding committed to the higher education institution for the principal researcher, specifying the purpose of the funding;

(iii) an acknowledgment that the principal researcher understands and agrees to the reporting requirements and performance standards under this chapter; and

(iv) the governing authority's written approval of the terms of the new or renewed agreement.

(4) The governing authority may not allocate money to a higher education institution for a principal researcher unless the higher education institution provides the reporting required under Section 63M-2-702.

(5) The governing authority may discontinue allocating money to a higher education institution for a principal researcher if the governing authority and the president of the higher education institution employing the principal researcher agree in writing that:

(a) the principal researcher:

(i) fails to meet the performance standards and expectations established under Subsection (2)(a);

(ii) receives a reasonable opportunity to remedy the failure to meet performance standards and expectations; and

(iii) fails to remedy the failure to meet performance standards and expectations; and

(b) under the circumstances, discontinuing USTAR funding to the higher education institution for the principal researcher is appropriate and justified.

(6) Beginning on July 1, 2018, USTAR may not provide funding to help a research university honor its commitments to principal researchers employed by the research university.

Section 8. Section 63M-2-602 is amended to read:

63M-2-602. Lease agreement for a research building -- Requirements for lease agreement.

(1) ~~The~~ Subject to Subsection (3), the governing authority shall enter into a written lease agreement with a research university to lease to the research university a research building constructed on the research university's campus.

(2) A lease agreement under Subsection (1) shall:

(a) require the research university to pay the ongoing operation and maintenance expenses associated with the research building, including for any infrastructure in the research building; and

(b) subject to the reporting requirements described in Section 63M-2-705, permit the research university to use or rent space within the research building for research other than research receiving USTAR support, including research by a private entity.

(3) (a) On or before October 1, 2018, the governing authority shall transfer ownership and title of the:

(i) research building known as the James L. Sorenson Molecular Biotechnology Building, USTAR Building, located at 36 South Wasatch Drive, Salt Lake City, to the University of Utah; and

(ii) research building known as the USTAR BioInnovations Center located at 650 East 1600 North, North Logan, to Utah State University.

(b) The provisions of Subsections (1) and (2) are no longer in effect after the transfer of ownership described in this Subsection (3) occurs.

Section 9. Section 63M-2-802 is amended to read:

63M-2-802. USTAR annual report.

(1) (a) On or before October 1 of each year, the governing authority shall submit, in accordance with Section 68-3-14, an annual written report for the preceding fiscal year to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

(b) An annual report under Subsection (1)(a) is subject to modification as provided in Subsection (5) after an audit described in Section 63M-2-803 is released.

(2) An annual report described in Subsection (1) shall include:

(a) information reported to the governing authority ~~[(i) by an institution of higher education under Section 63M-2-702;~~

(ii)] through the survey described in Section 63M-2-703; ~~and]~~

~~[(iii) by a research university, under Section 63M-2-705;]~~

(b) a clear description of the methodology used to arrive at any information in the report that is based on an estimate;

(c) starting with fiscal year 2017 data as a baseline, data from previous years for comparison with the annual data reported under this Subsection (2);

(d) relevant federal and state statutory references and requirements;

(e) contact information for the executive director;

(f) other information determined by the governing authority that promotes accountability and transparency; and

(g) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of progress or challenges in meeting the objectives.

(3) The governing authority shall design the annual report to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The governing authority shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) place a link to the annual report and previous annual reports on USTAR's website.

(5) Following the completion of an annual audit described in Section 63M-2-803, the governing authority shall:

(a) publicly issue a revised annual report that:

(i) addresses the audit;

(ii) responds to audit findings; and

(iii) incorporates any revisions to the annual report based on audit findings;

(b) publish the revised annual report on USTAR's website, with a link to the audit; and

(c) submit, in accordance with Section 68-3-14, written notification of any revisions of the annual report to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

(6) In addition to the annual written report described in this section, the governing authority shall:

(a) provide information and progress reports to a legislative committee upon request; and

(b) on or before ~~[October 1, 2019]~~ August 1, 2018, and every five years after ~~[October 1, 2019, include with the annual report described in this section]~~ August 1, 2018, provide to the same entities that receive the annual report described in Subsection (1)(a) a written analysis and recommendations concerning the usefulness of the information required in the annual report and USTAR's ongoing effectiveness, including whether:

(i) the reporting requirements are effective at measuring USTAR's performance;

(ii) the reporting requirements should be modified; ~~[and]~~

(iii) USTAR is beneficial to the state and should continue[-]; and

(iv) whether programs in other agencies could provide similar benefits to the state more effectively or at a lower cost.

Section 10. Section 63N-3-204 is amended to read:

63N-3-204. Administration -- Grants and loans.

(1) The office shall administer this part.

(2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:

(A) an institution of higher education;

(B) a licensee; or

(C) a small business.

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or

(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

(c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.

(d) (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.

(3) (a) Funding allocations shall be made by the office with the advice of the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.

(5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1-301, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.

(6) (a) On or before August 1, 2018, the office shall provide a written analysis and recommendations concerning the usefulness of the Technology Commercialization and Innovation Program described in this part, including whether:

(i) the program is beneficial to the state and should continue; and

(ii) other office programs or programs in other agencies could provide similar benefits to the state more effectively or at a lower cost.

(b) The written analysis and recommendations described in this Subsection (6) shall be provided to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

Section 11. Repealer.

This bill repeals:

Section 63M-2-702, Reporting requirements for higher education institutions.

Section 63M-2-704, Reporting on licensed or acquired intellectual property.

Section 63M-2-705, Reporting on use of research buildings.

Section 12. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Science Technology and Research Governing Authority — Research Capacity Building

From General Fund (\$6,519,000)

From Beginning Nonlapsing Balances, One-time (\$250,000)

Schedule of Programs:

U of U Legacy Salary (\$4,200,000)

U of U Legacy Support (\$120,000)

U of U Start Up, Carry Over Commercialization (\$1,369,000)

USU Legacy Salary (\$775,000)

USU Legacy Support (\$305,000)

ITEM 2

To General Fund

From Nonlapsing Balances - Utah Science Technology and Research Governing Authority, One-time \$250,000

Schedule of Programs:

General Fund, One-time \$250,000

ITEM 3

To University of Utah - Education and General

From General Fund \$2,000,000

From General Fund, One-time (\$307,300)

Schedule of Programs:

Education and General \$1,692,700

ITEM 4

To Utah State University - Education and General

From General Fund \$1,000,000

From General Fund, One-time \$1,000,000

Schedule of Programs:

Education and General \$2,000,000

ITEM 5

To USTAR - Grant Programs

From General Fund (\$9,220,000)

From General Fund, One-time \$9,220,000

Schedule of Programs:

Energy Research Triangle \$0

Industry Partnership Program \$0

Science and Technology Initiation Grant \$0

Technology Acceleration Program \$0

University Technology Acceleration Grant \$0

ITEM 6

To Governor's Office of Economic Development - Business Development

From General Fund (\$2,448,900)

From General Fund, One-time \$2,448,900

Schedule of Programs:

Outreach and International Trade \$0

ITEM 7

To Utah Science Technology and Research Governing Authority — Workforce Development Restricted Account

<u>From General Fund</u>	<u>\$12,187,900</u>
<u>From General Fund, One-time</u>	<u>(\$9,111,600)</u>
Schedule of Programs:	
<u>Workforce Development Restricted</u>	
<u>Account</u>	<u>\$3,076,300</u>

CHAPTER 454**H. B. 162**

Passed February 23, 2018

Approved March 26, 2018

Effective January 1, 2019

**LICENSE PLATE
TRANSFER AMENDMENTS**Chief Sponsor: Norman K. Thurston
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill modifies provisions relating to the transfer of motor vehicle license plates when a vehicle is sold.

Highlighted Provisions:

This bill:

- ▶ requires the Motor Vehicle Division to transfer the license plate of a vehicle that has been sold, traded, or the ownership of which has been otherwise released, to the new person registering the vehicle in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-401, as last amended by Laws of Utah 2016, Chapter 303
- 41-1a-413, as last amended by Laws of Utah 1993, Chapter 222
- 41-1a-701, as last amended by Laws of Utah 2015, Chapter 412
- 41-1a-703, as last amended by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-401 is amended to read:**41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.**

(1) (a) ~~The~~ Except as provided in Subsection (1)(c), the division upon registering a vehicle shall issue to the owner:

- (i) one license plate for a motorcycle, trailer, or semitrailer;
- (ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;
- (iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and
- (iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(c) (i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under Sections 41-1a-410 through 41-1a-422.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) All license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 2. Section 41-1a-413 is amended to read:**41-1a-413. Personalized plates -- Sale of vehicle -- Transfer of plates -- Release of priority.**

[H] Except as provided in Subsection 41-1a-401(1)(c), if a person who has been issued

personalized license plates sells, trades, or otherwise releases ownership of the vehicle for which the personalized license plates have been issued, that person shall immediately:

(1) apply to display the license plates on a different vehicle owned by the person; or

(2) surrender the license plates to the division and release his priority to the letters and numbers displayed on the personalized license plates.

Section 3. Section 41-1a-701 is amended to read:

41-1a-701. Transfer by owner -- Removal of plates.

(1) (a) If the owner of a registered vehicle transfers ~~his~~ the title or interest to the vehicle the registration of the vehicle expires. ~~The~~

(b) Unless an owner has included the transfer of a license plate as part of a sale, trade, or ownership release of a vehicle, the owner shall remove the license plates from the transferred vehicle.

(2) (a) ~~Within~~ If an owner does not transfer a license plate to a person as part of a sale, trade, or ownership release of a vehicle, within 20 days from the date of transfer the owner shall forward the plates to the division to be destroyed or may have the plates ~~and the registration number~~ assigned to another vehicle, subject to the rules of the division.

(b) If an owner transfers a license plate as part of a sale, trade, or ownership release of a vehicle, the new registered owner of the transferred vehicle shall apply to the division to have the plates assigned to the new registered owner.

(3) A violation of this section is an infraction.

Section 4. Section 41-1a-703 is amended to read:

41-1a-703. New owner to secure new registration and new certificate of title.

(1) The transferee, before operating or permitting the operation of a transferred vehicle on a highway, shall:

(a) present to the division the certificate of registration and the certificate of title, properly endorsed~~, and shall~~;

(b) apply for a new certificate of title and obtain a new registration for the transferred vehicle, as upon an original registration, except as permitted under Sections 41-1a-223, 41-1a-520, and 41-1a-704~~;~~; and

(c) apply to the division to have the license plates assigned to the new registered owner of the transferred vehicle if the license plates were included as part of the sale, trade, or ownership release of the transferred vehicle.

(2) A violation of this section is an infraction.

Section 5. Effective date.

This bill takes effect on January 1, 2019.

CHAPTER 455**H. B. 167**

Passed March 2, 2018
 Approved March 26, 2018
 Effective May 8, 2018

INCAPACITATED PERSON REVISIONS

Chief Sponsor: Mike Winder
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions related to guardianship of an incapacitated person.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date related to appointment of counsel in a guardianship proceeding;
- ▶ addresses notices in guardianship proceedings;
- ▶ addresses appointment of counsel as part of the procedure for court appointment of a guardian;
- ▶ addresses priorities in appointment of a guardian; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63I-2-275, as enacted by Laws of Utah 2016, Chapter 400
 75-5-303, as last amended by Laws of Utah 2016, Chapter 400
 75-5-309, as last amended by Laws of Utah 2017, Chapter 403
 75-5-311, as last amended by Laws of Utah 2013, Chapter 364

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-275 is amended to read:**63I-2-275. Repeal dates -- Title 75.**

Subsection 75-5-303(5)(d) is repealed on July 1, [2018] 2028.

Section 2. Section 75-5-303 is amended to read:**75-5-303. Procedure for court appointment of a guardian of an incapacitated person.**

(1) [The] An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the

allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

(i) fourth stage Alzheimer's Disease;

(ii) extended comatosis; or

(iii) (A) an intellectual disability; and

(B) an intelligence quotient score under 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner; ~~and~~

(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2);

~~(v)~~ (vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person~~[-];~~ and

(vii) the court appoints a visitor under Subsection (4).

Section 3. Section 75-5-309 is amended to read:

75-5-309. Notices in guardianship proceedings.

(1) In a proceeding for the appointment or removal of a guardian of an incapacitated person other than the appointment of an emergency guardian or temporary suspension of a guardian, notice of hearing shall be given to each of the following:

(a) the ward or the person alleged to be incapacitated and spouse, parents, and adult children of the ward or person;

(b) any person who is serving as guardian or conservator or who has care and custody of the ward or person;

(c) in case no other person is notified under Subsection (1)(a), at least one of the closest adult relatives, if any can be found; ~~and~~

(d) any guardian appointed by the will of the parent who died later or spouse of the incapacitated person~~[-];~~ and

(e) Adult Protective Services if Adult Protective Services has received a referral under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the welfare of the ward or person alleged to be incapacitated or concerning the guardian or conservator or proposed guardian or conservator.

(2) The notice shall be in plain language and large type and the form shall have the final approval of the Judicial Council. The notice shall indicate the time and place of the hearing, the possible adverse consequences to the person receiving notice of

rights, a list of rights, including the person's own or a court appointed counsel, and a copy of the petition.

(3) Notice shall be served personally on the alleged incapacitated person and the person's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the alleged incapacitated person shall be given as provided in Section 75-1-401. Waiver of notice by the person alleged to be incapacitated is not effective unless the person attends the hearing or the person's waiver of notice is confirmed in an interview with the visitor appointed pursuant to Section 75-5-303.

Section 4. Section 75-5-311 is amended to read:

75-5-311. Who may be guardian -- Priorities.

(1) As used in this section:

(a) "Specialized care professional" means a person who is certified as a National Certified Guardian or National Master Guardian by the Center for Guardianship Certification or similar organization.

(b) "Suitable institution" means any nonprofit or for profit corporation, partnership, sole proprietorship, or other type of business organization that is owned, operated by, or employs a specialized care professional.

(2) The court shall appoint a guardian in accordance with the incapacitated person's most recent nomination, unless that person is disqualified or the court finds other good cause why the person should not serve as guardian. That nomination shall have been made prior to the person's incapacity, shall be in writing and shall be signed by the person making the nomination. The nomination shall be in substantially the following form:

Nomination of Guardian by an Adult

I, (Name), being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate (Name, current residence, and relationship, if any, of the nominee) to serve as my guardian in the event that after the date of this instrument I become incapacitated.

Executed at _____ (city, state)
on this _____ day of _____

(Signature)

(3) Except as provided in Subsection (2), persons who are not disqualified have priority for appointment as guardian in the following order:

(a) a person who has been nominated by the incapacitated person, by any means other than that described in Subsection (2), if the incapacitated person was 14 years of age or older when the nomination was executed and, in the opinion of the court, that person acted with sufficient mental capacity to make the nomination;

(b) the spouse of the incapacitated person;

(c) an adult child of the incapacitated person;

(d) a parent of the incapacitated person, including a person nominated by will, written instrument, or other writing signed by a deceased parent;

(e) any relative of the incapacitated person with whom he has resided for more than six months prior to the filing of the petition;

(f) a person nominated by the person who is caring for him or paying benefits to him;

(g) a specialized care professional, so long as the specialized care professional does not:

(i) profit financially or otherwise from or receive compensation for acting in that capacity, except for the direct costs of providing guardianship or conservatorship services; or

(ii) otherwise have a conflict of interest in providing those services; ~~[øø]~~

(h) any competent person or suitable institution~~[.];~~ or

(i) the Office of Public Guardian under Title 62A, Chapter 14, Office of Public Guardian Act.

CHAPTER 456**H. B. 293**

Passed March 8, 2018

Approved March 26, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

(Exception clause in Section 46)

TAX REBALANCING REVISIONS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill amends and enacts provisions related to state and local taxes and revenues.

Highlighted Provisions:

This bill:

- ▶ amends and enacts defined terms for the Minimum School Program;
- ▶ amends for a five-year period the calculation of the minimum basic local amount and minimum basic tax rate;
- ▶ establishes the weighted pupil unit value tax rate;
- ▶ establishes the equity pupil tax rate;
- ▶ directs the Division of Finance to deposit an amount equal to the proceeds from:
 - the equity pupil tax rate into the Local Levy Growth Account; and
 - the weighted pupil unit value tax rate into the Teacher and Student Success Account;
- ▶ directs the Legislature to annually appropriate money from the Local Levy Growth Account to guarantee local levy increments;
- ▶ directs the State Board of Education to use the appropriation to increase:
 - the number of guaranteed local levy increments to 20, giving first priority to guaranteed voted local levy increments and second priority to guaranteed board local levy increments; and
 - the guaranteed amount for each local levy increment per weighted pupil unit after increasing the number of guaranteed local levy increments;
- ▶ directs a local school board to use funds received from the state local levy guarantee programs for public education purposes;
- ▶ creates the Local Levy Growth Account;
- ▶ creates the Teacher and Student Success Account;
- ▶ modifies the property tax rate cap for the school board local levy to subject all school districts to the same rate cap;
- ▶ repeals the following outdated levies prohibited since January 1, 2012:
 - the board-approved leeway;
 - the capital outlay levy;
 - the additional levy for debt service, school sites, buildings, buses, textbooks, and supplies; and
 - the board leeway for reading improvement;

- ▶ repeals outdated language, including language related to school capital outlay in counties of the first class repealed December 31, 2016;
- ▶ modifies the definition of "certified revenue levy" in the Property Tax Act;
- ▶ modifies the homeowner's and renter's credits;
- ▶ modifies provisions governing notice requirements for a proposed tax increase by the state;
- ▶ addresses the apportionment of business income for income tax purposes by:
 - phasing in a requirement that certain taxpayers use only the sales factor to calculate the fraction for apportioning business income to the state;
 - allowing an optional apportionment taxpayer to choose between a single sales factor and an equally weighted method to calculate the fraction for apportioning business income to the state; and
 - requiring an optional apportionment taxpayer that chooses to apportion business income using the single sales factor method to continue using the single sales factor method of apportionment in subsequent taxable years;
- ▶ provides a method for a taxpayer to determine if the taxpayer is an optional apportionment taxpayer;
- ▶ reduces the state's corporate and individual income tax rates;
- ▶ addresses when an individual is considered to have domicile in this state for purposes of income tax;
- ▶ defines terms;
- ▶ modifies the calculation of the taxpayer tax credit;
- ▶ creates study provisions;
- ▶ provides repeal dates; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Education Fund Restricted -- Teacher and Student Success Account
 - from the Education Fund, \$65,150,000;
- ▶ to the State Board of Education -- Minimum School Program -- Basic School Program, as an ongoing appropriation:
 - from the Education Fund, (\$18,650,000); and
 - from Local Revenue, \$18,650,000;
- ▶ to the State Board of Education -- Minimum School Program -- Related to Basic School Program:
 - from the Education Fund, (\$46,500,000); and
 - from the Education Fund Restricted -- Teacher and Student Success Account, as a one-time appropriation, \$65,150,000;
- ▶ to the Education Fund Restricted -- Local Levy Growth Account, as an ongoing appropriation:
 - from the Education Fund, \$36,117,300;
- ▶ to the State Board of Education -- Minimum School Program -- Basic School Program, as an ongoing appropriation:
 - from the Education Fund, (\$36,117,300); and
 - from Local Revenue, \$36,117,300; and
- ▶ to the State Board of Education -- Minimum School Program -- Voted and Board Local Levy Programs, as an ongoing appropriation:

- from the Education Fund Restricted -- Local Levy Growth Account, \$36,117,300.

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 11-13-302, as last amended by Laws of Utah 2015, Chapter 287
- 11-13-310, as last amended by Laws of Utah 2003, Chapter 21
- 53E-2-304, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53F-2-102, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-201, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-203, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-205, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-301, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-303, as enacted by Laws of Utah 2018, Chapter 2
- 53F-2-312, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-503, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-515, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-601, as enacted by Laws of Utah 2018, Chapter 2
- 53F-2-704, as enacted by Laws of Utah 2018, Chapter 2
- 53F-3-102, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-8-302, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-8-303, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-8-402, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-9-302, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53G-3-304, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-6-705, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 59-2-102, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
- 59-2-926, as last amended by Laws of Utah 2016, Chapter 367
- 59-2-1208, as last amended by Laws of Utah 2016, Chapter 375
- 59-2-1209, as last amended by Laws of Utah 2016, Chapter 375
- 59-7-104, as repealed and reenacted by Laws of Utah 1993, Chapter 169
- 59-7-110, as last amended by Laws of Utah 2016, Chapters 311 and 323
- 59-7-201, as last amended by Laws of Utah 1993, Chapter 169
- 59-7-302, as last amended by Laws of Utah 2017, Chapters 181 and 268

- 59-7-311, as last amended by Laws of Utah 2016, Chapters 311 and 323
- 59-7-312, as last amended by Laws of Utah 2008, Chapter 283
- 59-7-315, as last amended by Laws of Utah 2008, Chapter 283
- 59-10-104, as last amended by Laws of Utah 2008, Chapter 389
- 59-10-136, as enacted by Laws of Utah 2011, Chapter 410
- 59-10-1018, as last amended by Laws of Utah 2012, Chapter 295
- 63I-2-211, as last amended by Laws of Utah 2017, Chapter 441
- 63I-2-253, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381, 386, and 468
- 63I-2-259, as last amended by Laws of Utah 2017, Chapter 181
- 63J-1-220, as last amended by Laws of Utah 2017, Chapter 173

ENACTS:

- 53F-2-301.5, Utah Code Annotated 1953
- 53F-9-305, Utah Code Annotated 1953
- 53F-9-306, Utah Code Annotated 1953
- 59-1-102, Utah Code Annotated 1953

REPEALS:

- 53F-2-602, as enacted by Laws of Utah 2018, Chapter 2
- 53F-8-401, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-8-404, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-8-405, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-8-406, as renumbered and amended by Laws of Utah 2018, Chapter 2

Utah Code Sections Affected by Coordination Clause:

- 53F-2-301, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 59-7-302, as last amended by Laws of Utah 2017, Chapters 181 and 268
- 59-7-311, as last amended by Laws of Utah 2016, Chapters 311 and 323
- 59-7-312, as last amended by Laws of Utah 2008, Chapter 283
- 59-7-315, as last amended by Laws of Utah 2008, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-302 is amended to read:**11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this

section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, “annual fee” means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53A-17a-135 or 53F-2-301.5, as applicable; and

(ii) local levies for capital outlay and other purposes under Sections 53A-16-113, 53A-17a-133, and 53A-17a-164.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53A-17a-135 or 53F-2-301.5, as applicable; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, “tax rate,” when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is

otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

Section 2. Section 11-13-310 is amended to read:

11-13-310. Termination of impact alleviation contract.

If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate. In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section [53A-17a-135] 53F-2-301 or 53F-2-301.5, as applicable, for the

state minimum school program. In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate. No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it. If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Section 3. Section 53E-2-304 is amended to read:

53E-2-304. School district and individual school powers -- Plan for college and career readiness definition.

(1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.

(2) (a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) provide for teacher and parent involvement in policymaking at the school site;

(iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

(iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

(v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

(vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

(vii) involve business and industry in the education process through the establishment of

partnerships with the business community at the district and school level.

(b) (i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers, and administrators that:

(A) is initiated at the beginning of grade 7;

(B) identifies a student's skills and objectives;

(C) maps out a strategy to guide a student's course selection; and

(D) links a student to post-secondary options, including higher education and careers.

(ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.

(iii) The policies shall include guidelines and expectations for:

(A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;

(B) planning, monitoring, and managing education and career development; and

(C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.

(iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.

(v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term [~~referred to in Subsection 53E-2-102(7)~~] described in Section 53F-2-102.

(3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.

(4) (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.

(b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Section 4. Section 53F-2-102 is amended to read:

53F-2-102. Definitions.

As used in this chapter:

(1) “Basic state-supported school program,” ~~or~~ “basic program,” or “basic school program” means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in [statute] the enacted public education budget, except as otherwise provided in this chapter.

~~[(2) (a) “Certified revenue levy” means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:]~~

~~[(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Section 53F-2-301; and]~~

~~[(ii) the product of:]~~

~~[(A) eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission; and]~~

~~[(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.]~~

~~[(b) For purposes of this Subsection (2), “ad valorem property tax revenue” does not include property tax revenue received statewide from personal property that is:]~~

~~[(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and]~~

~~[(ii) semiconductor manufacturing equipment.]~~

~~[(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:]~~

~~[(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;]~~

~~[(ii) the taxable value of real and personal property assessed by the State Tax Commission; and]~~

~~[(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year’s assessment roll.]~~

~~[(3) (2) “Charter school governing board” means the governing board, as defined in Section 53G-5-102, that governs a charter school.~~

~~[(4) (3) “Local education board” means a local school board or charter school governing board.~~

~~[(5) (4) “Local school board” means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.~~

~~[(6) (5) “Pupil in average daily membership (ADM)” means a full-day equivalent pupil.~~

~~[(7) (6) (a) “State-supported minimum school program” or “Minimum School Program” means public school programs for kindergarten,~~

elementary, and secondary schools as described in this Subsection ~~[(7)] (6)~~.

(b) The Minimum School Program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by a local education board, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local education board may reallocate up to 32 instructional hours or four school days established under Subsection ~~[(7)] (6)~~(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection ~~[(7)] (6)~~(d)(i) is subject to the approval of two-thirds of the members of a local education board voting in a regularly scheduled meeting:

(A) at which a quorum of the local education board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If a local education board reallocates instructional hours or school days as provided by this Subsection ~~[(7)] (6)~~(d), the school district or charter school shall notify students’ parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection ~~[(7)] (6)~~(d) is considered part of a school term referred to in Subsection ~~[(7)] (6)~~(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

(i) Basic School Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

~~[(8) (7) “Weighted pupil unit or units or WPU or WPUs” means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each school district or charter school.~~

Section 5. Section 53F-2-201 is amended to read:

53F-2-201. Cost of operation and maintenance of Minimum School Program

-- Division between state and school districts.

(1) The total cost of operation and maintenance of the Minimum School Program in the state is divided between the state and school districts as follows:

(a) Each school district shall impose a minimum basic tax rate on all taxable, tangible property in the school district and shall contribute the tax proceeds toward the cost of the basic program as provided in this chapter.

(b) Each school district may also impose a levy under Section 53F-8-301 or 53F-8-302 for the purpose of participating in the respective local levy state guarantee programs ~~provided~~ described in Section 53F-2-601 ~~or 53F-2-602~~.

(c) The state shall contribute the balance of the total costs.

(2) The contributions by the school districts and by the state are computed separately for the purpose of determining their respective contributions to:

~~(a) the basic program; and [to the levy programs provided in Section 53F-2-601 or 53F-2-602.]~~

~~(b) the local levy state guarantee programs described in Section 53F-2-601.~~

Section 6. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of local education board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

~~[(a) the state-supported voted local levy program pursuant to Section 53F-2-601;]~~

~~[(b) the state-supported board local levy program pursuant to Section 53F-2-602; and]~~

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

~~[(e)]~~ (b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each local education board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a local education board shall determine which programs

are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A local education board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) USTAR centers provided in Section 53F-2-505;

(e) the School LAND Trust Program created in Section 53F-2-404; or

(f) a special education program within the ~~[Basic School Program]~~ basic school program.

(6) A local education board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A local education board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Section 7. Section 53F-2-205 is amended to read:

53F-2-205. Powers and duties of State Board of Education to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) ~~[For purposes of]~~ As used in this section:

(a) "Board" means the State Board of Education.

(b) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(c) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state ~~[guarantee per weighted pupil unit provided under the voted local levy program established in Section 53F-2-601 or the board local levy program established in Section 53F-2-602]~~ guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704; or

(d) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are overestimated, the board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are underestimated, the board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the board shall reduce the state guarantee per weighted pupil unit provided under the ~~[voted local~~

~~levy program established]~~ local levy state guarantee program described in Section 53F-2-601 ~~[or board local levy program established in Section 53F-2-602], if:~~

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the board is nonlapsing.

(8) The board shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 8. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) The provisions of this section are not in effect for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

~~[(1)]~~ (2) As used in this section, ~~["basic"]~~:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

~~[(2) (a) To qualify for receipt of the state contribution toward the basic program and as a school district's contribution toward the school district's costs of the basic program, each local school board shall impose a minimum basic tax rate per dollar of taxable value that generates \$399,041,300 in revenues statewide.]~~

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that will generate an amount of revenue equal to the amount generated by the equity pupil tax rate as defined in Section 53F-2-301.5 in the fiscal year that begins July 1, 2022.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate;

(C) the amount generated by the equity pupil tax rate; and

(D) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) “Minimum basic tax rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) “Weighted pupil unit value” or “WPU value” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(h) “WPU value amount” means an amount:

(i) that is equal to the product of:

(A) the total cost to the basic school program to increase the WPU value over the WPU value in the immediately preceding fiscal year; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(i) “WPU value rate” means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2018, is \$408,073,800 in revenue statewide.

(b) The preliminary estimate [for the 2017–18 minimum basic tax rate is .001596.] of the minimum basic tax rate for a fiscal year that begins on July 1, 2018, is .001498.

~~[(c) The State Tax Commission shall certify on or before June 22 the rate that generates \$399,041,300 in revenues statewide.]~~

~~[(d) If the minimum basic tax rate exceeds the certified revenue levy, the state is subject to the notice requirements of Section 59–2–926.]~~

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2018, is \$18,650,000 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2018, is .000069.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified

WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district’s contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59–2–926 before imposing the tax rates described in this Subsection (6).

(ii) (A) Except as provided in Subsection (6)(b)(ii)(B), the state is subject to the notice requirements of Section 59–2–926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(B) For a calendar year that begins on January 1, 2018, the state is not subject to the notice and public hearing requirements of Section 59–2–926 if the state authorizes a combined basic rate that exceeds the tax rates authorized in this section.

~~[(3) (7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district [that portion that exceeds the proceeds of] an amount of money that is the difference between the cost of the school district’s basic school program and the sum of revenue generated by the school district by the following:~~

~~[(a) the minimum basic tax rate to be imposed under Subsection (2); and]~~

(i) the combined basic rate;

~~[(b) (ii) the basic levy increment rate[-]; and]~~

(iii) the equity pupil tax rate.

~~[(4) (a) (i) If the difference described in Subsection [(3) (7)(a)] equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.~~

~~[(b) (ii) The proceeds of the difference described in Subsection [(3) (7)(a)] that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.~~

~~[(5) The State Board of Education shall:]~~

~~[(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and]~~

~~[(b) deposit the money described in Subsection (5)(a)]~~

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302[-];

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

(9) After July 1, 2022, but before November 30, 2022, the Public Education Appropriations Subcommittee:

(a) shall review the WPU value rate, the impact of revenues generated by the WPU value rate on public education funding, and whether local school boards should continue to levy the WPU value rate; and

(b) may recommend an increase, repeal, or continuance of the WPU value rate.

Section 9. Section 53F-2-301.5 is enacted to read:

53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2018, is \$408,073,800 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, 2018, is .001498.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2018, is \$18,650,000 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, 2018, is .000069.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and

as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of the revenue generated by the school district by the following:

- (i) the minimum basic tax rate;
- (ii) the basic levy increment rate;
- (iii) the equity pupil tax rate; and
- (iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 10. Section 53F-2-303 is amended to read:

53F-2-303. Foreign exchange student weighted pupil units.

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through (4).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2) shall be the lesser of:

(i) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding [Sections 53F-2-601 and 53F-2-602] Section 53F-2-601, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under [~~the voted or board local levies~~] Section 53F-2-601.

Section 11. Section 53F-2-312 is amended to read:

53F-2-312. Appropriation for class size reduction.

(1) Money appropriated to the State Board of Education for class size reduction shall be used to reduce the average class size in kindergarten through the eighth grade in the state's public schools.

(2) Each school district or charter school shall receive an allocation based upon the school district or charter school's prior year average daily membership in kindergarten through grade 8 plus growth as determined under Subsection 53F-2-302(3) as compared to the total prior year average daily membership in kindergarten through grade 8 plus growth of school districts and charter schools that qualify for an allocation pursuant to Subsection (8).

(3) (a) A local education board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) Each local education board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 in grades kindergarten

through grade 2, a local education board may petition the State Board of Education for, and the State Board of Education may grant, a waiver to use an allocation under Subsection (3)(b)(i) for class size reduction in the other grades.

(4) Schools may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) A local education board may use up to 20% of an allocation under Subsection (1) for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by 5% or 700 students from the previous school year, the local education board may use up to 50% of any allocation received by the respective school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade eight.

(8) (a) For a school district or charter school to qualify for class size reduction money, a local education board shall submit:

(i) a plan for the use of the allocation of class size reduction money to the State Board of Education; and

(ii) beginning with the 2014-15 school year, a report on the local education board's use of class size reduction money in the prior school year.

(b) The plan and report required pursuant to Subsection (8)(a) shall include the following information:

(i) (A) the number of teachers employed using class size reduction money;

(B) the amount of class size reduction money expended for teachers; and

(C) if supplemental school district or charter school funds are expended to pay for teachers employed using class size reduction money, the amount of the supplemental money;

(ii) (A) the number of paraprofessionals employed using class size reduction money;

(B) the amount of class size reduction money expended for paraprofessionals; and

(C) if supplemental school district or charter school funds are expended to pay for paraprofessionals employed using class size reduction money, the amount of the supplemental money; and

(iii) the amount of class size reduction money expended for capital facilities.

(c) In addition to submitting a plan and report on the use of class size reduction money, a local education board shall annually submit a report to the State Board of Education that includes the following information:

(i) the number of teachers employed using K-3 Reading Improvement Program money received pursuant to ~~[Sections]~~ Section 53F-2-503 ~~[and 53F-8-406]~~;

(ii) the amount of K-3 Reading Improvement Program money expended for teachers;

(iii) the number of teachers employed in kindergarten through grade 8 using Title I money;

(iv) the amount of Title I money expended for teachers in kindergarten through grade 8; and

(v) a comparison of actual average class size by grade in grades kindergarten through 8 in the school district or charter school with what the average class size would be without the expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.

(d) The information required to be reported in Subsections (8)(b)(i)(A) through (C), (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's teaching assignment, such as the grade level, course, or subject taught.

(e) The State Board of Education may make rules specifying procedures and standards for the submission of:

(i) a plan and a report on the use of class size reduction money as required by this section; and

(ii) a report required under Subsection (8)(c).

(f) Based on the data contained in the class size reduction plans and reports submitted by local education boards, and data on average class size, the State Board of Education shall annually report to the Public Education Appropriations Subcommittee on the impact of class size reduction, K-3 Reading Improvement Program, and Title I money on class size.

Section 12. Section 53F-2-503 is amended to read:

53F-2-503. K-3 Reading Improvement Program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.

(c) "Program" means the K-3 Reading Improvement Program.

(d) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school

district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The K-3 Reading Improvement Program consists of program money and is created to supplement other school resources to achieve the state's goal of having third graders reading at or above grade level.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the K-3 Reading Improvement Program.

(4) (a) For a school district or charter school to receive program money, a local education board shall submit a plan to the board for reading proficiency improvement that incorporates the following components:

(i) assessment;

(ii) intervention strategies;

(iii) professional development for classroom teachers in kindergarten through grade three;

(iv) reading performance standards; and

(v) specific measurable goals that include the following:

(A) a growth goal for each school within a school district and each charter school based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

(B) a growth goal for each school district and charter school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section 53E-4-302.

(b) The board shall provide model plans that a local education board may use, or the local education board may develop the local education board's own plan.

(c) Plans developed by a local education board shall be approved by the board.

(d) The board shall develop uniform standards for acceptable growth goals that a local education board adopts for a school district or charter school as described in this Subsection (4).

(5) (a) There is created within the K-3 Reading Achievement Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The board may use no more than \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the board for the K-3 Reading Improvement Program and not used by the board for computer-assisted instructional learning and assessments as described in Subsection (5)(b), shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the local education board shall submit a reading proficiency improvement plan to the board as provided in Subsection (4) and must receive approval of the plan from the board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade three; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade three.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds shall choose to first participate in either the Guarantee Program or the Low Income Students Program.

(b) A school district must fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the local school board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPUs.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) A local education board shall use program money for reading proficiency improvement interventions in grades kindergarten through grade 3 that have proven to significantly increase the percentage of students reading at grade level, including:

(i) reading assessments; and

(ii) focused reading remediations that may include:

(A) the use of reading specialists;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of reading software; or

(F) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) A local education board may use program money for portable technology devices used to administer reading assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) Each local education board shall annually submit a report to the board accounting for the

expenditure of program money in accordance with its plan for reading proficiency improvement.

(b) If a local education board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) The board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each local education board to annually report progress in meeting goals stated in the school district's or charter school's plan for student reading proficiency.

(ii) If a school does not meet or exceed the school's goals, the local education board shall prepare a new plan which corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board before the local education board receives an allocation for the next year.

(15) (a) If for two consecutive school years, a school district fails to meet the school district's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53E-4-302, the school district [~~shall terminate any levy imposed under Section 53F-8-406 and~~] may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(b) If for two consecutive school years, a charter school fails to meet the charter school's goal to increase the percentage of third grade students who read on grade level as measured by the third grade reading test administered pursuant to Section 53E-4-302, the charter school may not receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

(16) The board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in reading for the past school year and the five-year trend;

(ii) the percentage of third grade students reading on grade level in the past school year and the five-year trend;

(iii) the progress of schools and school districts in meeting goals stated in a school district's or charter school's plan for student reading proficiency; and

(iv) the correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and

(b) may include recommendations on how to increase the percentage of third grade students who read on grade level.

Section 13. Section 53F-2-515 is amended to read:

53F-2-515. Federal Impact Aid Program -- Offset for underestimated allocations from the Federal Impact Aid Program.

(1) In addition to the revenues received from the levy imposed by a local school board and authorized by the Legislature under Section 53F-2-301 or 53F-2-301.5, as applicable, the Legislature shall provide an amount equal to the difference between the school district's anticipated receipts under the entitlement for the fiscal year from the Federal Impact Aid Program and the amount the school district actually received from this source for the next preceding fiscal year.

(2) If at the end of a fiscal year the sum of the receipts of a school district from a distribution from the Legislature pursuant to Subsection (1) plus the school district's allocations from the Federal Impact Aid Program for that fiscal year exceeds the amount allocated to the school district from the Federal Impact Aid Program for the next preceding fiscal year, the excess funds are carried into the next succeeding fiscal year and become in that year a part of the school district's contribution to the school district's basic program for operation and maintenance under the state minimum school finance law.

(3) During the next succeeding fiscal year described in Subsection (2), the school district's required tax rate for the basic program shall be reduced so that the yield from the reduced tax rate plus the carryover funds equal the school district's required contribution to the school district's basic program.

(4) For the school district of a local school board that is required to reduce the school district's basic tax rate under this section, the school district shall receive state minimum school program funds as though the reduction in the tax rate had not been made.

Section 14. Section 53F-2-601 is amended to read:

53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section, ~~["voted"]~~:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

~~[(a)] (A) the amount appropriated for the [voted and board local levy program] guaranteed local levy increments in a fiscal year; and~~

~~[(b)] (B) the amount necessary to [provide the state guarantee per weighted pupil unit] fund in the same fiscal year the guaranteed local levy increments as determined under this section [and Section 53F-2-602 in the same fiscal year].~~

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a ~~[levy pursuant to Section 53F-8-301] voted local levy or a board local levy~~, the state shall ~~[contribute]~~ guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee ~~[\$35.55] for a fiscal year that begins on July 1, 2018, \$43.10 per weighted pupil unit [for each .0001 of the first .0016 per dollar of taxable value].~~

~~[(3) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (2) shall apply to the portion of the board local levy authorized in Section 53F-8-302, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a local school board levies a tax rate under both programs.]~~

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The State Board of Education shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

~~[(4) (a) Beginning July 1, 2015, the \$35.55 guarantee under Subsections (2) and (3) shall be]~~

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit [for the grades 1 through 12 program] by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit [for the grades 1 through 12 program].

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit [for the grades 1 through 12 program] for each [succeeding] year subject to the Legislature appropriating funds for an increase in the guarantee.

~~[(5)]~~ (4) (a) The amount of state guarantee money [to which] that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection ~~[(5)]~~ (4)(a) applies for a period of five years following [any such] a change in the certified tax rate as described in Subsection (4)(a).

~~[(6)]~~ (5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

~~[(7)]~~ (6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection ~~[(4)]~~ (3)(a) in the current fiscal year; and

(ii) distribute [the state contribution to the voted and board local levy programs] guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection ~~[(7)]~~ (6)(a)(i).

(b) The State Board of Education shall report action taken under [this] Subsection ~~[(7)]~~ (6)(a) to the Office of Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 15. Section 53F-2-704 is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, ~~[53F-2-602,]~~ 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) “Statewide average debt service revenues” means the amount determined as follows, using data from the most recently published state superintendent’s annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(3)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students’ average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(3).

(d) (i) If the appropriation provided under this Subsection (2) is less than the amount prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter schools in proportion to each charter school’s enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53F-2-205, the allocation provided in Subsection (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(3), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 16. Section 53F-3-102 is amended to read:

53F-3-102. Definitions.

As used in this chapter:

(1) “ADM” or “pupil in average daily membership” is as defined in Section 53F-2-102.

(2) “Base tax effort rate” means the average of:

(a) the highest combined capital levy rate; and

(b) the average combined capital levy rate for the school districts statewide.

(3) “Combined capital levy rate” means a rate that includes the sum of the following property tax levies:

~~[(a) (i) the capital outlay levy authorized in Section 53F-8-401;]~~

~~[(ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is budgeted for debt service or capital outlay;]~~

~~[(iii)] (a) (i) the debt service levy authorized in Section 11-14-310; and~~

~~[(iv)] (ii) the voted capital outlay leeway authorized in Section 53F-8-402; or~~

(b) (i) the capital local levy authorized in Section 53F-8-303; and

(ii) the debt service levy authorized in Section 11-14-310.

(4) “Derived net taxable value” means the quotient of:

(a) the total property tax collections from April 1 through the following March 31 for a school district for the calendar year preceding the March 31 date; divided by

(b) the school district’s total tax rate for the calendar year preceding the March 31 referenced in Subsection (4)(a).

(5) “Highest combined capital levy rate” means the highest combined capital levy rate imposed by a school district within the state for a fiscal year.

(6) “Property tax base per ADM” means the quotient of:

(a) a school district’s derived net taxable value; divided by

(b) the school district’s ADM.

(7) “Property tax yield per ADM” means:

(a) the product of:

(i) a school district’s derived net taxable value; and

(ii) the base tax effort rate; divided by

(b) the school district’s ADM.

(8) “Statewide average property tax base per ADM” means the quotient of:

(a) the sum of all school districts’ derived net taxable value; divided by

(b) the sum of all school districts’ ADM.

Section 17. Section 53F-8-302 is amended to read:

53F-8-302. Board local levy.

(1) The terms defined in Section 53F-2-102 apply to this section.

(2) Subject to the other requirements of this section, ~~[for a calendar year beginning on or after~~

January 1, 2012,] a local school board may levy a tax to fund the school district's general fund.

(3) (a) For purposes of this Subsection (3), "combined rate" means the sum of:

(i) the rate imposed by a local school board under Subsection (2); and

(ii) the charter school levy rate, described in Section 53F-2-703, for the local school board's school district.

~~[(b) Except as provided in Subsection (3)(e), beginning on January 1, 2017, a school district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.]~~

~~[(e) (b) Beginning on January 1, [2017] 2018, a school district's combined rate may not exceed .0025 per dollar of taxable value in any calendar year [if, during the calendar year beginning on January 1, 2011, the school district's total tax rate for the following levies was greater than .0018 per dollar of taxable value:].~~

~~[(i) a recreation levy imposed under Section 11-2-7;]~~

~~[(ii) a transportation levy imposed under Section 53F-8-403;]~~

~~[(iii) a board-authorized levy imposed under Section 53F-8-404;]~~

~~[(iv) an impact aid levy imposed under Section 53F-2-515;]~~

~~[(v) the portion of a 10% of basic levy imposed under Section 53F-8-405 that is budgeted for purposes other than capital outlay or debt service;]~~

~~[(vi) a reading levy imposed under Section 53F-8-406; and]~~

~~[(vii) a tort liability levy imposed under Section 63G-7-704.]~~

(4) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount as described in Section ~~[53F-2-602] 53F-2-601.~~

(5) (a) For a calendar year beginning on or after January 1, 2017, the State Tax Commission shall adjust a board local levy rate imposed by a local school board under this section by the amount necessary to offset the change in revenues from the charter school levy imposed under Section 53F-2-703.

(b) A local school board is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset described in Subsection (5)(a) to the change in revenues from the charter school levy imposed under Section 53F-2-703.

~~[(e) A local school board may not increase a board local levy rate under this section before December 31, 2016, if the local school board did not give public notice on or before March 4, 2016, of the local school board's intent to increase the board local levy rate.]~~

~~[(d) (c) So long as the charter school levy rate does not exceed 25% of the charter school levy per district revenues, a local school board may not increase a board local levy rate under this section if the purpose of increasing the board local levy rate is to capture the revenues assigned to the charter school levy through the adjustment in a board local levy rate under Subsection (5)(a).]~~

~~[(e) (d) Before a local school board takes action to increase a board local levy rate under this section, the local school board shall:~~

~~(i) prepare a written statement that attests that the local school board is in compliance with Subsection (5)(~~(d)~~)(c);]~~

~~(ii) read the statement described in Subsection (5)(~~(e)~~)(d)(i) during a local school board public meeting where the local school board discusses increasing the board local levy rate; and]~~

~~(iii) send a copy of the statement described in Subsection (5)(~~(e)~~)(d)(i) to the State Tax Commission.]~~

Section 18. Section 53F-8-303 is amended to read:

53F-8-303. Capital local levy.

(1) ~~[(a)]~~ Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's capital projects.

~~[(b) (2) A tax rate imposed by a school district pursuant to this section may not exceed .0030 per dollar of taxable value in any calendar year.]~~

~~[(2) A school district that imposes a capital local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:]~~

~~[(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:]~~

~~[(i) a capital outlay levy imposed under Section 53F-8-401; and]~~

~~[(ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is budgeted for debt service or capital outlay; and]~~

~~[(b) revenue from eligible new growth as defined in Section 59-2-924.]~~

~~[(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local school board's annual capital local levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.]~~

~~[(b) If a local school board uses the proceeds described in Subsection (3)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital local levy proceeds for general fund purposes:]~~

~~[(i) before the local school board's budget hearing in accordance with the notification requirements described in Section 53G-7-303; and]~~

~~[(ii) at a budget hearing required in Section 53G-7-303.]~~

~~[(c) A local school board may not use the proceeds described in Subsection (3)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:]~~

~~[(i) 2300 Support Services—General District Administration; or]~~

~~[(ii) 2500 Support Services—Central Services.]~~

Section 19. Section 53F-8-402 is amended to read:

53F-8-402. Special tax to buy school building sites, build and furnish schoolhouses, or improve school property.

(1) (a) Except as provided in Subsection (6), a local school board may, by following the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a special election to determine whether a special property tax should be levied for one or more years to buy building sites, build and furnish schoolhouses, or improve the school property under its control.

(b) The tax may not exceed .2% of the taxable value of all taxable property in the district in any one year.

(2) The board shall give reasonable notice of the election and follow the same procedure used in elections for the issuance of bonds.

(3) If a majority of those voting on the proposition vote in favor of the tax, it is ~~levied in addition to a levy authorized under Section 53F-8-405 and~~ computed on the valuation of the county assessment roll for that year.

(4) (a) Within 20 days after the election, the board shall certify the amount of the approved tax to the governing body of the county in which the school district is located.

(b) The governing body shall acknowledge receipt of the certification and levy and collect the special tax.

(c) It shall then distribute the collected taxes to the business administrator of the school district at the end of each calendar month.

(5) The special tax becomes due and delinquent and attaches to and becomes a lien on real and personal property at the same time as state and county taxes.

(6) Notwithstanding Subsections (3) and (4), beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 20. Section 53F-9-302 is amended to read:

53F-9-302. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted local levy guarantee described in Section 53F-2-601;

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Section 53F-3-203; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Section 53F-3-203.

Section 21. Section 53F-9-305 is enacted to read:

53F-9-305. Local Levy Growth Account.

(1) As used in this section, "account" means the Local Levy Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Local Levy Growth Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the State Board of Education.

Section 22. Section 53F-9-306 is enacted to read:

53F-9-306. Teacher and Student Success Account.

(1) As used in this section, "account" means the Teacher and Student Success Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Teacher and Student Success Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the State Board of Education.

Section 23. Section 53G-3-304 is amended to read:

53G-3-304. Property tax levies in new district and remaining district -- Distribution of property tax revenue.

(1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:

(a) "Divided school district" or "existing district" means a school district from which a new district is created.

(b) "New district" means a school district created under Section 53G-3-302 after May 10, 2011.

(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable;

(ii) a debt service levy imposed under Section 11-14-310; or

(iii) a judgment levy imposed under Section 59-2-1330.

(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) ~~[(a) Except as provided in Subsection (4)(b), the]~~ The county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in

proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

~~[(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section 53F-8-303 in accordance with the distribution method specified in Section 53A-16-114.]~~

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

(i) the maximum rate, if any, allowed by law; or

(ii) the maximum rate authorized by voters for a voted local levy under Section 53F-8-301.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Section 24. Section 53G-6-705 is amended to read:

53G-6-705. Online students' participation in extracurricular activities.

(1) As used in this section:

(a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

(b) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the State Board of Education, a school district, or charter school; and

(ii) generates funding for the school district or school pursuant to Subsection 53F-2-102~~(7)~~(6) and rules of the State Board of Education.

(2) An online student is eligible to participate in extracurricular activities at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides; or

(b) the public school from which the student withdrew for the purpose of participating in an online education program.

(3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in extracurricular activities;

(ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Section 25. Section 59-1-102 is enacted to read:

59-1-102. Study of Public Law 115-97, Tax Cuts and Jobs Act.

On or before November 30, 2018, the Revenue and Taxation Interim Committee:

(1) shall study the effect of Public Law 115-97, Tax Cuts and Jobs Act, on the personal exemptions and standard deduction recognized in this title; and

(2) may make recommendations regarding changes to this title resulting from the study described in Subsection (1).

Section 26. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" means the same as that term is defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(8) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a [school minimum basic tax rate, as specified in Section 53A-17a-135, or] multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

- (ii) the product of:
- (A) eligible new growth, as defined in Section 59-2-924; and
- (B) the ~~[school minimum basic tax rate or]~~ multicounty assessing and collecting levy certified by the commission for the previous year.
- (b) For purposes of this Subsection (8), “ad valorem property tax revenue” does not include property tax revenue received by a taxing entity from personal property that is:
- (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
- (ii) semiconductor manufacturing equipment.
- (c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:
- (i) the taxable value of real property assessed by a county assessor contained on the assessment roll;
- (ii) the taxable value of real and personal property assessed by the commission; and
- (iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year’s assessment roll.
- (9) “County-assessed commercial vehicle” means:
- (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise;
- (b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and
- (c) vehicles that are:
- (i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;
- (ii) used or licensed as taxicabs or limousines;
- (iii) used as rental passenger cars, travel trailers, or motor homes;
- (iv) used or licensed in this state for use as ambulances or hearses;
- (v) especially designed and used for garbage and rubbish collection; or
- (vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.
- (10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:

- (i) a county; and
- (ii) a school district.

- (b) “Designated tax area” includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:
- (i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or
- (ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.
- (11) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:
- (a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and
- (b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:
- (i) \$5,000; or
- (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.
- (12) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:
- (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;
- (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or
- (iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.
- (b) “Escaped property” does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.
- (13) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.
- (14) (a) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any

other machinery or equipment used primarily for agricultural purposes.

(b) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(16) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(17) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).

(b) The following factors apply to Subsection (17)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (17)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (21)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(18) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(19) (a) For purposes of Section 59-2-103:

(i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(20) (a) Except as provided in Subsection (20)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (20)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (20)(a); and

(B) installed solely to serve the operation of the item described in Subsection (20)(a); and

(ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(21) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(22) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(23) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(27) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(30) "Personal property" includes:

(a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(31) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(32) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (33) and Subsection (36).

(34) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this

state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(35) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (36)(c), "residential property":

(i) except as provided in Subsection (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and this Subsection (36).

(37) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(38) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport

passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (9)(c) as county-assessed commercial vehicles.

(39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(40) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(41) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(42) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(43) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

Section 27. Section 59-2-926 is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a [levy pursuant to Section 53A-17a-135] tax rate that exceeds the [certified revenue levy as defined in Section 53A-17a-103] applicable tax rate described in Section 53F-2-301 or 53F-2-301.5, or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from \$_____ to \$_____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) \$_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) \$_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.);

(c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, [levy] applicable tax rate for the Property Tax Valuation Agency Fund, or both) paid \$_____ in property taxes would pay the following:

(i) \$_____ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) \$_____ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah."

Section 28. Section 59-2-1208 is amended to read:

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit.

(1) (a) Subject to [Subsection] Subsections (2) and (4), for a calendar year beginning on or after January 1, 2007, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$9,159	\$798
\$9,160 -- \$12,214	\$696
\$12,215 -- \$15,266	\$597
\$15,267 -- \$18,319	\$447
\$18,320 -- \$21,374	\$348
\$21,375 -- \$24,246	\$199
\$24,247 -- \$26,941	\$98

(b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts

and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

~~(2) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a homeowner's credit under this section may not receive the homeowner's credit.]~~

(2) An individual may not receive the homeowner's credit under this section if:

(a) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section; or

(b) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section.

(3) A payment for a homeowner's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(4) For a calendar year that begins on or after January 1, 2018, after the commission has adjusted the homeowner credit amount under Subsection (1)(b), the commission shall increase each homeowner credit amount under Subsection (1) by the following amounts:

(a) for a calendar year that begins on January 1, 2018, \$14;

(b) for a calendar year that begins on January 1, 2019, \$22;

(c) for a calendar year that begins on January 1, 2020, \$31;

(d) for a calendar year that begins on January 1, 2021, \$40; and

(e) for a calendar year that begins on or after January 1, 2022, \$49.

Section 29. Section 59-2-1209 is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, 2007, a claimant may claim a renter's credit for the

previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
\$0 -- \$9,159	9.5%
\$9,160 -- \$12,214	8.5%
\$12,215 -- \$15,266	7.0%
\$15,267 -- \$18,319	5.5%
\$18,320 -- \$21,374	4.0%
\$21,375 -- \$24,246	3.0%
\$24,247 -- \$26,941	2.5%

(b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) A claimant may claim a renter's credit under this part only for rent that does not constitute a rental assistance payment.

~~[(3) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a renter's credit under this section may not receive a renter's credit.]~~

(3) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(4) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(5) For calendar years beginning on or after January 1, 2007, a credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 30. Section 59-7-104 is amended to read:

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except ~~[those exempted]~~ a corporation that is exempt under Section 59-7-102, shall pay an annual tax to

the state based on ~~[its]~~ the corporation's Utah taxable income for the taxable year for the privilege of exercising ~~[its]~~ the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be ~~[5%]~~ 4.95% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

Section 31. Section 59-7-110 is amended to read:

59-7-110. Utah net loss -- Carryforward and carryback -- Deduction.

(1) ~~[The amount of Utah net loss that shall be carried]~~ A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry back or forward to offset income of another taxable year ~~[is determined]~~ as provided in this section.

~~[(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss.]~~

~~[(b) (i)]~~ (2) (a) Subject to the other provisions of this section, a taxpayer may:

(i) carry back a Utah net loss from a taxable year ~~[beginning on or after January 1, 1994, may be carried back]~~ for three taxable years preceding the taxable year of the loss; and ~~[carried]~~

(ii) carry forward a Utah net loss from a taxable year for 15 taxable years following the taxable year of the loss.

~~[(iii) (b) If [an election is made to] a taxpayer elects to forego the federal net operating loss carryback, the taxpayer may not carry back a Utah net loss [is not eligible to be carried back] unless the taxpayer makes an election [is made] for state purposes.~~

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss ~~[shall be carried]~~ to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that ~~[were applied or required to be applied]~~ a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(b), the amount of Utah net loss that ~~[shall be carried]~~ a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that ~~[were]~~ a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous

years that ~~[were carried or required to be carried]~~ a taxpayer carried or was required to carry to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss ~~[carried]~~ that a taxpayer carries back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A taxpayer may carry forward a Utah net loss in excess of \$1,000,000 ~~[may be carried forward]~~.

(iii) A taxpayer may carry a remaining Utah net loss ~~[shall be available to be carried]~~ to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) if the unitary group elects or is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311~~[(2)(b)]~~(4) in taxable year 2019 or taxable year 2020, multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by ~~[two]~~, for the taxable year 2019, four, or, for the taxable year 2020, eight; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311~~(3)~~(2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state~~(i)~~ for that taxable year~~(i)~~ and ~~(ii)~~ in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

- (A) nonbusiness income allocable to this state; or
- (B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 32. Section 59-7-201 is amended to read:

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except ~~those~~ a corporation that is exempt under Section 59-7-102 ~~for each taxable year~~, a tax upon ~~its~~ the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period ~~which~~ that the corporation is required to include in ~~its~~ the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be ~~5%~~ 4.95% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 33. Section 59-7-302 is amended to read:

59-7-302. Definitions -- Determination of taxpayer status.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(i) NAICS Code 211120, Crude Petroleum Extraction;

(ii) NAICS Industry Group 2121, Coal Mining;

(iii) NAICS Industry Group 2212, Natural Gas Distribution;

(iv) NAICS Subsector 311, Food Manufacturing;

(v) NAICS Industry Group 3121, Beverage Manufacturing;

(vi) NAICS Code 327310, Cement Manufacturing;

(vii) NAICS Subsector 482, Rail Transportation;

(viii) NAICS Code 512110, Motion Picture and Video Production;

(ix) NAICS Subsection 515, Broadcasting (except Internet); or

(x) NAICS Code 522110, Commercial Banking.

~~(g)~~ (h) (i) Except as provided in Subsection (1)~~(g)~~~~(h)~~(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(27) owned by an air charter service or an air contract service.

~~(h)~~ (i) "Nonbusiness income" means all income other than business income.

~~(i)~~ Subject to Subsection (2), "optional sales factor weighted taxpayer" means:

~~(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334,~~

~~Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or]~~

~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.]~~

~~(j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).~~

~~(k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:~~

~~(i) is not a sales factor weighted taxpayer;~~

~~(ii) does not meet the definition of an optional apportionment taxpayer; or~~

~~(iii) for a taxable year beginning on or after January 1, 2020:~~

~~(A) meets the definition of an optional apportionment taxpayer; and~~

~~(B) apportioned business income using the method described in Subsection 59-7-311(4) during the previous taxable year.~~

~~[(j)] (l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.~~

~~[(k)] (m) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.~~

~~[(4)] (n) [Subject to Subsection (2), "sales"] "Sales factor weighted taxpayer" means:] a taxpayer described in Subsection (2).~~

~~[(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:]~~

~~[(A) a NAICS code within NAICS Sector 21, Mining;]~~

~~[(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]~~

~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS Code 336111, Automobile Manufacturing;]~~

~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~

~~[(E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector 519, Other Information Services; or]~~

~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or]~~

~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F).]~~

~~[(m)] (o) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.~~

~~[(n)] (p) "Transportation revenue" means revenue an airline earns from:~~

~~(i) transporting a passenger or cargo; or~~

~~(ii) from miscellaneous sales of merchandise as part of providing transportation services.~~

~~[(o)] (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:~~

~~(i) during the airline's tax period; and~~

~~(ii) from flight stages that originate or terminate in this state.~~

~~[(2) The following apply to Subsections (1)(i) and (4):]~~

~~[(a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.]~~

~~(2) (a) A taxpayer is a sales factor weighted taxpayer if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:~~

~~(i) a NAICS code within NAICS Sector 21, Mining;~~

~~(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;~~

~~(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except NAICS Code 336111, Automobile Manufacturing;~~

~~(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;~~

~~(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or~~

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

~~[(ii)] (b) A taxpayer shall [make—the determination required by Subsection (2)(a)(i)] determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.~~

~~[(iii)] (c) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:~~

~~[(A)] (i) as determined in accordance with this part; and~~

~~[(B)] (ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).~~

(3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.

(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (3)(b)(i); and

(iii) divide the sum calculated in Subsection (3)(b)(ii):

(A) except as provided in Subsection (3)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

~~[(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an optional sales factor weighted taxpayer.]~~

~~[(B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the apportionment options described in Subsection 59-7-311(4).]~~

~~[(ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make the determination before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.]~~

~~[(iii) For purposes of making the determination described in Subsection (2)(b)(i), total sales everywhere include only the total sales everywhere.]~~

~~[(A) as determined in accordance with this part; and]~~

~~[(B) made during the taxable year for which a taxpayer makes a determination described in Subsection (2)(b)(i).]~~

~~[(e) (4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.~~

~~[(d) (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.~~

Section 34. Section 59-7-311 is amended to read:

59-7-311. Method of apportionment of business income.

(1) For a taxable year, a taxpayer shall apportion all business income [shall be apportioned] to this state by multiplying the business income by a fraction calculated as provided in this section.

~~[(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor weighted taxpayer and an optional sales factor weighted taxpayer, shall calculate the fraction for apportioning business income to this state using one of the following fractions:]~~

~~[(a) a fraction where:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the sales factor as calculated under Section 59-7-317; and]~~

~~[(ii) the denominator of the fraction is three; or]~~

~~[(b) a fraction where:]~~

~~[(i) the numerator of the fraction is the sum of:]~~

~~[(A) the property factor as calculated under Section 59-7-312;]~~

~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

~~[(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and]~~

~~[(ii) the denominator of the fraction is four.]~~

~~[(3) (2) Subject to the other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:~~

(a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and

(b) the denominator of the fraction is one.

[4] (3) Subject to the other provisions of this part, an optional ~~[sales factor weighted]~~ apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using ~~[a method described in Subsection (2)(a), (2)(b), or (3).]~~ one of the following fractions:

(a) the fraction described in Subsection (4); or

(b) the fraction where:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317; and

(ii) the denominator of the fraction is three.

(4) (a) Subject to other provisions of this part, a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as provided in Subsections (4)(b) through (d).

(b) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Subsection (4)(e)(i); and

(ii) the denominator of the fraction is six.

(c) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Subsection (4)(e)(ii); and

(ii) the denominator of the fraction is 10.

(d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor weighted taxpayer shall calculate the fraction as described in Subsection (2).

(e) (i) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019, the sales factor shall be:

(A) calculated as described in Section 59-7-317; and

(B) multiplied by four.

(ii) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020, the sales factor shall be:

(A) calculated as described in Section 59-7-317; and

(B) multiplied by eight.

(5) (a) The taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(b) The method described in Subsection (5)(a) is in effect for the taxable year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by ~~[Subsections (2) and (4)]~~ Subsection (3).

Section 35. Section 59-7-312 is amended to read:

59-7-312. Property factor for apportionment of business income -- Mobile flight equipment of an airline.

(1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the property factor is a fraction^[,]:

(a) the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and

(b) the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~[determining the product of]~~ multiplying:

(a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and

(b) a fraction^[,]:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection (3)(b), the property factor is a fraction:

(i) the numerator of which is the value of the property in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the value of all property in this state.

(b) A taxpayer shall exclude property from the calculation of the property factor fraction described in Subsection (3)(a) if the property may be attributed to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

Section 36. Section 59-7-315 is amended to read:

59-7-315. Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.

(1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the payroll factor is a fraction~~;~~:

(a) the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation~~;~~; and

(b) the denominator of which is the total compensation paid everywhere during the tax period.

(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~[determining the product of]~~ multiplying:

(a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and

(b) a fraction~~;~~:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection (3)(b), the payroll factor is a fraction:

(i) the numerator of which is the amount of the payroll in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the total amount of the payroll in this state.

(b) A taxpayer engaged in economic activities that are classified in an excluded NAICS code shall exclude an individual's payroll from the calculation

of the payroll factor fraction described in Subsection (3)(a) if the individual's payroll may be attributed:

(i) to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes; or

(ii) to providing management, information technology, finance, accounting, legal, or human resource services.

Section 37. Section 59-10-104 is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) ~~[For taxable years beginning on or after January 1, 2008, a]~~ A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) ~~[5%]~~ 4.95%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 38. Section 59-10-136 is amended to read:

59-10-136. Domicile -- Temporary absence from state.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; or

(xii) whether the individual is an individual described in Subsection (1)(b).

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) (a) If an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection (5)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

(6) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Section 39. Section 59-10-1018 is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Dependent adult with a disability" means an individual who:

(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;

(ii) is not the claimant or the claimant's spouse; and

(iii) is:

(A) 18 years of age or older;

(B) eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and

(C) not enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301.

(b) "Dependent child with a disability" means an individual 21 years of age or younger who:

(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;

(ii) is not the claimant or the claimant's spouse; and

(iii) is:

(A) an eligible student with a disability; or

(B) identified under guidelines of the Department of Health as qualified for Early Intervention or Infant Development Services.

(c) "Eligible student with a disability" means an individual who is:

(i) diagnosed by a school district representative under rules the State Board of Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as having a disability classified as autism, deafness, preschool developmental delay, dual sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment;

(ii) not receiving residential services from the Division of Services for People with Disabilities created under Section 62A-5-102 or a school established under Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind; and

(iii) (A) enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301; or

(B) a recipient of a scholarship awarded under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.

(d) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(e) "Joint filing status" means:

(i) ~~[a husband and wife]~~ spouses who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(f) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(g) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) \$10,000.

(h) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year

minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, ~~[the product of:]~~ 6% of the amount of the claimant's Utah itemized deduction; and

~~[(A) the difference between:]~~

~~[(I) the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and]~~

~~[(II) any amount of state or local income taxes the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and]~~

~~[(B) 6%; and]~~

(b) the product of:

(i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year, plus an additional 75% of the amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year with respect to each dependent adult with a disability or dependent child with a disability; and

(ii) 6%.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For ~~[taxable years]~~ a taxable year beginning on or after January 1, 2009, the

commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 40. Section 63I-2-211 is amended to read:

63I-2-211. Repeal dates -- Title 11.

(1) Subsections 11-13-302(2)(a)(i) and (2)(b)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(2) Section 11-13-310, the language that states "or 53F-2-301.5, as applicable," is repealed July 1, 2023.

[44] (3) (a) On July 1, 2019, Subsection 11-13a-102(4)(b) is repealed.

(b) When repealing Subsection 11-13a-102(4)(b), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[42] (4) Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January 1, 2020.

Section 41. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

[1] ~~Section 53A-1-403.5 is repealed July 1, 2017.~~

[2] ~~Section 53A-1-411 is repealed July 1, 2017.~~

[3] ~~Section 53A-1-415 is repealed July 1, 2019.~~

[4] ~~Section 53A-1-709 is repealed July 1, 2020.~~

[5] ~~Subsection 53A-1-1207(3)(b)(ii)(B) is repealed July 1, 2020.~~

[6] ~~Section 53A-1-1208 is repealed July 1, 2020.~~

[7] ~~Subsection 53A-1a-513(4) is repealed July 1, 2017.~~

[8] ~~Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.~~

[9] ~~Section 53A-24-601 is repealed January 1, 2018.~~

[40] (1) Section 53A-24-602 is repealed July 1, 2018.

[41] (2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[42] ~~Subsections 53B-7-101(2)(b)(iii)(A) and (3) are repealed January 1, 2018.~~

[43] (3) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

[44] (4) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

[45] (5) (a) The following sections are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[46] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(7) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

(8) Section 53E-5-307 is repealed July 1, 2020.

(9) Subsections 53F-2-205(4) and (5), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(10) Subsection 53F-2-301(1) is repealed July 1, 2023.

(11) Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(12) Section 53F-4-204 is repealed July 1, 2019.

(13) Section 53F-6-202 is repealed July 1, 2020.

(14) Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(15) Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(16) Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(17) Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(18) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

Section 42. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) Section 59-1-102 is repealed on May 14, 2019.

(2) In Section 59-2-926, the language that states “applicable” and “or 53F-2-301.5” is repealed July 1, 2023.

(3) Subsection 59-2-1007(14) is repealed on December 31, 2018.

Section 43. Section 63J-1-220 is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) “Local government entity” means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) “Pass through funding” means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) “Pass through funding” may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) “Recipient entity” means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) “State agency” means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) “State money” means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) “State money” does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor’s Office of Management and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the Minimum School Program, as defined in Subsection 53A-17a-103[(7)](6)(e).

Section 44. Repealer.

This bill repeals:

Section 53F-2-602, Board local levy state guarantee.

Section 53F-8-401, Capital outlay levy -- Authority to use proceeds of .0002 tax rate for maintenance of school facilities -- Restrictions and procedure -- Limited authority to use proceeds for general fund purposes -- Notification required when using proceeds for general fund purposes -- Authority for small school districts to

use levy proceeds for operation and maintenance of plant services.

Section 53F-8-404, Board-approved leeway -- Purpose -- State support -- Disapproval.

Section 53F-8-405, Additional levy by local school board for debt service, school sites, buildings, buses, textbooks, and supplies.

Section 53F-8-406, Board leeway for reading improvement.

Section 45. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 45(a). Operating and capital budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Minimum School Program -- Basic School Program

From Education Fund (\$36,117,300)

From Local Revenue \$36,117,300

ITEM 2

To State Board of Education -- Minimum School Program -- Voted and Board Local Levy Programs

From Education Fund Restricted -- Local Levy Growth Account \$36,117,300

Schedule of Programs:

Voted Local Levy Program \$18,050,600

Board Local Levy Program \$18,066,700

ITEM 3

To State Board of Education -- Minimum School Program -- Basic School Program

From Education Fund (\$18,650,000)

From Local Revenue \$18,650,000

ITEM 4

To State Board of Education -- Minimum School Program -- Related to Basic School Program

From Education Fund (\$46,500,000)

From Education Fund Restricted — Teacher and Student Success Account, One-time \$65,150,000

Schedule of Programs:

Flexible Allocation — WPU Distribution \$18,650,000

Subsection 45(b). Restricted fund and account transfers.

The Legislature authorizes the Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 5

To Education Fund Restricted -- Local Levy Growth Account

From Education Fund \$36,117,300

Schedule of Programs:

Education Fund Restricted — Local Levy Growth Account \$36,117,300

ITEM 6

To Education Fund Restricted -- Teacher and Student Success Account

From Education Fund \$65,150,000

Schedule of Programs:

Education Fund Restricted -- Teacher and Student Success Account \$65,150,000

Section 46. Retrospective operation and effective date.

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

(2) The amendments to Sections 59-7-110, 59-7-302, 59-7-311, 59-7-312, and 59-7-315 take effect for a taxable year beginning on or after January 1, 2019.

Section 47. Coordinating H.B. 293 with H.B. 1 -- Substantive amendments.

If this H.B. 293 and H.B. 1, Public Education Base Budget Amendments, both pass and become law, the Legislature intends that the amendments to Section 53F-2-301 in this bill supersede the amendments to Section 53F-2-301 in H.B. 1..

Section 48. Coordinating H.B. 293 with S.B. 72 -- Substantive and technical amendments.

If this H.B. 293 and S.B. 72, Business Income Tax Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) on May 8, 2018, by:

(a) amending Subsection 59-7-302(1)(g)(ii) in S.B. 72 to read:

“(ii) “Excluded NAICS code” does not include a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing;

(D) NAICS Code 336111, Automobile Manufacturing; or

(E) NAICS Subsector 519, Other Information Services.”;

(b) removing Subsection 59-7-302(1)(l) in S.B. 72 and renumbering the remaining subsections accordingly;

(c) amending Subsection 59-7-302(1)(o) in S.B. 72 to read:

“(o) “Sales factor weighted taxpayer” means a taxpayer that:

(i) performs economic activities that are classified only in included NAICS codes; or

(ii) does not meet the definition of optional apportionment taxpayer.”;

(d) amending Subsection 59-7-302(2) in S.B. 72 to read:

“(2)(a) For the taxable year beginning on or after January 1, 2018, but beginning on or before December 31, 2018, a taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (2)(b) is greater than .50.

(b) To calculate the average described in Subsection (2)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (2)(b)(i); and

(iii) divide the sum calculated in Subsection (2)(b)(ii):

(A) except as provided in Subsection (2)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date, including extensions, for filing the taxpayer’s return under this chapter for the taxable year.”;

(e) amending Subsection 59-7-311(3) in S.B. 72 to read:

“(3) Subject to other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:

(a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and

(b) the denominator of the fraction is one.”

(f) changing the reference, in Subsection 59-7-312(3)(a) of S.B. 72, from “Subsection 59-7-302(2)(c)(i)(A)” to “Subsection 59-7-302(2)(b)(i)(A); and

(g) changing the reference, in Subsection 59-7-315(3)(a) of S.B. 72, from “Subsection 59-7-302(2)(c)(i)(B)” to “Subsection 59-7-302(2)(b)(i)(B); and

(2) on January 1, 2019, the amendments to Sections 59-7-302, 59-7-311, 59-7-312, and 59-7-315 in H.B. 293 supersede the amendments to Sections 59-7-302, 59-7-311, 59-7-312, and 59-7-315 in S.B. 72, except that Subsection 59-7-302(2)(a) shall read:

“(2)(a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer’s total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and

(D) NAICS Code 336111, Automobile Manufacturing;

(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.”.

CHAPTER 457**H. B. 413**

Passed March 8, 2018
 Approved March 26, 2018
 Effective May 8, 2018

**PEST CONTROL
 LICENSING AMENDMENTS**

Chief Sponsor: Scott H. Chew
 Senate Sponsor: Don L. Ipson
 Cosponsor: Gregory H. Hughes

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Pesticide Control Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the requirements for obtaining a business registration certificate for a pesticide applicator business; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-14-102, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-14-111, as renumbered and amended by Laws of Utah 2017, Chapter 345

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-14-102 is amended to read:

4-14-102. Definitions.

As used in this chapter:

- (1) "Active ingredient" means an ingredient that:
- (a) prevents, destroys, repels, controls, or mitigates pests; or
 - (b) acts as a plant regulator, defoliant, or desiccant.
- (2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the standard of quality expressed on the label under which the pesticide is offered for sale.
- (3) "Animal" means all vertebrate or invertebrate species.
- (4) "Beneficial insect" means an insect that is:
- (a) an effective pollinator of plants;
 - (b) a parasite or predator of pests; or
 - (c) otherwise beneficial.
- (5) "Certified applicator" means an individual who is licensed by the department to apply:

(a) a restricted use pesticide; or

(b) a general use pesticide for hire or in exchange for compensation.

(6) "Certified qualified applicator" means a certified applicator who is eligible to act as a qualifying party.

(7) "Defoliant" means a substance or mixture intended to cause leaves or foliage to drop from a plant, with or without causing abscission.

(8) "Desiccant" means a substance or mixture intended to artificially accelerate the drying of plant or animal tissue.

(9) "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment, receive, deliver, or offer to deliver pesticides in this state.

(10) "Environment" means all living plants and animals, water, air, land, and the interrelationships that exist between them.

(11) (a) "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power to apply a pesticide.

(b) "Equipment" does not mean any pressurized hand-sized household apparatus used to apply a pesticide or any equipment or contrivance used to apply a pesticide that is dependent solely upon energy expelled by the person making the pesticide application.

(12) "EPA" means the United States Environmental Protection Agency.

(13) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(14) (a) "Fungus" means a nonchlorophyll-bearing thallophyte or a nonchlorophyll-bearing plant of an order lower than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria.

(b) "Fungus" does not include fungus existing on or in:

- (i) a living person or other animal; or
- (ii) processed food, beverages, or pharmaceuticals.

(15) "Herbicide" means a substance that is toxic to plants and is used to control or eliminate unwanted vegetation.

(16) "Insect" means an invertebrate animal generally having a more or less obviously segmented body:

(a) usually belonging to the Class Insecta, comprising six-legged, usually winged forms, including beetles, bugs, bees, and flies; and

(b) allied classes of arthropods that are wingless usually having more than six legs, including spiders, mites, ticks, centipedes, and wood lice.

(17) "Label" means any written, printed, or graphic matter on, or attached to, a pesticide or a container or wrapper of a pesticide.

[45] (18) (a) "Labeling" means all labels and all other written, printed, or graphic matter:

- (i) accompanying a pesticide or equipment; or
- (ii) to which reference is made on the label or in literature accompanying a pesticide or equipment.

(b) "Labeling" does not include any written, printed, or graphic matter created by the EPA, the United States Departments of Agriculture or Interior, the United States Department of Health, Education, and Welfare, state experimental stations, state agricultural colleges, and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

[46] (19) "Land" means land, water, air, and plants, animals, structures, buildings, contrivances, and machinery appurtenant or situated thereon, whether fixed or mobile, including any used for transportation.

[47] (20) "Misbranded" means any label or labeling that is false or misleading or that does not strictly comport with the label and labeling requirements set forth in Section 4-14-104.

[48] (21) "Misuse" means use of any pesticide in a manner inconsistent with the pesticide's label or labeling.

[49] (22) "Nematode" means invertebrate animals of the Phylum Nematelminthes and Class Nematoda, including unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, also known as nemas or eelworms.

(23) "Ornamental and turf pest control" means the use of a pesticide to control ornamental and turf pests in the maintenance and protection of ornamental trees, shrubs, flowers, or turf.

[20] (24) (a) "Pest" means:

- (i) any insect, rodent, nematode, fungus, weed; or
- (ii) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganism that is injurious to health or to the environment or that the department declares to be a pest.

(b) "Pest" does not include:

- (i) viruses, bacteria, or other microorganisms on or in a living person or other living animal; or
- (ii) protected wildlife species identified in Section 23-13-2 that are regulated by the Division of Wildlife Resources in accordance with Sections 23-14-1 through 23-14-3.

[21] (25) "Pesticide" means any:

- (a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other form of plant or animal life that is normally considered to be a pest or that the commissioner declares to be a pest;

(b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid the pesticide's application or effect; and

(d) any other substance designated by the department by rule.

[22] (26) "Pesticide applicator" is a person who:

(a) applies or supervises the application of a pesticide; and

(b) is required by this chapter to have a license.

[23] (27) (a) "Pesticide applicator business" means an entity that:

- (i) is authorized to do business in this state; and
- (ii) offers pesticide application services.

(b) "Pesticide applicator business" does not include an individual licensed agricultural applicator who may work for hire.

[24] (28) "Pesticide dealer" means any person who distributes restricted use pesticides.

[25] (29) (a) "Plant regulator" means any substance or mixture intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or otherwise alter the behavior of ornamental or crop plants.

(b) "Plant regulator" does not include plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(30) "Qualifying party" means a certified qualified applicator who is the owner or employee of a pesticide applicator business and who is registered with the department as the individual responsible for ensuring the training, equipping, and supervision of all pesticide applicators who work for the pesticide applicator business.

[26] (31) "Restricted use pesticide" means:

(a) a pesticide, including a highly toxic pesticide, that is a serious hazard to beneficial insects, animals, or land; or

(b) any pesticide or pesticide use restricted by the administrator of EPA or by the commissioner.

(32) "Spot treatment" means the limited application of an herbicide to an area that is no more than 5% of the potential treatment area or one-twentieth of an acre, whichever is smaller, using equipment that is designed to contain no more than five gallons of mixture.

[27] (33) "Weed" means any plant that grows where not wanted.

[28] (34) "Wildlife" means all living things that are neither human, domesticated, nor pests.

Section 2. Section 4-14-111 is amended to read:

4-14-111. Registration required for a pesticide business.

(1) A pesticide applicator business shall register with the department by:

(a) submitting an application on a form provided by the department;

(b) paying the registration fee; and

(c) certifying that the business is in compliance with this chapter and departmental rules authorized by this chapter.

(2) (a) By following the procedures and requirements of Section 63J-1-504, the department shall establish a registration fee based on the number of pesticide applicators employed by the pesticide applicator business.

(b) (i) Notwithstanding Section 63J-1-504, the department shall deposit the fees as dedicated credits and may only use the fees to administer and enforce this chapter.

(ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.

(3) The department shall issue a business registration certificate to a pesticide applicator business if the individual or entity:

(a) has complied with the requirements of this section;

(b) has shown evidence of competence in the pesticide profession and meets the certification requirements established by rule;

(c) provides evidence that the owner or qualifying party is a certified applicator;

(d) provides evidence that the owner or qualifying party:

(i) has been a certified applicator for at least two years out of the 10 years immediately before the date of the application for a business registration certificate is received by the department; or

(ii) holds an associate degree or higher in horticulture, agricultural sciences, biological sciences, pest management, or a related field;

[(e)] (e) demonstrates good character;

[(d)] (f) has no outstanding infractions and owes no money to the department; and

[(e)] (g) pays the licensing fee established by the department.

(4) A registration certificate expires on December 31 of the second calendar year after the calendar year in which the registration certificate is issued.

(5) (a) The department may suspend a registration certificate if the pesticide applicator business violates this chapter or any rules authorized by it.

(b) A pesticide applicator business whose registration certificate has been suspended may apply to the department for reinstatement of the registration certificate by demonstrating

compliance with this chapter and rules authorized by this chapter.

(6) A pesticide applicator business shall:

(a) only employ a pesticide applicator who has received a license from the department, as required by Section 4-14-103; and

(b) ensure that all employees comply with this chapter and the rules authorized by this chapter.

(7) An individual or entity applying for a business registration certificate does not have to meet the requirements of Subsection (3)(d) if the individual's or entity's sole use of pesticides is limited to:

(a) providing ornamental and turf pest control spot treatment services; and

(b) herbicides with labels that contain the signal word "caution" or "warning."

CHAPTER 458**H. B. 491**

Passed March 8, 2018

Approved March 26, 2018

Effective May 8, 2018

ELECTION LAW CHANGES

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill modifies the Election Code to establish procedures for submitting a nonbinding opinion question to the voters of Utah.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures for submitting a nonbinding opinion question to the voters of Utah;
- ▶ describes the duties of the lieutenant governor and county clerks in submitting the opinion question to the voters;
- ▶ establishes procedures for the ballot form, voter information pamphlet, public notice, manner of voting, and canvass of returns in relation to the nonbinding opinion question; and
- ▶ provides a repealer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-6-107, as enacted by Laws of Utah 2008, Chapter 315

63I-2-220, as last amended by Laws of Utah 2017, Chapters 32 and 452

63I-2-236, as last amended by Laws of Utah 2017, Chapter 90

ENACTS:

36-16b-101, Utah Code Annotated 1953

36-16b-102, Utah Code Annotated 1953

36-16b-103, Utah Code Annotated 1953

36-16b-201, Utah Code Annotated 1953

36-16b-202, Utah Code Annotated 1953

36-16b-203, Utah Code Annotated 1953

36-16b-204, Utah Code Annotated 1953

36-16b-301, Utah Code Annotated 1953

36-16b-302, Utah Code Annotated 1953

36-16b-303, Utah Code Annotated 1953

36-16b-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-6-107 is amended to read:

20A-6-107. Numbering of ballot propositions, bond propositions, and nonbinding opinion questions -- Duties of election officer and lieutenant governor.

(1) (a) Except as provided in Subsections (1)(b) and (1)(c), each ballot proposition shall be listed on

the ballot under the heading "Proposition # ___", with the number of the ballot proposition placed in the blank.

(b) Each proposed amendment to the Utah Constitution shall be listed on the ballot under the heading "Constitutional Amendment ___", with a letter placed in the blank.

(c) Each bond proposition that has qualified for the ballot shall be listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) Each nonbinding opinion question submitted to a vote of the people under Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, shall be listed on the ballot under the heading "Nonbinding Opinion Question # ___," with the number of the nonbinding opinion question placed in the blank.

[~~(2)~~] (3) (a) When an election officer or other person given authority to prepare or number ballot propositions receives a ballot proposition that is eligible for inclusion on the ballot, they shall ask the lieutenant governor to assign a number to the ballot proposition.

(b) (i) Upon request from an election officer or other person given authority to prepare or number ballot propositions, the lieutenant governor shall assign each ballot proposition a unique number, except as provided under Subsection [~~(2)~~] (3)(b)(iii).

(ii) Ballot proposition numbers shall be assigned sequentially, in the order requests for ballot proposition numbers are received.

(iii) The same ballot proposition number may be assigned to multiple ballot propositions if:

(A) the sponsors of each ballot proposition agree, in writing, to share the number; and

(B) the ballot propositions sharing the same number are identical in their terms, purpose, and effect, with jurisdiction being the only significant difference between the ballot propositions.

(4) When the lieutenant governor receives a joint resolution for a nonbinding opinion question under Section 36-16b-202, the lieutenant governor shall:

(a) assign a number to the nonbinding opinion question that is unique to the nonbinding opinion question; and

(b) assign numbers to each nonbinding opinion question sequentially, in the order in which the lieutenant governor receives the joint resolutions.

Section 2. Section 36-16b-101 is enacted to read:

CHAPTER 16b. NONBINDING STATEWIDE PUBLIC OPINION QUESTIONS

Part 1. General Provisions

36-16b-101. Title.

(1) This chapter is known as "Nonbinding Statewide Public Opinion Questions."

(2) This part is known as "General Provisions."

Section 3. Section 36-16b-102 is enacted to read:**36-16b-102. Definitions.**

As used in this chapter:

(1) “Opinion question” means a nonbinding question that is submitted to all legal voters of the state in accordance with this chapter.

(2) “Originating house” means:

(a) the Utah House of Representatives if the resolution is a House joint resolution; or

(b) the Utah State Senate if the resolution is a Senate joint resolution.

(3) “Regular general election” means the same as that term is defined in Section 20A-1-102.

Section 4. Section 36-16b-103 is enacted to read:**36-16b-103. Exemption.**

Title 20A, Chapter 7, Issues Submitted to the Voters, does not apply to an opinion question.

Section 5. Section 36-16b-201 is enacted to read:**Part 2. Submission of Nonbinding Opinion Questions to Voters****36-16b-201. Title.**

This part is known as “Submission of Nonbinding Opinion Questions to Voters.”

Section 6. Section 36-16b-202 is enacted to read:**36-16b-202. Resolution to submit nonbinding opinion questions to voters.**

(1) The Legislature may submit an opinion question to the legal voters of the state by passing a joint resolution in accordance with the requirements of this section.

(2) The joint resolution described in Subsection (1) shall include:

(a) the language of the opinion question as it will appear on the ballot;

(b) a statement directing that the lieutenant governor submit the language of the opinion question to the legal voters of the state for their approval or rejection; and

(c) language designating the date of the regular general election in which the opinion question shall be submitted to the voters.

(3) After passage by both houses of the Legislature, the originating house shall submit the joint resolution to the lieutenant governor with instructions that the opinion question specified in the joint resolution be submitted to the legal voters on the regular general election date specified in the resolution.

Section 7. Section 36-16b-203 is enacted to read:**36-16b-203. Lieutenant governor’s duties.**

(1) After receipt of a joint resolution described in Section 36-16b-202, the lieutenant governor shall:

(a) submit the opinion question to the legal voters of Utah as required by the resolution;

(b) comply with Section 36-16b-302; and

(c) except as provided in Section 36-16b-103, comply with all relevant provisions of Title 20A, Election Code, relating to the conduct of elections.

(2) The lieutenant governor may establish additional requirements for county clerks to facilitate the conduct of the election.

Section 8. Section 36-16b-204 is enacted to read:**36-16b-204. Duties of county clerks.**

Each county clerk shall, with respect to an opinion question described in this chapter, comply with:

(1) the requirements of Title 20A, Election Code, relating to regular general elections;

(2) the requirements of Section 36-16b-302; and

(3) any other requirement imposed by the lieutenant governor.

Section 9. Section 36-16b-301 is enacted to read:**Part 3. Voting and Canvassing****36-16b-301. Title.**

This part is known as “Voting and Canvassing.”

Section 10. Section 36-16b-302 is enacted to read:**36-16b-302. Procedures -- Ballot title -- Publication of nonbinding opinion question.**

(1) The lieutenant governor, the Office of Legislative Research and General Counsel, and each county clerk shall comply with the procedures described in this section whenever the Legislature authorizes an opinion question under Section 36-16b-202.

(2) If the Legislature passes a resolution described in Section 36-16b-202, the Office of Legislative Research and General Counsel shall, on or before July 20:

(a) draft a ballot title that summarizes the subject matter of the opinion question; and

(b) deliver the ballot title to the lieutenant governor.

(3) On or before August 31, the lieutenant governor shall certify the number and ballot title of the opinion question to each county clerk in accordance with Section 20A-6-107.

(4) No more than 60 days nor less than 14 days before the date of the regular general election, the

lieutenant governor shall cause the full text of the opinion question to be published in at least one newspaper in every county of the state where a newspaper is published.

(5) Each county clerk shall cause both the number and title of the opinion question to be:

- (a) printed on the ballot to be used on election day;
- (b) printed on the sample ballot; and
- (c) otherwise published as required by law.

Section 11. Section 36-16b-303 is enacted to read:

36-16b-303. Ballot form -- Manner of voting.

The lieutenant governor shall ensure that a ballot containing an opinion question includes:

- (1) a number and ballot title;
- (2) the text of the opinion question; and
- (3) (a) the words "FOR" and "AGAINST," each word presented with an adjacent square in which the voter may indicate the voter's vote; or
- (b) all possible responses to the opinion question, each response presented with an adjacent square in which the voter may indicate the voter's vote.

Section 12. Section 36-16b-304 is enacted to read:

36-16b-304. Canvass of returns.

(1) The county legislative body shall conduct a public canvass of the returns from the opinion question election no later than 14 days after the day on which the regular general election is held.

(2) Each county clerk shall:

(a) make a certified abstract of the record of the canvassers detailing the votes cast on the opinion question; and

(b) seal the transcript, endorse on the transcript, "Election Returns," and transmit the transcript to the lieutenant governor's office so that the lieutenant governor receives the transcript on or before the fifth day before the day designated for the meeting of the state board of canvassers.

(3) The state board of canvassers established under Section 20A-4-306 shall meet to compute and determine the vote on the opinion question.

(4) The lieutenant governor may, in accordance with the requirements of Title 20A, Election Code, establish additional requirements for county clerks to facilitate the conduct of an election on an opinion question described in this chapter.

Section 13. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates, Title 20A.

(1) Subsection 20A-5-803(8) is repealed July 1, 2023.

(2) Section 20A-5-804 is repealed July 1, 2023.

(3) On July 1, 2018, in Subsection 20A-11-101(21), the language that states "10-2a-302," is repealed.

(4) On January 1, 2019, Subsections 20A-6-107(2) and (4) are repealed and the remaining subsections, and references to those subsections, are renumbered accordingly.

Section 14. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

[~~Section 36-29-102 is repealed July 1, 2016.~~]

Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, is repealed on January 1, 2019.

CHAPTER 459**S. B. 156**

Passed March 5, 2018
Approved March 26, 2018
Effective May 8, 2018

**UNCLAIMED PROPERTY
ACT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions of the Revised Uniform Unclaimed Property Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ subjects a stored-value card and a payroll card to the Revised Uniform Unclaimed Property Act;
- ▶ provides a time period after which a stored-value card is considered unclaimed property;
- ▶ exempts a 529 educational savings account from certain provisions;
- ▶ addresses the State Tax Commission's responsibilities with regards to unclaimed property; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-1903, as last amended by Laws of Utah 2017, Chapter 371
67-4a-102, as repealed and reenacted by Laws of Utah 2017, Chapter 371
67-4a-201, as repealed and reenacted by Laws of Utah 2017, Chapter 371
67-4a-204, as repealed and reenacted by Laws of Utah 2017, Chapter 371
67-4a-503, as enacted by Laws of Utah 2017, Chapter 371

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-1903 is amended to read:**31A-22-1903. Insurer conduct.**

(1) An insurer shall perform a comparison of its insureds' in-force policies, contracts, and retained asset accounts against a death master file, on at least a semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match:

(a) The insurer shall within 90 days of a death master file match:

(i) complete a good faith effort, that the insurer documents, to confirm the death of the insured or retained asset account holder against other available records and information; and

(ii) determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due in accordance with the applicable policy or contract:

(A) use good faith efforts, that the insurer documents, to locate the beneficiary or beneficiaries; and

(B) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy or contract.

(b) With respect to group life insurance, an insurer shall confirm the possible death of an insured when the insurer maintains at least the following information of those covered under a policy or certificate:

(i) social security number, or name and date of birth;

(ii) beneficiary designation information;

(iii) coverage eligibility;

(iv) benefit amount; and

(v) premium payment status.

(c) An insurer shall implement procedures to account for:

(i) initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(ii) compound last names, hyphens, and blank spaces or apostrophes in last names; and

(iii) transposition of the "month" and "date" portions of the date of birth.

(d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(2) (a) An insurer that has not engaged in asymmetric conduct before July 1, 2015, is not required to comply with the requirements of this section with respect to a policy, annuity, or retained asset account issued or delivered before July 1, 2015.

(b) Notwithstanding Subsection (2)(a), an insurer, regardless of whether it has engaged in asymmetric conduct, shall comply with the requirements of this section for a policy, annuity, or retained asset account issued on or after July 1, 2015.

(3) An insurer or the insurer's service provider may not charge a beneficiary or other authorized representative for fees or costs associated with a

death master file search or verification of a death master file match conducted pursuant to this section.

(4) The benefits from a policy, contract, or retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners can not be found, shall be transferred to the state as unclaimed property pursuant to Subsection 67-4a-201[(7)](8). Interest payable under Section 31A-22-428 may not be payable as unclaimed property under Subsection 67-4a-201[(7)](8).

(5) An insurer shall notify the administrator upon the expiration of the statutory holding period under Subsection 67-4a-201[(7)](8) that:

(a) a policy, contract beneficiary, or retained asset account holder has not submitted a claim with the insurer; and

(b) the insurer has complied with Subsection (1) and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary, or beneficiaries.

(6) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the administrator.

Section 2. Section 67-4a-102 is amended to read:

67-4a-102. Definitions.

As used in this chapter:

(1) "Administrator" means the deputy state treasurer assigned by the state treasurer.

(2) (a) "Administrator's agent" means a person with which the administrator contracts to conduct an examination under Part 10, Verified Report of Property and Examination of Records, on behalf of the administrator.

(b) "Administrator's agent" includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.

(3) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.

(4) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or financial organization is directly liable.

(b) "Bank draft" includes:

(i) a cashier's check; and

(ii) a certified check.

(c) "Bank draft" does not include:

(i) a traveler's check; or

(ii) a money order.

(5) "Banking organization" means:

(a) a bank;

(b) an industrial bank;

(c) a trust company;

(d) a savings bank; or

(e) any organization defined by other law as a bank or banking organization.

(6) "Business association" means a corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, banking organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.

(7) "Cashier's check" means a check that:

(a) is drawn by a banking organization on itself;

(b) is signed by an officer of the banking organization; and

(c) authorizes payment of the amount shown on the check's face to the payee.

(8) "Class action" means a legal action:

(a) certified by the court as a class action; or

(b) treated by the court as a class action without being formally certified as a class action.

(9) "Confidential information" means records, reports, and information that is confidential under Section 67-4a-1402.

(10) (a) "Deposit in a financial institution" means a demand, savings, or matured time deposit with a banking or financial organization.

(b) "Deposit in a financial institution" includes:

(i) any interest or dividends on a deposit; and

(ii) a deposit that is automatically renewable.

(11) "Domicile" means:

(a) for a corporation, the state of the corporation's incorporation;

(b) for a business association other than a corporation, whose formation requires a filing with a state, the state of the business association's filing;

(c) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of the entity's or company's home office; and

(d) for any other holder, the state of the holder's principal place of business.

(12) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(13) "Electronic mail" means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.

- (14) “Financial organization” means:
- (a) a savings and loan association; or
 - (b) a credit union.
- (15) (a) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform.
- (b) “Game-related digital content” includes:
 - (i) game-play currency, including a virtual wallet, even if denominated in United States currency; and
 - (ii) the following, if for use or redemption only within the game or platform or another electronic game or electronic-game platform:
 - (A) points sometimes referred to as gems, tokens, gold, and similar names; and
 - (B) digital codes.
 - (c) “Game-related digital content” does not include an item that the issuer:
 - (i) permits to be redeemed for use outside a game or platform for:
 - (A) money; or
 - (B) goods or services that have more than minimal value; or
 - (ii) otherwise monetizes for use outside a game or platform.
- (16) (a) “Gift card” means a ~~payment device such as a plastic card~~ record that:
- ~~(a)~~ (i) is usable at:
 - ~~(i)~~ (A) a single merchant; or
 - ~~(ii)~~ (B) ~~[an affiliated]~~ a specified group of merchants; ~~[or]~~
 - ~~(iii) multiple, unaffiliated merchants;~~
 - ~~(b) contains a means for the electronic storage of information including:~~
 - ~~(i) a microprocessor chip;~~
 - ~~(ii) a magnetic stripe; or~~
 - ~~(iii) a bar code;~~
 - ~~(c)~~ (ii) is prefunded before ~~[it]~~ the record is used; ~~whether or not money may be added to the payment device after it is used;~~ and
 - ~~(d)~~ (iii) ~~[is redeemable for]~~ can be used for purchases of goods or services.
- (b) “Gift card” includes a prepaid commercial mobile radio service as defined in 47 C.F.R. Sec. 20.3.
- (17) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner property subject to this chapter.
- (18) “Insurance company” means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in
- the business of providing life endowments, annuities, or insurance, including:
- (a) accident insurance;
 - (b) burial insurance;
 - (c) casualty insurance;
 - (d) credit life insurance;
 - (e) contract performance insurance;
 - (f) dental insurance;
 - (g) disability insurance;
 - (h) fidelity insurance;
 - (i) fire insurance;
 - (j) health insurance;
 - (k) hospitalization insurance;
 - (l) illness insurance;
 - (m) life insurance, including endowments and annuities;
 - (n) malpractice insurance;
 - (o) marine insurance;
 - (p) mortgage insurance;
 - (q) surety insurance;
 - (r) wage protection insurance; and
 - (s) worker compensation insurance.
- (19) “Last known address” means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
- (20) (a) “Loyalty card” means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services.
- (b) “Loyalty card” does not include a record that may be redeemed for money or otherwise monetized by the issuer.
- (21) (a) “Mineral” means any substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the substance is found.
- (b) “Mineral” includes:
 - (i) building stone;
 - (ii) cement material;
 - (iii) chemical raw material;
 - (iv) coal;
 - (v) colloidal and other clay;
 - (vi) fissionable and nonfissionable ore;
 - (vii) gas;
 - (viii) gemstone;
 - (ix) gravel;

- (x) lignite;
 - (xi) oil;
 - (xii) oil shale;
 - (xiii) other gaseous liquid or solid hydrocarbon;
 - (xiv) road material;
 - (xv) sand;
 - (xvi) steam and other geothermal resources;
 - (xvii) sulphur; and
 - (xviii) uranium.
- (22) (a) "Mineral proceeds" means an amount payable:
- (i) for extraction, production, or sale of minerals; or
 - (ii) for the abandonment of an interest in minerals.
- (b) "Mineral proceeds" includes an amount payable:
- (i) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, or delay rental;
 - (ii) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, or production payment; and
 - (iii) under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement.
- (23) (a) "Money order" means a payment order for a specified amount of money.
- (b) "Money order" includes an express money order and a personal money order on which the remitter is the purchaser.
- (c) "Money order" does not include a cashier's check.
- (24) "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.
- (25) (a) "Nonfreely transferable security" means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer.
- (b) "Nonfreely transferable security" includes a worthless security.
- (26) (a) "Owner" means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of the owner.

(b) "Owner" includes:

- (i) a depositor, for a deposit;

- (ii) a beneficiary, for a trust other than a deposit in trust;
- (iii) a creditor, claimant, or payee, for other property; and
- (iv) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(27) "Payroll card" means a record that evidences a payroll card account as defined in 12 C.F.R. Part 1005, Electronic Fund Transfers (Regulation E).

~~(27)~~ (28) "Person" means:

- (a) an individual;
- (b) an estate;
- (c) a business association;
- (d) a public corporation;
- (e) a government entity;
- (f) an agency;
- (g) a trust;
- (h) an instrumentality; or
- (i) any other legal or commercial entity.

~~(28)~~ (29) (a) "Property" means tangible property described in Section 67-4a-205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government entity.

(b) "Property" includes:

- (i) all income from or increments to the property;
- (ii) property referred to as or evidenced by:

(A) money, virtual currency, interest, or a dividend, check, draft, or deposit;

(B) a credit balance, customer's overpayment, stored-value card, payroll card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance; and

(C) a security except for:

(I) a worthless security; or

(II) a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(iii) a bond, debenture, note, or other evidence of indebtedness;

(iv) money deposited to redeem a security, make a distribution, or pay a dividend;

(v) an amount due and payable under an annuity contract or insurance policy;

(vi) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing,

employee-savings, supplemental-unemployment insurance, or a similar benefit; and

(vii) an amount held under a preneed funeral or burial contract, other than a contract for burial rights or opening and closing services, where the contract has not been serviced following the death or the presumed death of the beneficiary.

(c) "Property" does not include:

(i) property held in a plan described in Section 529A, Internal Revenue Code;

(ii) game-related digital content;

(iii) a loyalty card;

(iv) an in-store credit for returned merchandise; or

(v) a gift card.

~~[(29)]~~ (30) "Putative holder" means a person believed by the administrator to be a holder, until:

(a) the person pays or delivers to the administrator property subject to this chapter; or

(b) the administrator or a court makes a final determination that the person is or is not a holder.

~~[(30)]~~ (31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~[(31)]~~ (32) "Security" means:

(a) a security as defined in Revised Article 8 of the Uniform Commercial Code; or

(b) a security entitlement as defined in Revised Article 8 of the Uniform Commercial Code, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

(i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(ii) payable to the order of the person;

(iii) specifically endorsed to the person; or

(iv) an equity interest in a business association not included in this Subsection ~~[(31)]~~ (32).

~~[(32)]~~ (33) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

~~[(33)]~~ (34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(35) (a) "Stored-value card" means a reloadable or non-reloadable record:

(i) with a monetary value or amount that can be:

(A) used to purchase or otherwise acquire goods or services;

(B) used to obtain cash; or

(C) redeemed for cash value; and

(ii) of which the issuer or the issuer's agent has a record of the name and last known address of the apparent owner and the address is in the state of Utah.

(b) "Stored-value card" does not include:

(i) a record described in Subsection (35)(a) that is purchased or acquired by an intermediary or other party for resale, for sale on consignment, or as a gift to the card user, when the issuer does not know the name and address of the ultimate buyer or recipient of the record;

(ii) a loyalty card;

(iii) a gift card; or

(iv) game-related digital content.

~~[(34)]~~ (36) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for:

(a) the transmission of communications or information;

(b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or

(c) the provision of sewage or septic services, or trash, garbage, or recycling disposal.

~~[(35)]~~ (37) (a) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States.

(b) "Virtual currency" does not include:

(i) the software or protocols governing the transfer of the digital representation of value;

(ii) game-related digital content;

(iii) a loyalty card;

(iv) membership rewards; or

(v) a gift card.

~~[(36)]~~ (38) "Worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this chapter.

Section 3. Section 67-4a-201 is amended to read:

67-4a-201. When property presumed abandoned.

Subject to Section 67-4a-208, the following property is presumed abandoned if the property is unclaimed by the apparent owner during the period specified below:

(1) a traveler's check, 15 years after issuance;

(2) a money order, seven years after issuance;

(3) the unredeemed balance of a stored-value card sold or issued on or after May 8, 2018, three years after the date of the last indication of interest in the property by the apparent owner;

~~[(3)]~~ (4) a state or municipal bond, bearer bond, or original-issue-discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;

~~[(4)]~~ (5) a debt of a business association, three years after the obligation to pay arises;

~~[(5)]~~ (6) a demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner, except a deposit that is automatically renewable is considered matured on the deposit's initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

~~[(6)]~~ (7) money or a credit owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three years after the obligation arose;

~~[(7)]~~ (8) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured, by proof of the death of the insured or annuitant, as follows:

(a) with respect to an amount owed on a life or endowment insurance policy, the earlier of:

(i) three years after the policy insurer validates knowledge of the death of the insured; or

(ii) three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and

(b) with respect to an amount owed on an annuity contract, three years after the date the annuity contract insurer validates knowledge of the death of the annuitant;

~~[(8)]~~ (9) property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

~~[(9)]~~ (10) property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

~~[(10)]~~ (11) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture

trustee, one year after the property becomes distributable;

~~[(11)]~~ (12) wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, one year after the amount becomes payable;

~~[(12)]~~ (13) a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; and

~~[(13)]~~ (14) property not specified in this section or Sections 67-4a-202 through 67-4a-206, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

Section 4. Section 67-4a-204 is amended to read:

67-4a-204. When custodial account for minor presumed abandoned.

(1) Subject to Section 67-4a-208, and except as provided in Subsection (5), property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if the property is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:

(a) except as in Subsection (1)(b), the date a communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service;

(b) if communication is re-sent within 30 days after the date the first communication under Subsection (1)(a) is returned undelivered, the date the second communication was returned undelivered; or

(c) the date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.

(2) (a) Subject to Subsection (2)(b), if the holder does not send communications to the custodian of the minor on whose behalf an account described in Subsection (1) was opened by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication not later than two years after the custodian's last indication of interest in the property.

(b) The holder shall promptly attempt to contact the custodian by first-class United States mail if:

(i) the holder does not have information needed to send the custodian an electronic mail communication or the holder believes that the custodian's electronic mail address in the holder's records is not valid;

(ii) the holder receives notification that the electronic mail communication was not received; or

(iii) the custodian does not respond to the electronic mail communication within 30 days after the communication was sent.

(3) If first-class United States mail sent under Subsection (2) is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three years after the later of:

(a) the date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States Postal Service; or

(b) the date established by Subsection (1)(c).

(4) When the property in the account described in Subsection (1) is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject to this section.

(5) This section does not apply to a qualified tuition program described in 26 U.S.C. Sec. 529.

Section 5. Section 67-4a-503 is amended to read:

67-4a-503. Notice by administrator.

(1) The administrator shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the administrator under this chapter.

(2) In providing notice under Subsection (1), the administrator shall:

(a) except as otherwise provided in Subsection (2)(b), send written notice by first-class United States mail to each apparent owner of property valued at \$50 or more held by the administrator, unless the administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic mail address of the apparent owner is known to the administrator instead of by first-class United States mail; or

(b) send the notice to the apparent owner's electronic mail address if the administrator does not have a valid United States mail address for an apparent owner, but has an electronic mail address that the administrator does not know to be invalid.

(3) In addition to the notice under Subsection (2), the administrator shall publish every 12 months in at least one English language newspaper of general circulation in this state notice of property held by the administrator, which shall include:

(a) the total value of property received by the administrator during the preceding 12-month period, taken from the reports under Section 67-4a-401;

(b) the total value of claims paid by the administrator during the preceding 12-month period;

(c) the Internet web address of the unclaimed property website maintained by the administrator;

(d) a telephone number and electronic mail address to contact the administrator to inquire about or claim property; and

(e) a statement that a person may access the Internet by a computer to search for unclaimed property, and a computer may be available as a service to the public at a local public library.

(4) (a) The administrator shall maintain a website accessible by the public and electronically searchable that contains the names reported to the administrator of apparent owners for whom property is being held by the administrator.

(b) The administrator is not required to list property on the website if:

(i) no owner name was reported;

(ii) a claim has been initiated or is pending for the property;

(iii) the Office of the State Treasurer has made direct contact with the apparent owner of the property; or

(iv) the administrator reasonably believes exclusion of the property is in the best interests of both the state and the owner of the property.

(5) The website or database maintained under Subsection (4) shall include instructions for filing with the administrator a claim to property and a printable claim form with instructions.

(6) (a) At least annually, the administrator shall notify the State Tax Commission of the names ~~[of all]~~ and social security numbers or federal identification numbers of any persons appearing to be owners of abandoned property under this chapter.

~~[(b) The administrator shall also provide to the State Tax Commission the social security numbers of the persons, if available.]~~

~~[(e)]~~ (b) The State Tax Commission shall:

(i) ~~[notify the administrator]~~ determine if any person under Subsection (6)(a) has filed a Utah income tax return in that year; and

~~[(ii) provide the administrator with the person's address that appears on the tax return.]~~

(ii) provide notice to a person described in Subsection (6)(b)(i) that directs the person to access the website described in Subsection (4) for information on property that may be held by the administrator in that person's name.

~~[(d) In]~~ (c) Subject to Subsection (7), in order to facilitate the return of property under this Subsection (6), the administrator and the State Tax Commission may enter into an interagency agreement concerning protection of confidential information, data match rules, and other issues.

~~[(7) (a) If the value of the property that is owed the person is \$2,000 or less:]~~

(7) If the administrator and the State Tax Commission enter into an interagency agreement

under Subsection (6)(c), for each person that is owed property that has a value of \$2,000 or less:

(a) the administrator shall deliver the property or pay the amount owed to the person in the manner provided under Section 67-4a-905; and

~~[(4)] (b) the person is not required to file a claim under Section 67-4a-903[; and].~~

~~[(ii) the administrator shall deliver the property or pay the amount owing to the person in the manner provided under Section 67-4a-905.]~~

~~[(b) If the value of the property that is owed the person is greater than \$2,000,]~~

~~[the administrator shall send written notice to the person informing the person that the person:]~~

~~[(4) is the owner of abandoned property held by the state; and]~~

~~[(ii) may file a claim with the administrator for return of the property.]~~

(8) The administrator may use publicly and commercially available databases to find and update or add information for apparent owners of property held by the administrator.

(9) The State Tax Commission may bill the administrator to recover the State Tax Commission's costs for providing the service under this section.

~~[(9)] (10) In addition to giving notice under Subsection (2), publishing the information under Subsection (3), and maintaining the website or database under Subsection (4), the administrator may use other printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the administrator.~~

CHAPTER 460**S. B. 191**

Passed March 6, 2018
 Approved March 26, 2018
 Effective March 26, 2018

STATE REGULATION OF OIL AND GAS

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Carl R. Albrecht

LONG TITLE**General Description:**

This bill deals with the regulation of oil and gas activity.

Highlighted Provisions:

This bill:

- ▶ defines the term “oil and gas activity”;
- ▶ states that, subject to federal law, state regulation of oil and gas activity occupies the whole regulatory field;
- ▶ provides that a municipality or county may regulate surface activity that is incident to an oil and gas activity in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-9a-102, as last amended by Laws of Utah 2007, Chapter 363

17-27a-102, as last amended by Laws of Utah 2015, Chapter 465

ENACTS:

40-6-2.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-102 is amended to read:**10-9a-102. Purposes -- General land use authority.**

(1) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state’s agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

(2) To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants,

easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner’s private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

(3) (a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its authority under this chapter shall comply with the state’s exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A municipality may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the municipality demonstrates that the regulation:

- (i) is necessary for the purposes of this chapter;
- (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state’s exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Section 2. Section 17-27a-102 is amended to read:**17-27a-102. Purposes -- General land use authority.**

(1) (a) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state’s agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

(b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner’s private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

- (i) is necessary for the purposes of this chapter;
- (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
- (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Section 3. Section 40-6-2.5 is enacted to read:

40-6-2.5. Preemption.

(1) (a) As used in this section, "oil and gas activity" means activity associated with the exploration, development, production, processing, and transportation of oil and gas as set forth in Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining, including:

- (i) drilling;
- (ii) hydraulic fracture stimulation;
- (iii) completion, maintenance, reworking, recompletion, disposal, plugging, and abandonment of wells;
- (iv) construction activities;
- (v) secondary and tertiary recovery techniques;
- (vi) remediation activities; and
- (vii) any other activity identified by the Board of Oil, Gas, and Mining.

(b) Oil and gas activity does not include any activity or authority directly authorized or granted to a political subdivision by the state.

(2) Subject to relevant federal law, regulation of oil and gas activity is of statewide concern and the state regulation of oil and gas activity occupies the whole field of potential regulation.

(3) The legislative body of a political subdivision may enact, amend, or enforce a local ordinance, resolution, or rule consistent with its general land use authority that:

- (a) regulates only surface activity that is incident to an oil and gas activity;
- (b) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(c) is not otherwise preempted by state or federal law.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 461**S. B. 216**

Passed March 8, 2018
 Approved March 26, 2018
 Effective May 8, 2018

ETHICS AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions relating to ethics committees and commissions.

Highlighted Provisions:

This bill:

- ▶ defines “malfeasance”;
- ▶ clarifies that the Independent Executive Branch Ethics Commission and the Political Subdivisions Ethics Review Commission (the commissions) are independent entities;
- ▶ permits the commissions to retain private counsel and provides for additional staff;
- ▶ addresses a request for supplemental appropriations by the commissions;
- ▶ requires submission of an annual summary report to the governor;
- ▶ addresses conflicts of interest for commission members;
- ▶ places restrictions on the contents of a complaint;
- ▶ describes the circumstances under which an official, officer, or employee may be held responsible, under the provisions of this bill, for a violation based on the act or failure to act of an individual under the authority of the official, officer, or employee;
- ▶ addresses complaints filed in more than one forum;
- ▶ requires a complainant to have personal knowledge of matters alleged in a complaint;
- ▶ addresses confidentiality requirements in relation to the commissions;
- ▶ requires the state or a political subdivision to pay costs and attorney fees if none of the allegations in a complaint before the commissions are proven;
- ▶ for budget purposes only, moves the Political Subdivisions Ethics Review Commission to the Department of Administrative Services, and recodifies provisions accordingly;
- ▶ provides for the appointment of an alternate or temporary replacement member for the Political Subdivisions Ethics Review Commission;
- ▶ modifies provisions relating to selection of the chair of the Political Subdivisions Ethics Review Commission;
- ▶ modifies deadlines relating to proceedings of the Political Subdivisions Ethics Review Commission;
- ▶ addresses the confidentiality of recordings of the commissions and legislative ethics committees and commissions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses: None

Utah Code Sections Affected:

AMENDS:

- 10-3-1311, as last amended by Laws of Utah 2012, Chapter 202
- 17-16a-11, as last amended by Laws of Utah 2012, Chapter 202
- 52-4-204, as last amended by Laws of Utah 2013, Chapter 426
- 63A-14-102, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-202, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-203, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-302, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-402, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-403, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-502, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-504, as enacted by Laws of Utah 2013, Chapter 426
- 63A-14-604, as enacted by Laws of Utah 2013, Chapter 426
- 63G-2-103, as last amended by Laws of Utah 2017, Chapters 196 and 441
- 63G-2-302, as last amended by Laws of Utah 2017, Chapters 168 and 282
- 67-16-15, as enacted by Laws of Utah 2012, Chapter 202

RENUMBERS AND AMENDS:

- 63A-15-101, (Renumbered from 11-49-101, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-102, (Renumbered from 11-49-102, as last amended by Laws of Utah 2016, Chapter 350)
- 63A-15-103, (Renumbered from 11-49-103, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-201, (Renumbered from 11-49-201, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-202, (Renumbered from 11-49-202, as last amended by Laws of Utah 2013, Chapter 278)
- 63A-15-301, (Renumbered from 11-49-301, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-302, (Renumbered from 11-49-302, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-401, (Renumbered from 11-49-401, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-402, (Renumbered from 11-49-402, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-403, (Renumbered from 11-49-403, as enacted by Laws of Utah 2012, Chapter 202)
- 63A-15-404, (Renumbered from 11-49-404, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-405, (Renumbered from 11-49-405, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-406, (Renumbered from 11-49-406, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-407, (Renumbered from 11-49-407, as last amended by Laws of Utah 2013, Chapter 278)

63A-15-408, (Renumbered from 11-49-408, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-501, (Renumbered from 11-49-501, as last amended by Laws of Utah 2016, Chapter 160)

63A-15-502, (Renumbered from 11-49-502, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-601, (Renumbered from 11-49-601, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-602, (Renumbered from 11-49-602, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-603, (Renumbered from 11-49-603, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-604, (Renumbered from 11-49-604, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-701, (Renumbered from 11-49-701, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-702, (Renumbered from 11-49-702, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-703, (Renumbered from 11-49-703, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-704, (Renumbered from 11-49-704, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-705, (Renumbered from 11-49-705, as enacted by Laws of Utah 2012, Chapter 202)

63A-15-706, (Renumbered from 11-49-706, as enacted by Laws of Utah 2012, Chapter 202)

ENACTS:

63A-14-405, Utah Code Annotated 1953

63A-15-303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-1311 is amended to read:**10-3-1311. Municipal ethics commission -- Complaints charging violations.**

(1) A municipality may establish by ordinance an ethics commission to review a complaint against an officer or employee subject to this part for a violation of a provision of this part.

(2) (a) A person filing a complaint for a violation of this part shall file the complaint:

(i) with the municipal ethics commission, if a municipality has established a municipal ethics commission in accordance with Subsection (1); or

(ii) with the Political Subdivisions Ethics Review Commission in accordance with [~~Title 11, Chapter 49~~] Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission, if the municipality has not established a municipal ethics commission.

(b) A municipality that receives a complaint described in Subsection (2)(a) may:

(i) accept the complaint if the municipality has established a municipal ethics commission in accordance with Subsection (1); or

(ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section [~~11-49-201~~] 63A-15-201:

(A) regardless of whether the municipality has established a municipal ethics commission; or

(B) if the municipality has not established a municipal ethics commission.

(3) If the alleged ethics complaint is against a person who is a member of the municipal ethics commission, the complaint shall be filed with or forwarded to the Political Subdivisions Ethics Review Commission.

Section 2. Section 17-16a-11 is amended to read:**17-16a-11. County ethics commission -- Complaints charging violations -- Procedure.**

(1) A county may establish by ordinance an ethics commission to review a complaint, except as provided in Subsection (3), against an officer or employee subject to this part for a violation of a provision of this part.

(2) (a) Except as provided in Subsection (3), a person filing a complaint for a violation of this part shall file the complaint:

(i) with the county ethics commission, if the county has established a county ethics commission in accordance with Subsection (1); or

(ii) with the Political Subdivisions Ethics Review Commission established in accordance with [~~Title 11, Chapter 49~~] Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission if the county has not established a county ethics commission.

(b) A county that receives a complaint described in Subsection (2)(a) may:

(i) accept the complaint if the county has established a county ethics commission in accordance with Subsection (1); or

(ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section [~~11-49-201~~] 63A-15-201:

(A) regardless of whether the county has established a county ethics commission; or

(B) if the county has not established a county ethics commission.

(3) Any complaint against a person who is under the merit system, charging that person with a violation of this part, shall be filed and processed in accordance with the provisions of the merit system.

Section 3. Section 52-4-204 is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(D) for the Political Subdivisions Ethics Review Commission established in Section ~~[11-49-201]~~ 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section ~~[11-49-701]~~ 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of “conducting business relating to the receipt or review of ethics complaints”;

(ii) for the Political Subdivisions Ethics Review Commission established in Section ~~[11-49-201]~~ 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section ~~[11-49-602]~~ 63A-15-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of “conducting business relating to the review of ethics complaints”; or

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of “conducting business relating to an ethics complaint.”

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Section 4. Section 63A-14-102 is amended to read:

63A-14-102. Definitions.

As used in this chapter:

(1) “Commission” means the Independent Executive Branch Ethics Commission, created in Section 63A-14-202.

(2) “Complainant” means an individual who files a complaint under Subsection 63A-14-402(1)(a).

(3) “Executive branch elected official” means:

(a) the governor;

(b) the lieutenant governor;

(c) the state auditor;

(d) the state treasurer; or

(e) the attorney general.

(4) “Improper purpose” includes harassing a respondent, causing unwarranted harm to a respondent’s reputation, or causing unnecessary expenditure of public funds.

(5) “Malfeasance in office” means an intentional act or omission relating to the duties of an executive branch elected official that:

(a) constitutes a crime; or

(b) (i) constitutes a substantial breach of the trust imposed upon the executive branch elected official by the nature of the official’s office; and

(ii) is against commonly accepted standards of honesty and morality.

[45] (6) "Respondent" means the executive branch elected official against whom an ethics complaint described in Section 63A-14-402 is filed.

[46] (7) "Violation" means a high crime, a misdemeanor, or malfeasance in office.

Section 5. Section 63A-14-202 is amended to read:

63A-14-202. Independent Executive Branch Ethics Commission -- Membership.

(1) (a) There is created the Independent Executive Branch Ethics Commission, consisting of the following five members appointed by the governor, each of whom shall be registered to vote in the state at the time of appointment:

(i) two members who served:

(A) as elected officials in state government no more recently than four years before the day on which the member is appointed; or

(B) in a management position in the state executive branch no more recently than four years before the day on which the member is appointed;

(ii) one member who:

(A) has served, but no longer actively serves, as a judge of a court in the state; or

(B) is a licensed attorney in the state and is not, and has not been, a judge; and

(iii) two citizen members.

(b) The governor shall make appointments to the commission as follows:

(i) each executive branch elected official, other than the governor, shall select, and provide to the governor, at least two names for potential appointment to one of the membership positions described in Subsection (1)(a);

(ii) the governor shall determine which of the executive branch elected officials described in Subsection (1)(b)(i) shall select names for which membership position;

(iii) the governor shall appoint to the commission one of the names provided by each executive branch elected official described in Subsection (1)(b)(i);

(iv) the governor shall directly appoint the remaining member of the commission; and

(v) if an executive branch elected official fails to submit names to the governor within 15 days after the day on which the governor makes the determination described in Subsection (1)(b)(ii), the governor shall directly appoint a person to fill the applicable membership position.

(2) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) an officeholder as defined in Section 20A-11-101;

(b) an agency head as defined in Section 67-16-3;

(c) a lobbyist as defined in Section 36-11-102;

(d) a principal as defined in Section 36-11-102; or

(e) an employee of the state.

(3) (a) Except as provided in Subsection (3)(b), each member of the commission shall serve a four-year term.

(b) The governor shall set the first term of two of the members of the commission at two years, so that approximately half of the commission is appointed, or reappointed, every two years.

(c) When a vacancy occurs in the commission's membership for any reason, the governor shall appoint a replacement member for the unexpired term of the vacating member, in accordance with Subsection (1).

(d) The governor may not appoint a member to serve more than two full terms, whether those terms are two or four years.

(e) (i) The governor, or a majority of the commission, may remove a member from the commission only for cause.

(ii) The governor may not remove a member from the commission during any period of time when the commission is investigating or considering a complaint alleging an ethics violation against the governor or lieutenant governor.

(f) If a commission member determines that the commission member has a conflict of interest in relation to a complaint, the remaining members of the commission shall appoint an individual to serve in that member's place for the purpose of reviewing that complaint.

(4) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(5) (a) The commission members shall convene a meeting annually each January and elect, by majority vote, a chair from among the commission members.

(b) An individual may not serve as chair for more than two consecutive years.

(6) The commission:

(a) is an independent entity established within the department for budgetary and general administrative purposes only; and

(b) is not under the direction or control of the department, the executive director, or any other officer or employee of the department.

Section 6. Section 63A-14-203 is amended to read:

63A-14-203. Independent Executive Branch Ethics Commission -- Meetings -- Annual

**summary report -- Staff -- Legal counsel
-- Supplemental appropriations.**

(1) The commission shall meet for the purpose of reviewing an ethics complaint when:

(a) except as otherwise expressly provided in this chapter, called to meet at the discretion of the chair; or

(b) called to meet by a majority vote of the commission.

(2) (a) A majority of the commission is a quorum.

(b) A majority vote of a quorum present constitutes the action of the commission.

(3) (a) The commission shall prepare an annual summary data report that contains:

(i) a general description of the activities of the commission during the past year;

(ii) the number of ethics complaints filed with the commission;

(iii) the number of ethics complaints reviewed by the commission;

(iv) a summary description of ethics complaints that formed the basis for a commission finding that an allegation in a complaint has merit; and

(v) an accounting of the commission's budget and expenditures.

(b) The commission shall submit the summary data report to the ~~[Legislative Management Committee]~~ governor before December 1 each year.

(c) The summary data report is a public record.

~~[(4) (a) The commission may employ staff at a level that is reasonable to assist the commission in performing the commission's duties as established in this chapter.]~~

(4) The commission:

(a) shall employ a director to provide administrative support to the commission and to assist the commission in fulfilling the commission's duties;

(b) may employ additional staff, to work under the direction of the director;

(c) shall contract with private legal counsel to provide legal services to the commission, as needed; and

(d) may, in consultation with the Office of the Legislative Fiscal Analyst, request supplemental appropriations to pay the costs of legal fees and other staffing needs that exceed the commission's budget due to the number or complexity of the ethics complaints filed with or considered by the commission in a fiscal year.

~~[(b)]~~ (5) (a) Except as provided in Subsection ~~[(4)(e)]~~ (5)(b), staff for the commission may not perform services for any other person in state government.

~~[(e)]~~ (b) A person employed as staff for the commission may be the same person employed as staff for the Independent Legislative Ethics Commission, if the staff ensures that proper protections are in place to preserve the confidentiality to both bodies and to avoid a conflict of interest.

~~[(5)]~~ (6) Except as expressly otherwise provided in this chapter, all meetings held under this chapter are closed to the public.

Section 7. Section 63A-14-302 is amended to read:

63A-14-302. Authority to review complaint -- Grounds for complaint -- Limitations on filings.

(1) Subject to the requirements of this chapter, the commission may review an ethics complaint against an executive branch elected official if the complaint alleges that the executive branch elected official has committed a violation.

(2) The commission may not review an ethics complaint filed against an executive branch elected official unless the complaint alleges conduct that, if true, would constitute grounds for impeachment under the Utah Constitution.

(3) A complaint against an executive branch elected official may not allege a violation by the executive branch elected official for an act by an individual under the authority of the executive branch elected official, unless the complaint evidences that the executive branch elected official:

(a) encouraged, condoned, or ordered the act;

(b) (i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and

(ii) failed to take appropriate action to prevent the act;

(c) (i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or

(d) (i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and

(ii) failed to take appropriate action in response to the act.

(4) A complaint against an executive branch elected official may not allege a violation by the executive branch elected official for an individual under the authority of the executive branch elected official failing to act, unless the complaint evidences that the executive branch elected official:

(a) encouraged, condoned, or ordered the failure to act;

(b) (i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and

(i) failed to take appropriate action to prevent the failure to act;

(c) (i) while the individual was failing to act, knew or should have known that the individual was failing to act; and

(ii) failed to take appropriate action to prevent the failure to act; or

(d) (i) after the individual failed to act, knew or should have known that the individual failed to act; and

(ii) failed to take appropriate action in response to the failure to act.

[(2)] (5) Individuals who file a complaint for an alleged violation shall file the complaint within two years after the later of:

(a) the day on which the action or omission that forms the basis for the alleged violation occurs or would have been discovered by a reasonable person; or

(b) the day on which a plea or conviction that forms the basis for the allegation is entered.

[(3)] (6) (a) A complaint may not contain an allegation that was previously reviewed by the commission, unless:

(i) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission when the allegation was previously reviewed; and

(ii) the allegation and the general facts and circumstances supporting the allegation were only reviewed by the commission on one previous occasion.

(b) If an allegation in a complaint does not comply with the requirements of Subsection [(3)] (6)(a), the commission or the chair shall dismiss the allegation with prejudice.

(7) (a) An individual may not file a complaint under this chapter that alleges the same conduct alleged in a grievance filed under Title 67, Chapter 19a, Grievance Procedures, unless the individual files the complaint within seven days before or after the day on which the individual files the grievance under Title 67, Chapter 19a, Grievance Procedures.

(b) If an allegation in a complaint does not comply with the requirements of Subsection (7)(a), the commission or the chair shall dismiss the allegation with prejudice.

(c) If an individual files a complaint under this chapter, in accordance with the time requirement described in Subsection (7)(a), that alleges the same conduct alleged in a grievance filed under Title 67, Chapter 19a, Grievance Procedures:

(i) the commission may stay proceedings before the commission in relation to the allegation, pending resolution of the grievance filed under Title 67, Chapter 19a, Grievance Procedures; and

(ii) the Career Service Review Office, created in Section 67-19a-201, shall, upon request of the commission, inform the commission of the progress and final disposition of the grievance proceeding.

(8) If the commission stays proceedings under Subsection (7)(c), the matter shall proceed as follows after the grievance under Title 67, Chapter 19a, Grievance Procedures, is resolved:

(a) if the individual who filed the complaint under this chapter desires to proceed with the complaint:

(i) the individual shall, within 15 days after the day on which a final decision is rendered under Title 67, Chapter 19a, Grievance Procedures, file a written document with the commission:

(A) describing the final decision; and

(B) stating that the individual desires to proceed with the complaint;

(ii) the Career Service Review Office, created in Section 67-19a-201, shall, upon request of the commission, provide copies of all records relating to the grievance described in Subsection (7)(c)(i), in accordance with Section 63G-2-206; and

(iii) the commission shall:

(A) review the records described in Subsection (8)(a)(ii);

(B) consider any additional evidence that the commission determines necessary;

(C) in the discretion of the commission, hear closing arguments from the parties; and

(D) comply with Section 63A-14-604; or

(b) if the individual who filed the complaint under this chapter does not desire to proceed with the complaint, the individual shall, within 15 days after the day on which a final decision is rendered under Title 67, Chapter 19a, Grievance Procedures, file a written document with the commission stating that the individual does not desire to proceed with the complaint.

(9) The commission shall dismiss a complaint for which the commission stayed proceedings under Subsection (7)(c) if the individual who filed the complaint:

(a) fails to timely comply with Subsection (8)(a)(i); or

(b) files the document described in Subsection (8)(b).

Section 8. Section 63A-14-402 is amended to read:

63A-14-402. Ethics complaints -- Filing -- Form.

(1) (a) The following individuals may file an ethics complaint against an executive branch elected official if the complaint meets the requirements of Section 63A-14-302 and Subsection (1)(b):

(i) two or more executive branch elected officials, deputies of elected officials, executive directors of

departments in the executive branch, or directors of divisions in the executive branch, if the complaint contains evidence or sworn testimony that:

(A) describes the facts and circumstances supporting the alleged violation; and

(B) is generally admissible under the Utah Rules of Evidence; or

(ii) two or more registered voters who currently reside in Utah and are not individuals described in Subsection (1)(a)(i), if, for each alleged violation pled in the complaint, at least one of those registered voters has ~~[actual]~~ personal knowledge of the facts and circumstances supporting the alleged violation.

(b) Complainants may file a complaint only against an individual who is serving as an executive branch elected official on the date that the complaint is filed.

(2) (a) The ~~[lieutenant governor]~~ commission shall post, on the ~~[home page of the lieutenant governor's]~~ state's website, a conspicuous and clearly identified link to the name and address of a person authorized to accept a complaint on behalf of the commission.

(b) Complainants shall file a complaint with the person described in Subsection (2)(a).

(c) An individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election in which the accused executive branch elected official is a candidate; or

(ii) a regular general election in which the accused executive branch elected official is a candidate, unless the accused executive branch elected official is unopposed in the election.

(3) The complainants shall ensure that each complaint filed under this rule is in writing and contains the following information:

(a) the name and position or title of the respondent;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged violation, including for each alleged violation:

(i) a reference to any criminal provision that the respondent is alleged to have violated;

(ii) a reference to any other provision of law that the respondent is alleged to have violated or failed to comply with;

(iii) the name of the complainant or complainants who have ~~[actual]~~ personal knowledge of the supporting facts and circumstances; and

(iv) the facts and circumstances supporting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with the format described in Subsection (4);

(d) a list of the witnesses that the complainants desire to call, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence the complainants desire the witness to produce;

(e) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the affidavits and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(f) the signature of each complainant.

(4) An affidavit described in Subsection (3)(c)(iv)(B) shall include:

(a) the name, address, and telephone number of the affiant;

(b) a statement that the affiant has ~~[actual]~~ personal knowledge of the facts and circumstances described in the affidavit;

(c) the facts and circumstances testified to by the affiant;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties for perjury; and

(e) the signature of the affiant.

Section 9. Section 63A-14-403 is amended to read:

63A-14-403. Privacy of ethics complaint -- Dismissal -- Contempt.

(1) (a) Except as provided in Subsection (2) or ~~[(3)]~~ (4), a person, including the complainant, the respondent, a commission member, or staff to the commission may not disclose the existence of a complaint, a response, or any information concerning an alleged violation that is the subject of a complaint.

(b) A person that violates this Subsection (1) may be held in contempt of the commission in accordance with Section 63A-14-705.

(2) The restrictions described in Subsection (1) do not apply to:

(a) a complaint or response that is publicly released by the commission and referred to the Legislature; ~~or~~

(b) the respondent's voluntary disclosure that the commission determined that all allegations in a complaint are without merit, after the commission

issues an order dismissing the complaint under Section 63A-14-605[.];

(c) a disclosure by a respondent that is made solely for the purpose of, and only to the extent necessary for, retaining counsel or conducting an interview, seeking evidence, or taking other action to prepare to defend against a complaint;

(d) a communication between a commission member and the commission's attorney or a member of the commission's staff; or

(e) a disclosure to a person that is determined necessary, by a majority vote of the commission, to conduct the duties of the commission.

(3) When a person makes a disclosure under Subsection (2)(c) or (e), the person making the disclosure shall inform the person to whom the disclosure is made of the nondisclosure requirements described in this section.

[3] (4) Nothing in this section prevents a person from disclosing facts or allegations regarding potential criminal violations to law enforcement authorities.

[4] (5) If the existence of an ethics complaint is publicly disclosed by a person, other than the respondent [ø], an agent of the respondent, or a person who learns of the complaint under Subsection (2)(c) or (e), during the period that the commission is reviewing the complaint, the commission shall summarily dismiss the complaint without prejudice.

Section 10. Section 63A-14-405 is enacted to read:

63A-14-405. Motion to disqualify commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under

the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of Section 78B-5-705 stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:

(a) is not timely filed; or

(b) does not comply with the requirements of this section.

(6) A member of the commission may:

(a) on the member's own motion, disqualify the member from participating in proceedings relating to a complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or

(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7) (a) When a party files a motion under this section, or when a commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.

(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.

(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

- (a) gather additional evidence;
- (b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by the commission.

Section 11. Section 63A-14-502 is amended to read:

63A-14-502. Initial review of ethics complaint -- Notice.

(1) ~~Within~~ (a) Except as provided in Subsection (1)(b), within five business days after the day on which the commission receives a complaint, the [staff of] director of the commission, in consultation with the chair, shall examine the complaint to determine if [it] the complaint is in compliance with Sections 63A-14-302 and 63A-14-402.

(b) The chair shall appoint another staff member or member of the commission to fulfill a duty described in Subsection (1)(a) if an individual described in Subsection (1)(a) has a conflict of interest in relation to the complaint.

(2) If the chair determines that the complaint does not comply with Sections 63A-14-302 and 63A-14-402, the chair shall:

(a) return the complaint to the first complainant named on the complaint with:

(i) a description of the reason for the noncompliance; and

(ii) a copy of the applicable provisions of law; and

(b) without disclosing the identity of the respondent, notify the other members of the commission that a complaint was filed against an executive branch elected official, but that the complaint was returned for noncompliance with the requirements of this chapter.

(3) Each member of the commission and the commission's staff shall keep confidential the fact that a complaint was filed and returned until the commission submits the annual summary data report described in Section 63A-14-203.

(4) If a complaint is returned for noncompliance with the requirements of this chapter, the complainants may file another complaint if the new complaint independently meets the requirements of Sections 63A-14-302 and 63A-14-402, including any requirements for timely filing.

(5) If the chair determines that a complaint complies with the requirements of this chapter, the chair shall:

(a) accept the complaint;

(b) notify the members of the commission that:

(i) a complaint has been filed against an executive branch elected official; and

(ii) the chair has accepted the complaint; and

(c) within five business days after the day on which the commission receives the complaint, forward the complaint to the respondent via personal delivery or a delivery method that provides verification of receipt, and include with the complaint notice of the respondent's deadline for filing a response to the complaint.

(6) (a) The identity of the respondent and the allegations raised in a complaint are confidential pending the commission's review of the complaint.

(b) The fact that a complaint was filed is confidential until the commission publicly discloses the existence of the complaint by:

(i) issuing a finding that an allegation in the complaint has merit; or

(ii) submitting the annual summary data report described in Section 63A-14-203.

Section 12. Section 63A-14-504 is amended to read:

63A-14-504. Response to ethics complaint -- Filing -- Form.

(1) A respondent shall file a response to a complaint with the commission no later than 20 days after the day on which the respondent receives delivery of the complaint.

(2) A respondent shall ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense, supported by one or more affidavits, each of which shall comply with the format described in Subsection (3); and

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with the format described in Subsection (3);

(c) a list of the witnesses that the respondent desires to call, including for each witness:

(i) the name, address, and, if available, telephone number of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence that the respondent desires the witness to produce;

(d) a statement that the respondent:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and

(ii) believes the contents of the response to be true and accurate; and

(e) the signature of the respondent.

(3) An affidavit described in Subsection (2)(b) shall include:

(a) the name, address, and telephone number of the affiant;

(b) a statement that the affiant has [actual] personal knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified to by the affiant;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties for perjury; and

(e) the signature of the affiant.

(4) Within five business days after the day on which the commission receives the response, the commission shall provide copies of the response to:

(a) each member of the commission; and

(b) the first named complainant on the complaint.

Section 13. Section 63A-14-604 is amended to read:

63A-14-604. Process for making a decision -- Deliberations.

(1) (a) After each party presents a closing argument, the commission shall, at the direction of the chair, begin private deliberations.

(b) The deliberations described in Subsection (1)(a) may be held:

(i) immediately after conclusion of the closing arguments; or

(ii) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.

(2) (a) The chair shall conduct the deliberations.

(b) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote of the commission.

(3) (a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating whether the allegation is:

(i) proved, by clear and convincing evidence, to have merit; or

(ii) not proved to have merit.

(b) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.

(4) (a) An allegation is determined to not have merit unless four of the five members of the commission vote that the allegation has merit.

(b) An allegation that is not determined to have merit is dismissed.

(5) (a) Before issuing an order or a finding under Section 63A-14-605, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(b) A motion to reconsider a vote may only be made by a member of the commission who voted in favor of the vote to be reconsidered.

(6) At the conclusion of deliberations, the commission shall prepare an order or a finding in accordance with Section 63A-14-605.

(7) The commission may not find that an allegation has merit if the allegation is based on an act by an individual under the authority of the executive branch elected official, unless the commission finds, by clear and convincing evidence, that the executive branch elected official:

(a) encouraged, condoned, or ordered the act;

(b) (i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and

(ii) failed to take appropriate action to prevent the act;

(c) (i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or

(d) (i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and

(ii) failed to take appropriate action in response to the act.

(8) The commission may not find that an allegation has merit if the allegation is based on the failure of an individual under the authority of the executive branch elected official to act, unless the commission finds, by clear and convincing evidence, that the executive branch elected official:

(a) encouraged, condoned, or ordered the failure to act;

(b) (i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and

(ii) failed to take appropriate action to prevent the failure to act;

(c) (i) while the individual was failing to act, knew or should have known that the individual was failing to act; and

(ii) failed to take appropriate action to prevent the failure to act; or

(d) (i) after the individual failed to act, knew or should have known that the individual failed to act; and

(ii) failed to take appropriate action in response to the failure to act.

Section 14. Section 63A-15-101, which is renumbered from Section 11-49-101 is renumbered and amended to read:

**CHAPTER 15. POLITICAL SUBDIVISIONS
ETHICS REVIEW COMMISSION**

Part 1. General Provisions

[11-49-101]. 63A-15-101. Title.

This chapter is known as "Political Subdivisions Ethics Review Commission."

Section 15. Section 63A-15-102, which is renumbered from Section 11-49-102 is renumbered and amended to read:

[11-49-102]. 63A-15-102. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section ~~[11-49-201]~~ 63A-15-201.

(2) "Complainant" means a person who files a complaint in accordance with Section ~~[11-49-501]~~ 63A-15-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section ~~[11-49-103]~~ 63A-15-103.

(5) "Political subdivision" means a county, municipality, school district, community reinvestment agency, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section 53A-3-101;

(d) for a community reinvestment agency, the agency board described in Section 17C-1-203;

(e) for a local district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section ~~[11-49-604]~~ 63A-15-604.

Section 16. Section 63A-15-103, which is renumbered from Section 11-49-103 is renumbered and amended to read:

[11-49-103]. 63A-15-103. Local ethics commission permitted -- Filing requirements.

(1) A political subdivision, other than a municipality described in Section 10-3-1311 or a county described in Section 17-16a-11, may establish a local political subdivision ethics commission within the political subdivision to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A political subdivision may enter into an interlocal agreement with another political subdivision, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to establish a local political subdivision ethics commission to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(3) (a) A person filing a complaint for an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, shall file the complaint with:

(i) a local political subdivision ethics commission, if the political subdivision has established a local political subdivision ethics commission under Subsection (1) or (2); or

(ii) the commission if the political subdivision has not established a local political subdivision ethics commission.

(b) A political subdivision that receives a complaint described in Subsection (3)(a) may:

(i) accept the complaint if the political subdivision has established a local political subdivision ethics commission in accordance with Subsection (1) or (2); or

(ii) forward the complaint to the commission:

(A) regardless of whether the political subdivision has established a local political subdivision ethics commission; or

(B) if the political subdivision has not established a local political subdivision ethics commission.

Section 17. Section 63A-15-201, which is renumbered from Section 11-49-201 is renumbered and amended to read:
Part 2. Political Subdivisions Ethics Review Commission

[11-49-201]. 63A-15-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven ~~persons~~ individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a local district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3) (a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

~~[(a)]~~ (i) a political subdivision officer;

~~[(b)]~~ (ii) a political subdivision employee;

~~[(c)]~~ (iii) an agency head as defined in Section 67-16-3;

~~[(d)]~~ (iv) a lobbyist as defined in Section 36-11-102; or

~~[(e)]~~ (v) a principal as defined in Section 36-11-102.

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in

Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f) (i) If a commission member is accused of wrongdoing in a complaint, or if a commission member ~~[determines that the commission member] has a conflict of interest in relation to a [complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).]~~ matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b) (i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) ~~[(a)]~~ The commission members shall ~~[convene a meeting annually each January and elect]~~, by a majority vote, elect a commission chair from among the commission members.

~~[(b) A person may not serve as chair for more than two consecutive years.]~~

Section 18. Section 63A-15-202, which is renumbered from Section 11-49-202 is renumbered and amended to read:

[11-49-202]. 63A-15-202. Meetings -- Staff -- Legal counsel -- Additional appropriations.

(1) The commission shall meet for the purpose of reviewing an ethics complaint when:

(a) except otherwise expressly provided in this chapter, called to meet at the discretion of the chair; or

(b) a majority of members agree to meet.

(2) A majority of the commission is a quorum.

(3) (a) The commission shall prepare, on an annual basis, a summary data report that contains:

(i) a general description of the activities of the commission during the past year;

(ii) the number of ethics complaints filed with the commission;

(iii) the number of ethics complaints dismissed in accordance with Section ~~[11-49-602]~~ 63A-15-602;

(iv) the number of ethics complaints reviewed by the commission in accordance with Section ~~[11-49-701]~~ 63A-15-701;

(v) an executive summary of each complaint review in accordance with Section ~~[11-49-701]~~ 63A-15-701; and

(vi) an accounting of the commission's budget and expenditures.

(b) The commission shall submit the summary data report ~~[shall be submitted to the Political Subdivisions Interim Committee]~~ to the governor on an annual basis.

(c) The summary data report shall be a public record.

(4) (a) The ~~[Senate and the House of Representatives]~~ commission shall employ staff ~~[for~~

the commission] at a level that is reasonable to assist the commission in performing its duties as established in this chapter.

~~[(b) The Legislative Management Committee shall:]~~

~~[(i) authorize each staff position for the commission; and]~~

~~[(ii) approve the employment of each staff member for the commission.]~~

~~[(e)] (b) Staff for the commission [shall work only for the commission and] may not perform services for [the Senate, House of Representatives, other legislative offices, or] a political subdivision.~~

(c) A person employed as staff for the commission may be the same person employed as staff for the Independent Legislative Ethics Commission, if the staff ensures that proper protections are in place to preserve the confidentiality to both bodies and to avoid a conflict of interest.

(5) A meeting held by the commission is subject to Title 52, Chapter 4, Open and Public Meetings Act, unless otherwise provided.

(6) The commission:

(a) is an independent entity established within the department for budgetary and general administrative purposes only;

(b) is not under the direction or control of the department, the executive director, or any other officer or employee of the department;

(c) shall employ a director to provide administrative support to the commission and to assist the commission in fulfilling the commission's duties;

(d) may employ additional staff, to work under the direction of the director;

(e) shall contract with private legal counsel to provide legal services to the commission, as needed; and

(f) may, in consultation with the Office of the Legislative Fiscal Analyst, request supplemental appropriations to pay the costs of legal fees and other staffing needs that exceed the commission's budget due to the number or complexity of the ethics complaints filed with or considered by the commission in a fiscal year.

**Section 19. Section 63A-15-301, which is renumbered from Section 11-49-301 is renumbered and amended to read:
Part 3. General Powers and Procedures**

~~[11-49-301]. 63A-15-301. Authority to review complaint -- Grounds for complaint -- Limitations on filings.~~

(1) Subject to the requirements of this chapter and Section 10-3-1311 or 17-16a-11, the commission is authorized to review an ethics complaint against a political subdivision officer or employee if the complaint alleges:

(a) if the applicable political subdivision is a municipality, an ethics violation of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act by:

(i) a city manager or non-elected chief executive; or

(ii) an elected officer, as defined in Section 10-3-1303;

(b) if the applicable political subdivision is a county, an ethics violation of Title 17, Chapter 16a, County Officers and Employees Disclosure Act by:

(i) an appointed officer, as defined in Section 17-16a-3;

(ii) an elected officer, as defined in Section 17-16a-3; or

(iii) an employee subject to Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) for a political subdivision officer or employee other than a municipal officer or employee described in Subsection (1)(a) or a county officer or employee described in Subsection (1)(b), an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) A complaint described in Subsection (1) shall be filed in accordance with the time limit provisions, if any, of the applicable part or chapter.

(3) (a) A complaint may not contain an allegation if that allegation and the general facts and circumstances supporting that allegation have been previously reviewed by a municipal ethics commission established under Section 10-3-1311, a county ethics commission established under Section 17-16a-11, or a local political subdivision ethics commission established under Section ~~[11-49-103]~~ 63A-15-103, as applicable, or the commission unless:

(i) the allegation was previously reviewed and dismissed by the commission under Section ~~[11-49-602 or 11-49-701]~~ 63A-15-602 or 63A-15-701;

(ii) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission; and

(iii) the allegation and the general facts and circumstances supporting that allegation have only been reviewed by the commission in accordance with Section ~~[11-49-701]~~ 63A-15-701 on one previous occasion.

(b) The commission may not review a complaint that is currently before:

(i) a municipal ethics commission established under Section 10-3-1311;

(ii) a county ethics commission established under Section 17-16a-11; or

(iii) a local political subdivision ethics commission established under Section ~~[11-49-103]~~ 63A-15-103.

(c) If an allegation in the complaint does not comply with the requirements of Subsection (3)(a)

or (b), the allegation shall be summarily dismissed with prejudice by:

(i) the chair when reviewing the complaint under Section [~~11-49-601~~] 63A-15-601; or

(ii) the commission, when reviewing the complaint under Section [~~11-49-602 or 11-49-701~~] 63A-15-602 or 63A-15-701.

(4) A complaint against a political subdivision officer or employee may not allege a violation by the political subdivision officer or employee for an act by an individual under the authority of the political subdivision officer or employee, unless the complaint evidences that the political subdivision officer or employee:

(a) encouraged, condoned, or ordered the act;

(b) (i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and

(ii) failed to take appropriate action to prevent the act;

(c) (i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or

(d) (i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and

(ii) failed to take appropriate action in response to the act.

(5) A complaint against a political subdivision officer or employee may not allege a violation by the political subdivision officer or employee for an individual under the authority of the political subdivision officer or employee failing to act, unless the complaint evidences that the political subdivision officer or employee:

(a) encouraged, condoned, or ordered the failure to act;

(b) (i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and

(ii) failed to take appropriate action to prevent the failure to act;

(c) (i) while the individual was failing to act, knew or should have known that the individual was failing to act; and

(ii) failed to take appropriate action to prevent the failure to act; or

(d) (i) after the individual failed to act, knew or should have known that the individual failed to act; and

(ii) failed to take appropriate action in response to the failure to act.

Section 20. Section 63A-15-302, which is renumbered from Section 11-49-302 is renumbered and amended to read:

[~~11-49-302~~]. 63A-15-302. General powers -- Jurisdiction.

(1) The commission has jurisdiction only over an individual who is a political subdivision officer or employee.

(2) The commission shall dismiss an ethics complaint if:

(a) the respondent resigns or is terminated from the political subdivision; or

(b) except as provided in Subsection (3):

(i) the respondent is charged with a criminal violation of:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) the facts and allegations presented in the ethics complaint assert the same or similar facts and allegations as those asserted in the criminal charges.

(3) If an ethics complaint asserts an ethics violation in addition to a criminal violation described in Subsection (2)(b), the commission shall:

(a) dismiss an allegation described in Subsection (2)(b)(ii); and

(b) proceed with any remaining allegation in the complaint.

Section 21. Section 63A-15-303 is enacted to read:

63A-15-303. Motion to disqualify commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of Section 78B-5-705 stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:

(a) is not timely filed; or

(b) does not comply with the requirements of this section.

(6) A member of the commission may:

(a) on the member's own motion, disqualify the member from participating in proceedings relating to a complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or

(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7) (a) When a party files a motion under this section, or a when commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.

(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.

(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote,

determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

(a) gather additional evidence;

(b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by the commission.

Section 22. Section 63A-15-401, which is renumbered from Section 11-49-401 is renumbered and amended to read:

Part 4. Hearing on Ethics Complaint

[11-49-401]. 63A-15-401. Hearing on ethics complaint -- General procedures.

(1) In conducting a hearing on a complaint in accordance with Part 7, Commission Review of Ethics Violation, the commission shall comply with the following process in the order specified:

(a) introduction and instructions for procedure and process, at the discretion of the chair;

(b) complainant's opening argument, to be presented by a complainant or complainant's counsel;

(c) complainant's presentation of evidence and witnesses in support of allegations in the complaint;

(d) consideration of motions to dismiss the complaint or motions for a finding of no cause, as applicable;

(e) respondent's opening argument, to be presented by the respondent or respondent's counsel;

(f) respondent's presentation of evidence and witnesses refuting allegations in the complaint;

(g) presentation of rebuttal evidence and witnesses by the complainant, at the discretion of the chair;

(h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;

(i) complainant's closing argument, to be presented by a complainant or complainant's counsel;

(j) respondent's closing argument, to be presented by the respondent or respondent's counsel;

(k) deliberations by the commission; and

(l) adoption of the commission's findings.

(2) The commission may, in extraordinary circumstances, vary the order contained in Subsection (1) by majority vote and by providing notice to the parties.

(3) The chair may schedule the examination of a witness or evidence subpoenaed at the request of the chair or the commission under Section [11-49-403] 63A-15-403 at the chair's discretion.

Section 23. Section 63A-15-402, which is renumbered from Section 11-49-402 is renumbered and amended to read:

[11-49-402]. 63A-15-402. Chair as presiding officer.

(1) Except as expressly provided otherwise in this chapter, the chair of the commission is vested with the power to direct the commission during meetings authorized by this chapter.

(2) Unless expressly prohibited from doing so under this chapter, the commission may overrule a decision of the chair by using the following procedure:

(a) If a member objects to a decision of the chair, that member may appeal the decision by stating:

- (i) "I appeal the decision of the chair."; and
- (ii) the basis for the objection.

(b) A motion described in Subsection (2)(a) is nondebatable.

(c) The chair shall direct a roll call vote to determine if the commission supports the decision of the chair.

(d) A majority vote of the commission is necessary to overrule the decision of the chair.

(3) The chair may set time limitations on any part of a meeting or hearing authorized by this chapter.

Section 24. Section 63A-15-403, which is renumbered from Section 11-49-403 is renumbered and amended to read:

[11-49-403]. 63A-15-403. Subpoena powers.

(1) Except for a preliminary review described in Section [11-49-602] 63A-15-602, for a proceeding authorized by this chapter, the commission may issue a subpoena to:

- (a) require the attendance of a witness;
- (b) direct the production of evidence; or
- (c) require both the attendance of a witness and the production of evidence.

(2) The commission shall issue a subpoena:

(a) in accordance with Section [11-49-405] 63A-15-405;

(b) at the direction of the commission chair, if the chair determines that the testimony or evidence is relevant to the review of a complaint under Part 7, Commission Review of Ethics [Violations] Violation; or

(c) upon a vote of a majority of the commission members.

(3) If the commission issues a subpoena authorized under this section, the commission shall give a reasonable period of time for the person or

entity to whom the subpoena is directed to petition a district court to quash or modify the subpoena before the time specified in the subpoena for compliance.

Section 25. Section 63A-15-404, which is renumbered from Section 11-49-404 is renumbered and amended to read:

[11-49-404]. 63A-15-404. Contempt of the commission.

(1) (a) The following actions constitute contempt of the commission in relation to actions and proceedings under this chapter:

(i) disobedience to a direction of the commission chair;

(ii) failure, without legal justification, to answer a question during a hearing when directed to do so by:

(A) the commission chair, unless the direction is overridden by the commission in accordance with Section [11-49-402] 63A-15-402; or

(B) a majority of the commission;

(iii) failure to comply with a subpoena or other order issued under authority of this chapter;

(iv) violation of privacy provisions established by Section [11-49-502] 63A-15-502;

(v) violation of the communication provisions established by Section [11-49-407] 63A-15-407;

(vi) violation of a request to comply with a provision of this chapter by a chair or a majority of the members of the commission; or

(vii) any other ground that is specified in statute or recognized by common law.

(b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.

(2) (a) The following persons may authorize an enforcement action against a person in contempt of the commission under the provisions of this chapter:

(i) the commission chair, subject to the provisions of Section [11-49-402] 63A-15-402; or

(ii) members of the commission, by means of a majority vote.

(b) In initiating and pursuing an action against an individual for contempt of the commission, the plaintiff shall comply with the procedures and requirements of Section [11-49-405] 63A-15-405.

Section 26. Section 63A-15-405, which is renumbered from Section 11-49-405 is renumbered and amended to read:

[11-49-405]. 63A-15-405. Order to compel -- Enforcement.

(1) (a) When the subject of a subpoena issued in accordance with Section [11-49-403] 63A-15-403 disobeys or fails to comply with the subpoena, or if a

person appears before the commission pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, the commission may:

(i) file a motion for an order to compel obedience to the subpoena with the district court within the jurisdiction of the applicable political subdivision;

(ii) file, with the district court, a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person named in the subpoena for contempt of the commission; or

(iii) pursue other remedies against persons in contempt of the commission.

(b) (i) Upon receipt of a motion under this section, the court shall expedite the hearing and decision on the motion.

(ii) A court may:

(A) order the person named in the subpoena to comply with the subpoena; and

(B) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena for contempt of the commission.

(2) (a) If a commission subpoena requires the production of accounts, books, papers, documents, or other tangible things, the person or entity to whom the subpoena is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.

(b) The commission may respond to a motion to quash or modify the subpoena by pursuing any remedy authorized by Subsection (1).

(c) If the court finds that a commission subpoena requiring the production of accounts, books, papers, documents, or other tangible things is unreasonable or oppressive, the court may quash or modify the subpoena.

(3) Nothing in this section prevents the commission from seeking an extraordinary writ to remedy contempt of the commission.

(4) Any party aggrieved by a decision of a court under this section may appeal that action directly to the Utah Supreme Court.

Section 27. Section 63A-15-406, which is renumbered from Section 11-49-406 is renumbered and amended to read:

[11-49-406]. 63A-15-406. Testimony and examination of witnesses -- Oath -- Procedure -- Contempt.

(1) (a) The chair shall ensure that each witness listed in the complaint and response is subpoenaed for appearance at the hearing unless:

(i) the witness is unable to be properly identified or located; or

(ii) service is otherwise determined to be impracticable.

(b) The chair shall determine the scheduling and order of witnesses and presentation of evidence.

(c) The commission may, by majority vote:

(i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);

(ii) modify the chair's determination on the scheduling and order of witnesses under Subsection (1)(b);

(iii) decline to hear or call a witness that has been requested by the complainant or respondent;

(iv) decline to review or consider evidence submitted in relation to an ethics complaint; or

(v) request and subpoena witnesses or evidence according to the procedures of Section [11-49-403] 63A-15-403.

(2) (a) Each witness shall testify under oath.

(b) The chair or the chair's designee shall administer the oath to each witness.

(3) After the oath has been administered to the witness, the chair shall direct testimony as follows:

(a) allow the party that has called the witness, or that party's counsel, to question the witness;

(b) allow the opposing party, or that party's counsel, to cross-examine the witness;

(c) allow additional questioning by a party or a party's counsel as appropriate;

(d) give commission members the opportunity to question the witness; and

(e) as appropriate, allow further examination of the witness by the commission, or the parties or their counsel.

(4) (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:

(i) direct the witness to answer; or

(ii) rule that the witness is not required to answer the question.

(b) If the witness declines to answer a question after the chair or a majority of the commission determines that the witness is required to answer the question, the witness may be held in contempt as provided in Section [11-49-404] 63A-15-404.

(5) (a) The chair or a majority of the members of the commission may direct a witness to furnish any relevant evidence for consideration if the witness has brought the material voluntarily or has been required to bring it by subpoena.

(b) If the witness declines to provide evidence in response to a subpoena, the witness may be held in contempt as provided in Section [11-49-404] 63A-15-404.

Section 28. Section 63A-15-407, which is renumbered from Section 11-49-407 is renumbered and amended to read:

[11-49-407]. 63A-15-407. Communications of commission members.

(1) As used in this section, "third party" means a person who is not a member of the commission or staff to the commission.

(2) While a complaint is under review by the commission, a member of the commission may not initiate or consider any communications concerning the complaint with a third party unless:

(a) the communication is expressly permitted under the procedures established by this chapter; or

(b) the communication is made by the third party, in writing, simultaneously to:

- (i) all members of the commission; and
- (ii) a staff member of the commission.

(3) While the commission is reviewing a complaint under this chapter, a commission member may communicate outside of a meeting, hearing, or deliberation with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

Section 29. Section 63A-15-408, which is renumbered from Section 11-49-408 is renumbered and amended to read:

[11-49-408]. 63A-15-408. Attorney fees and costs.

(1) A person filing a complaint under this chapter:

(a) may, but is not required to, retain legal representation during the complaint review process; and

(b) is responsible for payment of complainant's attorney fees and costs incurred.

(2) (a) A respondent against whom a complaint is filed under this chapter ~~may~~:

(i) may, but is not required to, retain legal representation during the complaint review process; ~~and~~

(ii) except as provided in Subsection (2)(a)(iii), is responsible for payment of the respondent's attorney fees and costs incurred; and

(iii) may be entitled to the provision of legal defense by the political subdivision in accordance with Section 63G-7-902.

(b) For purposes of Subsection (2)(a)(~~ii~~)(iii), a complaint filed against a respondent in accordance with this chapter shall constitute an action against a governmental employee in accordance with Section 63G-7-902.

(3) (a) An attorney participating in a hearing before the commission shall comply with:

(i) the Rules of Professional Conduct established by the Utah Supreme Court;

(ii) the procedures and requirements of this chapter; and

(iii) the directions of the chair and commission.

(b) A violation of Subsection (3)(a) may constitute:

(i) contempt of the commission under Section ~~[11-49-404]~~ 63A-15-404; or

(ii) a violation of the Rules of Professional Conduct subject to enforcement by the Utah State Bar.

**Section 30. Section 63A-15-501, which is renumbered from Section 11-49-501 is renumbered and amended to read:
Part 5. Complaint of Ethics Violation**

[11-49-501]. 63A-15-501. Ethics complaints -- Who may file -- Form.

(1) (a) Notwithstanding any other provision, the following may file a complaint, subject to the requirements of Subsections (1)(b) and (c) and Section ~~[11-49-301]~~ 63A-15-301, against a political subdivision officer or employee:

(i) two or more registered voters who reside within the boundaries of a political subdivision;

(ii) two or more registered voters who pay a fee or tax to a political subdivision; or

(iii) one or more registered voters who reside within the boundaries of a political subdivision and one or more registered voters who pay a fee or tax to the political subdivision.

(b) A person described in Subsection (1)(a) may not file a complaint unless at least one person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and circumstances supporting the alleged ethics violation.

(c) A complainant may file a complaint only against an individual who, on the date that the complaint is filed, is serving as a political subdivision officer or is a political subdivision employee.

(2) (a) The ~~[lieutenant governor]~~ commission shall post, on the ~~[homepage of the lieutenant governor's]~~ state's website, a conspicuous and clearly identified link to the name and address of an individual authorized to accept a complaint on behalf of the commission.

(b) A complainant shall file a complaint with the individual described in Subsection (2)(a).

(c) An individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election, if the accused political subdivision officer is a candidate in the primary election; or

(ii) a regular general election in which an accused political subdivision officer is a candidate, unless the accused political subdivision officer is unopposed in the election.

(3) A complainant shall ensure that each complaint filed under this section is in writing and contains the following information:

(a) the name and position of the political subdivision officer or employee alleged to be in violation;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged ethics violation, as applicable of:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(d) include for each alleged ethics violation:

(i) a reference to the section of the code alleged to have been violated;

(ii) the name of the complainant who has actual knowledge of the facts and circumstances supporting each allegation; and

(iii) with reasonable specificity, the facts and circumstances supporting each allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits that include the information required in Subsection (4);

(e) a list of the witnesses that a complainant wishes to have called, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence a complainant desires the witness to produce;

(f) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(g) the signature of each complainant.

(4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:

(a) the name, address, and telephone number of the signer;

(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified by the signer;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(e) the signature of the signer.

Section 31. Section 63A-15-502, which is renumbered from Section 11-49-502 is renumbered and amended to read:

[11-49-502]. 63A-15-502. Privacy of ethics complaint -- Contempt -- Enforcement of finding of contempt -- Dismissal.

(1) (a) Except as otherwise provided in ~~[Subsection (1)(b) or (e)]~~ this chapter, a person, including a complainant, the respondent, a commission member, or staff to the commission, may not disclose the existence of a complaint, a response, nor any information concerning any alleged ethics violation that is the subject of a complaint~~[-]~~.

~~(i) unless otherwise provided in this chapter; or]~~

~~(ii) after a complaint is presented at the meeting described in Section 11-49-701.]~~

(b) The restrictions in Subsection (1)(a) do not apply to:

(i) the respondent's voluntary disclosure of a finding by the commission that no allegations in a complaint were proved after that finding is issued by the commission under the procedures and requirements of Section ~~[11-49-602.]~~ 63A-15-602;

~~(c) Nothing in this section shall prevent a person from disclosing]~~

(ii) this disclosure of facts or allegations about potential criminal violations to a law enforcement authority~~[-]~~;

~~(d) Nothing in this section may be construed to hinder or prevent a respondent from preparing a defense to a complaint, including contacting a witness or other actions in preparation for review by the commission.]~~

(iii) a disclosure by a respondent that is made solely for the purpose of, and only to the extent necessary for, retaining counsel, conducting an interview, seeking evidence, or taking other action to prepare to defend against a complaint;

(iv) a communication between a commission member and the commission's attorney or a member of the commission's staff; or

(v) a disclosure to a person that is determined necessary, by a majority vote of the commission, to conduct the duties of the commission.

(2) When a person makes a disclosure under Subsection (1)(b)(iii) or (v), the person making the disclosure shall inform the person to whom the disclosure is made of the nondisclosure requirements described in this section.

(3) After the commission issues an order under Subsection 63A-15-704(2), the commission may disclose the portion of the complaint, a response, and other information relating to an alleged ethics violation that the commission determines is proved.

~~[(2)] (4)~~ A person who violates the provisions of Subsection (1)(a) is in contempt of the commission and proceedings may be initiated to enforce the finding of contempt using the procedures provided in Sections ~~[11-49-404 and 11-49-405]~~ 63A-15-404 and 63A-15-405.

~~[(3) If the existence of an ethics complaint is publicly disclosed before or during the preliminary review period described in Section 11-49-602, the complaint shall be summarily dismissed without prejudice.]~~

(5) If, before the commission issues an order in relation to an ethics complaint under Section 63A-15-704, the existence of the ethics complaint is publicly disclosed by a person other than the respondent, an agent of the respondent, or a person who learns of the complaint under Subsection (1)(b)(iii) or (v), the commission shall summarily dismiss the complaint without prejudice.

Section 32. Section 63A-15-601, which is renumbered from Section 11-49-601 is renumbered and amended to read:

[11-49-601]. 63A-15-601. Review of ethics complaint for compliance with form requirements -- Independent requirements for complaint -- Notice.

(1) Within ~~[five]~~ 10 business days after receipt of a complaint, the staff of the commission, in consultation with the chair of the commission, shall examine the complaint to determine if it is in compliance with Sections ~~[11-49-301 and 11-49-501]~~ 63A-15-301 and 63A-15-501.

(2) (a) If the chair determines that the complaint does not comply with Sections ~~[11-49-301 and 11-49-501]~~ 63A-15-301 and 63A-15-501, the chair shall:

(i) return the complaint to the first complainant named on the complaint with:

(A) a statement detailing the reason for the non-compliance; and

(B) a copy of the applicable provisions in this chapter; and

(ii) notify the applicable political subdivision governing body that:

(A) a complaint was filed against an unidentified political subdivision officer or employee but was returned for non-compliance with this chapter; and

(B) the fact that a complaint was filed and returned shall be kept confidential until the commission submits its annual summary data report as required by Section ~~[11-49-202]~~ 63A-15-202.

(b) If a complaint is returned for non-compliance with the requirements of this chapter, a complainant may file another complaint if the new complaint independently meets the requirements of Sections ~~[11-49-301 and 11-49-501]~~ 63A-15-301 and 63A-15-501, including any requirements for timely filing.

(3) If the chair determines that the complaint complies with the requirements of this section, the chair shall:

(a) accept the complaint;

(b) notify each member of the commission that the complaint has been filed and accepted;

(c) notify the applicable political subdivision that:

(i) a complaint has been filed against an unidentified political subdivision officer or employee;

(ii) the identity of the political subdivision officer or employee and the allegations raised in the complaint are confidential pending the commission's preliminary review of the complaint; and

(iii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via:

(A) notice of the commission's review of a complaint in accordance with Section ~~[11-49-701]~~ 63A-15-701; or

(B) submission of the commission's annual summary data report as required in Section ~~[11-49-202]~~ 63A-15-202; and

(d) promptly forward the complaint to the political subdivision officer or employee who is the subject of the ethics complaint via personal delivery or a delivery method that provides verification of receipt, together with a copy of this chapter and notice of the officer's or employee's deadline for filing a response to the complaint if the complaint is not dismissed under Section ~~[11-49-602]~~ 63A-15-602.

Section 33. Section 63A-15-602, which is renumbered from Section 11-49-602 is renumbered and amended to read:

[11-49-602]. 63A-15-602. Preliminary review of complaint -- Standard of proof -- Notice.

(1) (a) By no later than 10 calendar days after the day on which a complaint is accepted under Section ~~[11-49-601]~~ 63A-15-601, the commission chair shall:

(i) schedule a commission meeting on a date no later than 60 calendar days after the date on which the commission accepts the complaint;

(ii) place the complaint on the agenda for consideration at the meeting;

(iii) provide a copy of the complaint to the members; and

(iv) provide notice of the date, time, and location of the meeting:

(A) to the respondent;

(B) the first complainant named in the complaint;

(C) each commission member; and

(D) in accordance with Section 52-4-202.

(b) The meeting described in Subsection (1)(a)(ii) is closed to the public in accordance with Section 52-4-204.

(2) (a) At the meeting described in Subsection (1)(a)(i):

(i) the commission members shall review each allegation in the complaint;

(ii) the commission may not receive testimony, hear a motion from a party, or admit evidence; and

(iii) the chair shall conduct deliberations.

(b) The commission may, if necessary:

(i) request a formal response or affidavit from a respondent; and

(ii) review the response or affidavit at the meeting.

(c) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote.

(3) (a) During deliberations, each commission member shall, for each allegation, determine:

(i) whether the facts alleged, if true, would be an ethics violation;

(ii) whether the complaint includes an affidavit from a person with firsthand knowledge of alleged facts described in Subsection (3)(a)(i); and

(iii) whether the complaint is frivolous or solely for a political purpose.

(b) A commission member shall vote to forward an allegation in a complaint for a final commission review in accordance with Part 7, Commission Review of Ethics Violation, if the commission member determines:

(i) an allegation, if true, would be an ethics violation;

(ii) the complaint contains an affidavit with firsthand knowledge of the allegation under Subsection (3)(a)(ii); and

(iii) the allegation is not frivolous or solely for a political purpose.

(4) (a) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.

(b) The commission may not review an allegation for a final determination under Part 7, Commission Review of Ethics Violation, unless six of the seven members of the commission vote to review the allegation.

(5) (a) An allegation that is not forwarded for a final determination is dismissed.

(b) Before the commission issues an order in accordance with this section, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(c) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation should not be forwarded for a final determination.

(6) (a) If each allegation stated in a complaint is dismissed in accordance with this section, the commission shall:

(i) issue and enter into the record an order that the complaint is dismissed because no allegations, in accordance with this section, were forwarded for a final determination;

(ii) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Section 63G-2-302;

(iii) provide notice of the determination, in a manner determined by the chair, to:

(A) the respondent;

(B) the first complainant named on the complaint; and

(C) subject to Subsection (6)(b), the appropriate political subdivision; and

(iv) provide notice to each person or entity named in Subsections (6)(a)(iii)(A) through (C) that, under provisions of Section ~~[11-49-502]~~ 63A-15-502 and other provisions of this chapter, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt.

(b) The notification to the appropriate political subdivision shall notify the political subdivision that:

(i) a complaint against an unidentified political subdivision officer or employee has been dismissed; and

(ii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via submission of the commission's annual summary data report as required in Section ~~[11-49-202]~~ 63A-15-202.

(7) If one or more of the allegations stated in a complaint are not dismissed in accordance with this section, the commission shall:

(a) issue and enter into the record:

(i) an order for each allegation that is dismissed, if any, because the allegation was not forwarded for a final determination; and

(ii) an order for further review under Part 7, Commission Review of Ethics Violation, of each allegation that is not dismissed;

(b) classify all recordings, orders, findings, and other records or documents directly relating to a meeting authorized by this section as private records under Section 63G-2-302;

(c) if an allegation was dismissed, provide notice of the determination for each allegation dismissed in a manner determined by the chair, to:

- (i) the respondent;
- (ii) the first complainant named on the complaint; and
- (iii) subject to Subsection (8), the appropriate political subdivision; and

(d) provide notice to each person or entity named in Subsections (7)(c)(i) through (iii) that:

(i) under provisions of Section [~~11-49-502~~] 63A-15-502 and other provisions of this chapter, a person who discloses the findings of the commission under this section in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt; and

(ii) the commission shall review the remaining allegations in the complaint at a meeting described in Section [~~11-49-603~~] 63A-15-603 and in accordance with Part 7, Commission Review of Ethics Violation.

(8) The notification to the appropriate political subdivision shall notify the political subdivision that:

(a) an unspecified allegation in a complaint against an unidentified political subdivision officer or employee has been dismissed; and

(b) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint in accordance with the provisions of this chapter.

(9) For a complaint described in Subsection (7), the commission members shall ensure that, within five business days after the day of the meeting described in Subsection (1)(a)(ii), the complaint is redacted to remove references to an allegation that is dismissed under this section.

(10) The chair shall ensure that a record of the meeting held under this section is kept in accordance with Section [~~11-49-702~~] 63A-15-702.

Section 34. Section 63A-15-603, which is renumbered from Section 11-49-603 is renumbered and amended to read:

[~~11-49-603~~]. 63A-15-603. Meeting of the commission to review a complaint -- Procedures.

By no later than 10 calendar days after the day on which a complaint is accepted under Section [~~11-49-602~~] 63A-15-602 for further review, the commission chair shall:

(1) schedule a commission meeting on a date no later than [~~45~~] 60 calendar days after the date on which the commission votes to forward a complaint for final determination in accordance with Section [~~11-49-602~~] 63A-15-602;

(2) place the complaint on the agenda for consideration at the meeting described in Subsection (1);

(3) provide notice of the date, time, and location of the meeting:

- (a) to:
 - (i) the members of the commission;
 - (ii) the first complainant named in the complaint; and
 - (iii) the respondent; and
- (b) in accordance with Section 52-4-202; and
- (4) provide a copy of the complaint or redacted complaint, as required in Section [~~11-49-602~~] 63A-15-602, to each member of the commission.

Section 35. Section 63A-15-604, which is renumbered from Section 11-49-604 is renumbered and amended to read:

[~~11-49-604~~]. 63A-15-604. Response to ethics complaint -- Filing -- Form.

(1) The political subdivision officer or employee who is the subject of the complaint may file a response to the complaint no later than 30 days after the day on which the officer or employee receives delivery of an order issued by the commission under Subsection [~~11-49-602~~] 63A-15-602(7).

(2) The respondent shall file the response with the commission and ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged ethics violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense to be provided by one or more affidavits, each of which shall comply with Subsection (4);

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with Subsection (4);

(c) a list of the witnesses that the respondent wishes to have called, including for each witness:

(i) the name, address, and, if available, telephone number of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence the respondent desires the witness to produce;

(d) a statement that the respondent:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and

(ii) believes the contents of the response to be true and accurate; and

(e) the signature of the respondent.

(3) Promptly after receiving the response, the commission shall provide copies of the response to:

- (a) each member of the commission; and
- (b) the first named complainant on the complaint.

(4) An affidavit described in Subsection (2)(b)(i) or (2)(b)(ii)(B) shall include the following information:

(a) the name, address, and telephone number of the signer;

(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified to by the signer;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(e) the signature of the signer.

Section 36. Section 63A-15-701, which is renumbered from Section 11-49-701 is renumbered and amended to read:

Part 7. Commission Review of Ethics Violation

[11-49-701]. 63A-15-701. Commission review of ethics violation.

(1) The scope of a review by the commission is limited to an alleged ethics violation stated in a complaint that has not been previously dismissed under Section [11-49-602] 63A-15-602.

(2) (a) Before holding the meeting for review of the complaint, the commission chair may schedule a separate meeting of the commission for the purposes of:

(i) hearing motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures;

(ii) holding a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint; or

(iii) reviewing a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because the complaint pleads facts or circumstances against a political subdivision officer or employee that have already been reviewed by, as provided in Section [11-49-301] 63A-15-301, the commission, a municipal ethics commission established in accordance with Section 10-3-1311, a county ethics commission established in accordance with Section 17-16a-11, or a local political subdivision ethics commission established

in accordance with Section [11-49-103] 63A-15-103.

(b) Notwithstanding Section [11-49-603] 63A-15-603, the commission may, by a majority vote, change the date of the meeting for review of the complaint in order to accommodate:

(i) a meeting authorized under Subsection (2)(a); or

(ii) necessary scheduling requirements.

(3) (a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this chapter.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of Section [11-49-402] 63A-15-402.

(4) (a) A meeting or hearing authorized in this part is open to the public except as provided in Section 52-4-204.

(b) The following individuals may be present during the presentation of testimony and evidence to the commission:

(i) the complainant;

(ii) the complainant's counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(c) The commission may, in accordance with Section 52-4-204, close a meeting to:

(i) seek or obtain legal advice on legal, evidentiary, or procedural matters; or

(ii) conduct deliberations to reach a decision on the complaint.

(5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the commission shall:

(a) adjourn and continue the meeting to a future date and time after notice to the parties; and

(b) establish that future date and time by majority vote.

(6) A record, as defined in Section 63G-2-103, created by the commission under this part, reviewed by the commission under this part, or received by the commission under this part, is a public record, as defined in Section 63G-2-103.

Section 37. Section 63A-15-702, which is renumbered from Section 11-49-702 is renumbered and amended to read:

[11-49-702]. 63A-15-702. Record -- Recording of meetings.

(1) (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in a meeting authorized by this part.

(b) (i) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) The commission may, by a majority vote of the commission, permit a camera or other recording device in the meeting in which the commission releases the commission's recommendation under this part.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of the meeting or hearing is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence by the commission;

(c) copies of a document or written order or ruling issued by the chair or the commission; and

(d) any other information that a majority of the commission or the chair directs.

Section 38. Section 63A-15-703, which is renumbered from Section 11-49-703 is renumbered and amended to read:

[11-49-703]. 63A-15-703. Commission deliberations -- Standard of proof.

(1) After each party has presented a closing argument, the commission shall, at the direction of the chair, begin its deliberations:

(a) immediately after conclusion of the closing arguments; or

(b) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.

(2) (a) The chair of the commission shall conduct the deliberations.

(b) Upon a motion made by a commission member, the commission may:

(i) exclude commission staff from all or a portion of the deliberations by a majority vote of the commission; or

(ii) close the meeting in accordance with Section 52-4-204.

(3) (a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating:

(i) whether the allegation is:

(A) proven by clear and convincing evidence; or

(B) not proven; and

(ii) for each allegation proven, whether the commission would recommend to the appropriate political subdivision governing body to take one or more of the following actions:

(A) censure;

(B) in the case of a political subdivision employee, termination;

(C) in the case of a political subdivision officer, removal from office; or

(D) any other action or reprimand that the commission determines is appropriate.

(b) (i) A verbal roll call vote shall be taken on each allegation, and each recommended action described in Subsection (3)(a)(ii) on each allegation.

(ii) Each member's vote shall be recorded.

(4) (a) An allegation is not considered to be proven unless six of the seven members of the commission vote that the allegation is proven.

(b) The seven members of the commission described in Subsection (4)(a) refers to the members that actually participate in deciding whether an allegation is proven, including an alternate member described in Subsection 63A-15-201(4)(f)(i)(A) or a temporary member described in Subsection 63A-15-201(4)(f)(i)(B).

~~(b)~~ (c) An allegation that is not considered to be proven is dismissed.

~~(e)~~ (d) (i) Before the commission issues its recommendation in accordance with Section ~~[11-49-704]~~ 63A-15-704, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(ii) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation was not proved.

(5) The commission may not find that an allegation is proven if the allegation is based on an act by an individual under the authority of the political subdivision officer or employee, unless the commission finds, by clear and convincing evidence, that the political subdivision officer or employee:

(a) encouraged, condoned, or ordered the act;

(b) (i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and

(ii) failed to take appropriate action to prevent the act;

(c) (i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or

(d) (i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and

(ii) failed to take appropriate action in response to the act.

(6) The commission may not find that an allegation is proven if the allegation is based on the failure of an individual under the authority of the political subdivision officer or employee to act, unless the commission finds, by clear and convincing evidence, that the political subdivision officer or employee:

(a) encouraged, condoned, or ordered the failure to act;

(b) (i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and

(ii) failed to take appropriate action to prevent the failure to act;

(c) (i) while the individual was failing to act, knew or should have known that the individual was failing to act; and

(ii) failed to take appropriate action to prevent the failure to act; or

(d) (i) after the individual failed to act, knew or should have known that the individual failed to act; and

(ii) failed to take appropriate action in response to the failure to act.

[45] (7) At the conclusion of deliberations, the commission shall prepare [its] the commission's recommendations as provided in Sections [~~11-49-704 and 11-49-705~~] 63A-15-704 and 63A-15-705.

Section 39. Section 63A-15-704, which is renumbered from Section 11-49-704 is renumbered and amended to read:

[~~11-49-704~~]. 63A-15-704. Recommendations of commission.

(1) (a) If the commission determines that no allegations in the complaint were proved, the commission shall:

(i) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have been proved;

(ii) provide notice of the determination at a public meeting; and

(iii) provide written notice of the determination to:

(A) the respondent;

(B) the first complainant named on the complaint; and

(C) the appropriate political subdivision.

(2) If the commission determines that one or more of the allegations in the complaint were proved, the commission shall:

(a) if one or more allegations were not found to have been proven, enter into the record an order dismissing those unproven allegations; and

(b) prepare a written recommendation to the applicable political subdivision governing body that:

(i) lists the name of each complainant;

(ii) lists the name of the respondent;

(iii) states the date of the recommendation;

(iv) for each allegation that was found to be proven:

(A) provides a reference to the statute or criminal provision allegedly violated;

(B) states the number and names of commission members voting that the allegation was proved and the number and names of commission members voting that the allegation was not proved;

(C) at the option of those members voting that the allegation was proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was proved; and

(D) at the option of those members voting that the allegation was not proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was not proved;

(v) contains any general statement that is adopted for inclusion in the recommendation by a majority of the members of the commission;

(vi) contains a statement referring the allegations found to have been proved to the appropriate political subdivision governing body for review and, if necessary, further action;

(vii) contains a statement referring to each allegation proven the commission's recommendation under Subsection [~~11-49-703~~] 63A-15-703(3)(a)(ii);

(viii) states the name of each member of the commission; and

(ix) is signed by each commission member.

(3) The commission shall provide notice of the determination:

(a) at a public meeting; and

(b) in writing to:

(i) the respondent;

(ii) the first complainant named on the complaint; and

(iii) in accordance with Subsection (4), the appropriate political subdivision.

(4) The commission shall ensure that, within [~~five~~] 10 business days of the date of public issuance of the determination in accordance with Subsection (3), the following documents are provided to the political subdivision governing body:

(a) a cover letter referring the proven allegations contained in the complaint to the political subdivision governing body for review;

(b) a copy of the complaint;

(c) a copy of the response; and

(d) a copy of the commission's recommendation.

Section 40. Section 63A-15-705, which is renumbered from Section 11-49-705 is renumbered and amended to read:

[11-49-705]. 63A-15-705. Criminal allegation -- Recommendation to county or district attorney or attorney general.

(1) If the commission finds that a political subdivision officer or employee allegedly violated a criminal provision, the commission shall, in addition to sending a recommendation to a political subdivision governing body in accordance with Section ~~[11-49-704]~~ 63A-15-704, send a written recommendation for further investigation to one or more of the following:

(a) ~~the county or district attorney of the applicable jurisdiction [by delivering to the county or district attorney a written recommendation that];~~ or

(b) the attorney general.

(2) The written recommendation described in Subsection (1) shall:

(a) ~~[lists]~~ list the name of each complainant;

(b) ~~[lists]~~ list the name of the respondent;

(c) ~~[states]~~ state the date of the recommendation;

(d) for each allegation of a criminal violation, provide a reference to the criminal provision allegedly violated;

(e) ~~[includes]~~ include a general statement that is adopted by a majority of the members of the commission; and

(f) ~~[gives]~~ state the name of the political subdivision governing body that the commission sent a recommendation to in accordance with Section ~~[11-49-704]~~ 63A-15-704.

~~[(2)]~~ (3) If the commission sends a recommendation in accordance with ~~[Subsection (1)(a)]~~ this section, the commission shall enter into the record:

(a) a copy of the recommendation; and

(b) the name of ~~[the county or district attorney of jurisdiction to whom it was sent]~~ each person described in Subsection (1) to whom the commission sent the recommendation.

~~[(3)]~~ (4) A recommendation prepared and delivered in accordance with this section is a public record.

Section 41. Section 63A-15-706, which is renumbered from Section 11-49-706 is renumbered and amended to read:

[11-49-706]. 63A-15-706. Action by political subdivision governing body.

A political subdivision governing body that receives a recommendation in accordance with Section ~~[11-49-704]~~ 63A-15-704 shall:

(1) review the recommendation; and

(2) take further action in accordance with a political subdivision's governing ordinance, bylaws, or other applicable governing rule.

Section 42. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and

(iv) an association as defined in Section 53A-1-1601.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled,

protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

- (a) an individual;
- (b) a nonprofit or profit corporation;
- (c) a partnership;
- (d) a sole proprietorship;
- (e) other type of business organization; or
- (f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent

is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53A-1-1601, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; [øø]

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102[-]; or

(xvi) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 43. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

- (l) a record that:
- (i) contains information about an individual;
 - (ii) is voluntarily provided by the individual; and
 - (iii) goes into an electronic database that:
- (A) is designated by and administered under the authority of the Chief Information Officer; and
- (B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
- (m) information provided to the Commissioner of Insurance under:
- (i) Subsection 31A-23a-115(3)(a);
 - (ii) Subsection 31A-23a-302(4); or
 - (iii) Subsection 31A-26-210(4);
- (n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- (o) information provided by an offender that is:
- (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
 - (ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);
 - (p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
 - (q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
 - (r) an email address provided by a military or overseas voter under Section 20A-16-501;
 - (s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
 - (t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section [~~11-49-201~~] 63A-15-201, except for:
 - (i) the commission's summary data report that is required in Section [~~11-49-202~~] 63A-15-202; and
 - (ii) any other document that is classified as public in accordance with [~~Title 11, Chapter 49~~] Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;
- (u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat; and
- (v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201.
- (2) The following records are private if properly classified by a governmental entity:
- (a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
 - (b) records describing an individual's finances, except that the following are public:
 - (i) records described in Subsection 63G-2-301(2);
 - (ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or
 - (iii) records that must be disclosed in accordance with another statute;
 - (c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
 - (d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
 - (e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;
 - (f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
 - (g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:
 - (i) depict the commission of an alleged crime;
 - (ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
 - (iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
 - (iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or
 - (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), “medical records” means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient’s physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient’s death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 44. Section 67-16-15 is amended to read:

67-16-15. Complaint -- Political Subdivisions Ethics Review Commission.

A person may file a complaint for an alleged violation of this chapter by a political subdivision officer or employee in accordance with Title [11, Chapter 49] 63A, Chapter 15, Political Subdivisions Ethics Review Commission.

CHAPTER 462**S. B. 227**

Passed March 6, 2018

Approved March 26, 2018

Effective May 8, 2018

**LICENSING STANDARDS
FOR MILITARY SPOUSES**

Chief Sponsor: Todd Weiler

House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill modifies occupational and professional licensing requirements for certain individuals serving in the military and for certain spouses of individuals serving in the military.

Highlighted Provisions:

This bill:

- ▶ provides certain exemptions from occupational and professional licensure in a variety of occupations and professions, including for:
 - an individual serving in the military if the individual has a valid license in another jurisdiction; and
 - a spouse of an individual serving in the military if the spouse has a valid license in another jurisdiction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-23a-104, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-26-202, as last amended by Laws of Utah 2008, Chapter 382

61-2f-202, as last amended by Laws of Utah 2017, Chapter 182

ENACTS:

4-1-111, Utah Code Annotated 1953

13-1-12, Utah Code Annotated 1953

53-9-122, Utah Code Annotated 1953

53-11-125, Utah Code Annotated 1953

53E-6-204, Utah Code Annotated 1953

61-1-32, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 4-1-111 is enacted to read:****4-1-111. Exemptions from licensure.**

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

(1) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(3) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 2. Section 13-1-12 is enacted to read:**13-1-12. Exemptions from licensure.**

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

(1) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(3) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 3. Section 31A-23a-104 is amended to read:**31A-23a-104. Application for individual license -- Application for agency license.**

(1) This section applies to an initial or renewal license as a:

- (a) producer;
- (b) surplus lines producer;

- (c) limited line producer;
 - (d) consultant;
 - (e) managing general agent; or
 - (f) reinsurance intermediary.
- (2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:
- (i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) except as provided in Subsection (6), pay a license fee that is not refunded if the application:
 - (A) is denied; or
 - (B) is incomplete when filed and is never completed by the applicant.
 - (b) An application described in this Subsection (2) shall provide:
 - (i) information about the applicant's identity;
 - (ii) the applicant's Social Security number;
 - (iii) the applicant's personal history, experience, education, and business record;
 - (iv) whether the applicant is 18 years of age or older;
 - (v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111;
 - (vi) if the application is for a resident individual producer license, certification that the applicant complies with Section 31A-23a-203.5; and
 - (vii) any other information the commissioner reasonably requires.
- (3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.
- (4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.
- (5) (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person shall:
- (i) file an application for an initial or renewal agency license with the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) pay a license fee that is not refunded if the application:
 - (A) is denied; or
 - (B) is incomplete when filed and is never completed by the applicant.
 - (b) An application described in Subsection (5)(a) shall provide:
 - (i) information about the applicant's identity;

- (ii) the applicant's federal employer identification number;
- (iii) the designated responsible licensed individual;
- (iv) the identity of the owners, partners, officers, and directors;
- (v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and
- (vi) any other information the commissioner reasonably requires.

(6) The following individuals are exempt from paying a license fee:

(a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

(b) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 4. Section 31A-26-202 is amended to read:

31A-26-202. Application for license.

(1) (a) The application for a license as an independent adjuster or public adjuster shall be:

(i) made to the commissioner on forms and in a manner the commissioner prescribes; and

(ii) except as provided in Subsection (4), accompanied by the applicable fee, which is not refunded if the application is denied.

(b) The application shall provide:

(i) information about the applicant's identity, including:

(A) the applicant's:

(I) Social Security number; or

(II) federal employer identification number;

(B) the applicant's personal history, experience, education, and business record;

(C) if the applicant is a natural person, whether the applicant is 18 years of age or older; and

(D) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-25-208; and

(ii) any other information as the commissioner reasonably requires.

(2) The commissioner may require documents reasonably necessary to verify the information contained in the application.

(3) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.

(4) The following individuals are exempt from paying a license fee:

(a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and

(b) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 5. Section 53-9-122 is enacted to read:

53-9-122. Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

(1) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(3) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 6. Section 53-11-125 is enacted to read:

53-11-125. Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of a private investigator regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(1) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid private investigator license issued by any other state or jurisdiction recognized by the department; and

(2) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(a) the spouse holds a valid private investigator license issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 7. Section 53E-6-204 is enacted to read:

53E-6-204. Exemptions from licensure.

Except as otherwise provided by statute or rule, a spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state may work as an educator without being licensed under this title if:

(1) the spouse holds a valid educator license issued by any other state or jurisdiction recognized by the board; and

(2) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 8. Section 61-1-32 is enacted to read:

61-1-32. Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(1) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(3) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 9. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) a person who as owner or lessor performs an act described in Subsection 61-2f-102(18) with reference to real estate owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102(18)(b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association; and

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding an unsolicited, duly executed power of attorney from a property owner;

(b) services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102(18) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any

other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

[~~(4)~~] (5) As used in this section, "owner" does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

[~~(5)~~] (6) The commission, with the concurrence of the division, may provide, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the circumstances under which a person or transaction qualifies for an exemption that is described in this section.

CHAPTER 463

H.B. 3

Passed March 8, 2018
 Approved March 27, 2018
 Effective May 8, 2018
 (Line Items 18, 98, 102, 178, 181, 268, 280, 291,
 295, 300 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain public education programs;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides funds for the bills with fiscal impact passed in the 2018 General Session;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ provides a mathematical formula for the annual appropriations limit; and,
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$35,414,600 in operating and capital budgets for fiscal year 2018, including:

- ▶ (\$64,505,800) from the General Fund;
- ▶ \$70,170,000 from the Education Fund;
- ▶ \$29,750,400 from various sources as detailed in this bill.

This bill appropriates \$1,079,300 in restricted fund and account transfers for fiscal year 2018, including:

- ▶ \$560,000 from the General Fund;
- ▶ \$519,300 from various sources as detailed in this bill.

This bill appropriates \$12,817,500 in transfers to unrestricted funds for fiscal year 2018.

This bill appropriates \$120,419,500 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$16,751,500 from the General Fund;
- ▶ \$52,432,400 from the Education Fund;
- ▶ \$51,235,600 from various sources as detailed in this bill.

This bill appropriates \$342,700 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$1,234,800 in business-like activities for fiscal year 2019.

This bill appropriates \$56,565,200 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$46,565,200 from the General Fund;
- ▶ \$10,000,000 from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2018.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2018 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2017 and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 1

To Attorney General - State Settlement Agreements
 From General Fund, One-Time (46,000)
 Schedule of Programs:
 State Settlement Agreements (46,000)

UTAH DEPARTMENT OF CORRECTIONS

Item 2

To Utah Department of Corrections - Programs and Operations
 From General Fund, One-Time 125,000
 Schedule of Programs:
 Department Executive Director 125,000

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 3

To Judicial Council/State Court Administrator - Administration
 From General Fund, One-Time 18,000
 Schedule of Programs:
 Data Processing 18,000
 To implement the provisions of *Criminal Judgment Account Receivable Amendments* (House Bill 273, 2018 General Session).

Item 4

To Judicial Council/State Court Administrator - Administration
 From General Fund, One-Time 24,000
 Schedule of Programs:
 Administrative Office 24,000

To implement the provisions of *Court Records Amendments* (Senate Bill 106, 2018 General Session).

GOVERNOR'S OFFICE

Item 5

To Governor's Office - Commission on Criminal and Juvenile Justice
 From General Fund, One-Time 30,000
 Schedule of Programs:
 CCJJ Commission 30,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$30,000 provided for the Commission on Criminal and Juvenile Justice for the Training for Child Advocacy not lapse at the close of Fiscal Year 2018.

Item 6

To Governor's Office
 From General Fund, One-Time 150,000
 Schedule of Programs:
 Lt. Governor's Office 150,000

Item 7

To Governor's Office
 From General Fund, One-Time 25,900
 Schedule of Programs:
 Lt. Governor's Office 25,900

To implement the provisions of *Modifications to Election Law* (House Bill 218, 2018 General Session).

Item 8

To Governor's Office
 From General Fund, One-Time 6,100
 Schedule of Programs:
 Lt. Governor's Office 6,100

To implement the provisions of *Voter Privacy Amendments* (Senate Bill 74, 2018 General Session).

Item 9

To Governor's Office - Governor's Office of Management and Budget
 From General Fund, One-Time 1,700
 Schedule of Programs:
 Planning and Budget Analysis 1,700

To implement the provisions of *Technology Innovation Amendments* (House Bill 395, 2018 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 10

To Department of Public Safety - Driver License
 From Department of Public Safety
 Restricted Account, One-Time 2,000
 Schedule of Programs:
 Driver Services 2,000

To implement the provisions of *Driver License Suspension Amendments* (House Bill 144, 2018 General Session).

Item 11

To Department of Public Safety - Driver License

From Department of Public Safety
 Restricted Account, One-Time 6,200
 Schedule of Programs:
 Driver Services 6,200

To implement the provisions of *Driver License Exam Revisions* (House Bill 189, 2018 General Session).

Item 12

To Department of Public Safety - Driver License
 From General Fund, One-Time 7,900
 Schedule of Programs:
 Driver Services 7,900

To implement the provisions of *Homeless Identification Documents* (Senate Bill 196, 2018 General Session).

Item 13

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Department Commissioner's Office 100,000

Item 14

To Department of Public Safety - Programs & Operations
 From Dedicated Credits Revenue,
 One-Time 6,400
 Schedule of Programs:
 CITS Bureau of Criminal
 Identification 6,400

To implement the provisions of *Health Facility Licensing Amendments* (House Bill 89, 2018 General Session).

Item 15

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time 1,600
 Schedule of Programs:
 CITS Bureau of Criminal
 Identification 1,600

To implement the provisions of *Private Investigator License Revisions* (Senate Bill 129, 2018 General Session).

Item 16

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time 54,600
 Schedule of Programs:
 Department Intelligence Center 54,600

To implement the provisions of *Cold Case Database* (Senate Bill 160, 2018 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 17

To Department of Administrative Services - Administrative Rules
 From General Fund, One-Time 300,000
 From Beginning Nonlapsing
 Balances (300,000)

From Closing Nonlapsing Balances 300,000
 Schedule of Programs:
 DAR Administration 300,000

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Department of Administration - Administrative Rules - DAR Administration in H.B. 3, Item 17, 2018 General Session shall not lapse at the close of FY 2018. Expenditures of these funds are limited to fund the annual maintenance costs for the new e-rules program and other costs associated with the program: \$300,000

Item 18

To Department of Administrative Services - Administrative Rules
 From General Fund, One-Time 50,000
 Schedule of Programs:
 DAR Administration 50,000

To implement the provisions of *Legislative Oversight Amendments* (House Bill 175, 2018 General Session).

Item 19

To Department of Administrative Services - DFCM Administration
 From General Fund, One-Time 800
 Schedule of Programs:
 DFCM Administration 800

To implement the provisions of *Point of the Mountain State Land Authority* (House Bill 372, 2018 General Session).

Item 20

To Department of Administrative Services - Finance - Mandated - Ethics Commissions
 From General Fund, One-Time 17,500
 From Beginning Nonlapsing Balances (17,500)
 From Closing Nonlapsing Balances 17,500
 Schedule of Programs:
 Executive Branch Ethics Commission . . . 17,500

Item 21

To Department of Administrative Services - Finance Administration
 The Legislature intends that the Division of Finance lapse any uncommitted funds in the Private Proposal Expendable Revenue Fund at the close of FY 2018 to the General Fund.

CAPITAL BUDGET

Item 22

To Capital Budget - Capital Development - Higher Education
 The Legislature intends that Weber State University may use up to \$3,500,000 of institutional and/or donated funds for programming and design for the proposed Norda Engineering and Applied Science Building.

The Legislature intends that Dixie State University may use up to \$3,500,000 of institutional and/or donated funds for programming and design for the proposed Science Building.

The Legislature intends that Utah Valley University may use up to \$3,700,000 of institutional and/or donated funds for programming and design for the proposed Business Building.

Item 23

To Capital Budget - Capital Development - Other State Government

The Legislature intends that the Department of Agriculture and Food may use up to \$2,500,000 of agency funds for programming and design for the proposed William Spry Building Replacement building with the building to be constructed on Redwood Road.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 24

To Department of Technology Services - Chief Information Officer

Under the terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for Chief Information Officer in S.B. 3, Item 44, 2018 General Session shall not lapse at the close of FY 2018. Expenditures of these funds are limited to DTS Customer Experience Platform Expansion: \$1,400,000.

TRANSPORTATION

Item 25

To Transportation - B and C Roads
 From Transportation Fund,
 One-Time (16,805,200)
 Schedule of Programs:
 B and C Roads (16,805,200)

Item 26

To Transportation - Construction Management
 From Transportation Fund,
 One-Time 36,064,200
 Schedule of Programs:
 Federal Construction - New 36,064,200

The Legislature intends that as the Interstate on-ramp at 3900 South I-215 is redesigned and relocated, that any proceeds from the sale of property where the old on-ramp is located be used for the design, engineering, and construction of the new on-ramp.

The Legislature intends that the Department of Transportation use \$550,000 from FY 2018 Transportation Fund appropriations for design, engineering, right-of-way acquisition and improvements for an intersection on State Route 172 and Paulette Avenue.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 27

To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund, One-Time . . . 207,000
Schedule of Programs:
Warehouse and Distribution 207,000

DEPARTMENT OF COMMERCE

Item 28

To Department of Commerce - Commerce General Regulation
Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of the appropriations provided to Department of Commerce shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to covering costs associated with state litigation against opioid manufacturers per House Joint Resolution 12 “Joint Resolution Calling Upon the Attorney General to Sue Prescription Opioid Manufacturers” 2018 General Session.

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 29

To Governor’s Office of Economic Development - Business Development
From General Fund, One-Time (100,000)
Schedule of Programs:
Outreach and International Trade . . . (100,000)

Item 30

To Governor’s Office of Economic Development - Pass-Through
From General Fund, One-Time 325,000
Schedule of Programs:
Pass-Through 325,000
Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development-Pass Through in H.B. 3 “Appropriations Adjustment” 2018 General Session and S.B. 3 “Current Fiscal Year Supplemental Appropriations” 2018 General Session shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to contractual obligations and support: \$2,500,000.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the Military Installation and Development Authority be allowed to retain unexpended interest from the \$21,500,000 appropriation provided to the Governors Office of Economic Development-Pass Through in Laws of Utah 2016, Chapter 416, Item 67 and that the authority may use the unexpended interest for its general administrative and operational

expenses and for any purpose that helps the Falcon Hill Project Area, including the demolition of old Air Force Facilities.

DEPARTMENT OF HERITAGE AND ARTS

Item 31

To Department of Heritage and Arts - Pass-Through
From General Fund, One-Time 1,865,000
Schedule of Programs:
Pass-Through 1,865,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Department of Heritage And Arts-Pass Through line shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to contractual obligations and support: \$3,300,000.

INSURANCE DEPARTMENT

Item 32

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct.,
One-Time 1,500
Schedule of Programs:
Administration 1,500

To implement the provisions of *Insurance Modifications* (House Bill 39, 2018 General Session).

Item 33

To Insurance Department - Insurance Department Administration
From General Fund Rest. - Insurance Fraud Investigation Acct., One-Time . . . 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Insurance Contracts Amendments* (Senate Bill 135, 2018 General Session).

Item 34

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct.,
One-Time 2,200
Schedule of Programs:
Administration 2,200

To implement the provisions of *Uninsured and Underinsured Motorist Coverage Amendments* (Senate Bill 190, 2018 General Session).

UTAH STATE TAX COMMISSION

Item 35

To Utah State Tax Commission - Tax Administration
From General Fund, One-Time 46,000
Schedule of Programs:
Administration Division 46,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 36

To Department of Health - Children's Health Insurance Program

The Legislature intends that the Department of Health shall update its Children's Health Insurance Program (CHIP) benchmark plan to a currently offered health benefit plan to comply with UCA 26-40-106 "(1) medical program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec. 1397cc, to be actuarially equivalent to a health benefit plan with the largest insured commercial enrollment offered by a health maintenance organization in the state."

Item 37

To Department of Health - Family Health and Preparedness
 From General Fund, One-Time 2,500
 Schedule of Programs:
 Emergency Medical Services and Preparedness 2,500

To implement the provisions of *Utah Statewide Stroke and Cardiac Registry Act* (Senate Bill 150, 2018 General Session).

Item 38

To Department of Health - Medicaid and Health Financing
 From General Fund, One-Time 37,500
 From Federal Funds, One-Time 37,500
 Schedule of Programs:
 Financial Services 75,000

To implement the provisions of *Family Planning Services Amendments* (House Bill 12, 2018 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the up to \$37,500 of the funding appropriated to the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to providing family planning waiver services and the related administrative costs.

Item 39

To Department of Health - Medicaid and Health Financing
 From Federal Funds, One-Time 37,500
 From Dedicated Credits Revenue, One-Time 37,500
 Schedule of Programs:
 Director's Office 75,000

To implement the provisions of *Medicaid Dental Benefits* (House Bill 435, 2018 General Session).

Item 40

To Department of Health - Medicaid Services
 To implement the provisions of *Medically Complex Children with Disabilities Waiver*

Program (House Bill 100, 2018 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 84 of Chapter 476, Laws of Utah 2017 for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to assistance for children with disabilities and complex medical conditions

DEPARTMENT OF HUMAN SERVICES

Item 41

To Department of Human Services - Division of Child and Family Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the \$500,000 one-time General Fund allocated in Senate Bill 3, Item 61, 2018 General Session, for the support of grandparents and other relatives caring for children who might otherwise be in foster care, shall not lapse at the close of Fiscal Year 2018.

Item 42

To Department of Human Services - Division of Substance Abuse and Mental Health
 From General Fund, One-Time 477,700
 Schedule of Programs:
 Community Mental Health Services ... 477,700

To implement the provisions of *Mental Health Crisis Line Amendments* (House Bill 41, 2018 General Session).

DEPARTMENT OF WORKFORCE SERVICES

Item 43

To Department of Workforce Services - Housing and Community Development
 From General Fund Restricted - Pamela Atkinson Homeless Account, One-Time 560,000
 Schedule of Programs:
 Homeless Committee 560,000

Item 44

To Department of Workforce Services - Operation Rio Grande

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$10,500,000 of appropriations provided in Senate Bill 3, Item 66, 2018 General Session, for the Department of Workforce Services' Operation Rio Grande line item shall not lapse at the close of Fiscal Year 2018. The use of any nonlapsing funds is limited to law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 45

To University of Utah - Education and General

From General Fund, One-Time 100,000
 Schedule of Programs:
 Education and General 100,000
 The Legislature intends that this funding be used by the Kem C. Gardner Institute for an economic study.

UTAH STATE UNIVERSITY

Item 46
 To Utah State University - Education and General
 From General Fund, One-Time (70,000,000)
 From Education Fund, One-Time 70,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 47
 To Department of Agriculture and Food - Plant Industry
 From Federal Funds, One-Time 416,000
 Schedule of Programs:
 Environmental Quality 416,000

Item 48
 To Department of Agriculture and Food - Regulatory Services
 From Federal Funds, One-Time 736,400
 Schedule of Programs:
 Regulatory Services 736,400

Item 49
 To Department of Agriculture and Food - Resource Conservation
 From Federal Funds, One-Time 286,000
 Schedule of Programs:
 Resource Conservation 286,000

Item 50
 To Department of Agriculture and Food - Utah State Fair Corporation
 Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for State Fair in Senate Bill 3, Item 79, 2018 General Session, shall not lapse at the close of FY 2018.

GOVERNOR'S OFFICE

Item 51
 To Governor's Office - Office of Energy Development
 Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$25,000 provided for the Governor's Office of Energy Development for the Energy Education Campaign not lapse at the close of Fiscal Year 2018. The use of any funds is limited to education projects.

DEPARTMENT OF NATURAL RESOURCES

Item 52
 To Department of Natural Resources - DNR Pass Through
 From General Fund, One-Time 1,650,000

Schedule of Programs:
 DNR Pass Through 1,650,000
 Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$1,650,000 appropriation for Commerce Clause Legal Challenge shall not lapse at the close of FY 2018.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Pass Through in Senate Bill 3, Item 89, 2018 General Session, shall not lapse at the close of FY 2018. Expenditures of these funds are limited to: Hanna Culinary Waterline Extension \$1,500,000, Carbon Canal Diversion Reconstruction \$588,900, and Sage Grouse State Plan \$2,000,000.

The Legislature intends that the Department of Natural Resources ensure that any money expended from the \$2 million appropriated in Senate Bill 3, Item 89, to pay expenses under a contract, be segregated and accounted for separately by the recipient of those funds under the contract.

Item 53
 To Department of Natural Resources - Water Resources
 From Federal Funds, One-Time 700,000
 Schedule of Programs:
 Construction 700,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 54
 To State Board of Education - Minimum School Program - Basic School Program
 From Revenue Transfers,
 One-Time (5,328,800)
 From Beginning Nonlapsing
 Balances 5,328,800

Item 55
 To State Board of Education - Minimum School Program - Related to Basic School Programs
 From Revenue Transfers,
 One-Time (7,171,200)
 From Beginning Nonlapsing
 Balances 2,084,800
 From Closing Nonlapsing Balances 5,086,400

STATE BOARD OF EDUCATION

Item 56
 To State Board of Education - Initiative Programs
 From General Fund, One-Time 200,000
 From Education Fund, One-Time 20,000
 From Nonlapsing Balances - MSP - Basic Program, One-Time 1,700,000
 Schedule of Programs:
 Carson Smith Scholarships 200,000
 Contracts and Grants 20,000
 Early Intervention Reading
 Software 1,700,000
 The Legislature intends that the State Board of Education may use up to \$1,700,000

one-time from nonlapsing balances in the Minimum School Program - Basic School Program to acquire analytical software that monitors student use and performance associated with Early Intervention Interactive Reading Software program in public schools.

Item 57

To State Board of Education - State Administrative Office
 From Education Fund, One-Time 150,000
 From Professional Practices Restricted Subfund, One-Time 752,000
 From Nonlapsing Balances - MSP - Basic Program, One-Time 5,000,000
 Schedule of Programs:
 Information Technology 5,752,000
 Student Advocacy Services 150,000

The Legislature intends that the State Board of Education may use up to \$5,000,000 one-time from nonlapsing balances in the Minimum School Program - Basic School Program for planning and upgrading Board information technology systems.

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 58

To Legislature - Senate
 From General Fund, One-Time 800
 Schedule of Programs:
 Administration 800

To implement the provisions of *Point of the Mountain State Land Authority* (House Bill 372, 2018 General Session).

Item 59

To Legislature - Senate
 From General Fund, One-Time 2,400
 Schedule of Programs:
 Administration 2,400

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 4, 2018 General Session).

Item 60

To Legislature - House of Representatives
 From General Fund, One-Time 800
 Schedule of Programs:
 Administration 800

To implement the provisions of *Point of the Mountain State Land Authority* (House Bill 372, 2018 General Session).

Item 61

To Legislature - House of Representatives
 From General Fund, One-Time 3,000
 Schedule of Programs:
 Administration 3,000

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 4, 2018 General Session).

Item 62

To Legislature - Legislative Support
 From General Fund, One-Time (70,000)
 Schedule of Programs:
 Administration (70,000)

Item 63

To Legislature - Legislative Services
 From General Fund, One-Time 16,400
 Schedule of Programs:
 Administration 16,400

To implement the provisions of *Higher Education Modifications* (House Bill 300, 2018 General Session).

Item 64

To Legislature - Office of the Legislative Auditor General
 From General Fund, One-Time 70,000
 Schedule of Programs:
 Administration 70,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 65

To Department of Administrative Services - State Debt Collection Fund
 From Beginning Fund Balance 317,500
 From Closing Fund Balance (317,500)

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

SOCIAL SERVICES

Item 66

To Utah State Developmental Center Long-Term Sustainability Fund
 From Utah State Developmental Center Land Fund, One-Time 519,300
 Schedule of Programs:

Utah State Developmental Center Long-Term Sustainability Fund 519,300

To implement the provisions of *Developmental Center Modifications* (Senate Bill 228, 2018 General Session).

The Legislature intends that the Division of Finance transfer any unencumbered balances remaining in the Utah State

Developmental Center Land Fund to the Utah State Developmental Center Long-Term Sustainability Fund at the close of Fiscal Year 2018.

Item 67

To General Fund Restricted - Homeless Account
From General Fund, One-Time 560,000
Schedule of Programs:
General Fund Restricted - Pamela
Atkinson Homeless Account 560,000

Subsection 1(d). Transfers to Unrestricted

Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 68

To General Fund
From State Debt Collection Fund,
One-Time 317,500
Schedule of Programs:
General Fund, One-time 317,500

PUBLIC EDUCATION

Item 69

To Education Fund
From Nonlapsing Balances - Transfer of nonlapsing balances from the Minimum School Program, namely, Basic School Program of \$5,328,800 and the Related to Basic School Program of \$7,171,200. 12,500,000
Schedule of Programs:
Education Fund, One-time 12,500,000

Section 2. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 2(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 70

To Attorney General
From General Fund 263,500
From General Fund, One-Time 398,000
Schedule of Programs:

Administration 263,500
Criminal Prosecution 398,000

Item 71

To Attorney General
From General Fund 53,500
Schedule of Programs:
Child Protection 53,500
To implement the provisions of *Child Placement Amendments* (House Bill 80, 2018 General Session).

Item 72

To Attorney General
From General Fund 1,300
Schedule of Programs:
Administration 1,300
To implement the provisions of *Mental Health Crisis Line Commission Sunset Amendments* (Senate Bill 32, 2018 General Session).

Item 73

To Attorney General - Children's Justice Centers
From General Fund 100,000
Schedule of Programs:
Children's Justice Centers 100,000
To implement the provisions of *Children's Justice Center Program* (Senate Bill 81, 2018 General Session).

Item 74

To Attorney General - State
Settlement Agreements
From General Fund, One-Time 1,000,000
Schedule of Programs:
State Settlement Agreements 1,000,000
Following the Board of Examiners recommendations on November 17, 2015, the Legislature intends that, from the General Fund one-time appropriation of \$1,000,000, the Attorney Generals Office use \$500,000 for additional compensation for Monica Larsen Elliot and \$500,000 for additional compensation for Brenden Yates.

BOARD OF PARDONS AND PAROLE

Item 75

To Board of Pardons and Parole
From General Fund 1,900
From General Fund, One-Time (900)
Schedule of Programs:
Board of Pardons and Parole 1,000
To implement the provisions of *Relationship Violence and Offenses Amendments* (Senate Bill 27, 2018 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 76

To Utah Department of Corrections -
Programs and Operations
From General Fund 156,200
From General Fund, One-Time (156,200)
To implement the provisions of *Identity Theft Paraphernalia Provisions* (House Bill 269, 2018 General Session).

Item 77

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 10,100
 From General Fund, One-Time (600)
 Schedule of Programs:
 Prison Operations Draper Facility 9,500
 To implement the provisions of *Driving Under the Influence Modifications* (House Bill 295, 2018 General Session).

Item 78

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 101,800
 From General Fund, One-Time (27,400)
 Schedule of Programs:
 Prison Operations Draper Facility 74,400
 To implement the provisions of *Relationship Violence and Offenses Amendments* (Senate Bill 27, 2018 General Session).

Item 79

To Utah Department of Corrections -
 Department Medical Services
 From General Fund (2,000,000)
 From General Fund, One-Time 2,000,000
 To implement the provisions of *Medicaid Expansion Revisions* (House Bill 472, 2018 General Session).

Item 80

To Utah Department of Corrections -
 Jail Contracting
 From General Fund 496,600
 Schedule of Programs:
 Jail Contracting 496,600
 To implement the provisions of **Justice Reinvestment Amendments** (House Bill 157, 2018 General Session).

Item 81

To Utah Department of Corrections -
 Jail Contracting
 From General Fund 283,300
 Schedule of Programs:
 Jail Contracting 283,300
 To implement the provisions of *Jail Beds Amendments* (House Bill 458, 2018 General Session).

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 82

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 288,800
 Schedule of Programs:
 District Courts 288,800

Item 83

To Judicial Council/State Court Administrator -
 Administration
 From General Fund, One-Time 7,000
 Schedule of Programs:
 Administrative Office 7,000

To implement the provisions of *Incapacitated Person Revisions* (House Bill 167, 2018 General Session).

Item 84

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 7,000
 Schedule of Programs:
 District Courts 7,000
 To implement the provisions of *Identity Theft Paraphernalia Provisions* (House Bill 269, 2018 General Session).

Item 85

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 900
 Schedule of Programs:
 District Courts 900
 To implement the provisions of *Driving Under the Influence Modifications* (House Bill 295, 2018 General Session).

Item 86

To Judicial Council/State Court Administrator -
 Administration
 From General Fund, One-Time 5,000
 Schedule of Programs:
 Data Processing 5,000
 To implement the provisions of *Fine Amendments* (House Bill 336, 2018 General Session).

Item 87

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 149,700
 Schedule of Programs:
 District Courts 149,700
 To implement the provisions of *Competency to Stand Trial Amendments* (Senate Bill 19, 2018 General Session).

Item 88

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 76,100
 Schedule of Programs:
 District Courts 76,100
 To implement the provisions of *Relationship Violence and Offenses Amendments* (Senate Bill 27, 2018 General Session).

Item 89

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 128,000
 Schedule of Programs:
 District Courts 128,000
 To implement the provisions of *Solicitation Amendments* (Senate Bill 214, 2018 General Session).

Item 90

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 7,200

Schedule of Programs:

District Courts	7,200
To implement the provisions of <i>Joint Resolution Dissolving Newton, Amalga, and Lewiston Justice Courts</i> (Senate Joint Resolution 10, 2018 General Session).	

Item 91

To Judicial Council/State Court Administrator - Contracts and Leases	
From General Fund	313,400
From General Fund Restricted - State Court Complex Account	(313,400)

GOVERNOR'S OFFICE**Item 92**

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	50,000
Schedule of Programs: Utah Office for Victims of Crime	50,000

Item 93

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund, One-Time	159,900
Schedule of Programs: CCJJ Commission	159,900
To implement the provisions of <i>Education Grant Program for Individuals in the Justice System</i> (House Bill 106, 2018 General Session).	

Item 94

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	118,500
From Crime Victim Reparations Fund	3,600
Schedule of Programs: Utah Office for Victims of Crime	122,100
To implement the provisions of <i>Trauma-informed Justice Provisions</i> (House Bill 177, 2018 General Session).	

Item 95

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	4,000
From General Fund, One-Time	9,800
Schedule of Programs: CCJJ Commission	13,800
To implement the provisions of <i>Incarceration Reports</i> (Senate Bill 205, 2018 General Session).	

Item 96

To Governor's Office - Emergency Fund	
From General Fund, One-Time	100,100
Schedule of Programs: Governor's Emergency Fund	100,100

Item 97

To Governor's Office	
From General Fund	500,000
From General Fund, One-Time	4,750,000
Schedule of Programs: Lt. Governor's Office	5,250,000

Item 98

To Governor's Office	
From General Fund	37,500
Schedule of Programs: Administration	37,500
To implement the provisions of <i>Legislative Oversight Amendments</i> (House Bill 175, 2018 General Session).	

Item 99

To Governor's Office	
From General Fund, One-Time	15,300
Schedule of Programs: Lt. Governor's Office	15,300
To implement the provisions of <i>Proposal to Amend Utah Constitution -- Special Sessions of the Legislature</i> (House Joint Resolution 18, 2018 General Session).	

Item 100

To Governor's Office	
From General Fund	25,000
From General Fund, One-Time	95,000
Schedule of Programs: Lt. Governor's Office	120,000
To implement the provisions of <i>Local Government and Limited Purpose Entity Registry</i> (Senate Bill 28, 2018 General Session).	

Item 101

To Governor's Office	
From General Fund, One-Time	15,300
Schedule of Programs: Lt. Governor's Office	15,300
To implement the provisions of <i>Proposal to Amend Utah Constitution - Property Tax Exemptions</i> (Senate Joint Resolution 2, 2018 General Session).	

Item 102

To Governor's Office	
From General Fund, One-Time	15,300
Schedule of Programs: Lt. Governor's Office	15,300
To implement the provisions of <i>Proposal to Amend Utah Constitution -- Public Education Governance</i> (Senate Joint Resolution 16, 2018 General Session).	

Item 103

To Governor's Office - Governor's Office of Management and Budget	
From General Fund, One-Time	150,000
Schedule of Programs: Operational Excellence	150,000

Item 104

To Governor's Office - Governor's Office of Management and Budget	
From General Fund	6,900
Schedule of Programs: Planning and Budget Analysis	6,900
To implement the provisions of <i>Technology Innovation Amendments</i> (House Bill 395, 2018 General Session).	

Item 105

To Governor's Office - Indigent Defense Commission	
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From General Fund Restricted -
 Indigent Defense Resources 406,300
 Schedule of Programs:
 Indigent Defense Commission 406,300

Item 106

To Governor's Office - Indigent
 Defense Commission
 From General Fund Restricted -
 Indigent Defense Resources 93,700
 Schedule of Programs:
 Indigent Defense Commission 93,700
 To implement the provisions of
Termination of Parental Rights Amendments
 (Senate Bill 203, 2018 General Session).

**DEPARTMENT OF HUMAN
 SERVICES - DIVISION OF
 JUVENILE JUSTICE SERVICES**

Item 107

To Department of Human Services - Division of
 Juvenile Justice Services - Programs and
 Operations
 From Federal Funds 438,000
 Schedule of Programs:
 Administration 438,000

Item 108

To Department of Human Services - Division of
 Juvenile Justice Services - Community Providers
 From Federal Funds (438,000)
 Schedule of Programs:
 Provider Payments (438,000)

DEPARTMENT OF PUBLIC SAFETY

Item 109

To Department of Public Safety - Driver License
 From Department of Public Safety
 Restricted Account (18,000)
 From Department of Public Safety
 Restricted Account, One-Time 10,200
 Schedule of Programs:
 Driver Services (7,800)
 To implement the provisions of *Ignition
 Interlock Amendments*
 (House Bill 65, 2018 General Session).

Item 110

To Department of Public Safety - Driver License
 From Department of Public Safety
 Restricted Account (33,000)
 Schedule of Programs:
 Driver Services (33,000)
 To implement the provisions of *Driver
 License Suspension Amendments*
 (House Bill 144, 2018 General Session).

Item 111

To Department of Public Safety -
 Programs & Operations
 From General Fund (1,135,300)
 From General Fund, One-Time 146,500
 From Dedicated Credits Revenue (7,536,200)
 From Dedicated Credits Revenue,
 One-Time (66,000)
 From General Fund Restricted -
 Concealed Weapons Account (3,432,400)

From General Fund Restricted -
 Concealed Weapons Account,
 One-Time (10,700)
 From General Fund Restricted -
 Firearm Safety Account (65,000)
 From General Fund Restricted -
 Statewide Warrant Operations (596,300)
 From General Fund Restricted -
 Statewide Warrant Operations,
 One-Time (1,800)
 From Revenue Transfers (26,600)
 From Revenue Transfers, One-Time (100)
 From Pass-through (1,600)
 Schedule of Programs:
 CITS Bureau of Criminal
 Identification (12,875,500)
 Department Commissioner's Office 150,000

Item 112

To Department of Public Safety -
 Programs & Operations
 From Dedicated Credits Revenue,
 One-Time 41,600
 Schedule of Programs:
 CITS Bureau of Criminal
 Identification 41,600
 To implement the provisions of *Health
 Facility Licensing Amendments*
 (House Bill 89, 2018 General Session).

Item 113

To Department of Public Safety -
 Programs & Operations
 From Dedicated Credits Revenue,
 One-Time 1,100
 Schedule of Programs:
 CITS Bureau of Criminal
 Identification 1,100
 To implement the provisions of *Child Care
 Licensing Amendments*
 (House Bill 123, 2018 General Session).

Item 114

To Department of Public Safety -
 Programs & Operations
 From Dedicated Credits Revenue 2,000
 Schedule of Programs:
 Fire Marshall - Fire Operations 2,000
 To implement the provisions of *Building
 Permit and Impact Fees Amendments*
 (House Bill 250, 2018 General Session).

Item 115

To Department of Public Safety -
 Programs & Operations
 From General Fund 2,000
 Schedule of Programs:
 Fire Marshall - Fire Operations 2,000
 To implement the provisions of *Public
 Safety and Firefighter Retirement Death
 Benefit Amendments*
 (Senate Bill 21, 2018 General Session).

Item 116

To Department of Public Safety -
 Programs & Operations
 From General Fund 100,000
 Schedule of Programs:
 Department Intelligence Center 100,000

To implement the provisions of *Cold Case Database*
(Senate Bill 160, 2018 General Session).

Item 117

To Department of Public Safety -
Bureau of Criminal Identification
From General Fund 1,135,300
From General Fund, One-Time 3,500
From Dedicated Credits Revenue 7,536,200
From Dedicated Credits Revenue,
One-Time 66,000
From General Fund Restricted -
Concealed Weapons Account 3,432,400
From General Fund Restricted -
Concealed Weapons Account,
One-Time 10,700
From General Fund Restricted -
Firearm Safety Account 65,000
From General Fund Restricted -
Statewide Warrant Operations 596,300
From General Fund Restricted -
Statewide Warrant Operations,
One-Time 1,800
From Revenue Transfers 26,600
From Revenue Transfers, One-Time 100
From Pass-through 1,600
Schedule of Programs:
Law Enforcement/Criminal
Justice Services 3,219,000
Non-Government/Other Services 9,656,500

STATE TREASURER

Item 118

To State Treasurer
From Dedicated Credits Revenue 5,000
Schedule of Programs:
Treasury and Investment 5,000
To implement the provisions of
Developmental Center Modifications
(Senate Bill 228, 2018 General Session).

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 119

To Department of Administrative Services -
Administrative Rules
From General Fund 250,000
Schedule of Programs:
DAR Administration 250,000

Item 120

To Department of Administrative Services -
Building Board Program
The Legislature intends that if H.B. 342,
2018 General Session is passed and becomes
law, that if the Division of Juvenile Justice
Services vacates a building on an
approximately five-acre parcel on Monroe
Boulevard in Ogden, that the State Building
Board would have good reason to conclude
that the highest and best public benefit would

be realized by allocating the parcel to the
Ogden-Weber Technical College.

Item 121

To Department of Administrative Services - DFCM
Administration
From General Fund 44,500
From Education Fund 400,500
Schedule of Programs:
DFCM Administration 445,000

Item 122

To Department of Administrative Services - DFCM
Administration
From General Fund 3,200
Schedule of Programs:
DFCM Administration 3,200
To implement the provisions of *Point of the
Mountain State Land Authority*
(House Bill 372, 2018 General Session).

Item 123

To Department of Administrative Services -
Finance Administration
From Transportation Fund (1,200)
Schedule of Programs:
Financial Information Systems (1,200)

Item 124

To Department of Administrative Services -
Finance Administration
From General Fund, One-Time 98,500
Schedule of Programs:
Finance Director's Office 98,500
To implement the provisions of
Fine Amendments
(House Bill 336, 2018 General Session).

Item 125

To Department of Administrative Services -
Finance Administration
From General Fund 9,600
Schedule of Programs:
Financial Reporting 9,600
To implement the provisions of *Dedicated
Credits and Nonlapsing Authority Revisions*
(House Bill 475, 2018 General Session).

Item 126

To Department of Administrative Services -
Finance Administration
From General Fund 9,000
From General Fund, One-Time (9,000)
To implement the provisions of
Conservation District Amendments
(Senate Bill 170, 2018 General Session).

Item 127

To Department of Administrative Services -
Finance Administration
From General Fund 1,200
From General Fund, One-Time 600
Schedule of Programs:
Financial Reporting 1,800
To implement the provisions of *Utah
Science Technology and Research Initiative
Amendments* (Senate Bill 239, 2018 General
Session).

Item 128

To Department of Administrative Services -
 Inspector General of Medicaid Services
 From Federal Funds 35,000
 From Federal Funds, One-Time (35,000)
 From Medicaid Expansion Fund 35,000
 From Medicaid Expansion Fund,
 One-Time (35,000)
 To implement the provisions of
Medicaid Expansion Revisions
 (House Bill 472, 2018 General Session).

CAPITAL BUDGET

Item 129

To Capital Budget - Capital Development -
 Higher Education
 From Education Fund, One-Time 300,000
 Schedule of Programs:
 DSU Science Building 300,000

Item 130

To Capital Budget - Capital Development -
 Other State Government
 From General Fund, One-Time 300,000
 From General Fund Restricted -
 Prison Devel. Restricted Account,
 One-Time 46,000,000
 Schedule of Programs:
 Prison Relocation 46,000,000
 UNG Armories 300,000

Item 131

To Capital Budget - Pass-Through
 From General Fund, One-Time 2,950,000
 Schedule of Programs:
 Historic Wendover Airfield 250,000
 Utah State Developmental Center
 Water System 2,700,000

TRANSPORTATION

Item 132

To Transportation - B and C Roads
 From Transportation Fund,
 One-Time 4,962,100
 Schedule of Programs:
 B and C Roads 4,962,100

Item 133

To Transportation - Construction Management
 From Transportation Fund,
 One-Time (24,523,400)
 Schedule of Programs:
 Federal Construction - New (24,523,400)
 The Legislature intends that the
 Department of Transportation use \$850,000
 from FY 2019 Transportation Fund
 appropriations for design, engineering,
 right-of-way acquisition and improvements
 for an intersection on State Route 134
 adjacent to the canal in Pleasant View.

Notwithstanding intent language in H.B. 2,
 Item 32, 2018 General Session, the
 Legislature intends that the Department of
 Transportation direct \$400,000 from the
 Transportation Fund to Morgan County for
 improvements to Lost Creek Road in Morgan
 County to help restore the road to acceptable

standards as part of previous commitments
 by the county to manage Lost Creek
 Reservoir.

Notwithstanding intent language in H.B. 2,
 Item 32, 2018 General Session, the
 Legislature intends that the Department of
 Transportation direct up to \$3,200,000 total
 in FY 2018, FY 2019, and FY 2020 from the
 Transportation Fund to the Seven County
 Infrastructure Coalition to conduct an
 environmental impact study for the proposed
 Eastern Utah Connector Highway.

Item 134

To Transportation - Construction Management
 From Transportation Fund (72,600)
 From Transportation Fund, One-Time ... 18,200
 Schedule of Programs:
 Federal Construction - New (54,400)
 To implement the provisions of
Small Wireless Facilities Deployment Act
 (Senate Bill 189, 2018 General Session).

Item 135

To Transportation - Engineering Services
 From Transportation Fund 72,600
 From Transportation Fund,
 One-Time (18,200)
 Schedule of Programs:
 Right-of-Way 54,400
 To implement the provisions of
Small Wireless Facilities Deployment Act
 (Senate Bill 189, 2018 General Session).

Item 136

To Transportation - Operations/
 Maintenance Management
 From Tollway Special Revenue Fund 36,000
 From Tollway Special Revenue Fund,
 One-Time 2,100,000
 Schedule of Programs:
 Maintenance Administration 2,136,000
 To implement the provisions of
Road Tolls Provisions
 (Senate Bill 71, 2018 General Session).

Item 137

To Transportation - Support Services
 From General Fund, One-Time 575,000
 Schedule of Programs:
 Administrative Services 575,000
 The Legislature intends that the
 Department of Transportation may expend
 up to \$200,000 from the Transportation Fund
 to partner with other entities to expand
 availability of infrastructure for emerging
 vehicle technology.

Notwithstanding intent language in H.B. 2,
 Item 32, 2018 General Session, the
 Legislature intends that the \$1,400,000
 one-time appropriation provided in H.B. 2,
 Item 32 be directed to Salt Lake County to
 make road, gutter and sidewalk
 improvements related to homeless resource
 center development.

Item 138

To Transportation - Support Services
 From Transportation Fund 1,853,000

From Transportation Fund, One-Time .. 850,000
 Schedule of Programs:
 Administrative Services 2,703,000
 To implement the provisions of
Transportation Governance Amendments
 (Senate Bill 136, 2018 General Session).

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF
 ALCOHOLIC BEVERAGE CONTROL**

Item 139
 To Department of Alcoholic Beverage
 Control - DABC Operations
 From Liquor Control Fund 1,000
 Schedule of Programs:
 Operations 1,000
 To implement the provisions of *State
 Training and Certification Requirements*
 (House Bill 179, 2018 General Session).

Item 140
 To Department of Alcoholic Beverage
 Control - DABC Operations
 From Liquor Control Fund,
 One-Time (139,000)
 Schedule of Programs:
 Operations (139,000)
 To implement the provisions of
Alcohol Amendments
 (House Bill 456, 2018 General Session).

DEPARTMENT OF COMMERCE

Item 141
 To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account (200)
 Schedule of Programs:
 Administration (200)
 To implement the provisions of
Health and Human Services Reports
 (House Bill 52, 2018 General Session).

Item 142
 To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted -
 Commerce Service Account 107,300
 From General Fund Restricted - Commerce
 Service Account, One-Time 22,400
 Schedule of Programs:
 Occupational and Professional
 Licensing 129,700
 To implement the provisions of
*Controlled Substance Database Act
 Amendments*
 (House Bill 127, 2018 General Session).

Item 143
 To Department of Commerce -
 Commerce General Regulation
 From Dedicated Credits Revenue 4,000
 Schedule of Programs:

Occupational and Professional
 Licensing 4,000
 To implement the provisions of
Controlled Substance Database Revisions
 (House Bill 158, 2018 General Session).

Item 144
 To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 4,700
 From General Fund Restricted - Commerce
 Service Account, One-Time 3,500
 Schedule of Programs:
 Occupational and Professional
 Licensing 8,200
 To implement the provisions of
*Occupational Licensing Requirement
 Amendments*
 (House Bill 173, 2018 General Session).

Item 145
 To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account, One-Time ... 7,200
 Schedule of Programs:
 Occupational and Professional
 Licensing 7,200
 To implement the provisions of
*State Training and Certification
 Requirements*
 (House Bill 179, 2018 General Session).

Item 146
 To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 7,800
 From General Fund Restricted - Commerce
 Service Account, One-Time 44,200
 Schedule of Programs:
 Corporations and Commercial Code 52,000
 To implement the provisions of
Limited Liability Company Amendments
 (House Bill 186, 2018 General Session).

Item 147
 To Department of Commerce -
 Commerce General Regulation
 From Pass-through 80,000
 Schedule of Programs:
 Real Estate 80,000
 To implement the provisions of
Division of Real Estate Amendments
 (House Bill 243, 2018 General Session).

Item 148
 To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 1,600
 Schedule of Programs:
 Occupational and Professional
 Licensing 1,600
 To implement the provisions of
*Opioid Abuse Prevention and Treatment
 Amendments*
 (House Bill 399, 2018 General Session).

Item 149

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account (4,600)
 Schedule of Programs:
 Consumer Protection (4,600)
 To implement the provisions of
Charity Registration Amendments
 (Senate Bill 63, 2018 General Session).

Item 150

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 25,500
 Schedule of Programs:
 Administration 25,500
 To implement the provisions of
Canal Amendments
 (Senate Bill 96, 2018 General Session).

Item 151

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 19,600
 From General Fund Restricted -
 Commerce Service Account, One-Time ... 9,400
 Schedule of Programs:
 Occupational and Professional
 Licensing 29,000
 To implement the provisions of
Cannabidiol Product Act
 (Senate Bill 130, 2018 General Session).

Item 152

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 1,300
 Schedule of Programs:
 Consumer Protection 1,300
 To implement the provisions of
Materials Harmful to Minors Amendments
 (Senate Bill 134, 2018 General Session).

Item 153

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 19,600
 Schedule of Programs:
 Consumer Protection 19,600
 To implement the provisions of
Residential Solar Energy Amendments
 (Senate Bill 157, 2018 General Session).

Item 154

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 600
 From General Fund Restricted - Commerce
 Service Account, One-Time 1,900
 Schedule of Programs:
 Occupational and Professional
 Licensing 2,500

To implement the provisions of
*Pharmacist Dispensing Authority
 Amendments*
 (Senate Bill 184, 2018 General Session).

Item 155

To Department of Commerce -
 Commerce General Regulation
 From General Fund Restricted -
 Commerce Service Account 6,700
 From General Fund Restricted - Commerce
 Service Account, One-Time 3,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 9,700
 To implement the provisions of
*Utah Health Care Malpractice Act
 Amendments*
 (Senate Bill 223, 2018 General Session).

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 156

To Governor's Office of Economic
 Development - Business Development
 From Dedicated Credits Revenue (279,500)
 Schedule of Programs:
 Outreach and International Trade ... (279,500)
 To implement the provisions of
Office of Economic Development Amendments
 (House Bill 23, 2018 General Session).

Item 157

To Governor's Office of Economic
 Development - Pass-Through
 From General Fund 355,000
 From General Fund, One-Time 2,975,000
 Schedule of Programs:
 Pass-Through 3,330,000
 The Legislature intends that \$605,000 of
 the one-time allocation provided in the
 Economic Development - Pass through line
 item in H.B. 3 Appropriations Adjustments,
 2018 General Session, be allocated to the Bell
 Canyon Hiking Trail.

Item 158

To Governor's Office of Economic Development -
 Utah Broadband Outreach Center
 From General Fund (358,400)
 Schedule of Programs:
 Utah Broadband Outreach Center ... (358,400)
 To implement the provisions of
Office of Economic Development Amendments
 (House Bill 23, 2018 General Session).

Item 159

To Governor's Office of Economic Development -
 Rural Employment Expansion Program
 From General Fund 772,000
 Schedule of Programs:
 Rural Employment Expansion
 Program 772,000
 To implement the provisions of
Rural Economic Development Incentives
 (House Bill 390, 2018 General Session).

FINANCIAL INSTITUTIONS

Item 160

To Financial Institutions - Financial Institutions Administration
 From General Fund Restricted - Financial Institutions 5,000
 Schedule of Programs:
 Administration 5,000
 To implement the provisions of *Cannabis Cultivation Amendments* (House Bill 197, 2018 General Session).

DEPARTMENT OF HERITAGE AND ARTS

Item 161

To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund, One-Time 300,000
 Schedule of Programs:
 Community Arts Outreach 300,000

Item 162

To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund, One-Time 1,000
 Schedule of Programs:
 Community Arts Outreach 1,000
 To implement the provisions of *Art Collection Committee Amendments* (House Bill 180, 2018 General Session).

Item 163

To Department of Heritage and Arts - Pass-Through
 From General Fund 520,000
 From General Fund, One-Time 1,484,000
 Schedule of Programs:
 Pass-Through 2,004,000

INSURANCE DEPARTMENT

Item 164

To Insurance Department - Insurance Department Administration
 From General Fund Restricted - Insurance Department Acct. 8,000
 Schedule of Programs:
 Administration 8,000
 To implement the provisions of *Insurance Modifications* (House Bill 39, 2018 General Session).

Item 165

To Insurance Department - Insurance Department Administration
 From General Fund Restricted - Insurance Department Acct., One-Time 3,000
 Schedule of Programs:
 Administration 3,000
 To implement the provisions of *Telepsychiatric Consultation Access Amendments* (House Bill 139, 2018 General Session).

Item 166

To Insurance Department - Insurance Department Administration
 From General Fund Restricted - Insurance Department Acct. 6,000
 Schedule of Programs:
 Administration 6,000
 To implement the provisions of *Licensing Standards for Military Spouses* (Senate Bill 227, 2018 General Session).

LABOR COMMISSION

Item 167

To Labor Commission
 From General Fund Restricted - Industrial Accident Account 50,000
 Schedule of Programs:
 Industrial Accidents 50,000
 To implement the provisions of *Insurance Modifications* (House Bill 39, 2018 General Session).

Item 168

To Labor Commission
 From General Fund Restricted - Industrial Accident Account 50,000
 Schedule of Programs:
 Industrial Accidents 50,000
 To implement the provisions of *Workers' Compensation Health Care Amendments* (Senate Bill 64, 2018 General Session).

PUBLIC SERVICE COMMISSION

Item 169

To Public Service Commission
 From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee (2,600)
 From General Fund Restricted - Public Utility Restricted Acct. 2,600

UTAH STATE TAX COMMISSION

Item 170

To Utah State Tax Commission - License Plates Production
 From Dedicated Credits Revenue (112,500)
 From Dedicated Credits Revenue, One-Time 56,300
 Schedule of Programs:
 License Plates Production (56,200)
 To implement the provisions of *License Plate Transfer Amendments* (House Bill 162, 2018 General Session).

Item 171

To Utah State Tax Commission - Tax Administration
 From General Fund, One-Time 7,500
 Schedule of Programs:
 Motor Vehicles 7,500
 To implement the provisions of *Special Group License Plate Amendments* (Senate Bill 119, 2018 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 172

To Department of Health - Children's Health Insurance Program
 From General Fund, One-Time 400
 From Federal Funds, One-Time (400)

Item 173

To Department of Health - Disease Control and Prevention
 From General Fund 255,000
 From General Fund, One-Time 250,000
 Schedule of Programs:
 Epidemiology 230,000
 Health Promotion 275,000

Item 174

To Department of Health - Disease Control and Prevention
 From General Fund 61,200
 Schedule of Programs:
 Health Promotion 61,200
 To implement the provisions of *Cannabinoid Product Board Membership Amendments*
 (House Bill 25, 2018 General Session).

Item 175

To Department of Health - Disease Control and Prevention
 From General Fund 10,500
 Schedule of Programs:
 Health Promotion 10,500
 To implement the provisions of *Opioid Abuse Prevention and Treatment Amendments*
 (House Bill 399, 2018 General Session).

Item 176

To Department of Health - Executive Director's Operations
 From General Fund (600)
 From General Fund, One-Time 300
 From Federal Funds (600)
 From Federal Funds, One-Time 300
 Schedule of Programs:
 Executive Director (600)
 To implement the provisions of *Health and Human Services Reports*
 (House Bill 52, 2018 General Session).

Item 177

To Department of Health - Executive Director's Operations
 From General Fund 400
 Schedule of Programs:
 Center for Health Data and Informatics ... 400
 To implement the provisions of *Utah Digital Health Service Commission Membership Amendments*
 (House Bill 174, 2018 General Session).

Item 178

To Department of Health - Executive Director's Operations
 From General Fund 1,000

From General Fund, One-Time 5,000
 Schedule of Programs:
 Center for Health Data and Informatics 6,000
 To implement the provisions of *Down Syndrome Nondiscrimination Abortion Act*
 (House Bill 205, 2018 General Session).

Item 179

To Department of Health - Executive Director's Operations
 From General Fund 1,000
 From General Fund, One-Time 4,000
 Schedule of Programs:
 Center for Health Data and Informatics 5,000
 To implement the provisions of *Abortion Law Amendments*
 (Senate Bill 118, 2018 General Session).

Item 180

To Department of Health - Family Health and Preparedness
 From General Fund 250,000
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Emergency Medical Services and Preparedness 250,000
 Primary Care 100,000

Item 181

To Department of Health - Family Health and Preparedness
 From General Fund 11,300
 From General Fund, One-Time 27,000
 Schedule of Programs:
 Children with Special Health Care Needs 38,300
 To implement the provisions of *Down Syndrome Nondiscrimination Abortion Act*
 (House Bill 205, 2018 General Session).

Item 182

To Department of Health - Family Health and Preparedness
 From General Fund 11,500
 From General Fund, One-Time 134,600
 Schedule of Programs:
 Maternal and Child Health 146,100
 To implement the provisions of *Abortion Law Amendments*
 (Senate Bill 118, 2018 General Session).

Item 183

To Department of Health - Family Health and Preparedness
 From General Fund 98,000
 Schedule of Programs:
 Emergency Medical Services and Preparedness 98,000
 To implement the provisions of *Utah Statewide Stroke and Cardiac Registry Act*
 (Senate Bill 150, 2018 General Session).

Item 184

To Department of Health - Family Health and Preparedness
 From General Fund Restricted - Home Visiting Restricted Account 20,000

Schedule of Programs:

Nurse Home Visiting Pay-for-Success
Program 20,000

To implement the provisions of *Nurse Home Visiting Pay-for-success Program*
(Senate Bill 161, 2018 General Session).

Item 185

To Department of Health - Medicaid and
Health Financing

From General Fund, One-Time (9,000)
From Nursing Care Facilities Provider
Assessment Fund, One-Time 9,000

The Legislature intends that the Drug Utilization Review Board shall develop and maintain a list of external experts who possess scientific or medical training that the board lacks with respect to one or more rare diseases; and because of their special expertise, are qualified to provide advice on rare disease issues - the severity of rare diseases, the unmet medical need associated with rare diseases. The board shall implement a process for the review and study of access to drugs and biological products for rare diseases, and drugs and biological products that are genetically targeted therapies. The board may consult the external experts on issues related to coverage, payment, cost-sharing, drug utilization review, medication therapy management, prior authorization, appeals for coverage or for reduced cost-sharing, or other topics the board chooses regarding functions performed by the board related to drugs and biological products for rare diseases or drugs and biological products that are genetically targeted therapies.

Item 186

To Department of Health - Medicaid and
Health Financing

From General Fund 99,700
From General Fund, One-Time (9,200)
From Federal Funds 134,700
From Federal Funds, One-Time (5,500)

Schedule of Programs:

Financial Services 100,100
Managed Health Care 119,600

To implement the provisions of Family Planning Services Amendments (House Bill 12, 2018 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the up to \$90,500 of the funding appropriated to the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to providing family planning waiver services and the related administrative costs.

Item 187

To Department of Health - Medicaid and
Health Financing

From Federal Funds 530,000
From Federal Funds, One-Time (265,000)

From Dedicated Credits Revenue 530,000
From Dedicated Credits Revenue,
One-Time (265,000)

Schedule of Programs:

Director's Office 530,000

To implement the provisions of *Medicaid Waiver for Mental Health Crisis Services*
(House Bill 42, 2018 General Session).

Item 188

To Department of Health - Medicaid and
Health Financing

From Federal Funds 66,100
From Dedicated Credits Revenue 63,400

Schedule of Programs:

Director's Office 129,500

To implement the provisions of *Medicaid Dental Benefits* (House Bill 435, 2018 General Session).

Item 189

To Department of Health - Medicaid and
Health Financing

From Federal Funds 890,000
From Federal Funds, One-Time 2,150,000
From Dedicated Credits Revenue 550,000
From Dedicated Credits Revenue,
One-Time (550,000)
From Medicaid Expansion Fund 130,000
From Medicaid Expansion Fund,
One-Time 410,000

Schedule of Programs:

Medicaid Operations 3,580,000

To implement the provisions of *Medicaid Expansion Revisions*
(House Bill 472, 2018 General Session).

Item 190

To Department of Health - Medicaid Services

From General Fund, One-Time 350,000
From Nursing Care Facilities Provider
Assessment Fund, One-Time 291,000

Schedule of Programs:

Intermediate Care Facilities for the
Intellectually Disabled 641,000

Item 191

To Department of Health - Medicaid Services

From General Fund 325,000
From General Fund, One-Time (160,000)
From Federal Funds 2,965,000
From Federal Funds, One-Time (1,460,000)

Schedule of Programs:

Outpatient Hospital 270,000
Physician and Osteopath 1,375,000
Provider Reimbursement Information
System for Medicaid 25,000

To implement the provisions of *Family Planning Services Amendments*
(House Bill 12, 2018 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the up to \$165,000 of the funding appropriated to the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to providing family planning waiver services and the related administrative costs.

Item 192

To Department of Health - Medicaid Services
 From Federal Funds 410,000
 From Federal Funds, One-Time (205,000)
 From Dedicated Credits Revenue 120,000
 From Dedicated Credits Revenue,
 One-Time (60,000)
 From Medicaid Expansion Fund 60,000
 From Medicaid Expansion Fund,
 One-Time (30,000)
 Schedule of Programs:
 Medicaid Expansion 2017 100,000
 Mental Health and Substance Abuse ... 195,000

To implement the provisions of *Medicaid Waiver for Mental Health Crisis Services* (House Bill 42, 2018 General Session).

Item 193

To Department of Health - Medicaid Services
 From General Fund 2,041,600
 From Federal Funds 4,728,400
 Schedule of Programs:
 Home and Community Based
 Waivers 6,770,000

To implement the provisions of *Medically Complex Children with Disabilities Waiver Program* (House Bill 100, 2018 General Session).

Item 194

To Department of Health - Medicaid Services
 From General Fund 3,800
 From Federal Funds 8,700
 Schedule of Programs:
 Physician and Osteopath 12,500

To implement the provisions of *Telepsychiatric Consultation Access Amendments* (House Bill 139, 2018 General Session).

Item 195

To Department of Health - Medicaid Services
 From Federal Funds 690,000
 From Federal Funds, One-Time (150,000)
 From Dedicated Credits Revenue 298,000
 From Dedicated Credits Revenue,
 One-Time (62,000)
 Schedule of Programs:
 Dental 776,000

To implement the provisions of *Medicaid Dental Benefits* (House Bill 435, 2018 General Session).

Item 196

To Department of Health - Medicaid Services
 From General Fund (7,600,000)
 From General Fund, One-Time 7,600,000
 From Federal Funds 452,980,100
 From Federal Funds, One-Time .. (452,980,100)
 From Dedicated Credits Revenue 5,500,000
 From Dedicated Credits Revenue,
 One-Time (5,500,000)
 From Medicaid Expansion Fund 22,179,500
 From Medicaid Expansion Fund,
 One-Time (22,179,500)

To implement the provisions of *Medicaid Expansion Revisions* (House Bill 472, 2018 General Session).

DEPARTMENT OF HUMAN SERVICES

Item 197

To Department of Human Services -
 Division of Aging and Adult Services
 From General Fund 250,000
 From General Fund, One-Time 750,000
 Schedule of Programs:
 Aging Alternatives 250,000
 Aging Waiver Services 100,000
 Local Government Grants -
 Formula Funds 650,000

Item 198

To Department of Human Services -
 Division of Aging and Adult Services
 From General Fund 98,600
 Schedule of Programs:
 Administration - DAAS 98,600

To implement the provisions of *Assisted Living Facilities Amendments* (House Bill 263, 2018 General Session).

Item 199

To Department of Human Services -
 Division of Child and Family Services
 From General Fund 6,400
 From Federal Funds 800
 Schedule of Programs:
 Administration - DCFS 7,200

To implement the provisions of *Child Placement Amendments* (House Bill 80, 2018 General Session).

Item 200

To Department of Human Services -
 Division of Child and Family Services
 From Dedicated Credits Revenue (32,000)
 Schedule of Programs:
 Out-of-Home Care (32,000)

To implement the provisions of *Payments for State Care of Children* (House Bill 112, 2018 General Session).

Item 201

To Department of Human Services -
 Division of Child and Family Services
 From General Fund (900)
 From Federal Funds (100)
 Schedule of Programs:
 Service Delivery (1,000)

To implement the provisions of *Children's Justice Center Program* (Senate Bill 81, 2018 General Session).

Item 202

To Department of Human Services -
 Division of Child and Family Services
 From General Fund 5,900
 From Federal Funds 700
 Schedule of Programs:
 Service Delivery 6,600

To implement the provisions of *Child Welfare Amendments* (Senate Bill 125, 2018 General Session).

Item 203

To Department of Human Services -
Executive Director Operations
From General Fund (200)
From Federal Funds (200)
Schedule of Programs:
Executive Director's Office (400)
To implement the provisions of
Health and Human Services Reports
(House Bill 52, 2018 General Session).

Item 204

To Department of Human Services -
Office of Recovery Services
From General Fund 132,000
From General Fund, One-Time (34,000)
From Revenue Transfers 132,000
From Revenue Transfers, One-Time ... (34,000)
Schedule of Programs:
Electronic Technology 64,000
Medical Collections 132,000
To implement the provisions of
Medical Benefits Recovery Amendments
(Senate Bill 241, 2018 General Session).

Item 205

To Department of Human Services - Division of
Services for People with Disabilities
The Legislature intends that the full
\$350,000 ongoing General Fund allocated for
"Disabilities Transportation Funding" in
House Bill 2, Item 62, 2018 General Session,
shall be used exclusively for the Motor
Transportation Payment code within the
Division of Services for People with
Disabilities.

Item 206

To Department of Human Services - Division of
Substance Abuse and Mental Health
From General Fund 260,000
From General Fund, One-Time 125,000
Schedule of Programs:
State Substance Abuse Services 385,000

Item 207

To Department of Human Services - Division of
Substance Abuse and Mental Health
From General Fund 2,380,000
Schedule of Programs:
Community Mental Health
Services 2,380,000
To implement the provisions of
Mental Health Crisis Line Amendments
(House Bill 41, 2018 General Session).

Item 208

To Department of Human Services - Division of
Substance Abuse and Mental Health
From General Fund 2,595,000
Schedule of Programs:
Community Mental Health
Services 2,595,000
To implement the provisions of *Suicide
Prevention and Medical Examiner Provisions*
(House Bill 370, 2018 General Session).

Item 209

To Department of Human Services - Division of
Substance Abuse and Mental Health
From General Fund (7,000,000)
From General Fund, One-Time 7,000,000
To implement the provisions of
Medicaid Expansion Revisions
(House Bill 472, 2018 General Session).

Item 210

To Department of Human Services - Division of
Substance Abuse and Mental Health
From General Fund (193,500)
Schedule of Programs:
State Hospital (193,500)
To implement the provisions of
Competency to Stand Trial Amendments
(Senate Bill 19, 2018 General Session).

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 211

To Department of Workforce Services -
Housing and Community Development
From General Fund 80,000
From General Fund, One-Time 750,000
From General Fund Restricted - Pamela
Atkinson Homeless Account,
One-Time 560,000
Schedule of Programs:
Community Development 80,000
Community Development
Administration 750,000
Homeless Committee 560,000

Item 212

To Department of Workforce Services -
Housing and Community Development
From Dedicated Credits Revenue 279,500
Schedule of Programs:
Community Development 279,500
To implement the provisions of
Office of Economic Development Amendments
(House Bill 23, 2018 General Session).

Item 213

To Department of Workforce Services -
Housing and Community Development
From General Fund 6,900
Schedule of Programs:
Community Development
Administration 6,900
To implement the provisions of
Affordable Housing Amendments
(House Bill 430, 2018 General Session).

Item 214

To Department of Workforce Services -
Housing and Community Development
From General Fund 4,800
Schedule of Programs:
Community Development
Administration 4,800
To implement the provisions of
Homeless Identification Documents
(Senate Bill 196, 2018 General Session).

Item 215

To Department of Workforce Services -
Housing and Community Development

From General Fund 13,200
 Schedule of Programs:
 Community Development
 Administration 13,200
 To implement the provisions of
 Homeless Shelter Funding Amendments
 (Senate Bill 235, 2018 General Session).

Item 216

To Department of Workforce Services -
 Operations and Policy
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Workforce Development 50,000

Item 217

To Department of Workforce Services -
 Operations and Policy
 From General Fund 417,900
 From General Fund, One-Time (71,200)
 From Federal Funds 1,254,000
 From Federal Funds, One-Time (18,200)
 Schedule of Programs:
 Facilities and Pass-Through 1,230,500
 Information Technology 352,000
 To implement the provisions of
 Family Planning Services Amendments
 (House Bill 12, 2018 General Session).

Item 218

To Department of Workforce Services -
 Operations and Policy
 From Federal Funds 8,680,000
 From Federal Funds, One-Time (3,860,000)
 From Medicaid Expansion Fund 2,200,000
 From Medicaid Expansion Fund,
 One-Time (1,360,000)
 Schedule of Programs:
 Eligibility Services 5,660,000
 To implement the provisions of
 Medicaid Expansion Revisions
 (House Bill 472, 2018 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 219

To University of Utah - Education and General
 From Education Fund 600,000
 From Education Fund, One-Time 50,000
 Schedule of Programs:
 Education and General 650,000
 The Legislature intends that the
 University of Utah use \$477,300
 appropriated by this item and Item 5, "Higher
 Education Base Budget", (Senate Bill 1, 2018
 General Session) to provide demographic
 data and decision support to the Legislature
 as well as to the Governors Office of
 Management and Budget and other state and
 local entities as funds allow.

Item 220

To University of Utah - School of Medicine
 From Education Fund 250,000
 Schedule of Programs:
 School of Medicine 250,000

Item 221

To University of Utah - Cancer
 Research and Treatment
 From General Fund, One-Time 1,500,000
 Schedule of Programs:
 Cancer Research and Treatment 1,500,000

UTAH STATE UNIVERSITY

Item 222

To Utah State University - Education and General
 From General Fund (20,000,000)
 From Education Fund 20,000,000

Item 223

To Utah State University - Prehistoric Museum
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Prehistoric Museum 50,000

WEBER STATE UNIVERSITY

Item 224

To Weber State University - Education
 and General
 From Education Fund 397,800
 From Education Fund, One-Time (397,800)

STATE BOARD OF REGENTS

Item 225

To State Board of Regents - Student Assistance
 From Education Fund 25,000
 From Education Fund, One-Time 100,000
 Schedule of Programs:
 Talent Development Incentive Loan
 Program 125,000
 To implement the provisions of
 Talent Development and Retention Strategy
 (Senate Bill 104, 2018 General Session).

Item 226

To State Board of Regents - Technology
 From Education Fund 150,000
 Schedule of Programs:
 Utah Academic Library Consortium . . . 150,000

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 227

To Utah System of Technical Colleges -
 USTC Administration
 From Education Fund 800,000
 Schedule of Programs:
 Administration 800,000
 To implement the provisions of
 Career and Technical Education
 Scholarships
 (House Bill 437, 2018 General Session).

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 228

To Department of Agriculture and Food -
 Administration
 From General Fund 155,000

Schedule of Programs:
 General Administration 55,000
 Utah Horse Commission 100,000

Item 229

To Department of Agriculture and Food -
 Administration
 From General Fund 3,800
 Schedule of Programs:
 General Administration 3,800
 To implement the provisions of *State
 Training and Certification Requirements*
 (House Bill 179, 2018 General Session).

Item 230

To Department of Agriculture and Food -
 Animal Health
 From Federal Funds 193,600
 Schedule of Programs:
 Meat Inspection 193,600

Item 231

To Department of Agriculture and Food -
 Marketing and Development
 From General Fund, One-Time 25,000
 Schedule of Programs:
 Marketing and Development 25,000

Item 232

To Department of Agriculture and Food -
 Plant Industry
 From General Fund, One-Time 92,200
 From General Fund Restricted -
 Cannabinoid Product Restricted
 Account 264,000
 From General Fund Restricted -
 Cannabinoid Product Restricted
 Account, One-Time (264,000)
 Schedule of Programs:
 Plant Industry 92,200
 To implement the provisions of
Cannabis Cultivation Amendments
 (House Bill 197, 2018 General Session).

Item 233

To Department of Agriculture and Food -
 Plant Industry
 From General Fund, One-Time 252,600
 From General Fund Restricted -
 Cannabinoid Product Restricted
 Account 242,600
 From General Fund Restricted -
 Cannabinoid Product Restricted
 Account, One-Time (242,600)
 Schedule of Programs:
 Plant Industry 252,600
 To implement the provisions of
Cannabidiol Product Act
 (Senate Bill 130, 2018 General Session).

Item 234

To Department of Agriculture and
 Food - Regulatory Services
 From Federal Funds 554,800
 Schedule of Programs:
 Regulatory Services 554,800

Item 235

To Department of Agriculture and Food -
 Resource Conservation

From Federal Funds 341,400
 Schedule of Programs:
 Resource Conservation 341,400

Item 236

To Department of Agriculture and Food -
 Resource Conservation
 From General Fund (3,400)
 Schedule of Programs:
 Conservation Commission (3,400)
 To implement the provisions of
Resource Conservation Amendments
 (House Bill 130, 2018 General Session).

**DEPARTMENT OF
 ENVIRONMENTAL QUALITY**

Item 237

To Department of Environmental Quality -
 Drinking Water
 From General Fund 186,200
 From General Fund, One-Time 54,300
 Schedule of Programs:
 Drinking Water 240,500
 To implement the provisions of
Drinking Water Source Sizing Requirements
 (House Bill 303, 2018 General Session).

Item 238

To Department of Environmental Quality -
 Executive Director's Office
 From General Fund Restricted -
 Environmental Quality (265,000)
 Schedule of Programs:
 Executive Director's Office (265,000)
 To implement the provisions of
Commercial Waste Fee Amendments
 (House Bill 169, 2018 General Session).

Item 239

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From General Fund Restricted -
 Environmental Quality,
 One-Time (200,000)
 Schedule of Programs:
 Waste Management and Radiation
 Control (200,000)

Item 240

To Department of Environmental Quality - Waste
 Management and Radiation Control
 From General Fund Restricted -
 Environmental Quality (1,330,000)
 Schedule of Programs:
 Waste Management and Radiation
 Control (1,330,000)
 To implement the provisions of
Commercial Waste Fee Amendments
 (House Bill 169, 2018 General Session).

Item 241

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From Dedicated Credits Revenue,
 One-Time 28,300
 Schedule of Programs:
 Waste Management and Radiation
 Control 28,300

To implement the provisions of *Joint Resolution Approving a Class VI Commercial Nonhazardous Solid Waste Landfill* (House Joint Resolution 10, 2018 General Session).

Item 242

To Department of Environmental Quality - Waste Management and Radiation Control
From Dedicated Credits Revenue,
One-Time 28,300
Schedule of Programs:
Waste Management and Radiation Control 28,300
To implement the provisions of *Joint Resolution Authorizing Energy Solutions to Create a Landfill for Non-radioactive Waste* (Senate Joint Resolution 11, 2018 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 243

To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund Restricted - Sovereign Lands Management 100,000
Schedule of Programs:
Project Management 100,000

Item 244

To Department of Natural Resources - Water Resources
From Federal Funds 491,200
Schedule of Programs:
Construction 491,200

Item 245

To Department of Natural Resources - Watershed
From General Fund, One-Time 1,000,000
From General Fund Restricted - Wildlife Resources, One-Time (2,000,000)
Schedule of Programs:
Watershed (1,000,000)

Item 246

To Department of Natural Resources - Wildlife Resources
From General Fund, One-Time (1,000,000)
From General Fund Restricted - Wildlife Habitat, One-Time 1,000,000
From General Fund Restricted - Wildlife Resources, One-Time 1,000,000
Schedule of Programs:
Habitat Section 1,000,000
The Legislature intends that \$1,000,000 appropriated in this item from the General Fund Restricted - Wildlife Habitat Account be used for watershed restoration projects.

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 247

To Public Lands Policy Coordinating Office
From General Fund 120,000
From General Fund, One-Time 450,000
Schedule of Programs:

Public Lands Policy Coordinating Office 570,000
To implement the provisions of *Statewide Resource Management Plan Adoption* (House Bill 249, 2018 General Session).

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 248

To State Board of Education - Minimum School Program - Basic School Program
From Education Fund 435,800
From Education Fund, One-Time (8,600)
Schedule of Programs:
Special Education - Add-on 427,200
To implement the provisions of *Special Education Amendments* (House Bill 317, 2018 General Session).

Item 249

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Education Fund 14,750,000
From Education Fund, One-Time 300,000
Schedule of Programs:
To and From School - Pupil Transportation 4,000,000
Enhancement for At-Risk Students ... 300,000
Critical Languages and Dual Immersion 250,000
Beverly Taylor Sorenson Elementary Arts Learning Program 500,000
Digital Teaching and Learning Program 10,000,000

Item 250

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Education Fund 7,475,000
Schedule of Programs:
Teacher Salary Supplement 7,475,000
To implement the provisions of *Teacher Salary Supplement Revisions* (House Bill 233, 2018 General Session).

Item 251

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Education Fund 2,100,000
Schedule of Programs:
Elementary School Counselor Program 2,100,000
To implement the provisions of *Elementary School Counselor Program* (House Bill 264, 2018 General Session).

Item 252

To State Board of Education - Minimum School Program - Related to Basic School Programs
From Education Fund 500,000
Schedule of Programs:
Rural School Transportation Reimbursement 500,000
To implement the provisions of *School Transportation Amendments* (Senate Bill 232, 2018 General Session).

STATE BOARD OF EDUCATION

Item 253

To State Board of Education - Fine
Arts Outreach
From Education Fund 75,000
Schedule of Programs:
Professional Outreach Programs in
the Schools 75,000

Item 254

To State Board of Education -
Initiative Programs
From General Fund 200,000
From Education Fund 75,000
Schedule of Programs:
Carson Smith Scholarships 200,000
Contracts and Grants 75,000

Item 255

To State Board of Education -
Initiative Programs
From Education Fund 500,000
Schedule of Programs:
ULEAD 500,000

To implement the provisions of
Public Education Amendments
(House Bill 408, 2018 General Session).

The Legislature intends that the State Board of Education report to the Public Education Appropriation Subcommittee by June 30, 2019 on the implementation and first year impacts of the Utah Leading in Effective, Actionable and Dynamic (ULEAD) program.

Item 256

To State Board of Education - MSP
Categorical Program Administration
From Education Fund, One-Time 3,000
Schedule of Programs:
Digital Teaching and Learning 3,000

To implement the provisions of
State Training and Certification Requirements
(House Bill 179, 2018 General Session).

Item 257

To State Board of Education - MSP
Categorical Program Administration
From Education Fund 295,200
From Education Fund, One-Time (26,800)
Schedule of Programs:
Dual Immersion 268,400

To implement the provisions of
Language Immersion Program Amendments
(Senate Bill 117, 2018 General Session).

Item 258

To State Board of Education - Science Outreach
From Education Fund 350,000
Schedule of Programs:
Informal Science Education
Enhancement 350,000

Item 259

To State Board of Education - State
Administrative Office
From General Fund, One-Time 100,000

Schedule of Programs:
Student Advocacy Services 100,000

Item 260

To State Board of Education - State
Administrative Office
From Education Fund 155,000
Schedule of Programs:
Financial Operations 155,000

To implement the provisions of
Public School Revisions
(House Bill 313, 2018 General Session).

Item 261

To State Board of Education - State
Administrative Office
From Education Fund 775,000
Schedule of Programs:
Student Advocacy Services 775,000

To implement the provisions of
Suicide Prevention and Medical Examiner Provisions
(House Bill 370, 2018 General Session).

Item 262

To State Board of Education - General
System Support
From Education Fund 1,000,000
Schedule of Programs:
Assessment and Accountability 1,000,000

Item 263

To State Board of Education - General
System Support
From Education Fund, One-Time 4,500
Schedule of Programs:
Assessment and Accountability 4,500

To implement the provisions of
State Training and Certification Requirements
(House Bill 179, 2018 General Session).

Item 264

To State Board of Education - General
System Support
From Education Fund (1,200)
Schedule of Programs:
Career and Technical Education (1,200)

To implement the provisions of
Minimum School Program Reporting Modifications
(House Bill 227, 2018 General Session).

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 265

To Department of Human Resource Management -
Human Resource Management
From General Fund 22,400
From General Fund, One-Time 12,500
Schedule of Programs:
ALJ Compliance 34,900

To implement the provisions of
Work Environment and Grievance Procedure Amendments
(House Bill 383, 2018 General Session).

**UTAH EDUCATION AND
TELEHEALTH NETWORK**

Item 266

To Utah Education and Telehealth Network
From Education Fund, One-Time 1,000,000
Schedule of Programs:
Utah Futures 1,000,000

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 267

To Legislature - Senate
From General Fund 1,800
Schedule of Programs:
Administration 1,800
 To implement the provisions of
 *Amendment to Constitutional and
 Federalism Defense Act Repealer*
 (House Bill 96, 2018 General Session).

Item 268

To Legislature - Senate
From General Fund 9,400
Schedule of Programs:
Administration 9,400
 To implement the provisions of
 Legislative Oversight Amendments
 (House Bill 175, 2018 General Session).

Item 269

To Legislature - Senate
From General Fund 4,000
Schedule of Programs:
Administration 4,000
 To implement the provisions of
 Utah State Fair Board Amendments
 (House Bill 240, 2018 General Session).

Item 270

To Legislature - Senate
From General Fund, One-Time 3,200
Schedule of Programs:
Administration 3,200
 To implement the provisions of
 *Victim Advocate Confidentiality
 Amendments*
 (House Bill 298, 2018 General Session).

Item 271

To Legislature - Senate
From General Fund 3,200
Schedule of Programs:
Administration 3,200
 To implement the provisions of
 Point of the Mountain State Land Authority
 (House Bill 372, 2018 General Session).

Item 272

To Legislature - Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600
 To implement the provisions of
 Affordable Housing Amendments
 (House Bill 430, 2018 General Session).

Item 273

To Legislature - Senate
From General Fund (2,200)
Schedule of Programs:
Administration (2,200)
 To implement the provisions of
 *Government Operations Committee
 Amendments*
 (Senate Bill 23, 2018 General Session).

Item 274

To Legislature - Senate
From General Fund 4,700
Schedule of Programs:
Administration 4,700
 To implement the provisions of
 Aggravated Murder Amendments
 (Senate Bill 30, 2018 General Session).

Item 275

To Legislature - Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600
 To implement the provisions of
 *Mental Health Crisis Line Commission
 Sunset Amendments*
 (Senate Bill 32, 2018 General Session).

Item 276

To Legislature - Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600
 To implement the provisions of
 Utah Inland Port Authority
 (Senate Bill 234, 2018 General Session).

Item 277

To Legislature - Senate
From General Fund 2,400
Schedule of Programs:
Administration 2,400
 To implement the provisions of *Joint
 Resolution Authorizing Pay of In-session
 Employees* (Senate Joint Resolution 4, 2018
 General Session).

Item 278

To Legislature - Senate
From General Fund 6,300
Schedule of Programs:
Administration 6,300
 To implement the provisions of
 *Joint Rules Resolution on International
 Relations and Trade* (Senate Joint Resolution
 14, 2018 General Session).

Item 279

To Legislature - House of Representatives
From General Fund 2,400
Schedule of Programs:
Administration 2,400
 To implement the provisions of
 *Amendment to Constitutional and
 Federalism Defense Act Repealer*
 (House Bill 96, 2018 General Session).

Item 280

To Legislature - House of Representatives

From General Fund 18,700
 Schedule of Programs:
 Administration 18,700
 To implement the provisions of
Legislative Oversight Amendments
 (House Bill 175, 2018 General Session).

Item 281

To Legislature - House of Representatives
 From General Fund 4,000
 Schedule of Programs:
 Administration 4,000
 To implement the provisions of
Utah State Fair Board Amendments
 (House Bill 240, 2018 General Session).

Item 282

To Legislature - House of Representatives
 From General Fund, One-Time 4,800
 Schedule of Programs:
 Administration 4,800
 To implement the provisions of *Victim Advocate Confidentiality Amendments*
 (House Bill 298, 2018 General Session).

Item 283

To Legislature - House of Representatives
 From General Fund 3,200
 Schedule of Programs:
 Administration 3,200
 To implement the provisions of *Point of the Mountain State Land Authority* (House Bill 372, 2018 General Session).

Item 284

To Legislature - House of Representatives
 From General Fund 3,200
 Schedule of Programs:
 Administration 3,200
 To implement the provisions of *Affordable Housing Amendments* (House Bill 430, 2018 General Session).

Item 285

To Legislature - House of Representatives
 From General Fund (3,800)
 Schedule of Programs:
 Administration (3,800)
 To implement the provisions of *Government Operations Committee Amendments* (Senate Bill 23, 2018 General Session).

Item 286

To Legislature - House of Representatives
 From General Fund 4,700
 Schedule of Programs:
 Administration 4,700
 To implement the provisions of
Aggravated Murder Amendments
 (Senate Bill 30, 2018 General Session).

Item 287

To Legislature - House of Representatives
 From General Fund 1,600
 Schedule of Programs:
 Administration 1,600
 To implement the provisions of *Mental Health Crisis Line Commission Sunset*

Amendments (Senate Bill 32, 2018 General Session).

Item 288

To Legislature - House of Representatives
 From General Fund 1,600
 Schedule of Programs:
 Administration 1,600
 To implement the provisions of *Utah Inland Port Authority* (Senate Bill 234, 2018 General Session).

Item 289

To Legislature - House of Representatives
 From General Fund 3,000
 Schedule of Programs:
 Administration 3,000
 To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 4, 2018 General Session).

Item 290

To Legislature - House of Representatives
 From General Fund 9,500
 Schedule of Programs:
 Administration 9,500
 To implement the provisions of *Joint Rules Resolution on International Relations and Trade* (Senate Joint Resolution 14, 2018 General Session).

Item 291

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 40,000
 Schedule of Programs:
 Administration 40,000
 To implement the provisions of
Legislative Oversight Amendments
 (House Bill 175, 2018 General Session).

Item 292

To Legislature - Office of Legislative Research and General Counsel
 From General Fund, One-Time 41,800
 Schedule of Programs:
 Administration 41,800
 To implement the provisions of *Victim Advocate Confidentiality Amendments*
 (House Bill 298, 2018 General Session).

Item 293

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 40,000
 Schedule of Programs:
 Administration 40,000
 To implement the provisions of
Aggravated Murder Amendments
 (Senate Bill 30, 2018 General Session).

Item 294

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 9,500
 Schedule of Programs:
 Administration 9,500
 To implement the provisions of
Uniform Electronic Legal Material Act
 (Senate Bill 121, 2018 General Session).

Item 295

To Legislature - Office of Legislative Research and General Counsel
 From General Fund 700,000
 Schedule of Programs:
 Administration 700,000
 To implement the provisions of
 Intervention Amendments
 (Senate Bill 171, 2018 General Session).

Item 296

To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund (60,000)
 Schedule of Programs:
 Administration and Research (60,000)

Item 297

To Legislature - Legislative Support
 From General Fund (730,200)
 Schedule of Programs:
 Administration (730,200)

Item 298

To Legislature - Legislative Services
 From General Fund 790,200
 From General Fund, One-Time 400,000
 Schedule of Programs:
 Human Resources 60,000
 Administration 1,130,200

Item 299

To Legislature - Legislative Services
 From General Fund 104,200
 Schedule of Programs:
 Administration 104,200
 To implement the provisions of *Joint Rules Resolution on International Relations and Trade* (Senate Joint Resolution 14, 2018 General Session).

Item 300

To Legislature - Office of the Legislative Auditor General
 From General Fund 40,000
 Schedule of Programs:
 Administration 40,000
 To implement the provisions of
 Legislative Oversight Amendments
 (House Bill 175, 2018 General Session).

UTAH NATIONAL GUARD

Item 301

To Utah National Guard
 From General Fund 100,000
 Schedule of Programs:
 Administration 100,000

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 302

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From General Fund, One-Time 219,000
 Schedule of Programs:
 Administration 175,000
 Cemetery 44,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 303

To Transportation - County of the First Class Highway Projects Fund
 From Dedicated Credits Revenue 2,000,000
 From Pass-through (2,000,000)
 To implement the provisions of
 Transportation Revisions
 (Senate Bill 128, 2018 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 304

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund
 From Dedicated Credits Revenue 82,000
 From Dedicated Credits Revenue, One-Time (40,000)
 From Closing Fund Balance (42,000)
 To implement the provisions of
 Off-highway Vehicle Amendments
 (House Bill 143, 2018 General Session).

DEPARTMENT OF HUMAN SERVICES

Item 305

To Department of Human Services - State Developmental Center Land Fund
 From Dedicated Credits Revenue (14,100)
 From Interest Income (4,500)
 From Revenue Transfers (38,700)
 From Beginning Fund Balance (503,400)
 From Closing Fund Balance 503,400
 Schedule of Programs:
 State Developmental Center Land Fund (57,300)
 To implement the provisions of
 Developmental Center Modifications
 (Senate Bill 228, 2018 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 306

To Department of Environmental Quality - Hazardous Substance Mitigation Fund
 From General Fund Restricted - Environmental Quality 200,000

Schedule of Programs:
 Hazardous Substance Mitigation
 Fund 200,000
 To implement the provisions of
Waste Management Amendments
 (House Bill 373, 2018 General Session).

Item 307

To Department of Environmental Quality - Waste
 Management and Radiation Control Expendable
 Special Revenue Fund
 From Dedicated Credits Revenue,
 One-Time 200,000

Schedule of Programs:
 Waste Management and Radiation
 Control Expendable Special
 Revenue Fund 200,000
 To implement the provisions of
Waste Management Amendments
 (House Bill 373, 2018 General Session).

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following
 proprietary funds. Under the terms and
 conditions of Utah Code 63J-1-410, for any
 included Internal Service Fund, the Legislature
 approves budgets, full-time permanent
 positions, and capital acquisition amounts as
 indicated, and appropriates to the funds, as
 indicated, estimated revenue from rates, fees,
 and other charges. The Legislature authorizes
 the State Division of Finance to transfer
 amounts between funds and accounts as
 indicated.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 308

To Attorney General - ISF - Attorney General
 Budgeted FTE 25.0

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 309

To Department of Administrative Services Internal
 Service Funds - Risk Management
 From Dedicated Credits Revenue 5,000
 Schedule of Programs:
 Risk Management - Liability 5,000
 To implement the provisions of
Student Internship Liability
 (Senate Bill 176, 2018 General Session).

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 310

To Department of Technology Services Internal
 Service Funds - Enterprise Technology Division
 From Single Sign-On Expendable
 Special Revenue Fund 720,000

From Single Sign-On Expendable
 Special Revenue Fund, One-Time 480,000
 Schedule of Programs:
 ISF - Enterprise Technology
 Division 1,200,000
 To implement the provisions of
Single Sign-on Database Amendments
 (House Bill 150, 2018 General Session).

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 311

To Department of Human Resource Management -
 Human Resources Internal Service Fund
 From Dedicated Credits Revenue 19,200
 From Dedicated Credits Revenue,
 One-Time 10,600

Schedule of Programs:
 ISF - Field Services 29,800
 To implement the provisions of
*Work Environment and Grievance Procedure
 Amendments*
 (House Bill 383, 2018 General Session).

**Subsection 2(d). Restricted Fund and
Account Transfers.**

The Legislature
 authorizes the State Division of Finance to
 transfer the following amounts between the
 following funds or accounts as indicated.
 Expenditures and outlays from the funds to
 which the money is transferred must be
 authorized by an appropriation.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

Item 312

To General Fund Restricted - Indigent
 Defense Resources Account
 From General Fund 419,000
 From General Fund, One-Time 2,500
 Schedule of Programs:
 General Fund Restricted - Indigent
 Defense Resources Account 421,500

Item 313

To General Fund Restricted - Indigent
 Defense Resources Account
 From General Fund 93,700
 Schedule of Programs:
 General Fund Restricted - Indigent
 Defense Resources Account 93,700
 To implement the provisions of
Termination of Parental Rights Amendments
 (Senate Bill 203, 2018 General Session).

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

Item 314

To General Fund Restricted - Prison Development
 Restricted Account
 From General Fund, One-Time 46,000,000
 Schedule of Programs:
 General Fund Restricted - Prison
 Development Restricted Account . 46,000,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 315

To Workforce Development Restricted Account
 From General Fund 3,000,000
 From General Fund, One-Time (3,000,000)

To implement the provisions of
Utah Science Technology and Research Initiative Amendments
 (Senate Bill 239, 2018 General Session).

SOCIAL SERVICES

Item 316

To Medicaid Expansion Fund

If the Medicaid waiver described in H.B. 472 is approved by the Centers for Medicare and Medicaid Services (CMS), the Legislature intends that the income eligibility ceiling for UCA 26-18-411 Health Coverage Improvement Program after implementation of the new waiver shall be the following percent of federal poverty level: i. 5% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. 60% for an individual with a dependent child.

Item 317

To Medicaid Expansion Fund
 From General Fund 60,000
 From General Fund, One-Time (30,000)
 Schedule of Programs:
 Medicaid Expansion Fund 30,000

To implement the provisions of
Medicaid Waiver for Mental Health Crisis Services
 (House Bill 42, 2018 General Session).

Item 318

To Medicaid Expansion Fund
 From General Fund 16,600,000
 From General Fund, One-Time (16,600,000)

To implement the provisions of
Medicaid Expansion Revisions
 (House Bill 472, 2018 General Session).

Item 319

To Nurse Home Visiting Restricted Account
 From General Fund 20,000
 Schedule of Programs:

General Fund Restricted - Nurse Home
 Visiting Restricted Account 20,000

To implement the provisions of *Nurse Home Visiting Pay-for-success Program*
 (Senate Bill 161, 2018 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 320

To General Fund Restricted - Public
 Lands Litigation Restricted Account
 From Beginning Fund Balance 4,500,000
 From Closing Fund Balance (4,500,000)

PUBLIC EDUCATION

Item 321

To Uniform School Fund Restricted - Growth
 in Student Population Account
 From Education Fund 6,400,000
 From Education Fund, One-Time 3,600,000
 Schedule of Programs:

Growth in Student Population
 Account 10,000,000

Subsection 2(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 322

To Transportation - Transportation
 Investment Fund of 2005

The legislature intends that, as resources allow, the Department of Transportation may expend no more than \$5,600,000 from the Transportation Investment Fund of 2005 to reimburse a county of the first class for payments made previously by the county towards a state highway project.

The Legislature intends that, as resources allow, the Department of Transportation may expend no more than \$5,500,000 from the Transportation Investment Fund of 2005 to reimburse a county of the second class for general fund disbursements made in the previous three fiscal years for a state highway project.

Section 3. FY 2019 Appropriations Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$AppropLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

$$(a) \quad Inflate_{Base} = \frac{GNPIndex_{int(85,1985)}}{GNPIndex_{int(85,1985)}} = \frac{(100.8 + 101.7 + 102.5 + 103.3) / 4}{(121.9 + 123.3 + 124.5 + 125.9) / 4} = \frac{102.075}{123.900}$$

$$(b) \quad Inflate_{FY-2} = \frac{GNPIndex_{FY-2} \times Inflate_{Base}}{GNPIndex_{1985}}$$

$$(c) \quad PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1985} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

$$(d) \quad SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}}\right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}}\right) \right]$$

(e) as used in the state appropriations limit formula:

(i) *i* is a variable representing a given fiscal year;

(ii) *Adjust_i* is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) *Appropriations₁₉₈₅* is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) $Debt_{1985}$ is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{Vintage,t}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{t-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{t-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2018.

CHAPTER 464**H. B. 230**

Passed February 16, 2018

Approved March 27, 2018

Effective May 8, 2018

**RELATED TO BASIC
SCHOOL PROGRAMS REVIEW**Chief Sponsor: Justin L. Fawson
Senate Sponsor: Lincoln Fillmore**LONG TITLE****General Description:**

This bill requires the Public Education Appropriations Subcommittee to review the related to basic school programs.

Highlighted Provisions:

This bill:

- ▶ requires the Public Education Appropriations Subcommittee to review no later than November 30, 2018, each related to basic school program and establish a review schedule going forward.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53F-2-414, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-414 is enacted to read:**53F-2-414. Review of related to basic school programs.**

(1) No later than November 30, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations on each program in the related to basic school programs described in Subsection (3);

(b) adopt a review schedule going forward for each program described in Subsection (3), placing a program on a schedule to review annually or every four years; and

(c) review annually or every four years each program according to the schedule adopted under Subsection (1)(b).

(2) For a related to basic school program that is not listed in Subsection (3) and is adopted by the Legislature after January 1, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations for the program in the program's initial year of implementation;

(b) adopt a review schedule going forward for the program, placing the program on a schedule to review annually or every four years; and

(c) review annually or every four years the program according to the schedule adopted under Subsection (2)(b).

(3) The programs subject to review under Subsection (1) are the following:

(a) the state-supported transportation program described in Section 53F-2-403;

(b) the grants for unsafe routes program described in Section 53F-2-412;

(c) the state contribution guarantee program for transportation described in Section 53F-2-403;

(d) the weighted pupil unit flexibility allocations described in Section 53F-2-205;

(e) the Enhancement for At-Risk Students Program described in Section 53F-2-410;

(f) the youth in custody program described in Section 53E-3-503;

(g) the adult education program described in Title 53E, Chapter 10, Part 2, Adult Education;

(h) the Enhancement for Accelerated Students Program described in Section 53F-2-408;

(i) the Centennial Scholarship Program described in Section 53F-2-501;

(j) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(k) the Title I Schools Paraeducators Program described in Section 53F-2-411;

(l) the School LAND Trust Program described in Section 53F-2-404;

(m) the charter school local replacement funding program described in Section 53F-2-702;

(n) the charter school administration allocations described in Section 53F-2-306;

(o) the K-3 Reading Improvement Program described in Section 53F-2-503;

(p) the educator salary adjustments described in Section 53F-2-405;

(q) the Teacher Salary Supplement Program described in Section 53F-2-504;

(r) the school library books and electronic resources appropriation described in Section 53F-2-407;

(s) the matching appropriation for school nurses described in Section 53F-2-406;

(t) the Critical Languages Program described in Section 53F-2-516;

(u) the Dual Language Immersion Program described in Section 53F-2-502;

(v) the Utah Science Technology and Research (USTAR) Initiative Centers Program described in Section 53F-2-505;

(w) the Beverley Taylor Sorenson Elementary Arts Learning Program described in Section 53F-2-506;

(x) the early intervention program described in Section 53F-2-507; and

(y) the Digital Teaching and Learning Grant Program described in Section 53F-2-510.

CHAPTER 465**H. B. 241**

Passed March 7, 2018
Approved March 27, 2018
Effective May 8, 2018

**POST-EMPLOYMENT
RESTRICTIONS AMENDMENTS**

Chief Sponsor: Mike Schultz
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies provisions of the Post-employment Restrictions Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the circumstances and conditions under which a post-employment restrictive covenant between a broadcasting company and a broadcasting employee is valid; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-51-102, as enacted by Laws of Utah 2016, Chapter 153
34-51-201, as enacted by Laws of Utah 2016, Chapter 153

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-51-102 is amended to read:**34-51-102. Definitions.**

As used in this chapter:

(1) "Broadcasting employee" means an employee of a broadcasting company.

(2) "Broadcasting company" means a person engaged in the business of:

(a) distributing or transmitting electronic or electromagnetic signals to the general public using one or more of the following:

- (i) television;
- (ii) cable; or
- (iii) radio; or

(b) preparing, developing, or creating one or more programs or messages for distribution or transmission by means described in Subsection (2)(a).

(3) "Exempt broadcasting employee" means a broadcasting employee who is compensated on a salary basis, as defined in 29 C.F.R. Sec. 541.602, at a rate equal to or greater than the greater of:

(a) \$913 per week, or an equivalent amount if calculated for a period longer than one week; or

(b) the rate at which an employee qualifies as exempt under the Fair Labor Standards Act, 29 U.S.C. Sec. 213(a) on a salary basis as defined in 29 C.F.R. Part 541.

~~(4)~~ (4) (a) "Post-employment restrictive covenant," also known as a "covenant not to compete" or "noncompete agreement," means an agreement, written or oral, between an employer and employee under which the employee agrees that the employee, either alone or as an employee of another person, will not compete with the employer in providing products, processes, or services that are similar to the employer's products, processes, or services.

(b) "Post-employment restrictive covenant" does not include nonsolicitation agreements or nondisclosure or confidentiality agreements.

~~(2)~~ (5) "Sale of a business" means a transfer of the ownership by sale, acquisition, merger, or other method of the tangible or intangible assets of a business entity, or a division or segment of the business entity.

Section 2. Section 34-51-201 is amended to read:**34-51-201. Post-employment restrictive covenants.**

(1) ~~(1)~~ Except as provided in Subsection (2) and in addition to any requirements imposed under common law, for a post-employment restrictive covenant entered into on or after May 10, 2016, an employer and an employee may not enter into a post-employment restrictive covenant for a period of more than one year from the day on which the employee is no longer employed by the employer. A post-employment restrictive covenant that violates this ~~[section]~~ subsection is void.

(2) (a) Subject to Subsection (2)(b), a post-employment restrictive covenant between a broadcasting company and a broadcasting employee is valid only if:

(i) the broadcasting employee is an exempt broadcasting employee;

(ii) the post-employment restrictive covenant is part of a written employment contract with a term of no more than four years; and

(iii) (A) the broadcasting company terminates the broadcasting employee for cause; or

(B) the broadcasting employee breaches the employment contract in a manner that results in the broadcasting employee no longer being employed by the broadcasting company.

(b) A post-employment restrictive covenant described in Subsection (2)(a) is enforceable for no longer than the earlier of:

(i) one year after the day on which the broadcasting employee is no longer employed by the broadcasting company; or

(ii) the day on which the original term of the employment contract containing the post-employment restrictive covenant ends.

(c) A post-employment restrictive covenant between a broadcasting company and a broadcasting employee that does not comply with this subsection is void.

CHAPTER 466**H. B. 292**

Passed March 7, 2018
 Approved March 27, 2018
 Effective March 27, 2018

**UTAH ATHLETIC
 COMMISSION AMENDMENTS**

Chief Sponsor: Mike Schultz
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions related to the Pete Suazo Utah Athletic Commission.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to removing a member of the Pete Suazo Utah Athletic Commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63N-10-201, as renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-10-201 is amended to read:

63N-10-201. Commission -- Creation -- Appointments -- Terms -- Expenses -- Quorum.

(1) There is created within the office the Pete Suazo Utah Athletic Commission consisting of five members.

(2) (a) The governor shall appoint three commission members.

(b) The president of the Senate and the speaker of the House of Representatives shall each appoint one commission member.

(c) The commission members may not be licensees under this chapter.

~~[(d) A member of the commission serving on June 30, 2009, shall continue as a member of the commission until the expiration of the member's term then existing, or until the expiration of any subsequent term to which the member is appointed.]~~

(3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the governor, president, or speaker, respectively, shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of the

governor's appointees' terms to ensure that the terms of members are staggered so that approximately half of the commission is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

~~[(d) If a commission member fails or refuses to fulfill the responsibilities and duties of a commission member, including the attendance at commission meetings, the governor, president, or speaker, respectively, with the approval of the commission, may remove the commission member and replace the member in accordance with this section.]~~

(d) A commission member may be removed for any reason and replaced in accordance with this section by:

(i) the governor, for a commission member appointed by the governor;

(ii) the president of the Senate, for a commission member appointed by the president of the Senate; or

(iii) the speaker of the House of Representatives, for a commission member appointed by the speaker of the House of Representatives.

(4) (a) A majority of the commission members constitutes a quorum.

(b) A majority of a quorum is sufficient authority for the commission to act.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall annually designate one of its members to serve as chair for a one-year period.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 467**H. B. 417**

Passed March 8, 2018
 Approved March 27, 2018
 Effective March 27, 2018

**FEDERAL GRANTS
 MANAGEMENT AMENDMENTS**

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill makes changes relating to the review and approval of certain intergovernmental transfer programs under the Federal Funds Procedures Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ specifies that restrictions on certain hospitals and nursing care facilities only apply to certain cities or towns;
- ▶ amends the federal funds requests that are subject to the review and approval procedures under the Federal Funds Procedures Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 10-8-90, as last amended by Laws of Utah 2017, Chapter 247
 26-18-21, as enacted by Laws of Utah 2017, Chapter 247
 63J-5-102, as last amended by Laws of Utah 2017, Chapter 247
 63J-5-206, as enacted by Laws of Utah 2017, Chapter 247

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-90 is amended to read:**10-8-90. Ownership and operation of hospitals.**

(1) Each city of the third, fourth, or fifth class and each town of the state is authorized to construct, own, and operate hospitals and to join with other cities, towns, and counties in the construction, ownership, and operation of hospitals.

(2) (a) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care facility regulated under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and uses an intergovernmental transfer as that term is defined in Section 26-18-21 may not enter into a new agreement or arrangement to operate a nursing care facility in another city, town, or county without first entering into an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or other

contract with the other city, town, or county to operate the nursing care facility.

(b) Subsection (2)(a) only applies to a city or town described in Subsection (1).

Section 2. Section 26-18-21 is amended to read:**26-18-21. Medicaid intergovernmental transfer report -- Approval requirements.**

(1) As used in this section:

(a) (i) "Intergovernmental transfer" means the transfer of public funds from:

(A) a local government entity to another nonfederal governmental entity; or

(B) from a nonfederal, government owned health care facility regulated under Chapter 21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental entity.

(ii) "Intergovernmental transfer" does not include:

(A) the transfer of public funds from one state agency to another state agency[-]; or

(B) a transfer of funds from the University of Utah Hospitals and Clinics.

(b) (i) "Intergovernmental transfer program" means a federally approved reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

(c) "Local government entity" means a county, city, town, special service district, local district, or local education agency as that term is defined in Section 63J-5-102.

(d) "Non-state government entity" means a hospital authority, hospital district, health care district, special service district, county, or city.

(2) (a) An entity that receives federal Medicaid dollars from the department as a result of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1 each year thereafter, provide the department with:

(i) information regarding the payments funded with the intergovernmental transfer as authorized by and consistent with state and federal law;

(ii) [~~the entity's analysis of~~] information regarding the entity's ability to repay federal funds, to the extent required by the department in the contract for the intergovernmental transfer[-, if there is a federal disallowance of the intergovernmental transfer]; and

(iii) other information reasonably related to the intergovernmental transfer that may be required by the department in the contract for the intergovernmental transfer.

(b) On or before October 15, 2017, and on or before October 15 each subsequent year [~~thereafter~~], the

department shall prepare a report for the Executive Appropriations Committee that includes:

(i) the amount of each intergovernmental transfer under Subsection (2)(a);

~~(ii) the department's analysis of the risk of a federal disallowance for the state; and~~

(ii) a summary of changes to the Centers for Medicare and Medicaid Services regulations and practices that are known by the department regarding federal funds related to an intergovernmental transfer program; and

(iii) other information the department gathers about the intergovernmental transfer under Subsection (2)(a).

(3) The department shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection 63J-5-102(1)(d) and the analysis required in Subsections (2)(a) and (b).

(4) (a) The department shall enter into new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contracts and contract amendments adding new nursing care facilities and new non-state government entity operators in accordance with this Subsection (4).

(b) (i) If the nursing care facility expects to receive less than \$1,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility.

(ii) If the nursing care facility expects to receive between \$1,000,000 and \$10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility after receiving the approval of the Executive Appropriations Committee.

(iii) If the nursing care facility expects to receive more than \$10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department may not

approve the application without obtaining approval from the Legislature and the governor.

(c) A non-state government entity may not participate in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program unless the non-state government entity is a special service district, county, or city that operates a hospital or holds a license under Chapter 21, Health Care Facility Licensing and Inspection Act.

(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with the Centers for Medicare and Medicaid Services.

(5) The department shall add a nursing care facility to an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract if:

(a) the nursing care facility is managed by or affiliated with the same non-state government entity that also manages one or more nursing care facilities that are included in an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract; and

(b) the non-state government entity makes the certification described in Subsection (4)(d)(ii).

(6) The department may not increase the percentage of the administrative fee paid by a non-state government entity to the department under the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.

(7) The department may not condition participation in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program on:

(a) a requirement that the department be allowed to direct or determine the types of patients that a non-state government entity will treat or the course of treatment for a patient in a non-state government nursing care facility; or

(b) a requirement that a non-state government entity or nursing care facility post a bond, purchase insurance, or create a reserve account of any kind.

(8) The non-state government entity shall have the primary responsibility for ensuring compliance with Subsection (4)(d)(ii).

(9) (a) The department may not enter into a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract before January 1, 2019.

(b) Subsection (9)(a) does not apply to:

(i) a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018; or

(ii) a nursing care facility that is operated or managed by the same company as a nursing care facility that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018.

Section 3. Section 63J-5-102 is amended to read:

63J-5-102. Definitions.

(1) As used in this chapter:

(a) (i) "Agency" means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) "Agency" includes:

(A) executive branch entities;

(B) judicial branch entities; and

(C) the State Board of Education.

(iii) "Agency" does not mean higher education institutions or political subdivisions.

(b) (i) "Federal funds" means cash or other money received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.

(ii) "Federal funds" includes federal assistance and federal assistance programs, however described.

(iii) "Federal funds" does not include money received from the United States government to reimburse the state or local government entity for money expended by the state or local government entity.

(c) "Federal funds reauthorization" means:

(i) the formal submission from an agency to the federal government applying for or seeking

reauthorization of federal funds which the state is currently receiving;

(ii) the formal submission from an agency to the federal government applying for or seeking reauthorization to participate in a federal program in which the state is currently participating that will result in federal funds being transferred to an agency; or

(iii) that period after the first year of a previously authorized and awarded grant or funding award, during which federal funds are disbursed or are scheduled to be disbursed after the first year because the term of the grant or financial award extends for more than one year.

(d) (i) "Federal funds request summary" means a document detailing:

(A) the amount of money that is being requested or is available to be received by the state from the federal government for each federal funds reauthorization or new federal funds request;

(B) those federal funds reauthorizations and new federal funds requests that are included as part of the agency's proposed budget for the fiscal year, and the amount of those requests;

(C) the amount of new state money, if any, that will be required to receive the federal funds or participate in the federal program;

(D) the number of additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and additional permanent part-time employees, if any, that the state estimates are needed in order to receive the federal funds or participate in the federal program; and

(E) any requirements that the state must meet as a condition for receiving the federal funds or participating in the federal program.

(ii) "Federal funds request summary" includes, if available:

(A) the letter awarding an agency a grant of federal funds or other official documentation awarding an agency a grant of federal funds; and

(B) a document detailing federal maintenance of effort requirements.

(e) "Federal maintenance of effort requirements" means any matching, level of effort, or earmarking requirements, as defined in Office of Management and Budget requirements, that are imposed on an agency as a condition of receiving federal funds.

(f) (i) "Intergovernmental transfer program" means an existing reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

[(f)] (g) "Local education agency" or "LEA" means:

- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

~~[(g)]~~ (h) “New federal funds” means:

(i) federal assistance or other federal funds that are available from the federal government that:

(A) the state is not currently receiving; or

(B) exceed the federal funds amount most recently approved by the Legislature by more than 25% for a federal grant or program in which the state is currently participating;

(ii) a federal assistance program or other federal program in which the state is not currently participating; or

(iii) a one-time TANF request.

~~[(h)]~~ (i) “New federal funds request” means:

(i) the formal submission from an agency to the federal government:

(A) applying for or otherwise seeking to obtain new federal funds; or

(B) applying for or seeking to participate in a new federal program that will result in federal funds being transferred to an agency; or

(ii) a one-time TANF request.

~~[(i)]~~ (j) (i) “New state money” means money, whether specifically appropriated by the Legislature or not, that the federal government requires Utah to expend as a condition for receiving the federal funds or participating in the federal program.

(ii) “New state money” includes money expended to meet federal maintenance of effort requirements.

~~[(j)]~~ (k) “One-time TANF request” means a proposed expenditure by the Department of Workforce Services from its reserves of federal Temporary Assistance for Needy Families funds:

(i) for a project or program that will last for a fixed amount of time and is not an ongoing project or program of the Department of Workforce Services; and

(ii) that is greater than \$1,000,000 over the amount most recently approved by the Legislature.

~~[(k)]~~ (l) (i) “Pass-through federal funds” means federal funds provided to an agency that are distributed to local governments or private entities without being used by the agency.

(ii) “Pass-through federal funds” does not include federal funds provided to the State Board of Education that are distributed to a local education agency or other subrecipient without being used by the State Board of Education.

~~[(l)]~~ (m) “State” means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(2) When this chapter describes an employee as a “permanent full-time employee” or a “permanent part-time employee,” it is not intended to, and may not be construed to, affect the employee’s status as an at-will employee.

Section 4. Section 63J-5-206 is amended to read:

63J-5-206. Intergovernmental transfers for Medicaid.

(1) Subject to Subsections (2) and (3), an intergovernmental transfer program under Section 26-18-21 is subject to the same review provisions as a federal funds request under this chapter.

(2) Notwithstanding Subsection (1), if ~~an~~ a new intergovernmental transfer program created under Subsection 26-18-21(3) will result in the state receiving total payments of ~~[\$1,000,000]~~ \$10,000,000 or more per year from the federal government, the intergovernmental transfer program is subject to the same review provisions as a high impact federal funds request in Subsections 63J-5-204(3), (4), and (5).

(3) (a) Beginning on July 1, 2017, an intergovernmental transfer program created before July 1, 2017, is subject to the federal funds review process of Section 63J-5-201 for periods after July 1, 2017.

(b) The addition of a new participant into an existing intergovernmental transfer program, or the addition by the department of a nursing care facility or a non-state government entity to the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, is not subject to the requirements of this section.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor’s signature, or in the case of a veto, the date of veto override.

CHAPTER 468**H. B. 472**

Passed March 8, 2018
 Approved March 27, 2018
 Effective May 8, 2018

MEDICAID EXPANSION REVISIONS

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Brian Zehnder

LONG TITLE**General Description:**

This bill amends the state Medicaid program to permit an expansion of Medicaid eligibility under certain conditions.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to submit a waiver request to the federal government by January 1, 2019, to:
 - provide Medicaid benefits to eligible individuals who are below 95% of the federal poverty level;
 - offer services to Medicaid enrollees through the Medicaid managed care organizations;
 - obtain maximum federal financial participation for the new Medicaid enrollees;
 - require certain qualified adults to meet a work activity requirement; and
 - obtain options for flexibility on enrollment;
- ▶ makes changes to the inpatient hospital assessment;
- ▶ creates a new Medicaid expansion hospital assessment;
- ▶ amends the sunset date for the inpatient hospital assessment and creates a sunset date for the Medicaid expansion hospital assessment; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

26-18-18, as last amended by Laws of Utah 2017, Chapter 247
 26-36b-103, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-201, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-202, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-203, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-204, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-205, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-206, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-207, as enacted by Laws of Utah 2016, Chapter 279

26-36b-208, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-209, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-210, as enacted by Laws of Utah 2016, Chapter 279
 26-36b-211, as enacted by Laws of Utah 2016, Chapter 279
 63I-1-226, as last amended by Laws of Utah 2017, Chapters 177 and 443

ENACTS:

26-18-415, Utah Code Annotated 1953
 26-36c-101, Utah Code Annotated 1953
 26-36c-102, Utah Code Annotated 1953
 26-36c-103, Utah Code Annotated 1953
 26-36c-201, Utah Code Annotated 1953
 26-36c-202, Utah Code Annotated 1953
 26-36c-203, Utah Code Annotated 1953
 26-36c-204, Utah Code Annotated 1953
 26-36c-205, Utah Code Annotated 1953
 26-36c-206, Utah Code Annotated 1953
 26-36c-207, Utah Code Annotated 1953
 26-36c-208, Utah Code Annotated 1953
 26-36c-209, Utah Code Annotated 1953
 26-36c-210, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

26-36b-103, as enacted by Laws of Utah 2016, Chapter 279

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-18 is amended to read:**26-18-18. Optional Medicaid expansion.**

(1) For purposes of this section[;]:

(a) “CMS” means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(b) “PPACA” means the same as that term is defined in Section 31A-1-301.

(2) The department and the governor [shall] may not expand the state’s Medicaid program [to the optional population] under PPACA unless:

(a) the department expands Medicaid in accordance with Section 26-18-415; or

[~~(a)~~] (b) (i) the governor or the governor’s designee has reported the intention to expand the state Medicaid program under PPACA to the Legislature in compliance with the legislative review process in Sections 63N-11-106 and 26-18-3; and

[~~(b)~~] (ii) the governor submits the request for expansion of the Medicaid program for optional populations to the Legislature under the high impact federal funds request process required by Section 63J-5-204[, Legislative review and approval of certain federal funds request].

(3) (a) The department shall request approval from [the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services] CMS for waivers from federal statutory and regulatory law necessary to

implement the health coverage improvement program under Section 26-18-411.

(b) The health coverage improvement program under Section 26-18-411 is not ~~Medicaid expansion for purposes of this section~~ subject to the requirements in Subsection (2).

Section 2. Section 26-18-415 is enacted to read:

26-18-415. Medicaid waiver expansion.

(1) As used in this section:

(a) “CMS” means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(b) “Expansion population” means individuals:

(i) whose household income is less than 95% of the federal poverty level; and

(ii) who are not eligible for enrollment in the Medicaid program, with the exception of the Primary Care Network program, on May 8, 2018.

(c) “Federal poverty level” means the same as that term is defined in Section 26-18-411.

(d) “Medicaid waiver expansion” means a Medicaid expansion in accordance with this section.

(2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state’s Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer’s health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection (1) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid Expansion Fund, created in Section 26-36b-208;

(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4) Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(5) (a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:

(a) the number of individuals who enrolled in the Medicaid waiver program;

(b) costs to the state for the Medicaid waiver program;

(c) estimated costs for the current and following state fiscal year; and

(d) recommendations to control costs of the Medicaid waiver expansion.

Section 3. Section 26-36b-103 is amended to read:

26-36b-103. Definitions.

As used in this chapter:

(1) “Assessment” means the inpatient hospital assessment established by this chapter.

(2) “CMS” means the ~~same as that term is defined in Section 26-18-411~~ Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) “Discharges” means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Health coverage improvement program" means the health coverage improvement program described in Section 26-18-411.

(6) "Hospital share" means the hospital share described in Section 26-36b-203.

(7) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(8) "Medicaid waiver expansion" means a Medicaid expansion in accordance with Section 26-18-415.

[45] (9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

[46] (10) (a) "Non-state government hospital" ~~[(a)]~~ means a hospital owned by a non-state government entity ~~;~~ ~~and~~.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

[47] (11) (a) "Private hospital" ~~[(a)]~~ means:

(i) a ~~[privately owned]~~ general acute hospital ~~[operating in the state]~~, as defined in Section 26-21-2, that is privately owned and operating in the state; and

(ii) a privately owned specialty hospital operating in the state, ~~[which shall include]~~ including a privately owned hospital whose inpatient admissions are predominantly for:

(A) rehabilitation;

(B) psychiatric care;

(C) chemical dependency services; or

(D) long-term acute care services ~~;~~ ~~and~~.

(b) "Private hospital" does not include a facility for residential ~~[care or]~~ treatment ~~[facility]~~ as defined in Section 62A-2-101.

[48] (12) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

(13) "Upper payment limit gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. Sec. 447.321.

Section 4. Section 26-36b-201 is amended to read:

26-36b-201. Assessment.

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of CMS approval of:

(i) the health coverage improvement program waiver under Section 26-18-411; and

(ii) the assessment under this chapter;

(b) in the amount designated in Sections 26-36b-204 and 26-36b-205; and

(c) in accordance with Section 26-36b-202.

(2) Subject to Section 26-36b-203, the assessment imposed by this chapter is due and payable on a quarterly basis, after payment of the outpatient upper payment limit supplemental payments under Section 26-36b-210 have been paid.

(3) The first quarterly payment ~~[shall not be]~~ is not due until at least three months after the earlier of the effective ~~[date]~~ dates of the coverage provided through:

(a) the health coverage improvement program ~~[waiver under Section 26-18-411]; or~~

(b) the Medicaid waiver expansion.

Section 5. Section 26-36b-202 is amended to read:

26-36b-202. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The collecting agent for the assessment imposed under Section 26-36b-201 is the department.

(2) The department is vested with the administration and enforcement of this chapter, ~~[including the right to adopt administrative]~~ and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

~~[(a) implement and enforce the provisions of this chapter;]~~

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this chapter;

(b) audit records of a facility that:

(i) is subject to the assessment imposed by this chapter; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(2) The department shall:

(a) administer the assessment in this ~~[part separate]~~ chapter separately from the assessment in Chapter 36a, Hospital Provider Assessment Act; and

(b) deposit assessments collected under this chapter into the Medicaid Expansion Fund created by Section 26-36b-208.

Section 6. Section 26-36b-203 is amended to read:

26-36b-203. Quarterly notice.

(1) Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(2) The department may, by rule, extend the time for paying the assessment.

Section 7. Section 26-36b-204 is amended to read:

26-36b-204. Hospital financing of health coverage improvement program Medicaid waiver expansion -- Hospital share.

[~~(1) For purposes of this section, "hospital share":~~]

(1) The hospital share is:

(a) [~~means~~] 45% of the state's net cost of [~~:(i)] the health coverage improvement program [Medicaid waiver under Section 26-18-411;(ii)], including Medicaid coverage for individuals with dependent children up to the federal poverty level designated under Section 26-18-411; [and~~

[~~(iii) the UPL gap, as that term is defined in Section 26-36b-210;~~]

[~~(b) for the hospital share of the additional coverage under Section 26-18-411;~~]

(b) if the waiver for the Medicaid waiver expansion is approved, \$11,900,000; and

(c) 45% of the state's net cost of the upper payment limit gap.

(2) (a) The hospital share is capped at no more than \$13,600,000 annually, consisting of:

(i) an \$11,900,000 cap [~~on the hospital's share~~] for the programs specified in Subsections (1)(a)(~~i~~) and (~~ii~~) and (b); and

(ii) a \$1,700,000 cap for the program specified in Subsection (1)(~~a~~)(~~iii~~);(c).

[~~(c) for the cap specified in Subsection (1)(b), shall be prorated]~~

(b) The department shall prorate the cap described in Subsection (2)(a) in any year in which at least one of the programs specified in Subsection (1)(~~a~~) are not in effect for the full fiscal year[; and].

[~~(d) if the Medicaid program expands in a manner that is greater than the expansion described in Section 26-18-411, is capped at 33% of the state's share of the cost of the expansion that is in addition to the program described in Section 26-18-411.]~~

[~~(2) The assessment for the private hospital share under Subsection (1) shall be:~~]

(3) Private hospitals shall be assessed under this chapter for:

(a) 69% of the portion of the hospital share specified in Subsections (1)(a)(~~i~~) and (~~ii~~) and (b); and

(b) 100% of the portion of the hospital share specified in Subsection (1)(~~a~~)(~~iii~~)(c).

[~~(3)~~] (4) (a) The department shall, on or before October 15, 2017, and on or before October 15 of each subsequent year [~~hereafter~~], produce a report that calculates the state's net cost of the programs described in Subsections (1)(a)(~~i~~) and (~~ii~~) and (b) that are in effect for that year.

(b) If the assessment collected in the previous fiscal year is above or below the [~~private hospital's share of the state's net cost as specified in Subsection (2);~~] hospital share for private hospitals for the previous fiscal year, the underpayment or overpayment of the assessment by the private hospitals shall be applied to the fiscal year in which the report [~~was~~] is issued.

[~~(4)~~] (5) A Medicaid accountable care organization shall, on or before October 15 of each year, report to the department the following data from the prior state fiscal year for each private hospital, state teaching hospital, and non-state government hospital provider that the Medicaid accountable care organization contracts with:

(a) for the traditional Medicaid population[~~, for each private hospital, state teaching hospital, and non-state government hospital provider~~]:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments; and

[~~(b) for the Medicaid population newly eligible under Subsection 26-18-411, for each private hospital, state teaching hospital, and non-state government hospital provider:~~]

(b) if the Medicaid accountable care organization enrolls any individuals in the health coverage improvement program or the Medicaid waiver expansion, for the population newly eligible for either program:

- (i) hospital inpatient payments;
- (ii) hospital inpatient discharges;
- (iii) hospital inpatient days; and
- (iv) hospital outpatient payments.

(6) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide details surrounding specific content and format for the reporting by the Medicaid accountable care organization.

Section 8. Section 26-36b-205 is amended to read:

26-36b-205. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), an annual assessment is payable on a quarterly basis for each private hospital in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and 60 residents shall pay an assessment rate ~~[2.50]~~ 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate ~~[shall be determined using the total number of hospital discharges for assessed private hospitals, the percentages in Subsection 26-36b-204(2), and rule adopted by the department.]~~ described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, described in Subsection 26-36b-204(1), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this chapter.

~~[(d)]~~ (e) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed private hospitals.

~~[(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare cost report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:]~~

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

~~[(4)]~~ (a) for state fiscal year 2017, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2013, and June 30, 2014; and

~~[(4)]~~ (b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

~~[(4)]~~ (3) (a) If a hospital's fiscal year Medicare cost report is not contained in the ~~[Centers for Medicare and Medicaid Services']~~ CMS Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

~~[(e)]~~ (b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection ~~[(2)(e)(4)]~~ (3)(b)(i); and

(iii) ~~[the]~~ failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

~~[(3)]~~ (4) Except as provided in Subsection ~~[(4)]~~ (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

~~[(4) Notwithstanding the requirement of Subsection (3), if]~~

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 9. Section 26-36b-206 is amended to read:

26-36b-206. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) ~~[A]~~ The state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund created in Section 26-36b-208, in accordance with this section.

(2) The ~~[intergovernmental transfer shall be paid]~~ hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of CMS approval of:

(a) the health improvement program waiver under Section 26-18-411; or

(b) the assessment for private hospitals in this chapter~~;~~ and.

~~[(e) the intergovernmental transfer in this section.]~~

(3) The intergovernmental transfer ~~[shall be paid in an amount divided]~~ is apportioned as follows:

(a) the state teaching hospital is responsible for:

(i) 30% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)~~[(i) and (ii)]~~ and (b); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)~~[(a)(iii)]~~(c); and

(b) non-state government hospitals are responsible for:

(i) 1% of the portion of the hospital share specified in Subsections 26-36b-204(1)(a)(~~(i)~~ and ~~(ii)~~) and (b); and

(ii) 0% of the hospital share specified in Subsection 26-36b-204(1)(~~(a)~~~~(iii)~~)(c).

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the [percentages] amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 10. Section 26-36b-207 is amended to read:

26-36b-207. Penalties and interest.

(1) A hospital that fails to pay ~~[any]~~ a quarterly assessment, make the mandated intergovernmental transfer, or file a return as required under this chapter, within the time required by this chapter, shall pay penalties described in this section, in addition to the assessment or intergovernmental transfer[, and interest established by the department].

~~[(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish reasonable penalties and interest for the violations described in Subsection (1).]~~

~~[(b)]~~ (2) If a hospital fails to timely pay the full amount of a quarterly assessment or the mandated intergovernmental transfer, the department shall add to the assessment or intergovernmental transfer:

~~[(i)]~~ (a) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

~~[(ii)]~~ (b) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)~~[(b)]~~~~(i)]~~ (a) are paid in full, an additional 5% penalty on:

~~[(A)]~~ (i) any unpaid quarterly assessment or intergovernmental transfer; and

~~[(B)]~~ (ii) any unpaid penalty assessment.

~~[(e)]~~ (3) Upon making a record of the division's actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this chapter.

Section 11. Section 26-36b-208 is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program ~~[under Section 26-18-411]~~ as determined by the department;

(d) savings attributable to the Medicaid waiver expansion as determined by the department;

~~[(d)]~~ (e) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

~~[(e)]~~ (f) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);

~~[(f)]~~ (g) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; ~~[and]~~

(h) interest earned on money in the fund; and

~~[(g)]~~ (i) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs ~~[of]~~, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement [Medicaid waiver under Section 26-18-411, and] program;

(ii) the Medicaid waiver expansion; and

(iii) the outpatient [UPL] upper payment limit supplemental payments under Section 26-36b-210[, not otherwise paid for with federal funds or other revenue sources, except that no].

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) [may be used] to pay the cost of private outpatient [UPL] upper payment limit supplemental payments[.]; or

~~[(b)]~~ (ii) [Money] money in the fund [may not be used for any other] for any purpose not described in Subsection (4)(a).

Section 12. Section 26-36b-209 is amended to read:

26-36b-209. Hospital reimbursement.

(1) ~~[The]~~ If the health coverage improvement program or the Medicaid waiver expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include, in a contract [with a Medicaid accountable care organization] to provide benefits under the health coverage improvement program or the Medicaid waiver expansion, a requirement that the Medicaid accountable care organization reimburse hospitals

in the accountable care organization's provider network^[7] at no less than the Medicaid fee-for-service rate.

(2) If the health coverage improvement program or the Medicaid waiver expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service ~~rates~~ rate.

Section 13. Section 26-36b-210 is amended to read:

26-36b-210. Outpatient upper payment limit supplemental payments.

~~(1) For purposes of this section, "UPL gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. 447.321.]~~

~~(2) (1) Beginning on the effective date of the assessment imposed under this chapter, and for each subsequent fiscal year [hereafter], the department shall implement an outpatient upper payment limit program for private hospitals that shall supplement the reimbursement to private hospitals in accordance with Subsection [(3)] (2).~~

~~(3) (2) The division shall ensure that supplemental payment to Utah private hospitals under Subsection [(2)] shall (1):~~

(a) does not exceed the positive [UPL] upper payment limit gap; and

(b) ~~be~~ is allocated based on the Medicaid state plan.

~~(4) (3) The department shall use the same outpatient data [used to calculate the UPL gap under Subsection (1)] shall be the same outpatient data used] to allocate the payments under Subsection [(3)] (2) and to calculate the upper payment limit gap.~~

~~(5) (4) The supplemental payments to private hospitals under Subsection [(2)] shall be (1) are payable for outpatient hospital services provided on or after the later of:~~

(a) July 1, 2016;

(b) the effective date of the Medicaid state plan amendment necessary to implement the payments under this section; or

(c) the effective date of the coverage provided through the health coverage improvement program waiver ~~under Section 26-18-411].~~

Section 14. Section 26-36b-211 is amended to read:

26-36b-211. Suspension of assessment.

(1) The ~~repeal of the~~ department shall suspend the assessment imposed by this chapter ~~shall occur~~

upon the certification by the executive director of the department that the sooner of the following has occurred] when the executive director certifies that:

~~(a) the effective date of any action by Congress that would disqualify]~~

(a) action by Congress is in effect that disqualifies the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(b) ~~[the effective date of any]~~ a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, ~~[that has the effect of]~~ is in effect that:

(i) ~~[disqualifying]~~ disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) ~~[creating]~~ creates for any reason a failure of the state to use the assessments for at least one of the Medicaid ~~[program as]~~ programs described in this chapter; or

(c) ~~[the effective date of]~~ a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015~~]; and].~~

~~[(d) the sunset of this chapter in accordance with Section 63I-1-226.]~~

~~(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36b-207 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.]~~

(2) If the assessment is suspended under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this chapter;

(b) the division shall disburse money in the Medicaid Expansion Fund in accordance with the requirements in Subsection 26-36b-208(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment;

(c) the division shall refund any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this chapter to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years; and

(d) the division shall deposit any money remaining in the Medicaid Expansion Fund after the disbursements described in Subsections (2)(b) and (c) into the General Fund by the end of the fiscal year that the assessment is suspended.

Section 15. Section 26-36c-101 is enacted to read:

CHAPTER 36c. MEDICAID EXPANSION HOSPITAL ASSESSMENT ACT

Part 1. General Provisions

26-36c-101. Title.

This chapter is known as the "Medicaid Expansion Hospital Assessment Act."

Section 16. Section 26-36c-102 is enacted to read:

26-36c-102. Definitions.

As used in this chapter:

(1) "Assessment" means the Medicaid expansion hospital assessment established by this chapter.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Hospital share" means the hospital share described in Section 26-36c-203.

(6) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(7) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(8) "Medicaid waiver expansion" means the same as that term is defined in Section 26-18-415.

(9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(10) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(11) (a) "Private hospital" means:

(i) a privately owned general acute hospital operating in the state as defined in Section 26-21-2; or

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital for which inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section 62A-2-101.

(12) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 17. Section 26-36c-103 is enacted to read:

26-36c-103. Application.

(1) Other than for the imposition of the assessment described in this chapter, nothing in this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under any:

(a) state law;

(b) ad valorem property tax requirement;

(c) sales or use tax requirement; or

(d) other requirements imposed by taxes, fees, or assessments, whether imposed or sought to be imposed, by the state or any political subdivision of the state.

(2) A hospital paying an assessment under this chapter may include the assessment as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon a hospital; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 18. Section 26-36c-201 is enacted to read:

Part 2. Assessment and Collection

26-36c-201. Assessment.

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of CMS approval of:

(i) the waiver for the Medicaid waiver expansion; and

(ii) the assessment under this chapter;

(b) in the amount designated in Sections 26-36c-204 and 26-36c-205; and

(c) in accordance with Section 26-36c-202.

(2) Subject to Subsection 26-36c-202(4), the assessment imposed by this chapter is due and payable on the last day of each quarter.

(3) The first quarterly payment is not due until at least three months after the effective date of the coverage provided through the Medicaid waiver expansion.

Section 19. Section 26-36c-202 is enacted to read:

26-36c-202. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The department shall act as the collecting agent for the assessment imposed under Section 26-36c-201.

(2) The department shall administer and enforce the provisions of this chapter, and may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this chapter;

(b) audit records of a facility that:

(i) is subject to the assessment imposed under this chapter; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this part separately from the assessments in Chapter 36a, Hospital Provider Assessment Act, and Chapter 36b, Inpatient Hospital Assessment Act; and

(b) deposit assessments collected under this chapter into the Medicaid Expansion Fund.

(4) (a) Hospitals shall pay the quarterly assessments imposed by this chapter to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(b) The department may make rules creating requirements to allow the time for paying the assessment to be extended.

Section 20. Section 26-36c-203 is enacted to read:

26-36c-203. Hospital share.

(1) The hospital share is 100% of the state's net cost of the Medicaid waiver expansion, after deducting appropriate offsets and savings expected as a result of implementing the Medicaid waiver expansion, including savings from:

(a) the Primary Care Network program;

(b) the health coverage improvement program, as defined in Section 26-18-411;

(c) the state portion of inpatient prison medical coverage;

(d) behavioral health coverage; and

(e) county contributions to the non-federal share of Medicaid expenditures.

(2) (a) The hospital share is capped at no more than \$25,000,000 annually.

(b) The division shall prorate the cap specified in Subsection (2)(a) in any year in which the Medicaid waiver expansion is not in effect for the full fiscal year.

Section 21. Section 26-36c-204 is enacted to read:

26-36c-204. Hospital financing of Medicaid waiver expansion.

(1) Private hospitals shall be assessed under this chapter for the portion of the hospital share described in Section 26-36c-209.

(2) The department shall, on or before October 15, 2019, and on or before October 15 of each subsequent year, produce a report that calculates the state's net cost of the Medicaid waiver expansion.

(3) If the assessment collected in the previous fiscal year is above or below the hospital share for private hospitals for the previous fiscal year, the division shall apply the underpayment or overpayment of the assessment by the private hospitals to the fiscal year in which the report is issued.

Section 22. Section 26-36c-205 is enacted to read:

26-36c-205. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), each private hospital shall pay an annual assessment due on the last day of each quarter in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and more than 60 residents shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, as described in Subsection 26-36c-204(1), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this chapter.

(e) The division shall apply any quarterly changes to the uniform assessment rate uniformly to all assessed private hospitals.

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

(a) for state fiscal year 2019, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2015, and June 30, 2016; and

(b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(3) (a) If a hospital's fiscal year Medicare cost report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (3)(c)(i); and

(iii) if the hospital fails to submit discharge information, the division shall audit the hospital's records and may impose a penalty equal to 5% of the calculated assessment.

(4) Except as provided in Subsection (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the division shall calculate the assessment for each hospital separately; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 23. Section 26-36c-206 is enacted to read:

26-36c-206. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) A state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of CMS approval of:

(a) the waiver for the Medicaid waiver expansion; or

(b) the assessment for private hospitals in this chapter.

(3) The intergovernmental transfer is apportioned between the non-state government hospitals as follows:

(a) the state teaching hospital shall pay for the portion of the hospital share described in Section 26-36c-209; and

(b) non-state government hospitals shall pay for the portion of the hospital share described in Section 26-36c-209.

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 24. Section 26-36c-207 is enacted to read:

26-36c-207. Penalties.

(1) A hospital that fails to pay a quarterly assessment, make the mandated intergovernmental transfer, or file a return as required under this chapter, within the time required by this chapter, shall pay penalties described in this section, in addition to the assessment or intergovernmental transfer.

(2) If a hospital fails to timely pay the full amount of a quarterly assessment or the mandated intergovernmental transfer, the department shall add to the assessment or intergovernmental transfer:

(a) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(b) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(a) are paid in full, an additional 5% penalty on:

(i) any unpaid quarterly assessment or intergovernmental transfer; and

(ii) any unpaid penalty assessment.

(3) Upon making a record of the division's actions, and upon reasonable cause shown, the division may waive or reduce any of the penalties imposed under this chapter.

Section 25. Section 26-36c-208 is enacted to read:

26-36c-208. Hospital reimbursement.

(1) If the Medicaid waiver expansion is implemented by contracting with a Medicaid accountable care organization, the department

shall, to the extent allowed by law, include in a contract to provide benefits under the Medicaid waiver expansion a requirement that the accountable care organization reimburse hospitals in the accountable care organization's provider network at no less than the Medicaid fee-for-service rate.

(2) If the Medicaid waiver expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits the department or a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service rate.

Section 26. Section 26-36c-209 is enacted to read:

26-36c-209. Hospital financing of the hospital share.

(1) For the first two full fiscal years that the assessment is in effect, the department shall:

(a) assess private hospitals under this chapter for 69% of the hospital share for the Medicaid waiver expansion;

(b) require the state teaching hospital to make an intergovernmental transfer under this chapter for 30% of the hospital share for the Medicaid waiver expansion; and

(c) require non-state government hospitals to make an intergovernmental transfer under this chapter for 1% of the hospital share for the Medicaid waiver expansion.

(2) (a) At the beginning of the third full fiscal year that the assessment is in effect, and at the beginning of each subsequent fiscal year, the department may set a different percentage share for private hospitals, the state teaching hospital, and non-state government hospitals by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with input from private hospitals and private teaching hospitals.

(b) If the department does not set a different percentage share under Subsection (2)(a), the percentage shares in Subsection (1) shall apply.

Section 27. Section 26-36c-210 is enacted to read:

26-36c-210. Suspension of assessment.

(1) The department shall suspend the assessment imposed by this chapter when the executive director certifies that:

(a) action by Congress is in effect that disqualifies the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(b) a decision, enactment, or other determination by the Legislature or by any court, officer,

department, or agency of the state, or of the federal government, is in effect that:

(i) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this chapter; or

(c) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015.

(2) If the assessment is suspended under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this chapter;

(b) the division shall disburse money in the Medicaid Expansion Fund that was derived from assessments imposed by this chapter in accordance with the requirements in Subsection 26-36b-208(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment;

(c) the division shall refund any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this chapter to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years.

Section 28. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, [2024] 2024.

[~~(7) Section 26-38-2.5 is repealed July 1, 2017.~~]

[~~(8) Section 26-38-2.6 is repealed July 1, 2017.~~]

(7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(9)~~] (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.

Section 29. Coordinating H.B. 472 with H.B. 14 -- Superseding technical and substantive amendments.

If this H.B. 472 and H.B. 14, Substance Abuse Treatment Facility Patient Brokering, both pass and become law, it is the intent of the Legislature that the amendments to Section 26-36b-103 in this

bill supersede the amendments to Section 26-36b-103 in H.B. 14, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 30. Coordinating H.B. 472 with S.B. 125 -- Superseding technical and substantive amendments.

If this H.B. 472 and S.B. 125, Child Welfare Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 26-36b-103 in this bill supersede the amendments to Section 26-36b-103 in S.B. 125, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 469**H. B. 475**

Passed March 8, 2018

(Passed into law without governor's signature)

Effective May 8, 2018

(Exception clause in Section 31)

**DEDICATED CREDITS AND
NONLAPSING AUTHORITY REVISIONS**Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson**LONG TITLE****General Description:**

This bill modifies provisions in the Budgetary Procedures Act and other provisions relating to dedicated credits and nonlapsing authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies use of the terms "item of appropriation" and "line item";
- ▶ modifies provisions related to the treatment and expenditure of dedicated credits;
- ▶ provides procedures for submitting and revising budget execution plans;
- ▶ modifies provisions relating to nonlapsing appropriations;
- ▶ reorganizes existing classifications of:
 - nonlapsing appropriations from accounts and funds; and
 - appropriations to programs; and
- ▶ adds a public safety answering point emergency telecommunications service fund to the list of nonlapsing programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 26-1-6, as last amended by Laws of Utah 2009, Chapter 183
- 41-1a-121, as enacted by Laws of Utah 2011, Chapter 189
- 41-1a-1221, as last amended by Laws of Utah 2012, Chapter 397
- 41-3-601, as last amended by Laws of Utah 2015, Chapter 93
- 41-3-604, as last amended by Laws of Utah 2011, Chapter 189
- 41-22-36, as last amended by Laws of Utah 2011, Chapter 189
- 53C-1-201, as last amended by Laws of Utah 2016, Chapter 193
- 54-5-1.5, as last amended by Laws of Utah 2017, Chapter 396
- 62A-1-111.5, as enacted by Laws of Utah 2017, Chapter 330 and further amended by Revisor Instructions, Laws of Utah 2017, Chapter 330
- 62A-1-202, as enacted by Laws of Utah 2014, Chapter 37

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63I-2-263, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

63J-1-102, as last amended by Laws of Utah 2015, Chapter 175

63J-1-104, as last amended by Laws of Utah 2013, Chapter 310

63J-1-206, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

63J-1-209, as renumbered and amended by Laws of Utah 2009, Chapters 183 and 368

63J-1-217, as last amended by Laws of Utah 2013, Chapter 310

63J-1-601, as last amended by Laws of Utah 2016, Chapter 271

63J-1-602, as last amended by Laws of Utah 2010, Chapters 9, 10, 218, 265, 277, 278, 287, 324, 379, 391, 399 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 265

63J-2-102, as last amended by Laws of Utah 2017, Chapter 363

63J-2-201, as renumbered and amended by Laws of Utah 2008, Chapter 382

63J-2-202, as last amended by Laws of Utah 2012, Chapter 102

63J-4-301, as last amended by Laws of Utah 2013, Chapter 310

63N-8-103, as last amended by Laws of Utah 2016, Chapter 51

73-18-25, as last amended by Laws of Utah 2011, Chapter 189

ENACTS:

63J-1-105, Utah Code Annotated 1953

REPEALS AND REENACTS:

63J-1-602.1 (Superseded 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 194, and 383

63J-1-602.1 (Effective 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 107, 194, and 383

63J-1-602.2, as last amended by Laws of Utah 2015, Chapters 86, 93, and 189

REPEALS:

63J-1-602.3, as last amended by Laws of Utah 2017, Chapters 396 and 423

63J-1-602.4, as last amended by Laws of Utah 2017, Chapters 253, 430, and 470

63J-1-602.5, as last amended by Laws of Utah 2016, Chapter 177

Utah Code Sections Affected by Coordination Clause:

63I-1-263, as last amended by Laws of Utah 2017, Chapters 23, 47, 95, 166, 205, 469, and 470

63J-1-602.1 (Superseded 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 194, and 383

63J-1-602.1 (Effective 09/30/18), as last amended by Laws of Utah 2017, Chapters 88, 107, 194, and 383

63J-1-602.2, as last amended by Laws of Utah 2015, Chapters 86, 93, and 189

63J-1-602.4, as last amended by Laws of Utah 2017, Chapters 253, 430, and 470

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-6 is amended to read:

26-1-6. Fee schedule adopted by department.

(1) The department may adopt a schedule of fees that may be assessed for services rendered by the department, provided that the fees are:

- (a) reasonable and fair; and
- (b) submitted to the Legislature as part of the department's annual appropriations request.

(2) When the department submits a fee schedule to the Legislature, the Legislature, in accordance with Section 63J-1-504, may:

- (a) approve the fee;
- (b) increase or decrease and approve the fee; or
- (c) reject any fee submitted to it.

(3) Fees approved by the Legislature pursuant to this section shall be paid into the state treasury ~~in accordance with Section 63J-1-104~~.

Section 2. Section 41-1a-121 is amended to read:

41-1a-121. Electronic Payment Fee Restricted Account.

(1) As used in this section, "account" means the Electronic Payment Fee Restricted Account created by this section.

(2) There is created within the General Fund a restricted account known as the Electronic Payment Fee Restricted Account.

(3) (a) The account shall be funded from the fees imposed and collected under Sections 41-1a-1221, 41-3-604, 41-22-36, and 73-18-25.

(b) The fees described in Subsection (3)(a) shall be paid to the division, which shall deposit them in the account.

(4) The Legislature shall appropriate the funds in the account to the commission to cover the costs of electronic payments.

(5) In accordance with Section ~~[63J-1-602.2]~~ 63J-1-602.1, appropriations made to the division from the account are nonlapsing.

Section 3. Section 41-1a-1221 is amended to read:

41-1a-1221. Fees to cover the cost of electronic payments.

(1) As used in this section:

(a) "Electronic payment" means use of any form of payment processed through electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

(b) "Electronic payment fee" means the fee assessed to defray:

(i) the charge, discount fee, or processing fee charged by credit card companies or processing agents to process an electronic payment; or

(ii) costs associated with the purchase of equipment necessary for processing electronic payments.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and (3).

(b) The fee described in Subsection (2)(a):

(i) shall be imposed regardless of the method of payment for a particular transaction; and

(ii) need not be separately identified from the fees imposed for registration and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), (2)(a), (2)(b), and (3).

(3) The division shall establish the fee according to the procedures and requirements of Section 63J-1-504.

(4) A fee imposed under this section:

(a) shall be deposited in the Electronic Payment Fee Restricted Account created by Section 41-1a-121; and

(b) is not subject to Subsection ~~[63J-2-202(2)]~~ 63J-1-105(3) or (4).

Section 4. Section 41-3-601 is amended to read:

41-3-601. Fees.

(1) The administrator shall collect fees determined by the commission under Section 63J-1-504 for each of the following:

(a) new motor vehicle dealer's license;

(b) used motor vehicle dealer's license;

(c) new motorcycle, off-highway vehicle, and small trailer dealer;

(d) used motorcycle, off-highway vehicle, and small trailer dealer;

(e) motor vehicle salesperson's license;

(f) motor vehicle salesperson's transfer or reissue fee;

(g) motor vehicle manufacturer's license;

(h) motor vehicle transporter's license;

(i) motor vehicle dismantler's license;

(j) motor vehicle crusher's license;

(k) motor vehicle remanufacturer's license;

(l) body shop's license;

(m) distributor or factory branch and distributor branch's license;

(n) representative's license;

(o) dealer plates;

(p) dismantler plates;

- (q) manufacturer plates;
- (r) transporter plates;
- (s) damaged plate replacement;
- (t) in-transit permits;
- (u) loaded demonstration permits;
- (v) additional place of business;
- (w) special equipment dealer's license;
- (x) temporary permits; and
- (y) temporary sports event registration certificates.

(2) (a) To pay for training certified vehicle inspectors and enforcement under Sections 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the administrator shall collect inspection fees determined by the commission under Section 63J-1-504.

(b) The division shall use fees collected under Subsection (2)(a) as dedicated credits to be used toward the costs of the division.

(3) (a) At the time of application, the administrator shall collect a fee of \$200 for each salvage vehicle buyer license.

(b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

(4) A fee imposed under Subsection (1)(x) or (y):

(a) shall be deposited into the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110; and

(b) is not subject to Subsection [~~63J-2-202(2)~~] 63J-1-105(3) or (4).

Section 5. Section 41-3-604 is amended to read:

41-3-604. Fee to cover the cost of electronic payments.

(1) As used in this section:

(a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

(b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

(2) (a) The division may collect a fee to cover the cost of electronic payments on the following transactions:

(i) each purchase or renewal of a license under Section 41-3-202;

(ii) each purchase of a book of temporary permits under Section 41-3-302;

(iii) each penalty issued for a delinquent temporary permit under Section 41-3-302;

(iv) each purchase of an in-transit permit under Section 41-3-305;

(v) each purchase of a loaded demonstration permit under Section 41-3-502;

(vi) each purchase of a license plate under Section 41-3-503; and

(vii) each purchase of a salvage vehicle buyer license under Section 41-3-202.

(b) The fee described in Subsection (2)(a):

(i) shall be imposed regardless of the method of payment for a particular transaction; and

(ii) need not be separately identified from the fees and penalty described in Subsections (2)(a)(i) through (vii).

(3) The division shall establish the fee under Subsection (2)(a) according to the procedures and requirements of Section 63J-1-504.

(4) A fee imposed under this section:

(a) shall be deposited in the Electronic Payment Fee Restricted Account created by Section 41-1a-121; and

(b) is not subject to Subsection [~~63J-2-202(2)~~] 63J-1-105(3) or (4).

Section 6. Section 41-22-36 is amended to read:

41-22-36. Fees to cover the costs of electronic payments.

(1) As used in this section:

(a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

(b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Section 41-22-8.

(b) The fee described in Subsection (2)(a) shall be imposed regardless of the method of payment for a particular transaction.

(3) The division shall establish the fee according to the procedures and requirements of Section 63J-1-504.

(4) A fee imposed under this section:

(a) shall be deposited in the Electronic Payment Fee Restricted Account created by Section 41-1a-121;

(b) is not subject to Subsection [~~63J-2-202(2)~~] 63J-1-105(3) or (4); and

(c) need not be separately identified from the fees imposed on registrations and renewals of registration under Section 41-22-8.

Section 7. Section 53C-1-201 is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its

responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

~~(g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).]~~

(g) (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer funds between its line items.

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 8. Section 54-5-1.5 is amended to read:

54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental fee -- Fee for electrical cooperatives.

(1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities subject to the jurisdiction of the Public Service Commission.

(b) The special fee is in addition to any charge now assessed, levied, or required by law.

(2) (a) The executive director of the Department of Commerce shall determine the special fee for the Department of Commerce.

(b) The chair of the Public Service Commission shall determine the special fee for the Public Service Commission.

(c) The fee shall be assessed as a uniform percentage of the gross operating revenue for the preceding calendar year derived from each public utility's business and operations during that period within this state, excluding income derived from interstate business. Gross operating revenue shall

not include income to a wholesale electric cooperative derived from the sale of power to a rural electric cooperative which resells that power within the state.

(3) (a) The executive director of the Department of Commerce shall notify each public utility subject to the provisions of this chapter of the amount of the fee.

(b) The fee is due and payable on or before July 1 of each year.

(4) (a) There is created a restricted account within the General Fund known as the Public Utility Regulatory Restricted Account.

(b) Notwithstanding Subsection 13-1-2(3)(c), the Department of Commerce shall deposit a fee assessed under this section into the Public Utility Regulatory Restricted Account.

(c) Within appropriations by the Legislature:

(i) the Department of Commerce may use the funds in the Public Utility Regulatory Restricted Account to administer:

(A) the Division of Public Utilities; and

(B) the Office of Consumer Services; and

(ii) the Public Service Commission may use the funds in the Public Utility Regulatory Restricted Account to administer the Public Service Commission.

(d) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any balance in the Public Utility Regulatory Restricted Account in excess of \$3,000,000.

(5) (a) The Legislature intends that the public utilities provide all of the funds for the administration, support, and maintenance of:

(i) the Public Service Commission;

(ii) state agencies within the Department of Commerce involved in the regulation of public utilities; and

(iii) expenditures by the attorney general for utility regulation.

(b) Notwithstanding Subsection (5)(a), the fee imposed by Subsection (1) shall not exceed the greater of:

(i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's gross operating revenues for the preceding calendar year; or

(B) for an electrical cooperative, .15% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) \$50.

(6) (a) There is created a Supplemental Levy Committee to levy additional assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

(b) The Supplemental Levy Committee shall consist of:

(i) one member selected by the executive director of the Department of Commerce;

(ii) one member selected by the chairman of the Public Service Commission;

(iii) two members selected by the three public utilities that paid the largest percent of the current regulatory fee; and

(iv) one member selected by the four appointed members.

(c) (i) The members of the Supplemental Levy Committee shall be selected within 10 working days after the executive director of the Department of Commerce gives written notice to the Public Service Commission and the public utilities that a supplemental levy committee is needed.

(ii) If the members of the Supplemental Levy Committee have not been appointed within the time prescribed, the governor shall appoint the members of the Supplemental Levy Committee.

(d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated utilities for the purpose of defraying any increased cost of regulation.

(ii) The supplemental fee imposed upon the utilities shall equal a percentage of their gross operating revenue for the preceding calendar year.

(iii) The aggregate of all fees, including any supplemental fees assessed, shall not exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar year.

(iv) Payment of the supplemental fee is due within 30 days after receipt of the assessment.

(v) The utility may, within 10 days after receipt of assessment, request a hearing before the Public Service Commission if it questions the need for, or the reasonableness of, the supplemental fee.

(e) (i) Any supplemental fee collected to defray the cost of regulation shall be transferred to the state treasurer as a departmental collection [according to the provisions of Section 63J-1-104].

(ii) Supplemental fees are excess collections, credited according to the procedures of Section [63J-1-104] 63J-1-105.

(iii) Charges billed to the Department of Commerce by any other state department, institution, or agency for services rendered in connection with regulation of a utility shall be credited by the state treasurer from the special or supplemental fees collected to the appropriations account of the entity providing that service according to the procedures provided in Title 63J, Chapter 1, Budgetary Procedures Act.

(7) (a) For purposes of this section, "electrical cooperative" means:

(i) a distribution electrical cooperative; or

(ii) a wholesale electrical cooperative.

(b) Subject to Subsection (7)(c), if the regulation of one or more electrical cooperatives causes unanticipated costs of regulation in a fiscal year, the commission may impose a supplemental fee on the one or more electrical cooperatives in this state responsible for the increased cost of regulation.

(c) The aggregate of all fees imposed under this section on an electrical cooperative in a calendar year shall not exceed the greater of:

(i) .3% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) \$50.

Section 9. Section 62A-1-111.5 is amended to read:

62A-1-111.5. Duties of the department for fiscal year 2018.

Notwithstanding [Section] Subsection 63J-1-206(2)(c), for fiscal year 2018 only, the department may transfer money from savings related to implementation of Laws of Utah 2017, Chapter 330, and nonlapsing balances from fiscal year 2017 between appropriation line items to allocate resources between the Division of Juvenile Justice Services, the Division of Child and Family Justice Services, and the Division of Substance Abuse and Mental Health to facilitate the department's implementation of Laws of Utah 2017, Chapter 330.

Section 10. Section 62A-1-202 is amended to read:

62A-1-202. National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account.

(1) There is created in the General Fund a restricted account known as the "National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have a board that is appointed by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's basketball in the United States;

(c) are headquartered within the state;

(d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and

(e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;

(ii) create or sponsor programs that will benefit residents within the state; and

(iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section ~~[63J-1-602.4]~~ 63J-1-602.1, appropriations from the account are nonlapsing.

Section 11. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2018.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2023.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states "and the Resource Development Coordinating Committee" is repealed;

(d) in Subsection 23-21-2.3(1), the language that states "the Resource Development Coordinating Committee created in Section 63J-4-501 and" is repealed;

(e) in Subsection 23-21-2.3(2), the language that states "the Resource Development Coordinating Committee and" is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word "and" is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) (a) Subsection ~~[63J-1-602.4(15)]~~ 63J-1-602.1(50), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection ~~[63J-1-602.4(15)]~~ 63J-1-602.1(50), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(16) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (16)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development

zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (16)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(17) Section 63N-2-512 is repealed on July 1, 2021.

(18) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (18)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(19) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 12. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Section 63A-5-227 is repealed on January 1, 2018.

(2) Section 63H-7a-303 is repealed on July 1, 2022.

(3) On July 1, 2019:

(a) in Subsection 63J-1-206~~(3)~~(2)(c)(i), the language that states “[~~(i) Except as provided in~~] Subsection ~~(3)~~(2)(c)(ii) and” is repealed; and

(b) Subsection 63J-1-206~~(3)~~(2)(c)(ii) is repealed.

(4) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

(5) Section 63N-3-110 is repealed July 1, 2020.

Section 13. Section 63J-1-102 is amended to read:

63J-1-102. Definitions.

As used in this chapter:

(1) “Agency” means a unit of accounting, typically associated with a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government, that includes line items and programs.

(2) “Budget execution plan” means a proposal submitted by an administrative unit of state government to the Division of Finance enumerating expected revenues and authorized expenditures within line items and among programs.

~~(4)~~ (3) “Debt service” means the money that is required annually to cover the repayment of interest and principal on state debt.

~~(2)~~ (4) (a) “Dedicated credits” means collections by an agency that are deposited directly into an account for expenditure [~~on a separate line item and program~~] by the agency.

(b) “Dedicated credits” includes collections from assessments, contributions, donations, fees, fines, licenses, penalties, rental, sales, non-federal grants, or other collections not:

(i) otherwise designated by law for deposit into another fund or account; or

(ii) specifically excluded from the definition.

(c) “Dedicated credits” does not mean:

(i) federal revenues and the related pass through or the related state match paid by one agency to another;

(ii) revenues that are not deposited in governmental funds; or

(iii) revenues from any contracts.

~~(3)~~ (5) “Federal revenues” means collections by an agency from a federal source that are deposited into an account for expenditure [~~on a separate line item and program~~] by the agency.

~~(4)~~ “Fixed collections” means collections that are:

~~(a) fixed at a specific amount by law or by an appropriation act; and~~

~~[(4) required to be deposited into a separate line item and program.]~~

~~[(5)] (6) "Free revenue" includes:~~

(a) collections that are required by law to be deposited in:

- (i) the General Fund;
- (ii) the Education Fund;
- (iii) the Uniform School Fund; or
- (iv) the Transportation Fund;

(b) collections that are not otherwise designated by law;

(c) collections that are not externally restricted; and

(d) collections that are not included in an approved work program.

(7) (a) "Item of appropriation" means an authorization of expenditure contained in legislation that appropriates funds and includes the following:

(i) the name of the agency and line item to which authorization is granted; and

(ii) sources of finance from which authorization is granted and associated amounts authorized.

(b) "Item of appropriation" also includes:

- (i) a schedule of programs;
- (ii) intent language;
- (iii) approved full-time equivalent employment;
- (iv) authorized capital outlay; and
- (v) other conditions of appropriation.

(8) "Line item" means a unit of accounting, typically representing an administrative unit of state government within an agency, that contains one or more programs.

~~[(6)] (9) "Major revenue types" means:~~

- (a) free revenue;
- (b) restricted revenue; and
- (c) dedicated credits~~;~~ and.
- ~~[(4) fixed collections.]~~

(10) "Program" means a unit of accounting included on a schedule of programs within a line item used to track budget authorizations, collections, and expenditures on specific purposes or functions.

[(7)] (11) "Restricted revenue" means collections that are:

(a) deposited, by law, into a separate fund, subfund, or account; and

(b) designated for a specific program or purpose.

(12) "Schedule of programs" means a list of programs and associated authorization amounts within an item of appropriation.

Section 14. Section 63J-1-104 is amended to read:

63J-1-104. Revenue types -- Disposition of free revenue and restricted revenue.

(1) (a) The Division of Finance shall:

(i) account for revenues in accordance with generally accepted accounting principles; and

(ii) use the major revenue types in internal accounting.

(b) Each agency shall:

(i) use the major revenue types to account for revenues;

(ii) deposit revenues and other public funds received by them by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(iii) expend revenues and public funds as required by this chapter.

(2) (a) Each agency shall deposit its free revenues into the appropriate fund.

(b) An agency may expend free revenues up to the amount specifically appropriated by the Legislature.

(c) Any free revenue funds appropriated by the Legislature to an agency that remain unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides by law that those funds are nonlapsing.

(3) (a) Each agency shall deposit its restricted revenues into the applicable restricted account or fund.

(b) Revenues in a restricted account or fund do not lapse to another account or fund unless otherwise specifically provided for by law or legislative appropriation.

(c) The Legislature may appropriate restricted revenues from a restricted account or fund for the specific purpose or program designated by law.

(d) If the fund equity of a restricted account or fund is insufficient to provide the accounts appropriated from it by the Legislature, the Division of Finance may reduce the appropriation to a level that ensures that the fund equity is not less than zero.

(e) Any restricted revenues appropriated by the Legislature to an agency that remain unexpended at the end of the fiscal year lapse to the applicable restricted account or fund unless the Legislature provides by law that those appropriations, or the program or line item financed by those appropriations, are nonlapsing.

~~[(4) (a) An agency may expend dedicated credits for any purpose within the program or line item.]~~

~~[(b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend dedicated credits in~~

~~excess of the amount appropriated as dedicated credits by the Legislature.]~~

~~[(ii) In order to expend dedicated credits in excess of the amount appropriated as dedicated credits by the Legislature, the following procedure shall be followed:]~~

~~[(A) The agency seeking to make the excess expenditure shall:]~~

~~[(I) develop a new work program that:]~~

~~[(Aa) consists of the currently approved work program and the excess expenditure sought to be made; and]~~

~~[(Bb) complies with the requirements of Section 63J-2-202;]~~

~~[(II) prepare a written justification for the new work program that sets forth the purpose and necessity of the excess expenditure; and]~~

~~[(III) submit the new work program and the written justification for the new work program to the Division of Finance;]~~

~~[(B) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.]~~

~~[(iii) An expenditure of dedicated credits in excess of amounts appropriated as dedicated credits by the Legislature may not be used to permanently increase personnel within the agency unless:]~~

~~[(A) the increase is approved by the Legislature; or]~~

~~[(B) the money is deposited as a dedicated credit in a line item covering tuition or federal vocational funds at an institution of higher education.]~~

~~[(c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal year unless the Legislature has designated the entire program or line item that is partially or fully funded from dedicated credits as nonlapsing.]~~

~~[(ii) The Division of Finance shall determine the appropriate fund into which the dedicated credits lapse.]~~

~~[(5) (a) The Legislature may establish by law the maximum amount of fixed collections that an agency may expend.]~~

~~[(b) If an agency receives less than the maximum amount of expendable fixed collections established by law, the agency's authority to expend is limited to the amount of fixed collections that it receives.]~~

~~[(c) If an agency receives fixed collections greater than the maximum amount of expendable fixed collections established by law, those excess amounts lapse to the General Fund, the Education Fund, the Transportation Fund, or the Transportation Investment Fund of 2005 as designated by the director of the Division of Finance at the end of the fiscal year.]~~

~~[(6)] (4) Unless otherwise specifically provided by law, when an agency has a program or line item that is funded by [more than one major revenue type: (a) the agency shall expend its dedicated credits and fixed collections first; and (b) if the program or line item includes] both free revenue and restricted revenue, an agency shall expend those revenues based upon a proration of the amounts appropriated from each of those major revenue types.~~

Section 15. Section 63J-1-105 is enacted to read:

63J-1-105. Revenue types -- Disposition of dedicated credits.

(1) An agency may expend dedicated credits for any purpose within the program or line item.

(2) Except as provided in Subsections (3) and (4), an agency may not expend dedicated credits in excess of the amount appropriated to a line item as dedicated credits by the Legislature.

(3) Each agency that receives dedicated credits revenue greater than the amount appropriated to a line item by the Legislature in the annual appropriations acts may expend the excess up to 25% of the amount appropriated if the expenditure is included in a revised budget execution plan approved as provided in Section 63J-1-209.

(4) Notwithstanding the requirements of Subsection (3), when an agency's dedicated credits revenue represents over 90% of the budget of the line item for which the dedicated credits are collected, the agency may expend 100% of the excess of the amount appropriated if the expenditure is authorized by an amended budget execution plan approved as provided in Subsection (3) and Section 63J-1-209.

(5) An expenditure of dedicated credits in excess of amounts appropriated to a line item as dedicated credits by the Legislature may not be used to permanently increase personnel within the agency unless:

(a) the increase is approved by the Legislature; or

(b) the money is deposited as a dedicated credit in a line item covering tuition or federal vocational funds at an institution of higher education.

(6) (a) All excess dedicated credits not received or expended in compliance with Subsection (3), (4), or (7) lapse to the General Fund or other appropriate fund as free or restricted revenue at the end of the fiscal year.

(b) The Division of Finance shall determine the appropriate fund into which the dedicated credits lapse.

(7) (a) When an agency has a line item that is funded by more than one major revenue type, one of which is dedicated credits, the agency shall completely expend authorized dedicated credits within the current fiscal year and allocate unused spending authorization among other funding sources based upon a proration of the amounts appropriated from each of those major revenue

types not attributable to dedicated credits, unless the Legislature has designated a portion of the dedicated credits as nonlapsing, in which case the agency shall completely expend within the current fiscal year authorized dedicated credits minus the portion of dedicated credits designated as nonlapsing, and allocate unused spending authorization among the other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits.

(b) Nothing in Subsection (7)(a) shall be construed to allow an agency to receive and expend dedicated credits in excess of legislative appropriations to a line item without complying with Subsection (3) or (4).

(c) Each agency that receives dedicated credits shall report, to the Division of Finance, any balances remaining in those funds at the conclusion of each fiscal year.

(8) Each agency shall include in its annual budget request estimates of dedicated credits revenue that is identified by, collected for, or set by the agency.

Section 16. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

~~[(1) As used in this section, "work program" means a budget that contains revenues and expenditures for specific purposes or functions within an item of appropriation.]~~

~~[(2)] (1) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in the appropriating act:~~

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

~~[(3)] (2) (a) Each item of appropriation [item] is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation [item], as designated by the Legislature.~~

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in Subsection [(3)] (2)(c)(ii) and Subsection (2)(c)(iii), an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, [ø] division, or line item to any other department, agency, institution, [ø] division, or line item.

(ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert money to another department, agency, institution, [ø] division, or line item only for the purposes of law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

(iii) The state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205.

(d) The money appropriated subject to a schedule [ø] of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within [an item of appropriation, the following procedure shall be followed:] a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

~~[(i) The department, agency, or institution seeking to make the transfer shall prepare:]~~

~~[(A) a new work program for the fiscal year involved that consists of the currently approved work program and the transfer sought to be made; and]~~

~~[(B) a written justification for the new work program that sets forth the purpose and necessity for the transfer.]~~

~~[(ii) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.]~~

~~[(f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from one item of appropriation to any other item of appropriation.]~~

~~[(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items of appropriation in accordance with Section 53A-17a-105.]~~

~~[(g)] (f) (i) The procedures for transferring money between programs within [an item of appropriation] a line item as provided by Subsection [(3)] (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53A, Chapter 21, Public Education Capital Outlay Act.~~

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection [(3)(g)(i)] (2)(f)(i) only as provided by Section 53A-17a-105.

Section 17. Section 63J-1-209 is amended to read:

63J-1-209. Director of finance to exercise accounting control -- Budget execution plans -- Allotments and expenditures.

(1) The director of finance shall exercise accounting control over all state departments, institutions, and agencies other than the Legislature and legislative committees.

(2) (a) The director shall require the head of each department to submit, by May 15 of each year, a [work program] budget execution plan for the next fiscal year.

(b) The director may require any department to submit a [work program] budget execution plan for any other period.

(3) The [work program] budget execution plan shall include appropriations and all other funds from any source made available to the department for its operation and maintenance for the period and program authorized by [the appropriation act] legislation that appropriates funds.

~~[(4) Subject to the requirements of Subsection 63J-1-206(3)(e), the Division of Finance shall, upon request from the governor, revise, alter, decrease, or change work programs.]~~

(4) (a) In order to revise a budget execution plan, the department, agency, or institution seeking to revise the budget execution plan shall:

(i) develop a new budget execution plan that consists of the currently approved budget execution plan and the revision sought to be made;

(ii) prepare a written justification for the new budget execution plan that sets forth the purpose and necessity of the revision; and

(iii) submit the new budget execution plan and the written justification for the new budget execution plan to the Division of Finance.

(b) The Division of Finance shall process the new budget execution plan with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.

(5) Upon request from the Governor's Office of Management and Budget, the Division of Finance shall revise budget execution plans.

~~[(5)]~~ (6) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and Control Act, the aggregate of the [work program changes] budget execution plan revisions may not exceed the total appropriations or other funds from any source that are available to the [department] agency line item for the fiscal year in question.

~~[(6) The Division of Finance shall transmit a copy of the changes, when approved by the governor, to:]~~

~~[(a) the head of the department concerned; and]~~

~~[(b) the legislative analyst.]~~

(7) Upon [request, review, and approval by the governor] transmittal of the new budget execution plan to the entities in Subsection (4), the Division of Finance shall permit all expenditures to be made from the appropriations or other funds from any source on the basis of those [work programs] budget execution plans.

(8) The Division of Finance shall, through statistical sampling methods or other means, audit all claims against the state for which an appropriation has been made.

Section 18. Section 63J-1-217 is amended to read:

63J-1-217. Overexpenditure of budget by agency -- Prorating budget income shortfall.

(1) Expenditures of departments, agencies, and institutions of state government shall be kept within revenues available for such expenditures.

(2) (a) Line items of appropriation shall not be overexpended.

(b) Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at the close of a fiscal year:

(i) the director of the Division of Finance may make payments from the line item to vendors for goods or services that were received on or before June 30; and

(ii) the director of the Division of Finance shall immediately reduce the agency's line item budget in the current year by the amount of the overexpenditure.

(c) Each agency with an overexpended line item shall:

(i) prepare a written report explaining the reasons for the overexpenditure; and

(ii) present the report to:

(A) the Board of Examiners as required by Section 63G-9-301; and

(B) the Office of the Legislative Fiscal Analyst.

(3) (a) As used in this Subsection (3):

(i) "Education Fund budget deficit" has the same meaning as in Section 63J-1-312; and

(ii) "General Fund budget deficit" has the same meaning as in Section 63J-1-312.

(b) If an Education Fund budget deficit or a General Fund budget deficit exists and the adopted estimated revenues were prepared in consensus with the Governor's Office of Management and Budget, the governor shall:

(i) direct state agencies to reduce commitments and expenditures by an amount proportionate to the amount of the deficiency; and

(ii) direct the Division of Finance to reduce allotments to institutions of higher education by an amount proportionate to the amount of the deficiency.

(c) The governor's directions under Subsection (3)(b) are rescinded when the Legislature rectifies the Education Fund budget deficit and the General Fund budget deficit.

(4) (a) A department may not receive an advance of funds that cannot be covered by anticipated revenue within the ~~[work program]~~ budget execution plan of the fiscal year, unless the governor allocates money from the governor's emergency appropriations.

(b) All allocations made from the governor's emergency appropriations shall be reported to the budget subcommittee of the Legislative Management Committee by notifying the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the allocation.

(c) Emergency appropriations shall be allocated only to support activities having existing legislative approval and appropriation, and may not be allocated to any activity or function rejected directly or indirectly by the Legislature.

Section 19. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

- (i) enterprise funds;
- (ii) internal service funds;
- (iii) trust and agency funds;
- (iv) capital projects funds;
- (v) discrete component unit funds;
- (vi) debt service funds; and
- (vii) permanent funds;

(b) those ~~[revenue collections,]~~ appropriations from a fund or account~~[,]~~ or appropriations to a program that are designated as nonlapsing under ~~[Sections]~~ Section 63J-1-602.1 ~~[through 63J-1-602.5]~~ or 63J-1-602.2;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of Parks and Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A, Chapter 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section 20. Section 63J-1-602 is amended to read:

63J-1-602. Nonlapsing appropriations.

(1) The ~~[revenue collections,]~~ appropriations from a fund or account~~[,]~~ and appropriations to a program that are listed in ~~[Sections]~~ Section 63J-1-602.1 ~~[through 63J-1-602.5]~~ or 63J-1-602.2 are nonlapsing.

(2) No ~~[revenue collection,]~~ appropriation from a fund or account~~[,]~~ or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in ~~[Sections]~~ Section 63J-1-602.1 ~~[through 63J-1-602.5]~~ or 63J-1-602.2;

(b) it is designated in a condition of appropriation in the appropriations bill; or

(c) nonlapsing authority is granted under Section 63J-1-603.

(3) Each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under the provisions of this section or Section 63J-1-603.

Section 21. Section 63J-1-602.1 (Superseded 09/30/18) is repealed and reenacted to read:

63J-1-602.1 (Superseded 09/30/18). List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Technology Development Restricted Account created in Section 31A-3-104.

(14) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(15) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(16) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(17) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(18) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(19) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(20) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(21) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(22) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(25) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(26) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(27) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(28) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(29) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(30) The DNA Specimen Restricted Account created in Section 53-10-407.

(31) The Canine Body Armor Restricted Account created in Section 53-16-201.

(32) A certain portion of money collected for administrative costs under the School Institutional

Trust Lands Management Act, as provided under Section 53C-3-202.

(33) The School Readiness Restricted Account created in Section 53F-9-402.

(34) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(35) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(36) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(37) The Relative Value Study Restricted Account created in Section 59-9-105.

(38) The Cigarette Tax Restricted Account created in Section 59-14-204.

(39) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(41) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(42) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(43) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(44) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(45) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(46) The Immigration Act Restricted Account created in Section 63G-12-103.

(47) Money received by the military installation development authority, as provided in Section 63H-1-504.

(48) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(49) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(50) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(51) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(52) The Motion Picture Incentive Account created in Section 63N-8-103.

(53) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(54) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(55) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(56) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(57) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(58) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(59) Fees for certificate of admission created under Section 78A-9-102.

(60) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(61) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(62) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(63) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 22. Section 63J-1-602.1 (Effective 09/30/18) is repealed and reenacted to read:

63J-1-602.1 (Effective 09/30/18). List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Technology Development Restricted Account created in Section 31A-3-104.

(14) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(15) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(16) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(17) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(18) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(19) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(20) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(21) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(22) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(25) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(26) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(27) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(28) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(29) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(30) The DNA Specimen Restricted Account created in Section 53-10-407.

(31) The Canine Body Armor Restricted Account created in Section 53-16-201.

(32) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(33) The School Readiness Restricted Account created in Section 53F-9-402.

(34) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(35) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(36) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(37) The Relative Value Study Restricted Account created in Section 59-9-105.

(38) The Cigarette Tax Restricted Account created in Section 59-14-204.

(39) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(41) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(42) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(43) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(44) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(45) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(46) The Immigration Act Restricted Account created in Section 63G-12-103.

(47) Money received by the military installation development authority, as provided in Section 63H-1-504.

(48) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(49) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(50) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(51) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(52) The Motion Picture Incentive Account created in Section 63N-8-103.

(53) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(54) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(55) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(56) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(57) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(58) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(59) Fees for certificate of admission created under Section 78A-9-102.

(60) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(61) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(62) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(63) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 23. Section 63J-1-602.2 is repealed and reenacted to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(5) The primary care grant program created in Section 26-10b-102.

(6) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(7) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(8) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(9) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(10) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(11) The Utah National Guard, created in Title 39, Militia and Armories.

(12) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(13) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(14) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(15) The State Board of Education, as provided in Section 53F-2-205.

(16) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(17) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(18) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(19) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(20) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(21) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(22) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(23) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as

provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(24) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(25) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.

(26) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(27) The Traffic Noise Abatement Program created in Section 72-6-112.

(28) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(29) A state rehabilitative employment program, as provided in Section 78A-6-210.

(30) The Utah Geological Survey, as provided in Section 79-3-401.

(31) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(32) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(33) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 24. Section 63J-2-102 is amended to read:

63J-2-102. Definitions.

As used in this chapter:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" does not include the legislative branch, the board of regents, the Utah Higher Education Assistance Authority, the board of trustees of each higher education institution, each higher education institution and its associated branches, centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

(2) [(a)] "Dedicated credits [revenues]" means revenues from collections by an agency that are deposited directly into an account for expenditure on a separate line item and program the same as that term is defined in Section 63J-1-102.

[(b) "Dedicated credits revenues" does not mean:]

[(i) federal revenues and the related pass through or the related state match paid by one agency to another;]

[(ii) revenues that are not deposited in governmental funds; or]

[(iii) revenues from any contracts.]

(3) "Fees" means revenue collected by an agency for performing a service or providing a function that the agency deposits or accounts for as dedicated credits [or fixed collections].

[(4) (a) "Fixed collections revenues" means revenue from collections:]

[(i) fixed by law or by the appropriation act at a specific amount; and]

[(ii) required by law to be deposited into a separate line item and program.]

[(b) "Fixed collections revenues" does not mean:]

[(i) federal revenues and the related pass through or the related state match paid by one agency to another;]

[(ii) revenues that are not deposited in governmental funds;]

[(iii) revenues from any contracts; and]

[(iv) revenues received by the Attorney General's Office from billings for professional services.]

[(5) (4) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" does not include internal service funds, enterprise funds, capital projects funds, debt service funds, or trust and agency funds as established in Section 51-5-4.

[(6) (5) "Independent agency" means the Utah State Retirement Office and the Utah Housing Corporation.

[(7) (6) "Program" means the [function or service provided by an agency for which the agency collects fees] same as that term is defined in Section 63J-1-102.

[(8) (7) "Revenue types" means the categories established by the Division of Finance under the authority of this chapter that classify revenue according to the purpose for which it is collected.

Section 25. Section 63J-2-201 is amended to read:

63J-2-201. Accounting for fee revenues.

(1) The Division of Finance shall:

(a) establish revenue types;

(b) develop a computerized master file of revenue types containing, for each revenue type:

(i) the definition of each revenue type;

(ii) if available, a historical record of the amount collected for the revenue type for each of the five years;

(iii) the agency that collected the revenue;

(iv) the program, organization, and fund into which the revenue was originally recorded each year;

(v) a general description of the function where the largest portion of the revenue was spent each year;

(vi) the specific legal authority that authorizes the agency to collect the revenue;

(vii) the rates charged to the individuals or entities that pay the revenue;

(viii) the general methodology used to determine the rate charged to individuals or entities that pay the revenue;

(ix) for dedicated credits [~~revenues and fixed collections revenues~~], the revenue estimate used by the agency to prepare their budget;

(x) the amount appropriated as dedicated credits [~~revenues and fixed collections revenues~~] in the annual appropriation act; and

(xi) for revenues other than dedicated credits [~~revenues and fixed collections revenues~~], an estimate of the amount of revenue, if available or reasonably calculable; and

(c) make the computerized file available to the Budget Office and the Office of Legislative Fiscal Analyst upon request.

(2) Each agency shall provide the Division of Finance with the information required by this section.

Section 26. Section 63J-2-202 is amended to read:

63J-2-202. Disposition of revenues.

~~[(1)(a) Each agency shall include in its annual budget request estimates of dedicated credits revenues and fixed collections revenues that are identified by, collected for, or set by the agency.]~~

~~[(b) (1) If the Legislature or the Division of Finance establishes a new revenue type by law, the agency shall include that new revenue type in its budget request for the next fiscal year.~~

~~[(e)(i)] (2) (a) Except as provided in Subsection [(1)(e)(ii)] (2)(b), if any agency fails to include the estimates of a revenue type in its annual budget request, the Division of Finance shall deposit the money collected in that revenue type into the General Fund or other appropriate fund as free or restricted revenue.~~

~~[(ii)] (b) The Division of Finance may not deposit the money collected from a revenue type not included in an agency's annual budget request into the General Fund or other appropriate fund if the agency did not include the estimates of the revenue type in its annual budget request because the Legislature had not yet established or authorized the new revenue type by law.~~

~~[(2)(a)(i)(A) Except as provided in Subsection (2)(a)(i)(B) or (2)(b), each agency that receives dedicated credits and fixed collections revenues~~

~~greater than the amount appropriated to them by the Legislature in the annual appropriations act may expend the excess up to 25% of the amount appropriated if the expenditure is authorized by an amended work program approved as provided in Section 63J-1-209.]~~

~~[(B) Except for line items covering tuition and federal vocational funds at institutions of higher learning, any expenditure of dedicated credits in excess of amounts appropriated by the Legislature may not be used to permanently increase personnel within the agency unless approved by the Legislature.]~~

~~[(ii) The Division of Finance shall deposit the balance of that excess into the General Fund or other appropriate fund as free or restricted revenue.]~~

~~[(b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated credits and fixed collections revenues represent over 90% of the budget of the program for which they are collected, the agency may expend 100% of the excess of the amount appropriated if the expenditure is authorized by an amended work program approved as provided in Section 63J-1-209.]~~

~~[(3) Each agency that receives dedicated credits or fixed collections shall report, to the Division of Finance, any balances remaining in those funds at the conclusion of each fiscal year.]~~

Section 27. Section 63J-4-301 is amended to read:

63J-4-301. Duties of the executive director and office.

(1) The executive director and the office shall:

(a) comply with the procedures and requirements of Title 63J, Chapter 1, Budgetary Procedures Act;

(b) under the direct supervision of the governor, assist the governor in the preparation of the governor's budget recommendations;

~~(c) [advise the governor with regard to approval or revision of agency work programs] review agency budget execution plans as specified in Section 63J-1-209;~~

(d) establish benchmarking practices for measuring operational costs, quality of service, and effectiveness across all state agencies and programs;

(e) assist agencies with the development of an operational plan that uses continuous improvement tools and operational metrics to increase statewide capacity and improve interagency integration;

(f) review and assess agency budget requests and expenditures using a clear set of goals and measures;

(g) develop and maintain enterprise portfolio and electronic information systems to select and oversee the execution of projects, ensure a return on

investment, and trace and report performance metrics; and

(h) perform other duties and responsibilities as assigned by the governor.

(2) (a) The executive director of the Governor's Office of Management and Budget or the executive director's designee is the Federal Assistance Management Officer.

(b) In acting as the Federal Assistance Management Officer, the executive director or designee shall:

(i) study the administration and effect of federal assistance programs in the state and advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and the Executive Appropriations Committee, of alternative recommended methods and procedures for the administration of these programs;

(ii) assist in the coordination of federal assistance programs that involve or are administered by more than one state agency; and

(iii) analyze and advise on applications for new federal assistance programs submitted to the governor for approval as required by Chapter 5, Federal Funds Procedures Act.

Section 28. Section 63N-8-103 is amended to read:

63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with a report identifying and documenting the dollars left in the state and new state revenues generated by the

motion picture company or digital media company for its state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the report submitted by the motion picture company; and

(ii) attest to the accuracy and validity of the report, including the amount of dollars left in the state.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the report from the motion picture company described in Subsection (2)(b) and verify that it was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the certified public accountant's attestation under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under its agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenue; and

(ii) based upon review of new state revenue, determine the amount of the incentive that a digital media company is entitled to under its agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and ~~63J-1-104(4)(e)~~ 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit certificates under this part in a fiscal year.

(b) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent fiscal years.

Section 29. Section 73-18-25 is amended to read:

73-18-25. Fees to cover the costs of electronic payments.

(1) As used in this section:

(a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

(b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Section 73-18-7.

(b) The fee described under Subsection (2)(a) shall be imposed regardless of the method of payment for a particular transaction.

(3) The Motor Vehicle Division shall establish the fee according to the procedures and requirements of Section 63J-1-504.

(4) A fee imposed under this section:

(a) shall be deposited in the Electronic Payment Fee Restricted Account created by Section 41-1a-121;

(b) is not subject to Subsection ~~[63J-2-202(2)]~~ 63J-1-105(3) or (4); and

(c) need not be separately identified from the fees imposed on registrations and renewals of registration under Section 73-18-7.

Section 30. Repealer.

This bill repeals:

Section 63J-1-602.3, List of nonlapsing funds and accounts -- Title 46 through Title 60.

Section 63J-1-602.4, List of nonlapsing funds and accounts -- Title 61 through Title 63N.

Section 63J-1-602.5, List of nonlapsing funds and accounts -- Title 64 and thereafter.

Section 31. Effective date.

This bill takes effect on July 1, 2018, except that the amendments to Section 63J-1-602.1 (Effective 09/30/18) take effect on September 30, 2018.

Section 32. Coordinating H.B. 475 with H.B. 105 -- Technical amendment.

If this H.B. 475 and H.B. 105, Medicaid Sanctions Amendments, both pass and become law, the Legislature intends that:

(1) the amendments to Section 63J-1-602.1 (Superseded 09/30/18) and Section 63J-1-602.1 (Effective 09/30/18) in this bill supersede the amendments to Section 63J-1-602.1 (Superseded 09/30/18) and Section 63J-1-602.1 (Effective 09/30/18) in H.B. 105;

(2) that the language "Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7)." be added as a subsection to Section 63J-1-602.2, numerically according to title placement; and

(3) the reference to "Section 63J-1-602.1" in Section 26-18-3 in H.B. 105 be changed to "Section 63J-1-602.2" when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 33. Coordinating H.B. 475 with H.B. 149 -- Technical amendment.

If this H.B. 475 and H.B. 149, Department of Alcoholic Beverage Control Funding Amendments, both pass and become law, the Legislature intends that the amendments to Section 63J-1-602.2 in this bill supersede the amendments to Section 63J-1-602.2 in H.B. 149, and that the language "Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(ii) or (b)." be added as a subsection to Section 63J-1-602.2 in this bill, numerically according to title placement, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 34. Coordinating H.B. 475 with H.B. 380 -- Technical amendment.

If this H.B. 475 and H.B. 380, Utah School Readiness Initiative Amendments, both pass and become law, the Legislature intends that the amendments to Section 63J-1-602.2 in this bill supersede the amendments to Section 63J-1-602.2 in H.B. 380, and that the cross reference to the School Readiness Restricted Account be changed

from “53F-9-402” to “35A-3-210”, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 35. Coordinating H.B. 475 with H.B. 390 -- Technical amendment.

If this H.B. 475 and H.B. 390, Rural Economic Development Incentives, both pass and become law, the Legislature intends that the repeal of Section 63J-1-602.4 in this bill supersedes the amendments to Section 63J-1-602.4 in H.B. 390, and that the language “Appropriations to fund the Governor’s Office of Economic Development’s Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.” be added as a subsection to Section 63J-1-602.2, numerically according to title placement, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 36. Coordinating H.B. 475 with H.B. 395 -- Technical amendment.

If this H.B. 475 and H.B. 395, Technology Innovation Amendments, both pass and become law, the Legislature intends that the repeal of Section 63J-1-602.4 in this bill supersedes the amendments to Section 63J-1-602.4 in H.B. 395, and that the language “Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.” be added as a subsection to Section 63J-1-602.2, numerically according to title placement, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 37. Coordinating H.B. 475 with S.B. 54 -- Technical amendment.

If this H.B. 475 and S.B. 54, Marriage and Premarital Counseling and Education Amendments, both pass and become law, the Legislature intends that:

(1) the amendments to Section 63J-1-602.1 (Effective 09/30/18) in this bill supersede the amendments to Section 63J-1-602.1 (Effective 09/30/18) in S.B. 54;

(2) the language “Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).” be added as a subsection to Section 63J-1-602.2, numerically according to title placement; and

(3) the reference to “Subsection 63J-1-602.1(8)” in Section 63I-1-263 in S.B. 54 be updated to the correct citation to the language added to Section 63J-1-602.2 in Subsection (2) above, and that the language “, referring to dedicated credits accrued to the Utah Marriage Commission,” be added after the corrected citation, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 38. Coordinating H.B. 475 with S.B. 161 -- Technical amendment.

If this H.B. 475 and S.B. 161, Nurse Home Visiting Pay-for-success Program, both pass and

become law, the Legislature intends that the amendments to Section 63J-1-602.1 (Superseded 09/30/18) and Section 63J-1-602.1 (Effective 09/30/18) in this bill supersede the amendments to Section 63J-1-602.1 (Superseded 09/30/18) and Section 63J-1-602.1 (Effective 09/30/18) in S.B. 161, and that:

(1) the language “The Nurse Home Visiting Restricted Account created in Section 26-62-601.” be added as a subsection to Section 63J-1-602.1 (Superseded 09/30/18) and Section 63J-1-602.1 (Effective 09/30/18), numerically according to title placement; and

(2) the subsection reference to the fund in Subsection 63I-1-263(12) in S.B. 161 be updated to reflect the fund’s placement in Section 63J-1-602.1 (Superseded 09/30/18) and Section 63J-1-602.1 (Effective 09/30/18), and that the language “, Nurse Home Visiting Restricted Account” be added after each updated subsection reference, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 470**S. B. 25**

Passed February 16, 2018

(Passed into law without governor's signature)

Effective May 8, 2018

DIVORCE PROCESS AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill addresses divorces.

Highlighted Provisions:

This bill:

- ▶ addresses mandatory courses before certain actions by the court;
- ▶ repeals various provisions related to divorce actions;
- ▶ modifies the waiting period for hearing after filing for divorce; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 30-3-4, as last amended by Laws of Utah 2015, Chapter 45
- 30-3-11.3, as last amended by Laws of Utah 2016, Chapter 91
- 30-3-11.4, as last amended by Laws of Utah 2014, Chapter 347
- 30-3-18, as last amended by Laws of Utah 2012, Chapter 404

REPEALS:

- 30-3-12, as last amended by Laws of Utah 1969, Chapter 72
- 30-3-13.1, as last amended by Laws of Utah 1993, Chapter 227
- 30-3-14.1, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-15.1, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-15.3, as last amended by Laws of Utah 2015, Chapter 45
- 30-3-15.4, as last amended by Laws of Utah 1996, Chapter 79
- 30-3-16.1, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.2, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.3, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.4, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.5, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.6, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.7, as last amended by Laws of Utah 2011, Chapter 297

30-3-17, as last amended by Laws of Utah 2011, Chapter 297

30-3-17.1, as last amended by Laws of Utah 2011, Chapter 297

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-4 is amended to read:**30-3-4. Pleadings -- Decree -- Use of affidavit -- Private records.**

(1) (a) The complaint shall be in writing and signed by the petitioner or petitioner's attorney.

(b) A decree of divorce may not be granted upon default or otherwise except upon legal evidence taken in the cause. If the decree is to be entered upon the default of the respondent, evidence to support the decree may be submitted upon the affidavit of the petitioner with the approval of the court.

(c) If the petitioner and the respondent have a child or children, a decree of divorce may not be granted until both parties have attended the mandatory course described in Section 30-3-11.3 or 30-3-11.4, and have presented a certificate of course completion to the court. The court may waive this requirement, on its own motion or on the motion of one of the parties, if it determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(d) All hearings and trials for divorce shall be held before the court or the court commissioner as provided by Section 78A-5-107 and rules of the Judicial Council. The court or the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case of a decree after default of the respondent, upon the petitioner's affidavit.

(2) (a) A party to an action brought under this title or to an action under Title 78B, Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or enforce a judgment in the action may file a motion to have the file other than the final judgment, order, or decree classified as private.

(b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the file, or any part thereof other than the final order, judgment, or decree, as private. An order classifying part of the file as private does not apply to subsequent filings.

(c) The record is private until the judge determines it is possible to release the record without prejudice to the interests that justified the closure. Any interested person may petition the court to permit access to a record classified as private under this section. The petition shall be served on the parties to the closure order.

Section 2. Section 30-3-11.3 is amended to read:

30-3-11.3. Mandatory educational course for divorcing parents -- Purpose -- Curriculum -- Reporting.

(1) The Judicial Council shall approve and implement a mandatory course for divorcing parents in all judicial districts. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.

(2) The Judicial Council shall adopt rules to implement and administer this program.

(3) (a) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.

(b) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory educational course for divorcing parents required by this section.

(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.

(5) The mandatory course shall instruct both parties:

(a) about divorce and its impacts on:

(i) their child or children;

(ii) their family relationship; and

(iii) their financial responsibilities for their child or children; and

(b) that domestic violence has a harmful effect on children and family relationships.

(6) The course may be provided through live instruction, video instruction, or an online provider. The online and video options must be formatted as interactive presentations that ensure active participation and learning by the parent.

(7) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts. The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties, pursuant to Subsection (9).

(8) A certificate of completion constitutes evidence to the court of course completion by the parties.

(9) (a) Each party shall pay the costs of the course to the independent contractor providing the course

at the time and place of the course. A fee of \$8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.

(b) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed in the district court. In those situations, the independent contractor shall be reimbursed for its costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of impecuniosity and may order the payment of the costs if so determined.

(10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (9)(b).

(11) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Section 3. Section 30-3-11.4 is amended to read:

30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose -- Curriculum -- Reporting.

(1) There is established a mandatory divorce orientation course for all parties with minor children who file a petition for temporary separation or for a divorce. A couple with no minor children [are] is not required, but may choose to attend the course. The purpose of the course [shall be] is to educate parties about the divorce process and reasonable alternatives.

(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.

(3) (a) With the exception of a temporary restraining [orders] order pursuant to Rule 65, Utah Rules of Civil [Procedures] Procedure, a party may file, but the court may not hear, [temporary orders until the party seeking temporary orders has completed] a motion for an order related to the divorce or petition for temporary separation, until the moving party completes the divorce orientation course.

(b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court under Section 30-3-4.

(4) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.

(5) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and

information regarding the course shall be included with the petition or motion, when served on the respondent.

(6) The divorce orientation course shall be neutral, unbiased, at least one hour in duration, and include:

- (a) options available as alternatives to divorce;
- (b) resources available from courts and administrative agencies for resolving custody and support issues without filing for divorce;
- (c) resources available to improve or strengthen the marriage;
- (d) a discussion of the positive and negative consequences of divorce;
- (e) a discussion of the process of divorce;
- (f) options available for proceeding with a divorce, including:
 - (i) mediation;
 - (ii) collaborative law; and
 - (iii) litigation; and
- (g) a discussion of post-divorce resources.

(7) The course may be provided in conjunction with the mandatory course for divorcing parents required by Section 30-3-11.3.

(8) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.

(9) The course may be through live instruction, video instruction, or through an online provider.

(10) (a) ~~Each~~ A participant shall pay the costs of the course, which may not exceed \$30, to the independent contractor providing the course at the time and place of the course.

(b) A petitioner who attends a live instruction course within 30 days of filing may not be charged more than \$15 for the course.

(c) A respondent who attends a live instruction course within 30 days of being served with a petition for divorce may not be charged more than \$15 for the course.

(d) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.

(e) A participant who is unable to pay the costs of the course may attend without payment and request an Affidavit of Impecuniosity from the provider to be filed with the petition or motion. The provider shall be reimbursed for its costs by the Administrative Office of the Courts. A petitioner who is later determined not to meet the qualifications for impecuniosity may be ordered to pay the costs of the course.

(11) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is determined to be impecunious as provided in Subsection (10)(~~b~~)(e).

(12) The Online Court Assistance Program shall include instructions with the forms for divorce ~~which~~ that inform the petitioner of the requirement of this section.

(13) ~~Both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court.~~ A certificate of completion constitutes evidence to the court of course completion by the parties.

(14) It shall be an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with, and the action may not continue until a party has complied.

(15) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Section 4. Section 30-3-18 is amended to read:

30-3-18. Waiting period for hearing after filing for divorce -- Exemption -- Use of counseling and education services not to be construed as condonation or promotion.

(1) Unless the court finds that extraordinary circumstances exist and otherwise orders, no hearing for decree of divorce may be held by the court until ~~90~~ 30 days has elapsed from the filing of the complaint, but the court may make interim orders as it considers just and equitable.

(2) The use of counseling, mediation, and education services provided under this chapter may not be construed as condoning the acts that may constitute grounds for divorce on the part of either spouse nor of promoting divorce.

Section 5. Repealer.

This bill repeals:

Section 30-3-12, Courts to exercise family counseling powers.

Section 30-3-13.1, Establishment of family court division of district court.

Section 30-3-14.1, Designation of judges -- Terms.

Section 30-3-15.1, Appointment of domestic relations counselors, family court commissioner, and assistants and clerks.

Section 30-3-15.3, Commissioners -- Powers.

Section 30-3-15.4, Salaries and expenses.

Section 30-3-16.1, Jurisdiction of family court division -- Powers.

Section 30-3-16.2, Petition for conciliation.

Section 30-3-16.3, Contents of petition.

Section 30-3-16.4, Procedure upon filing of petition.

Section 30-3-16.5, Fees.

Section 30-3-16.6, Information not available to public.

Section 30-3-16.7, Effect of petition -- Pendency of action.

Section 30-3-17, Power and jurisdiction of judge.

Section 30-3-17.1, Proceedings considered confidential -- Written evaluation by counselor.

CHAPTER 471**S. B. 72**

Passed February 22, 2018

Approved March 27, 2018

Effective May 8, 2018

(Retrospective operation to January 1, 2018)

BUSINESS INCOME TAX MODIFICATIONS

Chief Sponsor: Wayne A. Harper

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies the business income apportionment provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a method for a taxpayer to determine if the taxpayer is an optional apportionment taxpayer;
- ▶ requires that, for a taxable year beginning on or after January 1, 2019, a taxpayer that apportioned business income using the single sales factor method in the previous taxable year continue to use the single sales factor method of apportionment in subsequent taxable years; and
- ▶ provides the circumstances where a taxpayer that previously apportioned business income using the single sales factor method may change the method of apportionment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-302, as last amended by Laws of Utah 2017, Chapters 181 and 268

59-7-311, as last amended by Laws of Utah 2016, Chapters 311 and 323

59-7-312, as last amended by Laws of Utah 2008, Chapter 283

59-7-315, as last amended by Laws of Utah 2008, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-302 is amended to read:**59-7-302. Definitions -- Determination of taxpayer status.**

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(A) NAICS Sector 21, Mining;

(B) NAICS Industry Group 2212, Natural Gas Distribution;

(C) except as provided in Subsection (1)(g)(ii), NAICS Sector 31-33, Manufacturing;

(D) NAICS Sector 48-49, Transportation and Warehousing;

(E) except as provided in Subsection (1)(g)(ii), NAICS Sector 51, Information; or

(F) NAICS Sector 52, Finance and Insurance.

(ii) "Excluded NAICS code" does not include a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(A) NAICS Subsector 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Subsector 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing;

(D) NAICS Code 336111, Automobile Manufacturing; or

(E) NAICS Subsector 519, Other Information Services.

(h) "Included NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, that is not an excluded NAICS code.

~~(g)~~ (i) (i) Except as provided in Subsection (1)~~(g)~~(~~i~~)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(27) owned by an air charter service or an air contract service.

~~[(h)] (j) “Nonbusiness income” means all income other than business income.~~

~~[(i) Subject to Subsection (2), “optional sales factor weighted taxpayer” means:]~~

~~[(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or]~~

~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code within NAICS Subsector 334, Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.]~~

~~[(k) “Optional apportionment taxpayer” means a taxpayer described in Subsection (2).]~~

~~[(l) (i) “Qualifying status change” means that a taxpayer with business income:~~

~~[(A) acquires another entity;~~

~~[(B) is acquired by another entity; or]~~

~~[(C) merges with another entity.]~~

~~[(ii) “Qualifying status change” does not include any change in the structure, ownership, or management of an entity with business income other than a change described in Subsection (1)(l)(i).]~~

~~[(j)] (m) “Revenue ton miles” is determined in accordance with 14 C.F.R. Part 241.~~

~~[(k)] (n) “Sales” means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.~~

~~[(1) Subject to Subsection (2), “sales factor weighted taxpayer” means:]~~

~~[(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:]~~

~~[(A) a NAICS code within NAICS Sector 21, Mining;]~~

~~[(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]~~

~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS Code 336111, Automobile Manufacturing;]~~

~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~

~~[(E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector 519, Other Information Services; or]~~

~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or]~~

~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer’s total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for a NAICS code under Subsections (1)(l)(i)(A) through (F).]~~

~~[(o) “Single sales factor taxpayer” means a taxpayer that:~~

~~[(i) performs economic activities that are classified only in included NAICS codes; or]~~

~~[(ii) does not meet the definition of optional apportionment taxpayer.]~~

~~[(m)] (p) “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.~~

~~[(n)] (q) “Transportation revenue” means revenue an airline earns from:~~

~~[(i) transporting a passenger or cargo; or]~~

~~[(ii) from miscellaneous sales of merchandise as part of providing transportation services.]~~

~~[(o)] (r) “Utah revenue ton miles” means, for an airline, the total revenue ton miles within the borders of this state:~~

~~[(i) during the airline’s tax period; and]~~

~~[(ii) from flight stages that originate or terminate in this state.]~~

~~[(2) The following apply to Subsections (1)(i) and (l):]~~

~~[(a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.]~~

~~[(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer’s return under this chapter for the taxable year, including extensions.]~~

~~[(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere.]~~

~~[(A) as determined in accordance with this part; and]~~

~~[(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).]~~

~~[(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an optional sales factor weighted taxpayer.]~~

~~[(B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the apportionment options described in Subsection 59-7-311(4).]~~

~~[(ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make the determination before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.]~~

~~[(iii) For purposes of making the determination described in Subsection (2)(b)(i), total sales everywhere include only the total sales everywhere:]~~

~~[(A) as determined in accordance with this part; and]~~

~~[(B) made during the taxable year for which a taxpayer makes a determination described in Subsection (2)(b)(i).]~~

(2) (a) For the taxable year beginning on or after January 1, 2018, but beginning on or before December 31, 2018, a taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (2)(c) is greater than .50.

(b) For a taxable year beginning on or after January 1, 2019, a taxpayer is an optional apportionment taxpayer if:

(i) (A) the taxpayer apportioned income in accordance with Subsection 59-7-311(2) during the previous taxable year; or

(B) the taxpayer apportioned income in accordance with Subsection 59-7-311(3) during the previous taxable year but has a qualifying status change for the current taxable year; and

(ii) the average calculated in accordance with Subsection (2)(c) is greater than .50.

(c) To calculate the average described in Subsection (2)(a) or (b)(ii), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (2)(c)(i); and

(iii) divide the sum calculated in Subsection (2)(c)(ii):

(A) except as provided in Subsection (2)(c)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(d) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date, including extensions, for filing the taxpayer's return under this chapter for the taxable year.

[(e) (3) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

[(d) (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Section 2. Section 59-7-311 is amended to read:

59-7-311. Method of apportionment of business income.

(1) For a taxable year, all business income shall be apportioned to this state by multiplying the business income by a fraction calculated as provided in this section.

(2) Subject to the other provisions of this part, ~~[a taxpayer, except for a sales factor weighted taxpayer and an optional sales factor weighted taxpayer,]~~ an optional apportionment taxpayer shall calculate the fraction for apportioning business income to this state using one of the following fractions:

(a) a fraction where:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317; and

(ii) the denominator of the fraction is three; or

(b) a fraction where:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and

(ii) the denominator of the fraction is four.

(3) Subject to the other provisions of this part, a ~~[sales factor weighted]~~ single sales factor taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:

(a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and

(b) the denominator of the fraction is one.

~~[(4) Subject to the other provisions of this part, an optional sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a method described in Subsection (2)(a), (2)(b), or (3).]~~

~~[(5)]~~ (4) (a) The taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(b) The method described in Subsection ~~[(5)]~~ (4)(a) is in effect for the taxable year.

~~[(6)]~~ (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election ~~[required by Subsections (2) and (4)]~~ allowed by Subsection (2).

Section 3. Section 59-7-312 is amended to read:

59-7-312. Property factor for apportionment of business income -- Mobile flight equipment of an airline.

(1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the property factor is a fraction_;:

(a) the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and

(b) the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~[determining the product of]~~ multiplying:

(a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and

(b) a fraction_;:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(2)(c)(i)(A) and subject to Subsection (3)(b), the property factor is a fraction:

(i) the numerator of which is the value of the property in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the value of all property in this state.

(b) A taxpayer shall exclude property from the calculation of the property factor fraction in Subsection (3)(a) if the property may be attributed to economic activities in both included NAICS codes and excluded NAICS codes.

Section 4. Section 59-7-315 is amended to read:

59-7-315. Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.

(1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the payroll factor is a fraction_;:

(a) the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation_;; and

(b) the denominator of which is the total compensation paid everywhere during the tax period.

(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by ~~[determining the product of]~~ multiplying:

(a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and

(b) a fraction_;:

(i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

(ii) the denominator of which is the airline revenue ton miles for the aircraft type.

(3) (a) For purposes of Subsection 59-7-302(2)(c)(i)(B) and subject to Subsection (3)(b), the payroll factor is a fraction:

(i) the numerator of which is the amount of the payroll in this state that is attributable to economic activities that are classified in an excluded NAICS code; and

(ii) the denominator of which is the total amount of payroll in the state.

(b) A taxpayer engaged in activities in an excluded NAICS code shall exclude an individual's payroll from the calculation of the payroll factor fraction in Subsection (3)(a) if the individual's payroll may be attributed:

(i) to economic activities in both included NAICS codes and excluded NAICS codes; or

(ii) to providing management, information technology, finance, accounting, legal, or human resource services.

Section 5. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 472**S. B. 233**

Passed March 8, 2018

Approved March 27, 2018

Effective May 8, 2018

(Exception clause in Section 28)

SALES AND USE TAX AMENDMENTS

Chief Sponsor: Howard A. Stephenson

House Sponsor: Daniel McCay

Cosponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill creates sales and use tax exemptions relating to a purchase or lease of machinery, equipment, normal operating repair or replacement parts, and materials.

Highlighted Provisions:

This bill:

- ▶ amends sales and use tax definitions;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of materials, except office equipment and office supplies, by a manufacturing facility, certain mining establishments, or a web search portal that are used or consumed in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except office equipment or office supplies, by a medical laboratory;
- ▶ makes the expansion of the exemption for a manufacturing facility, certain mining operations, or a web search portal and the new exemption for a medical laboratory effective upon the state collecting a certain amount of revenue from remote sales;
- ▶ modifies the use of revenue in the Remote Sales Restricted Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 10-1-405, as last amended by Laws of Utah 2012, Chapter 424
- 19-6-714, as last amended by Laws of Utah 2011, Chapter 297
- 19-6-808, as last amended by Laws of Utah 2011, Chapter 309
- 59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 59-12-103.1, as last amended by Laws of Utah 2016, Chapter 135
- 59-12-103.2, as last amended by Laws of Utah 2013, Chapter 150

- 59-12-104.5, as last amended by Laws of Utah 2017, Chapter 268
- 59-12-106, as last amended by Laws of Utah 2011, Chapter 285
- 59-12-107, as last amended by Laws of Utah 2017, Chapter 430
- 59-12-204, as last amended by Laws of Utah 2014, Chapter 258
- 59-12-401, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-402, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-402.1, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-703, as last amended by Laws of Utah 2017, Chapters 181 and 422
- 59-12-802, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-804, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-1102, as last amended by Laws of Utah 2016, Chapter 364
- 59-12-1302, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-1402, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-1802, as last amended by Laws of Utah 2008, Chapter 384
- 59-12-2003, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-2103, as last amended by Laws of Utah 2017, Chapter 422
- 59-12-2204, as last amended by Laws of Utah 2017, Chapter 422
- 63I-2-210, as last amended by Laws of Utah 2017, Chapters 181 and further amended by Revisor Instructions, Laws of Utah 2017, Chapters 448, 448, 452 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 448
- 63I-2-259, as last amended by Laws of Utah 2017, Chapter 181

ENACTS:

59-12-104.8, Utah Code Annotated 1953

REPEALS:

- 59-12-104.7, as enacted by Laws of Utah 2017, Chapter 268
- 63N-1-302, as enacted by Laws of Utah 2017, Chapter 268

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-405 is amended to read:

10-1-405. Collection of taxes by commission -- Uniform interlocal agreement -- Administrative charge -- Rulemaking authority.

(1) Subject to the other provisions of this section, the commission shall collect, enforce, and administer any municipal telecommunications license tax imposed under this part pursuant to:

- (a) the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection:

(A) except for:

(I) Subsection 59-12-103(2)(i);

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2;

(V) Section 59-12-104.3;

(VI) Section 59-12-104.8;

~~[(VII)] (VII) Section 59-12-107.1; and~~

~~[(VIII)] (VIII) Section 59-12-123; and~~

(B) except that for purposes of Section 59-1-1410, the term "person" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and

(b) a uniform interlocal agreement between the municipality that imposes the municipal telecommunications license tax and the commission:

(i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) that complies with Subsection (2)(a); and

(iii) that is developed by rule in accordance with Subsection (2)(b).

(2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:

(i) transmit money collected under this part monthly by electronic funds transfer by the commission to the municipality;

(ii) conduct audits of the municipal telecommunications license tax;

(iii) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part; and

(iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.

(3) If a telecommunications provider pays a municipal telecommunications license tax to the commission, the telecommunications provider shall pay the municipal telecommunications license tax to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the telecommunications provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the telecommunications provider is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the telecommunications provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.

(4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate that exceeds 3.5%:

(a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission shall collect the municipal telecommunications license tax:

(i) within the municipality;

(ii) at a rate of 3.5%; and

(iii) from a telecommunications provider required to pay the municipal telecommunications license tax on or after July 1, 2007; and

(b) the commission shall collect a municipal telecommunications license tax within the municipality at the rate imposed by the municipality if:

(i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate of up to 3.5%;

(ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and

(iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Section 2. Section 19-6-714 is amended to read:

19-6-714. Recycling fee on sale of oil.

(1) On and after October 1, 1993, a recycling fee of \$.04 per quart or \$.16 per gallon is imposed upon the first sale in Utah by a lubricating oil vendor of lubricating oil. The lubricating oil vendor shall collect the fee at the time the lubricating oil is sold.

(2) A fee under this section may not be collected on sales of lubricating oil:

(a) shipped outside the state;

(b) purchased in five-gallon or smaller containers and used solely in underground mining operations; or

(c) in bulk containers of 55 gallons or more.

(3) This fee is in addition to all other state, county, or municipal fees and taxes imposed on the sale of lubricating oil.

(4) (a) The exemptions from sales and use tax provided in Section 59-12-104 do not apply to this part.

(b) The exemptions from sales and use tax provided in Section 59-12-104.8 do not apply to this part.

(5) The commission may make rules to implement and enforce the provisions of this section.

Section 3. Section 19-6-808 is amended to read:

19-6-808. Payment of recycling fee -- Administrative charge.

(1) A tire retailer shall pay the recycling fee to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the tire retailer is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the tire retailer is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the tire retailer is required to file a sales and use tax return with the commission quarterly under Section 59-12-108.

(2) The payment shall be accompanied by a form prescribed by the commission.

(3) (a) The proceeds of the fee shall be transferred by the commission to the fund for payment of partial reimbursement.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a fee under Section 19-6-805.

(4) (a) The commission shall administer, collect, and enforce the fee authorized under this part in accordance with the same procedures used in the administration, collection, and enforcement of the state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, and Title 59, Chapter 1, General Taxation Policies.

(b) A tire retailer may retain 2-1/2% of the recycling fee collected under this part for the cost of collecting the fee.

(c) (i) The exemptions provided in Section 59-12-104 do not apply to this part.

(ii) The exemptions from sales and use tax provided in Section 59-12-104.8 do not apply to this part.

(5) The fee imposed by this part is in addition to all other state, county, or municipal fees and taxes imposed on the sale of new tires.

Section 4. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

- (a) listed under Subsection (6); and
- (b) that are imposed within a local taxing jurisdiction.
- (6) “Agreement sales and use tax” means a tax imposed under:
- (a) Subsection 59-12-103(2)(a)(i)(A);
 - (b) Subsection 59-12-103(2)(b)(i);
 - (c) Subsection 59-12-103(2)(c)(i);
 - (d) Subsection 59-12-103(2)(d)(i)(A)(I);
 - (e) Section 59-12-204;
 - (f) Section 59-12-401;
 - (g) Section 59-12-402;
 - (h) Section 59-12-402.1;
 - (i) Section 59-12-703;
 - (j) Section 59-12-802;
 - (k) Section 59-12-804;
 - (l) Section 59-12-1102;
 - (m) Section 59-12-1302;
 - (n) Section 59-12-1402;
 - (o) Section 59-12-1802;
 - (p) Section 59-12-2003;
 - (q) Section 59-12-2103;
 - (r) Section 59-12-2213;
 - (s) Section 59-12-2214;
 - (t) Section 59-12-2215;
 - (u) Section 59-12-2216;
 - (v) Section 59-12-2217;
 - (w) Section 59-12-2218; or
 - (x) Section 59-12-2219.
- (7) “Aircraft” means the same as that term is defined in Section 72-10-102.
- (8) “Aircraft maintenance, repair, and overhaul provider” means a business entity:
- (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
 - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and

- (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
 - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
 - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
 - (A) an inspection;
 - (B) a repair, including a structural repair or modification;
 - (C) changing landing gear; and
 - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
 - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
 - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft’s certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (9) “Alcoholic beverage” means a beverage that:
- (a) is suitable for human consumption; and
 - (b) contains .5% or more alcohol by volume.
- (10) “Alternative energy” means:
- (a) biomass energy;
 - (b) geothermal energy;
 - (c) hydroelectric energy;
 - (d) solar energy;
 - (e) wind energy; or
 - (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale;
 - (vi) petroleum coke; or
 - (vii) waste heat from:
 - (A) an industrial facility; or
 - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11) (a) Subject to Subsection (11)(b), “alternative energy electricity production facility” means a facility that:
- (i) uses alternative energy to produce electricity; and
 - (ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

(12) (a) “Ancillary service” means a service associated with, or incidental to, the provision of telecommunications service.

- (b) “Ancillary service” includes:
- (i) a conference bridging service;
 - (ii) a detailed communications billing service;
 - (iii) directory assistance;
 - (iv) a vertical service; or
 - (v) a voice mail service.

(13) “Area agency on aging” means the same as that term is defined in Section 62A-3-101.

(14) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

- (A) slash and brush from forests and woodlands;
- (B) animal waste;
- (C) waste vegetable oil;
- (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
- (E) aquatic plants; and
- (F) agricultural products.

(b) “Biomass energy” does not include:

- (i) black liquor; or
- (ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

- (i) distinct and identifiable; and
- (ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(39) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) “Drilling equipment manufacturer” means a facility:

- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- (42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- (ii) intended for use in the:
- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
- (A) the structure of the body; or
- (B) any function of the body.
- (b) “Drug” does not include:
- (i) food and food ingredients;
- (ii) a dietary supplement;
- (iii) an alcoholic beverage; or
- (iv) a prosthetic device.
- (43) (a) Except as provided in Subsection (43)(c), “durable medical equipment” means equipment that:
- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.
- (b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).
- (c) “Durable medical equipment” does not include mobility enhancing equipment.

- (44) “Electronic” means:
- (a) relating to technology; and
- (b) having:
- (i) electrical capabilities;
- (ii) digital capabilities;
- (iii) magnetic capabilities;
- (iv) wireless capabilities;
- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- (45) “Electronic financial payment service” means an establishment:
- (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
- (b) that performs electronic financial payment services.
- (46) “Employee” means the same as that term is defined in Section 59-10-401.
- (47) “Fixed guideway” means a public transit facility that uses and occupies:
- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.
- (48) “Fixed wing turbine powered aircraft” means an aircraft that:
- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.
- (49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.
- (50) (a) “Food and food ingredients” means substances:
- (i) regardless of whether the substances are in:
- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and
- (ii) that are:
- (A) sold for:
- (I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative

Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(59) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(60) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) “Manufactured home” means the same as that term is defined in Section 15A-1-302.

(65) “Manufacturing facility” means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

- (A) home; or
- (B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

- (i) collected by the seller; and
- (ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

(74) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) “Modular home” means a modular unit as defined in Section 15A-1-302.

(76) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

(77) “Oil sands” means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) “Other fuels” means products that burn independently to produce heat or energy.

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) “Pawnbroker” means the same as that term is defined in Section 13-32a-102.

(83) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.

(84) (a) “Permanently attached to real property” means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) “Permanently attached to real property” includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) “Permanently attached to real property” does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

<p>(C) a television; or</p> <p>(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or</p> <p>(iv) an item listed in Subsection (125)(c).</p> <p>(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.</p> <p>(86) "Place of primary use":</p> <p>(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:</p> <p>(i) the residential street address of the customer; or</p> <p>(ii) the primary business street address of the customer; or</p> <p>(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.</p> <p>(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:</p> <p>(i) through the use of a:</p> <p>(A) bank card;</p> <p>(B) credit card;</p> <p>(C) debit card; or</p> <p>(D) travel card; or</p> <p>(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.</p> <p>(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.</p> <p>(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).</p> <p>(89) "Prepaid calling service" means a telecommunications service:</p> <p>(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;</p> <p>(b) that:</p> <p>(i) is paid for in advance; and</p> <p>(ii) enables the origination of a call using an:</p> <p>(A) access number; or</p>	<p>(B) authorization code;</p> <p>(c) that is dialed:</p> <p>(i) manually; or</p> <p>(ii) electronically; and</p> <p>(d) sold in predetermined units or dollars that decline:</p> <p>(i) by a known amount; and</p> <p>(ii) with use.</p> <p>(90) "Prepaid wireless calling service" means a telecommunications service:</p> <p>(a) that provides the right to utilize:</p> <p>(i) mobile wireless service; and</p> <p>(ii) other service that is not a telecommunications service, including:</p> <p>(A) the download of a product transferred electronically;</p> <p>(B) a content service; or</p> <p>(C) an ancillary service;</p> <p>(b) that:</p> <p>(i) is paid for in advance; and</p> <p>(ii) enables the origination of a call using an:</p> <p>(A) access number; or</p> <p>(B) authorization code;</p> <p>(c) that is dialed:</p> <p>(i) manually; or</p> <p>(ii) electronically; and</p> <p>(d) sold in predetermined units or dollars that decline:</p> <p>(i) by a known amount; and</p> <p>(ii) with use.</p> <p>(91) (a) "Prepared food" means:</p> <p>(i) food:</p> <p>(A) sold in a heated state; or</p> <p>(B) heated by a seller;</p> <p>(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or</p> <p>(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:</p> <p>(A) plate;</p> <p>(B) knife;</p> <p>(C) fork;</p> <p>(D) spoon;</p> <p>(E) glass;</p> <p>(F) cup;</p> <p>(G) napkin; or</p>
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(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(96) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(97) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;
- (iii) a charge by the seller for any service necessary to complete the sale; or
- (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.
- (c) "Purchase price" and "sales price" do not include:
 - (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or
 - (III) coupon;
 - (B) that is allowed by a seller;
 - (C) taken by a purchaser on a sale; and
 - (D) that is not reimbursed by a third party; or
 - (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to

the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

- (a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;
- (b) be located in the state;
- (c) be a new operation constructed on or after July 1, 2016;
- (d) consist of one or more buildings that total 150,000 or more square feet;
- (e) be owned or leased by:
 - (i) the establishment; or
 - (ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and
- (f) be located on one or more parcels of land that are owned or leased by:
 - (i) the establishment; or
 - (ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) "Regularly rented" means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) "Rental" means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" means the same as that term is defined in Subsection (109).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" means the same as that term is defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(115) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or
 (B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this

state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), “tangible personal property” means personal property that:

- (i) may be:
 - (A) seen;
 - (B) weighed;
 - (C) measured;
 - (D) felt; or
 - (E) touched; or
- (ii) is in any manner perceptible to the senses.

(b) “Tangible personal property” includes:

- (i) electricity;
- (ii) water;
- (iii) gas;
- (iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) “Tangible personal property” includes the following regardless of whether the item is attached to real property:

- (i) a dishwasher;
- (ii) a dryer;
- (iii) a freezer;
- (iv) a microwave;
- (v) a refrigerator;
- (vi) a stove;
- (vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) “Tangible personal property” does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(126) (a) “Telecommunications enabling or facilitating equipment, machinery, or software”

means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(129) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

<p>(C) regardless of whether the service:</p> <p>(I) is referred to as voice over Internet protocol service; or</p> <p>(II) is classified by the Federal Communications Commission as enhanced or value added;</p> <p>(ii) an 800 service;</p> <p>(iii) a 900 service;</p> <p>(iv) a fixed wireless service;</p> <p>(v) a mobile wireless service;</p> <p>(vi) a postpaid calling service;</p> <p>(vii) a prepaid calling service;</p> <p>(viii) a prepaid wireless calling service; or</p> <p>(ix) a private communications service.</p> <p>(c) "Telecommunications service" does not include:</p> <p>(i) advertising, including directory advertising;</p> <p>(ii) an ancillary service;</p> <p>(iii) a billing and collection service provided to a third party;</p> <p>(iv) a data processing and information service if:</p> <p>(A) the data processing and information service allows data to be:</p> <p>(I) (Aa) acquired;</p> <p>(Bb) generated;</p> <p>(Cc) processed;</p> <p>(Dd) retrieved; or</p> <p>(Ee) stored; and</p> <p>(II) delivered by an electronic transmission to a purchaser; and</p> <p>(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;</p> <p>(v) installation or maintenance of the following on a customer's premises:</p> <p>(A) equipment; or</p> <p>(B) wiring;</p> <p>(vi) Internet access service;</p> <p>(vii) a paging service;</p> <p>(viii) a product transferred electronically, including:</p> <p>(A) music;</p> <p>(B) reading material;</p> <p>(C) a ring tone;</p> <p>(D) software; or</p> <p>(E) video;</p>	<p>(ix) a radio and television audio and video programming service:</p> <p>(A) regardless of the medium; and</p> <p>(B) including:</p> <p>(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;</p> <p>(II) cable service as defined in 47 U.S.C. Sec. 522(6); or</p> <p>(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;</p> <p>(x) a value-added nonvoice data service; or</p> <p>(xi) tangible personal property.</p> <p>(130) (a) "Telecommunications service provider" means a person that:</p> <p>(i) owns, controls, operates, or manages a telecommunications service; and</p> <p>(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.</p> <p>(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:</p> <p>(i) that person; or</p> <p>(ii) the telecommunications service that the person owns, controls, operates, or manages.</p> <p>(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:</p> <p>(i) an ancillary service;</p> <p>(ii) data communications;</p> <p>(iii) voice communications; or</p> <p>(iv) telecommunications service.</p> <p>(b) The following apply to Subsection (131)(a):</p> <p>(i) a bridge;</p> <p>(ii) a computer;</p> <p>(iii) a cross connect;</p> <p>(iv) a modem;</p> <p>(v) a multiplexer;</p> <p>(vi) plug in circuitry;</p> <p>(vii) a router;</p> <p>(viii) software;</p> <p>(ix) a switch; or</p> <p>(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the</p>
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commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) “Telecommunications transmission equipment, machinery, or software” means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (132)(a):
- (i) an amplifier;
 - (ii) a cable;
 - (iii) a closure;
 - (iv) a conduit;
 - (v) a controller;
 - (vi) a duplexer;
 - (vii) a filter;
 - (viii) an input device;
 - (ix) an input/output device;
 - (x) an insulator;
 - (xi) microwave machinery or equipment;
 - (xii) an oscillator;
 - (xiii) an output device;
 - (xiv) a pedestal;
 - (xv) a power converter;
 - (xvi) a power supply;
 - (xvii) a radio channel;
 - (xviii) a radio receiver;
 - (xix) a radio transmitter;
 - (xx) a repeater;
 - (xxi) software;
 - (xxii) a terminal;
 - (xxiii) a timing unit;
 - (xxiv) a transformer;
 - (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the

commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) “Textbook for a higher education course” means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
- (ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) “Textbook for a higher education course” includes a textbook in electronic format.

(134) “Tobacco” means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) “Unassisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) “Use” means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) “Use” does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) “Value-added nonvoice data service” means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(138) (a) Subject to Subsection (138)(b), “vehicle” means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
 - (ii) a vehicle as defined in Section 41-1a-102;
 - (iii) an off-highway vehicle as defined in Section 41-22-2; or
 - (iv) a vessel as defined in Section 41-1a-102.
- (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

- (i) is offered in connection with one or more telecommunications services; and
- (ii) offers an advanced calling feature that allows a customer to:
 - (A) identify a caller; and
 - (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 5. Section 59-12-103.1 is amended to read:

59-12-103.1. Action by Supreme Court of the United States authorizing or action by Congress permitting a state to require certain sellers to collect a sales or use tax -- Collection of tax by commission -- Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee study -- Division of Finance requirements to make certain deposits and to provide notice.

(1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the commission as provided in Section 59-12-107 if:

(a) the Supreme Court of the United States issues a decision authorizing a state to require the following sellers to collect a sales or use tax:

- (i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or
- (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); or

(b) Congress permits the state to require the following sellers to collect a sales or use tax:

- (i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or
- (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b).

(2) The commission shall:

(a) collect the tax described in Subsection (1) from the seller:

(i) to the extent:

(A) authorized by the Supreme Court of the United States; or

(B) permitted by Congress; and

(ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and Taxation Interim Committee; and

(b) make a report to the Revenue and Taxation Interim Committee by electronic means:

(i) regarding the actions taken by:

- (A) the Supreme Court of the United States; or
- (B) Congress; and

(ii) (A) stating the amount of state revenue collected at the time of the report, if any; and

(B) estimating the state sales and use tax rate reduction that would offset the amount of state

revenue estimated to be collected for the current fiscal year and the next fiscal year; and

(c) report to the Revenue and Taxation Interim Committee at:

(i) the Revenue and Taxation Interim Committee meeting immediately following the day on which the actions of the Supreme Court of the United States or Congress become effective; and

(ii) any other meeting of the Revenue and Taxation Interim Committee as requested by the chairs of the committee.

(3) The Revenue and Taxation Interim Committee shall after receiving the commission's reports under Subsections (2)(b) and (c):

(a) review the actions taken by:

(i) the Supreme Court of the United States; or

(ii) Congress;

(b) direct the commission regarding the day on which the commission is required to collect the tax described in Subsection (1); and

(c) make recommendations to the Legislative Management Committee:

(i) regarding whether as a result of the actions of the Supreme Court of the United States or Congress any provisions of this chapter should be amended or repealed; and

(ii) within a one-year period after the day on which the commission makes a report under Subsection (2)(c).

(4) The Division of Finance shall deposit a portion of the revenue collected under this section into the Remote Sales Restricted Account as required by Section 59-12-103.2.

(5) (a) The Division of Finance shall notify the legislative general counsel and the commission once the balance of the qualified state revenue collected from remote sellers, as that term is defined in Section 59-12-103.2, in the Remote Sales Restricted Account created in Section 59-12-103.2 has a balance of \$55,000,000.

(b) The Division of Finance shall review the balance in the Remote Sales Restricted Account at least bi-annually for purposes of providing the notice described in Subsection (5)(a).

Section 6. Section 59-12-103.2 is amended to read:

59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation -- Funding for account -- Interest -- Division of Finance accounting.

(1) As used in this section:

(a) "Qualified local revenue collected from remote sellers" means the local revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section

59-12-106 for the first time on or after the earlier of:

(i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final, unappealable decision; or

(ii) the effective date of the action by Congress described in Subsection 59-12-103.1(1)(b).

(b) "Qualified state revenue collected from remote sellers" means the state revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:

(i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final, unappealable decision; or

(ii) the effective date of the action by Congress described in Subsection 59-12-103.1(1)(b).

(2) There is created within the General Fund a restricted account known as the "Remote Sales Restricted Account."

(3) The account shall be funded by:

(a) the qualified local revenue collected from remote sellers; and

(b) the qualified state revenue collected from remote sellers.

(4) (a) The account shall earn interest.

(b) The interest described in Subsection (4)(a) shall be deposited into the account.

(5) The Division of Finance shall deposit the revenue described in Subsection (3) into the account.

(6) The Division of Finance shall separately account for:

(a) (i) the qualified local revenue collected from remote sellers; and

(ii) interest earned on the amount described in Subsection (6)(a)(i); and

(b) (i) the qualified state revenue collected from remote sellers; and

(ii) interest earned on the amount described in Subsection (6)(b)(i).

(7) (a) The revenue and interest described in Subsection (6)(a) may be used to:

(i) lower local sales and use tax rates as the Legislature may provide by statute[.]; and

(ii) fund the sales and use tax exemptions described in Section 59-12-104.8.

(b) The revenue and interest described in Subsection (6)(b) may be used to:

(i) lower state sales and use tax rates as the Legislature may provide by statute[.]; and

(ii) fund the sales and use tax exemptions described in Section 59-12-104.8.

Section 7. Section 59-12-104.5 is amended to read:

59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes.

(1) The Revenue and Taxation Interim Committee shall:

[1] (a) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program;

[2] (b) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program; and

[3] (c) on or before November 30:

[4] (i) require the Governor's Office of Economic Development to provide the report described in Section 63N-1-302(2);

[5] (ii) review for each exemption described in Subsection 59-12-104(86) and (87):

[6] (A) the cost of the exemption;

[7] (B) the purpose and effectiveness of the exemption; and

[8] (C) the extent to which the state benefits from the exemption; and

[9] (iii) make recommendations concerning whether the exemptions described in Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.

(2) Once the commission implements the sales and use tax exemption described in Subsection 59-12-104.8(1), the provisions described in Subsection (1)(c) no longer have effect.

Section 8. Section 59-12-104.8 is enacted to read:

59-12-104.8. Machinery, equipment, replacement parts, and materials exemptions.

(1) There is an exemption from the taxes imposed by this chapter for amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance

with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal.

(2) There is an exemption from the taxes imposed by this chapter for amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment.

(3) The sales and use tax exemption in Subsection (1) supersedes the sales and use tax exemptions described in Subsections 59-12-104(14), (84), (86), and (87).

Section 9. Section 59-12-106 is amended to read:

59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

(c) "fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) "fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) "license" means a license under this section; and

(f) "licensee" means a person that is licensed under this section by the commission.

(2) (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

(v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) The commission shall review an application and determine whether the applicant:

(i) meets the requirements of this section to be issued a license; and

(ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.

(e) (i) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(A) a license under this section was revoked for a delinquency under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) there is a delinquency in paying a tax under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.

(ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:

(A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or

(B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(f) (i) A bond required by Subsection (2)(e) shall be:

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; and

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) for a licensee, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; or

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; and

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.

(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:

(A) be less than \$25,000; or

(B) exceed \$500,000.

(g) If business is transacted at two or more separate places by one person, a separate license for each place of business is required.

(h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the licensee has complied with the requirements of this chapter, including:

(A) paying any:

(I) tax due under this chapter;

(II) penalty as provided in Section 59-1-401; or

(III) interest as provided in Section 59-1-402; and

(B) posting a bond in accordance with Subsections (2)(e) and (f).

(i) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

(j) A license:

(i) is not required for any person engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; and

(ii) shall be issued to the person by the commission without a license fee.

(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

(i) bearing the name and address of the purchaser; and

(ii) providing that the property, item, or service was exempted under:

(A) Section 59-12-104[-]; or

(B) Section 59-12-104.8.

(b) An exemption certificate described in Subsection (3)(a):

(i) shall contain information as prescribed by the commission; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

(ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.

(iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:

(A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;

(B) could be applicable to that transaction; and

(C) is reasonable for the purchaser's type of business.

(d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.

(e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:

(i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or

(ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.

(f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:

(A) renew an exemption certificate;

(B) update an exemption certificate; or

(C) update a data element of an exemption certificate.

(ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.

(iii) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

Section 10. Section 59-12-107 is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telecommunications service; or

(V) a means similar to Subsection (2)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a service, or a product transferred electronically for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), may voluntarily:

(A) collect a tax on a transaction described in Subsection 59-12-103(1); and

(B) remit the tax to the commission as provided in this part; or

(ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

(d) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(F) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(F) this title.

(e) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state; or

(C) consumes the tangible personal property or product transferred electronically in the state.

(f) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be collected from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in the commission's opinion, better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use

tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each calendar quarterly period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser who is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and who converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying

purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

- (i) registered under the agreement;
- (ii) described in Subsection (2)(c); and
- (iii) not a:

- (A) model 1 seller;
- (B) model 2 seller; or
- (C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(c) is due and payable:

- (A) to the commission;
- (B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(c) be due and payable:

- (A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

(c) (i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale and the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(a) the retailer represents that the personal property is purchased by the retailer for resale; and

(b) the personal property is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

(ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); ~~or~~

(II) exempt under Section 59-12-104; or

(III) exempt under Section 59-12-104.8;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

Section 11. Section 59-12-204 is amended to read:

59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenue -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.

(1) The tax ordinance adopted pursuant to this part shall impose a tax upon those transactions listed in Subsection 59-12-103(1).

(2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns located in the county:

(i) at the rate of 1% of the purchase price paid or charged; and

(ii) if the location of the transaction is within the county as determined under Sections 59-12-211 through 59-12-215.

(b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on the sales and uses described in:

(i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[.]; or

(ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8.

(3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.

(4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.

(5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.

(6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:

(a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

(b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from imposing a tax under this section on the sales and uses described in:

(i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8;

(c) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

(d) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;

(e) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales

and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and

(f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.

(7) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (7).

(b) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that city, town, or unincorporated area of a county by the total sales and use tax collected under this part for that month within the boundaries of all of the cities, towns, and unincorporated areas of the counties that impose a tax under this part.

(c) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (7)(b) for the city, town, or unincorporated area of a county; and

(ii) \$25,417.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

Section 12. Section 59-12-401 is amended to read:

59-12-401. Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

- (D) a modular home;
- (E) a manufactured home; or
- (F) a mobile home;
- (ii) the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board as defined in Section 63H-1-102 shall:

- (i) use the actual number of permanent residents within the project area as determined by the board;
- (ii) adopt a resolution verifying the population number; and
- (iii) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales

and use tax under this section if there are no permanent residents.

Section 13. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority imposition of tax.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

- (i) the sale of:
 - (A) a motor vehicle;
 - (B) an aircraft;
 - (C) a watercraft;
 - (D) a modular home;
 - (E) a manufactured home; or
 - (F) a mobile home;

(ii) the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its

collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) publish notice of the election:

(i) 15 days or more before the day on which the election is held; and

(ii) (A) in a newspaper of general circulation in the municipality; and

(B) as required in Section 45-1-101.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Section 14. Section 59-12-402.1 is amended to read:

59-12-402.1. State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.

(1) As used in this section, "new state correctional facility" means a new prison in the state:

(a) that is operated by the Department of Corrections;

(b) the construction of which begins on or after May 12, 2015; and

(c) that provides a capacity of 2,500 or more inmate beds.

(2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.

(3) For purposes of this section, the tax rate may not exceed .5%.

(4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.

(5) A city or town may not impose a tax under this section on:

(a) the sale of:

(i) a motor vehicle;

(ii) an aircraft;

(iii) a watercraft;

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home;

(b) the sales and uses described in:

(i) Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; or

(ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.

(6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(7) A city or town that imposes a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(8) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.

(9) A city or town that imposes a tax under this section is not subject to Section 59-12-405.

(10) A military installation development authority may not impose a tax under this section.

Section 15. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --

**Expenditure of revenues --
Administration -- Enactment or repeal of
tax -- Effective date -- Notice
requirements.**

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8;

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food

ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 16. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county of the third or fourth class, rural county health care facilities in that county; or

(ii) for a county of the fifth or sixth class:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (1)(b)(ii)(A) through (E).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used to fund:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county; or

(iv) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 17. Section 59-12-804 is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 18. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[.]; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each

county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) \$6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 19. Section 59-12-1302 is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as

provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period

that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

Section 20. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the

city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that

begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the

county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 21. Section 59-12-1802 is amended to read:

59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into General Fund.

(1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax, a tax shall be

imposed within the county under this section by the state:

(a) on the transactions described in Subsection 59-12-103(1);

(b) at a rate of .25%; and

(c) beginning on January 1, 2008, and ending on the day on which the county imposes a tax under Part 11, County Option Sales and Use Tax.

(2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the sales and uses described in:

(a) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[-]; or

(b) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8.

(3) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(4) Revenues collected from the sales and use tax imposed by this section, after subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the General Fund.

Section 22. Section 59-12-2003 is amended to read:

59-12-2003. Imposition -- Base -- Rate -- Revenue distributed to certain public transit districts.

(1) Subject to the other provisions of this section and except as provided in Subsection (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated area of a county of the first or second class if, on January 1, 2008, there is a public transit district within any portion of that county of the first or second class.

(2) The state may not impose a tax under this part within a county of the first or second class if within all of the cities, towns, and the unincorporated area of the county of the first or second class there is imposed a sales and use tax of:

(a) .30% under Section 59-12-2213;

(b) .30% under Section 59-12-2215; or

(c) .30% under Section 59-12-2216.

(3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a county of the first or second class is a percentage equal to the difference between:

(i) .30%; and

(ii) (A) for a city within the county of the first or second class, the highest tax rate imposed within that city under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216;

(B) for a town within the county of the first or second class, the highest tax rate imposed within that town under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216; or

(C) for the unincorporated area of the county of the first or second class, the highest tax rate imposed within that unincorporated area under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216.

(b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of a county of the first or second class, the highest tax rate imposed under Section 59-12-2213, 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the first or second class is .30%, the state may not impose a tax under this part within that city, town, or unincorporated area.

(4) (a) The state may not impose a tax under this part on:

(i) (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) the sales and uses described in Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; or

(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food ingredients.

(b) The state shall impose a tax under this part on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and ingredients and tangible personal property other than food and food ingredients.

(5) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(6) The commission shall distribute the revenues the state collects from the sales and use tax under this part, after subtracting amounts a seller retains in accordance with Section 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

(a) within which the state imposes a tax under this part; and

(b) in proportion to the revenues collected from the sales and use tax under this part within each

city, town, and unincorporated area within which the state imposes a tax under this part.

Section 23. Section 59-12-2103 is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

- (i) described in Subsection 59-12-103(1); and
- (ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

- (i) the sales and uses described in:

(A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit revenue collected within a city or town from a tax under this part:

- (a) to the city or town legislative body;
- (b) monthly; and
- (c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

- (i) the same procedures used to administer, collect, and enforce the tax under:
 - (A) Part 1, Tax Collection; or
 - (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

- (A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;
- (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
- (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins

on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 24. Section 59-12-2204 is amended to read:

59-12-2204. Transactions that may not be subject to taxation under this part -- Exception for food and food ingredients sold as part of a bundled transaction.

(1) A county, city, or town may not impose a sales and use tax under this part on:

(a) the sales and uses described in:

(i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(b) except as provided in Subsection (2), amounts paid or charged for food and food ingredients.

(2) A county, city, or town imposing a sales and use tax under this part shall impose the sales and use tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

Section 25. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) If Subsection 10-1-405(1)(a)(ii)(A)(VI) is not in effect by December 31, 2028, Subsection 10-1-405(1)(a)(ii)(A)(VI) is repealed on December 31, 2028.

~~[(1)]~~ (2) On July 1, 2018, the following are repealed:

(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";

(b) in Subsection 10-2-403(5)(b), the language that states “10-2a-302 or”;

(c) in Subsection 10-2a-106(2), the language that states “10-2a-302 or”;

(d) Section 10-2a-302;

(e) Subsection 10-2a-302.5(2)(a);

(f) in Subsection 10-2a-303(1), the language that states “10-2a-302 or”;

(g) in Subsection 10-2a-303(4), the language that states “10-2a-302(7)(b)(v) or” and “10-2a-302(7)(b)(iv) or”;

(h) in Subsection 10-2a-304(1)(a), the language that states “10-2a-302 or”; and

(i) in Subsection 10-2a-304(1)(a)(ii), the language that states “Subsection 10-2a-302(5) or”.

[~~2~~] (3) Subsection 10-9a-304(2) is repealed June 1, 2020.

[~~3~~] (4) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

Section 26. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) Subsection 59-2-1007(14) is repealed on December 31, 2018.

(2) If Section 59-12-104.8 is not in effect by December 31, 2028, Subsection 59-12-103.1(5) is repealed on December 31, 2028.

(3) If Subsection 59-12-104.5(2) is not in effect by December 31, 2028, Subsection 59-12-104.5(2) is repealed on December 31, 2028.

(4) If Section 59-12-104.8 is not in effect by December 31, 2028, Section 59-12-104.8 is repealed on December 31, 2028.

(5) If Subsection 59-12-106(3)(a)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-106(3)(a)(ii)(B) is repealed on December 31, 2028.

(6) If Subsection 59-12-107(10)(a)(ii)(A)(III) is not in effect by December 31, 2028, Subsection 59-12-107(10)(a)(ii)(A)(III) is repealed on December 31, 2028.

(7) If Subsection 59-12-204(2)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-204(2)(b)(ii) is repealed on December 31, 2028.

(8) If Subsection 59-12-204(6)(b)(ii) is not in effect by December 31, 2028, Subsection

59-12-204(6)(b)(ii) is repealed on December 31, 2028.

(9) If Subsection 59-12-401(1)(b)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-401(1)(b)(ii)(B) is repealed on December 31, 2028.

(10) If Subsection 59-12-402(1)(b)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-402(1)(b)(ii)(B) is repealed on December 31, 2028.

(11) If Subsection 59-12-402.1(5)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-402.1(5)(b)(ii) is repealed on December 31, 2028.

(12) If Subsection 59-12-703(1)(c)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-703(1)(c)(i)(B) is repealed on December 31, 2028.

(13) If Subsection 59-12-802(1)(c)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-802(1)(c)(i)(B) is repealed on December 31, 2028.

(14) If Subsection 59-12-804(1)(b)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-804(1)(b)(i)(B) is repealed on December 31, 2028.

(15) If Subsection 59-12-1102(1)(a)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-1102(1)(a)(ii)(B) is repealed on December 31, 2028.

(16) If Subsection 59-12-1302(4)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-1302(4)(a)(i)(B) is repealed on December 31, 2028.

(17) If Subsection 59-12-1402(1)(c)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-1402(1)(c)(ii)(B) is repealed on December 31, 2028.

(18) If Subsection 59-12-1802(2)(b) is not in effect by December 31, 2028, Subsection 59-12-1802(2)(b) is repealed on December 31, 2028.

(19) If Subsection 59-12-2003(4)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-2003(4)(a)(i)(B) is repealed on December 31, 2028.

(20) If Subsection 59-12-2103(2)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-2103(2)(a)(i)(B) is repealed on December 31, 2028.

(21) If Subsection 59-12-2204(1)(a)(ii) is not in effect by December 31, 2028, Subsection 59-12-2204(1)(a)(ii) is repealed on December 31, 2028.

Section 27. Repealer.

This bill repeals:

Section 59-12-104.7, Reporting by purchaser of certain sales and use tax exempt purchases.

Section 63N-1-302, Reporting of certain sales and use tax exempt purchases.

Section 28. Contingent effective date and effective date.

(1) Except as provided in Subsection (2), this bill takes effect on the first day of the calendar quarter after a 90-day period that begins on the day the legislative general counsel notifies the Legislative Management Committee that the Division of Finance has provided the notice required by Subsection 59-12-103.1(5).

(2) The amendments to Sections 59-12-102, 59-12-103.1, 63I-2-210, and 63I-2-259 take effect on July 1, 2018.

CHAPTER 473**H. B. 198**

Passed March 7, 2018

Vetoed March 27, 2018

(Veto override April 18, 2018)

Effective May 8, 2018

**ATTORNEY GENERAL
RESPONSIBILITY AMENDMENTS**

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill addresses the attorney general's constitutional duty to provide advice and representation.

Highlighted Provisions:

This bill:

- ▶ amends the time in which the attorney general must respond to a legislative request for the attorney general's opinion;
- ▶ requires the attorney general to comply in good faith with the duty to provide the required opinion;
- ▶ allows the Legislature to petition the Utah Supreme Court for an extraordinary writ to obtain the required opinion if the attorney general does not provide the opinion;
- ▶ requires the attorney general to eliminate potential conflicts of interest through confidentiality and screening procedures;
- ▶ clarifies the attorney general's relationship with potentially adverse clients; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5-1, as last amended by Laws of Utah 2017, Chapters 295 and 387

ENACTS:

67-5-1.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5-1 is amended to read:**67-5-1. General duties.**

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take

charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(a) in accordance with Section 67-5-1.1, to the Legislature or either house [and];

(b) to any state officer, board, or commission[;]; and

(c) to any county attorney or district attorney[; when required, upon any question of law relating to their respective offices];

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the

redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes the status and progress of any lawsuits that challenge the constitutionality of state law that were pending at the time the attorney general submitted the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered; or

(iii) judgments issued; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee; and

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website.

Section 2. Section 67-5-1.1 is enacted to read:

67-5-1.1. Written opinion to the Legislature -- Rebuttable presumption.

(1) When the Legislature or either house requests the attorney general's written legal opinion in accordance with Subsection 67-5-1(7):

(a) the attorney general shall, applying concepts from the Rules of Professional Conduct contained in the Supreme Court Rules of Professional Practice, identify any potential conflicts of interest in providing the attorney general's legal opinion to the Legislature;

(b) if the attorney general identifies a potential conflict of interest under Subsection (1)(a), the

attorney general shall, as soon as practicable after the identification:

(i) ensure that the attorney general's office provides each entity or individual involved in the potential conflict competent, privileged, and objective advice or representation by establishing:

(A) confidentiality procedures; and

(B) staffing divisions or other structural or administrative safeguards to screen attorneys participating in the preparation of the attorney general's opinion from participation on behalf of any other entity or individual involved in the potential conflict; and

(ii) provide written notice to each entity or individual involved in the potential conflict that describes the screening procedures that the attorney general establishes; and

(c) after complying with Subsections (1)(a) and (b), the attorney general shall provide the attorney general's opinion:

(i) within 30 days after the day on which the requester makes the request for the opinion; or

(ii) by a date upon which the attorney general and the requester agree.

(2) There is a presumption that:

(a) the attorney general's reasonable compliance with Subsections (1)(a) and (b) satisfies any ethical or professional obligation arising from the potential conflict of interest; and

(b) with adequate screening safeguards and procedures in place, the attorney general has an attorney-client relationship with each entity or individual involved in the potential conflict of interest.

(3) (a) The attorney general shall comply in good faith with the requirement to provide the opinion in accordance with Subsection 67-5-1(7) and this section.

(b) The attorney general may not invoke the potential conflict of interest or attorney-client privilege as grounds to withhold or refuse to provide the legal opinion required in Subsection 67-5-1(7) and this section.

(c) The Legislature or either house may petition the Utah Supreme Court for an extraordinary writ to obtain the legal opinion if the attorney general does not provide the opinion within the time period described in Subsection (1)(c).

CHAPTER 474**S. B. 171**

Passed March 7, 2018

Vetoed March 27, 2018

(Veto override April 18, 2018)

Effective May 8, 2018

INTERVENTION AMENDMENTS

Chief Sponsor: J. Stuart Adams

House Sponsor: Merrill F. Nelson

LONG TITLE**General Description:**

This bill provides the circumstances as to when the Legislature may intervene in litigation.

Highlighted Provisions:

This bill:

- ▶ provides that the Legislature may intervene as a matter of right in litigation under certain circumstances;
- ▶ addresses federal cases;
- ▶ requires the attorney general to provide notice to the legislative general counsel; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-7, as last amended by Laws of Utah 2009, Chapter 107

67-5-1, as last amended by Laws of Utah 2017, Chapters 295 and 387

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-7 is amended to read:**36-12-7. Legislative Management Committee -- Duties -- Litigation.**

(1) The Senate or House Management Committee shall:

(a) receive legislative resolutions directing studies on legislative matters and may assign these studies to the appropriate interim committee of its house;

(b) assign to interim committees of the same house, matters of legislative study not specifically contained in a legislative resolution but considered significant to the welfare of the state;

(c) receive requests from interim committees of its house for matters to be included on the study agenda of the requesting committee. Appropriate bases for denying a study include inadequate funding to properly complete the study or duplication of the work;

(d) establish a budget account for interim committee day as designated by Legislative Management Committee and for all other

legislative committees of its house and allocate to that account sufficient funds to adequately provide for the work of the committee; and

(e) designate the time and place for periodic meetings of the interim committees.

(2) To maximize the use of legislators' available time, the Senate and House Management Committees should attempt to schedule the committee meetings of their respective houses during the same one or two-day period each month. This does not preclude an interim committee from meeting at any time it determines necessary to complete its business.

(3) The Legislative Management Committee shall:

(a) employ, after recommendation of the appropriate subcommittee of the Legislative Management Committee, without regard to political affiliation, and subject to approval of a majority vote of both houses, persons qualified for the positions of director of the Office of Legislative Research and General Counsel, legislative fiscal analyst, legislative general counsel, and legislative auditor general. Appointments to these positions shall be for terms of six years subject to renewal under the same procedure as the original appointment. A person may be removed from any of these offices ~~prior to~~ before the expiration of [his] the person's term only by a majority vote of both houses of the Legislature or by a [2/3] two-thirds vote of the management committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. ~~In the event~~ If a vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy until such time as the person is approved or rejected by majority vote of the next session of the Legislature;

(b) develop policies for personnel management, compensation, and training of all professional legislative staff;

(c) develop a policy within the limits of legislative appropriation for the authorization and payment to legislators of compensation and travel expenses, including out-of-state travel;

(d) approve special study budget requests of the legislative directors; and

(e) assist the speaker-elect of the House of Representatives and the president-elect of the Senate, upon selection by their majority party caucus, to organize their respective houses of the Legislature and assume the direction of the operation of the Legislature in the forthcoming annual general session.

(4) (a) The Legislature delegates to the Legislative Management Committee the authority, by means of a majority vote of the committee, to direct the legislative general counsel in matters involving the Legislature's participation in litigation.

(b) The Legislature has an unconditional right to intervene in a state court action and may provide evidence or argument, written or oral, if a party to that court action challenges:

- (i) the constitutionality of a state statute;
- (ii) the validity of legislation; or
- (iii) any action of the Legislature.

(c) In a federal court action that challenges the constitutionality of a state statute, the validity of legislation, or any action of the Legislature, the Legislature may seek to intervene, to file an amicus brief, or to present argument in accordance with federal rules of procedure.

(d) Intervention by the Legislature pursuant to Subsection (4)(b) or (c) does not limit the duty of the attorney general to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided by law.

(e) In any action in which the Legislature intervenes or participates, legislative counsel and the attorney general shall function independently from each other in the representation of their respective clients.

(f) The attorney general shall notify the legislative general counsel of a claim in accordance with Subsection 67-5-1(24).

Section 2. Section 67-5-1 is amended to read:

67-5-1. General duties.

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated

or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes the status and progress of any lawsuits that challenge the constitutionality of state law that were pending at the time the attorney general submitted the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered; or

(iii) judgments issued; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee; ~~and~~

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website[-]; and

(24) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(a) the constitutionality of a state statute;

(b) the validity of legislation; or

(c) any action of the Legislature.

**VETO LETTERS FROM THE GOVERNOR
OVERRIDDEN BY THE LEGISLATURE
IN A VETO OVERRIDE SESSION
APRIL 18, 2018**

H.B. 198 was vetoed by the Governor on March 27, 2018. See Chapter 473 for the complete text of H.B. 198.

S.B. 171 was vetoed by the Governor on March 27, 2018. See Chapter 474 for the complete text of S.B. 171.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 27, 2018

Honorable Gregory H. Hughes
Speaker of the House
and
Honorable Wayne L. Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

I have vetoed HB 198, Attorney General Responsibility Amendments because it poses a significant threat to the ability of the Executive Branch to receive legal counsel from the Attorney General and because it interferes with the Office of the Attorney General's (OAG) responsibilities to determine for itself whether legal conflicts of interest exist.

Pursuant to the Utah Constitution, the Attorney General is the "legal adviser of the State officers." Art. VII, Section 16. The Utah Supreme Court declared in *Hansen v. Utah Retirement Board*, 652 P.2d 1332 (1982), that "State officers" means only the executive officers mentioned in Article VII of the Utah Constitution and their respective departments. Notably, the Attorney General has no constitutional duty to provide legal counsel to the Legislature. Instead, the Utah Constitution authorizes the Legislature to appoint its own legal counsel. Art. VI, Section 32(2).

Under that authority, the Legislature has established the Office of Legislative Research and General Counsel, which consists of about two dozen attorneys who serve the Legislative Branch—including by preparing legal opinions. The Attorney General's constitutional mandate to be the legal adviser of the Executive cannot be limited by statute, nor can the attorney-client relationship between the Attorney General and the State officers be limited or defined by statute. HB 198 attempts to do just that by stating "[t]he attorney general may not invoke the potential conflict of interest or attorney-client privilege as grounds to withhold or refuse to provide the legal opinion required in Subsection 67-5-1(7) and this section."

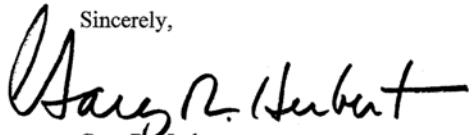
Like all attorneys, the OAG has professional responsibilities to carefully evaluate representation of clients to ensure that conflicts of interest do not exist and that its actions will not harm an existing client. Evaluation of those issues is governed by the Rules of Professional Conduct. Specifically, evaluation of whether the OAG may provide an opinion to the Legislature on a matter affecting the OAG's relationship with an Executive officer or department is governed by Rule 2.3 of the Rules of Professional Conduct.

Under that rule's guidance, the OAG may do so only if it determines that providing the opinion is compatible with its representation of the Executive officer or department. If the OAG concludes that providing an opinion to the Legislature "is likely to affect the [Executive officer's] interests materially and adversely, the [AOG] shall not provide the [opinion] unless the [Executive officer] gives informed consent." Rule 2.3(b). The Legislature may not change this requirement by statute.

HB 198 inappropriately interferes with the OAG's ability to analyze under Rules of Professional Conduct whether it can provide an opinion to the Legislature. If the OAG concludes that providing a certain opinion to the Legislature will materially and adversely affect the interests of the Executive, the OAG must decline to issue the opinion unless the Executive consents. By imposing a rule of decision contrary to Rule 2.3, HB 198 provides a second standard, one that differs from that articulated by the Utah Supreme Court which has constitutional authority to govern the practice of law.

For these reasons, I have vetoed HB 198.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Gary R. Herbert
Governor



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 27, 2018

Honorable Wayne L. Niederhauser
President of the Senate
and
Honorable Gregory H. Hughes
Speaker of the House

Dear President Niederhauser and Speaker Hughes,

I have vetoed SB 171, Intervention Amendments because it intrudes on a function that is inherently and exclusively in the domain of the Executive Branch. When plaintiffs challenge the constitutionality of a state statute they have judicial standing because they can demonstrate a real or potential harm caused by the *execution of the law*. In defending these suits, the Office of the Attorney General (OAG) is not only defending the statute itself but current or future execution of the statute. That is why the defendant is the Governor or another Executive officer. Defending these legal challenges is inherently part of the Executive's role of executing the law.

Intervention by the Legislature would only disrupt judicial proceedings. Presumably, the Legislature would intervene because it disagrees with the approach taken by the OAG. Differing positions of the Legislature and the OAG would unnecessarily complicate the proceedings and interfere with the ability of the OAG to pursue legal strategies and to present the state's case.

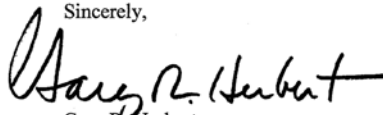
Some have suggested that an additional review of a case by the Legislature cannot hurt anything and serves only to strengthen the state's position. This is contrary to fundamental notions of separation of powers. The Utah Constitution's explicit separation of powers clause means that even if one branch believes that "two eyes are better than one" that branch still cannot exercise the functions belonging to another branch. Additionally, the Legislature may not exercise Executive authority even when the Legislature believes the Executive is not performing its role properly.

Others have suggested that intervention by the Legislature will not hurt the Executive because the Legislature would present its case in a way that does not detract from the Executive's case. They have argued that SB 171 simply provides an additional track for a state actor to present arguments to the court. This argument is akin to the Governor filing his own bills, under his own name during a legislative session. It would not impede the ability of the Legislature to file bills; it would simply provide another track.

Additionally, SB 171 is worded so broadly that the Legislature would be able to intervene in thousands of cases. Many legislators have provided assurances that this bill would rarely be used. However, the Legislature appropriated \$700,000 to implement SB 171, suggesting that the Legislature sees enough work for three attorneys, a paralegal, and a legal secretary.

I look forward to further dialogue about how the Executive Branch may properly seek input from the Legislature in defending the type of challenges at issue in SB 171.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Herbert". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary R. Herbert
Governor

**LEGISLATION, LAW WITHOUT
SIGNATURE, AND LINE ITEMS VETOED
BY THE GOVERNOR**

H.B. 475 became a law without the Governor's signature. See Chapter 469 for complete text

S.B. 25 became a law without the Governor's signature. See Chapter 470 for complete text.

The Governor vetoed line items in H.B. 3. See Chapter 463 for complete text.

H. B. 322

Passed March 8, 2018

Vetoed March 20, 2018

**NON-EMERGENCY PATIENT
TRANSPORTATION SAFETY
AMENDMENTS**

Chief Sponsor: Edward H. Redd
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Utah Emergency Medical Services System Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a new category for designation as an emergency medical service provider;
- ▶ adds to the list of individuals who must be transported by a licensed ambulance;
- ▶ allows an emergency medical services provider to decline or delay a request for non-emergency transportation under certain circumstances that would endanger the patient or the provider; and
- ▶ requires a hospital to hold a bed for a patient whose transportation is delayed or declined under the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-8a-102, as last amended by Laws of Utah 2017, Chapter 326

26-8a-303, as enacted by Laws of Utah 1999, Chapter 141

26-8a-305, as enacted by Laws of Utah 1999, Chapter 141

ENACTS:

26-8a-602, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(5) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(6) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or his designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(7) "Emergency medical service personnel":

(a) means an individual who provides emergency medical services to a patient and is required to be licensed under Section 26-8a-302; and

(b) includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, and other categories established by the committee.

(8) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Section 26-8a-303; and

(c) emergency medical service personnel.

(9) “Emergency medical services” means medical services, transportation services, or both rendered to a patient.

(10) “Emergency medical service vehicle” means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(11) “Governing body”:

(a) is as defined in Section 11-42-102; and

(b) for purposes of a “special service district” under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district’s legislative body or administrative control board.

(12) “Interested party” means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(13) “Interfacility transport” means any transfer, after initial assessment and stabilization, due to a mental or physical condition, when the originating and destination sites are:

(a) a general acute hospital, as defined in Section 26-21-2;

(b) an emergency patient receiving facility; or

(c) a mental health facility, as defined in Section 62A-15-602.

~~(13)~~ (14) “Medical control” means a person who provides medical supervision to an emergency medical service provider.

~~(14)~~ (15) “Non-911 service” means transport of a patient that is not 911 transport under Subsection (1).

~~(15)~~ (16) “Paramedic provider” means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

~~(16)~~ (17) “Patient” means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

~~(17)~~ (18) “Political subdivision” means:

(a) a city or town located in a county of the first or second class as defined in Section 17-50-501;

(b) a county of the first or second class;

(c) the following districts located in a county of the first or second class:

(i) a special service district created under Title 17D, Chapter 1, Special Service District Act; or

(ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);

(e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or

(f) a special service district for fire protection service under Subsection 17D-1-201(9).

~~(18)~~ (19) “Trauma” means an injury requiring immediate medical or surgical intervention.

~~(19)~~ (20) “Trauma system” means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

~~(20)~~ (21) “Triage” means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

~~(21)~~ (22) “Triage, treatment, transportation, and transfer guidelines” means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 2. Section 26-8a-303 is amended to read:

26-8a-303. Designation of emergency and non-emergency medical service providers.

(1) To ensure quality emergency medical services, the committee shall establish designation requirements for emergency medical service providers in the following categories:

(a) quick response provider;

(b) resource hospital for emergency medical providers;

(c) emergency medical service dispatch center;

(d) emergency patient receiving facilities; and

(e) other types of emergency medical service providers as the committee considers necessary.

(2) The department shall, based on the requirements in Subsection (1), issue designations to emergency medical service providers listed in Subsection (1).

(3) (a) The department, in collaboration with the committee, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) in addition to the categories in Subsection (1), establish designation requirements for non-emergency secure medical transport providers; and

(ii) define the types of patients who may be transported by a non-emergency secure medical transport provider designated under Subsection (3)(a)(i).

(b) The department shall consider cost and quality when making rules under Subsection (3)(a).

(c) A non-emergency secure medical transport provider may not transport an individual for whom transportation is required by ambulance under Section 26-8a-305.

[3] (4) As provided in Section 26-8a-502, an entity issued a designation under Subsection (1) or (2) may only function and hold itself out in accordance with its designation.

Section 3. Section 26-8a-305 is amended to read:

26-8a-305. Ambulance license required for emergency medical transport.

(1) Except as provided in Section 26-8a-308, only an ambulance operating under a permit issued under Section 26-8a-304 may transport an individual who:

[1] (a) is in an emergency medical condition;

[2] (b) is medically or mentally unstable, requiring direct medical observation during transport;

[3] (c) is physically incapacitated because of illness or injury and in need of immediate transport by emergency medical service personnel;

[4] (d) is likely to require medical attention during transport;

[5] (e) is being maintained on any type of emergency medical electronic monitoring;

[6] (f) is receiving or has recently received medications that could cause a sudden change in medical condition that might require emergency medical services;

[7] (g) requires IV administration or maintenance, oxygen that is not patient-operated, or other emergency medical services during transport;

[8] (h) needs to be immobilized during transport to a hospital, an emergency patient receiving

facility, or mental health facility due to a mental or physical condition, unless the individual is in the custody of a peace officer and the primary purpose of the restraint is to prevent escape;

[9] (i) needs to be immobilized due to a fracture, possible fracture, or other medical condition; or

[10] (j) otherwise requires or has the potential to require a level of medical care that the committee establishes as requiring direct medical observation.

(2) If the department designates one or more non-emergency secure medical transport providers under Section 26-8a-303(3), and except as provided in Section 26-8a-308, then only an ambulance operating under a permit issued under Section 26-8a-304 may perform an interfacility transport.

Section 4. Section 26-8a-602 is enacted to read:

26-8a-602. Interfacility transportation of basic life support patients.

(1) As used in this section:

(a) "Basic life support patient" means a patient admitted into a hospital emergency room, medical unit, or other hospital unit that:

(i) has stable vital signs;

(ii) does not have an IV in place;

(iii) has no advanced life support medications that will be required for monitoring or administering during transport; and

(iv) does not require and is not anticipated to require chemical or physical restraints.

(b) "Provider" means a ground ambulance or paramedic licensed under this chapter.

(2) A provider may refuse or delay a request for interfacility transportation if:

(a) the request is for the transportation of a basic life support patient;

(b) the request is made between the hours of 12:00 a.m. and 6:00 a.m.;

(c) the request does not create an unreasonable burden on the originating site;

(d) the patient is 18 years old or older; and

(e) (i) the request is for a route that, at the time of the request, would require more than 55 miles of driving, as calculated from the patient's originating site to the patient's destination site;

(ii) staffing levels or availability of equipment at the time of a request are below the levels established by the department under Subsection (3); or

(iii) there are hazardous weather conditions, as defined by the department under Subsection (3).

(3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish, based on the cost, quality, and access goals established under Subsection

26-8a-408(7), a level of staffing or equipment availability necessary to support the needs and expectations of a political subdivision's 911 ambulance or paramedic services between the hours of 12:00 a.m. and 6:00 a.m.; and

(b) define hazardous weather conditions under which the interfacility transportation of a non-emergent basic life support patient would result in substantial risk to the patient and the provider.

(4) (a) Notwithstanding the requirements in Subsections 26-8a-402(5)(c) and (6)(c), a provider outside of the exclusive geographic service area may respond to a request for the interfacility transportation of a basic life support patient if the provider that is licensed in the exclusive geographic service area:

(i) delays or declines a request under Subsection (2); and

(ii) requests assistance under a mutual aid agreement.

(b) A request under Subsection (4)(a)(ii) qualifies as a time of unusual demand under Subsection 26-8a-402(4)(a).

(5) If a provider refuses or delays a request under Subsection (2), the receiving health care provider shall honor an affirmative request from the originating health care provider to hold a bed for a patient whose transportation was refused or delayed from the time of the notification until the earlier of:

(a) a notification from the originating health care provider to the receiving health care provider that the bed is no longer needed; or

(b) 6:00 a.m. after the initial notification is given, plus a reasonable amount of time for transportation from the originating site to the receiving site.

(6) If a health care provider makes a request to hold a bed under Subsection (5), the originating health care provider shall provide regular updates to the receiving health care provider on the status of the delayed transportation.

(7) Nothing in this section requires a provider to:

(a) delay or decline transportation under Subsection (2); or

(b) render assistance under a mutual aid agreement under Subsection (4).

Section 5. Effective date.

This bill takes effect on November 30, 2018.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 20, 2018

Honorable Gregory H. Hughes
Speaker of the House
and
Honorable Wayne L. Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser:

Although I understand the important policies addressed by HB 322, Non-Emergency Patient Transportation Safety Amendments, I have vetoed it at the request of Representative Ed Redd, the bill's chief sponsor.

On the last day of the General Session, the Legislature passed an amendment that inadvertently omitted 10 words. The omission of the following phrase: "or a non-emergency secure medical transport designated by the department," will actually eliminate the ability of current providers to make such transports, and will greatly increase costs associated with non-emergency facility-to-facility patient transports.

Because of the significance of these unintended consequences, I have vetoed the bill and look forward to working with the sponsor and members of the Legislature to address the underlying policies in a future special session or general session of the Legislature.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 27, 2018

Honorable Gregory H. Hughes
Speaker of the House
and
Honorable Wayne L. Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

I am allowing HB 475, Dedicated Credits and Nonlapsing Authority Revisions to become law without signature. I chose to allow the bill to become law because I recognize the important policy changes regarding nonlapsing funds, dedicated credits, and budget oversight. I did not sign the bill because of my concerns about the definition of "item of appropriation" in lines 588 through 598.

While I am willing to allow the definition of "item of appropriation" to become law as used in Title 63J, Chapter 1 of the Utah Code, I emphasize that this definition does not apply to "item of appropriation" as used in the Utah Constitution. My interpretation of the governor's authority to veto "any item of appropriation contained in any bill while approving other portions of the bill" is not limited by HB 475 (Utah Constitution, Art. VII, Section 4).

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 27, 2018

Honorable Wayne L. Niederhauser
President of the Senate
and
Honorable Gregory H. Hughes
Speaker of the House

Dear President Niederhauser and Speaker Hughes,

I will allow SB 25, Divorce Process Amendment to become law without my signature.

Stable marriage provides immeasurable benefits to society, especially to children. Conversely, family dissolution is incredibly costly to society, especially to children. Helping to keep families intact is good public policy because it reduces reliance on social services.

The academic literature on parental divorce shows that a substantial number of parents who have filed for divorce are still open to reconciliation. I believe that our current 90-day waiting period provides a reasonable period for individuals to reconsider their decision. And because our current policy allows exceptions to the 90-day waiting period where there is abuse or other extenuating circumstances, I see no need to hasten family dissolution.

If our reasonable waiting period can help even a few families with low levels of conflict to reconcile, I think it strikes an appropriate balance with the desire of adults to pursue their individual self-fulfillment by ending their marriage. Because I do not believe it is prudent to shorten the waiting period for dissolving marriages, I am not comfortable attaching my name to this bill as it goes into law.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

March 27, 2018

Honorable Gregory H. Hughes
Speaker of the House
and
Honorable Wayne L. Niederhauser
President of the Senate

Dear Speaker Hughes and President Niederhauser,

This letter serves to inform you that on March 27, 2018, I signed HB 3, Appropriations Adjustments with the following vetoes.

- Item 18, lines 175-180. This was an appropriation for a bill that did not pass.
- Item 98, lines 787-792. This was an appropriation for a bill that did not pass.
- Item 102, lines 815-821. This was an appropriation for a bill that did not pass.
- Item 178, lines 1370-1377. This was an appropriation for a bill that did not pass.
- Item 181, lines 1391-1398. This was an appropriation for a bill that did not pass.
- Item 268, lines 2051-2056. This was an appropriation for a bill that did not pass.
- Item 280, lines 2129-2134. This was an appropriation for a bill that did not pass.
- Item 291, lines 2200-2206. This was an appropriation for a bill that did not pass.
- Item 295, lines 2229-2235. This was an appropriation for a bill I vetoed.
- Item 300, lines 2257-2262. This was an appropriation for a bill that did not pass.

Sincerely,

Gary R. Herbert
Governor

Resolutions

passed at the
General Session
of the
Sixty-Second Legislature
2018

H.C.R. 2

Passed March 1, 2018
 Approved March 23, 2018
 Effective March 23, 2018

**CONCURRENT RESOLUTION
 ENCOURAGING CONGRESS TO
 PROPOSE AN AMENDMENT TO THE
 CONSTITUTION OF THE UNITED STATES**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the governor petitions the Congress of the United States to propose an amendment to the United States Constitution, for submission to the states for ratification, to provide that the legislature of any state may empower the executive of the state to make temporary appointments to fill a vacancy in the United States House of Representatives for that state until the people fill the vacancy by election as the legislature may direct.

Highlighted Provisions:

This resolution:

- ▶ recognizes that the United States Constitution, by not permitting a temporary appointment to fill a vacancy in the United States House of Representatives, leaves a state without its full representation in Congress until the vacancy can be filled by a special election;
- ▶ recognizes that the United States Constitution provides that, for a vacancy in the Senate, a state legislature “may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct”; and
- ▶ petitions the Congress of the United States to propose an amendment to the United States Constitution, for submission to the states for ratification, to provide that the legislature of any state may empower the executive of the state to make temporary appointments to fill a vacancy in the United States House of Representatives for that state until the people fill the vacancy by election as the legislature may direct.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, United States Constitution, Article I, Section 2, Clause 4, provides that “When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such vacancies”;

WHEREAS, in 1913, the Seventeenth Amendment to the United States Constitution was ratified, providing for the popular election of senators and providing that, for a Senate vacancy, “the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct”;

WHEREAS, the United States Constitution does not provide for a temporary appointment to fill a vacancy in the United States House of Representatives;

WHEREAS, when a vacancy occurs in the United States House of Representatives, the state represented by the person who vacated the office is left without representation in that office until a special election is held to fill the vacancy; and

WHEREAS, United States Constitution, Article V, provides, in part, that “Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . . which . . . shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States . . .”;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby petitions the Congress of the United States to propose an amendment to the Constitution of the United States, for submission to the states for ratification, to provide that the legislature of any state may empower the executive of the state to make temporary appointments to fill a vacancy in the United States House of Representatives for that state until the people fill the vacancy by election as the legislature may direct.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, members of Utah’s congressional delegation, and the state legislatures of each state, requesting their cooperation.

H.C.R. 3

Passed February 2, 2018
 Approved March 23, 2018
 Effective March 23, 2018

**CONCURRENT RESOLUTION
 RECOGNIZING THE UNIVERSITY OF
 UTAH’S JOHN R. PARK DEBATE SOCIETY**

Chief Sponsor: Paul Ray
 Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This concurrent resolution recognizes the exemplary accomplishments of the University of Utah’s John R. Park Debate Society.

Highlighted Provisions:

This resolution:

- ▶ recognizes the benefits of speech and debate education for college students; and
- ▶ recognizes the exemplary accomplishments of the University of Utah’s John R. Park Debate Society, including receiving the 2016–17 season–long national championship awarded by the National Parliamentary Debate Association.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, speech and debate education helps college students develop important skills in communication, critical thinking, creativity, and collaboration through the practice of public speaking;

WHEREAS, participants in speech and debate learn not only to analyze and express complex ideas effectively, but also to listen, concur, question, or dissent with reason and compassion;

WHEREAS, the skills learned through speech and debate serve students well throughout their lives;

WHEREAS, the University of Utah's John R. Park Debate Society was founded in 1869 and welcomes University of Utah undergraduate students from any major and any year to participate in activities;

WHEREAS, the University of Utah's John R. Park Debate Society finished in sixth place overall, and first among participating PAC-12 institutions at the National Parliamentary Debate Association National Championship Tournament; and

WHEREAS, the University of Utah's John R. Park Debate Society earned the 2016-17 season-long national championship awarded by the National Parliamentary Debate Association:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the exemplary accomplishments of the University of Utah's John R. Park Debate Society.

H.C.R. 5

Passed February 15, 2018

Approved March 23, 2018

Effective March 23, 2018

**CONCURRENT RESOLUTION
HONORING THOMAS S. MONSON**

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Ralph Okerlund

Cosponsors: Cheryl K. Acton

Carl R. Albrecht

Patrice M. Arent

Stewart E. Barlow

Joel K. Briscoe

Walt Brooks

Scott H. Chew

LaVar Christensen

Kay J. Christofferson

Kim F. Coleman

Bruce R. Cutler

Brad M. Daw

Susan Duckworth

Rebecca P. Edwards

Gage Froerer

Francis D. Gibson

Brian M. Greene

Keith Grover

Craig Hall
Timothy D. Hawkes
Sandra Hollins
Gregory H. Hughes
Eric K. Hutchings
Brian S. King
John Knotwell
Karen Kwan
Bradley G. Last
A. Cory Maloy
Daniel McCay
Michael K. McKell
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Michael E. Noel
Derrin R. Owens
Lee B. Perry
Jeremy A. Peterson
Val L. Peterson
Dixon M. Pitcher
Val K. Potter
Marie H. Poulson
Susan Pulsipher
Tim Quinn
Paul Ray
Edward H. Redd
Marc K. Roberts
Adam Robertson
Angela Romero
Scott D. Sandall
V. Lowry Snow
Robert M. Spendlove
Raymond P. Ward
Christine F. Watkins
John R. Westwood
Mark A. Wheatley
Brad R. Wilson
Mike Winder
Travis M. Seegmiller
Norman K. Thurston

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors the life and service of Thomas S. Monson, 16th President of The Church of Jesus Christ of Latter-day Saints.

Highlighted Provisions:

This resolution:

- ▶ recognizes Thomas S. Monson, 16th President of The Church of Jesus Christ of Latter-day Saints, for his exemplary life of leadership and service; and
- ▶ expresses sympathy for his loss and gratitude for President Monson's service.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Thomas Spencer Monson, 16th President of The Church of Jesus Christ of Latter-day Saints and one of the most prominent public figures in the state of Utah over the past 50 years died January 2, 2018, at 90 years of age;

WHEREAS, President Monson's significant influence in the state of Utah and abroad through his decades-long service for The Church of Jesus Christ of Latter-day Saints merits recognition;

WHEREAS, President Monson was born August 21, 1927, to G. Spencer and Gladys Condie Monson, in Salt Lake City, Utah;

WHEREAS, President Monson grew up in Salt Lake City, attended Salt Lake City public schools, and began his higher education in 1944 at the University of Utah;

WHEREAS, President Monson briefly served in the United States Navy Reserve during World War II;

WHEREAS, after his World War II service, President Monson returned to the University of Utah and, in 1948, graduated cum laude with a business degree and married Frances Beverly Johnson;

WHEREAS, soon after graduating from the university, President Monson joined the Deseret News, where he worked as an advertising executive and eventually became general manager of the Deseret News Press;

WHEREAS, President Monson graduated from Brigham Young University with a Masters of Business Administration and received several honorary degrees;

WHEREAS, at age 22, President Monson was called to serve as a bishop for The Church of Jesus Christ of Latter-day Saints, presiding over a large congregation that consisted of hundreds of people, including many widows;

WHEREAS, after five years of service as a bishop, President Monson was called as a counselor in a stake presidency, followed by a call to serve as president of The Church of Jesus Christ of Latter-day Saints' mission headquartered in Toronto, Canada;

WHEREAS, in 1963, President Monson was called as a member of the Quorum of the Twelve Apostles, making him one of the youngest men in the 20th century appointed to that position;

WHEREAS, President Monson counseled with government leaders and served on a variety of boards, including appointment by President Ronald Reagan to the President's Task Force for Private Sector Initiatives in 1981 and membership on the Utah State Board of Regents for several years;

WHEREAS, among his many services abroad, President Monson first entered East Germany in 1968, decades before the Berlin Wall fell in 1989, he met with East German government officials and paved the way for a temple of The Church of Jesus Christ of Latter-day Saints to be built in Freiberg, Germany, which was first dedicated in 1985;

WHEREAS, President Monson was a prominent, long-time leader in the Boy Scouts of America, serving as a member of the National Executive Board of the Boy Scouts of America and earning the

Silver Beaver, Silver Buffalo, Silver Fox, and Bronze Wolf honors, which are the highest awards in scouting;

WHEREAS, before becoming prophet, President Monson served as counselor for three of the presidents of The Church of Jesus Christ of Latter-day Saints;

WHEREAS, President Monson was set apart as president of The Church of Jesus Christ of Latter-day Saints on February 3, 2008;

WHEREAS, membership in The Church of Jesus Christ of Latter-day Saints grew to more than 16 million at the time of his passing;

WHEREAS, under President Monson's leadership, The Church of Jesus Christ of Latter-day Saints collaborated with other faiths and organizations in the United States and abroad on causes such as homelessness, hunger, disaster-relief, and aid to refugees;

WHEREAS, in the history of The Church of Jesus Christ of Latter-day Saints, only four men have served longer in church leadership;

WHEREAS, President Monson's wife Frances preceded him in death in 2013, and his posterity includes 3 children, 8 grandchildren, and 12 great-grandchildren;

WHEREAS, tributes to President Monson have been offered from state, national, and international government leaders, religious leaders, and even the Utah Jazz; and

WHEREAS, President Monson was known and beloved for his many qualities particularly compassionate focus on the individual and humanitarian service to those in need;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the lifelong dedication and service of Thomas S. Monson, 16th President of The Church of Jesus Christ of Latter-day Saints, to his God, his church, his family, and those in need.

BE IT FURTHER RESOLVED that the Legislature and Governor express deep sympathy for his loss and gratitude for President Monson's life and example of service.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to his children Ann Monson Dibb, Thomas Lee Monson, and Clark Spencer Monson.

H.C.R. 6

Passed February 1, 2018
Approved March 20, 2018
Effective March 20, 2018

**CONCURRENT RESOLUTION
HONORING FORMER CHIEF
JUSTICE CHRISTINE M. DURHAM**

Chief Sponsor: Patrice M. Arent
Senate Sponsor: Todd Weiler
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Stewart E. Barlow
Joel K. Briscoe
Walt Brooks
Rebecca Chavez-Houck
Scott H. Chew
LaVar Christensen
Kay J. Christofferson
Kim F. Coleman
Bruce R. Cutler
Brad M. Daw
Susan Duckworth
James A. Dunnigan
Rebecca P. Edwards
Steve Eliason
Justin L. Fawson
Gage Froerer
Francis D. Gibson
Brian M. Greene
Keith Grover
Craig Hall
Stephen G. Handy
Timothy D. Hawkes
Lynn N. Hemingway
Sandra Hollins
Gregory H. Hughes
Eric K. Hutchings
Ken Ivory
Michael S. Kennedy
Brian S. King
John Knotwell
Karen Kwan
Bradley G. Last
Karianne Lisonbee
A. Cory Maloy
Daniel McCay
Michael K. McKell
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Merrill F. Nelson
Michael E. Noel
Derrin R. Owens
Lee B. Perry
Jeremy A. Peterson
Val L. Peterson
Dixon M. Pitcher
Val K. Potter
Marie H. Poulson
Susan Pulsipher
Tim Quinn
Paul Ray
Edward H. Redd
Marc K. Roberts
Adam Robertson
Angela Romero

Douglas V. Sagers
Scott D. Sandall
Mike Schultz
V. Lowry Snow
Robert M. Spendlove
Jon E. Stanard
Keven J. Stratton
Raymond P. Ward
Christine F. Watkins
R. Curt Webb
Elizabeth Weight
John R. Westwood
Mark A. Wheatley
Logan Wilde
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This resolution honors the legacy and service of former Utah Supreme Court Chief Justice Christine M. Durham.

Highlighted Provisions:

This resolution:

- ▶ honors former Chief Justice Christine M. Durham for:
 - her many accomplishments and awards that bring distinction to the state of Utah; and
 - her many years of dedicated service to the judiciary and the citizens of the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, former Justice Christine M. Durham was born in Los Angeles, spending her formative years in Southern California, Washington D.C., and France;

WHEREAS, Justice Durham earned her Bachelor of Arts degree, with honors, from prestigious Wellesley College in Massachusetts;

WHEREAS, Justice Durham earned her Juris Doctorate degree from Duke University, where she is an emeritus member of the Board of Trustees;

WHEREAS, after graduation from law school, Justice Durham taught law, worked as a research associate, drafted legislation, and opened her own office representing indigent defendants, among other activities;

WHEREAS, after a number of years in private practice, Justice Durham was the first woman appointed to a court of general jurisdiction in the state of Utah;

WHEREAS, Justice Durham was the first woman appointed to the Utah Supreme Court and served with distinction for 35 years, from 1982 until 2017;

WHEREAS, Justice Durham was the first woman to serve as Chair of the Utah Judicial Council and served for 10 years, from 2002 to 2012;

WHEREAS, Justice Durham was the first woman elected to serve as Chief Justice of the Utah

Supreme Court and was Chief Justice for 10 years, from 2002 to 2012;

WHEREAS, Justice Durham taught as an adjunct professor for many years at the University of Utah's college of law, teaching state constitutional law;

WHEREAS, Justice Durham is a past Chair of the American Bar Association's Council on Legal Education and Admissions to the Bar, the entity that accredits American law schools;

WHEREAS, Justice Durham helped create and lead the Utah Coalition for Civic Character and Service Education and served on the Utah Commission on Civic Education;

WHEREAS, Justice Durham served on the American Bar Association's President's Task Force on the Future of Legal Education;

WHEREAS, Justice Durham served on the Advisory Board for the Educating Tomorrow's Lawyers Project of the Institute for the Advancement of the American Legal System;

WHEREAS, Justice Durham currently serves on the Board of Trustees of the University of the People, an accredited tuition-free online institution;

WHEREAS, Justice Durham has been active in judicial education, was a founder of the Leadership Institute in Judicial Education, and has been recognized nationally for her work in judicial education and efforts to improve the administration of justice;

WHEREAS, Justice Durham is a past President of the National Association of Women Judges and received the association's 1997 Honoree of the Year award;

WHEREAS, Justice Durham served on the governing board of the American Bar Association's Commission on Women in the Profession;

WHEREAS, Justice Durham is a Fellow of the American Bar Foundation;

WHEREAS, Justice Durham is an emeritus member of the Board of Overseers for the Rand Corporation's Institute for Civil Justice;

WHEREAS, Justice Durham received the Transparent Courthouse Award from the Institute for the Advancement of the Legal System for contributions to judicial accountability and administration;

WHEREAS, Justice Durham served on the governing board of the American Inns of Court Foundation;

WHEREAS, Justice Durham served on the governing board of the Appellate Judges Conference of the American Bar Association;

WHEREAS, Justice Durham served on the governing board of the Federal Judicial Conference's Advisory Committee on the Rules of Civil Procedure;

WHEREAS, Justice Durham is an emeritus member of the Council of the American Law Institute;

WHEREAS, Justice Durham received the William H. Rehnquist Award for Judicial Excellence, one of our nation's highest judicial honors;

WHEREAS, Justice Durham received the Eighth Annual Dwight D. Opperman Award for Judicial Excellence from the American Judicature Society;

WHEREAS, Justice Durham served for 12 years on the Utah Constitutional Revision Commission;

WHEREAS, Justice Durham is a past President of the Conference of Chief Justices of the United States;

WHEREAS, Justice Durham received honors throughout her career, including honorary degrees from five Utah universities;

WHEREAS, Justice Durham's many accomplishments, awards, and tireless dedication to the judiciary has brought great distinction to the state of Utah; and

WHEREAS, Justice Durham has served with excellence and distinction the citizens of Utah in the judiciary for 39 years:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors Justice Christine M. Durham for her many accomplishments and awards that bring distinction to the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor honor Justice Christine M. Durham for her many years of dedicated service to the judiciary and the citizens of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Justice Christine M. Durham.

H.C.R. 7

Passed March 8, 2018
 Approved March 20, 2018
 Effective March 20, 2018

**CONCURRENT RESOLUTION
 ON ENVIRONMENTAL AND
 ECONOMIC STEWARDSHIP**

Chief Sponsor: Rebecca P. Edwards
 Senate Sponsor: Todd Weiler
 Cosponsors: Cheryl K. Acton
 Patrice M. Arent
 Joel K. Briscoe
 Walt Brooks
 Rebecca Chavez-Houck
 LaVar Christensen
 Susan Duckworth
 Gage Froerer
 Stephen G. Handy
 Timothy D. Hawkes
 Sandra Hollins
 Eric K. Hutchings
 Brian S. King
 Karen Kwan
 Carol Spackman Moss
 Lee B. Perry
 Dixon M. Pitcher
 Val K. Potter
 Marie H. Poulson
 Susan Pulsipher
 Paul Ray
 Edward H. Redd
 Angela Romero
 Douglas V. Sagers
 V. Lowry Snow
 Robert M. Spendlove
 Raymond P. Ward
 Elizabeth Weight
 John R. Westwood
 Mark A. Wheatley
 Mike Winder

LONG TITLE

General Description:

This resolution encourages the responsible stewardship of natural resources and reduction of emissions through incentives and support of the growth in technologies and services that will enlarge the economy.

Highlighted Provisions:

This bill:

- ▶ acknowledges Utah’s tradition of stewardship, innovation, ingenuity, and problem solving;
- ▶ recognizes the need for responsible stewardship and prudent management of natural resources;
- ▶ recognizes the impacts of a changing climate on Utah citizens;
- ▶ expresses commitment to create and support economically viable and broadly supported solutions, including in rural communities;
- ▶ encourages the use and analysis of sound science to understand the causes and impacts of local and regional climates;
- ▶ encourages resilient ecosystems that can better adapt to our changing environment; and

- ▶ encourages the reduction of emissions through incentives and the support of growth in technologies and services that enlarge the economy.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah has a tradition of supporting good stewardship of our land, air, and water;

WHEREAS, Utah is a leader in technological innovation, ingenuity in problem-solving, and working together to create solutions;

WHEREAS, preservation of Utah’s economic longevity and role as a leader in fiscal responsibility depends on prudent management of natural resources;

WHEREAS, protection, conservation, and reasonable management of the natural environment are essential principles of responsible stewardship;

WHEREAS, Utah recognizes the inherent worth of our natural resources, in addition to their economic value, in their contribution to our identity and their role in inspiring creativity, strengthening families, and providing for future generations;

WHEREAS, the Department of Health has issued a report outlining the increased risk of extreme weather events, including wildfires, water scarcity, and flooding;

WHEREAS, the impacts of a changing climate may affect Utah citizens and impair productivity in key economic areas;

WHEREAS, any efforts to mitigate the risks of, prepare for, or otherwise address our changing climate and its effects should not constrain the economy nor its global competitiveness; and

WHEREAS, Utah recognizes that stewardship includes fostering and maintaining resilient ecosystems that have the capacity to adapt to our changing environment:

NOW, THEREFORE BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commits to working constructively, using our heritage of technological ingenuity, innovation, and leadership to create and support economically viable and broadly supported private and public solutions, including in rural communities.

BE IT FURTHER RESOLVED that we should prioritize our understanding and use of sound science to address causes of a changing climate and support innovation and environmental stewardship in order to realize positive solutions.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage individuals, corporations, and state agencies to reduce emissions through incentives and support of the growth in technologies and services that will

enlarge our economy in a way that is both energy efficient and cost effective.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah's congressional delegation.

H.C.R. 8

Passed February 15, 2018
 Approved March 20, 2018
 Effective March 20, 2018

**CONCURRENT RESOLUTION
 RECOGNIZING HISTORIC AND
 ECONOMIC RELATIONSHIPS BETWEEN
 CANADA, THE UNITED STATES, AND UTAH**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the unique and important relationship between the state of Utah and Canada and between the United States and Canada.

Highlighted Provisions:

This resolution:

- ▶ honors Canada's contributions as our partner in environmental, energy, economic, trade, and joint military endeavors; and
- ▶ recognizes the 60th anniversary of the North American Aerospace Defense Command (NORAD).

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States and Canada share not only a 5,522-mile border, which is the world's longest, but also a vibrant history of democratic governance, military and economic partnerships, and cultural ties;

WHEREAS, relations between the United States and Canada span more than two centuries, and the two nations have developed one of the most successful international relationships in the modern world;

WHEREAS, the relationship between the United States and Canada is unique in the world, and the two nations have a shared prosperity fostered by two-way investments and jobs;

WHEREAS, the United States and Canada have the largest and most comprehensive trade relationship in the world, totaling nearly \$635 billion in goods and services crossing our shared border each year, with the North American Free Trade Agreement (NAFTA) providing the framework for much of this bilateral trade;

WHEREAS, Utah contributes significantly to this relationship, with bilateral trade totaling \$3.3 billion;

WHEREAS, nearly nine million American jobs were dependent on trade with Canada in 2016, including nearly 78,900 jobs in Utah;

WHEREAS, Canada is a friendly neighbor with whom the United States has an excellent trading, political, and defense relationship;

WHEREAS, the United States welcomes more tourists from Canada than from any other country and in 2016, Utah welcomed 348,400 visitors from Canada who spent an estimated \$110 million in the state;

WHEREAS, the United States' bilateral cooperation with Canada in defense is a natural complement to the extensive geographic, political, economic, cultural, and social ties that link our two countries;

WHEREAS, defense and security relations between our two countries, underpinned by our integrated American and Canadian forces at North American Aerospace Defense Command, or NORAD, which defends the North American continent, are long-standing, well-entrenched, and highly successful;

WHEREAS, NORAD is a unique and indispensable expression of one of the most extensive defense relationships in the world;

WHEREAS, for 60 years, members of the Canadian armed forces have served in the United States as partners in NORAD;

WHEREAS, the continued service with valor and honor of American and Canadian men and women serving at the North American Aerospace Defense Command is central to North America's ability to confront and successfully defeat threats of the 21st century; and

WHEREAS, the continuation of the longstanding and successful relationship between the United States and Canada through the North American Aerospace Defense Command is paramount to the future security of the people of the United States and Canada:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses deep appreciation to the people and government of Canada for their long history of friendship and cooperation with the people and government of the United States.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the important economic and trade relationships between the two nations and the role that NAFTA has played in creating economic opportunities on both sides of the border.

BE IT FURTHER RESOLVED that the Legislature and the Governor commemorate NORAD's 60th anniversary and recognize the contributions made by our soldiers to jointly secure North America and promote international peace and security.

BE IT FURTHER RESOLVED that the Legislature and the Governor honor our friend and ally, Canada, and look forward to many more years of cooperation, friendship, trade, tourism, and goodwill.

BE IT FURTHER RESOLVED that copies of this concurrent resolution be sent to the President of the United States; the Prime Minister of Canada; the United States Secretary of Defense; the Minister of National Defense of Canada; the United States Secretary of State; the Minister of Foreign Affairs of Canada; the United States Ambassador to Canada; Canada's Ambassador to the United States; the Commander and Deputy Commander of North American Aerospace Defense Command; the Governor of Colorado; Canada's Consul General to Utah; and Utah's congressional delegation.

H.C.R. 12

Passed March 7, 2018
Approved March 20, 2018
Effective March 20, 2018

**CONCURRENT RESOLUTION
CALLING UPON CONGRESS TO ASSURE A
COMPLETE AND ACCURATE 2020 CENSUS**

Chief Sponsor: Rebecca Chavez-Houck
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This concurrent resolution urges Congress to assure a complete and accurate 2020 Census.

Highlighted Provisions:

This resolution:

- ▶ acknowledges Utah's reliance upon census data for political, business, and social welfare purposes;
- ▶ expresses concern that Congress has underfunded the 2020 Census;
- ▶ expresses concern that rural residents and marginalized communities are at risk of being undercounted by the 2020 Census; and
- ▶ urges Congress to adequately fund the 2020 Census to ensure a complete and accurate count.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States Constitution requires a non-biased, non-political count every 10 years of where and how the country's population has grown;

WHEREAS, the 10-year census not only counts population, but also:

- establishes representation decisions for federal, state, and local governments;

- is the basis upon which federal funding is allocated for programs such as Medicare, Medicaid, and the National School Lunch Program; and
- guides business decisions regarding labor pools and investment choices;

WHEREAS, Congress has underfunded the U.S. Commerce Department's budget to conduct the 2020 Census, causing the Census Bureau to cancel certain preparations that would test the Census Bureau's new digital tools;

WHEREAS, the Census Bureau plans for 80% of the country to receive communications that urge a response to the census via the Internet;

WHEREAS, the Census Bureau's reliance on the Internet is worrisome because 21% of rural households do not currently have Internet access at home, putting rural residents at risk of being undercounted;

WHEREAS, ethnic and immigrant communities are also at risk of being undercounted;

WHEREAS, a geographic area is considered hard-to-count (HTC) if the area's self-response rate in the 2010 decennial census was 73% or less;

WHEREAS, according to the Census 2020 HTC map application developed by the City University of New York Mapping Service, a number of rural Utah counties are hard-to-count and face a high likelihood of being undercounted;

WHEREAS, according to the George Washington University Institute for Public Policy, in fiscal year 2015, Utah received \$3,253,452,654, or approximately \$1,086 per capita, for 16 major federal assistance programs that distribute funds based on decennial census-derived statistics; and

WHEREAS, because census data are used in political, business, and social welfare contexts, the accuracy of the count is critical:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls upon Congress to adequately fund the 2020 Census to assure a complete and accurate count of all people.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the members of Utah's congressional delegation to support H.R. 4013, 2020 American Census Investment Act.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Utah's congressional delegation.

H. C. R. 13

Passed February 26, 2018
Approved March 23, 2018
Effective March 23, 2018

**CONCURRENT RESOLUTION
RECOGNIZING THE MILITARY AND
VETERAN LEGAL ASSISTANCE PROGRAM**

Chief Sponsor: Val L. Peterson
Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill recognizes the pro bono legal assistance offered by the Office of Military and Veteran Legal Assistance.

Highlighted Provisions:

This resolution:

- ▶ recognizes the Office of Military and Veteran Legal Assistance for offering pro bono legal assistance and representation to Veterans and to Active Duty, Reserve, and National Guard Servicemembers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, throughout their service Veterans and Military Service members have sacrificed for their families, communities, and nation to fulfill their duty to protect the United States and to fight for freedom and justice;

WHEREAS, it is this country's duty to protect our Veterans and Military Servicemembers, promote their well-being, and ensure justice for them and their families;

WHEREAS, Veterans and Military Servicemembers are strengthened and supported by their families;

WHEREAS, these families and their military sponsors bring a need for support and service in a wide variety of areas including legal assistance;

WHEREAS, for example, Veterans and Military Servicemembers who have been deployed to protect their nation have concerns about who would come to the aid of the families they leave behind if a problem or crisis occurs in their absence;

WHEREAS, none of the military services have sufficient resources to fully provide this aid;

WHEREAS, Veterans and Military Servicemembers and their families have access to military legal assistance attorneys to receive advice and assistance, but they must generally obtain their own counsel to represent them in court;

WHEREAS, coordinating pro bono legal programs to connect qualified attorneys with Veterans and Military Servicemembers and their families would provide a welcome legal recourse for those defending their nation;

WHEREAS, the Military and Veteran Legal Assistance Program is led by the Utah Office of the Attorney General in conjunction with the Utah Department of Veterans and Military Affairs;

WHEREAS, the Office of Military and Veteran Legal Assistance (OMVLA) is a public-private partnership offering pro bono legal assistance and representation to Veterans and Active Duty, Reserve, and National Guard Servicemembers in a variety of civil law matters;

WHEREAS, members of the Utah State Bar have expressed a willingness and desire to provide these services on a pro bono basis;

WHEREAS, OMVLA pairs Veterans and Military Servicemembers in need of legal assistance with local pro bono private legal counsel for civil matters;

WHEREAS, Veterans, Military Servicemembers, and their families need legal assistance in various matters, including consumer fraud, military rights, immigration, landlord/tenant, predatory lending, creditor/debtor, employment and re-employment, and wills and power of attorneys;

WHEREAS, assistance through OMVLA is by referral only;

WHEREAS, Servicemembers access these services by contacting their local Judge Advocate General Office, and Veterans contact their local Veterans Service Officers through the Utah Department of Veterans and Military Affairs;

WHEREAS, after necessary paperwork is completed, OMVLA staff considers several factors in determining qualification for the program including verification of Active Duty, Reserve, or National Guard military status;

WHEREAS, for Veterans, qualification includes verification that they have received honorable or general discharges;

WHEREAS, OMVLA staff must also consider whether the person has a legal issue that is covered under the program;

WHEREAS, upon verification of qualifications, applicants are referred to a private pro bono attorney;

WHEREAS, the attorney is a volunteer and will represent without charge unless awarded attorney fees from the opposing party;

WHEREAS, the attorney assigned to a case is not employed by or other wise associated with the Utah Office of the Attorney General, other than volunteering to assist with the legal problem without charge; and

WHEREAS, services provided by the OMVLA can lend invaluable assistance to Veterans and Military Servicemembers:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the Office of Military and Veteran Legal Assistance for offering pro bono legal assistance and representation to Veterans and to Active Duty, Reserve, and National Guard Servicemembers.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Office of Military and Veteran Legal Assistance, the Utah Office of the Attorney General, and the Utah Department of Veterans and Military Affairs.

H.C.R. 14

Passed March 6, 2018
Approved March 23, 2018
Effective March 23, 2018

**CONCURRENT RESOLUTION
RECOGNIZING UTAH'S ROBUST
ECONOMIC GROWTH AND URBANIZATION**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This concurrent resolution recognizes Utah's robust economic growth and urbanization.

Highlighted Provisions:

This resolution:

- ▶ recognizes Utah's robust economic growth and urbanization;
- ▶ recognizes the need for forward thinking planning and zoning, appropriate infrastructure investment, and a talented workforce in Utah's metropolitan areas; and
- ▶ requests that the director of the United States Office of Management and Budget review Utah's metropolitan statistical area designations.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is regularly recognized as among the best states for business;

WHEREAS, Utah has led the nation in economic growth and job creation since the Great Recession;

WHEREAS, the state's strong economic growth has been accompanied by robust population growth;

WHEREAS, Utah recently reached 3,000,000 residents and is projected to reach 5,000,000 residents by 2050;

WHEREAS, Utah enjoys a variety of community types, from rural small towns to a major urban center;

WHEREAS, the Wasatch Front is home to more than 2,000,000 residents, representing nearly 85% of Utah's population and roughly an equal percentage of the state's economy;

WHEREAS, Utah is already among the most urbanized states in the nation based on the concentration of the state's population in metropolitan areas;

WHEREAS, Utah's rapid urban growth should bolster job creation in rural communities through supporting tourism, business expansion and teleworking, disciplined planning and investment, and expanded export opportunities;

WHEREAS, continued population growth will occur in the state's metropolitan areas and increase urbanization;

WHEREAS, the growth of metropolitan areas is among the most significant changes in Utah's urban dynamics in a generation, presenting significant economic opportunities;

WHEREAS, nearly 75% of new jobs in the state since 2008 have been created in Utah's metropolitan areas;

WHEREAS, the intersection of Utah's two largest counties at Point of the Mountain represents a monumental shift to the economic and social integration of the region;

WHEREAS, the United States Office of Management and Budget delineates metropolitan and micro politan statistical areas according to published standards that are applied to United States Census Bureau data;

WHEREAS, Utah's metropolitan areas along the Wasatch Front have a high degree of economic and social integration, but are currently divided into three metropolitan statistical areas; and

WHEREAS, this division does not comprehensively represent the collective integration, economic growth, and urbanization of these areas, which can have a material impact on the state's national profile, economic development opportunities, and ability to create a regional approach to addressing long-term population growth:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes Utah's robust economic growth and urbanization.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize that the state's metropolitan areas need forward thinking planning and zoning, appropriate infrastructure investment, and a talented workforce in order to continue to grow economically and enhance the quality of life for Utah residents.

BE IT FURTHER RESOLVED that the Legislature and the Governor request that the United States Office of Management and Budget review Utah's metropolitan statistical area designations to better reflect the high degree of economic and social integration along the Wasatch Front.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the director of the United States Office of Management and Budget and the members of Utah's congressional delegation.

H.C.R. 16

Passed February 26, 2018
Approved March 20, 2018
Effective March 20, 2018

**CONCURRENT RESOLUTION HONORING
PRESIDENT MATTHEW S. HOLLAND**

Chief Sponsor: Brad M. Daw
Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This resolution honors the service and legacy of President Matthew S. Holland of Utah Valley University.

Highlighted Provisions:

This resolution:

- ▶ honors President Matthew S. Holland for his community leadership and educational vision.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, President Holland has served as president of Utah Valley University for nearly nine years and during this time made numerous accomplishments in academic strength and innovation, resource expansion and planning, and more;

WHEREAS, President Holland has brought national and international attention to UVU’s dual-mission model as both an outstanding teaching university and a comprehensive community college;

WHEREAS, under the leadership of President Holland, the university developed 26 new bachelor’s degrees and six of its eight current master’s degrees to meet workforce needs;

WHEREAS, President Holland implemented the Freshman Reading Program, the Presidential Lecture Series, Freshman Convocation, and Presidential Internships;

WHEREAS, President Holland established three academic centers -- the Center for Constitutional Studies, the Center for National Security Studies, and the Melisa Nellesen Center for Autism;

WHEREAS, President Holland expanded the number of full-time faculty at the university, resulting in more than 55% of the instruction there being delivered by full-time faculty;

WHEREAS, President Holland was named the national Executive of the Year in 2016 by Education Dive for his innovation and strategic leadership in higher education;

WHEREAS, under the leadership of President Holland, UVU nearly doubled the footprint of the campus by acquiring 225 acres on the old Geneva Steel site in Vineyard, more than doubled the size of the school’s endowment, and raised more cash donations and pledges than were previously raised in its history;

WHEREAS, President Holland developed a long-range university master plan for academic programming and development of land and physical facilities;

WHEREAS, President Holland worked with the Legislature to secure an additional \$21 million in new, ongoing funding to put UVU on a more

equitable level with other institutions in the Utah System of Higher Education;

WHEREAS, President Holland secured public and private funding for 12 major buildings, structures, and refurbishments, totaling more than one million square feet of space;

WHEREAS, President Holland oversaw the expansion of student headcount enrollments from 28,765 to 37,282, and a corresponding number of graduates, for a total increase of 45% over nine years;

WHEREAS, President Holland commissioned and oversaw the development of the nationally and internationally recognized, 200-foot wide, stained glass panorama, the Roots of Knowledge, celebrating the world’s most important advances in human knowledge and understanding;

WHEREAS, President Holland established a Business Engagement Strategy and Five Pillars of Engaged Learning to make UVU a model of responsiveness to workforce demands and community development;

WHEREAS, under his direction, UVU completed its transition to Division I athletics, joined the Western Athletic Conference, and added a Division I men’s soccer team, the only NCAA-sanctioned men’s soccer team in the state; and

WHEREAS, President Holland never lost sight of the individual student, as evidenced by his weekly run to the food court to treat a surprised student to lunch:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors President Matthew S. Holland for his legacy of community leadership and educational vision, making Utah the right place to live, to learn, to work, and to play.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to President Matthew S. Holland.

H.C.R. 19

Passed February 22, 2018

Approved March 23, 2018

Effective March 23, 2018

CONCURRENT RESOLUTION REGARDING THE IMPACT OF FEDERAL LANDS ON THE STATE EDUCATION SYSTEM

Chief Sponsor: Ken Ivory
Senate Sponsor: Jim Dabakis

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges the President of the United States, the United States Congress, and Utah’s congressional delegation to propose and secure the passage of legislation that requires PILT payments to be a fair and steady source of revenue that would

otherwise be generated but for the federal control of Utah lands.

Highlighted Provisions:

This resolution:

- ▶ urges the President of the United States, the United States Congress, and Utah’s congressional delegation to propose and secure the passage of legislation that requires PILT payments to be equivalent to the tax revenue the state, subdivisions, and school districts would otherwise be able to generate but for the federal control of Utah lands;
- ▶ urges the President and Congress to timely and faithfully pay PILT payments; and
- ▶ urges the President and Congress to refrain from holding PILT payments hostage to secure legislative votes.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the power to tax is the fuel of self-governance;

WHEREAS, the right and authority of state and local governments to promote the highest value and use of land is fundamental to funding education and other essential government services;

WHEREAS, the federal government still controls more than 66% of all land in the state of Utah, which is not subject to state or local taxes;

WHEREAS, under the Federal Land Policy and Management Act (FLPMA) of 1976, federal land policy changed from one of disposal, where it would enter the state tax rolls, to permanent federal retention as untaxable public land;

WHEREAS, this policy change deprives Utah of the right and ability to tax more than 66% of all land within our state;

WHEREAS, recognizing the substantial burden this policy change imposed on the ability of state and local governments to fund education and other essential government services, Congress established the Payment In Lieu of Taxes, or PILT, program to compensate for the tax revenue denied;

WHEREAS, the definition of “in lieu” means a substitute of equal value and importance, something that is just as good as what was given up;

WHEREAS, by any objective measure, federal PILT payments to Utah are not “just as good as” the tax revenue the state, subdivisions, and school districts would otherwise generate but for federal control of Utah lands;

WHEREAS, in actuality, PILT amounts are little more than Pennies In Lieu of Taxes;

WHEREAS, this reflects a tax break to the federal government on the backs of Utah’s children and communities to the tune of several billion dollars each year;

WHEREAS, without regard to the long-standing debate over whether or not the federal government should ever relinquish control of Utah lands, so long as the federal government does withhold lands from being subject to tax, the federal government should pay the full amount in lieu of tax revenue denied our taxing entities;

WHEREAS, Utah contributes the highest percentage of income tax revenue of any state to public and higher education, we remain the lowest in per-pupil spending by more than \$2.5 billion a year, and our state, subdivisions, and school districts struggle to provide other essential government services and proper payment of PILT will help this imbalance;

WHEREAS, over more than the past decade, Congress has been erratic in the amount and timeliness of PILT payments to Utah counties;

WHEREAS, in 2014, for example, Congress did not authorize PILT payments until more than halfway into the fiscal year for our state and subdivisions, placing essential government services in jeopardy; and

WHEREAS, several Utah counties that have only a small percentage of taxable land are facing the exodus of families with young children due to diminishing education funding and depleting employment opportunities;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, in solemn awareness of our duty to the rising generation, urge the President of the United States and the United States Congress in the most strenuous terms to establish and codify, in coordination with the state, an objective standard for calculating the value of PILT payments, which are equivalent to the tax revenue the state, subdivisions, and school districts would otherwise be able to generate.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the President and Congress, on behalf of our children and communities, to timely and faithfully pay PILT payments to the state and subdivisions, as mandatory and nondiscretionary payments.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the President and Congress to treat PILT payments to fund education for our children and essential services for our communities and refrain evermore from withholding PILT payments.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge members of Utah’s congressional delegation to propose and secure the passage of legislation that requires PILT payments to be a fair and steady source of revenue the state, subdivisions, and school districts would otherwise be able to generate but for the federal control.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of

Representatives, each member of Utah's congressional delegation, governors and state legislative leaders of western states, and organizations that serve state governors and legislatures.

H.C.R. 20

Passed February 26, 2018

Approved March 20, 2018

Effective March 20, 2018

**CONCURRENT RESOLUTION
HONORING JON M. HUNTSMAN, SR.**

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors the life and legacy of Jon M. Huntsman, Sr.

Highlighted Provisions:

This resolution:

- ▶ recognizes Jon M. Huntsman, Sr. as a great industrialist and a pioneer in the chemical industry;
- ▶ recognizes his philanthropic work with the establishment of the Huntsman Cancer Institute; and
- ▶ expresses sympathy for his loss and gratitude for Mr. Huntsman's generosity.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Jon M. Huntsman, Sr. was born in Blackfoot, Idaho, on June 21, 1937, and ascended humble beginnings to be elected student body president of Palo Alto High School and to receive the Harold Zellerbach Scholarship to attend the Wharton School of the University of Pennsylvania;

WHEREAS, Mr. Huntsman married his high school sweetheart, Karen Haight, and began a family that he loved with his whole heart;

WHEREAS, Mr. Huntsman served in the U.S. Navy as an officer aboard the USS Calvert and subsequently earned a master's degree in business administration from the Marshall School of Business at the University of Southern California;

WHEREAS, Mr. Huntsman is widely regarded as one of his generation's great industrialists and as a pioneer in the chemical industry;

WHEREAS, Mr. Huntsman founded Huntsman Container Company in 1970 and revolutionized packaging and plastics;

WHEREAS, Mr. Huntsman formed Huntsman Chemical Corporation in 1982, which today represents an \$11 billion global manufacturer and marketer of chemicals;

WHEREAS, in his heart, Mr. Huntsman was first a philanthropist, and his life's ambition was much greater than business;

WHEREAS, early in his adult life Mr. Huntsman began quiet acts of charity as an anonymous donor to a Navy widow;

WHEREAS, Mr. Huntsman lost his dear mother, Kathleen Robison Huntsman, to breast cancer when she was just 58 years old and promised her that he would one day do something to help cure this dreaded disease;

WHEREAS, Mr. Huntsman and Karen Huntsman made a founding gift of \$10 million to the University of Utah in 1993 to create a cancer institute, and quickly followed that gift with an additional \$100 million to offer Utahns new, better cancer treatments with the creation of Huntsman Cancer Institute (HCI);

WHEREAS, today HCI is one of the world's most renowned cancer institutes having directed over \$2 billion from more than 1 million donors and grant makers toward improving cancer treatment, relieving the suffering of cancer patients, and providing education about cancer risk, prevention, and care;

WHEREAS, HCI is the only National Cancer Institute-Designated Cancer Center in Utah, Utah's official cancer center, and only Cancer Specialty Hospital;

WHEREAS, HCI serves the surrounding five-state area, 17% of the United States, and is in the top 1% for patient satisfaction;

WHEREAS, Mr. Huntsman's kind acts of philanthropy extended beyond cancer to his faith, the homeless, the hungry, mothers and children, the economically disadvantaged, athletics, cultural purposes, and those for whom higher education was financially out of reach without scholarship assistance;

WHEREAS, Mr. Huntsman refused to retreat in the face of adversity, but instead viewed adversity as an opportunity to learn, move forward, and try again; and

WHEREAS, Mr. Huntsman served as a role model and inspiration to thousands and leaves behind a great company, but even more so, leaves behind a legacy of optimism, ethical behavior, and philanthropy that will be remembered as his greatest accomplishments;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the legacy of kindness, generosity, and hard work that Jon M. Huntsman, Sr. leaves behind.

BE IT FURTHER RESOLVED that the Legislature and the Governor express deep sympathy for his loss, and gratitude for Mr. Huntsman's life and care toward others.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to his wife, Karen, and to his children: Jon Huntsman, Jr., Peter Huntsman,

Christena Huntsman Durham, David Huntsman, Paul Huntsman, James Huntsman, Jennifer Huntsman Parkin, and Mark Huntsman.

H.C.R. 21

Passed March 7, 2018
Approved March 20, 2018
Effective March 20, 2018

**CONCURRENT RESOLUTION TO
NAME A STATE PARK AFTER FRED HAYES**

Chief Sponsor: Lee B. Perry
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This resolution honors the achievements of Fred Hayes.

Highlighted Provisions:

This resolution:

- ▶ honors the achievements of Fred Hayes; and
- ▶ encourages the renaming of the Starvation State Park to the Fred Hayes State Park at Starvation.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Fred Hayes was appointed division director of State Parks and Recreation in 2012, and has been instrumental in significantly increasing the profile of Utah’s 44 state parks;

WHEREAS, Hayes began his state parks career in 1982 as a seasonal park ranger aide at Starvation State Park;

WHEREAS, over the years Hayes held numerous positions with the division, including park ranger, nature center education specialist, off-highway vehicle coordinator, and deputy director;

WHEREAS, as a direct result of Hayes’s leadership as division director, state parks have experienced record park attendance and profitability annually and have aggressively been developing and creating new recreational opportunities statewide;

WHEREAS, Hayes’s motto of “more people having more fun in more parks more often” has been the division’s driving force behind its success;

WHEREAS, Hayes’s passion for his employees, outdoor recreation, and the state of Utah was easily recognized by others and had a way of rubbing off on those around him;

WHEREAS, when he was appointed director of the division, Hayes vowed to “fight with our dying breath” to keep every park open;

WHEREAS, Hayes passed away unexpectedly on March 2, 2018;

WHEREAS, in addition to being an exemplary state employee and leader, Fred Hayes was also a loving husband to his wife, Serena, and a devoted father to their five children; and

WHEREAS, Hayes’s commitment to the excellence of Utah’s state parks and recreation system has allowed Utah’s state parks to flourish for the benefit of all Utahns:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the renaming of the Starvation State Park to the Fred Hayes State Park at Starvation.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Mike Styler, director of the Department of Natural Resources, the Bureau of Reclamation, and the state’s congressional delegation.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Fred Hayes’s family.

H.C.R. 22

Passed March 8, 2018
Approved March 22, 2018
Effective March 22, 2018

**CONCURRENT RESOLUTION
DESIGNATING APRIL AS
#MSDKINDNESS MONTH**

Chief Sponsor: Paul Ray
Senate Sponsor: Daniel W. Thatcher
Cosponsors: Carl R. Albrecht
Patrice M. Arent
Walt Brooks
Rebecca Chavez-Houck
LaVar Christensen
Kay J. Christofferson
Brad M. Daw
Susan Duckworth
Ken Ivory
Robert M. Spendlove
Christine F. Watkins
Elizabeth Weight
John R. Westwood
Brad R. Wilson

LONG TITLE

General Description:

This resolution honors the victims of the Marjory Stoneman Douglas High School tragedy by designating the month of April 2018 as #MSDKindness month.

Highlighted Provisions:

This resolution:

- ▶ honors the victims of the Marjory Stoneman Douglas High School tragedy for their exemplary lives and acts of service by designating the month of April 2018 as #MSDKindness month;
- ▶ encourages the citizens of Utah to participate in random acts of kindness during the month of April 2018 and report their acts on the SafeUT mobile application; and

- ▶ challenges other states to claim a remaining month of 2018 as their state's month of kindness.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, a senseless act of violence was committed against the students and staff of Marjory Stoneman Douglas High School in Parkland, Florida, on February 14, 2018, that took the lives of 17 individuals, critically injured 16 individuals, and caused mental and emotional anguish for the community of Broward County, the state of Florida, and the entire nation;

WHEREAS, the victims who lost their lives through this act of violence are:

- ▶ Alaina Petty, age 14;
- ▶ Alex Schachter, age 14;
- ▶ Alyssa Alhadeff, age 14;
- ▶ Cara Loughran, age 14;
- ▶ Gina Montalto, age 14;
- ▶ Jaime Guttenberg, age 14;
- ▶ Martin Duque Anguiano, age 14;
- ▶ Luke Hoyer, age 15;
- ▶ Peter Wang, age 15;
- ▶ Carmen Schentrup, age 16;
- ▶ Helena Ramsay, age 17;
- ▶ Joaquin Oliver, age 17;
- ▶ Nicholas Dworet, age 17;
- ▶ Meadow Pollack, age 18;
- ▶ Scott Beigel, age 35;
- ▶ Aaron Feis, age 37; and
- ▶ Chris Hixon, age 49;

WHEREAS, the victims of this tragedy lived exemplary lives of selfless service and showing love toward others;

WHEREAS, the Legislature would like to pay tribute to these victims in a way that honors the victims' courageous acts of valor, their many acts of service, their kind natures, and the many contributions to society they made during their lives; and

WHEREAS, the state of Utah has developed and deployed the SafeUT mobile application, which promotes school safety and access to critical services for school-aged individuals in the state of Utah:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates the month of April 2018 as #MSDKindness month, a month for Utah citizens to participate in random acts of kindness.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the citizens of the state of Utah to use the SafeUT mobile application to record random acts of kindness to shine a light on acts of service, love, and kindness done on behalf of the victims and their families.

BE IT FURTHER RESOLVED that the Legislature and the Governor challenge other states with a desire to similarly honor these victims and their families to claim a remaining month of 2018 as their state's month of kindness.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the state legislatures of the other 49 states and each member of Utah's congressional delegation.

H.J.R. 1

Passed March 8, 2018

Effective March 8, 2018

JOINT RESOLUTION URGING EXEMPTION FROM THE ANTIQUITIES ACT

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This joint resolution encourages Congress to pursue legislation exempting Utah from the Antiquities Act.

Highlighted Provisions:

This resolution:

- ▶ discusses the history of the Antiquities Act, including exemptions from the Act granted to Wyoming and Alaska; and
- ▶ encourages Utah's congressional delegation to pursue legislation exempting Utah from the Antiquities Act.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Antiquities Act of 1906 was signed into law by President Theodore Roosevelt;

WHEREAS, the Antiquities Act was intended to allow the President of the United States to set aside certain natural areas for "the protection of objects of historic and scientific interest" for their preservation;

WHEREAS, areas set aside by a president pursuant to the Antiquities Act are given the title of "national monuments";

WHEREAS, the Antiquities Act stemmed from concerns that artifacts from First Nations peoples were being looted or destroyed and was supported by an exhaustive report on the archeological resources of the southwest;

WHEREAS, the Antiquities Act states that national monuments should be confined to the smallest possible area that is compatible with the proper care and management of the objects to be protected;

WHEREAS, although the Antiquities Act has been used to protect a great many of the United States' natural wonders and archeological artifacts,

the act has been used in a progressively expansive way by presidents since its 1906 enactment;

WHEREAS, the scope of unilateral executive power under the Antiquities Act has been reduced twice;

WHEREAS, Wyoming was exempted from further executive use of the Antiquities Act following an unpopular designation of the Jackson Hole National Monument and Alaska was exempted from further executive use of the act following the designation of 56 million acres of national monuments in that state;

WHEREAS, the exemptions described above still allow for future monument designations in Wyoming and Alaska, but only with congressional approval;

WHEREAS, Utah is already home to five national parks and seven national monuments;

WHEREAS, the two most recent national monuments designated in Utah, Grand Staircase-Escalante and Bears Ears, total a combined 3.2 million acres in size; and

WHEREAS, Utah seeks an exemption similar to that of Wyoming and Alaska, not to end monument designations in the state, but to prevent future unilateral designations by the executive branch:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly encourages Utah’s congressional delegation to pursue legislation that would provide Utah with an exemption from the Antiquities Act, similar to that of Wyoming and Alaska.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah’s congressional delegation.

H.J.R. 2

Passed February 22, 2018
Effective February 22, 2018

**JOINT RESOLUTION URGING
CONGRESS TO RELOCATE
FEDERAL LAND MANAGEMENT
AGENCY HEADQUARTERS**

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This joint resolution encourages the federal government to consider moving the headquarters for the Department of the Interior and the U.S. Forest Service to Utah.

Highlighted Provisions:

This resolution:

- ▶ discusses the duties of the Department of the Interior and the U.S. Forest Service; and

- ▶ encourages the federal government to consider moving the headquarters for the Department of the Interior and the U.S. Forest Service to Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the United States Department of the Interior is the agency responsible for the management and conservation of most federal land and resources in the country;

WHEREAS, the Department of the Interior manages about 75% of the federal public land in the country, most of which is in the West;

WHEREAS, the United States Forest Service, an agency within the United States Department of Agriculture, manages most of the remaining federal public land in the country;

WHEREAS, the scope of the Department of the Interior’s duties is broad, and the consequences of policies made and effectuated by the department are felt most keenly by those in the West;

WHEREAS, the Department of the Interior could perform its duties more efficiently, and with more local input, if its headquarters were located in a western state instead of Washington, D.C.;

WHEREAS, the United States Forest Service has similar duties to the Department of the Interior and would also benefit from being headquartered in the West; and

WHEREAS, Salt Lake City, Utah, is a premier western metropolitan area that would welcome the Department of the Interior, United States Forest Service, or both:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly encourages the federal government to consider moving the headquarters for the Department of the Interior, United States Forest Service, or both to Utah, preferably southern Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah’s congressional delegation, Department of the Interior Secretary Ryan Zinke, and United States Forest Service Chief Tony Tooke.

H.J.R. 4

Passed February 2, 2018
Effective February 2, 2018

**JOINT RESOLUTION APPROVING
APPOINTMENT OF DIRECTOR OF
THE OFFICE OF LEGISLATIVE
RESEARCH AND GENERAL COUNSEL**

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This joint resolution of the Legislature approves the appointment of John Q. Cannon as director of the Office of Legislative Research and General Counsel.

Highlighted Provisions:

This resolution:

- ▶ approves the appointment of John Q. Cannon as director of the Office of Legislative Research and General Counsel for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Annotated Section 36-12-7, the Legislative Management Committee, upon recommendation of its Research and General Counsel Subcommittee, has recommended the appointment of Mr. John Q. Cannon as director of the Office of Legislative Research and General Counsel for the Utah Legislature; and

WHEREAS, the appointment of Mr. John Q. Cannon in this position for a term of office of six years beginning May 8, 2018, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the appointment of Mr. John Q. Cannon as director of the Office of Legislative Research and General Counsel for the Utah Legislature be approved for a six-year term of office beginning May 8, 2018.

H.J.R. 6

Passed February 28, 2018
Effective February 28, 2018

**JOINT RESOLUTION COMMEMORATING
THE 50TH ANNIVERSARY OF THE
FAIR HOUSING ACT**

Chief Sponsor: Gage Froerer
Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This joint resolution of the Legislature commemorates the 50th anniversary of the Fair Housing Act.

Highlighted Provisions:

This resolution:

- ▶ commemorates the 50th anniversary of the Fair Housing Act; and
- ▶ commends the Utah Association of Realtors for its commitment to fair housing.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Fair Housing Act protects people from discrimination when they are renting, buying, or securing financing for any housing by providing that a person may not be discriminated against because of race, color, national origin, religion, sex, disability, or presence of children;

WHEREAS, Congress passed the Fair Housing Act in April 1968 and it was signed into law by President Lyndon B. Johnson on April 11, 1968;

WHEREAS, the Fair Housing Act was signed into law at an important cultural turning point in America after decades of civil unrest, racial zoning, and court sanctioned deed discrimination based on race, national origin, and religion;

WHEREAS, the Fair Housing Act was an important step in prohibiting such discrimination;

WHEREAS, the Fair Housing Act states, "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.";

WHEREAS, in 1975, the National Association of Realtors adopted an agreement with the U.S. Department of Housing and Urban Development to:

- promote fair housing;
- educate members regarding their rights and obligations under the Fair Housing Act;
- develop and recommend fair housing procedures for members; and
- participate in community based fair housing activities;

WHEREAS, in 1988, the National Association of Realtors supported expanding the Fair Housing Act to prohibit discrimination based on familial status and handicap or disability;

WHEREAS, in 2016, the National Association of Realtors resolved to seek changes to the Fair Housing Act to prohibit discrimination based on sexual orientation and gender identity;

WHEREAS, in 1988, the state of Utah adopted the Utah Fair Housing Act, which protects Utahns by prohibiting housing discrimination on the basis of race, color, sex, religion, national origin, disability, source of income, familial status, sexual orientation, or gender identity;

WHEREAS, the Fair Housing Unit in the Division of Antidiscrimination and Labor at the Utah Labor Commission is committed to education and outreach by providing workshops and educational opportunities for renters, purchasers, property managers, and owners;

WHEREAS, fair and affordable housing is vital to the success of our growing state, and it is the responsibility of government agencies, the Legislature, and industry leaders to promote, educate, and participate in fair housing practices;

WHEREAS, as an industry leader, the Utah Association of Realtors is committed to combating housing discrimination and pledges to give equal

professional services to any person regardless of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity;

WHEREAS, the health, education, and economic opportunities of Utah families are directly impacted by where they live;

WHEREAS, discriminatory housing practices create racial, social, and economic divides in our communities that inhibit the growth of our citizens; and

WHEREAS, diversity creates stronger communities and provides Utahns the best opportunity to achieve the American dream, and fair housing plays an integral role in fostering such communities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah commemorates the 50th anniversary of the Fair Housing Act.

BE IT FURTHER RESOLVED that the Legislature supports and encourages fair housing policies throughout the state.

BE IT FURTHER RESOLVED that the Legislature recognizes the Utah Association of Realtors as a partner in combating housing discrimination.

H. J. R. 7

Passed March 7, 2018
Effective March 7, 2018

**JOINT RESOLUTION GRANTING
LEGISLATIVE APPROVAL FOR THE SALE
OR LONG-TERM LEASE OF UTAH STATE
DEVELOPMENTAL CENTER LAND**

Chief Sponsor: Michael S. Kennedy
Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This joint resolution of the Legislature authorizes the Utah State Developmental Center Board (governing body) to approve the sale or long-term lease of land associated with the Utah State Developmental Center (USDC) for the purpose of building an east-west connector road.

Highlighted Provisions:

This resolution:

- ▶ recognizes the important role the USDC plays in the provision of resources and support for individuals with intellectual disabilities who have complex or acute needs;
- ▶ recognizes the contributions that members of the community make to the USDC;
- ▶ recognizes the value of an east-west connector road for the environment, the economy, the local community, and individuals who visit, volunteer, and work at the USDC; and
- ▶ authorizes the governing board to approve the sale or long-term lease of land associated with

the USDC for the purpose of building an east-west connector road.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah Code Subsection 62A-5-206.6(5) requires that the Utah State Developmental Center Board (governing board) obtain the approval of the Legislature before offering real property or water rights associated with the Utah State Developmental Center (USDC) for sale, long-term lease, or other disposition;

WHEREAS, in 1929 the Legislature established the Utah State Training Center, later known as the USDC, to assist with the care, protection, treatment, and education of individuals with intellectual disabilities;

WHEREAS, like other states, Utah built the public institution in a remote location and within a broad perimeter of land that provided a physical barrier between the institution and the nearest rural homes and communities;

WHEREAS, since state governments first acknowledged a public interest in, and accepted some fiscal responsibility for, citizens with intellectual disabilities, states have made sweeping changes in the philosophy and practice of providing public services to those citizens;

WHEREAS, these paradigm shifts have resulted from a growing knowledge about intellectual disabilities, including their causes, prevention, interventions, and accommodations;

WHEREAS, also contributing to the paradigm shifts was an improving regard for individuals who experience intellectual disabilities, as evidenced by public laws that affirm and promote their rights, an expansion of publicly funded services, and greater inclusion by their communities;

WHEREAS, the governing board oversees and makes recommendations to the Legislature concerning the development of real property associated with the USDC for the long-term benefit and safety of individuals with intellectual and developmental disabilities who receive care or support from the USDC;

WHEREAS, each year individuals from the local community provide over 16,000 hours of volunteer service to the USDC;

WHEREAS, according to a 2017 Department of Transportation managed study, by the year 2040, an east-west connector road is projected to save up to 44,000 hours of driving time each year and reduce miles traveled each year by 1.8 million;

WHEREAS, the improved access that an east-west connector road will provide will benefit USDC volunteers, visitors, and staff members; and

WHEREAS, the improved access that an east-west connector road will provide will reduce response time for public safety personnel who serve

the USDC, thus improving safety and security for USDC residents:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, in accordance with Utah Code Subsection 62A-5-206.6(5), authorizes the governing board to approve the sale or long-term lease of land associated with the USDC for the purpose of building an east-west connector road, according to specifications provided by the Department of Transportation in collaboration with the governing board, and in consideration of the resolution passed by the governing board on May 17, 2017.

BE IT FURTHER RESOLVED that the Legislature directs that the Department of Transportation and all other governmental entities involved in the construction of the east-west connector road take all reasonable steps to mitigate any negative impact on the Utah State Developmental Center or private property.

H.J.R. 8

Passed March 2, 2018
Effective March 2, 2018

JOINT RESOLUTION HONORING UTAH'S SPORTSMEN AND SPORTSWOMEN

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Allen M. Christensen
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Stewart E. Barlow
Walt Brooks
Rebecca Chavez-Houck
Kay J. Christofferson
Kim F. Coleman
Brad M. Daw
Susan Duckworth
Rebecca P. Edwards
Justin L. Fawson
Gage Froerer
Brian M. Greene
Stephen G. Handy
Eric K. Hutchings
Ken Ivory
Michael S. Kennedy
Brian S. King
John Knotwell
Karen Kwan
Bradley G. Last
Karianne Lisonbee
A. Cory Maloy
Michael K. McKell
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Merrill F. Nelson
Michael E. Noel
Derrin R. Owens
Lee B. Perry
Jeremy A. Peterson
Val L. Peterson
Dixon M. Pitcher
Val K. Potter

Marie H. Poulson
Susan Pulsipher
Paul Ray
Edward H. Redd
Douglas V. Sagers
Scott D. Sandall
Keven J. Stratton
Norman K. Thurston
Raymond P. Ward
Christine F. Watkins
R. Curt Webb
John R. Westwood
Mark A. Wheatley
Logan Wilde
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This resolution recognizes the impact Utah's sportsmen and sportswomen have on our state's natural resources and economy.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to protect and enhance public lands for Utah's sportsmen and sportswomen to advance the goals of hunters, anglers, recreational shooters, and others; and
- ▶ urges Congress to respect the historic and current use of Utah's public land by sportsmen and sportswomen, support the time-honored Utah traditions of hunting and angling, the very backbone of conservation, and respect the administration of wildlife conservation through the sound science delivered by the Utah Division of Wildlife Resources and science-based policies developed by the Utah Wildlife Board.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah has a rich and storied culture of hunting, fishing, trapping, and recreational shooting that dates back further than the state itself and carries forward to this day;

WHEREAS, Utah's sportsmen and sportswomen were among the first conservationists to support the establishment of a wildlife management agency, now referred to as the Utah Division of Wildlife Resources, to conserve fish, wildlife, and their habitats;

WHEREAS, through their license fees, Utah's sportsmen and sportswomen helped fund state efforts to provide for multiple uses of healthy and sustainable natural resources;

WHEREAS, upon realizing that license fees alone were insufficient to restore and sustain healthy fish and wildlife populations, sportsmen and sportswomen supported self-imposed excise taxes on hunting, fishing, and boating equipment, as well as firearms and ammunition, to raise additional conservation funds;

WHEREAS, to this day, the Utah Division of Wildlife Resources is funded primarily by

sportsmen and sportswomen, through this American System of Conservation Funding - a "user pays, public benefits" approach that is widely recognized as the most successful model of fish and wildlife management in the world;

WHEREAS, last year alone, Utah's sportsmen and sportswomen generated \$44.94 million through this system to support the conservation efforts of the Utah Division of Wildlife Resources and partners;

WHEREAS, Utah's 493,000 hunters and anglers support the state's economy through spending more than \$1.04 billion while engaged in their pursuits;

WHEREAS, annually, this spending supports approximately 19,677 jobs in Utah and generates over \$62 million in state and local taxes; and

WHEREAS, Utah's vast public and private lands are vital in providing opportunities for Utahns to hunt, fish, trap, and recreationally shoot:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the United States Congress to protect and enhance access to public lands for Utah's sportsmen and sportswomen to advance the goals of hunters, anglers, recreational shooters, and others.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the United States Congress to respect the historic and current use of Utah's public and private lands by sportsmen and sportswomen, support the time-honored Utah traditions of hunting and angling, the very backbone of conservation, and respect the administration of wildlife conservation through the sound science delivered by the Utah Division of Wildlife Resources and science-based policies developed by the Utah Wildlife Board.

H.J.R. 10

Passed February 27, 2018
Effective February 27, 2018

JOINT RESOLUTION APPROVING A CLASS VI COMMERCIAL NONHAZARDOUS SOLID WASTE LANDFILL

Chief Sponsor: Gage Froerer
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This resolution gives provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Highlighted Provisions:

This resolution:

- ▶ describes the proposed landfill;
- ▶ states that the operation plan will be submitted to the director of the Division of Waste

Management and Radiation Control for approval; and

- ▶ grants provisional approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Counterpoint Construction Company, Inc. and Earth Bank, Inc. have proposed a plan to construct and operate a Class VI commercial landfill to receive nonhazardous solid waste for treatment, storage, or disposal as defined in Utah Code Section 19-6-102;

WHEREAS, the facility will be located on 116.69 acres located in Section 19, Township 6 North, Range 3 West, Salt Lake Base and Meridian, within western Weber County, Utah;

WHEREAS, Utah Code Section 19-6-108 requires that an applicant for authority to construct a commercial landfill receive approval from the local government, the Legislature, and the Governor;

WHEREAS, Utah Code Section 19-6-108 also requires that an applicant for authority to construct or operate a commercial landfill receive approval from the director of the Division of Waste Management and Radiation Control within the Department of Environmental Quality for an operation plan for the facility before receiving gubernatorial approval;

WHEREAS, Counterpoint Construction Company, Inc. and Earth Bank, Inc. are seeking approval from Weber County for the proposed landfill;

WHEREAS, Counterpoint Construction Company, Inc. and Earth Bank, Inc. will submit a proposed operation plan for the commercial Class VI nonhazardous solid waste landfill to the Division of Waste Management and Radiation Control to be approved by the director; and

WHEREAS, Counterpoint Construction Company, Inc. and Earth Bank, Inc. will request gubernatorial approval after the operation plan is approved by the director of the Division of Waste Management and Radiation Control:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah grants its provisional approval to Counterpoint Construction Company, Inc. and Earth Bank, Inc. to construct and operate a Class VI commercial nonhazardous solid waste landfill as described in the proposed plan if the proposed plan is approved by the Division of Waste Management and Radiation Control, Weber County, and the Governor in accordance with Utah Code Section 19-6-108.

H.J.R. 12

Passed March 8, 2018
Effective March 8, 2018

**JOINT RESOLUTION CALLING UPON THE
ATTORNEY GENERAL TO SUE
PRESCRIPTION OPIOID
MANUFACTURERS**

Chief Sponsor: Michael K. McKell
Senate Sponsor: Jim Dabakis

LONG TITLE

General Description:

This joint resolution calls upon the attorney general to sue prescription opioid manufacturers.

Highlighted Provisions:

This joint resolution:

- ▶ describes serious allegations that have been raised regarding deceptive marketing practices used by prescription opioid manufacturers to sell prescription opioids;
- ▶ describes the effects of the prescription opioid crisis on the state and nation;
- ▶ describes the impact of the opioid crisis on the state;
- ▶ lists other states and Utah counties that have filed suit or committed to file suit against prescription opioid manufacturers; and
- ▶ calls upon the attorney general to sue prescription opioid manufacturers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, serious allegations have been raised that prescription opioid manufacturers have systematically engaged in deceptive marketing practices and fraudulent coverups to advance the sale of prescription opioids by:

- (1) downplaying the serious risk of addiction;
- (2) promoting the concept of “pseudoaddiction” and advocating that the signs of addiction should be treated with more opioids;
- (3) claiming that opioid dependence and withdrawal are easily managed; and
- (4) denying the risks of higher opioid dosages;

WHEREAS, serious allegations have been raised that prescription opioid manufacturers spread, and continue to spread, misinformation about the risks of their products:

- (1) through false and deceptive direct marketing;
- (2) by using a diverse group of seemingly independent third parties to spread false and deceptive statements about the risks and benefits of opioids; and
- (3) by using a diverse group of false organizations, that purport to be neutral, independent, and trusted third parties, to publish false information regarding the risks and benefits of opioids in order to deceive doctors and health care providers;

WHEREAS, this behavior occurred as the North American prescription opioid market grew to a value of \$12.4 billion in 2015 with an expected annual growth rate of 4.6%;

WHEREAS, prescription opioid manufacturers realized these profits as thousands of individuals lost their lives, having fallen victim to prescription opioid addictions;

WHEREAS, 91 Americans die each day from opioid-related drug overdose deaths according to the Centers for Disease Control and Prevention;

WHEREAS, drug overdoses kill more Americans under age 50 than anything else;

WHEREAS, conservative estimates show that 500,000 people will die in the United States over the next decade due to opioid overdose, which is more than HIV/AIDS has killed since that epidemic began in the early 1980s;

WHEREAS, more people die each year from opioid overdoses than from drivers who are under the influence of alcohol;

WHEREAS, Utah has the seventh-highest drug overdose rate in the United States;

WHEREAS, in 2015, one person died nearly every day from an opioid overdose in Utah;

WHEREAS, according to the Department of Health, the rate of prescription opioids dispensed in Utah from 2002 to 2015 grew by 29.4%, averaging nearly five opioid prescriptions per patient in 2015;

WHEREAS, from 2000 to 2015, the state experienced a nearly 400% increase in deaths from the misuse and abuse of prescription drugs;

WHEREAS, drug overdoses kill more people in Utah than motor vehicle crashes;

WHEREAS, in 2014, 32% of Utah adults aged 18 years and older were prescribed an opioid pain medication;

WHEREAS, the Council of Economic Advisers estimates that in 2015, the economic cost of the opioid crisis was \$504 billion, or 2.8% of the nation’s gross domestic product that year;

WHEREAS, the state and its political subdivisions’ law enforcement, criminal justice, drug treatment, and other social service programs have incurred enormous costs because of the opioid crisis;

WHEREAS, President Donald Trump declared the opioid epidemic a public health emergency in October 2017;

WHEREAS, 16 states have already filed suit against opioid manufacturers seeking damages for the public cost of the opioid crisis: Alaska, Arizona, Delaware, Illinois, Kentucky, Louisiana, Mississippi, Missouri, New Hampshire, New Mexico, New Jersey, Ohio, Oklahoma, South Carolina, West Virginia, and Washington;

WHEREAS, dozens of local jurisdictions have also filed suit against opioid manufacturers; and

WHEREAS, Cache, Davis, Salt Lake, Utah, Washington, and Weber counties have already announced plans to file suit against prescription opioid manufacturers because of:

- (1) the highly evident costs of the opioid crisis to the state;
- (2) opioid manufacturers' clear and reckless role in perpetuating the crisis;
- (3) opioid manufacturers' apparent indifference toward the problems they are accused of causing;
- (4) the clear path other states have laid for Utah to follow; and
- (5) consistent requests from civic and political leaders and the citizens of the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature calls upon the attorney general to:

- (1) immediately and publicly commit to directly filing suit against prescription opioid manufacturers, instead of joining a suit with other plaintiffs, in order to seek the maximum award for damages from prescription opioid manufacturers for the citizens of the state; and
- (2) proceed with haste to file suit against prescription opioid manufacturers in order to hold them accountable for the destruction and devastation they have inflicted upon the citizens of the state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the attorney general immediately after the Legislature passes this resolution.

H.J.R. 14
Passed March 8, 2018
Effective March 8, 2018

**JOINT RULES RESOLUTION REGARDING
LEGISLATIVE REVIEW NOTES**

Chief Sponsor: Daniel McCay
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This rules resolution removes provisions relating to legislative review notes.

Highlighted Provisions:

This resolution:

- ▶ removes provisions that require placement of a legislative review note on legislation.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-2-501

REPEALS:

JR4-2-402

Be it resolved by the Legislature of the state of Utah:

Section 6. JR4-2-501 is amended to read:

JR4-2-501. Numbering and distributing bills and resolutions.

After receiving approval from the sponsor under JR4-2-301, the Office of Legislative Research and General Counsel shall:

- (1) proofread the legislation and perform other quality control measures;
- (2) indicate on the first page of the legislation that the drafting attorney has approved the legislation for filing;
- (3) place a committee or task force note on the legislation if required by JR4-2-401;
- ~~[(4) place a legislative review note on the legislation, if one is required by JR4-2-402;]~~
- ~~[(5)]~~ (4) assign a number to the legislation to appear after the designation required by JR4-1-202 and JR4-1-301;
- ~~[(6)]~~ (5) electronically set the legislation's line numbers; and
- ~~[(7)]~~ (6) distribute an electronic copy of the legislation as required by JR4-2-503.

Section 7.

Repealer.

This resolution repeals:

JR4-2-402, Legislative review notes.

H.J.R. 16

Passed March 8, 2018
Effective March 8, 2018

**JOINT RULES RESOLUTION --
PROCEDURE AMENDMENTS**

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This rules resolution modifies procedures provided for in the Joint and Interim Rules.

Highlighted Provisions:

This resolution:

- ▶ modifies interim rules governing the first meeting of each interim and review of study items;
- ▶ enacts procedures for adding committee notes for interim committees and certain task forces and commissions;
- ▶ provides procedures related to assigning and abandoning committee bills;
- ▶ requires a member of the news media to, in order to obtain or maintain House or Senate media credentials, take annual training on unlawful harassment, and agree to abide by the Legislature's policy on unlawful harassment;
- ▶ prohibits a member of the news media from engaging in unlawful harassment of a member, employee, or volunteer of the Legislature;

- ▶ provides for remedial action if a member of the news media violates the Legislature's unlawful harassment policy;
- ▶ modifies the quorum attendance requirements for joint appropriations subcommittees and the Executive Appropriations Committee;
- ▶ modifies minimum requirements for requesting legislation to be drafted;
- ▶ requires the public posting of certain bill information; and
- ▶ amends interim procedures for opening and prioritizing an Interim Committee bill.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- IR2-2-103
- JR3-2-403
- JR3-2-404
- JR4-2-101
- JR4-2-102
- JR4-2-401

ENACTS:

- IR2-2-104
- JR1-4-301

Be it resolved by the Legislature of the state of Utah:

Section 1. IR2-2-103 is amended to read:

IR2-2-103. Interim committees -- First meeting of interim -- List of study items -- Long-term planning emphasis.

(1) Each interim committee shall devote part of its ~~May~~ first meeting of the interim ~~meeting~~ to long-term planning for the areas over which the committee has jurisdiction.

(2) During the first meeting of the interim, the committee:

(a) shall review the study items outlined in IR2-1-101(1), (2), and (3);

(b) may, by motion and a majority vote, amend or modify the study items, provided that any addition to the study items shall be germane to the oversight assignment of the committee; and

(c) shall adopt the study items by a motion and majority vote.

~~[(2)]~~ (3) As part of the first meeting of the interim, the committee may:

(a) review economic and demographic trends and other applicable data;

(b) identify current, emerging, and future issues and challenges; ~~and~~

(c) develop an action plan to address the issues and challenges identified[.]; and

(d) open one or more committee bill files, by a majority vote of the committee:

(i) according to the procedures and requirements of JR4-2-102; or

(ii) by voting to authorize the committee chairs to open committee bill files as necessary for:

(A) any item on the list of study items that the chairs determine is appropriate; or

(B) one or more specific study items from the list of study items, which are specified in the motion.

~~[(3)]~~ (4) The action plan under Subsection ~~[(2)]~~ (3)(c) may include plans to:

(a) perform additional research into specific issues and challenges;

(b) develop options to address specific issues and challenges; and

(c) prepare legislation to address specific issues and challenges.

~~[(4)]~~ (5) The cochairs of each interim committee are encouraged to seek information, ideas, and assistance from committee members, state agencies, local government, education, business, industry, and interest groups in preparing for the meeting, providing presentations for the meeting, and making assignments related to an action plan.

Section 2. IR2-2-104 is enacted to read:

IR2-2-104. Interim committees and task forces -- Recommendation of legislation -- Abandonment and assignment of committee bills.

(1) (a) An interim committee, commission, or task force that is meeting as part of the legislative interim schedule may, by a majority vote, recommend legislation presented to it.

(b) Legislation recommended under Subsection (1)(a) shall be labeled with a committee note as provided for under JR4-2-401.

(2) A bill opened in the name of an interim committee, commission, or task force that is meeting as part of the legislative interim schedule shall:

(a) if the bill has received a recommendation described under Subsection (1)(a), be assigned to an individual legislative sponsor by the chairs of the committee no later than December 31; or

(b) if the bill has not received a recommendation described under Subsection (1)(a), be abandoned.

(3) Nothing in this rule prohibits an individual legislator from sponsoring a bill that was abandoned under Subsection (2)(b), provided that:

(a) the individual legislator sponsors the bill via a separate bill file in the name of the individual legislator; and

(b) the individual legislator's bill file is drafted in the order required under JR4-2-102.

Section 3. JR1-4-301 is enacted to read:

**Part 3. Unlawful Harassment
JR1-4-301. News media -- Unlawful harassment.**

(1) Beginning on January 1, 2019, in order to obtain or maintain House or Senate press credentials, a member of the news media shall:

(a) on an annual basis, take online training provided by the Legislature on unlawful harassment; and

(b) sign a document indicating that the member has received a copy of, and agrees to abide by, the Legislature's policy on unlawful harassment.

(2) (a) A member of the news media is prohibited from engaging in unlawful harassment of a member, employee, or volunteer of the Legislature.

(b) The Legislature may revoke a member of the media's press credentials, or take other remedial action, if the member of the media violates Subsection (2)(a) or otherwise violates the Legislature's harassment policy.

Section 4. JR3-2-403 is amended to read:

JR3-2-403. Quorum requirements.

A quorum of a joint appropriations subcommittee and the Executive Appropriations Committee is at least 50% in one house and more than 50% in the other, subject to the requirements in JR3-2-404.

Section 5. JR3-2-404 is amended to read:

JR3-2-404. Voting requirements.

(1) A majority vote of a joint appropriations subcommittee and the Executive Appropriations Committee is at least 50% of those in attendance in one house and more than 50% of those in attendance in the other.

(2) For an appropriation subcommittee, and excluding the Executive Appropriations Committee, in determining whether a quorum is present, a legislator who is the president, the speaker, a majority leader, a majority whip, an assistant majority whip, the Senate Rules Committee chair, the House Rules Committee chair, an Executive Appropriations Committee chair, an Executive Appropriations Committee vice chair, a minority leader, a minority whip, an assistant minority whip, or the fourth member of leadership from a minority party, is not counted in determining a quorum for the committee, except during the time that the legislator is present at the meeting.

Section 6. JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Contents -- Timing.

(1) (a) A legislator wishing to introduce a bill or resolution shall file a Request for Legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted;

(ii) designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and

(iii) (A) provide specific ~~or conceptual~~ information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(B) identify the specific situation or concern that the legislator intends the legislation to address; ~~or~~].

~~[(C) identify the general subject area within which the proposed legislation is likely to fall.]~~

(2) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on the November 15 after the annual general election at which the legislator was elected.

(c) (i) If an incumbent legislator does not file to run for reelection or is defeated in a political party convention, primary election, or general election, that legislator may not file any requests for legislation as of that date.

(ii) The Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator that is pending on that date unless, within 30 days after that date, another member of the Legislature qualified to file a request for legislation assumes sponsorship of the legislation.

(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator shall seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each pending request for legislation from the legislator who is unavailable to serve.

(3) (a) Except as provided in Subsection (3)(c), a legislator may not file a Request for Legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) Except as provided in Subsection (3)(c), by noon on the 11th day of the annual general session, each legislator shall, for each Request for Legislation on file with the Office of Legislative Research and General Counsel, either approve the request for numbering or abandon the request.

(c) After the date established by this Subsection (3), a legislator may file a Request for Legislation and automatically approve the legislation for numbering if:

(i) for House legislation, the representative makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority of the House; or

(ii) for Senate legislation, the senator makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(4) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a Request for Legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

(5) The Office of Legislative Research and General Counsel shall publicly provide, on the Legislature's website:

(a) a listing of each legislator's name and the number of bill files that are currently open in the name of that legislator for the current legislative session; and

(b) a listing, on the respective committee page, of the short title of each bill opened in the name of the committee, or adopted as a committee bill by the committee, during the interim, and for each bill listed:

(i) an indication as to whether the bill has been recommended by the committee or not; and

(ii) as applicable, the vote cast for the motion to recommend.

Section 7. JR4-2-102 is amended to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) As used in this section, "interim committee" means a committee established under IR1-1-201.

~~[(4)]~~ (2) (a) Requests for legislation shall be drafted on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this section.

(b) ~~[Notwithstanding Subsection (1)(a), the]~~ The following requests for legislation shall be drafted before other requests for legislation when sufficient drafting information or sponsor instruction is available:

(i) a request for legislation that is prioritized by a legislator under Subsection ~~[(2)]~~ (3); and

(ii) a request for legislation that is ~~[requested by the majority vote of an interim committee.]~~ adopted as a committee bill by an interim committee as follows:

(A) a member of the interim committee makes a motion to open a new request for legislation to be sponsored by the committee or to convert an existing request for legislation to committee-sponsored legislation;

(B) the interim committee adopts the motion by a majority vote after a description or discussion of the general subject matter of the legislation;

(C) the subject matter of the legislation is germane to the oversight assignment of the interim committee; and

(D) the interim committee intends to take action on the legislation in a meeting of the committee held before the next general session.

(c) (i) Except as permitted under IR2-2-103(3), the committee may not delegate the authority to designate committee bills on behalf of an interim committee under Subsection (2)(b)(ii) to committee chairs or any other subset of the membership of an interim committee.

(ii) During the interim, the drafting of committee bills that are adopted under Subsection (2)(b)(ii), and for which sufficient drafting information is available, shall take precedence in drafting priority over bills that have been prioritized by an individual legislator under Subsection (2)(b)(i).

~~[(2)]~~ (3) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a legislator may designate up to three requests for legislation as priority requests subject to the following deadlines:

(i) priority request number one must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(ii) priority request number two must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(iii) priority request number three must be requested on or before the first Thursday of the annual general session.

(b) A legislator who fails to make a priority request on or before a deadline loses that priority request. However, the legislator is not prohibited from using any remaining priority requests that are associated with a later deadline, if available.

(c) A legislator who begins serving after a deadline has passed is entitled to use only those priority requests that are available under an unexpired deadline.

(d) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

~~[(3)]~~ (4) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

[4] (5) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) reserve as many bill numbers as necessary to number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

Section 8. JR4-2-401 is amended to read:

JR4-2-401. Committee notes.

(1) As used in this rule:

(a) "Legislative committee" means a committee, commission, task force, or other policy or advisory body that is created by statute, legislation, or by the Legislative Management Committee and that is composed exclusively of legislators.

(b) (i) "Legislative committee" does not mean a standing committee.

(ii) Notwithstanding Subsection (1)(b)(i), "legislative committee" includes each Rules Committee.

(c) "Mixed committee" means a committee, commission, task force, or other policy or advisory body that is:

(i) created by statute, legislation, or by the Legislative Management Committee;

(ii) composed of legislator members and nonlegislative members; and

(iii) staffed by the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst.

(2) The Office of Legislative Research and General Counsel shall:

(a) note on any legislation reviewed by a legislative committee:

(i) that the committee recommends the legislation or has voted the legislation out without recommendation; and

(ii) the committee vote;

(b) note on any legislation reviewed by a mixed committee:

(i) the number of legislators and nonlegislators on the mixed committee; and

(ii) the number of legislators who voted for and against recommending the legislation; and

~~[(iii) that the committee recommends the legislation or has voted the legislation out without recommendation; and]~~

(c) ensure that the note is printed with the legislation.

H.J.R. 18

Passed March 7, 2018

Effective date (if approved by voters)

January 1, 2019

**PROPOSAL TO AMEND UTAH
CONSTITUTION —
SPECIAL SESSIONS
OF THE LEGISLATURE**

Chief Sponsor: Brad R. Wilson

Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions relating to special sessions of the Legislature.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ authorize the Legislature to convene a session of the Legislature, under specified circumstances;
- ▶ provide a process for the Legislature to convene a session;
- ▶ impose certain limitations on a session convened by the Legislature;
- ▶ make a related clarification for sessions convened by the Governor; and
- ▶ enact a provision providing options for the Governor to address a shortfall of revenues to defray ordinary expenses of the state, including calling the Legislature into session.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2019 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VI, SECTION 2

ARTICLE VI, SECTION 16

ARTICLE VII, SECTION 7

ARTICLE XIII, SECTION 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VI, Section 2, to read:

Article VI, Section 2. [Time and location of annual general sessions -- Location of sessions convened by the Governor or Legislature -- Sessions convened by the Legislature.]

(1) Annual general sessions of the Legislature shall be held at the seat of government and shall begin on the fourth Monday in January.

(2) A session convened by the Governor under Article VII, Section 6 and a session convened by the Legislature under Subsection (3) shall be held at the seat of government, unless convening at the seat of government is not feasible due to epidemic, natural or human-caused disaster, enemy attack, or other public catastrophe.

(3) (a) The President of the Senate and Speaker of the House of Representatives shall by joint proclamation convene the Legislature into session if a poll conducted by the President and Speaker of their respective houses indicates that two-thirds of all members elected to each house are in favor of convening the Legislature into session because in their opinion a persistent fiscal crisis, war, natural disaster, or emergency in the affairs of the State necessitates convening the Legislature into session.

(b) The joint proclamation issued by the President and Speaker shall specify the business for which the Legislature is to be convened, and the Legislature may not transact any business other than that specified in the joint proclamation, except that the Legislature may provide for the expenses of the session and other matters incidental to the session.

(c) The Legislature may not be convened into session under this Subsection (3) during the 30 calendar days immediately following the adjournment sine die of an annual general session of the Legislature.

(d) In a session convened under this Subsection (3), the cumulative amount of appropriations that the Legislature makes may not exceed an amount equal to 1% of the total amount appropriated by the Legislature for the immediately preceding completed fiscal year.

(e) Nothing in this Subsection (3) affects the Governor's authority to convene the Legislature under Article VII, Section 6.

Section 2. It is proposed to amend Utah Constitution, Article VI, Section 16, to read:

Article VI, Section 16. [Duration of sessions.]

[4] Except in cases of impeachment[;]:

(1) no annual general session of the Legislature may exceed 45 calendar days, excluding federal holidays[-];

(2) [No] no session of the Legislature convened by the Governor under Article VII, Section 6 may exceed 30 calendar days[-, except in cases of impeachment-]; and

(3) no session of the Legislature convened by the Legislature under Article VI, Section 2, Subsection (3) may exceed 10 calendar days.

Section 3. It is proposed to amend Utah Constitution, Article VII, Section 7, to read:

Article VII, Section 7. [Adjournment of Legislature by Governor.]

In case of a disagreement between the two houses of the Legislature at any special session convened by the Governor under Article VII, Section 6, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as the Governor may think proper if it is not

beyond the time fixed for the convening of the next Legislature.

Section 4. It is proposed to amend Utah Constitution, Article XIII, Section 5, to read:

Article XIII, Section 5. [Use and amount of taxes and expenditures.]

(1) (a) The Legislature shall provide by statute for an annual tax sufficient, with other revenues, to defray the estimated ordinary expenses of the State for each fiscal year.

(b) If the ordinary expenses of the State will exceed revenues for a fiscal year, the Governor shall:

(i) reduce all State expenditures on a pro rata basis, except for expenditures for debt of the State; or

(ii) convene the Legislature into session under Article VII, Section 6 to address the deficiency.

(2) (a) For any fiscal year, the Legislature may not make an appropriation or authorize an expenditure if the State's expenditure exceeds the total tax provided for by statute and applicable to the particular appropriation or expenditure.

(b) Subsection (2)(a) does not apply to an appropriation or expenditure to suppress insurrection, defend the State, or assist in defending the United States in time of war.

(3) For any debt of the State, the Legislature shall provide by statute for an annual tax sufficient to pay:

(a) the annual interest; and

(b) the principal within 20 years after the final passage of the statute creating the debt.

(4) Except as provided in Article X, Section 5, Subsection (5)(a), the Legislature may not impose a tax for the purpose of a political subdivision of the State, but may by statute authorize political subdivisions of the State to assess and collect taxes for their own purposes.

(5) All revenue from taxes on intangible property or from a tax on income shall be used to support the systems of public education and higher education as defined in Article X, Section 2.

(6) Proceeds from fees, taxes, and other charges related to the operation of motor vehicles on public highways and proceeds from an excise tax on liquid motor fuel used to propel those motor vehicles shall be used for:

(a) statutory refunds and adjustments and costs of collection and administration;

(b) the construction, maintenance, and repair of State and local roads, including payment for property taken for or damaged by rights-of-way and for associated administrative costs;

(c) driver education;

(d) enforcement of state motor vehicle and traffic laws; and

(e) the payment of the principal of and interest on any obligation of the State or a city or county, issued for any of the purposes set forth in Subsection (6)(b) and to which any of the fees, taxes, or other charges described in this Subsection (6) have been pledged, including any paid to the State or a city or county, as provided by statute.

(7) Fees and taxes on tangible personal property imposed under Section 2, Subsection (6) of this article are not subject to Subsection (6) of this Section 5 and shall be distributed to the taxing districts in which the property is located in the same proportion as that in which the revenue collected from real property tax is distributed.

(8) A political subdivision of the State may share its tax and other revenues with another political subdivision of the State as provided by statute.

(9) Beginning July 1, 2016, the aggregate annual revenue from all severance taxes, as those taxes are defined by statute, except revenue that by statute is used for purposes related to any federally recognized Indian tribe, shall be deposited annually into the permanent State trust fund under Article XXII, Section 4, as follows:

- (a) 25% of the first \$50,000,000 of aggregate annual revenue;
- (b) 50% of the next \$50,000,000 of aggregate annual revenue; and
- (c) 75% of the aggregate annual revenue that exceeds \$100,000,000.

Section 5. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 6. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2019.

H.J.R. 20

Passed March 8, 2018
Effective March 8, 2018

**JOINT RESOLUTION SUBMITTING
A QUESTION TO VOTERS**

Chief Sponsor: Rebecca P. Edwards
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This joint resolution directs the lieutenant governor to present an opinion question to the legal voters of the state to determine whether the voters support an increase in motor and special fuel tax rates for public education and local roads.

Highlighted Provisions:

This resolution:

- ▶ pursuant to Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, directs the lieutenant governor to present an opinion question to the legal voters of the state to determine whether the voters support an increase in the motor and special fuel tax rates by an equivalent of 10 cents per gallon for public education and local roads; and
- ▶ directs the lieutenant governor to submit the opinion question on the ballot for the 2018 regular general election.

Special Clauses:

This resolution provides a special effective date.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, public education is frequently listed as the top concern of Utah residents;

WHEREAS, a high-quality education is exceedingly necessary to achieve personal and statewide prosperity;

WHEREAS, additional investments in education will provide greater learning opportunities for Utah students to succeed;

WHEREAS, improving Utah’s workforce will stimulate greater economic development and growth;

WHEREAS, funding at the school level allows for local control, community engagement, and direct investment in the students of each school;

WHEREAS, approximately \$600 million is taken from the state’s General Fund to subsidize the Transportation Fund each year;

WHEREAS, additional transportation-sourced funding is needed for the Transportation Fund to better sustain itself;

WHEREAS, if the state’s Transportation Fund is more self-sustaining, more resources in the General Fund will be available for use by the state public education system;

WHEREAS, increasing the motor and special fuel tax will generate substantial revenue for the Transportation Fund and reduce the subsidy from the General Fund; and

WHEREAS, Section 36-16b-202 provides a process for the Legislature to submit a nonbinding opinion question to the legal voters of Utah in a regular general election:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah directs the lieutenant governor to submit the following nonbinding opinion question to the legal voters of Utah at the 2018 regular general election, to be held on November 6, 2018:

“To provide additional funding for public education and local roads, should the state increase the state motor and special fuel tax rates by an equivalent of 10 cents per gallon?”.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the lieutenant governor, who is

hereby directed, in accordance with this resolution and Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, to submit the language of the foregoing opinion question at the 2018 regular general election, to be held on November 6, 2018, to the legal voters of the state for their approval.

Contingent effective date.

This resolution takes effect on the day on which Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, becomes law.

H.R. 1

Passed February 27, 2018
Effective February 27, 2018

**HOUSE RESOLUTION URGING
RESTORATIVE JUSTICE IN
UTAH'S EDUCATION SYSTEM**

Chief Sponsor: Sandra Hollins
Cosponsor: V. Lowry Snow

LONG TITLE

General Description:

This resolution of the House of Representatives encourages the State Board of Education and Utah's school districts to implement school-wide restorative justice practices in the state's public primary and secondary schools.

Highlighted Provisions:

This resolution:

- ▶ encourages the State Board of Education and Utah's school districts to implement restorative justice practices in Utah's public primary and secondary schools as a way to help Utah's students stay in school and deal with their challenges in a healthier and more constructive way.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the pressure to do well in school and to comply with the expectations of parents and teachers can create great challenges and increased stress in a student's life;

WHEREAS, the necessity and challenge of forging meaningful relationships can add to the difficulties students face;

WHEREAS, a student's struggles can be further aggravated by the death of a parent, a divorce, abuse, or other traumatic circumstances and can sometimes lead to problematic behavior in school;

WHEREAS, studies show that suspension and expulsion, traditional methods of addressing disciplinary issues in schools, do not make schools safer and result in lower graduation rates and increased rates of involvement in the juvenile

justice system, contributing to the school to prison pipeline;

WHEREAS, restorative justice is a values-based approach to community building, problem solving, and conflict resolution that is used in schools to build and restore relationships, create opportunities for dialogue, repair harm and transform conflict, and create just and equitable learning environments;

WHEREAS, restorative justice enhances school communities by incorporating values of respect, dignity, mutual concern, collaboration, and accountability into the school culture;

WHEREAS, restorative justice encourages students to engage in collaborative problem solving, which empowers students and gives them tools to effectively communicate beyond the school setting;

WHEREAS, restorative justice, in a school setting, shifts the emphasis from managing behavior to focusing on building, nurturing, and repairing relationships, while retaining the ability to hold students accountable;

WHEREAS, restorative justice focuses on the impact of students' behavior on other members of the school community, rather than only on rule breaking, and allows those impacted to find ways to repair the harm and restore damaged relationships, rather than imposing punishment;

WHEREAS, studies have shown that restorative justice practices can lead to reductions in problem behavior, improvements in school climate, and increases in student achievement, attendance, and graduation rates; and

WHEREAS, there is a continuum of proactive to responsive restorative practices, ranging from community-building circles to restorative conferencing, which are accessible to educators to successfully implement school-wide restorative justice practices:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah encourages the State Board of Education and Utah's school districts to implement school-wide restorative justice initiative practices in Utah's public primary and secondary schools.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to each of Utah's school districts and to the State Board of Education.

H.R. 3

Passed February 12, 2018
Effective February 12, 2018

**HOUSE RESOLUTION ENCOURAGING
AND SUPPORTING INTERNATIONAL
EDUCATION AND CULTURAL EXCHANGES**

Chief Sponsor: Mike Winder

LONG TITLE

General Description:

This resolution of the House of Representatives encourages international education.

Highlighted Provisions:

This resolution:

- ▶ encourages education institutions to develop international education programs that support learning about other cultures and global issues;
- ▶ encourages the presence of international students and instructors in Utah education institutions; and
- ▶ encourages students to participate in study abroad opportunities in other countries around the world.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, international education teaches foreign languages, addresses global issues, and provides in-depth understanding of other cultures;

WHEREAS, courses in foreign languages prepare students to seek careers in a global marketplace and enhance understanding of other nations' cultures, values, and beliefs;

WHEREAS, language acquisition and cultural awareness result in stronger international trade and commerce;

WHEREAS, Utah is a leader in dual language immersion in elementary and secondary education, but has low participation in higher education study abroad programs;

WHEREAS, study abroad programs enrich academic instruction, perspectives, and personal development;

WHEREAS, Utah residents who study abroad contribute to increased global awareness within the state;

WHEREAS, international students add diversity to local communities, promote understanding of different cultures, and create important worldwide relationships;

WHEREAS, the presence of international students and instructors in Utah education institutions inspires an appreciation for differences among cultures and a deeper understanding of the values and perspectives of other people;

WHEREAS, Utah has an active foreign trade market that international businesses seek out because of the state's workforce;

WHEREAS, international collaboration is required to make important breakthroughs in research and technology; and

WHEREAS, students immersed in diverse cultures and languages are better prepared to be members of the global community and for the job market of the future:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah encourages education institutions to develop international education programs that support learning about other cultures and global issues.

BE IT FURTHER RESOLVED that the House of Representatives of the state of Utah encourages the presence of international students and instructors in education institutions.

BE IT FURTHER RESOLVED that the House of Representatives of the state of Utah encourages students to participate in study abroad opportunities in countries around the world.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the State Board of Education, the State Board of Regents, and the Utah System of Technical Colleges Board of Trustees.

H.R. 4

Passed February 27, 2018

Effective February 27, 2018

**HOUSE RULES RESOLUTION --
PROCEDURES AMENDMENTS**

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This rules resolution modifies procedures provided for in the House Rules.

Highlighted Provisions:

This resolution:

- ▶ clarifies second reading procedures;
- ▶ modifies provisions related to citations;
- ▶ clarifies that the chair and desk of legislators may only be used with permission, with certain exceptions;
- ▶ clarifies that a quorum of the House of Representatives is 38 members;
- ▶ modifies provisions related to media access to the House floor; and
- ▶ modifies the quorum attendance requirements for House standing committees.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- HR1-7-101
- HR2-4-102
- HR2-4-105
- HR3-2-203
- HR4-1-101
- HR4-4-101

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-7-101 is amended to read:

HR1-7-101. Commendation or condolence citations -- Types of citations -- Use of citations.

(1) As used in this chapter:

(a) (i) “Citation” means a certificate issued to honor or commend an individual who is a resident of Utah, or a group of individuals who are residents of Utah, or to express condolences to the family of a deceased individual.

(ii) A citation to honor or commend the same Utah resident should not be issued more than once every 10 years.

~~(iii)~~ (iii) “Citation” includes a legislator citation, a House of Representatives citation, and a Utah Legislature citation.

(b) “House of Representatives citation” means a citation issued on behalf of the Utah House of Representatives.

(c) “Legislator citation” means a citation issued on behalf of an individual representative.

(d) “Utah Legislature citation” means a citation issued on behalf of both houses of the Utah Legislature.

(2) Representatives shall use a citation to express the commendation or condolence of a representative, the Utah House of Representatives, or the Utah Legislature.

Section 2. HR2-4-102 is amended to read:

HR2-4-102. Representatives’ chairs and seating on the House floor.

~~(1) [When the House is convened in session, no] No one other than the speaker [or a representative] may occupy the chair or use the desk of the speaker [or any representative], without the speaker’s authorization.~~

(2) When the House is convened in session, only the representative assigned to a desk and chair may occupy the chair or use the desk, except that a legislator may sit in the chair of another legislator.

~~[(2)-A]~~ (3) When the House is convened in session, a representative may invite one individual to sit next to the representative on the House floor, if the representative complies with the requirements of HR2-4-101.2 and the invited individual is:

- (a) another legislator;
- (b) a member of House or Senate staff;
- (c) a member of professional legislative staff;
- (d) a House intern;
- (e) a member of the representative’s immediate family;
- (f) a constituent who resides in the representative’s district; or
- (g) a special guest who is authorized to access the House floor under HR2-4-101.2(5).

Section 3. HR2-4-105 is amended to read:

HR2-4-105. News media.

(1) (a) News media with House press credentials shall be admitted to the House chamber, halls, and committee rooms.

(b) While the House is convened in House chambers, news media shall remain in the area designated for the news media and may not enter the floor of the House, the circle, lounge, or the speaker’s dais.

(2) (a) With permission of the speaker or the speaker’s designee, the news media may conduct and record interviews in the House lounge, halls, available committee rooms, or in the House chamber or gallery.

(b) When conducting an interview in the House chamber, the news media may enter the chamber for the purpose of conducting a specific interview and shall exit the chamber promptly after completing the interview.

(3) A representative may not hold a press conference in the House chamber without the permission of the speaker of the House.

(4) News media shall also comply with the other provisions in HR2-4-102 and HR2-4-103.

(5) The sergeant-at-arms, under the direction of the speaker, shall enforce the requirements of this rule.

Section 4. HR3-2-203 is amended to read:

HR3-2-203. Quorum requirements.

(1) Except as provided in Subsection (2), a majority of a standing committee is a quorum.

(2) In determining whether a quorum is present, the speaker, majority leader, majority whip, assistant majority whip, House Rules Committee chair, Executive Appropriations Committee chair, Executive Appropriations Committee vice chair, minority leader, minority whip, assistant minority whip, and the fourth member of leadership from the minority party are not counted in determining a quorum for a standing committee, except during the time that the representative is present at the meeting.

Section 5. HR4-1-101 is amended to read:

HR4-1-101. Definitions.

(1) “Appropriations bill” means a bill that appropriates money and makes no change to statute.

(2) “Constitutional majority vote” means that the matter requires at least 38 votes to pass on the House floor.

(3) “Constitutional two-thirds vote” means that the matter requires at least 50 votes to pass on the House floor.

(4) “Majority vote” means that the matter requires the votes of at least a majority of ~~[those present]~~ a quorum to pass on the House floor.

(5) “Two-thirds vote” means that the matter requires the vote of at least two-thirds of ~~[those present]~~ a quorum to pass on the House floor.

(6) "Point of order" means a question raised by a representative about whether or not there has been a breach of order, a breach of rules, or a breach of established parliamentary practice.

(7) "Presiding officer" means the person presiding over the Utah House of Representatives and includes:

- (a) the speaker;
- (b) the speaker pro tempore; and
- (c) any representative presiding under HR1-3-103.

(8) "Quorum" means that at least 38 members of the House of Representatives are present.

Section 6. HR4-4-101 is amended to read:

HR4-4-101. Committee reports -- Second reading calendar.

(1) The chief clerk of the House or the chief clerk's designee shall:

(a) read to the House each standing committee report submitted to the House; and

(b) read the legislation by title unless the House suspends this requirement by a two-thirds vote.

~~[(2) The adoption of the House standing committee report is the second reading of each piece of legislation referred to in the report.]~~

~~[(3)] (2) (a) If the House passes a motion to adopt the committee report, the amendments and substitutes adopted by the committee and identified on the committee report become legally part of the legislation.~~

(b) If a motion to adopt the committee report fails, the chief clerk shall return the legislation to the House Rules Committee.

~~[(4)] (3) A majority vote of the House is required to:~~

(a) approve a motion to adopt the committee report; and

(b) pass the legislation on second reading to the third reading or consent calendar.

(4) The placement of a piece of legislation on a House reading calendar is the second reading of that legislation.

H.R. 5

Passed March 7, 2018
Effective March 7, 2018

**HOUSE RESOLUTION ON
TRADE RELATIONS WITH ISRAEL**

Chief Sponsor: Ken Ivory

LONG TITLE

General Description:

This resolution of the House of Representatives addresses trade relations with the State of Israel.

Highlighted Provisions:

This resolution:

- ▶ opposes boycott, divestment, or sanctions movements in any form against the State of Israel;
- ▶ encourages promoting and strengthening trade relations between the business communities of Utah and Israel; and
- ▶ encourages activities related to trade with Israel.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the State of Israel is the most prominent target of nationally discriminatory boycott activity, which began even before Israel's declaration of independence as the reestablished national state of the Jewish people, with the Arab League Boycott adopted in 1945;

WHEREAS, companies that refuse to deal with U.S. trade partners such as Israel, and do so for discriminatory reasons on the basis of national origin, impair those companies' commercial soundness;

WHEREAS, it is the public policy of the United States, as enshrined in several federal acts, to oppose boycotts against Israel, and Congress has concluded as a matter of national trade policy that cooperation with Israel materially benefits U.S. companies and improves American competitiveness;

WHEREAS, Israel is known for its dynamic and innovative approach in many business sectors, and therefore a company's decision to discriminate against Israel, Israeli entities, or entities that do business with or in Israel is an unsound business practice;

WHEREAS, the 1985 United States-Israel Free Trade Agreement was the first free trade agreement entered into by the United States and continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency;

WHEREAS, since signing the United States-Israel Free Trade Agreement, U.S.-Israel trade has grown eight-fold and nearly all trade tariffs have been removed, resulting in U.S. goods and services trade with Israel totaling \$46 billion in 2013;

WHEREAS, Israel is an important trading partner for Utah;

WHEREAS, some of Utah's top exports to Israel include computer and electronic products, machinery, and transportation equipment; and

WHEREAS, Israel is a global center for hi-tech design and research and development, and could

offer opportunities for collaboration between Israeli companies and Utah's Silicon Slopes companies:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah strongly opposes any form of boycott, divestment, or sanctions movements that promote forms of boycott against the State of Israel.

BE IT FURTHER RESOLVED that the House of Representatives is dedicated to promoting and strengthening trade relations between the business communities of Utah and Israel.

BE IT FURTHER RESOLVED that the House of Representatives encourages activities for the promotion of trade and export, initiating and maintaining trade agreements for the improvement of Israel's, Utah's, and the United States' trade conditions, attracting and encouraging foreign investments, and creating strategic cooperation with foreign companies.

BE IT FURTHER RESOLVED that the House of Representatives encourages foreign investment in Utah companies and identifying Israeli companies that are open to cultivating a U.S. presence.

S.C.R. 1

Passed February 15, 2018
 Approved March 20, 2018
 Effective March 20, 2018

**CONCURRENT RESOLUTION
 RECOMMENDING REPLACEMENT
 OF STATUE OF PHILO FARNSWORTH
 IN UNITED STATES CAPITOL**

Chief Sponsor: Todd Weiler
 House Sponsor: Rebecca P. Edwards
 Cosponsor: Deidre M. Henderson

LONG TITLE

General Description:

This concurrent resolution initiates the replacement of the state's statue of Philo Farnsworth in the United States Capitol with a statue of Dr. Martha Hughes Cannon.

Highlighted Provisions:

This resolution:

- ▶ requests that the Joint Committee on the Library of Congress approve the replacement of Utah's statue of Philo Farnsworth in the National Statuary Hall Collection in the United States Capitol with a statue of Dr. Martha Hughes Cannon.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, 2 U.S.C. Sec. 2131 allows each state to provide two statues of individuals who were citizens of the state, who are known for their "historic renown or for distinguished civic or military service," for commemoration in the

National Statuary Hall Collection in the United States Capitol;

WHEREAS, Utah is currently represented by the statues of Brigham Young and Philo Farnsworth;

WHEREAS, 2 U.S.C. Sec. 2132 allows a state to request the Joint Committee on the Library of Congress to approve the replacement of a state's statue if:

- (1) the statue to be replaced has been on display in the United States Capitol for at least 10 years; and
- (2) a replacement request is made through a legislative resolution and approved by the Governor;

WHEREAS, the statue of Philo Farnsworth has been on display in the United States Capitol since 1990;

WHEREAS, 2 U.S.C. Sec. 2131a requires that an individual's statue may not be placed in the National Statuary Hall Collection until 10 years after the individual's death;

WHEREAS, Dr. Martha "Mattie" Hughes Cannon is a renowned woman of Utah, the first female state senator elected in the United States, and a national champion for women's rights;

WHEREAS, although the Utah Territory granted women suffrage in 1870, Congress passed the Edmunds-Tucker Act in 1887, revoking women's suffrage in the territory;

WHEREAS, the Utah Chapter of the National Woman Suffrage Association was created in 1889 and Dr. Cannon was instrumental in that organization's fight to restore women's right to vote in Utah, which effort was consummated in 1896 with the adoption of the Utah Constitution;

WHEREAS, that same year, Dr. Cannon was elected as a member of the Utah Senate and became the first female ever elected as a state senator in the United States, 24 years before all women in the United States were granted the right to vote by the ratification of the Nineteenth Amendment to the United States Constitution;

WHEREAS, Dr. Cannon defeated her husband and other candidates to obtain her Senate seat;

WHEREAS, during her time in the Utah Senate, Dr. Cannon was an outspoken champion for public health issues and was a powerful advocate for women's rights;

WHEREAS, after Dr. Cannon retired from the Legislature, she continued to fight for public health improvements, women's rights, and other important public policy improvements until she passed away in 1932; and

WHEREAS, Dr. Cannon's faith, resolve, vision, and tireless efforts deserve the highest honors the state can bestow:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, in conformance with 2 U.S.C. Sec. 2132, requests that the Joint Committee on the

Library of Congress approve the replacement of Utah’s statue of Philo Farnsworth in the National Statuary Hall in the United States Capitol with a statue of Dr. Martha Hughes Cannon.

BE IT FURTHER RESOLVED that the statue of Dr. Cannon be unveiled in the United States Capitol in August of 2020, in commemoration of the month of the 100th anniversary of the ratification of the Nineteenth Amendment to the United States Constitution.

BE IT FURTHER RESOLVED that no public funds be used for any cost related to the creation and placement of the new statue.

BE IT FURTHER RESOLVED that, in conformance with the requirements of 2 U.S.C. Sec. 2131, the statue be created in marble or bronze.

BE IT FURTHER RESOLVED that a copy of this resolution be mailed to the Joint Committee on the Library of Congress for its consideration.

S.C.R. 2

Passed February 28, 2018

Approved March 22, 2018

Effective March 22, 2018

**CONCURRENT RESOLUTION
ENCOURAGING THE USE OF SHIELDED
LIGHT FIXTURES ON OUTDOOR LIGHTS**

Chief Sponsor: Evan J. Vickers
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This concurrent resolution encourages the use of shielded outdoor lighting to promote dark skies.

Highlighted Provisions:

This resolution:

- ▶ recognizes the harmful effects of light pollution;
- ▶ identifies the benefits of shielded outdoor lighting and dark skies; and
- ▶ encourages the transition from unshielded to shielded outdoor lighting.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the International Dark-Sky Association (IDA) estimates that 30-60% of all outdoor lighting in the United States, which includes lighting for architecture, parking, landscaping, advertising, and streets, is wasted because of unshielded outdoor lights;

WHEREAS, when outdoor light is not shielded, the light is allowed to shine in various directions that are not of use, creating light pollution;

WHEREAS, light pollution is the artificial brightening of the night sky due to light that escapes from poorly designed light fixtures;

WHEREAS, property owners and municipalities could reduce their power costs by discontinuing the use of unshielded light fixtures;

WHEREAS, humans and wildlife rely on the earth’s daily cycle of light and dark, and research suggests that light pollution has a negative effect on sleep cycles;

WHEREAS, light pollution negatively impacts astronomers who rely on the darkness of skies to observe, study, and further scientific knowledge;

WHEREAS, in 1999, the state of New Mexico passed legislation that required all outdoor light fixtures to adhere to IDA standards, which has successfully increased dark skies, which are areas where the darkness of the night sky is relatively free of interference from light pollution;

WHEREAS, IDA has a program that designates an “International Dark Sky Park” as an area possessing an exceptional or distinguished quality of starry nights and a nocturnal environment that is specifically protected for its scientific, natural, educational, or public enjoyment;

WHEREAS, as of 2018, there are ten IDA-designated dark sky parks in Utah, and receiving additional designations could help promote the growing tourism industry by encouraging visitors who seek the benefits of dark skies; and

WHEREAS, adhering to IDA standards for outdoor lighting would help preserve and enhance the clarity of dark skies while maintaining safety, and move Utah toward a more sustainable future:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages Utahns to transition outdoor lighting from unshielded to shielded in accordance with IDA standards in order to preserve and enhance dark skies throughout the state.

S.C.R. 3

Passed February 23, 2018

Approved March 20, 2018

Effective March 20, 2018

**CONCURRENT RESOLUTION ON
THE IMPORTANCE OF CIVIL
LIBERTIES FOR STUDENTS**

Chief Sponsor: Jim Dabakis
House Sponsor: Kim F. Coleman

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor encourages state institutions of higher education to defend the civil liberties of

students and create an avenue by which a student may appeal a school policy.

Highlighted Provisions:

This resolution:

- ▶ recognizes some rights as inalienable;
- ▶ emphasizes the protection of many inalienable rights in the United States Constitution and the Utah Constitution;
- ▶ recognizes the unique role of institutions of higher education;
- ▶ recognizes state institutions of higher education as government actors;
- ▶ encourages state institutions of higher education to defend the civil liberties of students through policies that reflect constitutional protections; and
- ▶ recommends that state institutions of higher education create avenues by which students may appeal a policy.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, it is one of the founding principles of our country that all humans have certain inalienable rights upon which government may not infringe;

WHEREAS, both the United States Constitution and the Utah Constitution protect these inalienable rights, including the freedom of expression, the freedom of speech, the freedom of religion, the freedom of assembly, the right to due process, and the freedom of conscience;

WHEREAS, the Supreme Court of the United States upholds these rights, setting them as the standard by which all other laws are measured;

WHEREAS, higher education is an essential element of the state's continuous focus on civic and character education in the public schools and institutions of higher education as recognized and provided in sections 53G-10-204 and 67-1a-11 of the Utah Code;

WHEREAS, the achievement of graduating from an institution of higher education provides a student with greater opportunities in the workforce; and

WHEREAS, state institutions of higher education are government actors, required to abide by both the United States Constitution and the Utah Constitution:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly encourages state institutions of higher education to vigorously defend the civil liberties of students through policies that ensure the protection of constitutional rights.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recommends that state institutions of higher education each develop an

appeal process for cases in which the institution's policies are challenged for failing to protect a student's rights.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the State Board of Regents and the president of each state institution of higher education in Utah.

S.C.R. 4

Passed February 7, 2018
 Approved March 15, 2018
 Effective March 15, 2018

CONCURRENT RESOLUTION ON DEATHS FROM OPIOID-INDUCED POSTOPERATIVE RESPIRATORY DEPRESSION

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the devastating effects of the sudden death of Utah residents from opioid-induced postoperative respiratory depression, urges further study of this issue, and encourages physicians to prescribe in-home monitoring devices where appropriate for patients who are discharged with opioids after surgery.

Highlighted Provisions:

This resolution:

- ▶ recognizes the effects of sudden death from opioid-induced postoperative respiratory depression;
- ▶ urges the Department of Health, hospitals, practitioners, and academics to further study this issue; and
- ▶ encourages physicians to prescribe in-home monitoring devices where appropriate for patients who are discharged with opioids after surgery.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, opioids have been prescribed without understanding their full impact on the human body, leading to a public health crisis on a scale that has never before been seen in this country;

WHEREAS, President Donald J. Trump has declared the nation's opioid crisis to be a public health emergency;

WHEREAS, the people of the state of Utah continue to be devastated by addiction and deaths resulting from the use of opioids;

WHEREAS, opioids have been known to affect the part of the brain that regulates breathing, resulting in respiratory depression and death,

particularly in patients who are recovering from a surgical operation;

WHEREAS, in November 2014, the World Health Organization issued a warning about the risk of respiratory depression and death from opioid use;

WHEREAS, following the unexpected death of their son, Parker Stewart, from respiratory depression after taking the prescribed dose of an opioid after a routine surgery, members of his family have advocated tirelessly to raise awareness of the risks of death from opioid-induced postoperative respiratory depression;

WHEREAS, other families have had to face the sudden death of a loved one from respiratory depression after taking opioids post-surgery;

WHEREAS, deaths from opioid-induced postoperative respiratory depression may sometimes be misdiagnosed and could therefore be under-reported;

WHEREAS, the use of an in-home monitoring device to alert a caregiver of low oxygen saturation might alert a caregiver to intervene sooner and possibly prevent some of these needless deaths;

WHEREAS, in August 2012, the Joint Commission, an independent, not-for-profit organization that accredits and certifies nearly 21,000 health care organizations and programs in the United States, published a Sentinel Event Alert to health care professionals urging specific steps to prevent serious complications and deaths from opioid use, including monitoring patient oxygenation due to the higher risk of respiratory depression;

WHEREAS, advances in technology have made in-home monitoring devices that satisfy the recommendations of the Joint Commission accessible and affordable for hospitals, physicians, and patients;

WHEREAS, capnography and acoustic monitoring are increasingly becoming the standard of care in the hospital to detect changes in breathing, and the United States Food and Drug Administration has recently approved devices using these technologies for in-home use by a qualified health care provider; and

WHEREAS, respiratory care providers and other health care professionals, particularly from Intermountain Health Care and Uintah Basin Healthcare, have taken proactive measures to protect against the risk of death from opioid-induced respiratory depression:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the Department of Health to convene a multi-stakeholder, cross-sector group dedicated to gathering data and best practices to avoid deaths from opioid-induced postoperative respiratory depression.

BE IT FURTHER RESOLVED that health care professionals be advised about the dangers of

opioid-induced respiratory depression and the need for in-home monitoring of patients who are prescribed an opioid after surgery.

BE IT FURTHER RESOLVED that hospitals and academics are urged to collect more data about the risks of taking an opioid after surgery and the deaths resulting from opioid-induced postoperative respiratory depression, especially regarding the effects of the opioid on a patient's breathing.

BE IT FURTHER RESOLVED that the state of Utah shall make every effort to avoid the continuing needless deaths that result from the use of opioids throughout the state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Health and to health care organizations for distribution to members who perform procedures that incorporate the use of opioids and have the potential for postoperative respiratory depression.

S.C.R. 6

Passed February 26, 2018

Approved March 19, 2018

Effective March 19, 2018

**CONCURRENT RESOLUTION
RECOGNIZING UTAH
HONOR FLIGHT PROGRAM**

Chief Sponsor: Jani Iwamoto

House Sponsor: Paul Ray

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the Utah Honor Flight Program for sponsoring trips that allow Utah veterans to experience their war memorials in the Nation's Capitol.

Highlighted Provisions:

This resolution:

- ▶ recognizes the Utah Honor Flight Program for making it possible for Utah veterans to see and experience the war memorials in the Nation's Capitol and be honored for their sacrifice for their nation; and
- ▶ recognizes Utah's veterans for all they have done to inspire and remind the rest of us of our precious freedoms and the sacrifices required to preserve them.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utahns honor all those who have worn the nation's uniform and sworn to protect and defend the United States of America, across all conflicts and representing all generations of Americans, ensuring and preserving our rights, liberties, and freedoms;

WHEREAS, the attack on Pearl Harbor plunged the United States into a war that threatened its existence and tested its dedication to a culturally diverse, free society;

WHEREAS, according to the United States Department of Veterans Affairs, an estimated 640 World War II veterans die each day;

WHEREAS, the time to express our thanks to these brave men and women is running out;

WHEREAS, the Honor Flight Network is a non-profit organization created solely to honor America's veterans for all their sacrifices;

WHEREAS, the mission of the Honor Flight Network is to transport America's veterans to Washington, D.C., to visit war memorials;

WHEREAS, the Honor Flight Network was cofounded by Earl Morse, a physician assistant and retired Air Force captain, and Jeff Miller, a small business owner and son of a World War II veteran;

WHEREAS, the first honor flight took place in May 2005 when six small planes flew 12 veterans to Washington, D.C.;

WHEREAS, due to high participation, the program began using commercial flights and by the end of 2005 had transported 137 veterans to the World War II Memorial;

WHEREAS, what Morse and Miller began has prompted a remarkable outpouring of volunteerism, fundraising, and goodwill aimed at giving due honor to the nation's veterans;

WHEREAS, the Honor Flight Network has transported over 180,000 veterans since 2005;

WHEREAS, in this effort, known as the Honor Flight Program, top priority is given to the senior veterans -- World War II survivors, along with other veterans who may be terminally ill;

WHEREAS, the Utah Honor Flight Program is part of the Honor Flight Network and raises funds to provide Utah military veterans with a three-day trip to visit those memorials dedicated to honor the service and sacrifices of themselves and their friends;

WHEREAS, the Utah Honor Flight Program is a 501(c)(3) corporation and is registered with the state Department of Commerce with an active charitable giving permit;

WHEREAS, the Utah Honor Flight Program started in October 2013 under the parent organization Honor Flight Network based out of Columbus, Ohio;

WHEREAS, the Utah Honor Flight Program prepared its first trip on a small budget with a matching grant from the Honor Flight Network on October 13, 2013;

WHEREAS, the Utah Honor Flight Program's original goal was to allow the men and women, who have served the nation in times of war, to have a first-hand opportunity to reflect at their memorials

and allow them to see what the nation has provided for those who made the ultimate sacrifice;

WHEREAS, what was thought to be a one-time trip turned into a labor of love as veterans who made the trip wanted to make sure other Utah veterans could share in the amazing experience;

WHEREAS, Utah Honor Flight Program members quickly learned that what they were providing by having these men and women visit at these sacred venues was healing, for the individual, the family, and the communities in which these heroes served;

WHEREAS, since the first trip the Utah Honor Flight Program has raised nearly \$1.3 million to transport 1,300 World War II, Korean, and Vietnam veterans to their memorials in Washington, D.C.;

WHEREAS, many veterans have never visited Washington, D.C., and could not make this trip in their advanced years without the Honor Flight Program's support and resources;

WHEREAS, the Utah Honor Flight Program typically takes 50 veterans, eight staff members, and also 50 guardians who cover their own costs on the trips;

WHEREAS, two of the staff members provide medical help when needed;

WHEREAS, the flights originate from Salt Lake City for many Utah veterans, and from Las Vegas for Southern Utah veterans;

WHEREAS, the Utah Honor Flight Program utilizes commercial aircraft for the trips, specifically Southwest Airlines because of the discounted ticket prices that it offers;

WHEREAS, the flights land at Baltimore/Washington Thurgood Marshall Airport where the veterans are always greeted by a roaring sea of applause as they step off the Jetway;

WHEREAS, veterans, guardians, and staff members stay in nice hotels that provide veterans healthy meals that meet their dietary needs;

WHEREAS, the entire second day of the trip is spent visiting war memorials recognizing World War II, the Korean War, and the Vietnam War;

WHEREAS, the group also receives a VIP tour of the National Archives;

WHEREAS, the day is completed with a visit to Arlington National Cemetery, where the veterans observe the Changing of the Guard at the Tomb of the Unknown Soldier;

WHEREAS, that evening a Heroes Banquet is held for the veterans at the hotel;

WHEREAS, the morning of the third day, prior to departing the Washington, D.C. area, the group visits either the Dulles Air and Space Museum or Fort McHenry;

WHEREAS, upon the group's return to Salt Lake City, or St. George for the Southern Utah veterans, a surprise homecoming is held where family and friends greet their heroes;

WHEREAS, at these homecomings, either a scout or a veterans group present each veteran with a folded United States flag and a photo book of their trip;

WHEREAS, many of the veteran participants, heroes all, have indicated that the trip has changed their lives and that of their families as the veterans have opened up about their service history and shared experiences for the first time since leaving the service;

WHEREAS, on a recent Vietnam veteran trip, paid for by Nate Wade Subaru of Salt Lake City, 38 Vietnam combat veterans shared and healed for the first time in over 40 years;

WHEREAS, many veterans have taken the time after these flights to do oral or written histories, allowing their communities and families to keep and preserve those histories for the future;

WHEREAS, the Utah Honor Flight Program hopes to take every veteran who can travel on an Honor Flight in coming years;

WHEREAS, for those who are not well enough to make the trip, every effort is made to provide "virtual Honor Flights";

WHEREAS, veterans are selected for the trip through an application process and all veterans who are healthy enough to travel are eligible to participate in the program;

WHEREAS, applicants are called in the order applications are received by war era;

WHEREAS, the Utah Honor Flight Program hopes to take six trips per calendar year, with a goal of transporting 300 veterans per year;

WHEREAS, since the fall of 2013 the Utah Honor Flight Program has made 26 trips and transported just over 1,300 veterans at a cost of approximately \$1,000 per veteran;

WHEREAS, the Utah Honor Flight Program has one paid part-time employee and several hundred volunteers who donate thousands of hours per year to make these trips a reality;

WHEREAS, the Utah Honor Flight Program draws on many individuals, companies, and organizations to succeed on behalf of veterans, including the Governor's Office, major corporations, auto dealers, and Utah's congressional delegation;

WHEREAS, some of the program's other notable volunteers and groups that assist with the trips are Patriot Guard Riders, the Utah National Guard, Eagle Scouts and other Scout groups, the Pink Ladies group, many schools throughout the state, dozens of individual volunteers, and several past and present members of the Utah House of Representatives; and

WHEREAS, donations come from individuals, organizations, government entities, and large and small businesses across the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the Utah Honor Flight Program for making it possible for Utah veterans to see and experience the war memorials in the Nation's Capitol and be honored for their sacrifice for their nation.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize Utah's veterans for all they have done to inspire and remind the rest of us of our precious freedoms and the sacrifices required to preserve them.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Earl Morse, Jeff Miller, the Honor Flight Network, and the Utah Honor Flight Program.

S.C.R. 7

Passed February 26, 2018

Approved March 19, 2018

Effective March 19, 2018

**CONCURRENT RESOLUTION
HONORING FIREFIGHTERS AND
FIRE PREVENTION EFFORTS**

Chief Sponsor: Jani Iwamoto
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses gratitude to those working to prevent and reduce unwanted fire.

Highlighted Provisions:

This resolution:

- ▶ outlines the duties and contributions of the State Fire Marshal and local fire departments;
- ▶ highlights the ways in which fire prevention, fire suppression, and fire investigation protect the physical and economic health of the state and its citizens; and
- ▶ acknowledges the work of, and expresses gratitude for, the sacrifice of the men and women working in fire prevention, fire suppression, and fire investigation.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the State Fire Marshal is tasked by the Legislature of the state of Utah with enforcing the state fire code;

WHEREAS, the State Fire Marshal is tasked by the Legislature of the state of Utah with promoting and supporting injury prevention public education programs;

WHEREAS, the State Fire Marshal shares this responsibility with local fire departments, fire districts, the Division of Forestry, Fire and State Lands, and agencies within the U.S. Department of

the Interior and the U.S. Department of Agriculture;

WHEREAS, fire prevention has proven its value in reducing injury, death, and property loss due to unwanted fire;

WHEREAS, fire prevention helps ensure the economic health of large and small businesses, and of the state of Utah as a whole;

WHEREAS, fire suppression is critical in addressing unforeseen fire hazards and works to reduce losses due to fire through fire suppression;

WHEREAS, firefighters selflessly risk their lives daily ensuring the safety of the public by participating in fire prevention and responding to emergencies caused by unforeseen hazards; and

WHEREAS, the role of fire investigation in determining the origin and cause of fire is an essential part of improving fire prevention and fire suppression:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, acknowledges the work and sacrifice of the men and women working in fire prevention, fire suppression, and fire investigation, who have dedicated their professional lives to the prevention and reduction of loss due to fire.

BE IT FURTHER RESOLVED that the Legislature and the Governor express their gratitude to those working to prevent and reduce the catastrophe caused by unwanted fire.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the State Fire Marshal, the Utah Division of Forestry, Fire and State Lands, the U.S. Department of the Interior, and U.S. Department of Agriculture.

S.C.R. 8

Passed March 6, 2018
Approved March 19, 2018
Effective March 19, 2018

CONCURRENT RESOLUTION IN SUPPORT OF THE CREATION OF A NEW NATIONAL PARK

Chief Sponsor: Ralph Okerlund
House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This resolution supports United States House of Representatives bill H.R. 4558, introduced to create a new national park and three national monuments.

Highlighted Provisions:

This resolution:

- ▶ supports United States House of Representatives bill H.R. 4558, the “Grand Staircase Escalante Enhancement Act,”

introduced by United States Representative Chris Stewart to establish the Escalante Canyons National Park and Preserve, Grand Staircase National Monument, Kaiparowits National Monument, and Escalante Canyons National Monument.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on December 6, 2017, in the 115th Congress, 1st Session, United States Representative Chris Stewart introduced H.R. 4558, the “Grand Staircase Escalante Enhancement Act,” to establish Escalante Canyons National Park and Preserve, Grand Staircase National Monument, Kaiparowits National Monument, and Escalante Canyons National Monument in Kane and Garfield counties, Utah;

WHEREAS, the purpose of Escalante Canyons National Park and Preserve, Grand Staircase National Monument, Kaiparowits National Monument, and Escalante Canyons National Monument shall be to protect, conserve, and enhance:

- the unique and nationally important historic, scenic, and natural resources;
- recreation, including hunting; and
- grazing;

WHEREAS, H.R. 4558 authorizes public access for hunting, fishing, trapping, and grazing within Escalante Canyons National Park and Preserve; and

WHEREAS, H.R. 4558 provides for local control of the proposed park and monuments by establishing the presidentially appointed Management Council as the administrative authority, composed of:

- one individual from the Department of the Interior, appointed by the President;
- five individuals, appointed by the President in consultation with the congressional delegation from the state of Utah and the Governor of Utah, who shall represent Garfield and Kane counties; and
- one at-large representative appointed by the President;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports H.R. 4558 to establish Escalante Canyons National Park and Preserve, Grand Staircase National Monument, Kaiparowits National Monument, and Escalante Canyons National Monument.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and members of Utah’s congressional delegation.

S.C.R. 9

Passed February 6, 2018
Approved February 6, 2018
Effective February 6, 2018

**CONCURRENT RESOLUTION ON UTAH'S
OLYMPIC EXPLORATORY COMMITTEE
AND ITS EFFORTS TO EXPLORE HOSTING
OF A FUTURE OLYMPIC AND
PARALYMPIC WINTER GAMES**

Chief Sponsor: Wayne L. Niederhauser
House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor encourages the exploring of Utah and Salt Lake City hosting a future Olympic and Paralympic Winter Games.

Highlighted Provisions:

This resolution:

- ▶ supports and encourages Utah's Olympic Exploratory Committee in its efforts to ascertain if Utah and Salt Lake City are "ready, willing, and able" to host a future Olympic and Paralympic Winter Games and supports hosting a future Olympic and Paralympic Winter Games.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, as highlighted in S.C.R. 9, Concurrent Resolution Recognizing the Importance of Utah's Sport and Olympic Legacy Efforts (2015 General Session), the state of Utah values the experience of Salt Lake City hosting the 2002 Olympic and Paralympic Winter Games and the long-term importance of sports and the Olympic legacy to Utah;

WHEREAS, Utah is recognized as "The State of Sport" and continues to make major investments in sports with the Utah Sports Commission, the Utah Olympic Legacy Foundation, along with many other key partners who are helping drive Utah's Olympic legacy and sports activities by hosting hundreds of major Olympic and non-Olympic sporting events, training, and other activities at world-class venues since the 2002 Games;

WHEREAS, Utah continues to actively partner with and support the mission and charter of the United States Olympic Committee, the

International Olympic Committee, and many other partners who are helping Utah enhance its sport and Olympic legacy;

WHEREAS, because of Utah's and Salt Lake City's excellence in hosting the 2002 Games and the hosting of many major national and international sporting events since 2002, extraordinary sport and institutional knowledge exist in Utah;

WHEREAS, Utah continues to use and leverage significant 2002 Games infrastructure and other infrastructure and assets, including sports, athletic, training, venues, transportation improvements, sustainability and green initiatives, and other key related strategic activities;

WHEREAS, due to the high level of Utah's Olympic legacy and ongoing sports efforts, venues, and institutional knowledge, Utah and Salt Lake City are favorably positioned to host another Olympic and Paralympic Winter Games and can say with confidence that they are "ready, willing, and able" to host the Olympic and Paralympic Winter Games again and to warmly welcome back the world; and

WHEREAS, an exploratory committee was formed October 17, 2017, by Utah's public leaders, to begin the process of carefully examining hosting the 2026 or 2030 Olympic and Paralympic Winter Games:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports and encourages the Olympic Exploratory Committee in the committee's hard work to determine whether Salt Lake City and Utah can host a future Olympic and Paralympic Winter Games on budget and can conduct excellent Games.

BE IT FURTHER RESOLVED that the Legislature and Governor strongly support Utah's and Salt Lake City's hosting of a 2026 or 2030 Olympic and Paralympic Winter Games should the opportunity present itself to bid again.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the International Olympic Committee, the United States Olympic Committee, the Utah Sports Commission, the Utah Olympic Legacy Foundation, the Governor's Office of Economic Development, the Utah State Chamber of Commerce, and the members of Utah's congressional delegation.

S.C.R. 10

Passed February 27, 2018

Approved March 19, 2018

Effective March 19, 2018

**CONCURRENT RESOLUTION
ON THE TOPAZ INTERNMENT CAMP**

Chief Sponsor: Jani Iwamoto
 House Sponsor: Merrill F. Nelson
 Cosponsors: J. Stuart Adams
 Jacob L. Anderegg
 Curtis S. Bramble
 David G. Buxton
 Allen M. Christensen
 Jim Dabakis
 Gene Davis
 Margaret Dayton
 Luz Escamilla
 Lincoln Fillmore
 Wayne A. Harper
 Daniel Hemmert
 Deidre M. Henderson
 Lyle W. Hillyard
 David P. Hinkins
 Don L. Ipson
 Peter C. Knudson
 Karen Mayne
 Ann Millner
 Wayne L. Niederhauser
 Ralph Okerlund
 Howard A. Stephenson
 Jerry W. Stevenson
 Daniel W. Thatcher
 Kevin T. Van Tassel
 Evan J. Vickers
 Todd Weiler
 Brian Zehnder

LONG TITLE

General Description:

This concurrent resolution recognizes the achievement of establishing the Topaz Museum and Education Center to preserve the Topaz Relocation Center site and educate the public about Japanese American internment history.

Highlighted Provisions:

This resolution:

- ▶ recognizes the achievements of Jane Beckwith, founder and current president of the Topaz Museum Board, the past and present members of the Topaz Museum Board, and other groups and individuals in bringing the vision of the Topaz Museum and Education Center to reality and providing a place where residents of and visitors to the state can learn valuable lessons regarding civil rights.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, during World War II, as described in the Civil Liberties Act of 1988, “race prejudice, war hysteria, and a failure of political leadership” led to over 120,000 people of Japanese ancestry,

two-thirds of whom were American citizens, being forced from their homes in west coast states and incarcerated in camps such as the Topaz Relocation Center near Delta, Utah;

WHEREAS, the Topaz Museum Board, a 501(c)(3) organization, was established in 1996 after raising money to restore a portion of an original Topaz recreation hall that had been used as the Boy Scouts meeting place during the period of incarceration;

WHEREAS, the Topaz Museum Board, under the direction of its founder and current president, Jane Beckwith, consists of people committed to a mission of: preserving the Topaz site; telling the history of incarceration during World War II; honoring the internees; interpreting the impact of the experience on the internees, their families, and the residents of Millard County; and educating the public in order to prevent a similar denial of American civil rights from recurring;

WHEREAS, since its founding, the Topaz Museum Board has purchased 633 acres of the original site of the Topaz Relocation Center, conducted teacher workshops, held pilgrimages, and raised awareness of the history of Topaz;

WHEREAS, the Secretary of the Interior designated the Topaz site as a National Historic Landmark in 2007;

WHEREAS, the Topaz Museum Foundation, a 501(c)(3) organization, has recently completed an ambitious campaign that raised approximately \$3,000,000 to create the long-awaited and much-needed Topaz Museum and Education Center to tell the story of Topaz;

WHEREAS, the Topaz Museum and Education Center is the crowning jewel of a preservation program that began in 1991 to ensure the story of Japanese American internment during World War II is remembered and the site of the Topaz camp is preserved;

WHEREAS, the museum received many donations, including \$300,000 from the state of Utah and \$1,200,000 from the National Park Service through the Japanese American Confinement Sites grant program, allowing the Topaz Museum Board to complete this project;

WHEREAS, the Friends of Topaz, an organization created to support the Topaz Museum Foundation by engaging with communities, constituents, and individuals, has played an important role in promoting the mission, vitality, and success of the museum;

WHEREAS, the Topaz Museum Foundation has maintained a strong relationship with over 3,000 people, including many former internees, who have financially supported the foundation’s programs and whose help was essential in the completion of each of the foundation’s projects;

WHEREAS, the exhibits for the Topaz Museum and Education Center highlight the personal sacrifices and contributions of more than 11,000 people incarcerated at the desolate Topaz camp;

WHEREAS, the exhibits include a collection of 1,000 artifacts, including 110 original pieces of artwork created by internees during their incarceration, over 35 video interviews, and a restored recreation hall;

WHEREAS, the Topaz Museum and Education Center has become the official repository for teaching, exploring, and interpreting the history of this troubled period of America's past and the impact that still resonates today;

WHEREAS, the museum stands as a memorial to the resilient internees who tried to make camp life as normal as possible and as a witness for the history of the incarceration of people of Japanese ancestry during World War II;

WHEREAS, the installations and exhibits use cutting-edge technology combined with historic perspectives to engage and educate the public about the United States Constitution and civil rights;

WHEREAS, the Topaz Museum and Education Center will continue to collect and safeguard artifacts, artwork, and video interviews, making them accessible to future generations, and ensuring this period in American history will never be forgotten;

WHEREAS, the Topaz Museum Foundation also protects 633 acres of the original Topaz site, which is replete with evidence of gardens, walkways, concrete foundations, and artifacts, giving evidence of Japanese Americans who lived there from September 11, 1942, until October 31, 1945;

WHEREAS, visitors can learn this complex history, including information about the four Supreme Court test case appellants Min Yasui, Gordon Hirabayashi, and Topaz internees Fred Korematsu and Mitsuye Endo by reading exhibit panels, by seeing artifacts and an original recreation hall, and then by visiting the actual camp site;

WHEREAS, this total experience produces an understanding of the stark reality of what happened in America to people of Japanese ancestry, the majority of whom were American citizens;

WHEREAS, the completion of the Topaz Museum and Education Center allows students, families, educators, historians, former internees, and their families to learn from the artwork, artifacts, oral histories, diaries, and interpretive exhibits, and then travel 16 miles to where the history occurred;

WHEREAS, museum docents greet visitors and answer questions beyond the scope of the exhibits allowing visitors to question and contemplate poignant and significant aspects of civil rights and race relations;

WHEREAS, in 2007, Governor Jon Huntsman Jr. spoke at the dedication of the Topaz site as a National Historic Landmark;

WHEREAS, in 2009, the Utah State Legislature passed a resolution supporting the construction of the Topaz Museum and Education Center;

WHEREAS, on January 18, 2013, Governor Gary Herbert proclaimed January 30, 2013, "Fred Korematsu Day" in Utah, honoring Mr. Korematsu on what would have been his 94th birthday for his lifelong efforts to assure civil liberties for all Americans, following his imprisonment at Topaz and landmark Supreme Court case;

WHEREAS, Topaz art has been shown in five major galleries in California and Utah, and in 2018 the Utah Museum of Fine Arts will host a retrospective show of the art of Chiura Obata, who started the art school at Topaz;

WHEREAS, over 250 teachers have learned about Topaz in the Summer Field School hosted by the Topaz Museum Foundation and the Utah State Office of Education and countless students have visited the Topaz Museum;

WHEREAS, the Topaz Museum website and social media accounts confirm that 5,000 people per month are reading about Topaz and downloading information about visiting the site; and

WHEREAS, the grand opening of the Topaz Museum and Education Center took place on July 7 and 8, 2017, and featured speeches by Senator Orrin Hatch, Representative Rob Bishop, Jill Remington Love, executive director, Utah Department of Heritage and Arts, and Don Tamaki, whose parents were in Topaz, a koto performance by Shirley Muramoto, a flag presentation by the Latinos in Action, a presentation by Kimi Kodani Hill, a book signing by Willie Ito, who was in Topaz, taiko drumming by the Ogden Buddhist Taiko Group, the puppet show "E.O. 9066" by the San Francisco troupe, Lunatique Fantastique, a ribbon cutting, and tours of the museum and site;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the achievements of Jane Beckwith and the Topaz Museum Board in bringing the vision of the Topaz Museum and Education Center to reality and providing a place where residents of and visitors to the state can learn valuable lessons regarding civil rights and the nation's commitment to equal justice under the law by championing the resilience of the internees who remained steadfast when their government wavered.

BE IT FURTHER RESOLVED that the Legislature and the Governor laud the efforts of all those who contributed to this effort and encourage the residents of and visitors to the state to take advantage of the important educational opportunities available at the Topaz Museum, 55 West Main, Delta, Utah.

S.C.R. 11

Passed March 1, 2018
 Approved March 19, 2018
 Effective March 19, 2018

**CONCURRENT RESOLUTION ON
 AWARENESS AND TREATMENT OF
 MATERNAL DEPRESSION AND ANXIETY**

Chief Sponsor: Brian Zehnder
 House Sponsor: Rebecca Chavez-Houck
 Cosponsors: David G. Buxton
 Allen M. Christensen
 Lincoln Fillmore
 Daniel Hemmert
 Deidre M. Henderson
 Jani Iwamoto
 Karen Mayne

LONG TITLE

General Description:

This resolution addresses health concerns involving maternal depression and anxiety.

Highlighted Provisions:

This resolution:

- ▶ raises awareness about maternal depression and anxiety; and
- ▶ encourages the state to take action to address this serious public health issue.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, maternal depression and anxiety is a serious public health issue in Utah;

WHEREAS, maternal depression and anxiety encompass a range of symptoms and mental health disorders, including depression, anxiety, social withdrawal, and, in extreme cases, psychosis;

WHEREAS, at least one in eight new mothers experience maternal depression and anxiety;

WHEREAS, maternal depression and anxiety can affect a woman from the beginning of a pregnancy through one year after delivery;

WHEREAS, maternal depression and anxiety is the number one complication of childbirth, with incidence rates higher than preterm births, low birth weight babies, and gestational diabetes;

WHEREAS, when a mother experiences maternal depression and anxiety, it affects family well-being and stability;

WHEREAS, maternal depression and anxiety affect a woman's ability to care for herself and engage in healthy parenting behaviors;

WHEREAS, maternal depression and anxiety affects parent-child bonding, increases family conflict, lowers rates of breast feeding, and can lead to less safe home environments for children;

WHEREAS, children of affected mothers are at increased risk for serious health, developmental, or behavioral conditions, which can affect the child's overall development and growth;

WHEREAS, despite the prevalence and risks, there is a lack of awareness among the public and providers, and many mothers feel reluctant to report symptoms or concerns; and

WHEREAS, there are evidence-based, cost-effective screening, detection, and treatment options available for mothers and children, but they are not adequately or consistently applied in Utah;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes maternal depression and anxiety as a serious statewide public health issue.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to addressing maternal depression and anxiety at all levels, from individuals and families to communities, organizations, systems, and state policies.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the Department of Health, the Department of Human Services, local health departments, and the medical community to develop and utilize evidence-based approaches that:

- (1) expand provider training, education and support, and a standard of care across practices in perinatal and pediatric settings, including those working with mothers experiencing substance use disorders;
- (2) screen mothers throughout pregnancy and postpartum, including during their child's well-child visit;
- (3) increase public awareness and public education of maternal mental health disorders;
- (4) expand statewide maternal mental health data collection, monitoring, and evaluation, and share information across state agencies, nonprofits, and local authorities through centralized systems;
- (5) increase support for prevention and peer support models, including home visiting programs, community health workers, and other peer or in-home support models;
- (6) embed maternal mental health into all statewide crisis response policies; and
- (7) expand public and private models for prevention and care.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge all offices and agencies in the state of Utah whose responsibilities include working with new mothers, families, and children, including the Department of Health, Department of Human Services, and local health authorities, to become informed regarding the short-term and long-term impacts of maternal depression and anxiety so that evidence-based preventive care, early identification, and treatment

services are available and accessible statewide for all women, and adverse consequences in children and families can be prevented.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Health, Department of Human Services, and all local health departments.

S.C.R. 12

Passed March 7, 2018
Approved March 27, 2018
Effective March 27, 2018

**CONCURRENT RESOLUTION
ON REDUCING GANG ACTIVITY**

Chief Sponsor: Karen Mayne
House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This concurrent resolution urges state and local governments to work together to reduce gang activity.

Highlighted Provisions:

This resolution:

- ▶ urges state and local government agencies, through a comprehensive, collaborative, and community-wide approach, to work together to reduce gang activity in targeted neighborhoods by incorporating a broad spectrum of research-based interventions to address the range of personal, family, cultural, and community factors that contribute to juvenile delinquency and gang activity;
- ▶ urges communities, civil rights groups, media, elected officials, gang prevention specialists, educational organizations, cultural organizations, law enforcement organizations, the community, and active gang members to work towards mediating conflict and suppressing gang violence; and
- ▶ acknowledges that sports, arts, academics, targeted counseling, and employment programs are means to enhance the future of the community and counteract gang recruitment.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah has seen increasing incidents of gang-related violence and homicides in recent years;

WHEREAS, increasing gang violence is a concern for all Utahns;

WHEREAS, Utah law enforcement agencies have reported that gang members are actively recruiting younger members;

WHEREAS, the great potential of adults, teens, and youth is harmed if they fall prey to gang recruitment and intimidation;

WHEREAS, gang activity jeopardizes the civil rights, safety, and well-being of all members of the community, whether or not individuals are associated with gangs;

WHEREAS, gang activity ruins lives, destroys families, targets vulnerable youth, can take the lives of innocent victims unaffiliated with gang activity, and poses a real and present danger to public safety;

WHEREAS, the most effective way to address gang violence is through a comprehensive, collaborative, and community-wide approach;

WHEREAS, gang activity can be reduced in targeted neighborhoods by incorporating a broad spectrum of research-based interventions to address the range of personal, family, and community factors that contribute to juvenile delinquency and gang activity;

WHEREAS, such research-based intervention prevention efforts add immeasurably to the health and safety of our communities;

WHEREAS, the Utah State Board of Education has established a Gang Prevention and Intervention Program in schools designed to help students at-risk for gang involvement stay in school;

WHEREAS, while schools are uniquely placed in our communities to be a center for gang prevention activity, gang prevention efforts cannot fall to our schools alone;

WHEREAS, the most effective and successful models for gang prevention efforts involve the combined efforts of students, educators, law enforcement, families, and the general public; and

WHEREAS, local, state, and federal resources should be coordinated to enhance current practices in prevention, intervention, and suppression to provide immunization against delinquency, youth violence, and gang membership for children in the years immediately before the prime ages for introduction into gangs and delinquent behavior:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges state and local government agencies, through a comprehensive, collaborative, and community-wide approach, to work together to reduce gang activity in targeted neighborhoods by incorporating a broad spectrum of research-based interventions to address the range of personal, family, cultural, and community factors that contribute to juvenile delinquency and gang activity.

BE IT FURTHER RESOLVED that the Legislature and the Governor urges communities, civil rights groups, media, elected officials, gang prevention specialists, educational organizations, cultural organizations, law enforcement organizations, the community, and active gang

members to work towards mediating conflict and suppressing gang violence.

BE IT FURTHER RESOLVED that the Legislature and the Governor acknowledge that sports, arts, academics, targeted counseling, and employment programs are means to enhance the future of the community and counteract gang recruitment.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah League of Cities and Towns, the Utah Association of Counties, the Utah Department of Public Safety, the State Commission on Criminal and Juvenile Justice, the Utah State Board of Education, the Utah Department of Health, and the Utah Department of Human Services.

S.C.R. 13

Passed February 21, 2018
 Approved March 22, 2018
 Effective March 22, 2018

**CONCURRENT RESOLUTION
 HONORING SENATOR ORRIN HATCH**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This resolution honors Senator Orrin G. Hatch for his service to the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ designates Wednesday, February 21, 2018, as “Orrin G. Hatch Day” in recognition of Senator Hatch’s singular legislative accomplishments and dedicated service to the people of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Orrin Hatch has dutifully served the people of Utah in the United States Senate for more than four decades;

WHEREAS, Orrin Hatch has passed more bills into law than any legislator alive today, including some of the most significant bipartisan achievements of modern times;

WHEREAS, Orrin Hatch, as the longest-serving member and former chairman of the Senate Judiciary Committee, has long sought to protect the integrity of our courts, strengthen privacy protections, defend intellectual property rights, and clarify our nation’s criminal code;

WHEREAS, Orrin Hatch has played an indispensable role in the confirmation of more than 1,800 Article III judges, including every sitting Supreme Court justice;

WHEREAS, Orrin Hatch was recently named “The Most Effective Senator” in the nation by the Center for Effective Lawmaking--a nonpartisan research organization;

WHEREAS, Orrin Hatch has long stood as an ardent defender of religious liberty, from his authorship of the Religious Freedom Restoration Act to his unwavering advocacy on behalf of faith-based organizations across the country;

WHEREAS, Orrin Hatch, as the lead sponsor of the Hatch-Waxman Act, is today widely esteemed as the founder of the modern generic drug industry;

WHEREAS, Orrin Hatch helped improve access, mobility, and quality of life for millions of Americans with his sponsorship of the landmark Americans with Disabilities Act;

WHEREAS, Orrin Hatch authored the historic Dietary Supplement Health and Education Act, providing a legal framework for a multi-billion-dollar industry that has created countless jobs in the state of Utah;

WHEREAS, Orrin Hatch, as the longest-serving Republican on the Senate Intelligence Committee, provided critical counsel and timely analysis on some of the most consequential national security issues of our time;

WHEREAS, Orrin Hatch, as chairman of the Senate Republican High-Tech Task Force, has been integral to the development of Silicon Slopes and Utah’s technology industry;

WHEREAS, Orrin Hatch, as chairman of the Senate Labor and Human Resources Committee, worked to enact laws that have improved our nation’s health and well-being and that have helped to ensure an economically vibrant workforce;

WHEREAS, Orrin Hatch, as chairman of the Senate Finance Committee, has championed policies to promote a pro-trade, pro-growth agenda, including the recent overhaul of our nation’s tax code;

WHEREAS, Orrin Hatch serves as the president pro tempore of the United States Senate;

WHEREAS, Orrin Hatch holds the distinction of being the longest-serving Senator in Utah’s history; and

WHEREAS, Orrin Hatch has done immeasurable good for the state of Utah and the nation:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates Wednesday, February 21, 2018, as “Orrin G. Hatch Day” in recognition of Senator Hatch’s singular legislative accomplishments and dedicated service to the people of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority and Minority Leaders of the United States Senate and the members of Utah’s congressional delegation.

S.C.R. 15

Passed March 7, 2018
Approved March 19, 2018
Effective March 19, 2018

**CONCURRENT RESOLUTION
RECOGNIZING THE 100TH ANNIVERSARY
OF ARMY WARRANT OFFICERS**

Chief Sponsor: Peter C. Knudson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This resolution of the Legislature and the Governor recognizes the 100th Anniversary of the Army Warrant Officer Corps.

Highlighted Provisions:

This resolution:

- ▶ recognizes the Army Warrant Officer Corps during its 100th Anniversary; and
- ▶ recognizes the men and women of the Army Warrant Officer Corps who have served this nation, this state, and its communities so honorably and admirably over the past 100 years.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, an Army warrant officer is an adaptive technical expert, combat leader, trainer, and advisor;

WHEREAS, warrant officers are highly skilled, single-track specialty officers who make up the technical foundation of the U.S. Army;

WHEREAS, through progressive levels of expertise in assignments, training, and education, Army warrant officers administer, manage, maintain, operate, and integrate Army systems and equipment across the full spectrum of Army operations;

WHEREAS, Army warrant officers are commissioned by the President of the United States and take the same oath as regular commissioned officers;

WHEREAS, although they make up less than 3% of total Army strength, warrant officers shoulder great responsibilities including training soldiers and organizing and advising on missions;

WHEREAS, throughout their careers, Army warrant officers specialize in a technical area like intelligence, aviation, or military police;

WHEREAS, Army warrant officers are innovative integrators of emerging technologies, dynamic teachers, confident warfighters, and developers of specialized teams of soldiers;

WHEREAS, Army warrant officers can and do command attachments, units, activities, vessels, aircraft, and armored vehicles, as well as lead, coach, train, and counsel subordinates;

WHEREAS, an Army warrant officer's primary task as a leader is to serve as a technical expert to provide valuable skills, guidance, and expertise in his or her field to commanders and organizations;

WHEREAS, for example, due to demand for helicopter pilots in Vietnam, the number of Army warrant officer pilots grew from about 2,960 in 1966 to more than 12,000 by 1970;

WHEREAS, Army warrant officers serve not only in the military but serve important roles throughout the community;

WHEREAS, Army warrant officers have sacrificed for the cause of freedom, including some who have paid the ultimate sacrifice for those freedoms; and

WHEREAS, the Army Warrant Officer Corps celebrates its 100th Anniversary on July 9, 2018:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the Army Warrant Officer Corps during its 100th Anniversary.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the men and women of the Army Warrant Officer Corps who have served this nation, this state, and its communities so honorably and admirably over the past 100 years.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Secretary of the Army, the Utah Department of Veterans and Military Affairs, and the Army Warrant Officer Corps.

S.C.R. 16

Passed March 7, 2018
Approved March 19, 2018
Effective March 19, 2018

**CONCURRENT RESOLUTION
HONORING REVEREND BILLY GRAHAM**

Chief Sponsor: Howard A. Stephenson
House Sponsor: A. Cory Maloy
Cosponsors: Wayne L. Niederhauser
Brian Zehnder

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors the life of Reverend Billy Graham.

Highlighted Provisions:

This resolution:

- ▶ recognizes the life and ministry of Reverend Billy Graham; and
- ▶ expresses sympathy for his loss.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, William "Billy" Franklin Graham, Jr., was born on November 7, 1918, to William

Franklin Graham and Morrow Coffey Graham, and was reared on a dairy farm in Charlotte, North Carolina;

WHEREAS, Reverend Graham attended the Florida Bible Institute from 1937 to 1940, graduating in 1940, and was ordained to the ministry in 1939;

WHEREAS, Reverend Graham attended Wheaton College from September of 1940, graduating in June of 1943, and two months later married Ruth Bell on August 13, 1943;

WHEREAS, Reverend Graham served as pastor of The Village Church in Western Springs, Illinois, from 1943 to 1945;

WHEREAS, Reverend Graham served as a member of Youth for Christ International, where he ministered to young people and military personnel from 1945 to 1950;

WHEREAS, from 1947 to 1952, Reverend Graham was president of Northwestern Bible College, now known as the University of Northwestern, a liberal arts college, Bible school, and theological seminary;

WHEREAS, after World War II, Reverend Graham preached throughout the United States and Europe and attained international prominence as an evangelist through a series of crusades that began in 1947;

WHEREAS, since 1950, Reverend Graham has conducted his ministry through the Billy Graham Evangelistic Association, reaching multitudes of people across the globe by means of evangelistic crusades, which were broadcast in Utah on KSL Television;

WHEREAS, over the years, Reverend Graham has preached to live audiences of nearly 215 million people in more than 185 countries and territories through various meetings, including Mission World and Global Mission;

WHEREAS, Reverend Graham was a renowned humanitarian and philanthropist, providing financial assistance to victims of disasters;

WHEREAS, Reverend Graham counseled 12 presidents and participated in nine presidential inaugurations;

WHEREAS, Reverend Graham counseled world leaders, participated in many historic occasions, and was called upon as the "Nation's Pastor" during times of national crisis;

WHEREAS, Reverend Graham spoke at the National Cathedral service in Washington, D.C., three days after the 9/11 attack in 2001, as the nation and world watched and listened, with five presidents in attendance, including George W. Bush, Bill Clinton, George H. W. Bush, Jimmy Carter, and Gerald Ford and their wives;

WHEREAS, in 2017, Reverend Graham was ranked fourth on the "Ten Most Admired Men in the World List" for the 61st time since being first selected in 1955;

WHEREAS, Reverend Graham, affectionately known as "America's Pastor," passed away at his North Carolina home on February 21, 2018, at the age of 99;

WHEREAS, Reverend Graham received a rare recognition for a civilian: his body lay in honor in the United States Capitol for two days, the first time a private citizen has been given this honor since civil rights hero Rosa Parks passed away in 2005;

WHEREAS, Reverend Graham was buried at the Billy Graham Library, near the worldwide headquarters of the Billy Graham Evangelistic Association in Charlotte, North Carolina, next to his wife, Ruth, in a plywood coffin made by prisoners at the Louisiana State Penitentiary in Angola, Louisiana, a choice that reflects his long-standing support of prison ministries; and

WHEREAS, admired and beloved by Christians and non-Christians alike, Reverend Graham inspired the world with his message of God's love for sinners and the grace of Jesus Christ to save people from their sins:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the lifelong ministry of Reverend Billy Graham.

BE IT FURTHER RESOLVED that the Legislature and the Governor express deep sympathy for his loss and gratitude for Reverend Graham's life and service to others.

S.J.R. 1

Passed February 22, 2018

Effective February 22, 2018

**JOINT RESOLUTION RECOGNIZING
EDUCATORS OF THE DEAF AND
AMERICAN SIGN LANGUAGE
INSTRUCTORS**

Chief Sponsor: Jani Iwamoto

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This resolution recognizes the efforts of educators of the deaf and American Sign Language instructors and highlights the contributions of American Sign Language to the culture of the state.

Highlighted Provisions:

This resolution:

- ▶ highlights the history of American Sign Language in the United States;
- ▶ expresses support for the Deaf Community in the state; and
- ▶ recognizes the efforts of Utah's educators of the deaf and American Sign Language instructors in sharing American Sign Language with students and community members across the state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, various forms of sign language were used throughout the United States prior to 1817;

WHEREAS, American Sign Language (ASL) is believed to have primarily originated in Hartford, Connecticut, when a father seeking help to educate his deaf daughter, Alice Cogswell, sent Thomas Hopkins Gallaudet to Europe to learn the pedagogy of formalized deaf education in Europe;

WHEREAS, after being denied access to oral schools for the deaf in Great Britain, the French Institut National de Jeunes Sourds de Paris offered to teach Gallaudet its manual methods;

WHEREAS, an assistant at the school, Laurent Clerc, accompanied Gallaudet back to the United States and together, along with Mason Cogswell, founded the first permanent school for the deaf, the American School for the Deaf, in Hartford, Connecticut, on April 15, 1817;

WHEREAS, the establishment of the American School for the Deaf led to the creation of deaf schools across the country;

WHEREAS, knowledge of American Sign Language spread to these schools as well;

WHEREAS, on April 8, 1864, President Abraham Lincoln signed the charter for Gallaudet University in Washington, D.C., the first school for the advanced education of the deaf and hard of hearing in the world;

WHEREAS, the Utah Schools for the Deaf and the Blind was established on August 26, 1884, as the educating body for deaf and hard of hearing students in Utah;

WHEREAS, despite widespread use, American Sign Language was not fully legitimized until 1955 when the linguist William Stokoe demonstrated that the attributes of American Sign Language are comparable to oral languages;

WHEREAS, on March 13, 1988, the Deaf President Now movement succeeded in having I. King Jordan named the first deaf president of Gallaudet University;

WHEREAS, Americans celebrate Deaf History Month each year from March 13 to April 15, straddling two months to recognize three key dates in deaf history: March 13, April 8, and April 15;

WHEREAS, people across the country annually celebrate National American Sign Language Day on April 15;

WHEREAS, Utah is continuing the legacy of educating deaf and hard of hearing students established over the past 133 years through the work of the Utah Schools for the Deaf and the Blind;

WHEREAS, American Sign Language education is a valuable scholastic resource for many students in school districts across the state as exemplified by the ASL program at Skyline High School, which enhances classroom study with opportunities to engage students from the Utah Schools for the Deaf

and the Blind and the community through activities such as plays performed in ASL; and

WHEREAS, current studies estimate American Sign Language to be the third most used language in the United States:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah declares its support for the state's Deaf Community and the rich, vibrant language it adds to our culture.

BE IT FURTHER RESOLVED that the Legislature recognizes the tireless efforts of Utah's American Sign Language educators and educators of the deaf and hard of hearing who share the beauty of ASL with deaf, hard of hearing, and hearing students and community members across the state.

S.J.R. 2

Passed March 6, 2018

Effective date (if approved by voters) January 1, 2019

**PROPOSAL TO AMEND
UTAH CONSTITUTION -
PROPERTY TAX EXEMPTIONS**

Chief Sponsor: Daniel Hemmert
House Sponsor: Adam Robertson

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to property tax exemptions.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ allow real property that the state or a local government entity leases from a private owner to be exempt from property tax, as provided by statute.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2019, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE XIII, SECTION 3

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article XIII, Section 3, to read:

Article XIII, Section 3. [Property tax exemptions.]

- (1) The following are exempt from property tax:
 - (a) property owned by the State;

- (b) property owned by a public library;
- (c) property owned by a school district;
- (d) property owned by a political subdivision of the State, other than a school district, and located within the political subdivision;
- (e) property owned by a political subdivision of the State, other than a school district, and located outside the political subdivision unless the Legislature by statute authorizes the property tax on that property;
- (f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
- (g) places of burial not held or used for private or corporate benefit;
- (h) farm equipment and farm machinery as defined by statute;
- (i) water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, power plants, and transmission lines to the extent owned and used by an individual or corporation to irrigate land that is:
 - (i) within the State; and
 - (ii) owned by the individual or corporation, or by an individual member of the corporation; and
 - (j) (i) if owned by a nonprofit entity and used within the State to irrigate land, provide domestic water, as defined by statute, or provide water to a public water supplier:
 - (A) water rights; and
 - (B) reservoirs, pumping plants, ditches, canals, pipes, flumes, and, as defined by statute, other water infrastructure;
 - (ii) land occupied by a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is owned by the nonprofit entity that owns the reservoir, ditch, canal, or pipe; and
 - (iii) land immediately adjacent to a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is:
 - (A) owned by the nonprofit entity that owns the adjacent reservoir, ditch, canal, or pipe; and
 - (B) reasonably necessary for the maintenance or for otherwise supporting the operation of the reservoir, ditch, canal, or pipe.
- (2) (a) The Legislature may by statute exempt the following from property tax:
 - (i) tangible personal property constituting inventory present in the State on January 1 and held for sale in the ordinary course of business;
 - (ii) tangible personal property present in the State on January 1 and held for sale or processing and shipped to a final destination outside the State within 12 months;

- (iii) subject to Subsection (2)(b), property to the extent used to generate and deliver electrical power for pumping water to irrigate lands in the State;
- (iv) up to 45% of the fair market value of residential property, as defined by statute;
- (v) household furnishings, furniture, and equipment used exclusively by the owner of that property in maintaining the owner's home; and
- (vi) tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue.

(b) The exemption under Subsection (2)(a)(iii) shall accrue to the benefit of the users of pumped water as provided by statute.

(3) The following may be exempted from property tax as provided by statute:

(a) property owned by a disabled person who, during military training or a military conflict, was disabled in the line of duty in the military service of the United States or the State;

(b) property owned by the unmarried surviving spouse or the minor orphan of a person who:

(i) is described in Subsection (3)(a); or

(ii) during military training or a military conflict, was killed in action or died in the line of duty in the military service of the United States or the State; ~~and~~

(c) real property owned by a person in the military or the person's spouse, or both, and used as the person's primary residence, if the person serves under an order to federal active duty out of state for at least 200 days in a calendar year or 200 consecutive days[-]; and

(d) real property that the State or a local government entity, as defined by statute, leases from a private owner.

(4) The Legislature may by statute provide for the remission or abatement of the taxes of the poor.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2019.

S.J.R. 4

Passed January 25, 2018

Effective January 25, 2018

(Retrospective operation to January 1, 2018)

**JOINT RESOLUTION AUTHORIZING
PAY OF IN-SESSION EMPLOYEES**

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2018.

Highlighted Provisions:

This resolution:

- ▶ sets the compensation for legislative in-session employees for the 2018 Legislative Session.

Special Clauses:

This resolution provides retrospective operation to January 1, 2018.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature acting under authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

General Session - 2018

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	\$12.21	\$12.53	\$12.82	\$13.08	\$13.16	\$13.84	\$14.18	\$14.54
Amending Clerk (H-S)	\$13.77	\$14.16	\$14.46	\$14.78	\$15.13	\$15.46	\$15.81	\$16.19
Assistant Page Supervisor (H-S)	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16	\$13.48	\$13.84	\$14.18
Asst. Sergeant-at-Arms (H-S)	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16	\$13.48	\$13.84	\$14.18
Calendar/Voting System Specialist (H)	\$12.19	\$12.53	\$12.85	\$13.16	\$13.48	\$13.50	\$14.18	\$14.54
Committee Secretary (H-S)	\$13.30	\$13.61	\$13.93	\$14.22	\$14.57	\$14.92	\$15.46	\$15.62
Docket Clerk/Legislative Aide (H-S)	\$14.97	\$15.36	\$15.76	\$16.17	\$16.59	\$17.03	\$17.48	\$17.93
Reading Clerk (S)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Kitchen Hostess (H-S)	\$11.07	\$11.34	\$11.61	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
IT Technician (S)	\$13.50	\$14.18	\$14.54	\$14.92	\$15.29	\$15.68	\$15.78	\$16.17
Page (H-S)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Page Supervisor (H-S)	\$13.50	\$14.18	\$14.54	\$14.92	\$15.29	\$15.68	\$16.10	\$16.49
Public Information Specialist (H-S)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Receptionist (H-S)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Receptionist and Legislative Aide (H-S)	\$12.21	\$12.53	\$12.85	\$13.16	\$13.48	\$13.84	\$14.18	\$14.54
Audio Specialist (H-S)	\$11.61	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16	\$13.48	\$13.84
Rules Committee Secretary (H-S)	\$13.88	\$14.22	\$14.58	\$14.96	\$15.33	\$15.72	\$16.14	\$16.54
Security (H-S)	\$11.07	\$11.34	\$11.41	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Sergeant-at-Arms (H-S)	\$13.50	\$14.18	\$14.54	\$14.92	\$15.29	\$15.68	\$16.10	\$16.49
Supply/Copy Room Specialist(H)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Tour Liaison (H-S)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16
Video Specialist (H-S)	\$11.07	\$11.34	\$11.64	\$11.92	\$12.21	\$12.53	\$12.85	\$13.16

The compensation schedule established by this resolution has retrospective operation to January 1, 2018.

S.J.R. 5

Passed February 14, 2018
Effective February 14, 2018

**JOINT RESOLUTION RECOGNIZING
FALL PREVENTION EFFORTS AND
DESIGNATING FALL PREVENTION
AWARENESS DAY**

Chief Sponsor: Jani Iwamoto
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This joint resolution recognizes the efforts of the fall-related injury prevention working group, and recognizes September 22, 2018, as Fall Prevention Awareness Day.

Highlighted Provisions:

This resolution:

- ▶ highlights the impact of fall-related injuries on Utah seniors;
- ▶ recognizes the efforts of the fall-related injury prevention working group; and
- ▶ recognizes September 22, 2018, as Fall Prevention Awareness Day.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, nearly one-third of Utah adults who are more than 65 years old fall each year;

WHEREAS, the effects of a fall are particularly pronounced among older adults, leading to hospitalizations, traumatic brain injury, and death;

WHEREAS, 40% of traumatic brain injuries in Utah seniors are the result of a fall;

WHEREAS, for each year from 2013 through 2015, Utah seniors experienced fall-related injuries that led to an average of 10,840 calls to emergency medical services, 9,315 visits to emergency departments, 3,174 hospitalizations, and 172 deaths;

WHEREAS, more than \$105 million was spent on emergency department and hospital care to treat fall-related injuries in 2013, including over \$1.5 million in costs to the state Medicaid program;

WHEREAS, individuals 65 years of age or older are many times more likely to die from injuries related to falls than injuries related to traffic accidents, firearms, or other causes of unintentional injury;

WHEREAS, the Kem C. Gardner Policy Institute at the University of Utah estimates that by 2040, the population of Utahns who are 65 and older will more than double to 700,000 individuals, and the population of Utahns who are 85 and older will more than triple to 125,000 individuals;

WHEREAS, the people of the state of Utah are committed to caring for Utah’s older citizens, who are friends, neighbors, and family members;

WHEREAS, simple actions such as removing household hazards, performing regular strength and balance exercises, consulting with a primary care provider about fall risk, having regular vision checkups, and asking for assistance from family and friends can significantly reduce the risk of falling;

WHEREAS, the Legislature of the state of Utah recognized the urgent need to reduce fall-related injuries by passing Senate Joint Resolution 8 in the 2017 General Session;

WHEREAS, the National Council on Aging has designated the first day of fall of each year as the national Fall Prevention Awareness Day;

WHEREAS, the fall-related injury prevention working group, an alliance of public health and private partners, has met to develop strategies to address fall-related injuries, leading to the creation of a new information campaign, which includes a fall prevention website and brochure, aimed at increasing awareness of the prevalence of older adult falls and connecting families to fall prevention resources; and

WHEREAS, the work of the fall-related injury prevention working group has also led to improved coordination of care between Emergency Medical Services, health care providers, health insurers, and public health agencies;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, recognizes September 22, 2018, as Fall Prevention Awareness Day.

BE IT FURTHER RESOLVED that a reception will be held in the Capitol Board Room on February 7, 2018, from 12:00 p.m. to 2:00 p.m. to share the work of the fall-related injury prevention working group and to learn more about the importance of fall prevention.

BE IT FURTHER RESOLVED that the Legislature applauds the efforts of the fall-related injury prevention working group, and urges the Department of Health and the working group to continue to study strategies to reduce falls and fall-related injuries among Utahns.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Health, the Division of Aging and Adult Services within the Department of Human Services, the Utah Commission on Aging, the Utah Academy of Family Physicians, the Utah Medical Association, the Utah Nurses Association, the Utah Occupational Therapy Association, and the Utah Pharmacy Association.

S.J.R. 6

Passed February 22, 2018
Effective February 22, 2018

**JOINT RESOLUTION ENCOURAGING THE
REDUCTION OF PEDIATRIC DEATHS
FROM INJURY AND ILLNESS**

Chief Sponsor: Jani Iwamoto
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This joint resolution highlights the impact of pediatric deaths and injuries on the state of Utah and encourages the Department of Health to establish a pediatric quality improvement program and a Pediatric Trauma Quality Assurance Network.

Highlighted Provisions:

This resolution:

- ▶ highlights the impact of pediatric deaths and injuries on the state of Utah;
- ▶ emphasizes the importance of reducing pediatric deaths and injuries; and
- ▶ encourages the Department of Health to establish a pediatric quality improvement program and a multi-stakeholder Pediatric Trauma Quality Assurance Network to advise the department on triage, transport, transfer, and treatment of ill and injured pediatric patients.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, children make up 32% of the population in Utah;

WHEREAS, injury is the leading cause of death in the pediatric population;

WHEREAS, from 2001 through 2014, 1,003,054 pediatric patients were hospitalized in Utah;

WHEREAS, from 2001 through 2014, 27,968 pediatric patients were hospitalized for injury in Utah;

WHEREAS, from 2001 through 2014, 3,189 children died from either illness or injury;

WHEREAS, from 2001 through 2014, 580 children died as a result of injury;

WHEREAS, from 2003 through 2013, 27% of pediatric patients were over-triaged to a Level I pediatric trauma center;

WHEREAS, the over-triage of pediatric trauma patients resulted in unnecessary transport charges in excess of \$8,900,000;

WHEREAS, Utah Code Section 26-8a-250 directs the Department of Health to establish a statewide trauma system;

WHEREAS, Utah Code Section 26-8a-205 directs the Department of Health to establish a

pediatric quality improvement resource program; and

WHEREAS, the Department of Health has not yet established a pediatric quality improvement resource program in accordance with Utah Code Section 26-8a-205:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the Department of Health to establish a pediatric quality improvement program in accordance with Section 26-8a-205.

BE IT FURTHER RESOLVED that the Legislature encourages the Department of Health to convene, as part of the pediatric quality improvement program, a multi-stakeholder Pediatric Trauma Quality Assurance Network to recommend methodology, standards, and guidelines to reduce morbidity, mortality, and the cost of injury and illness to pediatric patients in Utah.

BE IT FURTHER RESOLVED that the Legislature encourages the Department of Health to continue working to find effective and innovative ways to reduce the impact of pediatric injury in the state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Health.

S.J.R. 7

Passed February 26, 2018
Effective February 26, 2018

**JOINT RESOLUTION DESIGNATING
POST-TRAUMATIC STRESS INJURY
AWARENESS DAY AND MONTH**

Chief Sponsor: Peter C. Knudson
House Sponsor: Paul Ray

LONG TITLE

General Description:

This joint resolution of the Legislature designates June 27, 2018, as Utah Post-Traumatic Stress Injury Awareness Day and June 2018 as Utah Post-Traumatic Stress Injury Awareness Month.

Highlighted Provisions:

This resolution:

- ▶ designates June 27, 2018, as Utah Post-Traumatic Stress Injury Awareness Day;
- ▶ designates June 2018 as Utah Post-Traumatic Stress Injury Awareness Month; and
- ▶ urges the Department of Health, the Department of Public Safety, the Department of Corrections, the State Fire Marshal, and the Department of Veterans and Military Affairs to continue working to educate victims of interpersonal violence, combat, and life-threatening accidents or natural disasters, their families, and the citizens of Utah regarding the causes, symptoms, and treatment of post-traumatic stress injury.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, all citizens of the United States possess the basic human right to preserve personal dignity;

WHEREAS, all citizens of the United States deserve the investment of every possible resource to ensure their lasting physical, mental, and emotional well-being;

WHEREAS, the diagnosis now known as post-traumatic stress disorder (PTSD) was first defined by the American Psychiatric Association in 1980 to commonly and more accurately understand and treat veterans who had endured severe operational combat stress;

WHEREAS, combat stress injury has historically been unjustly portrayed as a mental illness in military combat veterans caused by a pre-existing flow of character or ability;

WHEREAS, the word “disorder” carries a stigma that perpetuates this misconception;

WHEREAS, post-traumatic stress injury (PTSI) may occur following exposure to extremely traumatic events including interpersonal violence, combat, life-threatening accidents, or natural disasters;

WHEREAS, public service dispatchers and first responders, by the nature of their professions, are also susceptible to post traumatic stress injury;

WHEREAS, PTSI is a very common injury to the brain that is treatable and repairable;

WHEREAS, referring to the complications from combat operational stress as a disorder perpetuates the stigma of, and bias against, mental illness;

WHEREAS, this stigma can discourage the injured from seeking proper and timely medical treatment;

WHEREAS, making PTSI less stigmatizing and more honorable can favorably influence those affected and encourage them to seek treatment without fear of retribution or shame;

WHEREAS, proper and timely treatment can diminish suicide rates among the injured;

WHEREAS, all citizens suffering from PTSI deserve our compassion and consideration; and

WHEREAS, those brave men and women of the United States Armed Forces who have received these wounds in action against an enemy of the United States further deserve our special tribute and acknowledgment:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah designates June 27, 2018, as Utah Post-Traumatic Stress Injury Awareness Day.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah designates June 2018 as Utah Post-Traumatic Stress Injury Awareness Month.

BE IT FURTHER RESOLVED that the Legislature urges the Department of Health, the Department of Public Safety, the Department of Corrections, the State Fire Marshal, and the Department of Veterans and Military Affairs to continue working to educate victims of interpersonal violence, combat, and life-threatening accidents or natural disasters, their families, and the citizens of Utah regarding the causes, symptoms, and treatment of post-traumatic stress injury.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Health, the Department of Public Safety, the Department of Corrections, the State Fire Marshal, and the Department of Veterans and Military Affairs.

S.J.R. 8

Passed February 28, 2018
Effective February 28, 2018

**JOINT RESOLUTION GRANTING
LEGISLATIVE APPROVAL FOR THE
SALE OR LONG-TERM LEASE OF
UTAH STATE DEVELOPMENTAL
CENTER LAND AND WATER RIGHTS**

Chief Sponsor: Daniel Hemmert
House Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This joint resolution authorizes the Utah State Developmental Center’s governing board to approve the sale or long-term lease of 143 acres of land and water rights.

Highlighted Provisions:

This resolution:

- ▶ recognizes the important role the Utah State Developmental Center plays in the provision of resources and support for disabled individuals with complex or acute needs in Utah; and
- ▶ authorizes the Utah State Developmental Center’s governing board to approve the sale or long-term lease of 143 acres of land and water rights.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah Code Subsection 62A-5-206.6(5) requires that the Utah State Developmental Center’s governing board obtain the approval of the Legislature before offering real property or water rights associated with the Utah State Developmental Center (USDC) for sale, exchange, or long-term lease;

WHEREAS, in 1929 the Legislature established the Utah State Training Center to assist with the care, protection, treatment, and education of individuals with intellectual disabilities;

WHEREAS, the Utah State Training Center, later known as the USDC, was established during

an era when relatively little was known about the causes of intellectual disabilities;

WHEREAS, like other states, Utah built a public institution in a remote location and within a broad perimeter of land that provided a physical barrier between the institution and the nearest rural homes and communities;

WHEREAS, since its establishment in 1929, the USDC has evolved and improved in determining what public services should be provided for individuals with intellectual disabilities and how to provide those services;

WHEREAS, since state governments first acknowledged a public interest in and accepted some fiscal responsibility for citizens with intellectual disabilities, states have made sweeping changes in the philosophy and practice of providing public services to those citizens;

WHEREAS, these paradigm shifts have resulted from a growing knowledge about intellectual disabilities, including their causes, preventions, interventions, and accommodations;

WHEREAS, also contributing to the paradigm shifts was an improving regard for individuals who experience intellectual disabilities, as evidenced by public laws that affirm and promote their rights, an expansion of publicly funded services, and greater inclusion by their communities;

WHEREAS, the USDC’s mission is “dedication to providing an array of resources and supports for individuals with disabilities with complex or acute needs in Utah”;

WHEREAS, the USDC’s vision is to “provide an effective, efficient array of critical services and supports that promote independence and quality of life for Utah’s most vulnerable individuals with disabilities in partnership with families, guardians and the community”; and

WHEREAS, the sale or long-term lease of real property and water rights associated with the USDC may provide long-term financial stability of the USDC and the Division of Services for People with Disabilities (division) to enable the USDC and the division to continue to accomplish their mission and vision:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, in accordance with Utah Code Subsection 62A-5-206.6(5), authorizes the Utah State Developmental Center’s governing board to offer for sale or long-term lease 143 acres of land and water rights, inclusive of the 7.7 acres authorized by the Legislature in 2017, located on the north end of the USDC’s campus, and recognizes that this may include the sale of land to construct an east-west connector road and may include the sale or long-term lease of land to construct a fire station for American Fork.

BE IT FURTHER RESOLVED that the Legislature urges the governing board to accept the offer or offers that provide for the best long-term financial stability of the USDC and the division,

which may be a sale of the land and water rights and, in accordance with Utah Code Section 62A-5-206.6, the investment of the proceeds of the sale.

S.J.R. 10

Passed March 5, 2018
Effective April 1, 2018

**JOINT RESOLUTION DISSOLVING
NEWTON, AMALGA, AND
LEWISTON JUSTICE COURTS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Val K. Potter

LONG TITLE

General Description:

This joint resolution approves the dissolution of the Newton/Amalga and Lewiston Town Justice Courts.

Highlighted Provisions:

This resolution:

- ▶ approves the dissolution of the Newton/Amalga and Lewiston Town Justice Courts.

Special Clauses:

This resolution provides an effective date.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the town of Lewiston has had a justice court for many years;

WHEREAS, the towns of Newton and Amalga have had a combined justice court for many years;

WHEREAS, the towns of Newton, Amalga, and Lewiston have determined that it is no longer feasible for the towns to operate justice courts;

WHEREAS, with the dissolution of the Newton/Amalga and Lewiston Town Justice Courts, the caseloads from the two courts will fall upon the First District Court in Cache County;

WHEREAS, the respective town councils of Newton, Amalga, and Lewiston have given notice to the Utah Judicial Council of their intent to dissolve their justice courts;

WHEREAS, the Utah Judicial Council has approved the dissolutions, contingent on legislative approval, and with the understanding that the two dissolutions would take effect on April 1, 2018; and

WHEREAS, Section 78A-7-123 of the Utah Code Annotated requires the Legislature to approve by joint resolution the dissolution of justice courts:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves the dissolution of the Newton/Amalga and Lewiston Town Justice Courts effective April 1, 2018.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Judicial Council and the towns of Newton, Amalga, and Lewiston.

BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives and Senate.

S.J.R. 11

Passed February 28, 2018
Effective February 28, 2018

JOINT RESOLUTION AUTHORIZING ENERGY SOLUTIONS TO CREATE A LANDFILL FOR NON-RADIOACTIVE WASTE

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Douglas V. Sagers

LONG TITLE

General Description:

This resolution grants provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Highlighted Provisions:

This resolution:

- ▶ describes the proposed landfill;
- ▶ enumerates the types of nonhazardous solid waste to be received by the landfill;
- ▶ states that an operation plan will be submitted to the director of the Division of Waste Management and Radiation Control for approval; and
- ▶ grants provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Energy Solutions has proposed a plan to construct and operate a Class VI commercial landfill to receive nonhazardous solid waste for disposal as defined in Section 19-6-102;

WHEREAS, the proposed Class VI landfill will be located in Section 5, Township 2 South, Range 11 West, within Tooele County, Utah;

WHEREAS, Energy Solutions is currently licensed by the Division of Waste Management and Radiation Control to operate a low level radioactive waste disposal facility;

WHEREAS, the proposed Class VI landfill will be located within the same Tooele County designated hazardous waste corridor as the currently licensed low level radioactive waste disposal facility and the permitted Class V solid waste landfill operated by Energy Solutions in unincorporated Tooele County;

WHEREAS, the proposed Class VI landfill will enhance efficiencies for Energy Solutions clients by allowing Energy Solutions to receive nonhazardous, nonradioactive solid waste from the decommissioning of nuclear power plants that

currently utilize the Energy Solutions licensed low level radioactive waste disposal facility;

WHEREAS, a Class VI commercial landfill would have a favorable economic impact on Tooele County and the state of Utah in the form of additional jobs and tax revenue;

WHEREAS, Utah Code Section 19-6-108 requires that an applicant for authority to construct a commercial landfill receive approval from the local government, the Legislature, and the Governor;

WHEREAS, Utah Code Section 19-6-108 also requires that the applicant for authority to construct or operate a commercial landfill receive approval from the director of the Division of Waste Management and Radiation Control within the Department of Environmental Quality for an operation plan for the facility prior to receiving gubernatorial approval;

WHEREAS, Energy Solutions will submit an operation plan for a Class VI commercial nonhazardous solid waste landfill to the Division of Waste Management and Radiation Control to be approved by the director;

WHEREAS, Energy Solutions will seek approval from Tooele County for the proposed landfill; and

WHEREAS, Energy Solutions will request gubernatorial approval after the operation plan is approved by the director of the Division of Waste Management and Radiation Control:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah grants its provisional approval to Energy Solutions to construct and operate a Class VI commercial nonhazardous solid waste landfill as described in the proposed plan if the proposed plan is approved by Tooele County, the Division of Waste Management and Radiation Control, and the Governor in accordance with Utah Code Section 19-6-108.

S.J.R. 13

Passed March 1, 2018
Effective March 1, 2018

JOINT RESOLUTION RECOGNIZING FIFTY YEARS OF EMERGENCY MEDICINE AS A MEDICAL SPECIALTY

Chief Sponsor: Margaret Dayton
House Sponsor: Edward H. Redd

LONG TITLE

General Description:

This joint resolution highlights the contributions of emergency physicians to the state of Utah and the nation, and recognizes the field's fiftieth year as a recognized medical specialty.

Highlighted Provisions:

This resolution:

- ▶ highlights the contributions of emergency physicians to the state of Utah and the nation; and

- ▶ recognizes the fiftieth year of emergency medicine as a recognized medical specialty.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the American College of Emergency Physicians (ACEP) is the oldest and largest national medical specialty organization representing physicians who practice emergency medicine;

WHEREAS, the American College of Emergency Physicians was founded in 1968 in Lansing, Michigan, by eight physicians and has grown to represent more than 37,000 members with 53 chapters, representing every state, as well as Puerto Rico, the District of Columbia, and the government services chapter representing emergency physicians employed by military branches and other government agencies;

WHEREAS, the Utah Chapter of the American College of Emergency Physicians was founded in 1972 and represents 337 emergency physicians practicing throughout the state of Utah;

WHEREAS, emergency physicians treat and comfort more than 141 million patients each year during some of their most frightening moments;

WHEREAS, emergency care is critical at any hour of the day -- Anyone, Anything, Anytime -- and emergency physicians provide diagnosis and treatment services not available anywhere else in the health care system 24 hours a day, 7 days a week, 365 days a year;

WHEREAS, emergency physicians are critical to America's ability to respond to disasters and mass casualty events;

WHEREAS, quick thinking and smart decisions in the emergency department save millions of lives every year;

WHEREAS, an estimated 4.5 billion Americans have received emergency care in United States emergency departments since the American College of Emergency Physicians was founded;

WHEREAS, every community needs a fully staffed emergency department, ready to treat patients around the clock for any emergency;

WHEREAS, emergency physicians are leaders in defining, evaluating, and improving quality emergency care and focusing on individual patients while advocating for the wellness of society as a whole;

WHEREAS, the best, brightest, and most diverse young physicians who graduate from our nation's finest medical schools are becoming emergency medicine specialists;

WHEREAS, emergency medicine was recognized in 1979 by the American Board of Medical Specialties as the nation's 23rd medical specialty;

WHEREAS, the American College of Emergency Physicians is the leading source of continuing education for emergency physicians and the primary information resource on developments in the specialty;

WHEREAS, the development of physicians specializing in emergency care has contributed greatly to the health and well-being of all the people of the United States:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah congratulates the American College of Emergency Physicians on its 50th anniversary.

BE IT FURTHER RESOLVED that the Legislature recognizes the accomplishments and contributions emergency physicians have made to advance our nation's health care system.

BE IT FURTHER RESOLVED that the Legislature reaffirms the value of emergency medicine and the vital role that emergency physicians serve in ensuring the health and well-being of their patients.

S.J.R. 14

Passed March 6, 2018

Effective March 6, 2018

JOINT RULES RESOLUTION ON INTERNATIONAL RELATIONS AND TRADE

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This joint resolution of the Legislature enacts joint legislative rules related to international relations and trade.

Highlighted Provisions:

This resolution:

- ▶ creates the International Relations and Trade Committee; and
- ▶ provides for the committee's membership, purposes, and responsibilities.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:

JR3-4-101

JR3-4-201

JR3-4-202

JR3-4-203

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-4-101 is enacted to read:

CHAPTER 4. INTERNATIONAL RELATIONS AND TRADE COMMITTEE

Part 1. General Provisions

JR3-4-101. Definitions.

As used in this chapter, "international relations efforts" means activities to foster and enhance

relationships between the state and foreign countries, including:

(1) hosting foreign government officials, trade delegations, or other dignitaries;

(2) representing the state in official visits to foreign countries;

(3) developing relationships and laying the groundwork for increased trade, educational and cultural exchanges, language programs, tourism opportunities, and civic education experiences involving other countries; and

(4) seeking and attracting foreign direct investment opportunities to the state.

**Section 2. JR3-4-201 is enacted to read:
Part 2. International Relations Efforts
JR3-4-201. International Relations and Trade Committee created -- Membership -- Quorum -- Chairs.**

(1) There is created an International Relations and Trade Committee consisting of:

- (a) the president of the Senate;
- (b) the speaker of the House of Representatives;

(c) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the majority party; and

(d) five members of the House of Representatives, no more than three of whom may be from the majority party.

(2) (a) A majority of committee members appointed under Subsections (1)(c) and (d) constitutes a quorum.

(b) The president and speaker are not counted in determining a quorum of the committee.

(3) The president shall appoint one of the Senate members of the committee as cochair, and the speaker shall appoint one of the House of Representatives members of the committee as cochair.

**Section 3. JR3-4-202 is enacted to read:
JR3-4-202. Purposes of committee.**

The purposes of the committee are to:

(1) engage in international relations efforts;

(2) serve as a focal point for legislative efforts to support the state's international relations and trade efforts;

(3) help provide government officials, trade delegations, and other dignitaries who visit the state from foreign countries a world class hospitality experience that leaves a favorable and lasting impression and facilitates and enhances mutually enriching international relationships;

(4) consider and study matters relating to the state's international relations and trade efforts and make recommendations to the Legislature

concerning ways to advance the state's international relations and trade efforts; and

(5) perform any other function or fulfill any other responsibility related to international relations and trade that legislative leadership assigns to the committee.

**Section 4. JR3-4-203 is enacted to read:
JR3-4-203. Coordination with others involved in international relations.**

The committee shall:

(1) work to fulfill the purposes of the committee, as provided in JR3-4-202; and

(2) coordinate the committee's international relations efforts with the Governor's Office of Economic Development, the World Trade Center Utah, the Economic Development Corporation of Utah, and the state's honorary consular corps.

S.J.R. 15

Passed March 8, 2018
Effective March 8, 2018

**JOINT RULES RESOLUTION
REGARDING LEGISLATIVE ETHICS**

Chief Sponsor: Curtis S. Bramble
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This rules resolution modifies joint legislative rules relating to ethics.

Highlighted Provisions:

This resolution:

- ▶ establishes a procedure to disqualify a member of the Independent Legislative Ethics Commission for a conflict of interest in relation to a particular ethics complaint;
- ▶ requires a complainant to have personal knowledge of matters alleged in an ethics complaint; and
- ▶ amends provisions relating to when a person may disclose the existence of an ethics complaint, a response, or information concerning any alleged ethics violation that is the subject of a complaint.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- JR6-2-103
- JR6-3-101
- JR6-3-102
- JR6-4-103

ENACTS:

- JR6-2-103.5

Be it resolved by the Legislature of the state of Utah:

Section 1. JR6-2-103 is amended to read:

JR6-2-103. Independent Legislative Ethics Commission -- Membership.

(1) There is established an Independent Legislative Ethics Commission.

(2) The commission is composed of five persons, each of whom is registered to vote in this state, appointed as follows:

(a) two members, who have served as judges of a court of record in this state, each of whom shall be nominated by the mutual consent of the president of the Senate and the speaker of the House, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;

(b) one member, who has served as a judge of a court of record in this state, nominated by the mutual consent of the Senate minority leader and the House minority leader, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;

(c) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the president of the Senate and the speaker of the House of Representatives; and

(d) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the Senate minority leader and House minority leader.

(3) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) an officeholder as defined in Utah Code Section 20A-11-101;

(b) an agency head as defined in Utah Code Section 67-16-3;

(c) a lobbyist as defined in Utah Code Section 36-11-102; or

(d) a principal as defined in Utah Code Section 36-11-102.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, one member nominated by the president of the Senate and the speaker of the House of Representatives and one member nominated by the Senate minority leader and House minority leader shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this rule, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the president of the Senate, speaker of the House, Senate minority leader, and House minority leader.

(e) The chair of the Legislative Management Committee shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this rule.

(f) If a commission member is accused of wrongdoing in a complaint, or if a commission member ~~[determines that he or she has]~~ is found, under JR6-2-103.5, to have a conflict of interest in relation to a complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).

(5) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties as allowed in:

(i) Utah Code Section 63A-3-106;

(ii) Utah Code Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Utah Code Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(6) (a) The commission members shall convene a meeting annually each January and elect, by a majority vote, a commission chair from among the commission members.

(b) A person may not serve as chair for more than two consecutive years.

Section 2. JR6-2-103.5 is enacted to read:

JR6-2-103.5. Motion to disqualify Independent Legislative Ethics Commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the Independent Legislative Ethics Commission from participating in proceedings relating to an ethics complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to an ethics complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the ethics complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of Section 78B-5-705 stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:

(a) is not timely filed; or

(b) does not comply with the requirements of this section.

(6) A member of the commission may:

(a) on the member's own motion, disqualify the member from participating in proceedings relating to an ethics complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or

(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7) (a) When a party files a motion under this section, or when a commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.

(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.

(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

(a) gather additional evidence;

(b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by commission.

**Section 3. JR6-3-101 is amended to read:
JR6-3-101. Ethics complaints -- Filing -- Form.**

(1) (a) The following individuals, who shall be referred to as the complainants, may file a complaint against an individual legislator if the complaint meets the requirements of JR6-2-201 and Subsection (1)(b):

(i) two or more members of the House of Representatives, for a complaint against a representative, provided that the complaint contains evidence or sworn testimony that:

(A) sets forth facts and circumstances supporting the alleged violation; and

(B) is evidence or sworn testimony of the type that would generally be admissible under the Utah Rules of Evidence;

(ii) two or more members of the Senate, for a complaint against a senator, provided that the complaint contains evidence or sworn testimony that:

(A) sets forth facts and circumstances supporting the alleged violation; and

(B) is evidence or sworn testimony of the type that would generally be admissible under the Utah Rules of Evidence; or

(iii) two or more registered voters currently residing within Utah, if, for each alleged violation pled in the complaint, at least one of those

registered voters has [actual] personal knowledge of the facts and circumstances supporting the alleged violation.

(b) A complainant may file a complaint only against an individual who is serving as a member of the Legislature on the date that the complaint is filed.

(2) (a) Complainants shall file a complaint with the chair of the Independent Legislative Ethics Commission.

(b) Except as provided in Subsection (2)(c), an individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election, if the accused legislator is a candidate in the primary election; or

(ii) a regular general election in which the accused legislator is a candidate, unless the accused legislator is unopposed in the election.

(c) Notwithstanding Subsection (2)(b), an individual may file a complaint within the time frame provided in that subsection if:

(i) the complaint includes evidence that the subject of the complaint has been convicted of, plead guilty to, entered a plea of no contest to, or entered a plea in abeyance to a crime of moral turpitude; and

(ii) the crime of moral turpitude is one of the allegations contained in the complaint.

(3) The complainants shall ensure that each complaint filed under this rule is in writing and contains the following information:

(a) the name and position or title of the legislator alleged to be in violation, who shall be referred to as the respondent;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged violation, including for each alleged violation:

(i) a reference to:

(A) the section of the code of conduct alleged to have been violated; or

(B) the criminal provision violated and the docket number of the case involving the legislator;

(ii) the name of the complainant or complainants who have [actual] personal knowledge of the facts and circumstances supporting each allegation;

(iii) the facts and circumstances supporting each allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with the following format:

(I) the name, address, and telephone number of the signer;

(II) a statement that the signer has [actual] personal knowledge of the facts and circumstances alleged in the affidavit;

(III) the facts and circumstances testified to by the signer;

(IV) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(V) the signature of the signer;

(d) a list of the witnesses that the complainants wish to have called, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence complainants desire the witness to produce;

(e) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(f) the signature of each complainant.

Section 4. JR6-3-102 is amended to read:

JR6-3-102. Privacy of ethics complaints -- Contempt -- Enforcement of finding of contempt -- Dismissal.

(1) (a) Except as provided in Subsection (1)(b) or (c), a person, including the complainants, the respondent, commission members, a committee chair or vice chair, or staff to the commission or a committee, may not disclose the existence of a complaint, a response, nor any information concerning any alleged violation that is the subject of a complaint.

(b) The restrictions in Subsection (1)(a) do not apply to:

(i) a complaint or response that is publicly released by the commission and referred to an ethics committee for review under the procedures and requirements of JR6-4-204, and the allegations contained in the publicly released complaint or response; [or]

(ii) the respondent's voluntary disclosure of a finding by the commission that no allegations in a complaint were proved, after that finding is issued by the commission under the procedures and requirements of JR6-4-204[-];

~~[(c) Nothing in this rule prevents a person from]~~

(iii) disclosing facts or allegations about potential criminal violations to law enforcement authorities[-];

(iv) a disclosure by a respondent that is made solely for the purpose of, and only to the extent necessary for, retaining counsel or conducting an interview, seeking evidence, or taking other action to prepare to defend against a complaint;

(v) a communication between a commission or committee member and the commission's or committee's attorneys or staff; or

(vi) a disclosure to a person that is determined necessary, by a majority vote of the commission or committee, to conduct the duties of the commission or committee.

(2) When a person makes a disclosure under Subsection (1)(b)(iv) or (vi), the person making the disclosure shall inform the person to whom the disclosure is made of the nondisclosure requirements described in this section.

~~[(2)] (3) A person who violates the provisions of Subsection (1)(a) is in contempt of the Legislature and proceedings may be initiated to enforce the finding of contempt using the procedures provided in JR6-2-304 and Utah Code Section 36-14-5.~~

~~[(3)] (4) Except as provided in JR6-4-101(3), if the identity of the legislator who is the subject of an ethics complaint or the identity of the filer of an ethics complaint is publicly disclosed during the period that the Independent Legislative Ethics Commission is reviewing the complaint, the complaint shall be summarily dismissed without prejudice.~~

Section 5. JR6-4-103 is amended to read:

JR6-4-103. Response to ethics complaint -- Filing -- Form.

(1) The legislator that is the subject of the complaint may file a response to the complaint no later than 30 days after the day on which the legislator receives delivery of the complaint.

(2) The respondent shall file the response with the commission and shall ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense to be provided by one or more affidavits, each of which shall comply with the following format:

(A) the name, address, and telephone number of the signer;

(B) a statement that the signer has ~~[actual]~~ personal knowledge of the facts and circumstances alleged in the affidavit;

(C) the facts and circumstances testified to by the signer;

(D) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(E) the signature of the signer;

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with the following format:

(I) the name, address, and telephone number of the signer;

(II) a statement that the signer has ~~[actual]~~ personal knowledge of the facts and circumstances alleged in the affidavit;

(III) the facts and circumstances testified to by the signer;

(IV) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(V) the signature of the signer;

(c) a list of the witnesses that the respondent wishes to have called, including for each witness:

(i) the name, address, and, if available, telephone number of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence the respondent desires the witness to produce;

(d) a statement that the respondent:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and

(ii) believes the contents of the response to be true and accurate; and

(e) the signature of the respondent.

(3) Promptly after receiving the response, the commission shall provide copies of the response to:

(a) each member of the commission; and

(b) the first named complainant on the complaint.

S.J.R. 19

Passed March 8, 2018
Effective March 8, 2018

**JOINT RESOLUTION
APPROVING TOBACCO SETTLEMENT**

Chief Sponsor: Curtis S. Bramble
House Sponsor: John Knotwell

LONG TITLE

General Description:

This joint resolution approves an updated settlement agreement.

Highlighted Provisions:

This resolution:

- ▶ approves an updated settlement agreement in State of Utah v. R.J. Reynolds Tobacco Company.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, to further the state's interest in public health, to reduce underage smoking, and to promote tobacco prevention education, the state sued several large tobacco manufacturers stating claims for monetary, equitable, and injunctive relief under state consumer protection and antitrust laws in State of Utah v. R.J. Reynolds Tobacco Company, et al., Civil No. 2:96-CV-0829;

WHEREAS, in November 1998, through its elected attorney general, the state of Utah, 45 other states, the District of Columbia, the Commonwealth of Puerto Rico, and four territories entered into a Master Settlement Agreement resolving all tobacco-related claims;

WHEREAS, since that time the state has been performing its obligations under the terms of the settlement, which terms have now been restated;

WHEREAS, the state will endeavor to accept the restated terms, including the transition period and any other terms that the attorney general considers warranted;

WHEREAS, the restated terms will result in a net financial benefit to the state, namely:

- ▶ in April 2018, the state will receive its regularly scheduled tobacco master settlement payment in the approximate amount of \$28,000,000, plus an additional approximate payment of \$28,000,000; and
- ▶ between 2018 and 2027 the state will receive substantial additional settlement payments in the approximate amount of \$298,000,000; and

WHEREAS, as with the terms of the original settlement agreement and in exchange for those sums, the state of Utah will continue to diligently enforce the original and restated terms of the settlement agreement, such actions being in the state's best interest:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah acknowledges and

agrees with the restated terms and updated settlement, including all additional terms the attorney general considers warranted under the circumstances, and fully supports the attorney general signing the Term Sheet.

S.R. 2

Passed February 27, 2018
Effective January 1, 2019

**SENATE RULES RESOLUTION --
PROCEDURES AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This rules resolution modifies procedures provided for in the Senate Rules.

Highlighted Provisions:

This resolution:

- ▶ modifies the quorum attendance requirements for Senate standing committees.

Special Clauses:

This bill provides a special effective date.

Legislative Rules Affected:

AMENDS:
SR3-2-203

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-203 is amended to read:

SR3-2-203. Quorum requirements.

(1) Except as provided in Subsection (2), a majority of a standing committee is a quorum.

(2) In determining whether a quorum is present, the president, majority leader, majority whip, assistant majority whip, Senate Rules Committee chair, Executive Appropriations Committee chair, Executive Appropriations Committee vice chair, minority leader, minority whip, assistant minority whip, and the fourth member of leadership from the minority party are not counted in determining a quorum for a standing committee, except during the time that the senator is present at the meeting.

Section 2. Effective date.

This bill takes effect on January 1, 2019.

LAWS
of the
STATE OF UTAH, 2018

Passed at the
SECOND SPECIAL SESSION
of the
SIXTY-SECOND LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
July 18, 2018
and Adjourned Sine Die on
July 18, 2018

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2018 Second Special Session of the Sixty-second Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2018 Second Special Session of the Sixty-second Legislature of the State of Utah convened at the Capitol in Salt Lake City on July 18, 2018 and adjourned on the same day.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 30th day of August, 2018.





Spencer J. Cox
Lieutenant Governor

**CHAPTER 1
H. B. 2001**

Passed July 18, 2018
Approved July 21, 2018
Effective July 21, 2018

**UTAH INLAND PORT
AUTHORITY AMENDMENTS**

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

Authority Jurisdictional Land Boundary Information:

The boundary information for the authority jurisdictional land of the Utah Inland Port Authority:

- ▶ is delineated in a shapefile that:
 - is enacted as part of this bill in electronic form;
 - may be found at:
 - https://le.utah.gov/~2018S2/documents/HB2001_shapefile.zip; and
 - has the following electronic file security code: 9324ca0a28652ad3a1b3797c4f924f35; and
- ▶ is also depicted in a format that:
 - is intended to be more accessible to the general public and is provided for informational purposes only;
 - shows the same boundary as delineated in the shapefile, but is not enacted as part of this bill; and
 - may be found at:
 - <https://www.google.com/maps/d/viewer?mid=1iI1-ZIVBeCABt6CtRxygAdOEsJCqvGGw>.

General Description:

This bill, which includes this printed text and the electronic data affiliated with it, modifies provisions relating to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- ▶ establishes the Utah Inland Port Authority authority jurisdictional land boundary shapefile in the electronic file that is part of this bill in electronic form, as the legal boundary of the authority jurisdictional land;
- ▶ modifies and enacts definitions relating to the Utah Inland Port Authority Act;
- ▶ modifies provisions relating to Utah Inland Port Authority powers and duties;
- ▶ modifies a provision relating to the policies and objectives of the Utah Inland Port Authority;
- ▶ enacts language relating to municipal services within the authority jurisdictional land and the authority's sharing of property tax differential to pay for those services;
- ▶ enacts provisions relating to the sharing of property tax differential with other taxing entities;
- ▶ modifies a provision relating to the membership of the board of the Utah Inland Port Authority;

- ▶ provides for the board appointment of board officers and authorizes the board to appoint advisory committees;
- ▶ modifies provisions relating to limitations on board members and authority employees;
- ▶ modifies provisions relating to appeals to the Utah Inland Port Authority appeals panel and the process for and standards applicable to an appeal;
- ▶ modifies provisions relating to property tax differential, including the uses of property tax differential;
- ▶ modifies the time for the authority to adopt its initial annual budget;
- ▶ modifies authority reporting requirements; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 10-9a-509.5, as last amended by Laws of Utah 2010, Chapter 378
- 10-9a-701, as last amended by Laws of Utah 2017, Chapter 17
- 10-9a-708, as last amended by Laws of Utah 2006, Chapter 240
- 11-58-102, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-202, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-203, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-205, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-302, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-303, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-304, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-401, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-403, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-601, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-602, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-801, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-803, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-806, as enacted by Laws of Utah 2018, Chapter 179

ENACTS:

- 11-58-402.5, Utah Code Annotated 1953

REPEALS:

- 11-58-204, as enacted by Laws of Utah 2018, Chapter 179
- 11-58-404, as enacted by Laws of Utah 2018, Chapter 179

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-509.5 is amended to read:

10-9a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each municipality shall, in a timely manner, determine whether an application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an

application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence, subject to the time limit under Subsection 11-58-402.5(2) for an inland port use application, as defined in Section 11-58-401.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) The land use authority shall take final action, approving or denying the application within 45 days of the written request.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

(b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for its determination.

(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 2. Section 10-9a-701 is amended to read:

10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances;

(b) appeals from decisions applying the land use ordinances; and

(c) appeals from a fee charged in accordance with Section 10-9a-510.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances, except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

(6) (a) Each municipality that designates a historic preservation district or area shall, by ordinance, establish or designate a historic preservation appeal authority.

(b) A historic preservation appeal authority shall:

(i) be comprised of the members of the governing body;

(ii) exercise only administrative authority and act in a quasi-judicial manner; and

(iii) hear and decide appeals from administrative decisions of the historic preservation authority.

(c) An applicant appealing an administrative decision of the historic preservation authority may appeal to either:

(i) the historic preservation appeal authority; or

(ii) the land use appeal authority established under Subsection (1).

Section 3. Section 10-9a-708 is amended to read:

10-9a-708. Final decision.

(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection 10-9a-801(2)(a) or a final action under Subsection 10-9a-801(4), except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401.

Section 4. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land"^[?] means land within the authority boundary delineated in the electronic shapefile that:

(a) is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) may be accessed via the Utah Legislature's website.

~~[(a) means:]~~

~~[(i) land north of I-80 in Salt Lake City that has:]~~

~~[(A) a northern boundary defined by the northern boundary of Salt Lake City;]~~

~~[(B) an eastern boundary defined by I-215;]~~

~~[(C) a southern boundary defined by I-80; and]~~

~~[(D) a western boundary defined by the western boundary of Salt Lake City's Northwest Quadrant Master Plan Area as of January 1, 2018; and]~~

~~[(ii) land south of I-80 that has:]~~

~~[(A) a northern boundary defined by I-80;]~~

~~[(B) an eastern boundary that begins at the intersection of I-80 and Bangerter Highway and follows Bangerter Highway south to SR 201 and turns west to follow SR 201 to 5600 West and turns south to follow 5600 West to the Riter Canal;]~~

~~[(C) a southern boundary that begins at the intersection of 5600 West and the Riter Canal and follows the Riter Canal west to 7600 West and turns south along 7600 West to the northern boundary of developed property and turns west to run along the northern edge of developed property, jutting north to follow the northern boundary of developed properties straddling 8000 West, and continuing west along the northern boundary of developed properties to the western edge of developed property and turns north to SR 201 and turns east along SR 201 to the eastern edge of the tailings property; and]~~

~~[(D) a western boundary defined by the eastern edge of the tailings property; and]~~

~~[(b) excludes:]~~

~~[(i) the Salt Lake City airport; and]~~

~~[(ii) an area north of I-80 in Salt Lake City and west of the Salt Lake City airport, commonly known as the International Center, that has:]~~

~~[(A) a northern boundary defined by the north boundary of properties on the north side of and fronting Harold Gatty Drive;]~~

~~[(B) an eastern boundary defined by the eastern boundary of Salt Lake City's Northwest Quadrant Master Plan Area as of January 1, 2018;]~~

~~[(C) a southern boundary defined by I-80; and]~~

~~[(D) a western boundary defined by a north-south line that aligns with John Glenn Road.]~~

(3) "Base taxable value" means the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection

11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including publicly owned infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets ~~[and the ability to allow]~~ and other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain; [and]

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal distribution facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(6) who does not have the power to vote on matters of authority business.

~~[(9)]~~ (11) "Project area" means the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas,

described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[40] (12) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

[41] (13) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

[42] (14) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

[43] (15) "Property tax differential" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

[44] (16) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

[45] (17) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, or telecommunications service; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(18) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

[46] (19) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

[47] (20) "Taxing entity" means a public entity that levies a tax on property within a project area.

(21) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 5. Section 11-58-202 is amended to read:

11-58-202. Port authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

(i) emissions monitoring and reporting; and

(ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the [strategies,] policies[,] and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of the authority jurisdictional land, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the authority jurisdictional land;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as

provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities; ~~and~~

(q) enter into an agreement with a taxing entity to share property tax differential for services that the taxing entity provides within the authority jurisdictional land;

(r) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land; and

~~[(q)]~~ (s) exercise powers and perform functions that the authority is authorized by statute to exercise or perform.

(3) Beginning January 1, 2020, the authority shall:

(a) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to any later changes to the boundary enacted by the Legislature; and

(b) maintain an accurate digital file of the boundary that is easily accessible by the public.

Section 6. Section 11-58-203 is amended to read:

11-58-203. Policies and objectives of the port authority -- Additional duties of the port authority.

~~[In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land, the authority shall:]~~

~~[(1) pursue development strategies, policies, and objectives designed to:]~~

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land; ~~and~~

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate a hub for trade combining rail, trucking, air cargo, and other transportation services;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce; and

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

[(2)] (a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and for an inland port;

[(3)] (b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

[(4)] (i) the [~~strategies,~~] policies[,] and objectives stated in Subsection (1); and

[(5)] (ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land; and

[(4)] (c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state.

Section 7. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Sharing property tax differential.

(1) Except as provided in Part 4, Appeals to Appeals Panel, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

[(5)] (6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) (i) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(ii) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) (i) The board shall negotiate and enter into an agreement with a municipality providing municipal services, as described in Subsection (7)(a), with respect to the appropriate amount of property tax differential the authority should share with the municipality to cover the cost of providing those municipal services.

(ii) Under an agreement described in Subsection (7)(b)(i), the board and municipality shall establish a method of determining the amount of property tax differential the authority shares over time with a municipality to cover the cost of providing municipal services, taking into account:

(A) the cost of those services as documented in the audited financial statements under Subsection (7)(c); and

(B) the variable level of need for those services within the authority jurisdictional land depending

on the level, amount, and location of development and other relevant factors.

(c) A municipality providing municipal services, as described in Subsection (7)(a), shall, as requested by the board, provide the board audited financial statements documenting the cost of the municipal services the municipality provides within the authority jurisdictional land.

(8) The board may consult with other taxing entities, in addition to a municipality under Subsection (7), for the purpose of receiving input from those taxing entities on the appropriate allocation of property tax differential, considering the needs of the authority and the needs of the other taxing entities.

(9) (a) The board shall review and reassess the amount of property tax differential the authority retains and the amount the authority shares with other taxing entities so that the authority retains property tax differential it reasonably needs to meet its responsibilities and purposes and adjusts the amount the authority shares with other taxing entities accordingly.

(b) The board shall meet with taxing entities to review and reassess, as provided in Subsection (9)(a):

- (i) before December 31, 2020; and
- (ii) at least every other year after 2020.

Section 8. Section 11-58-302 is amended to read:

11-58-302. Number of board members -- Appointment -- Vacancies.

(1) The authority's board shall consist of 11 members, as provided in Subsection (2).

(2) (a) The governor shall appoint two board members, one of whom shall be an employee or officer of the Governor's Office of Economic Development, created in Section 63N-1-201.

(b) The president of the Senate shall appoint one board member.

(c) The speaker of the House of Representatives shall appoint one board member.

(d) The Salt Lake County mayor shall appoint one board member.

(e) The chair of the Permanent Community Impact Fund Board, created in Section 35A-8-304, shall appoint one board member from among the members of the Permanent Community Impact Fund Board.

(f) The chair of the Salt Lake Airport Advisory Board, or the chair's designee, shall serve as a board member.

(g) The member of the Salt Lake City council who is elected by district and whose district includes [authority jurisdictional land] the Salt Lake City Airport shall serve as a board member.

(h) The city manager of West Valley City, with the consent of the city council of West Valley City, shall appoint one board member.

(i) The executive director of the Department of Transportation, appointed under Section 72-1-202, shall serve as a board member.

(j) The director of the Salt Lake County office of Regional Economic Development shall serve as a board member.

(3) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, 2018.

(4) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(6) The authority may~~[:(a)]~~ appoint nonvoting members of the board~~;~~ and ~~[(b)]~~ set terms for those nonvoting members ~~[appointed under Subsection (6)(a)].~~

(7) Upon a vote of a majority of all board members, the board may appoint a board chair and any other officer of the board.

(8) (a) An individual designated as a board member under Subsection (2)(g), (i), or (j) who would be precluded from serving as a board member because of Subsection 11-58-304(2):

(i) may serve as a board member notwithstanding Subsection 11-58-304(2); and

(ii) shall disclose in writing to the board the circumstances that would otherwise have precluded the individual from serving as a board member under Subsection 11-58-304(2).

(b) A written disclosure under Subsection (8)(a)(ii) is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

Section 9. Section 11-58-303 is amended to read:

11-58-303. Term of board members -- Quorum -- Compensation.

(1) The term of a board member appointed under Subsection 11-58-302(2)(a), (b), (c), (d), or (h) is four

years, except that the initial term of one of the two members appointed under Subsection 11-58-302(2)(a) and of the members appointed under Subsections 11-58-302(2)(d) and (h) is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-58-302(2).

(4) A majority of board members constitutes a quorum, and the action of a majority of a quorum constitutes action of the board.

(5) (a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 10. Section 11-58-304 is amended to read:

11-58-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly [~~as a result of the development of the authority jurisdictional land~~], including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally [~~as a result of the development of the authority jurisdictional state land~~].

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, on or within five miles of the authority jurisdictional land, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides,

located on or within one-half mile of the authority jurisdictional land; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive [~~compensation or other~~] a direct financial benefit from the development of the authority jurisdictional land; or

(ii) acquire an interest in or locate a facility on the authority jurisdictional land.

(3) Before taking office as a [board] voting member of the board or accepting employment as executive director, an individual shall submit to the authority:

(a) a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2)[,]; or

(b) for an individual to whom Subsection 11-58-302(8) applies, the disclosure required under that subsection.

(4) (a) An individual may not, at any time during the individual's service as a [board] voting member or employment [~~as executive director~~], with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located on or within five miles of the authority jurisdictional [state] land[,], if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the authority jurisdictional land.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of authority jurisdictional land.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 11. Section 11-58-401 is amended to read:

11-58-401. Definitions.

As used in this part:

~~[(1) “Adversely affected person” means an owner of land within the authority jurisdictional land who has been adversely affected by a land use decision.]~~

~~[(2)] (1) “Appeals panel” means the panel established under Section 11-58-402 to hear and decide appeals under this part.~~

~~[(3) “Land use decision” means the same as that term is defined in Section 10-9a-103.]~~

(2) “Complete,” with respect to an inland port use application, means that:

(a) the inland port use application is submitted in a form that complies with the requirements of applicable municipal ordinances; and

(b) all applicable fees are paid.

(3) “Inland port use appeal” means an appeal under Title 10, Chapter 9a, Part 7, Appeal Authority and Variances, of a land use decision, as defined in Section 10-9a-103, on an inland port use application, including a land use decision that is a denial of the inland port use application under Subsection 11-58-402.5(2)(b).

(4) “Inland port use appeal decision” means a decision by a municipal appeal authority on an inland port use appeal, including a decision that is a denial of the appeal under Subsection 11-58-402.5(3)(b).

(5) “Inland port use application” means a land use application, as defined in Section 10-9a-103, relating to a use of land within authority jurisdictional land that is an inland port use.

(6) “Land use applicant” means the same as that term is defined in Section 10-9a-103.

(7) “Municipal appeal authority” means the appeal authority, as defined in Section 10-9a-103, of the municipality with which an inland port use appeal is filed.

(8) “Municipal land use authority” means the land use authority, as defined in Section 10-9a-103, of the municipality with which an inland port use application is filed.

Section 12. Section 11-58-402.5 is enacted to read:

11-58-402.5. Municipal processing of an inland port use application and appeal.

(1) Except as provided in Subsections (2) and (3), the provisions of Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, apply to:

(a) a municipality’s processing of and decision on an inland port use application; and

(b) a municipality’s processing of and decision on an inland port use appeal.

~~(2) (a) A municipal land use authority shall approve or deny an inland port use application no later than:~~

~~(i) 180 days after the filing of the complete inland port use application; or~~

~~(ii) a later date that the land use applicant and municipality agree to.~~

~~(b) (i) A municipal land use authority’s failure to approve an inland port use application within the period specified in Subsection (2)(a) constitutes a denial of the inland port use application.~~

~~(ii) A denial under Subsection (2)(b)(i) is considered made on the last day of the period specified in Subsection (2)(a).~~

~~(3) (a) A municipal appeal authority shall issue a written decision on an inland port use appeal no later than:~~

~~(i) 60 days after the appeal is filed; or~~

~~(ii) a later date that all the parties to the appeal agree to.~~

~~(b) (i) An appeal authority’s failure to issue a written decision on an inland port use appeal within the time stated in Subsection (3)(a)(i) constitutes a denial of the appeal on the merits.~~

~~(ii) A denial under Subsection (3)(b)(i) is considered made on the last day of the period specified in Subsection (3)(a).~~

Section 13. Section 11-58-403 is amended to read:

11-58-403. Appeals process and standards.

~~(1) (a) [An] A person adversely affected [person] by an inland port use appeal decision may appeal [a land-use] the inland port use appeal decision to the appeals panel.~~

~~[(2) (a) Notwithstanding the provisions of Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, an appeal under Subsection (1) is the exclusive appeal of a land-use decision available to an adversely affected person.]~~

~~(b) An appeals panel may not consider an appeal of an inland port use appeal decision to the extent that the appeal involves municipal requirements concerning:~~

~~(i) the construction of public utilities;~~

~~(ii) the administration of construction codes defined in Section 15A-1-202;~~

~~(iii) the permitting and building plan review for a development project, unless the appeal involves a denial of an inland port use application;~~

~~(iv) the municipality’s enforcement of a violation of a municipal code provision, unless the provision is inconsistent with the purposes of this chapter; or~~

~~(v) fees or fines.~~

~~(2) (a) The board may adopt policies and procedures, consistent with the provisions of this part, to govern an appeal before the appeals panel.~~

(b) The policies and procedures adopted under Subsection (2)(a) may:

(i) require the record relating to the municipality's denial of the inland port use application and relating to the inland port use appeal decision to be provided to the appeals panel for its review and consideration; and

(ii) provide for de novo review by the appeals panel.

~~[(b)] (3) [An appeal of a land use]~~ An appeals panel may not consider an inland port use appeal decision under this section [may not be considered unless it] unless the appeal of the inland port use appeal decision is submitted to the appeals panel in writing within [10] 20 calendar days after the date of the [land use] inland port use appeal decision being appealed.

~~[(3)] (4)~~ In deciding an appeal of [a land use] an inland port use appeal decision, an appeals panel [may hold an informal] shall:

(a) hold a public hearing to receive information and hear arguments from the parties[-];

(b) provide prior notice of a hearing under Subsection (4)(a) to the parties to the appeal and the public;

(c) respect the due process rights of the parties to the appeal;

(d) require the land use applicant, if the land use applicant is the person who submits the appeal, to provide to the appeals panel a brief explanation in writing containing any applicable information concerning:

(i) whether the proposed development that is the subject of the inland port use application under consideration on appeal will meet or exceed applicable state and federal regulations;

(ii) (A) any potential environmental impact the proposed development will have, including on air quality, surface water, and ground water; and

(B) how the land use applicant proposes to mitigate any impacts, including the extent to which the proposed development will apply the best available technology or systems to mitigate any environmental impacts of the development;

(iii) the potential impact of the proposed development on abutting property owners or on a migratory bird production area, as defined in Section 23-28-102, and how the land use applicant proposes to mitigate those impacts;

(iv) the municipal requirements that the proposed development will be unable to comply with and whether alternative means or an alternative method will produce a comparable result; and

(v) how the proposed development implements or furthers the policies and objectives stated in Subsection 11-58-203(1); and

(e) consider the information provided under Subsection (4)(d).

(5) An appeals panel may:

(a) affirm the inland port use appeal decision;

(b) decide in favor of the person adversely affected by the inland port use appeal decision if the appeals panel determines that the inland port use appeal decision:

(i) is clearly contrary to the policies and objectives under Subsection 11-58-203(1);

(ii) imposes restrictions or conditions on the proposed development that unreasonably impair or essentially prohibit an inland port use; or

(iii) is arbitrary and capricious, or illegal; or

(c) (i) stay the appeal for a reasonable period of time to allow the parties to the appeal to resolve the issues on appeal by agreement; and

(ii) encourage, facilitate, and mediate an agreement between the parties to resolve the appeal.

~~[(4)] (6)~~ (a) An appeals panel shall decide and publicly issue a written decision on an appeal of a land use decision within [21]:

(i) 30 days after the appeal is filed[-], subject to the period of any stay under Subsection (5)(c); or

(ii) a later date that the appeals panel and the parties to the appeal agree to.

(b) An appeals panel decision shall include findings and conclusions explaining the appeals panel's decision.

~~[(5)] (7)~~ (a) A person [aggrieved] who is adversely affected by an appeals panel decision may seek judicial review of the decision in district court by filing a petition with the court within 30 days after the appeals panel decision.

(b) The court shall uphold the appeals panel decision unless the court determines that the decision is:

(i) arbitrary and capricious; or

(ii) illegal.

Section 14. Section 11-58-601 is amended to read:

11-58-601. Port authority receipt and use of property tax differential -- Distribution of property tax differential.

(1) (a) The authority may:

(i) subject to Subsections (1)(b) [and (e)], (c), and (d), receive up to 100% of the property tax differential for a period ending up to 25 years after a certificate of occupancy is issued with respect to improvements on a parcel, as determined by the board and as provided in this part; and

(ii) use the property tax differential during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in

Subsection (1)(a)(i) begins on the day on which the authority receives the first property tax differential from that parcel.

(c) The authority may not receive property tax differential from an area included within a community reinvestment project area, as defined in Section 17C-1-102, under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before March 1, 2018, from a taxing entity that has, before March 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan.

(d) The authority shall pay to a community reinvestment agency 10% of the property tax differential generated from land located within that community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.

~~[(2) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.]~~

~~[(3) (2) A county that collects property tax on property within a project area shall pay and distribute to the authority the property tax differential that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.~~

~~[(4) (3) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax differential.~~

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax differential.

Section 15. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) The authority may use the property tax differential, money the authority receives from the state, ~~[authority services revenue,]~~ and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) subject to Subsection (4), for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax differential or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the property tax differential funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements outside the project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area; ~~[and]~~

(f) to pay for municipal services that a municipality provides within the authority jurisdictional land;

(g) to pay for other services that a taxing entity provides within the authority jurisdictional land; and

~~[(4)] (h) to pay the principal and interest on bonds issued by the authority.~~

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(e) regarding benefit to the project area is final.

(4) The authority may not use more than 2% of property tax differential revenue to pay for authority operating expenses, including:

(a) administrative and overhead expenses; and

(b) legal expenses, except legal fees and expenses with respect to potential or pending litigation involving the authority.

Section 16. Section 11-58-801 is amended to read:

11-58-801. Annual port authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22, except that the authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of authority operations.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 17. Section 11-58-803 is amended to read:

11-58-803. Port authority report.

(1) (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the property tax differential to be paid to the authority for the calendar year ending December 31; and

(b) an estimate of the property tax differential to be paid to the authority for the calendar year beginning the next January 1.

(3) Before November 30 of each year, the board shall present a report to the Executive Appropriations Committee of the Legislature, as

the Executive Appropriations Committee directs, that includes:

(a) an accounting of how authority funds have been spent~~[-and]~~, including funds spent on the environmental sustainability component of the authority business plan under Subsection 11-58-202(1)(a);

(b) an update about the progress of the development and implementation of the authority business plan under Subsection 11-58-202(1)(a), including the development and implementation of the environmental sustainability component of the plan; and

~~[(b)]~~ (c) an explanation of the authority's progress in achieving the policies and objectives described in Subsection 11-58-203(1).

Section 18. Section 11-58-806 is amended to read:

11-58-806. Port authority chief financial officer is a public treasurer -- Certain port authority funds are public funds.

(1) The authority's chief financial officer:

(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), property tax differential funds~~[-, authority services revenue,]~~ and appropriations that the authority receives from the state:

(a) are public funds; and

(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Section 19. Repealer.

This bill repeals:

Section 11-58-204, Existing development line.

Section 11-58-404, Standards governing appeals.

Section 20. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 2**H. B. 2002**

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

(Retrospective operation to December 31, 2017)

REPATRIATION TAX AMENDMENTS

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions relating to corporate income tax on deferred foreign income.

Highlighted Provisions:

This bill:

- ▶ adds deferred foreign income to the definition of unadjusted income for corporate income tax purposes;
- ▶ modifies the payment schedule for a corporate taxpayer to pay the income tax on deferred foreign income; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-101, as last amended by Laws of Utah 2011, Chapter 69

59-7-118, as enacted by Laws of Utah 2018, Chapter 405

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-101 is amended to read:**59-7-101. Definitions.**

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" [is as] means the same as that term is defined in Section 59-7-302.

(6) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(7) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(8) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(9) "Corporate return" or "return" includes a combined report.

(10) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(11) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(12) (a) "Doing business" includes any transaction in the course of its business by a domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in this state.

(b) Except as provided in Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) the owning, renting, or leasing of real or personal property within this state; and

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state.

(13) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

(14) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of ~~[-(1)]~~ farmers~~;~~ or ~~[(11)]~~ fruit growers; or

(B) an association, corporation, or other organization that is similar to an association,

corporation, or organization described in Subsection (14)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection (14)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms ~~[-(1)]~~ "member"~~;~~ and ~~[(11)]~~ "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A).

(ii) The rules made under this Subsection (14)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

(15) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

(16) (a) "Foreign operating company" means a corporation ~~[(1)]~~ that:

(i) ~~[(1)]~~ is incorporated in the United States;

(ii) ~~[(1)]~~ conducts at least 80% of the corporation's business activity, as determined under Section 59-7-401, ~~[(1)]~~ outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, ~~[(1)]~~ has:

(A) at least \$1,000,000 of payroll located outside the United States; and

(B) at least \$2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(17) (a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

(18) "Income" includes losses.

(19) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

(20) "Nonbusiness income" ~~is as~~ means the same as that term is defined in Section 59-7-302.

(21) "Real estate investment trust" ~~is as~~ means the same as that term is defined in Section 856, Internal Revenue Code.

(22) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income ~~[which]~~ that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection (22), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

~~[(24)]~~ (23) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

~~[(23)]~~ (24) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

(25) "State of the United States" includes any of the 50 states or the District of Columbia.

(26) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

(27) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

(28) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

(29) (a) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(b) For the last taxable year of a taxpayer beginning on or before December 31, 2017, "unadjusted income" includes deferred foreign income described in Section 965(a), Internal Revenue Code.

(30) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

(31) "United States" includes the 50 states and the District of Columbia.

(32) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

(33) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that may be carried back or carried forward to the current taxable year in accordance with Section 59-7-110.

(34) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

(35) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

(36) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection (36)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

(37) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 2. Section 59-7-118 is amended to read:

59-7-118. Section 965, Internal Revenue Code -- Installment payments.

(1) Subject to the other provisions of this section, a corporation may pay in installments the tax owed under this chapter on deferred foreign income described in Section 965, Internal Revenue Code.

(2) Subsection (1) applies:

(a) to a corporation that:

(i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

(ii) apportions deferred foreign income described in Section 965, Internal Revenue Code, to this state; and

(b) for a tax year in which a corporation makes an election under Section 965(h), Internal Revenue Code, for purposes of the corporation's federal income tax.

(3) ~~[The]~~ (a) Except as provided in Subsection (3)(b), the same provisions that apply to an election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an installment payment made under this section.

(b) A corporation shall make:

(i) the first installment under this section on or before the due date, including any extension, of the 2017 tax return filed under this chapter; and

(ii) a subsequent installment on or before the due date, including any extension, of the tax return filed under this chapter in each of the following seven years.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 4. Retrospective operation.

This bill has retrospective operation for the last taxable year of a taxpayer beginning on or before December 31, 2017.

CHAPTER 3**H. B. 2003**

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

(Retrospective operation to January 1, 2018)

(Exception clause in Section 6)

INCOME TAX CODE AMENDMENTS

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends income tax provisions.

Highlighted Provisions:

This bill:

- ▶ prohibits a taxpayer from carrying a Utah net loss back to an earlier taxable year;
- ▶ limits the amount of Utah net loss that a taxpayer may carry forward;
- ▶ removes the 15-year time limit for a taxpayer to carry forward a Utah net loss;
- ▶ modifies the calculation of the taxpayer tax credit to create a Utah personal exemption; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-101, as last amended by Laws of Utah 2011, Chapter 69

59-7-110 (Effective 01/01/19), as last amended by Laws of Utah 2018, Chapter 456

59-7-110 (Superseded 01/01/19), as last amended by Laws of Utah 2016, Chapters 311 and 323

59-7-522, as last amended by Laws of Utah 2015, First Special Session, Chapter 3

59-10-1018, as last amended by Laws of Utah 2018, Chapters 415 and 456

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-7-101 is amended to read:****59-7-101. Definitions.**

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" [is-as] means the same as that term is defined in Section 59-7-302.

(6) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(7) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(8) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(9) "Corporate return" or "return" includes a combined report.

(10) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(11) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(12) (a) "Doing business" includes any transaction in the course of its business by a domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in this state.

(b) Except as provided in Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) the owning, renting, or leasing of real or personal property within this state; and

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state.

(13) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

(14) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of ~~(I)~~ farmers~~(I)~~ or ~~(II)~~ fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection (14)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms ~~(I)~~ "member"~~(I)~~ and ~~(II)~~ "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A).

(ii) The rules made under this Subsection (14)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

(15) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

(16) (a) "Foreign operating company" means a corporation ~~if~~ that:

(i) ~~the corporation~~ is incorporated in the United States;

(ii) conducts at least 80% of the corporation's business activity, as determined under Section 59-7-401, ~~is conducted~~ outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, ~~the corporation~~ has:

(A) at least \$1,000,000 of payroll located outside the United States; and

(B) at least \$2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(17) (a) “Foreign real estate investment trust” means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity’s total asset value at the close of the business entity’s taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity’s beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity’s taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity’s:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) “cash or cash equivalents”;

(ii) “established securities market”; or

(iii) “listed Australian property trust.”

(18) “Income” includes losses.

(19) “Internal Revenue Code” means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

(20) “Nonbusiness income” [is as] means the same as that term is defined in Section 59-7-302.

(21) “Real estate investment trust” [is as] means the same as that term is defined in Section 856, Internal Revenue Code.

(22) “Related expenses” means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income [which] that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection (22), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

[~~(24)~~] (23) “S corporation” means an S corporation as defined in Section 1361, Internal Revenue Code.

[~~(23)~~] (24) “Safe harbor lease” means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

(25) “State of the United States” includes any of the 50 states or the District of Columbia.

(26) (a) “Taxable year” means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, “taxable year” includes the period for which such return is made.

(27) “Taxpayer” means any corporation subject to the tax imposed by this chapter.

(28) “Threshold level of business activity” means business activity in the United States equal to or greater than 20% of the corporation’s total business activity as determined under Section 59-7-401.

(29) “Unadjusted income” means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(30) (a) “Unitary group” means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) “Unitary group” includes a captive real estate investment trust.

(c) “Unitary group” does not include an S corporation.

(31) "United States" includes the 50 states and the District of Columbia.

(32) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

(33) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that ~~may be carried back or carried~~ a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.

(34) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

(35) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

(36) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection (36)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

(37) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 2. Section 59-7-110 (Superseded 01/01/19) is amended to read:

59-7-110 (Superseded 01/01/19). Utah net loss -- Carryforward -- Deduction.

(1) ~~[The amount of Utah net loss that shall be carried back or]~~ A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry forward to offset income of another taxable year ~~[is determined]~~ as provided in this section.

~~[(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year~~

~~of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss.]~~

~~[(b) (i) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning on or after January 1, 1994, may be carried back three taxable years preceding the taxable year of the loss and carried forward 15 taxable years following the taxable year of the loss.]~~

~~[(ii) If an election is made to forego the federal net operating loss carryback, a Utah net loss is not eligible to be carried back unless an election is made for state purposes.]~~

~~(2) Subject to the other provisions of this section, a taxpayer:~~

~~(a) may carry forward a Utah net loss from a taxable year to a future taxable year; and~~

~~(b) may not carry back a Utah net loss from a taxable year.~~

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss ~~[shall be carried]~~ to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years ~~[that were applied or required to be applied]~~ that a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) ~~[Except as provided in]~~ Subject to Subsection (4)(b), the amount of Utah net loss that ~~[shall be carried]~~ a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that ~~[were]~~ a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years ~~[that were carried or required to be carried]~~ that a taxpayer carried or was required to carry to the year identified in Subsection (3).

~~[(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.]~~

~~[(ii) A Utah net loss in excess of \$1,000,000 may be carried forward.]~~

~~(b) (i) The amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable income computed without regard to the deduction allowable under this section.~~

~~[(iii) (ii) A taxpayer may carry a remaining Utah net loss [shall be available to be carried] to one or more taxable years in accordance with this section.~~

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) if the unitary group elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2)(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by two; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state:

(i) for that taxable year; and

(ii) in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 3. Section 59-7-110 (Effective 01/01/19) is amended to read:

59-7-110 (Effective 01/01/19). Utah net loss -- Carryforward -- Deduction.

(1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry ~~back or~~ forward to offset income of another taxable year as provided in this section.

(2) ~~(a)~~ Subject to the other provisions of this section, a taxpayer ~~may~~:

~~(i) carry back a Utah net loss from a taxable year for three taxable years preceding the taxable year of the loss; and~~

~~(ii) (a) may carry forward a Utah net loss from a taxable year [for 15 taxable years following the taxable year of the loss.] to a future taxable year; and~~

~~(b) If a taxpayer elects to forego the federal net operating loss carryback, the taxpayer may not carry back a Utah net loss unless the taxpayer makes an election for state purposes.]~~

~~(b) may not carry back a Utah net loss from a taxable year.~~

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) ~~[Except as provided in]~~ Subject to Subsection (4)(b), the amount of Utah net loss that a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that a taxpayer carried or was required to carry to the year identified in Subsection (3).

~~(b) (i) The amount of Utah net loss that a taxpayer carries back from a taxable year may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.]~~

~~[(ii) A taxpayer may carry forward a Utah net loss in excess of \$1,000,000.]~~

(b) (i) The amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable income computed without regard to the deduction allowable under this section.

~~[(iii)] (ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years in accordance with this section.~~

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) if the unitary group elects or is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(4) in taxable year 2019 or taxable year 2020, multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by, for the taxable year 2019, four, or, for the taxable year 2020, eight; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business

income to this state using the method described in Subsection 59-7-311(2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state for that taxable year in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 4. Section 59-7-522 is amended to read:

59-7-522. Overpayments.

(1) As used in this section, "overpayment" means the same as that term is defined in Section 59-1-1409.

(2) (a) Subject to Subsection (2)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss ~~carry back or~~ carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.

(b) The three-year period described in Subsection (2)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (2)(a).

(3) The commission shall make a credit against or refund of any overpayment of a tax under this chapter for a taxable year if, in accordance with Section 59-7-519:

(a) (i) a corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing a deficiency in federal income tax for that taxable year; or

(ii) there is a change in or correction of federal taxable income for that taxable year; and

(b) the corporation files a claim for the credit or refund before the expiration of the time period within which the commission may assess a deficiency.

(4) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Section 5. Section 59-10-1018 is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

~~[(a) "Dependent adult with a disability" means an individual who:]~~

~~[(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;]~~

~~[(ii) is not the claimant or the claimant's spouse; and]~~

~~[(iii) is:]~~

~~[(A) 18 years of age or older;]~~

~~[(B) eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and]~~

~~[(C) not enrolled in an education program for students with disabilities that is authorized under Section 53E-7-202.]~~

~~[(b) "Dependent child with a disability" means an individual 21 years of age or younger who:]~~

~~[(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;]~~

~~[(ii) is not the claimant or the claimant's spouse; and]~~

~~[(iii) is:]~~

~~[(A) an eligible student with a disability; or]~~

~~[(B) identified under guidelines of the Department of Health as qualified for Early Intervention or Infant Development Services.]~~

~~[(c) "Eligible student with a disability" means an individual who is:]~~

~~[(i) diagnosed by a school district representative under rules the State Board of Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as having a disability classified as autism, deafness, preschool developmental delay, dual sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment;]~~

~~[(ii) not receiving residential services from the Division of Services for People with Disabilities created under Section 62A-5-102 or a school established under Title 53E, Chapter 8, Utah Schools for the Deaf and the Blind; and]~~

~~[(iii) (A) enrolled in an education program for students with disabilities that is authorized under Section 53E-7-202; or]~~

~~[(B) a recipient of a scholarship awarded under Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program.]~~

~~[(d)] (a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.~~

~~[(e)] (b) "Joint filing status" means:~~

~~(i) spouses who file a single return jointly under this chapter for a taxable year; or~~

~~(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.~~

~~(c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.~~

~~[(f)] (d) "Single filing status" means:~~

~~(i) a single individual who files a single federal individual income tax return for the taxable year; or~~

~~(ii) a married individual who:~~

~~(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and~~

~~(B) files a single federal individual income tax return for the taxable year.~~

~~[(g)] (e) "State or local income tax" means the lesser of:~~

~~(i) the amount of state or local income tax that the claimant:~~

~~(A) pays for the taxable year; and~~

~~(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and~~

~~(ii) \$10,000.~~

~~[(h)] (f) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.~~

~~(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.~~

~~(g) "Utah personal exemption" means, subject to Subsection (6), \$565 multiplied by the number of the claimant's qualifying dependents.~~

~~(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a~~

claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and

(b) ~~[the product of:]~~ 6% of the claimant's Utah personal exemption.

~~[(i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year, plus an additional 75% of the amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year with respect to each dependent adult with a disability or dependent child with a disability; and]~~

~~[(ii) 6%.]~~

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For a taxable year beginning on or after January 1, 2009, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(6) (a) For a taxable year beginning on or after January 1, 2019, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year 2017.

(b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.

(c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 6. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Section 59-7-110 (Effective 01/01/19) take effect on January 1, 2019.

Section 7. Retrospective operation.

The bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 4**H. B. 2004**

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

**UTAH COMMUNICATIONS
AUTHORITY - PROCUREMENT**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill modifies provisions related to procurement and the Utah Communications Authority.

Highlighted Provisions:

This bill:

- ▶ incorporates the Utah Communications Authority into the Utah Procurement Code with independent procurement authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63G-6a-103, as last amended by Laws of Utah 2018, Chapter 352 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 315

63G-6a-106, as last amended by Laws of Utah 2016, Chapter 355

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6a-103 is amended to read:**63G-6a-103. Definitions.**

As used in this chapter:

- (1) "Applicable rulemaking authority" means:
 - (a) for a legislative procurement unit, the Legislative Management Committee;
 - (b) for a judicial procurement unit, the Judicial Council;
 - (c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:
 - (A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;
 - (B) for the Office of the Attorney General, the attorney general; and
 - (C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and
 - (ii) for each other executive branch procurement unit, the board;

- (d) for a local government procurement unit:
 - (i) the legislative body of the local government procurement unit; or
 - (ii) an individual or body designated by the legislative body of the local government procurement unit;
- (e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;
- (f) for a state institution of higher education described in:
 - (i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or
 - (ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;
- (g) for the State Board of Education, the State Board of Education;
- (h) for a public transit district, the chief executive of the public transit district;
- (i) for a local district other than a public transit district or for a special service district:
 - (i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or
 - (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:
 - (A) with respect to a subject addressed by board rules; or
 - (B) that are in addition to board rules; [ø]
- (j) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or
- [§] (k) for any other procurement unit, the board.
- (2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.
- (3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.
- (4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.
- (5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.
- (6) "Bidding process" means the procurement process described in Part 6, Bidding.
- (7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.
- (8) "Building board" means the State Building Board, created in Section 63A-5-101.
- (9) "Change directive" means a written order signed by the procurement officer that directs the

contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted

portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for

costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

(30) "Director" means the director of the division.

(31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(32) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the

general buying public for the supplies or services involved.

(34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(36) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(37) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(38) "Head of a procurement unit" means:

(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) for an executive branch procurement unit:

(i) the director of the division; or

(ii) any other person designated by the board, by rule;

(c) for a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;

(f) for a special service district, the governing body of the special service district or a designee of the governing body;

(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees; [ø]

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education[-]; or

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.

(39) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) “Local district” means the same as that term is defined in Section 17B-1-102.

(49) “Local government procurement unit” means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) “Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) “Multiyear contract” means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) “Municipality” means a city, town, or metro township.

(53) “Nonadopting local government procurement unit” means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) “Offeror” means a person who submits a proposal in response to a request for proposals.

(55) “Preferred bidder” means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) “Procure” means to acquire a procurement item through a procurement.

(57) “Procurement”:

(a) means a procurement unit’s acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under

Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) “Procurement item” means a supply, a service, or construction.

(59) “Procurement officer” means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) “Procurement unit”:

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

~~(vi)~~ (vi) a local government procurement unit;

~~(vii)~~ (vii) a local district;

~~(viii)~~ (viii) a special service district;

~~(ix)~~ (ix) a local building authority;

~~(x)~~ (x) a conservation district;

~~(xi)~~ (xi) a public corporation; or

~~(xii)~~ (xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) “Professional service” means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) “Protest officer” means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit’s designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer’s designee who is an employee of the division.

(63) “Public corporation” means the same as that term is defined in Section 63E-1-102.

(64) “Public entity” means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) “Public facility” means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) “Public funds” means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) “Public transit district” means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) “Public-private partnership” means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) “Qualified vendor” means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) “Real property” means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) “Request for information” means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) “Request for proposals” means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

(74) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) “Responsive” means conforming in all material respects to the requirements of a solicitation.

(78) “Sealed” means manually or electronically secured to prevent disclosure.

(79) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) “Small purchase process” means the procurement process described in Section 63G-6a-506.

(81) “Sole source contract” means a contract resulting from a sole source procurement.

(82) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) "Solicitation" means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) "Special service district" means the same as that term is defined in Section 17D-1-102.

(86) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(89) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) "Supply" means a good, material, technology, piece of equipment, or any other item of personal property.

(92) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(93) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(94) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) "Trial use contract" means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 2. Section 63G-6a-106 is amended to read:

63G-6a-106. Procurement units with specific statutory procurement authority -- Independent procurement authority -- Authority of head of a procurement unit with independent procurement authority.

(1) A procurement unit with procurement authority under the following provisions has

independent procurement authority to the extent of the applicable provisions and for the procurement items specified in the applicable provisions:

- (a) Title 53B, State System of Higher Education;
- (b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management;
- (c) Title 67, Chapter 5, Attorney General;
- (d) Title 72, Transportation Code; and
- (e) Title 78A, Chapter 5, District Court.

(2) Except as otherwise provided in Sections 63G-6a-105 and 63G-6a-107, a procurement unit shall conduct a procurement in accordance with this chapter.

(3) (a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.

(b) The applicable rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

(4) (a) A procurement unit listed in Subsection (4)(b) may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:

- (i) engage in a standard procurement process;
- (ii) procure an item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or
- (iii) otherwise engage in an act authorized or required by this chapter.

(b) The procurement units to which Subsection (4)(a) applies are:

- (i) a legislative procurement unit;
- (ii) a judicial procurement unit;
- (iii) an educational procurement unit;
- (iv) a local government procurement unit;
- (v) a conservation district;
- (vi) a local building authority;
- (vii) a local district;
- (viii) a public corporation;
- (ix) a special service district;
- (x) a public transit district; ~~and~~

(xi) the Utah Communications Authority, established in Section 63H-7a-201; and

~~(xi)~~ (xii) a procurement unit referred to in Subsection (1), to the extent authorized in Subsection (1).

(c) A procurement unit with independent procurement authority shall comply with the requirements of this chapter.

(d) Notwithstanding Subsection (4)(a), a procurement unit with independent procurement authority may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.

(e) With respect to a procurement or contract over which the head of a procurement unit with independent procurement authority has authority, the head of the procurement unit with independent procurement authority may:

- (i) manage and supervise the procurement to ensure to the extent practicable that taxpayers receive the best value;
- (ii) prepare and issue standard specifications for procurement items;
- (iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;
- (iv) delegate duties and authority to an employee of the procurement unit, as the head of the procurement unit with independent procurement authority considers appropriate;

(v) for the head of an executive branch procurement unit with independent procurement authority, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement unit's procurement of information technology services;

(vi) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a rule adopted by the applicable rulemaking authority;

(vii) after consultation with, as applicable, the attorney general's office or the procurement unit's legal counsel, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the head of the procurement unit with independent procurement authority determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(viii) attempt to resolve a contract dispute in coordination with the legal counsel of the procurement unit with independent procurement authority.

(f) The head of a procurement unit with independent procurement authority serves as the protest officer for a protest involving the procurement unit.

(g) If, at any time during the term of a contract awarded by a procurement unit with independent procurement authority, the head of the procurement unit determines that the contract is

out of compliance with this chapter or applicable rules, the head of the procurement unit may correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the head of the procurement unit determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with legal counsel.

(5) (a) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or

(ii) procure litigation support services, including retaining an expert witness.

(b) A procurement unit with independent procurement authority that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel; or

(ii) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit services; and

(b) services related to issuing bonds.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 5**H. B. 2005**

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

**DRINKING WATER SOURCE
SIZING REQUIREMENTS**

Chief Sponsor: Mike Schultz

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill repeals and reenacts provisions related to drinking water source and storage requirements.

Highlighted Provisions:

This bill:

- ▶ repeals and reenacts provisions related to drinking water source and storage requirements; and
- ▶ requires the director of the Division of Drinking Water to include necessary fire storage capacity in accordance with the state fire code and as determined by the local fire code official.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**REPEALS AND REENACTS:**

19-4-102, as last amended by Laws of Utah 2018, Chapter 335

19-4-104, as last amended by Laws of Utah 2018, Chapter 335

19-4-114, as enacted by Laws of Utah 2018, Chapter 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-4-102 is repealed and reenacted to read:**19-4-102. Definitions.**

As used in this chapter:

(1) “Board” means the Drinking Water Board appointed under Section 19-4-103.

(2) “Community water system” means a public water system that serves residents year-round.

(3) “Contaminant” means a physical, chemical, biological, or radiological substance or matter in water.

(4) “Director” means the director of the Division of Drinking Water.

(5) “Division” means the Division of Drinking Water, created in Subsection 19-1-105(1)(b).

(6) (a) “Groundwater source” means an underground opening from or through which groundwater flows or is pumped from a subsurface water-bearing formation.

(b) “Groundwater source” includes:

(i) a well;

(ii) a spring;

(iii) a tunnel; or

(iv) an adit.

(7) “Maximum contaminant level” means the maximum permissible level of a contaminant in water that is delivered to a user of a public water system.

(8) (a) “Public water system” means a system providing water for human consumption and other domestic uses that:

(i) has at least 15 service connections; or

(ii) serves an average of 25 individuals daily for at least 60 days of the year.

(b) “Public water system” includes:

(i) a collection, treatment, storage, or distribution facility under the control of the operator and used primarily in connection with the system; and

(ii) a collection, pretreatment, or storage facility used primarily in connection with the system but not under the operator’s control.

(9) “Retail water supplier” means a person that:

(a) supplies water for human consumption and other domestic uses to an end user; and

(b) has more than 500 service connections.

(10) “Supplier” means a person who owns or operates a public water system.

(11) “Wholesale water supplier” means a person that provides most of that person’s water to a retail water supplier.

Section 2. Section 19-4-104 is repealed and reenacted to read:**19-4-104. Powers of board.**

(1) (a) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring, record-keeping, and reporting of water quality related matters;

(ii) governing design, construction, operation, and maintenance of public water systems;

(iii) granting variances and exemptions to the requirements established under this chapter that are not less stringent than those allowed under federal law;

(iv) protecting watersheds and water sources used for public water systems;

(v) governing capacity development in compliance with Section 1420 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(vi) for a community water system failing to comply with the reporting requirements under Subsections (1)(c)(iv) and (v):

(A) establishing fines and penalties, including posting on the division's web page those community water systems that fail to comply with the reporting requirements; and

(B) allowing a community water system, in lieu of penalties established under Subsection (1)(a)(vi)(A), to enter into a corrective action agreement with the division that requires compliance and establishes a compliance schedule approved by the director.

(b) The board may:

(i) order the director to:

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings; or

(C) institute judicial proceedings to secure compliance with this chapter;

(ii) (A) hold a hearing that is not an adjudicative proceeding relating to the administration of this chapter; or

(B) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding; or

(iii) request and accept financial assistance from other public agencies, private entities, and the federal government to carry out the purposes of this chapter.

(c) The board shall:

(i) require the submission to the director of plans and specifications for construction of, substantial addition to, or alteration of public water systems for review and approval by the board before that action begins and require any modifications or impose any conditions that may be necessary to carry out the purposes of this chapter;

(ii) advise, consult, cooperate with, provide technical assistance to, and enter into agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies, municipalities, local health departments, educational institutions, and others necessary to carry out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of local jurisdictions;

(iii) develop and implement an emergency plan to protect the public when declining drinking water quality or quantity creates a serious health risk and issue emergency orders if a health risk is imminent;

(iv) require a community water system serving a population of 500 or more to annually collect accurate water use data, described in Subsection (6), and annually report that data to the Division of Water Rights;

(v) require a certified operator, or a professional engineer performing the duties of a certified water operator, to verify by certification or license number the accuracy of water use data reported by a public water system, including the data required from a

community water system under Subsection (1)(c)(iv); and

(vi) meet the requirements of federal law related or pertaining to drinking water.

(2) (a) The board may adopt and enforce standards and establish fees for certification of operators of any public water system.

(b) The board may not require certification of operators for a water system serving a population of 800 or less except:

(i) to the extent required for compliance with Section 1419 of the federal Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.; and

(ii) for a system that is required to treat its drinking water.

(c) The certification program shall be funded from certification and renewal fees.

(3) Routine extensions or repairs of existing public water systems that comply with the rules and do not alter the system's ability to provide an adequate supply of water are exempt from the provisions of Subsection (1)(c)(i).

(4) (a) The board may adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs or backflow prevention assembly training, repair, and maintenance testing.

(b) The certification program shall be funded from certification and renewal fees.

(5) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(6) (a) The water use data required to be collected in Subsection (1)(c)(iv) shall include peak day source demand, average annual demand, the number of equivalent residential connections for retail service, and the quantity of non-revenue water.

(b) The division may, by rule, establish:

(i) other types of water use data required to be collected in addition to that listed in Subsection (6)(a); and

(ii) alternative methods for calculating the water use data listed in Subsection (6)(a).

Section 3. Section 19-4-114 is repealed and reenacted to read:

19-4-114. Source and storage minimum sizing requirements for public water systems.

(1) (a) Except as provided in Subsection (1)(b) and upon submission of plans for a substantial addition to or alteration of a community water system, the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of more than 3,300 based on at least the most recent

three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of more than 3,300 shall provide the information necessary to establish the system-specific standards described in this Subsection (1) by no later than March 1, 2019.

(2) (a) By no later than October 1, 2023, and except as provided in Subsection (2)(b), the director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of between 500 and no more than 3,300 based on at least the most recent three years of a community water system's actual water use data submitted in accordance with Subsections 19-4-104(1)(c)(iv) and (v).

(b) If the water use data required under Subsection 19-4-104(1)(c)(iv) is not available to the division, or if the community water system determines that the data submitted does not represent future system use, the director may establish source and storage minimum sizing requirements for the community water system based on:

(i) an engineering study submitted by the community water system and accepted by the director; or

(ii) at least three years of historical water use data that is:

(A) submitted by the community water system; and

(B) accepted by the director.

(c) A community water system serving a population of between 500 and no more than 3,300 shall provide the information necessary to establish system-specific standards described in this Subsection (2) by no later than March 1, 2023.

(3) The director shall establish system-specific source and storage minimum sizing requirements for a community water system serving a population of fewer than 500 based on:

(a) at least the most recent three years of a community water system's actual water use data submitted to the division and accepted by the director;

(b) an engineering study submitted by the community water system and accepted by the director;

(c) standards, comparable to those of established community water systems, as determined by the director; or

(d) relevant information, as determined by the director.

(4) The director shall:

(a) for community water systems described in Subsection (3), establish a schedule to transition from statewide sizing standards to system-specific standards;

(b) establish minimum sizing standards for public water systems that are not community water systems;

(c) provide for the routine evaluation of changes to the system-specific standards; and

(d) include, as part of system-specific standards, necessary fire storage capacity in accordance with the state fire code adopted under Section 15A-1-403 and as determined by the local fire code official.

(5) The director may adjust system-specific sizing standards, established under this section for a public water system, based on information submitted by the public water system addressing the effect of any wholesale water deliveries or other system-specific conditions affecting infrastructure needs.

(6) A wholesale water supplier is exempt from this section if the wholesale water supplier serves:

(a) a total population of more than 10,000; and

(b) a wholesale population that is 75% or more of the total population served.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 6**S. B. 2001**

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

(Exception clause in Section 13)

ONLINE SALES TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies sales and use tax provisions.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ repeals certain amendments made in S.B. 233, Sales and Use Tax Amendments, Laws of Utah 2018, Chapter 472;
- ▶ repeals a requirement that certain sellers remit a tax to the State Tax Commission if the Supreme Court of the United States issues a certain decision or Congress permits the state to require certain sellers to collect a sales or use tax;
- ▶ repeals certain reporting requirements of the State Tax Commission to the Revenue and Taxation Interim Committee of the Legislature;
- ▶ repeals certain requirements of the Revenue and Taxation Interim Committee of the Legislature regarding the collection of certain sales and use tax revenue;
- ▶ repeals provisions regarding the deposit of sales and use tax revenue collected from certain remote sellers into the Remote Sales Restricted Account;
- ▶ repeals the Division of Finance's notification procedures for certain revenues deposited into the Remote Sales Restricted Account;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of materials, except office equipment and office supplies, by a manufacturing facility, certain mining establishments, or a web search portal that are used or consumed in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except office equipment or office supplies, by a medical laboratory;
- ▶ enacts a provision that requires certain sellers to pay or collect and remit the sales and use tax imposed if the seller:
 - sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and
 - in either the previous calendar year or the current calendar year, receives a certain amount of gross revenue from the sale of tangible personal property, any product

transferred electronically, or services for storage, use, or consumption in the state or sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in more than a certain number of separate transactions;

- ▶ repeals an enhanced percentage that certain sellers may retain if the seller is voluntarily remitting sales and use taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 59-1-401, as last amended by Laws of Utah 2018, Chapter 329
- 59-12-104, as last amended by Laws of Utah 2018, Chapters 281, 345, and 442
- 59-12-104.5 (Contingently Superseded), as last amended by Laws of Utah 2017, Chapter 268
- 59-12-107 (Contingently Superseded), as last amended by Laws of Utah 2017, Chapter 430
- 59-12-108, as last amended by Laws of Utah 2017, Chapter 430
- 59-12-211, as last amended by Laws of Utah 2012, Chapter 312
- 59-12-211.1, as last amended by Laws of Utah 2012, Chapter 312
- 63I-2-210, as last amended by Laws of Utah 2018, Chapter 472 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 456
- 63I-2-259, as last amended by Laws of Utah 2018, Chapters 456 and 472
- 63M-4-702, as enacted by Laws of Utah 2017, Chapter 429

REPEALS:

- 59-12-103.1, as last amended by Laws of Utah 2018, Chapter 472
- 59-12-103.2 (Contingently Superseded), as last amended by Laws of Utah 2013, Chapter 150
- 59-12-104.7 (Contingently Repealed), as last amended by Laws of Utah 2017, Chapter 268
- 63N-1-302 (Contingently Repealed), as last amended by Laws of Utah 2017, Chapter 268

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-1-401 is amended to read:**

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) “Activated tax, fee, or charge” means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission’s GenTax system; and

(ii) at least 30 days before implementing the commission’s GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission’s website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) “Activation date for a tax, fee, or charge” means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission’s GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), “tax, fee, or charge” means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) “Tax, fee, or charge” does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) “Unactivated tax, fee, or charge” means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate

Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and

use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

- (A) be less than \$500; or
- (B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

- (A) be less than \$1,000; or
- (B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

- (I) a return;
- (II) an affidavit;
- (III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

- (A) be less than \$1,500; or
- (B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may

claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, [ø] normal operating repair or replacement parts [~~with an economic life of three or more years~~], or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility [~~except as provided in Subsection (86),~~] that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, [ø] normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance

with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, [ø] normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, [ø] normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), ~~the following~~ machinery, equipment, materials, or supplies if used in a manner that is incidental to farming~~[-]; and~~

~~(I) machinery;~~

~~(II) equipment;~~

~~(III) materials; or~~

~~(IV) supplies; and~~

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) “commercial distribution”;

(B) “live musical performance”;

(C) “live news program”; or

(D) “live sporting event”;

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible

personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

- (65) sales:
- (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
 - (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:
 - (i) clearly identified; and
 - (ii) installed or converted to real property owned by the public transit district;
- (66) sales of construction materials:
- (a) purchased on or after July 1, 2010;
 - (b) purchased by, on behalf of, or for the benefit of an international airport:
 - (i) located within a county of the first class; and
 - (ii) that has a United States customs office on its premises; and
 - (c) if the construction materials are:
 - (i) clearly identified;
 - (ii) segregated; and
 - (iii) installed or converted to real property:
 - (A) owned or operated by the international airport described in Subsection (66)(b); and
 - (B) located at the international airport described in Subsection (66)(b);
- (67) sales of construction materials:
- (a) purchased on or after July 1, 2008;
 - (b) purchased by, on behalf of, or for the benefit of a new airport:
 - (i) located within a county of the second class; and
 - (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and
 - (c) if the construction materials are:
 - (i) clearly identified;
 - (ii) segregated; and
 - (iii) installed or converted to real property:
 - (A) owned or operated by the new airport described in Subsection (67)(b);
 - (B) located at the new airport described in Subsection (67)(b); and
 - (C) as part of the construction of the new airport described in Subsection (67)(b);
- (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- (69) purchases and sales described in Section 63H-4-111;
- (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair,

overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

~~[(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:]~~

~~[(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and]~~

~~[(ii) except for office:]~~

~~[(A) equipment; or]~~

~~[(B) supplies; and]~~

~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:]~~

~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

~~[(ii) in accordance with Section 59-1-1410;]~~

~~[(85)] (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating~~

repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

~~[(86) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility that:]~~

~~[(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;]~~

~~[(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;]~~

~~[(c) is located in the state; and]~~

~~[(d) uses the machinery, equipment, or normal operating repair or replacement parts in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;]~~

~~[(87) amounts paid or charged for a purchase or lease of equipment or normal operating repair or replacement parts with an economic life of less than three years by a manufacturing facility that:]~~

~~[(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;]~~

~~[(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;]~~

~~[(c) is located in the state; and]~~

~~[(d) uses the equipment or normal operating repair or replacement parts to manufacture hydrogen;]~~

~~[(88) (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;~~

~~[(89) (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:~~

~~(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;~~

~~(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:~~

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2); ~~[and]~~

~~[(90) (87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;]; and~~

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment.

Section 3. Section 59-12-104.5 (Contingently Superseded) is amended to read:

59-12-104.5 (Contingently Superseded). Revenue and Taxation Interim Committee review of sales and use taxes.

[(4)] The Revenue and Taxation Interim Committee shall:

~~[(a) (1) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program; and~~

~~[(b) (2) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program]; and]~~

~~[(c) on or before November 30;]~~

~~[(i) require the Governor's Office of Economic Development to provide the report described in Section 63N-1-302(2);]~~

~~[(ii) review for each exemption described in Subsections 59-12-104(86) and (87);]~~

~~[(A) the cost of the exemption;]~~

~~[(B) the purpose and effectiveness of the exemption; and]~~

~~[(C) the extent to which the state benefits from the exemption; and]~~

~~[(iii) make recommendations concerning whether the exemptions described in Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.]~~

~~[(2) Once the commission implements the sales and use tax exemption described in Subsection 59-12-104.8(1), the provisions described in Subsection (1)(c) no longer have effect.]~~

Section 4. Section 59-12-107 (Contingently Superseded) is amended to read:

59-12-107 (Contingently Superseded).

Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(~~(e)~~)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(~~(f)~~)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telecommunications service; or

(V) a means similar to Subsection (2)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a service, or a product transferred electronically for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) Each seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year:

(A) receives gross revenue from the sale of tangible personal property, any product transferred electronically, or services for storage, use, or consumption in the state of more than \$100,000; or

(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.

[(e)] (d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b) or (2)(c) may voluntarily:

[(i) except as provided in Subsection (2)(e)(ii), may voluntarily:]

[(A)] (i) collect a tax on a transaction described in Subsection 59-12-103(1); and

[(B)] (ii) remit the tax to the commission as provided in this part[; or].

[(ii) notwithstanding Subsection (2)(e)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.]

[(d)] (e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(F) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(F) this title.

[(e)] (f) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state; or

(C) consumes the tangible personal property or product transferred electronically in the state.

[(f)] (g) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be collected from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will, ~~in the commission's opinion,~~ better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such

time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar [~~quarterly~~] period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar [~~quarterly~~] period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser [~~who~~] that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and [~~who~~] that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

- (i) registered under the agreement;
- (ii) described in Subsection (2)(~~e~~)(d); and
- (iii) not a:
 - (A) model 1 seller;
 - (B) model 2 seller; or
 - (C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(~~e~~)(d) is due and payable:

- (A) to the commission;
- (B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(~~e~~)(d) be due and payable:

- (A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

(c) (i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:

- (A) with the commission;
- (B) with respect to the tax;
- (C) containing information prescribed by the commission; and
- (D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

- (B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:

- (i) a cash transaction; and
- (ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer[;]:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

~~(a)~~ (i) the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

~~(b)~~ (ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person[;]:

(a) the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax; and

(b) the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" ~~is as~~ means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) ~~Notwithstanding Subsection (10)(a)(i), "bad~~ "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person [who] that fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or [who] that fails to file any return as required by this chapter, shall pay, in addition to

the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted[,] constitutes a separate offense.

Section 5. Section 59-12-108 is amended to read:

59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of \$50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than \$96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is \$96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

(v) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

(A) Subsection 59-12-103(2)(a);

(B) Subsection 59-12-103(2)(b); and

(C) Subsection 59-12-103(2)(d); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(C) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Subsection 59-12-603(1)(a)(i)(A); or

(C) Subsection 59-12-603(1)(a)(i)(B).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than \$50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

~~[(5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to 18% of any amounts the seller would otherwise remit to the commission;]~~

~~[(i) if the seller obtains a license under Section 59-12-106 for the first time on or after January 1, 2014; and]~~

~~[(ii) for:]~~

~~[(A) an agreement sales and use tax; and]~~

~~[(B) the time period for which the seller files a return in accordance with this section.]~~

~~[(b) If a seller retains an amount under this Subsection (5), the seller may not retain any other amount under this section.]~~

~~[(c) If a seller retains an amount under this Subsection (5), the commission may require the seller to file a return by:]~~

~~[(i) electronic means; or]~~

~~[(ii) a means other than electronic means.]~~

~~[(d) A seller may not retain an amount under this Subsection (5) if the seller is required to collect or~~

~~remit a tax under this section in accordance with Section 59-12-103.1.]~~

~~[(6) (5) Penalties for late payment shall be as provided in Section 59-1-401.~~

~~[(7) (6) (a) Except as provided in Subsection [(7) (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:~~

~~(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and~~

~~(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).~~

~~(b) The commission shall each month allocate the amount calculated under Subsection [(7) (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.~~

~~(c) The amount the commission calculates under Subsection [(7) (6)(a) may not include an amount collected from a tax that:~~

~~(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and~~

~~(ii) is not imposed within the entire state.~~

Section 6. Section 59-12-211 is amended to read:

59-12-211. Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases -- Exceptions.

(1) As used in this section:

(a) (i) "Receipt" and "receive" mean:

(A) taking possession of tangible personal property;

(B) making first use of a service; or

(C) for a product transferred electronically, the earlier of:

(I) taking possession of the product transferred electronically; or

(II) making first use of the product transferred electronically.

(ii) "Receipt" and "receive" do not include possession by a shipping company on behalf of a purchaser.

(b) "Transportation equipment" means:

(i) a locomotive or rail car that is used to carry a person or property in interstate commerce;

(ii) a truck or truck-tractor:

(A) with a gross vehicle weight rating of 10,001 pounds or more;

(B) registered under Section 41-1a-301; and

(C) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in carrying a person or property in interstate commerce;

(iii) a trailer, semitrailer, or passenger bus that is:

(A) registered under Section 41-1a-301; and

(B) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in carrying a person or property in interstate commerce;

(iv) an aircraft that is operated by an air carrier authorized and certificated:

(A) by the United States Department of Transportation or another federal or foreign authority; and

(B) to engage in carrying a person or property in interstate commerce; or

(v) a container designed for use on, or a component part attached or secured on, an item of equipment listed in Subsections (1)(b)(i) through (iv).

(2) Except as provided in Subsections (8) and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.

(3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller, the location of the transaction is the location where the purchaser takes receipt of the tangible personal property or service.

(4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location indicated by an address for or other information on the purchaser if:

(a) the address or other information is available from the seller's business records; and

(b) use of the address or other information from the seller's records does not constitute bad faith.

(5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), or (4) does not apply, the location

of the transaction is the location indicated by an address for the purchaser if:

(i) the address is obtained during the consummation of the transaction; and

(ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

(b) An address used under Subsection (5)(a) includes the address of a purchaser's payment instrument if no other address is available.

(6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location:

(a) indicated by the address from which:

(i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is subject to taxation under this chapter, the tangible personal property is shipped;

(ii) for computer software delivered electronically or for a product transferred electronically that is subject to taxation under this chapter, the computer software or product transferred electronically is first available for transmission by the seller; or

(iii) for a service that is subject to taxation under this chapter, the service is provided; or

(b) as determined by the seller with respect to a prepaid wireless calling service:

(i) provided in Subsection (6)(a)(iii); or

(ii) associated with the mobile telephone number.

(7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP Code that is located within two or more local taxing jurisdictions.

(b) If the location of a transaction determined under Subsections (3) through (6) is in a shared ZIP Code, the location of the transaction is:

(i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or

(ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that:

(A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

(B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.

(c) Notwithstanding any provision under this chapter authorizing or requiring the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales and use tax imposed under this chapter at the lowest agreement

combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or

(ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).

(8) The location of a transaction made with a direct payment permit described in Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or service by the purchaser occurs.

(9) The location of a purchase of direct mail is the location determined in accordance with Section 59-12-123.

(10) (a) Except as provided in Subsection (10)(b), the location of a transaction determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within which:

(i) the nine-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located; or

(ii) the five-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located if:

(A) a nine-digit ZIP Code is not available for the location determined under Subsections (3) through (6), (8), or (9); or

(B) after exercising due diligence, a seller or certified service provider is unable to determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6), (8), or (9).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the local taxing jurisdiction within which a transaction is located if a seller or certified service provider is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

(11) (a) As used in this Subsection (11), "florist delivery transaction" means a transaction commenced by a florist that transmits an order:

(i) by:

(A) telegraph;

(B) telephone; or

(C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(ii) for delivery to another place:

(A) in this state; or

(B) outside this state.

(b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and ending on December 31, 2009, the location of a florist delivery transaction is the business location of the florist that commences the florist delivery transaction.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) define:

(A) "business location"; and

(B) "florist";

(ii) define what constitutes a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(iii) provide procedures for determining when a transaction is commenced.

(12) (a) Notwithstanding any other provision of this section and except as provided in Subsection (12)(b), if a purchaser uses computer software and there is not a transfer of a copy of that software to the purchaser, the location of the transaction is determined in accordance with Subsections (4) and (5).

(b) If a purchaser uses computer software described in Subsection (12)(a) at more than one location, the location of the transaction shall be determined in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurs during the return filing period.

(b) The form described in Subsection (13)(a) shall be filed with the commission as required under this chapter.

(14) This section does not apply to:

(a) amounts charged by a seller for:

(i) telecommunications service except for a prepaid calling service or a prepaid wireless calling service as provided in Subsection (6)(b) or Section 59-12-215; or

(ii) the retail sale or transfer of:

(A) a motor vehicle other than a motor vehicle that is transportation equipment;

(B) an aircraft other than an aircraft that is transportation equipment;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(iii) except as provided in Section 59-12-214, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment;

(b) a tax a person pays in accordance with Subsection 59-12-107(2)(e)(f); or

(c) a retail sale of tangible personal property or a product transferred electronically if:

(i) the seller receives the order for the tangible personal property or product transferred electronically in this state;

(ii) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;

(iii) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (5); and

(iv) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

Section 7. Section 59-12-211.1 is amended to read:

59-12-211.1. Location of a transaction that is subject to a use tax.

(1) Subject to Subsection (2), a person that is required by Subsection 59-12-107(2)(e)(f) to pay a use tax on a transaction shall report the location of that transaction at the person's location.

(2) For purposes of Subsection (1), if a person has more than one location in this state, the person shall report the location of the transaction at the location at which tangible personal property, a product transferred electronically, or a service is received.

Section 8. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

~~[(1) If Subsection 10-1-405(1)(a)(ii)(A)(VI) is not in effect by December 31, 2028, Subsection 10-1-405(1)(a)(ii)(A)(VI) is repealed on December 31, 2028.]~~

~~[(2)] (1) On July 1, 2018, the following are repealed:~~

~~(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";~~

~~(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";~~

~~(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";~~

~~(d) Section 10-2a-302;~~

~~(e) Subsection 10-2a-302.5(2)(a);~~

~~(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";~~

~~(g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and "10-2a-302(7)(b)(iv) or";~~

~~(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and~~

~~(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5) or".~~

~~[(3)] (2) Subsection 10-9a-304(2) is repealed June 1, 2020.~~

~~[(4)] (3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

Section 9. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

~~(1) Section 59-1-102 is repealed on May 14, 2019.~~

~~(2) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.~~

~~(3) Subsection 59-2-1007(15) is repealed on December 31, 2018.~~

~~[(4) If Section 59-12-104.8 is not in effect by December 31, 2028, Subsection 59-12-103.1(5) is repealed on December 31, 2028.]~~

~~[(5) If Subsection 59-12-104.5(2) is not in effect by December 31, 2028, Subsection 59-12-104.5(2) is repealed on December 31, 2028.]~~

~~[(6) If Section 59-12-104.8 is not in effect by December 31, 2028, Section 59-12-104.8 is repealed on December 31, 2028.]~~

~~[(7) If Subsection 59-12-106(3)(a)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-106(3)(a)(ii)(B) is repealed on December 31, 2028.]~~

~~[(8) If Subsection 59-12-107(10)(a)(ii)(A)(III) is not in effect by December 31, 2028, Subsection 59-12-107(10)(a)(ii)(A)(III) is repealed on December 31, 2028.]~~

~~[(9) If Subsection 59-12-204(2)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-204(2)(b)(ii) is repealed on December 31, 2028.]~~

~~[(10) If Subsection 59-12-204(6)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-204(6)(b)(ii) is repealed on December 31, 2028.]~~

~~[(11) If Subsection 59-12-401(1)(b)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-401(1)(b)(ii)(B) is repealed on December 31, 2028.]~~

~~[(12) If Subsection 59-12-402(1)(b)(ii)(B) is not in effect by December 31, 2028, Subsection~~

59-12-402(1)(b)(ii)(B) is repealed on December 31, 2028.]

[~~(13) If Subsection 59-12-402.1(5)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-402.1(5)(b)(ii) is repealed on December 31, 2028.~~]

[~~(14) If Subsection 59-12-703(1)(e)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-703(1)(e)(i)(B) is repealed on December 31, 2028.~~]

[~~(15) If Subsection 59-12-802(1)(e)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-802(1)(e)(i)(B) is repealed on December 31, 2028.~~]

[~~(16) If Subsection 59-12-804(1)(b)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-804(1)(b)(i)(B) is repealed on December 31, 2028.~~]

[~~(17) If Subsection 59-12-1102(1)(a)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-1102(1)(a)(ii)(B) is repealed on December 31, 2028.~~]

[~~(18) If Subsection 59-12-1302(4)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-1302(4)(a)(i)(B) is repealed on December 31, 2028.~~]

[~~(19) If Subsection 59-12-1402(1)(e)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-1402(1)(e)(ii)(B) is repealed on December 31, 2028.~~]

[~~(20) If Subsection 59-12-1802(2)(b) is not in effect by December 31, 2028, Subsection 59-12-1802(2)(b) is repealed on December 31, 2028.~~]

[~~(21) If Subsection 59-12-2003(4)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-2003(4)(a)(i)(B) is repealed on December 31, 2028.~~]

[~~(22) If Subsection 59-12-2103(2)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-2103(2)(a)(i)(B) is repealed on December 31, 2028.~~]

[~~(23) If Subsection 59-12-2204(1)(a)(ii) is not in effect by December 31, 2028, Subsection 59-12-2204(1)(a)(ii) is repealed on December 31, 2028.~~]

Section 10. Section 63M-4-702 is amended to read:

63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.

(1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104[(89)](86) shall annually report to the office whether the refiner's facility that is located within the state will have an

average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

(2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is eligible for the sales and use tax exemption under Subsection 59-12-104[(89)](86):

(i) on a form provided by the State Tax Commission that shall be retained by the refiner claiming the sales and use tax exemption under Subsection 59-12-104[(89)](86);

(ii) if the refiner's refinery that is located within the state had an average sulfur level of 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar year; and

(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection 59-12-104[(89)](86).

(b) The certification provided by the office under Subsection (2)(a) shall be renewed annually.

(c) The office:

(i) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average gasoline sulfur level; or

(ii) may establish another reporting mechanism through rules made under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Section 11. Repealer.

This bill repeals:

Section 59-12-103.1, Action by Supreme Court of the United States authorizing or action by Congress permitting a state to require certain sellers to collect a sales or use tax -- Collection of tax by commission -- Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee study -- Division of Finance requirements to make certain deposits and to provide notice.

Section 59-12-103.2 (Contingently Superseded), Definitions -- Remote Sales Restricted Account -- Creation -- Funding for account -- Interest -- Division of Finance accounting.

Section 59-12-104.7 (Contingently Repealed), Reporting by purchaser of

certain sales and use tax exempt purchases.

Section 63N-1-302 (Contingently Repealed), Reporting of certain sales and use tax exempt purchases.

Section 12. Repeal of amendments in S.B. 233, 2018 General Session.

(1) Except as provided in Subsection (2), this bill repeals the changes to the following sections made in S.B. 233, Sales and Use Tax Amendments, Laws of Utah 2018, Chapter 472:

- (a) Section 10-1-405 (Contingently Effective);
 - (b) Section 19-6-714 (Contingently Effective);
 - (c) Section 19-6-808 (Contingently Effective);
 - (d) Section 59-12-103.2 (Contingently Effective);
 - (e) Section 59-12-104.5 (Contingently Effective);
 - (f) Section 59-12-104.7 (Contingently Repealed);
 - (g) Section 59-12-104.8 (Contingently Effective);
 - (h) Section 59-12-106 (Contingently Effective);
 - (i) Section 59-12-107 (Contingently Effective);
 - (j) Section 59-12-204 (Contingently Effective);
 - (k) Section 59-12-401 (Contingently Effective);
 - (l) Section 59-12-402 (Contingently Effective);
 - (m) Section 59-12-402.1 (Contingently Effective);
 - (n) Section 59-12-703 (Contingently Effective);
 - (o) Section 59-12-802 (Contingently Effective);
 - (p) Section 59-12-804 (Contingently Effective);
 - (q) Section 59-12-1102 (Contingently Effective);
 - (r) Section 59-12-1302 (Contingently Effective);
 - (s) Section 59-12-1402 (Contingently Effective);
 - (t) Section 59-12-1802 (Contingently Effective);
 - (u) Section 59-12-2003 (Contingently Effective);
 - (v) Section 59-12-2103 (Contingently Effective);
 - (w) Section 59-12-2204 (Contingently Effective);
- and
- (x) Section 63N-1-302 (Contingently Repealed).

(2) The changes made to the following sections, which took effect July 1, 2018, remain in effect and are not repealed or modified by this section:

- (a) Section 59-12-102;
- (b) Section 59-12-103.1;
- (c) Section 63I-2-210; and
- (d) Section 63I-2-259.

Section 13. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected

to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments in this bill to the following sections take effect on January 1, 2019:

- (a) Section 59-1-401;
- (b) Section 59-12-103.1;
- (c) Section 59-12-103.2 (Contingently Superseded);
- (d) Section 59-12-104;
- (e) Section 59-12-104.5 (Contingently Superseded);
- (f) Section 59-12-104.7 (Contingently Repealed);
- (g) Section 59-12-107 (Contingently Superseded);
- (h) Section 59-12-108;
- (i) Section 59-12-211;
- (j) Section 59-12-211.1;
- (k) Section 63M-4-702; and
- (l) Section 63N-1-302 (Contingently Repealed).

CHAPTER 7**S. B. 2003**

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

**OFF-PREMISE BEER RETAILER
LICENSING AMENDMENTS**Chief Sponsor: Jerry W. Stevenson
House Sponsor: Timothy D. Hawkes**LONG TITLE****General Description:**

This bill amends provisions related to state licensing of off-premise beer retailers.

Highlighted Provisions:

This bill:

- ▶ creates a conditional off-premise beer retailer state license that conditions the holder's ability to purchase, store, or sell beer on the holder obtaining a business license;
- ▶ provides that a conditional off-premise beer retailer state license becomes an off-premise beer retailer state license if, within nine months of obtaining the conditional license, the holder demonstrates that the holder has obtained a business license and continues to meet the other requirements for an off-premise beer retailer state license;
- ▶ allows the Alcoholic Beverage Control Commission to extend the nine-month deadline by three months, under certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

32B-2-202, as last amended by Laws of Utah 2017, Chapter 455

ENACTS:

32B-7-406, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-202 is amended to read:**32B-2-202. Powers and duties of the commission.**

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

(c) set policy by written rules that establish criteria and procedures for:

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

(ii) determining the location of a state store, package agency, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

(iv) a limited-service restaurant license;

(v) a master limited-service restaurant license;

(vi) a bar establishment license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, under which at least four or more sublicenses may be included;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) a hotel license, under which at least three or more sublicenses may be included;

(xiv) subject to Subsection (4), a single event permit;

(xv) subject to Subsection (4), a temporary beer event permit;

(xvi) a special use permit;

(xvii) a manufacturing license;

(xviii) a liquor warehousing license;

(xix) a beer wholesaling license; and

(xx) one of the following that holds a certificate of approval:

(A) an out-of-state brewer;

(B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

(C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;

(f) ~~[in accordance with Section 32B-5-205,] issue, deny, suspend, or revoke the following conditional licenses [for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution of an alcoholic product;]~~

(i) a conditional retail license as defined in Section 32B-5-205; and

(ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;

(g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;

(h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

(i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;

(j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

(k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

(m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

(n) prescribe the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

(o) make rules governing the credit terms of beer sales within the state to retail licensees; and

(p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

(a) establish a state store;

(b) issue authority to act as a package agent or operate a package agency; and

(c) issue or deny a license, permit, or certificate of approval.

(3) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section 2. Section 32B-7-406 is enacted to read:

32B-7-406. Conditional off-premise beer retailer state license.

(1) As used in this section, "conditional off-premise beer retailer state license" means an off-premise beer retailer state license that conditions the holder's ability to purchase, store, sell, or offer for sale beer for consumption off the holder's licensed premises on the holder submitting to the department a copy of the holder's current business license.

(2) In accordance with the provisions of this section, the commission may issue a conditional off-premise beer retailer state license to a person if the person:

(a) meets the requirements to obtain an off-premise beer retailer state license, except the requirement to submit a copy of the person's current business license; and

(b) agrees not to purchase, store, sell, or offer for sale beer for consumption off the person's licensed premises before obtaining an off-premise beer retailer state license.

(3) (a) For a conditional off-premise beer retailer state license to become an off-premise beer retailer state license, a person who holds the conditional off-premise beer retailer state license shall:

(i) submit to the department a copy of the person's current business license; and

(ii) provide to the department evidence satisfactory to the department that:

(A) there has been no change in the information submitted to the commission as part of the person's application for an off-premise beer retailer state license; and

(B) the person continues to qualify for an off-premise beer retailer state license.

(b) A conditional off-premise beer retailer state license becomes an off-premise beer retailer state license on the day on which the department notifies the person who holds the conditional off-premise beer retailer state license that the department finds that the person has complied with Subsection (3)(a).

(4) (a) A conditional off-premise beer retailer state license expires nine months after the day on which the commission issues the conditional off-premise beer retailer state license, unless the conditional off-premise beer retailer state license becomes an off-premise beer retailer state license before that day.

(b) Notwithstanding Subsection (4)(a), the commission may extend the expiration date of a

conditional off-premise beer retailer state license by three months if the holder demonstrates to the satisfaction of the commission that the holder:

(i) has an active building permit related to the licensed premises; and

(ii) is engaged in a good faith effort to pursue completion within the three-month period.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 8**S. B. 2004**

Passed July 18, 2018

Approved July 21, 2018

Effective September 17, 2018

**CLASS B AND CLASS C
ROAD FUND AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill amends provisions relating to class B and class C road funds.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the calculation of amounts allocated to political subdivisions for class B and class C roads;
- ▶ amends provisions related to class B and class C road funds to allow a portion of those funds for maintenance of class D roads; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-2-108, as last amended by Laws of Utah 2018, Chapter 330

72-2-110, as last amended by Laws of Utah 2017, Chapter 144

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-2-108 is amended to read:**72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.**

(1) For purposes of this section:

(a) "Eligible county" means a county of the fifth class, as described in Section 17-50-501, that received a distribution for fiscal year 2015 that was reapportioned to include money in addition to the amount calculated under Subsection (2), and the portion of the distribution derived from the calculation under Subsection (2) was less than 60% of the total distribution.

(~~(a)~~) (b) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (~~1~~)(~~(a)~~)(b)(iii)(A) through (E); and

(II) coarser than sand.

(~~(b)~~) (c) "Paved road" includes a graveled road with a chip seal surface.

(~~(e)~~) (d) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(~~(d)~~) (e) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) Subject to the provisions of Subsections (3) through (~~(8)~~) (7), funds appropriated for class B and class C roads shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

~~(4) [If an apportionment under Subsection (2) made in the current fiscal year to a county or municipality with a population of less than 14,000 is less than 120% of the amount apportioned to the county or municipality for class B and class C roads in fiscal year 1996-97,] For an eligible county, the department shall reapportion the funds under Subsection (2) to ensure that the county or municipality receives, for a fiscal year beginning on or after July 1, 2018, an amount equal to the greater of:~~

~~[(a) subject to the requirement in Subsection (5) and for fiscal year 2016 only, an amount equal to:]~~

~~[(i) the amount apportioned to the county or municipality for class B and class C roads in fiscal year 2015 multiplied by 120%; plus]~~

~~[(ii) an amount equal to the amount apportioned to the county or municipality in fiscal year 2015 multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between fiscal year 2015 and fiscal year 2016;]~~

~~[(b) for fiscal year 2017 only, an amount equal to the greater of:]~~

~~[(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or]~~

~~[(ii) (A) the amount apportioned to the county for class B and class C roads in fiscal year 2015 multiplied by 120%; plus]~~

~~[(B) the amount calculated as described in Subsection (7); or]~~

~~[(c) for a fiscal year beginning on or after July 1, 2017, an amount equal to the greater of:]~~

~~[(4) (a) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or~~

~~[(ii) (A) (b) (i) the amount apportioned to the county or municipality for class B and class C roads through the apportionment formula under Subsection (2) or this Subsection (4) in the prior fiscal year; plus~~

~~[(B) (ii) the amount calculated as described in Subsection [(7)] (6).~~

~~[(5) For the purposes of calculating a final distribution of money collected in fiscal year 2016, the department shall subtract the payments previously made to a county or municipality for money collected in fiscal year 2016 for class B and class C roads from the fiscal year 2016 total calculated in Subsection (4)(a).]~~

~~[(6) (5) (a) The department shall decrease proportionately as provided in Subsection [(6)] (5)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)[(a), (b)(ii), or (c)(ii)] does not apply.~~

~~(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection [(6)] (5)(a) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)[(a), (b)(ii), or (c)(ii)].~~

~~[(7) (6) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4)[(b)(ii) or (c)(ii)] shall receive an amount equal to the amount apportioned to the eligible county or municipality under Subsection (4)[(b)(ii) or (c)(ii)] for class B and class C roads in the prior fiscal year multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between the prior fiscal year and the fiscal year that immediately preceded the prior fiscal year.~~

~~(b) The adjustment under Subsection [(7)] (6)(a) shall be made in the same way as provided in Subsections [(6)] (5)(a) and (b).~~

~~[(8) (7) (a) If a county or municipality does not qualify for a reapportionment under Subsection (4)[(e)] in the current fiscal year but previously qualified for a reapportionment under Subsection (4)[(e)] on or after July 1, 2017, the county or municipality shall receive an amount equal to the greater of:~~

~~(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or~~

~~(ii) the amount apportioned to the county or municipality for class B and class C roads in the prior fiscal year.~~

~~(b) The adjustment under Subsection [(8)] (7)(a) shall be made in the same way as provided in Subsections [(6)] (5)(a) and (b).~~

~~[(9) (8) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.~~

Section 2. Section 72-2-110 is amended to read:

72-2-110. Funds allocated to class B and class C roads -- Matching federal funds -- R.S. 2477 rights.

A county or municipality may:

(1) use funds which are allocated to class B and class C roads for matching federal funds for the

construction of secondary roads now available or which may later become available in accordance with the provisions of law; and

(2) use up to 30% of the class B and class C road funds allocated to the county or municipality to:

(a) pay the costs of asserting, defending, or litigating local government rights under R.S. 2477 on class B, class C, or class D roads~~[-]~~; or

(b) maintain class D roads.

CHAPTER 9

S. B. 2005

Passed July 18, 2018

Approved July 21, 2018

Effective July 21, 2018

CALCULATING NEW DAMAGES LIMITS
FOR PERSONAL INJURY CASES

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow
Cosponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies a provision relating to limits on damages arising from claims against governmental entities.

Highlighted Provisions:

This bill:

- ▶ modifies a formula that the legislative fiscal analyst uses to calculate new damages limits on certain claims against governmental entities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-7-605, as last amended by Laws of Utah 2018, Chapter 419

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-605 is amended to read:

63G-7-605. Adjustments to limitation of judgment amounts.

(1) As used in this section:

(a) "Adjusted consumer price factor" means what the consumer price index~~[, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code,]~~ would be without the medical care component and the medical services component.

(b) "Aggregate limit" means the limit on the aggregate amount of personal injury damages claims from a single occurrence, as provided in Subsection 63G-7-604(1)(d).

(c) "Applicable index" means:

(i) the consumer price index, for a calculation of the percentage change in the consumer price index;

(ii) the adjusted consumer price factor, for a calculation of the percentage change in the adjusted consumer price factor;

(iii) the medical care component, for a calculation of the percentage change in the medical care component; or

(iv) the medical services component, for a calculation of the percentage change in the medical services component.

(d) "Base applicable index" means an applicable index for the year that is three years before the year in which the legislative fiscal analyst calculates new limits under this section.

(e) "Consumer price index" means the annual index reported by the United States Bureau of Labor Statistics for consumer prices for all urban consumers, not seasonally adjusted.

~~(e)~~ (f) "Individual limit" means the limit on the amount of a judgment for damages for personal injury, as provided in Subsection 63G-7-604(1)(a).

~~(d)~~ (g) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk manager under this section.

~~(e)~~ (h) "Latest individual limit" means the individual limit, as last adjusted by the risk manager under this section.

~~(f)~~ (i) "Latest property damage limit" means the property damage limit, as last adjusted by the risk manager under this section.

~~(g)~~ (j) "Medical care component" means the medical care sub-index of the consumer price index~~[, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code].~~

~~(h)~~ (k) "Medical services component" means the medical care services sub-index of the consumer price index~~[, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code].~~

(l) "Percentage change" means the amount of change between the base applicable index and the applicable index for the year before the year in which the legislative fiscal analyst calculates new limits under this section, expressed as a percentage of the base applicable index.

~~(i)~~ (m) "Property damage limit" means the limit on the amount of a judgment for property damage, as provided in Subsection 63G-7-604(1)(c).

(n) "Risk manager" means the state risk manager appointed under Section 63A-4-101.

(2) ~~(a)~~ Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection (3):

~~(i) adjust the~~ (a) calculate a new individual limit by ~~[an amount equal to the sum of]~~ adding to the latest individual limit the sum of:

~~(A)~~ (i) 66.5% of the latest individual limit, multiplied by the percentage change in the adjusted consumer price factor;

~~(B)~~ (ii) 16.75% of the latest individual limit, multiplied by the percentage change in the medical care component; and

~~(C)~~ (iii) 16.75% of the latest individual limit, multiplied by the percentage change in the medical services component;

~~(ii) adjust the~~ (b) calculate a new aggregate limit by ~~[an amount equal to the sum of]~~ adding to the latest aggregate limit the sum of:

~~(A)~~ (i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the adjusted consumer price factor;

~~[(B)]~~ (ii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the medical care component; and

~~[(C)]~~ (iii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the medical services component;

~~[(iii) adjust the]~~ (c) calculate a new property damage limit ~~[as a percentage equal to]~~ by adding to the latest property damage limit the amount of the latest property damage limit multiplied by the percentage ~~[increase or decrease]~~ change in the consumer price index ~~[as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code; and]~~;

~~[(iv) no later than May 1, communicate the adjusted limits under Subsections (2)(a)(i), (ii), and (iii) to the risk manager.]~~

~~[(b) The legislative fiscal analyst shall]~~ (d) round up to the nearest \$100 the individual limit, aggregate limit, and property damage limit ~~[adjusted]~~ calculated under ~~[Subsection (2)(a).]~~ Subsections (2)(a), (b), and (c); and

(e) no later than May 1, communicate the newly calculated limits under Subsections (2)(a), (b), and (c) to the risk manager.

(3) The ~~[legislative fiscal analyst may not adjust an]~~ newly calculated individual limit ~~[or]~~, aggregate limit, or property damage limit under Subsection (2) ~~[if the adjustment results in a decrease in]~~ may not be less than the amount of the limit before the new calculation under Subsection (2).

(4) (a) Each even-numbered year, the risk manager shall make rules, to become effective no later than July 1 of that year, that establish a new individual limit, aggregate limit, and property damage limit, as ~~[adjusted]~~ calculated under Subsection (2).

(b) ~~[An adjustment to the]~~ A newly calculated individual limit, aggregate limit, or property damage limit under this section has prospective effect only from the date the rules establishing the new limit take effect.

(c) An individual limit, aggregate limit, or property damage limit, as ~~[adjusted]~~ newly calculated under this section, applies only to a claim for injury or loss that occurs after the effective date of the rules that establish the ~~[adjusted]~~ newly calculated limit.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2018 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 3683) for explanations and clarifications of sections that were technically renumbered.

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2017 First Special Session

10-8-8 A HB1002 2
 10-8-11 A HB1002 2
 63I-2-263 A HB1001 1
 63J-1-206 A HB1001 1
 72-5-105 A HB1002 2
 72-7-404 A SB1001 3

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 4-1-111 E SB 227 462
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59-12-103.2	R	SB2001		6					
59-12-104	A	SB2001		6					
59-12-104.5	A	SB2001		6					
59-12-104.7	R	SB2001		6					
59-12-107	A	SB2001		6					
59-12-108	A	SB2001		6					
59-12-211	A	SB2001		6					
59-12-211.1	A	SB2001		6					
63G-6a-103	A	HB2004		4					
63G-6a-106	A	HB2004		4					
63G-7-605	A	SB2005		9					
63I-2-210	A	SB2001		6					
63I-2-259	A	SB2001		6					
63M-4-702	A	SB2001		6					
63N-1-302	R	SB2001		6					
72-2-108	A	SB2004		8					
72-2-110	A	SB2004		8					

TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to “correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication;” The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2018 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

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Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
4-41-201	4-41-401	T	S.B. 130	452	Technically renumbered to avoid duplication of section number also enacted in HB 197, Chapter 446.
4-41-202	4-41-402	T	S.B. 130	452	Technically renumbered for proper placement.
4-41-203	4-41-403	T	S.B. 130	452	Technically renumbered for proper placement.
4-41-204	4-41-404	T	S.B. 130	452	Technically renumbered for proper placement.
7-1-212	7-1-213	T	H.B. 179	200	Technically renumbered to avoid duplication of section number also enacted in SB 143, Chapter 427.
7-26		A	S.B. 130	452	Coordination clause direction to not enact Title 7, Chapter 26.
10-1-204	10-1-205	T	H.B. 179	200	Technically renumbered to avoid duplication of section number also enacted in SB 28, Chapter 256.
11-58-101	11-59-101	T	H.B. 372	388	Technically renumbered to avoid duplication of section number also enacted in SB 234, Chapter 179.
11-58-101	11-60-101	T	H.B. 168	197	Technically renumbered to avoid duplication of section number also enacted in SB 234, Chapter 179.
11-58-101	11-61-101	T	H.B. 36	188	Technically renumbered to avoid duplication of section number also enacted in SB 234, Chapter 179.
11-58-101	11-62-101	T	H.B. 336	234	Technically renumbered to avoid duplication of section number also enacted in SB 234, Chapter 179, effective 7/1/2019.
11-58-102	11-59-102	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-102	11-60-102	T	H.B. 168	197	Technically renumbered for proper placement.
11-58-102	11-61-102	T	H.B. 36	188	Technically renumbered for proper placement.

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11-58-102	11-62-102	T	H.B. 336	234	Technically renumbered for proper placement.
11-58-103	11-59-103	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-103	11-60-103	T	H.B. 168	197	Technically renumbered for proper placement.
11-58-103	11-61-103	T	H.B. 36	188	Technically renumbered for proper placement.
11-58-104	11-61-104	T	H.B. 36	188	Technically renumbered for proper placement.
11-58-105	11-61-105	T	H.B. 36	188	Technically renumbered for proper placement.
11-58-201	11-59-201	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-201	11-62-201	T	H.B. 336	234	Technically renumbered for proper placement.
11-58-202	11-59-202	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-203	11-59-203	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-204	11-59-204	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-301	11-59-301	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-302	11-59-302	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-303	11-59-303	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-304	11-59-304	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-305	11-59-305	T	H.B. 372	388	Technically renumbered for proper placement.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
11-58-306	11-59-306	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-401	11-59-401	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-402	11-59-402	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-403	11-59-403	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-404	11-59-404	T	H.B. 372	388	Technically renumbered for proper placement.
11-58-501	11-59-501	T	H.B. 372	388	Technically renumbered for proper placement.
13-1-12	13-1-15	T	S.B. 227	462	Technically renumbered to avoid duplication of section number previously repealed.
17-15-31	17-15-32	T	S.B. 29	257	Technically renumbered to avoid duplication of section number also enacted in SB 28, Chapter 256.
17-52a-104		A	H.B. 224	068	Revisor instructions to modify language.
17-52a-501		A	H.B. 224	068	Revisor instructions to modify language.
26-18-415	26-18-416	T	H.B. 325	384	Technically renumbered to avoid duplication of section number also enacted in HB 472, Chapter 468.
26-18-415	26-18-417	T	H.B. 12	180	Technically renumbered to avoid duplication of section number also enacted in HB 472, Chapter 468.
26-18-415	26-18-418	T	H.B. 42	408	Technically renumbered to avoid duplication of section number also enacted in HB 472, Chapter 468.
26-21-30	26-21-31	T	S.B. 217	438	Technically renumbered to avoid duplication of section number also enacted in SB 85, Chapter 157, effective 9/1/2018.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
26-62-101	26-63-101	T	S.B. 161	430	Technically renumbered to avoid duplication of section number also enacted in HB 324, Chapter 231.
26-62-101	26-64-101	T	S.B. 184	295	Technically renumbered to avoid duplication of section number also enacted in HB 324, Chapter 231.
26-62-101	26-65-101	T	S.B. 130	452	Technically renumbered to avoid duplication of section number also enacted in HB 324, Chapter 231, effective 7/1/2019.
26-62-102	26-63-102	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-102	26-64-102	T	S.B. 184	295	Technically renumbered for proper placement.
26-62-102	26-65-102	T	S.B. 130	452	Technically renumbered for proper placement.
26-62-103	26-64-103	T	S.B. 184	295	Technically renumbered for proper placement.
26-62-103	26-65-103	T	S.B. 130	452	Technically renumbered for proper placement.
26-62-104	26-64-104	T	S.B. 184	295	Technically renumbered for proper placement.
26-62-105	26-64-105	T	S.B. 184	295	Technically renumbered for proper placement.
26-62-106	26-64-106	T	S.B. 184	295	Technically renumbered for proper placement.
26-62-107	26-64-107	T	S.B. 184	295	Technically renumbered for proper placement.
26-62-201	26-63-201	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-201	26-65-201	T	S.B. 130	452	Technically renumbered for proper placement.
26-62-202	26-63-202	T	S.B. 161	430	Technically renumbered for proper placement.

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26-62-202	26-65-202	T	S.B. 130	452	Technically renumbered for proper placement.
26-62-203	26-63-203	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-204	26-63-204	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-301	26-63-301	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-302	26-63-302	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-303	26-63-303	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-401	26-63-401	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-402	26-63-402	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-403	26-63-403	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-501	26-63-501	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-502	26-63-502	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-503	26-63-503	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-504	26-63-504	T	S.B. 161	430	Technically renumbered for proper placement.
26-62-601	26-63-601	T	S.B. 161	430	Technically renumbered for proper placement.
30-1-39		A	S.B. 20	148	Repealed by SB 54, Chapter 347, effective 9/30/2018.
31A-22-647	31A-22-648	T	S.B. 237	314	Technically renumbered to avoid duplication of section number also enacted in HB 19, Chapter 181.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
31A-22-647	31A-22-649	T	H.B. 139	119	Technically renumbered to avoid duplication of section number also enacted in HB 19, Chapter 181.
35A-8-2101	35A-8-2201	T	H.B. 430	392	Technically renumbered to avoid duplication of section number also enacted in HB 23, Chapter 182.
35A-8-2102	35A-8-2202	T	H.B. 430	392	Technically renumbered for proper placement.
35A-8-2103	35A-8-2203	T	H.B. 430	392	Technically renumbered for proper placement.
35A-8-2104	35A-8-2204	T	H.B. 430	392	Technically renumbered for proper placement.
36-29-103	36-29-104	T	H.B. 298	226	Technically renumbered to avoid duplication of section number also enacted in SB 136, Chapter 424.
36-29-103	36-29-105	T	S.B. 30	343	Technically renumbered to avoid duplication of section number also enacted in SB 136, Chapter 424.
48-5-109	46-5-109	T	S.B. 121	100	Enacted in the wrong title.
48-5-110	46-5-110	T	S.B. 121	100	Enacted in the wrong title.
48-5-111	46-5-111	T	S.B. 121	100	Enacted in the wrong title.
53-10-115	53-10-116	T	H.B. 69	042	Technically renumbered to avoid duplication of section number also enacted in SB 160, Chapter 169, effective 7/1/2018.
53B-18-1501	53B-18-1601	T	S.B. 239	453	Technically renumbered to avoid duplication of section number also enacted in HB 327, Chapter 385.
53B-18-1502	53B-18-1602	T	S.B. 239	453	Technically renumbered for proper placement.
53E-3-516	53E-3-517	T	H.B. 270	073	Technically renumbered to avoid duplication of section number also enacted in SB 198, Chapter 302.
53E-9-305		A	S.B. 207	304	Coordination clause direction to modify language.

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53E-10-302		A	H.B. 237	410	Coordination clause direction to modify language.
53F-2-414		A	S.B. 179	107	Coordination clause direction to modify language.
53F-5-209	53F-5-210	T	S.B. 202	358	Technically renumbered to avoid duplication of section number also enacted in HB 264, Chapter 412.
53F-5-209	53F-5-211	T	S.B. 232	441	Technically renumbered to avoid duplication of section number also enacted in HB 264, Chapter 412.
53F-8-406		A	S.B. 194	300	Repealer in HB 293, Chapter 456, takes precedence.
54-21-101	54-22-101	T	H.B. 318	230	Technically renumbered to avoid duplication of section number also enacted in SB 189, Chapter 299, effective 9/1/2018.
54-21-102	54-22-102	T	H.B. 318	230	Technically renumbered for proper placement.
54-21-103	54-22-103	T	H.B. 318	230	Technically renumbered for proper placement.
54-21-201	54-22-201	T	H.B. 318	230	Technically renumbered for proper placement.
54-21-202	54-22-202	T	H.B. 318	230	Technically renumbered for proper placement.
54-21-203	54-22-203	T	H.B. 318	230	Technically renumbered for proper placement.
54-21-204	54-22-204	T	H.B. 318	230	Technically renumbered for proper placement.
54-21-205	54-22-205	T	H.B. 318	230	Technically renumbered for proper placement.
59-12-104.8	59-12-104.9	T	S.B. 130	452	Technically renumbered to avoid duplication of section number also enacted in SB 233, Chapter 472.
62A-1-121	62A-1-122	T	S.B. 125	285	Technically renumbered to avoid duplication of section number also enacted in HB 18, Chapter 367.

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62A-15-114	62A-15-116	T	H.B. 370	414	Technically renumbered to avoid duplication of section number also enacted in HB 308, Chapter 74.
62A-15-1301	62A-15-1401	T	S.B. 31	084	Technically renumbered to avoid duplication of part number also enacted in HB 41, Chapter 407.
62A-15-1302	62A-15-1402	T	S.B. 31	084	Technically renumbered to avoid duplication of part number also enacted in HB 41, Chapter 407.
63C-19-101	63C-20-101	T	H.B. 151	330	Technically renumbered to avoid duplication of section number also enacted in HB 300, Chapter 382.
63C-19-102	63C-20-102	T	H.B. 151	330	Technically renumbered for proper placement.
63C-19-103	63C-20-103	T	H.B. 151	330	Technically renumbered for proper placement.
63C-19-104	63C-20-104	T	H.B. 151	330	Technically renumbered for proper placement.
63C-19-105	63C-20-105	T	H.B. 151	330	Technically renumbered for proper placement.
63G-22-101	63G-23-101	T	H.B. 206	067	Technically renumbered to avoid duplication of section number also enacted in HB 179, Chapter 200.
63G-22-102	63G-23-102	T	H.B. 206	067	Technically renumbered for proper placement.
63G-22-103	63G-23-103	T	H.B. 206	067	Technically renumbered for proper placement.
63I-2-217		A	H.B. 224	068	Revisor instruction to modify language.
63J-1-602.1 (Effective 09/30/18)		A	H.B. 105	114	Repealed and reenacted by HB 475, Chapter 469, effective 9/30/2018.
63J-1-602.1 (Effective 09/30/18)		A	S.B. 54	347	Repealed and reenacted by HB 475, Chapter 469, effective 9/30/2018.
63J-1-602.1 (Effective 09/30/18)		A	S.B. 161	430	Repealed and reenacted by HB 475, Chapter 469, effective 9/30/2018.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63J-1-602.1 (Superseded 09/30/18)		A	H.B. 105	114	Repealed and reenacted by HB 475, Chapter 469, effective 7/1/2018 and 9/30/2018.
63J-1-602.1 (Superseded 09/30/18)		A	S.B. 161	430	Repealed and reenacted by HB 475, Chapter 469, effective 7/1/2018 and 9/30/2018.
63J-1-602.2		A	H.B. 380	389	Repealed and reenacted by HB 475, Chapter 469, effective 7/1/2018.
63J-1-602.3		A	H.B. 380	389	Repealed by HB 475, Chapter 469, effective 7/1/2018.
63J-1-602.4		A	H.B. 390	340	Repealed by HB 475, Chapter 469, effective 7/1/2018.
63J-1-602.4		A	H.B. 395	144	Repealed by HB 475, Chapter 469, effective 7/1/2018.
63M-7-209	63M-7-210	T	H.B. 106	054	Technically renumbered to avoid duplication of section number also enacted in HB 177, Chapter 126.
78B-5-705		A	S.B. 79	030	Repealed by SB 188, Chapter 289.

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